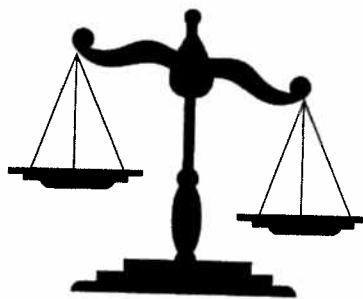


# **ALASKA STATE STATUTES**

## **CAMPAIGN DISCLOSURE LAW**



**AS 15.13**

**Revised  
December 11, 2008**

## CHAPTER 15.13 STATE ELECTION CAMPAIGNS

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**Cross references.** – For legislative findings and purpose concerning the 1996 amendments made by ch 48, SLA 1996 that relate to this chapter, see § 1, ch 48, SLA 1996 in the Temporary and Special Acts. For construction of the 1996 amendments, see § 29, ch. 48, SLA 1996 in the Temporary and Special Acts. For severability of the provisions of ch. 48, SLA 1996, see § 31, ch. 48, SLA 1996 in the Temporary and Special Acts. For provisions relating to certain persons holding unused campaign contributions on January 1, 1997, see § 32, ch. 48, SLA 1996 in the Temporary and Special Acts.

**Administrative Code.** – For Alaska Public Offices Commission: conflict of interest, campaign disclosure, legislative financial disclosure, and regulation of lobbying, see 2 AAC 50.

**Legislative history reports.** – For governor's transmittal letter for chapter 108, SLA 2003 (Senate Bill 119), which added or amended various provisions in this chapter, see 2003 Senate Journal 407 – 408. For governor's transmittal letter for ch. 47 SLA 2007 (HB 109), which amended various provisions of this chapter, see 2007 House Journal 109 – 110.

**Collateral references.** – 25 Am. Jur. 2d, Elections, § 1 et seq.  
29 C.J.S., Elections, §§ 2-4, 6, 118(7), 216(1)-216(5).

**Sec. 15.13.010. Applicability.** (a) This chapter applies

(1) in every election for governor, lieutenant governor, a member of the state legislature, a delegate to a constitutional convention, or judge seeking judicial retention;

(2) to every candidate for election to a municipal office in a municipality with a population of more than 1,000 inhabitants according to the latest United States census figures or estimates of population certified as correct for administrative purposes by the Department of Commerce, Community, and Economic Development unless the municipality has exempted itself from the provisions of this chapter; a municipality may exempt its elected municipal officers from the requirements of this chapter if a majority of the voters voting on the question at a regular election, as defined by AS 29.71.800 (20), or a special municipality-wide election called for that purpose, votes to exempt its elected municipal officers from the requirements of this chapter; the question of exemption from the requirements of this chapter may be submitted by the governing body by ordinance or by initiative election.

(b) Except as otherwise provided, this chapter applies to contributions, expenditures and communications made by a candidate, group, nongroup entity, municipality or individual for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate.

(c) This chapter does not prohibit a municipality from regulating by ordinance election campaign contributions and expenditures in municipal elections, or from regulating those campaign contributions and expenditures more strictly than provided in this chapter.

(d) This chapter does not limit the authority of a person to make contributions to influence the outcome of a voter proposition submitted to the public for a vote at a municipal election. In this subsection, in addition to its meaning under AS 15.13.065 (c), "proposition" means a municipal reclassification, proposal to adopt or amend a home rule charter, a unification proposal, a boundary change proposal, or the approval of an ordinance when approval by public vote is a requirement for the ordinance. (§ 1 ch 76 SLA 1974; am §§ 1, 2 ch 189 SLA 1975; am § 32 ch 74 SLA 1985; am §§ 3, 4 ch 48 SLA 1996; am § 2 ch 1 SLA 2002)

**Revisor's notes.** – In 1999, in paragraph (a)(2) of this section, "Department of Community and Economic Development" was substituted for "Department of Community and Regional Affairs" in accordance with § 91(a)(3), ch. 58, SLA 1999.

**Effect of amendments.** – The 1996 amendment, effective January 1, 1997, in subsection (a), added paragraph designations, rewrote paragraph (2) and made related stylistic changes and added subsections (c) and (d).

The 2002 amendment, effective April 16, 2002 inserted "nongroup entity" in subsection (b).

The 2008 amendment, effective May 23, 2008, substituted "judicial retention" for "electoral confirmation" in paragraph (a)(1).

#### NOTES TO DECISIONS

**Constitutionality.** – In the case of *First Nat'l Bank v. Bellotti*, 435 U.S. 765, 98 S. Ct. 1407, 55 L. Ed. 2d 707, rehearing denied, 438 U.S. 907, 98 S. Ct. 3126, 57 L. Ed. 2d 1150 (1978), the supreme court of the United States has indicated in unmistakable terms that state disclosure laws pertaining to ballot issues are constitutional. *Messerli v. State*, 626 P.2d 81 (Alaska 1980).

When there is no showing that an individual must remain anonymous with respect to advertising as to ballot propositions because of the possibility of being subject to reprisals, economic or otherwise, the state campaign disclosure laws are not unconstitutional as applied to a contributor hoping to influence the outcome of a ballot issue, because the objective of an informed electorate is sufficiently compelling to overcome an interest in anonymous political expression. *Messerli v. State*, 626 P.2d 81 (Alaska 1980).

**Initiative substantially similar to ch. 76, SLA 1974, correctly withheld from ballot.** Substantial similarity existed between ch. 76, SLA 1974, which enacted this chapter, relating to election campaigns, and an initiative relating to campaign contributions and expenditures, which was filed with the lieutenant governor prior to the regular 1974 session of the legislature. The act effectively displaced the initiative, and the lieutenant governor was correct in withholding the initiative from the ballot. *Warren v. Boucher*, 543 P.2d 731 (Alaska 1975).

**For comparison of ch. 76, SLA 1974, and the initiative,** see *Warren v. Boucher*, 543 P.2d 731 (Alaska 1975).

**Cited in** *Libertarian Party of Alaska, Inc. v. State*, 101 P.3d 616 (Alaska 2004)

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**Collateral references.** – Propriety of using census data as basis for governmental regulations or activities. 56 ALR5th 171.

*Sec. 15.13.011. Inapplicability to presidential primary. [Repealed, Sec. 1 ch 2 SLA 1984].*

**Sec. 15.13.020. Alaska Public Offices Commission.** (a) There is created in the Department of Administration the Alaska Public Offices Commission consisting of five members. The governor shall appoint all members of the commission in the manner prescribed in (b) and (c) of this section, subject to confirmation by a majority of the legislature meeting in joint session.

(b) The governor shall appoint two members of each of the two political parties whose candidate for governor received the highest number of votes in the most recent preceding general election at which a governor was elected. The two appointees from each of these two parties shall be chosen from a list of four names to be submitted by the central committee of each party.

(c) The four members selected under (b) of this section shall, by a majority vote, nominate to the governor an individual to serve as the fifth member of the commission. The governor shall either appoint the nominee to the commission, or shall reject the nominee and request those four members to nominate another individual to serve as the fifth member of the commission.

(d) Members of the commission serve staggered terms of five years, or until a successor is appointed and qualifies. The terms of no two members who are members of the same political party may expire in consecutive years. A member may not serve more than one term. However, a person appointed to fill the unexpired term of a predecessor may be appointed to a successive full five-year term.

(e) A member of the commission, during tenure, may not

(1) hold or campaign for elective office;

(2) be an officer of a political party, political committee, or group;

(3) permit the member's name to be used, or make any contributions whatsoever, in support of or in opposition to a candidate or proposition or question that appears on any ballot in the state including but not limited to that of a municipality; however, contributions may be made to a candidate for the office of President of the United States;

(4) participate in any way in an election campaign or participate in or contribute to any political party; or

(5) lobby, employ or assist a lobbyist.

(f) Members of the commission shall receive compensation of \$50 a day while attending commission meetings and shall be entitled to travel expenses and per diem authorized by law for members of other boards and commissions.

(g) The members shall elect a chairperson. Three members of the commission constitute a quorum. A vacancy does not impair the powers of the remaining members to exercise all of the powers of the commission.

(h) A vacancy on the commission shall be filled through the appropriate appointing method for the position within 30 days after the occurrence of the vacancy. Except as provided in AS 39.05.080 (4), the appointee shall serve for the remaining term of the appointee's predecessor.

(i) The commission may employ an executive director and other employees it considers necessary. Neither the executive director nor an employee may have a vote.

(j) The commission shall establish an office, which may be called a regional office, in each senate district in the state to keep on file for public inspection copies of all reports filed with the commission by candidates for statewide office and by candidates for legislative office in that district; however, where one municipality contains more than one house district, only one commission office shall be established in that municipality. The regional office shall make all forms and pertinent material available to candidates. All reports shall be filed by candidates, groups, and individuals directly with the commission's central district office. The commission shall ensure that copies of all reports by statewide and legislative candidates in each senate district are forwarded promptly to that district or regional office.

(k) The commission shall ensure that copies of reports filed by candidates for municipal office are made available for public inspection in the appropriate municipality. (§ 1 ch 76 SLA 1974; am § 23 ch 25 SLA 1975; am §§ 3-10 ch 189 SLA 1975; am E.O. No. 41 § 2 (1980); am § 24 ch 85 SLA 1988; am §§ 1-3 ch 14 SLA 1989; am § 7 ch 80 SLA 1996; am § 38 ch 21 SLA 2000)

**Revisor's notes.** – In 2000, in (g) of this section, “chairperson” was substituted for “chairman” in accordance with sec. 95(3), ch 82, SLA 2000.

**Effect of amendments.** – The 1996 amendment, effective January 1, 1997, in subsection (h), in the second sentence, added “Except as provided in AS 39.05.080(4),” at the beginning and made a related stylistic change.

The 2000 amendment, effective April 28, 2000, substituted “house district” for “election district” in the first sentence in subsection (j).

#### NOTES TO DECISIONS

**Subsection (j) requires forms to be made available in a regional office in each senate district.** *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

**Furnishing forms to Nome regional office constituted compliance with law.** – Nome is designated center for forms pursuant to both subsection (j) and AS 15.10.110, and since Nome is the central office for Senate District P, which encompasses House District 21 and therefore Kotzebue, the lieutenant governor complied with the law by virtue of furnishing forms to the Nome regional office, even though such forms were not available in Kotzebue. *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

#### **Sec. 15.13.030. Duties of the commission.** The commission shall

(1) develop and provide all forms for the reports and statements required to be made under this chapter, AS 24.45, and AS 39.50;

- (2) prepare and publish a manual setting out uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter and otherwise assist candidates, groups, and individuals in complying with the requirements of this chapter;
- (3) receive and hold open for public inspection reports and statements required to be made under this chapter and, upon request, furnish copies at cost to interested persons;
- (4) compile and maintain a current list of all filed reports and statements;
- (5) prepare a summary of each report filed under AS 15.13.110 and make copies of this summary available to interested persons at their actual cost;
- (6) notify, by registered or certified mail, all persons who are delinquent in filing reports and statements required to be made under this chapter;
- (7) examine, investigate, and compare all reports, statements, and actions required by this chapter, AS 24.45, and AS 39.50;
- (8) prepare and publish a biennial report concerning the activities of the commission, the effectiveness of this chapter, its enforcement by the attorney general's office, and recommendations and proposals for change; the commission shall notify the legislature that the report is available;
- (9) adopt regulations necessary to implement and clarify the provisions of AS 24.45, AS 39.50, and this chapter, subject to the provisions of AS 44.62 (Administrative Procedure Act); and
- (10) consider a written request for an advisory opinion concerning the application of this chapter, AS 24.45, AS 24.60.200 - 24.60.260, or AS 39.50. (§ 1 ch 76 SLA 1974; am § 24 ch 25 SLA 1975; am §§ 11, 12 ch 189 SLA 1975; am §§ 3-5 ch 167 SLA 1976; am § 2 ch 134 SLA 1990; am § 16 ch 21 SLA 1995; am § 5 ch 6 SLA 1998; am §1 ch 108 SLA 2003)

**Cross references.** – For transitional provision applicable to development of regulations under paragraph (9) of this section to implement the amendments made by ch. 108 SLA 2003, see § 42, ch. 108, SLA 2003, in the 2003 Temporary and Special Acts. For provision adding an obligation for the commission to analyze the effect of ch. 108, SLA 2003, on the 2004 elections and provide a written report to legislative leaders by January 15, 2005, see § 43, ch. 108, SLA 2003 Temporary and Special Acts.

**Effect of amendments.** – The 1998 amendment, effective June 28, 1998, rewrote paragraphs (7)-(9).

The 2003 amendment, effective September 14, 2003, added paragraph (10) and made a related stylistic change.

#### NOTES TO DECISIONS

- I. General Consideration.
- II. Regulations

## I. GENERAL CONSIDERATION.

**Duty-to-notify requirement only applies to groups which have registered with commission** pursuant to AS 15.13.050. *VECO Int'l Inc. v. Alaska Pub. Offices Comm'n*, 753 p.2d 703 (Alaska 1988), appeal dismissed, 488 U.S. 919, 109 S. Ct. 298, 102, L. Ed. 2d 317 (1988).

Applied in *Messerli v. State*, 626 P.2d 81 (Alaska 1980).

## II. REGULATIONS.

**No regulations were necessary to implement the mandatory provisions for filing an appointment of campaign treasurer** established by AS 15.13.060(c). *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

**Sec. 15.13.040. Contributions, expenditures, and supplying of services to be reported.** (a) [See delayed amendment note]. Except as provided in (g) and (l) of this section, each candidate shall make a full report, upon a form prescribed by the commission,

(1) listing

(A) the date and amount of all expenditures made by the candidate;

(B) the total amount of all contributions, including all funds contributed by the candidate;

(C) the name, address, date, and amount contributed by each contributor; and

(D) for contributions in excess of \$50 in the aggregate during a calendar year, the principal occupation and employer of the contributor; and

(2) filed in accordance with AS 15.13.110 and certified correct by the candidate or campaign treasurer.

(b) Each group shall make a full report upon a form prescribed by the commission, listing

(1) the name and address of each officer and director;

(2) the aggregate amount of all contributions made to it; and, for all contributions in excess of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor, and the date and amount contributed by each contributor; for purposes of this paragraph, "contributor" means the true source of the funds, property, or services being contributed; and



(3) the date and amount of all contributions made by it and all expenditures made, incurred, or authorized by it.

(c) The report required under (b) of this section shall be filed in accordance with AS 15.13.110 and shall be certified as correct by the group's treasurer.

(d) Every individual, person, nongroup entity, or group making an expenditure shall make a full report of expenditures, upon a form prescribed by the commission, unless exempt from reporting.

(e) The report required under (d) of this section must contain the name, address, principal occupation, and employer of the individual filing the report, and an itemized list of expenditures. The report shall be filed with the commission no later than 10 days after the expenditure is made.

(f) During each year in which an election occurs, all businesses, persons, or groups that furnish any of the following services, facilities, or supplies to a candidate or group shall maintain a record of each transaction: newspapers, radio, television, advertising, advertising agency services, accounting, billboards, printing, secretarial, public opinion polls, or research and professional campaign consultation or management, media production or preparation, or computer services. Records of provision of services, facilities, or supplies shall be available for inspection by the commission.

(g) The provisions of (a) and (l) of this section do not apply to a delegate to a constitutional convention, a judge seeking judicial retention, or a candidate for election to a municipal office under AS 15.13.010, if that delegate, judge, or candidate

(1) indicates, on a form prescribed by the commission, an intent not to raise and not to expend more than \$5,000 in seeking election to office, including both the primary and general elections;

(2) accepts contributions totaling not more than \$5,000 in seeking election to office, including both the primary and general elections; and

(3) makes expenditures totaling not more than \$5,000 in seeking election to office, including both the primary and general elections.

(h) The provisions of (d) of this section do not apply to one or more expenditures made by an individual acting independently of any group or nongroup entity and independently of any other individual if the expenditures

(1) cumulatively do not exceed \$500 during a calendar year; and

(2) are made only for billboards, signs, or printed material concerning a ballot proposition as that term is defined by AS 15.13.065(c).

(i) The permission of the owner of real or personal property to post political signs, including bumper stickers, or to use space for an event or to store campaign-related materials is not considered to be a contribution to a candidate under this chapter unless the owner customarily charges a fee or receives payment for that activity. The fact that the owner customarily charges a fee or receives payment for posting signs that are not political signs is not determinative of whether the owner customarily does so for political signs.

(j) Except as provided in (l) of this section, each nongroup entity shall make a full report in accordance with AS 15.13.110 upon a form prescribed by the commission and certified by the nongroup entity's treasurer, listing

(1) the name and address of each officer and director of the nongroup entity;

(2) the aggregate amount of all contributions made to the nongroup entity for the purpose of influencing the outcome of an election;

(3) for all contributions described in (2) of this subsection, the name, address, date, and amount contributed by each contributor and, for all contributions described in (2) of this subsection in excess of \$250 in the aggregate during a calendar year, the principal occupation and employer of the contributor; and

(4) the date and amount of all contributions made by the nongroup entity, and, except as provided for certain independent expenditures in AS 15.13.135 (a), all expenditures made, incurred, or authorized by the nongroup entity, for the purpose of influencing the outcome of an election; a nongroup entity shall report contributions made to a different nongroup entity for the purpose of influencing the outcome of an election and expenditures made on behalf of a different nongroup entity for the purpose of influencing the outcome of an election as soon as the total contributions and expenditures to that nongroup entity for the purpose of influencing the outcome of an election reach \$500 in a year and for all subsequent contributions and expenditures to that nongroup entity in a year whenever the total contributions and expenditures to that nongroup entity for the purpose of influencing the outcome of an election that have not been reported under this paragraph reach \$500.

(k) Every individual, person, nongroup entity, or group contributing a total of \$500 or more to a group organized for the principal purpose of influencing the outcome of a proposition shall report the contribution or contributions on a form prescribed by the commission not later than 30 days after the contribution that requires the contributor to report under this subsection is made. The report must include the name, address, principal occupation, and employer of the individual filing the report and the amount of the contribution, as well as the total amount of contributions made to that group by that individual, person, nongroup entity, or group during the calendar year.

(l) Notwithstanding (a), (b), and (j) of this section, for any fund-raising activity in which contributions are in amounts or values that do not exceed \$50 a person, the

candidate, group, or nongroup entity shall report contributions and expenditures and supplying of services under this subsection as follows:

(1) a report under this subsection must

(A) describe the fund-raising activity;

(B) include the number of persons making contributions and the total proceeds from the activity;

(C) report all contributions made for the fund-raising activity that do not exceed \$50 a person in amount or value; if a contribution for the fund-raising activity exceeds \$50, the contribution shall be reported under (a), (b), and (j) of this section;

(2) for purposes of this subsection,

(A) "contribution" means a cash donation, a purchase such as the purchase of a ticket, the purchase of goods or services offered for sale at a fund-raising activity, or a donation of goods or services for the fund-raising activity;

(B) "fund-raising activity" means an activity, event, or sale of goods undertaken by a candidate, group, or nongroup entity in which contributions are \$50 a person or less in amount or value.

(m) **[See delayed amendment note]**. Information required under this chapter shall be submitted to the commission electronically, except that the following information may be submitted in clear and legible black typeface or hand-printed in dark ink on paper in a format approved by the commission or on forms provided by the commission:

(1) information submitted by

(A) a candidate for election to a borough or city office of mayor, membership on a borough assembly, city council, or school board, or any state office, who meets the requirements of (g)(1) - (3) of this section; or

(B) a candidate for municipal office for a municipality with a population of less than 15,000; in this subparagraph, "municipal office" means the office of an elected borough or city

(i) mayor; or

(ii) assembly, council, or school board member;

(2) any information if the commission determines that circumstances warrant an exception to the electronic submission requirement.

(n) The commission shall print the forms to be provided under this chapter so that the front and back of each page have the same orientation when the page is rotated on the vertical axis of the page.

(o) Information required by this chapter that is submitted to the commission on paper and not electronically shall be electronically scanned and published on the Internet by the commission, in a format accessible to the general public, within two working days after the commission receives the information.

(p) For purposes of (b) and (j) of this section, "contributor" means the true source of the funds, property, or services being contributed (§ 1 ch 76 SLA 1974; am § 13 ch 189 SLA 1975; am § 33 ch 50 SLA 1989; am § 4 ch 126 SLA 1994; am §§ 5-7 ch 48 SLA 1996; am §§ 6, 7 ch 6 SLA 1998; am § 1 ch 74 SLA 1998; am §§ 3-6 ch 1 SLA 2002; am §§ 1-4 ch 1 TSSLA 2002; am §§ 2-7 ch 108 SLA 2003; am § 9 ch 99 SLA 2004; am §§ 1, 2 ch 155 SLA 2004; am § 3, 2006 Primary Election Ballot Measure No. 1; am §§ 6 – 9 ch 47 SLA 2007; am § 1 ch 95 SLA 2008)

**Delayed amendment of subsection (a).** – Until January 1, 2009, subsection (a) of this section reads as follows: "(a) Except as provided in (g) and (l) of this section, each candidate shall make a full report, upon a form prescribed by the commission,

"(1) listing

"(A) the date and amount of all expenditures made by the candidate;

"(B) the total amount of all contributions, including all funds contributed by the candidate;

"(C) the name, address, date and amount contributed by each contributor; and

"(D) for contributions in excess of \$250 in the aggregate during a calendar year, the principal occupation and employer of the contributor; and

"(2) filed in accordance with AS 15.13.110 and certified correct by the candidate or campaign treasurer."

**Delayed amendment of subsection (m).** – Until January 1, 2009, (m) of this section reads as follows:

"(m) Information required under this chapter shall be submitted to the commission electronically, except that the following information may be submitted in clear and legible black typeface or hand-printed in dark ink on paper in a format approved by the commission or on forms provided by the commission:

"(1) information submitted by a candidate for municipal office; in this paragraph, "municipal office" means the office of an elected borough or city

"(A) mayor; or

"(B) assembly, council, or school board member;

"(2) any information if the commission determines that circumstances warrant an exception to the electronic submission requirement;

"(3) information submitted by a candidate for election to state office other than the legislature who meets the requirements of (g)(1) – (3) of this section;

"(4) information submitted before January 1, 2009, by a candidate for the legislature."

**Revisor's notes.** – Subsection (n) was enacted as subsection (o). Relettered in 2004, at which time former subsection (n) was relettered as subsection (o). Subsection (o) was enacted as (p) and relettered in 2007, at which time former subsection (o) was relettered as (p).

**Effect of amendments.** – The 1996 amendment, effective January 1, 1997, in subsection (a), added the exception at the beginning of the first sentence and made a related stylistic change; in subsection (d), in paragraph (2), added “unless exempted from reporting by (h) of this section,” and inserted “or other periodicals” and made minor stylistic changes and added subsections (g) and (h).

The first 1998 amendment, effective June 28, 1998, rewrote paragraph (d)(1) and the second and third sentences in subsection (f).

The second 1998 amendment, effective June 4, 1998, added subsection (i).

The first 2002 amendment, effective April 16, 2002, in subsection (b) added the language beginning “for purposes of this paragraph” to the end of paragraph (2); in the introductory language of subsections (d) and (h) inserted references to nongroup entities; added subsection (j); and made a minor stylistic change.

The second 2002 amendment, effective June 26, 2002, rewrote subsection (d); in subsection (e) deleted “by the contributor” following “commission” and “contribution or” preceding “expenditure” in the second sentence and deleted the former third sentence, which read “A copy of the report shall be furnished to the candidate, campaign treasurer, or deputy campaign treasurer at the time the contribution is made”; updated an internal reference in subsection (h); and added subsection (k).

The 2003 amendment, effective September 14, 2003, rewrote subsections (a) and (b); in subsection (g) inserted “and (l)” in the introductory language and substituted “\$5,000” for “2,500” in three places; in paragraph (h)(1) substituted “\$500” for “250”; in subsection (j) added “Except as provided in (l) of this section,” at the beginning, added the paragraph (3) and (4) designations, and rewrote paragraph (3); and added subsections (l), (m), and (o) [formerly (n), now (p)].

The first 2004 amendment, effective June 26, 2004, deleted “and principal occupation of the contributor and the” following address in paragraph (j)(3), and inserted “principal occupation and” in that paragraph.

The second 2004 amendment, effective October 1, 2004, rewrote subsection (m), and added subsection (o) [now (n)].

The 2006 amendment, effective December 17, 2006, rewrote subsection (b).

The 2007 amendment, effective July 10, 2007, substituted “to a delegate to a constitutional convention, a judge seeking judicial retention, or a candidate for election to a municipal office under As 15.13.010, if that delegate, judge, or” for “if a” in the introductory language of subsection (g), repealed and reenacted subsection (m), and added subsection (p) [now (o)].

The 2008 amendment, effective January 1, 2009, substituted “\$50” for “\$250” in subparagraph (a)(1)(D).

**Editor's notes.** – From April 16, 2002, through June 25, 2002, the reference in subsection (h) to “(d) of this section” reads “to (d)(2) of this section” and subsection (d) reads as follows: “(d) Every individual, person, nongroup entity, or group making a contribution or expenditure shall make a full report, upon a form prescribed by the commission, of

“(1) contributions made to a candidate or group and expenditures made on behalf of a candidate or group

“(A) as soon as the total contributions and expenditures to that candidate or group reaches \$500 in a year; and

“(B) for all subsequent contributions and expenditures to that candidate or group that have not been reported under this paragraph reaches \$500;

“(2) unless exempted from reporting by (h) of this section, any expenditure whatsoever for advertising in newspapers or other periodicals, on radio, or on television; or for publication, distribution, or circulation of brochures, flyers, or other campaign material for any candidate or ballot proposition or question.”

**NOTES TO DECISIONS**

**Constitutionality.** – In the case of *First Nat'l Bank v. Bellotti*, 435 U.S. 765, 98 S. Ct. 1407, 55 L. Ed. 2d 707, rehearing denied, 438 U.S. 907, 98 S. Ct. 3126, 57 L. Ed. 2d 1150 (1978), the supreme court of the United States has indicated in unmistakable terms that state disclosure laws pertaining to ballot issues are constitutional. *Messerli v. State*, 626 P.2d 81 (Alaska 1980).

When there is no showing that an individual must remain anonymous with respect to advertising as to ballot propositions because of the possibility of being subject to reprisals, economic or otherwise, the state campaign disclosure laws are not unconstitutional as applied to a contributor hoping to influence the outcome of a ballot issue, because the objective of an informed electorate is sufficiently compelling to overcome an interest in anonymous political expression. *Messerli v. State*, 626 P.2d 81 (Alaska 1980).

The disclosure requirements of this chapter are not unconstitutionally vague or overbroad, nor do they violate the constitutional right of the people to privacy. *VECO Int'l, Inc. v. Alaska Pub. Offices Comm'n*, 753 P.2d 703 (Alaska 1988), appeal dismissed, 488 U.S. 919, 109 S. Ct. 298, 102 L. Ed. 2d 317 (1988).

Reporting provisions of this section and AS 15.13.074(i), 15.13.082(b), 15.13.110, and 15.13.135(a) survive strict scrutiny because the state's interest in regulating campaign contributions and expenditures is significant and the requirements are not particularly onerous. *Alaska Right to Life Comm. v. Miles*, 441 F.3<sup>rd</sup> 773 (9<sup>th</sup> Cir. 2006).

**Cited** in *Libertarian Party of Alaska, Inc. v. State*, 101 P.3<sup>rd</sup> 616 (Alaska 2004).

**Sec. 15.13.045. Investigations, hearings.** (a) The commission may issue subpoenas, administer oaths, hold hearings, and conduct investigations.

(b) In conjunction with (a) of this section, the commission may compel the attendance of witnesses and production of papers, books, records, accounts, documents, and testimony, and may have the deposition of witnesses taken in a manner prescribed by court rule or law for the taking of depositions in civil actions when consistent with the powers and duties assigned to the commission by this chapter.

(c) The commission may examine the papers, books, records, accounts, and documents of any person subject to this chapter to ascertain the correctness of a report filed with the commission, or in conjunction with an investigation or inspection conducted under (a) of this section.

(d) Subpoenas may be issued and shall be served in the manner prescribed by AS 44.62.430 and court rule. The failure, refusal, or neglect to obey a subpoena is punishable as contempt in the manner prescribed by law or court rule. The superior court may compel obedience to the commission's subpoena in the same manner as prescribed for obedience to a subpoena issued by the court. (§ 14 ch 189 SLA 1975).

**NOTES TO DECISIONS**

**Cited** in *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

**Sec. 15.13.050. Registration before expenditure.** (a) Before making an expenditure in support of or in opposition to a candidate or before making an expenditure in support of or in opposition to a ballot proposition or question, each person other than an individual shall register, on forms provided by the commission, with the commission.

(b) If a group intends to support only one candidate or to contribute to or expend on behalf of one candidate 33 1/3 percent or more of its funds, the name of the candidate shall be a part of the name of the group. If the group intends to oppose only one candidate or to contribute its funds in opposition to or make expenditures in opposition to a candidate, the group's name must clearly state that it opposes that candidate by using a word such as "opposes," "opposing," "in opposition to," or "against" in the group's name. Promptly upon receiving the registration, the commission shall notify the candidate of the group's organization and intent. A candidate may register more than one group to support the candidate; however, multiple groups controlled by a single candidate shall be treated as a single group for purposes of the contribution limit in AS 15.13.070 (b)(1). (§ 1 ch 76 SLA 1974; am § 15 ch 189 SLA 1975; am § 8 ch 48 SLA 1996; am § 1 ch 3 SLA 2002)

**Effect of amendments.** – The 1996 amendment, effective January 1, 1997, rewrote this section.

The 2002 amendment, effective April 16, 2002, in subsection (b) added the last sentence and made minor stylistic changes.

#### NOTES TO DECISIONS

**Disclosure requirements constitutional.** – The disclosure requirements of this chapter are not unconstitutionally vague or overbroad, nor do they violate the constitutional right of the people to privacy. *VECO Int'l, Inc. v. Alaska Pub. Offices Comm'n*, 753 P.2d 703 (Alaska 1988), appeal dismissed, 488 U.S. 919, 109 S. Ct. 298, 102 L. Ed. 2d 317 (1988).

*Cited in Alaska Right to Life Comm. v. Miles*, 441 F.3rd 773 (9th Cir. 2006).

**Sec. 15.13.060. Campaign treasurers.** (a) Each candidate and group shall appoint a campaign treasurer who is responsible for receiving, holding, and disbursing all contributions and expenditures, and for filing all reports and statements required by law. A candidate may be a campaign treasurer.

(b) Each group shall file the name and address of its campaign treasurer with the commission at the time it registers with the commission under AS 15.13.050.

(c) Each candidate for state office shall file the name and address of the campaign treasurer with the commission, or submit, in writing, the name and address of the campaign treasurer to the director for filing with the commission, no later than 15 days after the date of filing the declaration of candidacy or the nominating petition. Each candidate for municipal office shall file the name and address of the campaign treasurer with the commission no later than seven days after the date of filing the declaration of candidacy or the nominating petition. If the candidate does not designate a campaign treasurer, the candidate is the campaign treasurer.

(d) In the case of the death, resignation, or removal of a campaign treasurer, the candidate shall appoint a successor as soon as practicable and file the successor's name and address with the commission within 48 hours of the appointment. The candidate is disqualified if found to have been in wilful violation of this subsection.

(e) A campaign treasurer may appoint as many deputy campaign treasurers as necessary. The candidate shall file the names and addresses of the deputy campaign treasurers with the commission.

(f) The candidate is responsible for the performance of the campaign treasurer, and any default or violation by the treasurer also shall be considered a default or violation by the candidate if the candidate knew or had reason to know of the default or violation. (§ 1 ch 76 SLA 1974; am §§ 16 –19 ch 189 SLA 1975; am § 1 ch 133 SLA 1977; am § 35 ch 59 SLA 1982)

#### NOTES TO DECISIONS

- I. General Consideration.
- II. Subsection (C).

#### I. GENERAL CONSIDERATION.

**Cited** in State, Alaska Pub. Offices Comm'n v. Marshall, 633 P.2d 227 (Alaska 1981); Black v State, 76 P. 3d 417 (Alaska Ct. App. 2003).

#### II. SUBSECTION (C).

**Annotator's notes.** –Silides v. Thomas, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977), cited in the notes below, was decided under subsection (c) as it existed before the 1977 amendment. Prior to that amendment, subsection (c) read: "Each candidate shall file the name and address of the campaign treasurer with the commission no later than seven days after the date of filing his declaration of candidacy or his nominating petition. The name of the candidate may be placed on the ballot by the lieutenant governor or municipal clerk only if the candidate has complied with this subsection."

**This section is not unconstitutional** in that it sets up "invalid class legislation." Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

The two groups classified by virtue of this section are those candidates who have complied with the law and those who have not; the failure to adhere to this section is the dividing line. Therefore, under any possible equal protection test this section passes constitutional muster. Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

**Statutory requirement that a candidate's designation of treasurer be filed by a specified due date is not constitutionally unreasonable.** Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

**Subsection (c) should be strictly enforced.** – Silides v. Thomas, 559 P.2d 80 (Alaska 1977).

**Effect of unequal enforcement of AS 39.50.020 on enforcement of subsection (c).** –Unequal enforcement of AS 39.50.020, which requires candidates to file a financial disclosure statement, did not require the conclusion that a candidate had in fact substantially complied with the filing requirements of subsection (c) where the record did not show any intentional or purposeful discrimination against the candidate. Silides v. Thomas, 559 P.2d 80 (Alaska 1977).



**Subsection (c) requires candidates to "file" campaign treasurer statements** within a specified time limit. *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

**The definition of "file"** is well established in the law. It has been consistently held that a document is filed only when the proper officer has received it, and that it is not considered filed when it is deposited in the mails. *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

**Telephone conversation not appropriate filing.** – Given the text of subsection (c), the legal meaning of the term "file" and the supreme court's adoption of the doctrine that statutory election deadlines are to be strictly enforced, a telephone conversation between the candidate's treasurer and the Alaska Public Offices Commission seven days after the declaration of candidacy was filed cannot be deemed an appropriate filing within the intent of subsection (c). *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

**No regulations were necessary to implement the mandatory provisions for filing an appointment of campaign treasurer** established by subsection (c) of this section. *Silides v. Thomas*, 559 P.2d 80 (Alaska 1977).

**Sec. 15.13.065. Contributions.** (a) Individuals, groups, nongroup entities, and political parties may make contributions to a candidate. An individual, group, or nongroup entity may make a contribution to a group, to a nongroup entity, or to a political party.

(b) A political party may contribute to a subordinate unit of the political party, and a subordinate unit of a political party may contribute to the political party of which it is a subordinate unit.

(c) Except for reports required by AS 15.13.040 and 15.13.110 and except for the requirements of AS 15.13.050, 15.13.060, and 15.13.112 - 15.13.114, the provisions of AS 15.13.010 - 15.13.116 do not apply to limit the authority of a person to make contributions to influence the outcome of a ballot proposition. In this subsection, in addition to its meaning in AS 15.60.010, "proposition" includes an issue placed on a ballot to determine whether

- (1) a constitutional convention shall be called;
- (2) a debt shall be contracted;
- (3) an advisory question shall be approved or rejected; or
- (4) a municipality shall be incorporated. (§ 9 ch 48 SLA 1996; am § 7 ch 1 SLA 2002)

**Effect of amendments.** – The 2002 amendment, effective April 16, 2002, inserted references to nongroup entities in three places in subsection (a) and made minor stylistic changes.

**Sec. 15.13.067. Who may make expenditures.** Only the following may make an expenditure in an election for candidates for elective office:

- (1) the candidate;

- (2) an individual;
- (3) a group that has registered under AS 15.13.050; and
- (4) a nongroup entity that has registered under AS 15.13.050. (§ 9 ch 48 SLA 1996; am § 8 ch 1 SLA 2002)

**Effect of amendments.** – The 2002 amendment, effective April 16, 2002, added paragraph (4) and made related stylistic changes.

#### NOTES TO DECISIONS

Cited in Alaska Right to Life Comm. v. Miles. 441 F.3d 773 (9<sup>th</sup> Cir. 2006)

**Sec. 15.13.070. Limitations on amount of political contributions.** (a) An individual or group may make contributions, subject only to the limitations of this chapter and AS 24.45, including the limitations on the maximum amounts set out in this section.

(b) An individual may contribute not more than

(1) \$500 per year to a nongroup entity for the purpose of influencing the nomination or election of a candidate, to a candidate, to an individual who conducts a write-in campaign as a candidate, or to a group that is not a political party;

(2) \$5,000 per year to a political party.

(c) A group that is not a political party may contribute not more than \$1,000 per year

(1) to a candidate, or to an individual who conducts a write-in campaign as a candidate;

(2) to another group, to a nongroup entity, or to a political party.

(d) A political party may contribute to a candidate, or to an individual who conducts a write-in campaign, for the following offices an amount not to exceed

(1) \$100,000 per year, if the election is for governor or lieutenant governor;

(2) \$15,000 per year, if the election is for the state senate;

(3) \$10,000 per year, if the election is for the state house of representatives; and

(4) \$5,000 per year, if the election is for

(A) delegate to a constitutional convention;

(B) judge seeking retention; or

(C) municipal office.

(e) This section does not prohibit a candidate from using up to a total of \$1,000 from campaign contributions in a year to pay the cost of

(1) attendance by a candidate or guests of the candidate at an event or other function sponsored by a political party or by a subordinate unit of a political party;

(2) membership in a political party, subordinate unit of a political party, or other entity within a political party, or subscription to a publication from a political party; or

(3) co-sponsorship of an event or other function sponsored by a political party or by a subordinate unit of a political party.

(f) A nongroup entity may contribute not more than \$1,000 a year to another nongroup entity for the purpose of influencing the nomination or election of a candidate, to a candidate, to an individual who conducts a write-in campaign as a candidate, to a group, or to a political party. (§ 1 ch 76 SLA 1974; am §§ 20, 21 ch 189 SLA 1975; am § 45 ch 85 SLA 1986; am § 10 ch 48 SLA 1996; am § 2 ch 74 SLA 1998; am §§ 9-11 ch 1 SLA 2002; am § 2 ch 3 SLA 2002; am §§ 8-10 ch 108 SLA 2003; am §§ 1, 2, 2006 Primary Election Ballot Measure No. 1)

**Cross references.** – For prohibition against certain campaign fund-raising by legislators, see AS 24.60.030.

**Effect of amendments.** – The 1996 amendment, effective January 1, 1997, rewrote this section.

The 1998 amendment, effective June 4, 1998, added subsection (e).

The first 2002 amendment, effective April 16, 2002, in subsection (b) inserted the language beginning “to a nongroup” and ending “of a candidate” in paragraph (1); in subsection (c) inserted “, a nongroup entity,” in paragraph (2); and added subsection (f).

The second 2002 amendment, effective April 16, 2002, in subsection (b) added “for the purpose of influencing the nomination or election of a candidate or candidates” at the end of paragraph (2).

The 2003 amendment, effective September 14, 2003, increased the allowed contributions in subsections (b), (c), and (f) and made stylistic changes.

The 2006 amendment effective December 17, 2006 rewrote subsections (b) and (c).

**Opinions of attorney general.** – There seems to be no difference between § 608(c) of the Federal Elections Campaign Act of 1971, former 18 U.S.C. § 608(c), and subsection (f) of this section; accordingly, based on the reasons stated in *Buckley v. Valeo*, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976), for finding unconstitutional § 608(c) of the federal act, subsection (f) of this section is invalid as a violation of the rights and privileges protected by the 1<sup>st</sup> amendment. May 13, 1976 Op. Att’y Gen (decided prior to the 1986 repeal of subsection (f)).

The Public Offices Commission should not undertake investigations of violations of subsection (f) of this section, and candidates or others may be advised that no implementation or enforcement of subsection (f) of this section is planned by the office of the attorney general. May 13, 1976 Op. Att’y Gen. (decided prior to the 1986 repeal of subsection (f)).

The \$1000 statutory limit under this section is applicable to “control groups” under former AS 15.13.130(4). Exempting such groups from the contribution limit

would seriously undermine the statute's primary purpose of deterring the buying of elections and the undue influence of large contributors. June 15, 1987, Op. Att'y Gen.

#### NOTES TO DECISIONS

**Constitutionality.** – The \$500 limitation on individual contributions for electoral campaigns in Alaska set forth in subsection (b) is justified by evidence that contribution limits do not place a substantial burden on the ability of candidates to run competitive local or state election campaigns. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

Limits on individuals' contributions to groups and political parties are reasonable; preventing individuals from channeling their contributions through a group or a party, and thus avoiding the limit on individuals' contributions to candidates, is a valid purpose. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The limitation in subsection (c), that a "group" that is not a political party may not contribute more than \$1000 per year to a candidate, another group, or a political party, is reasonable. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The graduated limits for political parties' contributions to candidates set forth in subsection (d) serve the State's legitimate governmental interest, and are upheld. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The limitations in former AS 15.13.070(b)(2) on individuals' soft money contributions to political parties were constitutional under the First Amendment. *Jacobus v. Alaska*, 338 F.3d 1095 (9<sup>th</sup> Cir. 2003)

**Implementation by regulations.** – Alaska Admin. Code tit. 2 § 50.327, which was legally promulgated and requires that political parties report soft money contributions and expenditures, implements the Campaign Disclosure Act. *Libertarian Party of Alaska, Inc. v. State*, 101 P.3d 616 (Alaska 2004).

**Applied** in *Vogler v. Miller*, 660 P.2d 1192 (Alaska 1983).

**Cited** in *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

**Collateral references.** – Power of corporation to make political contribution or expenditure under state law. 79 ALR3d 491.

State regulation of the giving or making of political contributions or expenditures by private individuals. 94 ALR3d 944.

**Sec. 15.13.072. Restrictions on solicitation and acceptance of contributions.** (a) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 may not solicit or accept a contribution from

- (1) a person not authorized by law to make a contribution;
- (2) an individual who is not a resident of the state at the time the contribution is made, except as provided in (e) of this section;
- (3) a group organized under the laws of another state, resident in another state, or whose participants are not residents of this state at the time the contribution is made; or

(4) a person registered as a lobbyist if the contribution violates AS 15.13.074(g) or AS 24.45.121 (a)(8).

(b) A candidate or an individual who has filed with the commission the document necessary to permit the individual to incur election-related expenses under AS 15.13.100, or a group, may not solicit or accept a cash contribution that exceeds \$100.

(c) An individual, or one acting directly or indirectly on behalf of that individual, may not solicit or accept a contribution

(1) before the date for which contributions may be made as determined under AS 15.13.074 (c); or

(2) later than the day after which contributions may not be made as determined under AS 15.13.074 (c).

(d) While the legislature is convened in a regular or special legislative session, a legislator or legislative employee may not solicit or accept a contribution to be used for the purpose of influencing the outcome of an election under this chapter unless

(1) it is an election in which the legislator or legislative employee is a candidate and the contribution is for that legislator's or legislative employee's campaign;

(2) the solicitation or acceptance occurs during the 90 days immediately preceding that election; and

(3) the solicitation or acceptance occurs in a place other than the capital city or a municipality in which the legislature is convened in special session if the legislature is convened in a municipality other than the capital city.

(e) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 may solicit or accept contributions from an individual who is not a resident of the state at the time the contribution is made if the amounts contributed by individuals who are not residents do not exceed

(1) \$20,000 a calendar year, if the candidate or individual is seeking the office of governor or lieutenant governor;

(2) \$5,000 a calendar year, if the candidate or individual is seeking the office of state senator;

(3) \$3,000 a calendar year, if the candidate or individual is seeking the office of state representative or municipal or other office.

(f) A group or political party may solicit or accept contributions from an individual who is not a resident of the state at the time the contribution is made, but the amounts accepted from individuals who are not residents may not exceed 10 percent of total contributions made to the group or political party during the calendar or group year in which the contributions are received.

(g) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 for election or reelection to the office of governor or lieutenant governor may not solicit or accept a contribution in the capital city while the legislature is convened in a regular or special legislative session.

(h) A nongroup entity may solicit or accept contributions for the purpose of influencing the nomination or election of a candidate from an individual who is not a resident of the state at the time the contribution is made or from an entity organized under the laws of another state, resident in another state, or whose participants are not residents of this state at the time the contribution is made. The amounts accepted by the nongroup entity from these individuals and entities for the purpose of influencing the nomination or election of a candidate may not exceed 10 percent of total contributions made to the nongroup entity for the purpose of influencing the nomination or election of a candidate during the calendar year in which the contributions are received. (§ 11 ch 48 SLA 1996; am § 1 ch 14 SLA 1998; am §§ 3, 4 ch 74 SLA 1998; am § 12 ch 1 SLA 2002; am § 11 ch 108 SLA 2003; am § 1 ch 106 SLA 2008))

**Effect of amendments.** – The first 1998 amendment, effective April 21, 1998, rewrote subsection (d).

The second 1998 amendment, effective June 4, 1998, in subsection (d) added the paragraph (a) designation, added paragraph (2), and made minor stylistic changes; and added subsection (g).

The 2002 amendment, effective April 16, 2002, added subsection (h).

The 2003 amendment, effective September 14, 2003, in subsection (e) inserted "a calendar year" in three places.

The 2008 amendment, effective June 21, 2008, rewrote subsection (d).

#### NOTES TO DECISIONS

**Constitutionality.** – Attempting to limit outside influences in Alaska politics is a sufficiently compelling state interest to justify the restrictions on contributions by nonresidents set forth in subsections (a), (e), and (f). *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999) cert. denied, U.S. 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

**Sec. 15.13.074. Prohibited contributions.** (a) A person, group, or nongroup entity may not make a contribution if the making of the contribution would violate this chapter.

(b) A person or group may not make a contribution anonymously, using a fictitious name, or using the name of another.

(c) A person or group may not make a contribution

(1) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 when the office is to be filled at a general election before the date that is 18 months before the general election;

(2) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 for an office that is to be filled at a special election or municipal election before the date that is 18 months before the date of the regular municipal election or that is before the date of the proclamation of the special election at which the candidate or individual seeks election to public office; or

(3) to any candidate later than the 45th day

(A) after the date of the primary election if the candidate was not nominated at the primary election; or

(B) after the date of the general election, or after the date of a municipal or municipal runoff election.

(d) A person or group may not make a contribution to a candidate or a person or group who is prohibited by AS 15.13.072 (c) from accepting it.

(e) A person or group may not make a cash contribution that exceeds \$100.

(f) A corporation, company, partnership, firm, association, entity recognized as tax-exempt under 26 U.S.C. 501(c)(3) (Internal Revenue Code), organization, business trust or surety, labor union, or publicly funded entity that does not satisfy the definition of group or nongroup entity in AS 15.13.400 may not make a contribution to a candidate, group, or nongroup entity.

(g) An individual required to register as a lobbyist under AS 24.45 may not make a contribution to a candidate for the legislature at any time the individual is subject to the registration requirement under AS 24.45 and for one year after the date of the individual's initial registration or its renewal. However, the individual may make a contribution under this section to a candidate for the legislature in a district in which the individual is

eligible to vote or will be eligible to vote on the date of the election. An individual who is subject to the restrictions of this subsection shall report to the commission, on a form provided by the commission, each contribution made while required to register as a lobbyist under AS 24.45. Upon request of the commission, the information required under this subsection shall be submitted electronically. This subsection does not apply to a representational lobbyist as defined in regulations of the commission.

(h) Notwithstanding AS 15.13.070, a candidate for governor or lieutenant governor and a group that is not a political party and that, under the definition of the term "group," is presumed to be controlled by a candidate for governor or lieutenant governor, may not make a contribution to a candidate for another office, to a person who conducts a write-in campaign as a candidate for other office, or to another group of amounts received by that candidate or controlled group as contributions between January 1 and the date of the general election of the year of a general election for an election for governor and lieutenant governor. This subsection does not prohibit

(1) the group described in this subsection from making contributions to the candidates for governor and lieutenant governor whom the group supports; or

(2) the governor or lieutenant governor, or the group described in this subsection, from making contributions under AS 15.13.116 (a)(2)(A).

(i) A nongroup entity may not solicit or accept a contribution to be used for the purpose of influencing the outcome of an election unless the potential contributor is notified that the contribution may be used for that purpose. (§ 11 ch 48 SLA 1996; am § 12 ch 48 SLA 1996; am § 2 ch 14 SLA 1998; am § 5 ch 74 SLA 1998; am § 8 ch 33 SLA 1999; am §§ 13-15 ch 1 SLA 2002; am §§ 12, 13 ch 108 SLA 2003)

**Revisor's notes.** – The amendment to (c) of this section made by § 12, ch. 48, SLA 1996 took effect July 16, 1999 under §§ 33(b) and 34, ch. 48, SLA 1996. The contingency described in § 33(b), ch. 48, SLA 1996 occurred 90 days after the date of the decision in *State of Alaska v. Alaska Civil Liberties Union* 978 P.2d 597 (Alaska Opin. No. 5108, April 16, 1999). The 90 day period represents the time during which a petition for certiorari could have been filed with the U.S. Supreme Court. The State did not file a petition for certiorari, and therefore that part of the decision declaring AS 15.13.074(c) (as enacted in § 11, ch. 48, SLA 1996) unconstitutional became final at the close of business July 15, 1999. Under § 34, ch. 48, SLA 1996, the amendment to (c) of this section made by § 12, ch. 48, SLA 1996, became effective the next day, July 16, 1999. Because it appeared to the revisor that the intervening amendments made to subsection (c) by § 2, ch. 14, SLA 1998 and § 5, ch. 74, SLA 1998 were inconsistent with the repeal and reenactment of subsection (c) under § 12, ch. 48, SLA 1996, those 1998 amendments were not retained.

**Effect of amendments.** – The 1996 amendment, effective July 16, 1999, rewrote subsection (c).

The first 1998 amendment, effective April 21, 1998, in subsection (c), deleted "when the office is to be filled at a general election," preceding "before the later" in the introductory language of paragraph (1), deleted "general" preceding "election" in subparagraphs (1)(B) and (2)(B), rewrote paragraph (2), deleted "special election or" preceding "municipal election" in the introductory language of paragraph (3), and rewrote subparagraph (3)(B).



The second 1998 amendment, effective June 4, 1998, in subsection (c) added "when the office is to be filled at a general election; or" at the end of subparagraph (1)(B) and added subparagraph (1)(C), inserted "in a place other than the capital city" in the introductory language in paragraph (2), added "the date that" at the beginning of subparagraph (4), added paragraph (5), and made minor stylistic changes.

The 1999 amendment, effective May 28, 1999, made a section reference substitution at the end of paragraph (h)(2).

The 2002 amendment, effective April 16, 2002, in subsections (a) and (f) inserted references to nongroup entities; in subsection (f) inserted "entity recognized as tax-exempt under 26 U.S.C. 501(c)(3) (Internal Revenue Code)"; added subsection (I); and made related stylistic changes.

The 2003 amendment, effective September 14, 2003, rewrote paragraph (c)(3) and added the next-to-last sentence in subsection (g).

### NOTES TO DECISION

**Constitutionality.** – Alaska has a substantial governmental interest in campaign finance reform that justifies some restriction on First Amendment freedoms, including the ban on contributions by a corporation, company, partnership, firm, association, organization, business trust, surety, or labor union in subsection (f). *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, U.S., 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The restrictions on contributions and expenditures by corporations and labor unions, considered together, are not so extreme as to constitute bans on issue advocacy. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, U.S., 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The ban on out-of-district lobbyist contributions in subsection (g) is narrowly tailored to further the State's compelling interest, and the restraint does not foreclose lobbyists from engaging in political speech. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, U.S., 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The post-election contribution limits of paragraph (c)(4) comprise a narrowly-tailored impact on associational rights to further compelling state interests, and are upheld. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, U.S., 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

AS 15.13.074(f) is constitutional to the extent that it prohibits a corporation, company, partnership, firm association, organization, business trust or surety, labor union, or publicly funded entity from making a contribution to a political party for the purpose of nominating or electing a candidate. The provision does not prohibit, and is unconstitutional to the extent that it prohibits, contributions by these entities to a political party for a purpose other than influencing the nomination or election of a candidate. *Jacobus v. Alaska*, 182 F. Supp. 2d 893 (D. Alaska 2001).

Soft money ban on corporate contributions to political parties under AS 15.13.074(f) is constitutional under the First Amendment. *Jacobus v. Alaska*, 338 F.3d 1095 (9<sup>th</sup> Cir. 2003).

Reporting provisions of this section and AS 15.13.040(d), (e) and (j), 15.13.082(b), 15.13.110, and 15.13.135(a) survive strict scrutiny because the state's interest in regulating campaign contributions

**Pre-election contribution limits invalid.** – The pre-election contribution limits or paragraphs (c)(1), (2), and (3) are invalid, and the eighteen-month contingent pre-election time limits in ch. 48 § 12, SLA 1996 are effective. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, U.S., 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

**Prohibition on contributions during legislative session invalid.** - The prohibition against making contributions to legislative candidates, including both challengers and incumbents, during a regular legislative session, set forth in paragraph (c)(2), is not narrowly tailored to the State's compelling interest of preventing corruption or its appearance, and is therefore, invalid. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, U.S., 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

**Severability.** - Chapter 48, SLA 1996, which revised Alaska's election campaign finance laws, provides both a severability clause and contingent provisions to become effective if parts of the act are held invalid; thus, invalidation of some parts of the act does not undermine the structure of the whole, and legal effect can be given to the remaining provisions. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, U.S., 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

**Sec. 15.13.076. Authorized recipients of contributions.** A contribution to a

- (1) candidate may be received only by
  - (A) the candidate; or
  - (B) the candidate's campaign treasurer or a deputy campaign treasurer;
- (2) group may be received only by the group's campaign treasurer or a deputy treasurer. (§ 11 ch 48 SLA 1996)

**Sec. 15.13.078. Contributions and loans from the candidate.** (a) The provisions of this chapter do not prohibit the individual who is a candidate from giving any amount of the candidate's own money or other thing of value to the campaign of the candidate. Donations made by the candidate to the candidate's own campaign shall be reported as contributions in accordance with AS 15.13.040 and 15.13.110.

(b) The provisions of this chapter do not prohibit the individual who is a candidate from lending any amount to the campaign of the candidate. Loans made by the candidate shall be reported as contributions in accordance with AS 15.13.040 and 15.13.110. However, the candidate may not

- (1) recover, under this section and AS 15.13.116 (a)(4), the amount of a loan made by the candidate to the candidate's own campaign that exceeds
  - (A) \$25,000, if the candidate ran for governor or lieutenant governor;
  - (B) \$10,000, if the candidate ran for
    - (i) the legislature; or
    - (ii) delegate to a constitutional convention;
  - (C) \$10,000, if the candidate was a judge seeking retention;

(D) \$5,000, if the candidate ran in a municipal election; or

(2) repay a loan that the candidate has made to the candidate's own campaign unless, within five days of making the loan, the candidate notifies the commission, on a form provided by the commission, of the candidate's intention to repay the loan under AS 15.13.116 (a)(4).

(c) On and after the date determined under AS 15.13.110 as the last day of the period ending three days before the due date of the report required to be filed under AS 15.13.110 (a)(1) and until the date of the election for which the report is filed, a candidate may not give or loan to the candidate's campaign the candidate's money or other thing of value of the candidate in an amount that exceeds \$5,000.

(d) The provisions of this section apply only to the individual who is a candidate, as that term is defined by AS 15.13.400 (1)(A), and do not apply to authorize a contribution or loan under this section by an individual described in the definition of the term "candidate" under AS 15.13.400 (1)(B). (§ 11 ch 48 SLA 1996; am § 9 ch 33 SLA 1999)

**Effect of amendments.** – The 1999 amendment, effective May 28, 1999, made section reference substitutions in paragraphs (b)(1) and (b)(2).

*Sec. 15.13.080. Statement by or on behalf of contributor. [Repealed, Sec. 11 ch 1 TSSLA 2002].*

**Revisor's notes.** – From April 16, 2002, until the repeal of this section on June 26, 2002, AS 15.13.080(a) read as follows: "(a) An individual who contributes \$500, or goods or services with a value of \$500, to a candidate shall file a contributor's statement as required by this section. A candidate who receives \$500, or goods or services of a value of \$500, may file a contributor's statement as required under this section on behalf of the contributor."

**Sec. 15.13.082. Limitations on expenditures.** (a) A candidate or group may not make an expenditure in cash that exceeds \$100 unless the candidate, or the campaign treasurer or deputy campaign treasurer, obtains a written receipt from the person to whom the expenditure is made.

(b) A candidate, group, or nongroup entity may not make an expenditure unless the source of the expenditure has been disclosed as required by this chapter.

(c) If a candidate receives a contribution in the form of cash, check, money order, or other negotiable instrument and is subject to being reported to the commission under this chapter, the candidate may neither expend the contribution nor, in the case of a negotiable instrument, convert it to cash unless the candidate, campaign treasurer, or deputy campaign treasurer first records the following information for disclosure to the commission:

- (1) the name, address, principal occupation, and employer of the contributor; and
- (2) the date and amount of the contribution. (§ 14 ch 48 SLA 1996; am § 16 ch 1 SLA 2002)

**Effect of amendments.** – The 2002 amendment, effective April 16, 2002, in subsection (b) inserted "or nongroup entity" and made a related stylistic change.

#### NOTES TO DECISIONS

**Constitutionality.** – Reporting provisions of this section and AS 15.13.040(d), (e) and (j), 15.13.074(i), 15.13.110, and 15.13.135(a) survive strict scrutiny because the state's interest in regulating campaign contributions and expenditures is significant and the requirements are not particularly onerous. *Alaska Right to Life Comm. v. Miles*, 441 F. 3d 773 (9<sup>th</sup> Cir 2006).

**Sec. 15.13.084. Prohibited expenditures.** A person may not make an expenditure

- (1) anonymously, unless the expenditure is
  - (A) paid for by an individual acting independently of any group or nongroup entity and independently of any other individual;
  - (B) made to influence the outcome of a ballot proposition as that term is defined by AS 15.13.065 (c); and
  - (C) made for
    - (i) a billboard or sign; or
    - (ii) printed material, other than an advertisement made in a newspaper or other periodical;
- (2) using a fictitious name or using the name of another. (§ 14 ch 48 SLA 1996; am §17 ch 1 SLA 2002)

**Effect of amendments.** – The 2002 amendment, effective April 16, 2002, in paragraph (1) inserted "or nongroup entity" in subparagraph (A).

**Sec. 15.13.086. Authorized makers of expenditures.** An expenditure

- (1) authorized by or in behalf of a candidate may be made only by
  - (A) the candidate; or
  - (B) the candidate's campaign treasurer or a deputy campaign treasurer;
- (2) authorized by AS 15.13.067 (3) by or in behalf of a group may be made only by the group's campaign treasurer. (§ 14 ch 48 SLA 1996)

**Sec. 15.13.090. Identification of communication.** (a) All communications shall be clearly identified by the words "paid for by" followed by the name and address of the candidate, group, nongroup entity, or individual paying for the communication. In addition, candidates and groups may identify the name of their campaign chairperson.

- (b) The provisions of (a) of this section do not apply when the communication
  - (1) is paid for by an individual acting independently of any group or nongroup entity and independently of any other individual;
  - (2) is made to influence the outcome of a ballot proposition as that term is defined by AS 15.13.065 (c); and
  - (3) is made for
    - (A) a billboard or sign; or
    - (B) printed material other than an advertisement made in a newspaper or other periodical. (§ 1 ch 76 SLA 1974; am § 22 ch 189 SLA 1975; am § 36 ch 100 SLA 1980; am § 15 ch 48 SLA 1996; am §§ 18, 19 ch 1 SLA 2002; am § 5 ch 1 TSSLA 2002)

**Revisor's notes.** – In 2000, "chairperson" was substituted for "chairman" in (a) of this section in accordance with sec. 95(3), ch. 82, SLA 2000.

**Effect of amendments.** – The 1996 amendment, effective January 1, 1997, added subsection (b).

The first 2002 amendment, effective April 16, 2002, in subsection (a) and paragraph (b)(1) inserted references to nongroup entities.

The second 2002 amendment, effective June 26, 2002, rewrote subsection (a) and substituted "communication" for "advertisement" in the introductory language of subsection (b).

**Editor's notes.** – From April 16, 2002 through June 25, 2002, this section read as follows: "Identification of communication. (a) All advertisements, billboards, handbills, paid-for television and radio announcements, and other communications intended to influence the election of a candidate or outcome of a ballot proposition or question shall be clearly identified by the words "paid for by" followed by the name and address of the candidate, group, nongroup entity, or individual paying for the advertising. In addition, candidates and groups must identify the name of their campaign chairperson.

"(b) The provisions of (a) of this section do not apply when the advertisement

"(1) is paid for by an individual acting independently of any group or nongroup entity and independently of any other individual;

"(2) is made to influence the outcome of a ballot proposition as that term is defined by AS 15.13.065(c); and

"(3) is made for

"(A) a billboard or sign; or

"(B) printed material other than an advertisement made in a newspaper or other periodical."

**Collateral references.** – Validity and construction of state statute prohibiting anonymous political advertising. 4 ALR4th 741.

#### NOTES TO DECISIONS

**Applicability to non-group entities** – Compelling state interests of providing the electorate with information, deterring actual corruption and avoiding any appearance thereof, and gathering the data necessary to enforce more substantive electioneering restrictions, justifies the application of this section and AS 15.13.135 to non-group entities. *Alaska Right to Life Comm. v. Miles*, 44 F.3d 773 (9<sup>th</sup> Cir. 2006)

**Sec. 15.13.095. False statements in telephone polling and calls to convince.** (a) A candidate who is damaged as the result of a false statement about the candidate made with knowledge that it was false, or with reckless disregard for whether it was false or not, made as part of a telephone poll or an organized series of calls, and made with the intent to convince potential voters concerning the outcome of an election in which the candidate is running may recover damages in an action in superior court under this section against the individual who made the telephone call, the individual's employer, and the person who contracted for or authorized the poll or calls to convince. However, the employer of the individual or the person who contracted for or authorized the poll or calls to convince is liable to the defamed candidate only if the employer or person authorized the statement to be made, knowing that it was false or with reckless disregard for whether it was false or not, as part of the poll or calls to convince.

(b) The court may award damages, including punitive damages. If the court finds that the result of the statement places the integrity of the election process in substantial doubt, the eligibility of the successful candidate to hold the office to which elected shall be determined as provided in AS 15.56.110 (b) or, in the case of a candidate for governor or lieutenant governor, by impeachment under art. II, sec. 20, Constitution of the State of Alaska. (§ 1 ch 142 SLA 1996)

**Sec. 15.13.100. Expenditures before filing.** A political campaign expenditure may not be made or incurred by a person in an election or by a person or group with the person's knowledge and on the person's behalf before the date upon which the person files for nomination for the office which the person seeks, except for personal travel expenses or for opinion surveys or polls. These expenditures must be included in the first report required under this chapter after filing for office. (§ 1 ch 76 SLA 1974; am § 23 ch 189 SLA 1975; am § 25 ch 14 SLA 1987)

**Sec. 15.13.110. Filing of reports.** (a) Each candidate, group, and nongroup entity shall make a full report in accordance with AS 15.13.040 for the period ending three days before the due date of the report and beginning on the last day covered by the most recent previous report. If the report is a first report, it must cover the period from the beginning of the campaign to the date three days before the due date of the report. If the report is a report due February 15, it must cover the period beginning on the last day covered by the most recent previous report or on the day that the campaign started, whichever is later, and ending on February 1 of that year. The report shall be filed

(1) 30 days before the election; however, this report is not required if the deadline for filing a nominating petition or declaration of candidacy is within 30 days of the election;

(2) one week before the election;

(3) 105 days after a special election; and

(4) February 15 for expenditures made and contributions received that were not reported previously, including, if applicable, all amounts expended from a public office expense term account established under AS 15.13.116(a)(8) and all amounts expended from a municipal office account under AS 15.13.116(a)(9), or when expenditures were not made or contributions were not received during the previous year.

(b) Each contribution that exceeds \$250 and that is made within nine days of the election shall be reported to the commission by date, amount, and contributor within 24 hours of receipt by the candidate, group, campaign treasurer, or deputy campaign treasurer. Each contribution to a nongroup entity for the purpose of influencing the outcome of an election that exceeds \$250 and that is made within nine days of the election shall be reported to the commission by date, amount, and contributor within 24 hours of receipt by the nongroup entity.

(c) All reports required by this chapter shall be filed with the commission's central office and shall be kept open to public inspection. Within 30 days after each election, the commission shall prepare a summary of each report which shall be made available to the public at cost upon request. Each summary shall use uniform categories of reporting.

(d) *[Repealed, Sec. 35 ch 126 SLA 1994].*

(e) A group formed to sponsor an initiative, a referendum or a recall shall report 30 days after its first filing with the lieutenant governor. Thereafter each group shall report within 10 days after the end of each calendar quarter on the contributions received and expenditures made during the preceding calendar quarter until reports are due under (a) of this section.

(f) During the year in which the election is scheduled, each of the following shall file the campaign disclosure reports in the manner and at the times required by this section:

(1) a person who, under the regulations adopted by the commission to implement AS 15.13.100, indicates an intention to become a candidate for elective state executive or legislative office;

(2) a person who has filed a nominating petition under AS 15.25.140 - 15.25.200 to become a candidate at the general election for elective state executive or legislative office;

(3) a person who campaigns as a write-in candidate for elective state executive or legislative office at the general election; and

(4) a group or nongroup entity that receives contributions or makes expenditures on behalf of or in opposition to a person described in (1) - (3) of this subsection, except as provided for certain independent expenditures by nongroup entities in AS 15.13.135 (a). (§ 1 ch 76 SLA 1974; am § 24 ch 189 SLA 1975; am § 2 ch 133 SLA 1977; am §§ 1, 2 ch 49 SLA 1993; am §35 ch 126 SLA 1994; am § 2 ch 59 SLA 1995; am § 13 ch 30 SLA 1996; am §§ 16-18 ch 48 SLA 1996; am § 6 ch 74 SLA 1998; am § 2 ch 103 SLA 2001; am §§ 20-22 ch 1 SLA 2002; am § 14 ch 108 SLA 2003; am § 10 ch 99 SLA 2004)

**Cross references.** – For legislative purpose in enacting subsection (f), see § 1, ch. 59, SLA 1995 in the Temporary and Special Acts.

**Effect of amendments.** – The 1995 amendment, effective August 29, 1995, added subsection (f).

The second 1996 amendment, effective January 1, 1997, in subsection (a), inserted “, including, if applicable, all amounts expended from a legislative office account established under AS 15.13.116(a)(9) and all amounts expended from a municipal office account under AS 15.13.116(a)(10),” rewrote subsection (b), and, in subsection (c), deleted the former first sentence which read “the reports of candidates shall be filed with the commission’s central office” and inserted “shall be filed with the commission’s central office and.”

The 1998 amendment, effective June 4, 1998, substituted “a public office expense term account” for “a legislative office account” and made two section reference substitutions in paragraph (a)(4).

The 2001 amendment, effective July 14, 2001, substituted “general election” for “primary election” in paragraph (f)(2).

The 2002 amendment, effective April 16, 2002, in subsection (a) and paragraph (f)(4) inserted references to nongroup entities; in subsection (b) added the second sentence; in paragraph (f)(4) added the exception at the end; and made a stylistic change.

The 2003 amendment, effective September 14, 2003, in subsection (a) substituted “must” for “shall” in two places and “on February 1 of that year” for “on December 31 of the prior year” at the end of the next-to-last sentence in the introductory language, rewrote paragraph (3), which read “10 days after the election; and,” and in paragraph (4) substituted “reported previously” for “reported during the previous year.”

The 2004 amendment, effective June 26, 2004 substituted “general” for “primary” in paragraph (f)(2).

**Editor’s notes.** – Under § 4, ch. 59, SLA 1995, the provisions of (f)(1) of this section “are intended to apply to a person who indicates an intention to become a candidate for elective state executive or legislative office under a letter of intent authorized by 2 AAC 50.380 and who makes or incurs campaign expenditures by initiating early campaigning for the office.”



## NOTES TO DECISIONS

Disclosure requirements constitutional. – The disclosure requirements of this chapter are not unconstitutionally vague or overbroad, nor do they violate the constitutional right of the people to privacy. *VECO Int'l, Inc. v. Alaska Pub. Offices Comm'n*, 753, P.2d 703 (Alaska 1988), appeal dismissed, 488 U.S. 919, 109 S. Ct. 298, 102 L. Ed. 2d 317 (1988).

Stated in *State, Alaska Pub. Offices Comm'n v. Marshall*, 633, P.2d 227 (Alaska 1981).

**Sec. 15.13.111. Preservation of records. [Effective January 1, 2009].** (a) Each candidate, group, nongroup entity, or person required to report under this chapter shall preserve all records necessary to substantiate information required to be reported under this chapter for a period of six years from the date of the election for which the information was required to be reported, unless the records have been submitted to the commission under (c) of this section.

(b) Information preserved under (a) of this section must be made available for inspection by the commission.

(c) A candidate for state elected office who was not elected or a person who has left state elected office may submit the records required to be preserved under (a) of this section to the commission electronically. Records submitted under this subsection shall be preserved by the commission for a period of six years from the date of the election for which the information was required to be reported. (§ 2 ch 95 SLA 2008)

**Effective dates.** – Section 16, ch. 95 SLA 2008, makes this section effective January 1, 2009.

**Editor's notes.** – Section 13(a), ch. 95, SLA 2008 provides that this section applies to records for elections on or after January 1, 2009.

**Sec. 15.13.112. Uses of campaign contributions held by candidate or group.** (a) Except as otherwise provided, campaign contributions held by a candidate or group may be used only to pay the expenses of the candidate or group, and the campaign expenses incurred by the candidate or group, that reasonably relate to election campaign activities, and in those cases only as authorized by this chapter.

(b) Campaign contributions held by a candidate or group may not be

(1) used to give a personal benefit to the candidate or to another person;

(2) converted to personal income of the candidate;

(3) loaned to a person;

(4) knowingly used to pay more than the fair market value for goods or services purchased for the campaign;

(5) used to pay a criminal fine;

(6) used to pay civil penalties; however, campaign contributions held by a candidate or group may be used to pay a civil penalty assessed under this chapter if authorized by the commission or a court after it first determines that

(A) the candidate, campaign treasurer, and deputy campaign treasurer did not cause or participate in the violation for which the civil penalty is imposed and exercised a reasonable level of oversight over the campaign; and

(B) the candidate, campaign treasurer, and deputy campaign treasurer cooperated in the revelation of the violation and in its immediate correction; or

(7) used to make contributions to another candidate or to a group; however, it is not a violation of this paragraph if, in circumstances in which a candidate or group participates in a shared campaign activity, the candidate or group participating in the activity

(A) uses campaign contributions of the candidate or group for payment of

(i) all of the shared campaign activity expense; or

(ii) more than the candidate's or group's pro rata share of the activity expense; and

(B) receives, within seven days after payment of the expense, complete reimbursement of the amount of campaign contributions used for payments made on behalf of another candidate or group participating in the activity.

(c) A candidate may use up to a total of \$1,000 in campaign contributions in a year to pay the cost of

(1) attending, or paying the cost for guests of the candidate to attend, an event or other function sponsored by a political party or subordinate unit of a political party;

(2) membership in a political party, subordinate unit of a political party, or other entity within a political party, or subscription to a publication from a political party; and

(3) co-sponsorship of an event or other function sponsored by a political party or by a subordinate unit of a political party. (§ 19 ch 48 SLA 1996; am § 7 ch 74 SLA 1998; am § 1 ch 90 SLA 2006)

**Effect of amendments.** – The 1998 amendment, effective June 4, 1998, added subsection (c).

The 2006 amendment, effective October 11, 2006, added language to paragraph (b)(7) beginning “however, it is not a violation” through the end of the paragraph.

**NOTES TO DECISIONS**

**Constitutionality.** – Because the State has a compelling interest in enforcing contribution limits, and because candidates still retain the right to make contributions from personal funds, the ban on inter-candidate contributions in paragraph (b)(7) is constitutional. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

**Sec. 15.13.114. Disposition of prohibited contributions.** (a) A candidate, group, or nongroup entity that receives and accepts a contribution given in violation of AS 15.13.072 or 15.13.074 shall immediately, upon discovery that the contribution is prohibited, return it to the contributor. A candidate, group, or nongroup entity that receives and accepts a contribution in excess of the limitation on contributions set out in AS 15.13.070 shall immediately, upon discovery of the prohibited excess contribution, return the excess to the contributor. If the contribution or excess amount cannot be returned in the same form, the equivalent value of the contribution or excess amount shall be returned.

(b) An anonymous contribution is forfeited to the state unless the contributor is identified within five days of its receipt. Money that forfeits to the state under this subsection shall be delivered immediately to the Department of Revenue for deposit in the general fund. (§ 19 ch 48 SLA 1996; am § 23 ch 1 SLA 2002)

**Effect of amendments.** – The 2002 amendment, effective April 16, 2002, in two places. In subsection (a) inserted ", or nongroup entity": and made related stylistic changes

**Sec. 15.13.116. Disbursement of campaign assets after election.** (a) A candidate who, after the date of the general, special, municipal, or municipal runoff election or after the date the candidate withdraws as a candidate, whichever comes first, holds unused campaign contributions shall distribute the amount held on February 1 for a general election or within 90 days after a special election. The distribution may only be made to

(1) pay bills incurred for expenditures reasonably related to the campaign and the winding up of the affairs of the campaign, including a victory or thank you party, thank you advertisements, and thank you gifts to campaign employees and volunteers, and to pay expenditures associated with post-election fund raising that may be needed to raise funds to pay off campaign debts;

(2) make donations, without condition, to

(A) a political party;

(B) the state's general fund;

(C) a municipality of the state; or

(D) the federal government;

(3) make donations, without condition, to organizations qualified as charitable organizations under 26 U.S.C. 501(c)(3) if the organization is not controlled by the candidate or a member of the candidate's immediate family;

(4) repay loans from the candidate to the candidate's own campaign under AS 15.13.078 (b);

(5) repay contributions to contributors, but only if repayment of the contribution is made pro rata in approximate proportion to the contributions made using one of the following, as the candidate determines:

(A) to all contributors;

(B) to contributors who have contributed most recently; or

(C) to contributors who have made larger contributions;

(6) establish a fund for, and from that fund to pay, attorney fees or costs incurred in the prosecution or defense of an administrative or civil judicial action that directly concerns a challenge to the victory or defeat of the candidate in the election;

(7) transfer all or a portion of the unused campaign contributions to an account for a future election campaign; a transfer under this paragraph is limited to

(A) \$50,000, if the transfer is made by a candidate for governor or lieutenant governor;

(B) \$10,000, if the transfer is made by a candidate for the state senate;

(C) \$5,000, if the transfer is made by a candidate for the state house of representatives; and

(D) \$5,000, if the transfer is made by a candidate for an office not described in (A) - (C) of this paragraph;

(8) transfer all or a portion of the unused campaign contributions to a public office expense term account or to a public office expense term account reserve in accordance with (d) of this section; a transfer under this paragraph is subject to the following:

(A) the authority to transfer is limited to candidates who are elected to the state legislature;

(B) the public office expense term account established under this paragraph may be used only for expenses associated with the candidate's serving as a member of the legislature;

(C) all amounts expended from the public office expense term account shall be annually accounted for under AS 15.13.110 (a)(4); and

(D) a transfer under this paragraph is limited to \$5,000 multiplied by the number of years in the term to which the candidate is elected plus any accumulated interest; and

(9) transfer all or a portion of the unused campaign contributions to a municipal office account; a transfer under this paragraph is subject to the following:

(A) the authority to transfer is limited to candidates who are elected to municipal office, including a municipal school board;

(B) the municipal office account established under this paragraph may be used only for expenses associated with the candidate's serving as mayor or as a member of the assembly, city council, or school board;

(C) all amounts expended from the municipal office account shall be annually accounted for under AS 15.13.110 (a)(4); and

(D) a transfer under this paragraph is limited to \$5,000.

(b) After a general, special, municipal, or municipal runoff election, a candidate may retain the ownership of one computer and one printer and of personal property, except money, that was acquired by and for use in the campaign. The current fair market value of the property retained, exclusive of the computer and printer, may not exceed \$5,000. All other property shall be disposed of, or sold and the sale proceeds disposed of, in accordance with (a) or (c) of this section. Notwithstanding any other provision of this chapter,

(1) a candidate may (A) retain a bulk mailing permit that was paid for with campaign funds, and (B) use personal funds, campaign funds, or unused campaign contributions transferred to a public office expense term account under (a)(8) of this section to pay the continuing charges for the permit after the election; money used to continue the life of the permit is not considered to be a contribution under this chapter; in addition to any other use permitted under this chapter, during the candidate's term of office, the candidate may use the bulk mailing permit for mailings associated with service in the office to which the candidate was elected; during the candidate's term of office, if the candidate files a declaration of candidacy or the document necessary to permit the candidate to incur election-related expenses under AS 15.13.100 for the same or a different elective office, the candidate may also use the bulk mailing permit in that election campaign;

(2) a candidate may retain campaign photographs and use the photographs for any purpose associated with service in the office to which the candidate was elected;

(3) a candidate may retain seasonal greeting cards purchased with campaign funds; and

(4) campaign signs prepared for an election that has already taken place have no monetary value and may be retained or disposed of at the candidate's discretion.

(c) Property remaining after disbursements are made under (a) - (b) of this section is forfeited to the state. Within 30 days, the candidate shall deliver the property to the Department of Revenue. The Department of Revenue shall deposit any money received into the general fund and dispose of any other property in accordance with law.

(d) After a general or special election, a candidate for the state legislature who has been elected to the state legislature in that election may, from the amount retained in the public office expense term account reserve under this subsection, transfer to a public office expense term account not more than \$5,000 each calendar year for use only for expenses associated with the candidate's serving as a member of the legislature, except that a senator serving a two-year term may transfer not more than \$10,000 each calendar year. A candidate for the senate may transfer up to \$20,000 from unused campaign contributions to a public office expense term account reserve. A candidate for the house of representatives may transfer up to \$10,000 from unused campaign contributions to a public office expense term account reserve. The public office expense term account reserve may only be used to make transfers to the public office expense term account. At the end of the candidate's term of office, a balance in the public office expense term account reserve must be disposed of as provided in (a) of this section but may not be disposed of as provided in (a)(1), (4), or (6) - (9) of this section. All amounts expended under this subsection shall be annually accounted for under AS 15.13.110 (a)(4). (§ 19 ch 48 SLA 1996; am §§ 8, 9, 10 ch 74 SLA 1998; am §§ 4-6 ch 3 SLA 2002; am § 15 ch 108 SLA 2003)

**Cross references.** – For provisions relating to certain persons holding unused campaign contributions on January 1, 1997, see § 32, ch. 48, SLA 1996 in the Temporary and Special Acts.

For provisions relating to the applicability of subsection (d) to certain contributions held by certain legislators, see § 104, ch. 74, SLA 1998 in the 1998 Temporary and Special Acts.

**Effect of amendments.** – The 1998 amendment, effective June 4, 1998, rewrote subsection (a); added the last four sentences in subsection (b); and added subsection (d).

The 2002 amendment, effective April 16, 2002, in subsection (a) inserted ", thank you advertisements," in paragraph (1), in paragraph (8) inserted "plus any accumulated interest" in subparagraph (D); in subsection (b) substituted "\$5,000" for "\$2,500" in the introductory language, added the subparagraph (1) designation, in subparagraph (1) substituted "the document necessary to permit the candidate to incur election-related expenses under AS 15.13.100" for "A letter of intent to become a candidate" near the end and added subparagraphs (2)-(4); in subsection (d) added the exception at the end of the first sentence; and made stylistic changes.

The 2003 amendment, effective September 14, 2003, in subsection (a) inserted "on February 1 for a general election or" and "after a special election" in the introductory language and made a stylistic change.

**Editor's notes.** – Section 106, ch. 105, SLA 1998 makes the 1998 amendments to subsections (a) and (b), the 1998 enactment of subsection (d), and the related provisions in § 104, ch. 74, SLA 1998 in the 1998 Temporary and Special Acts all retroactive to December 31, 1996.

## NOTES TO DECISIONS

**Constitutionality.** – The State's interest in preventing avoidance of valid contribution limits by use of carry-forwards in both compelling and served by the restriction set forth in this section, which is narrowly tailored to accomplish this interest, and justifies its burden on speech. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

*Sec. 15.13.120. [Renumbered as AS 15.13.380].*

Repealed or Renumbered

*Sec. 15.13.122. [Renumbered as AS 15.13.385].*

Repealed or Renumbered

*Sec. 15.13.125. [Renumbered as AS 15.13.390].*

Repealed or Renumbered

*Sec. 15.13.130. Definitions. [Repealed, ch 48 Sec. 28 SLA 1996].*

Repealed or Renumbered

**Sec. 15.13.135. Independent expenditures for or against candidates.** (a) Only an individual, group, or nongroup entity may make an independent expenditure supporting or opposing a candidate for election to public office. An independent expenditure supporting or opposing a candidate for election to public office, except an independent expenditure made by a nongroup entity with an annual operating budget of \$250 or less, shall be reported in accordance with AS 15.13.040 and 15.13.100 - 15.13.110 and other requirements of this chapter.

(b) An individual, group, or nongroup entity who makes independent expenditures for a mass mailing, for distribution of campaign literature of any sort, for a television, radio, newspaper, or magazine advertisement, or any other communication that supports or opposes a candidate for election to public office

(1) shall comply with AS 15.13.090; and

(2) shall place the following statement in the mailing, literature, advertisement, or other communication so that it is readily and easily discernible:

This NOTICE TO VOTERS is required by Alaska law. (I/we) certify that this (mailing/literature/advertisement) is not authorized, paid for, or approved by the candidate. (§ 24 ch 48 SLA 1996; am § 24 ch 1 SLA 2002)

**Effect of Amendments.** – The 2002 amendment, effective April 16, 2002, in subsection (a) and (b) inserted ", or nongroup entity: and made related stylistic changes; in subsection (a) inserted ", except an independent expenditure made by a nongroup entity with an annual operating budget of \$250 or less,"; and made stylistic changes.

#### NOTES TO DECISIONS

**Constitutionality.** – The State has a compelling interest that justifies applying the section to business corporations and labor unions. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

The restrictions on contributions and expenditures by corporations and labor unions, considered together, are not so extreme as to constitute bans on issue advocacy. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

This section as written embraces "nongroup" entities whose speech may not be permissibly restricted by an expenditure prohibition, and the section must be read narrowly to prevent it from applying to such "nongroup" entities; thus, entities must be exempted from this section's ban if: (1) They cannot participate in business activities, (2) they have no shareholders who have a claim on corporate earnings, and (3) they are independent from the influence of business corporations. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

Reporting provisions of AS 15.13.040(d), (e) and (j), 15.13.074(i), 15.13.082(b), 15.13.110, and this section survive strict scrutiny because the state's interest in regulating campaign contributions and expenditures is significant and the requirements are not particularly onerous. *Alaska Right to Life Comm. v. Miles*, 441 F.3d 773 (9<sup>th</sup> Cir. 2006).

**Applicability to non-group entities.** – Compelling state interests of providing the electorate with information, deterring actual corruption and avoiding any appearance thereof, and gathering the data necessary to enforce more substantive electioneering restrictions justified the application of AS 15.13.090 and this section to non-group entities. *Alaska Right to Life Comm. v. Miles*, 441 F.3d 773 (9<sup>th</sup> Cir. 2006).

**Permissible acts by nongroup entities.** – Nothing prevents individual organizers of nongroup entities from either forming a "group" to collect contributions and make expenditures, or soliciting individual contributions from other members without relying on treasury funds; further, nongroup entities may communicate their endorsements to their employees or members. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

**Sec. 15.13.140. Independent expenditures for or against ballot proposition or question.** (a) This chapter does not prohibit a person from making independent expenditures in support of or in opposition to a ballot proposition or question.

(b) An independent expenditure for or against a ballot proposition or question

(1) shall be reported in accordance with AS 15.13.040 and 15.13.100 - 15.13.110 and other requirements of this chapter; and

(2) may not be made if the expenditure is prohibited by AS 15.13.145. (§ 24 ch 48 SLA 1996)



**Sec. 15.13.145. Money of the state and its political subdivisions.** (a) Except as provided in (b) and (c) of this section, each of the following may not use money held by the entity to influence the outcome of the election of a candidate to a state or municipal office:

- (1) the state, its agencies, and its corporations;
- (2) the University of Alaska and its Board of Regents;
- (3) municipalities, school districts, and regional educational attendance areas, or another political subdivision of the state; and
- (4) an officer or employee of an entity identified in (1) - (3) of this subsection.

(b) Money held by an entity identified in (a)(1) - (3) of this section may be used to influence the outcome of an election concerning a ballot proposition or question, but only if the funds have been specifically appropriated for that purpose by a state law or a municipal ordinance.

(c) Money held by an entity identified in (a)(1) - (3) of this section may be used

(1) to disseminate information about the time and place of an election and to hold an election;

(2) to provide the public with nonpartisan information about a ballot proposition or question or about all the candidates seeking election to a particular public office.

(d) When expenditure of money is authorized by (b) or (c) of this section and is used to influence the outcome of an election, the expenditures shall be reported to the commission in the same manner as an individual is required to report under AS 15.13.040 (§ 24 ch 48 SLA 1996)

**Sec. 15.13.150. Election educational activities not prohibited.** This chapter does not prohibit a person from engaging in educational election-related communications and activities, including

- (1) the publication of the date and location of an election;
- (2) the education of students about voting and elections;
- (3) the sponsorship of open candidate debate forums;
- (4) participation in get-out-the-vote or voter registration drives that do not favor a particular candidate, political party, or political position;

(5) the dissemination of the views of all candidates running for a particular office. (§ 24 ch 48 SLA 1996)

**Sec. 15.13.155. Restrictions on earned income and honoraria.** (a) A candidate for the state legislature, for governor, or for lieutenant governor, including an individual campaigning as a write-in candidate for the office, may not

(1) seek or accept compensation for personal services that involves payments that are not commensurate with the services rendered taking into account the higher rates generally charged by specialists in a profession; or

(2) accept a payment of anything of value, except for actual and necessarily incurred travel expenses, for an appearance or speech; this paragraph does not apply to the salary paid to the candidate for making an appearance or speech as part of the candidate's normal course of employment.

(b) Notwithstanding (a) of this section, a candidate for the state legislature, for governor, or for lieutenant governor, including an individual campaigning as a write-in candidate for the office, may accept a payment for an appearance or speech if the appearance or speech is not connected with the individual's status as a state official or as a candidate. (§ 24 ch 48 SLA 1996)

**Sec. 15.13.374. Advisory opinion.** (a) Any person may request an advisory opinion from the commission concerning this chapter, AS 24.45, AS 24.60.200 - 24.60.260, or AS 39.50.

(b) A request for an advisory opinion

(1) must be in writing or contained in a message submitted by electronic mail;

(2) must describe a specific transaction or activity that the requesting person is presently engaged in or intends to undertake in the future;

(3) must include a description of all relevant facts, including the identity of the person requesting the advisory opinion; and

(4) may not concern a hypothetical situation or the activity of a third party.

(c) Within seven days after receiving a request satisfying the requirements of (b) of this section, the executive director of the commission shall recommend a draft advisory opinion for the commission to consider at its next meeting.

(d) The approval of a draft advisory opinion requires the affirmative vote of four members of the commission. A draft advisory opinion failing to receive four affirmative votes of the members of the commission is disapproved.

(e) A complaint under AS 15.13.380 may not be considered about a person involved in a transaction or activity that

- (1) was described in an advisory opinion approved under (d) of this section;
- (2) is indistinguishable from the description of an activity that was approved in an advisory opinion approved under (d) of this section; or
- (3) was undertaken after the executive director of the commission recommended a draft advisory opinion under (c) of this section and before the commission acted on the draft advisory opinion under (d) of this section, if
  - (A) the draft advisory opinion would have approved the transaction or activity described; and
  - (B) the commission disapproved the draft advisory opinion.

(f) Advisory opinion requests and advisory opinions are public records subject to inspection and copying under AS 40.25. (§16 ch 108 SLA 2003)

Effective dates. – Section 16, ch. 108, SLA 2003, which enacted this section took effect on September 14, 2003.

**Sec. 15.13.380. Violations; limitations on actions.** (a) Promptly after the final date for filing statements and reports under this chapter, the commission shall notify all persons who have become delinquent in filing them, including contributors who failed to file a statement in accordance with AS 15.13.040, and shall make available a list of those delinquent filers for public inspection. The commission shall also report to the attorney general the names of all candidates in an election whose campaign treasurers have failed to file the reports required by this chapter.

(b) [See delayed amendment note]. A person who believes a violation of this chapter or a regulation adopted under this chapter has occurred or is occurring may file an administrative complaint with the commission within five years after the date of the alleged violation. If a member of the commission has filed the complaint, that member may not participate as a commissioner in any proceeding of the commission with respect to the complaint. The commission may consider a complaint on an expedited basis or a regular basis.

(c) The complainant or the respondent to the complaint may request in writing that the commission expedite consideration of the complaint. A request for expedited consideration must be accompanied by evidence to support expedited consideration and be served on the opposing party. The commission shall grant or deny the request within two days after receiving it. In deciding whether to expedite consideration, the commission shall consider such factors as whether the alleged violation, if not

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immediately restrained, could materially affect the outcome of an election or other impending event; whether the alleged violation could cause irreparable harm that penalties could not adequately remedy; and whether there is reasonable cause to believe that a violation has occurred or will occur. Notwithstanding the absence of a request to expedite consideration, the commission may independently expedite consideration of the complaint if the commission finds that the standards for expedited consideration set out in this subsection have been met.

(d) If the commission expedites consideration, the commission shall hold a hearing on the complaint within two days after granting expedited consideration. Not later than one day after affording the respondent notice and an opportunity to be heard, the commission shall

(1) enter an emergency order requiring the violation to be ceased or to be remedied and assess civil penalties under AS 15.13.390 if the commission finds that the respondent has engaged in or is about to engage in an act or practice that constitutes or will constitute a violation of this chapter or a regulation adopted under this chapter;

(2) enter an emergency order dismissing the complaint if the commission finds that the respondent has not or is not about to engage in an act or practice that constitutes or will constitute a violation of this chapter or a regulation adopted under this chapter; or

(3) remand the complaint to the executive director of the commission for consideration by the commission on a regular rather than an expedited basis.

(e) If the commission accepts the complaint for consideration on a regular rather than an expedited basis, the commission shall notify the respondent within seven days after receiving the complaint and shall investigate the complaint. The respondent may answer the complaint by filing a written response with the commission within 15 days after the commission notifies the respondent of the complaint. The commission may grant the respondent additional time to respond to the complaint only for good cause. The commission shall hold a hearing on the complaint not later than 45 days after the respondent's written response is due. Not later than 10 days after the hearing, the commission shall issue its order. If the commission finds that the respondent has engaged in or is about to engage in an act or practice that constitutes or will constitute a violation of this chapter or a regulation adopted under this chapter, the commission shall enter an order requiring the violation to be ceased or to be remedied and shall assess civil penalties under AS 15.13.390.

(f) If the complaint involves a challenge to the constitutionality of a statute or regulation, necessary witnesses that are not subject to the commission's subpoena authority, or other issues outside the commission's authority, the commission may request the attorney general to file a complaint in superior court alleging a violation of this chapter. The commission may request the attorney general to file a complaint in superior court to remedy the violation of a commission order.

(g) A commission order under (d) or (e) of this section may be appealed to the superior court by either the complainant or respondent within 30 days in accordance with the Alaska Rules of Appellate Procedure.

(h) If the commission does not complete action on an administrative complaint within 90 days after the complaint was filed, the complainant may file a complaint in superior court alleging a violation of this chapter by a respondent as described in the administrative complaint filed with the commission. The complainant shall provide copies of the complaint filed in the superior court to the commission and the attorney general. This subsection does not create a private cause of action against the commission; against the commission's members, officers, or employees; or against the state.

(i) If a person who was a successful candidate or the campaign treasurer or deputy campaign treasurer of a person who was a successful candidate is convicted of a violation of this chapter, after the candidate is sworn into office, proceedings shall be held and appropriate action taken in accordance with

(1) art. II, sec. 12, of the state constitution, if the successful candidate is a member of the state legislature;

(2) art. II, sec. 20, of the state constitution, if the successful candidate is governor or lieutenant governor;

(3) the provisions of the call for the constitutional convention, if the successful candidate is a constitutional convention delegate;

(4) art. IV, sec. 10, of the state constitution, if the successful candidate is a judge.

(j) Information developed by the commission under (b) - (e) of this section shall be considered during a proceeding under (i) of this section.

(k) If, after a successful candidate is sworn into office, the successful candidate or the campaign treasurer or deputy campaign treasurer of the person who was a successful candidate is charged with a violation of this chapter, the case shall be promptly tried and accorded a preferred position for purposes of argument and decision so as to ensure a speedy disposition of the matter. (§ 1 ch 76 SLA 1974; am § 25 ch 189 SLA 1975; am §§ 1, 6 ch 134 SLA 1982; am §§ 33 - 36 ch 74 SLA 1985; am § 26 ch 14 SLA 1987; am §§ 20, 21, 28 ch 48 SLA 1996; am § 6 ch 1 SLA 2002 TSSLA; am § 17 ch 108 SLA 2003; am § 3 ch 95 SLA 2008)

**Delayed amendment of subsection (b).** – Until January 1, 2009, subsection (b) reads as follows: “(b) A member of the commission, the commission’s executive director, or a person who believes a violation of this chapter or a regulation adopted under this chapter has occurred or is occurring may file an administrative complaint with the commission within one year after the date of the alleged violation. If a member of the commission has filed the complaint, that member may not participate as a commissioner in any proceeding of the commission with respect to the complaint. The commission may consider a complaint on an expedited basis or a regular basis.”

**Revisor's notes.** – Formerly AS 15.13.120 Renumbered in 2000 at which time, "AS 15.13.390" was substituted for "AS 15.13.125" in subsection (d) in order to reflect the 2000 renumbering of AS 15.13.125.

**Effect of amendments.** – The 1996 amendment, effective January 1, 1997, repealed subsection (a), and rewrote subsections (d) and (e).

The 2002 amendment, effective June 26, 2002, deleted ", including contributors who failed to file a statement in accordance with AS 15.13.040," following "delinquent in filing them" in the first sentence in subsection (c).

The 2003 amendment, effective September 14, 2003, rewrote this section.

The 2008 amendment, effective January 1, 2009, deleted "A member of the commission, the commission's executive director, or" at the beginning of subsection (b), and substituted "five years" for "one year" in the first sentence of that subsection.

**Editor's notes.** – Section 13(b), ch. 95, SLA 2008, provides that the 2008 amendment of (b) of this section "applies to administration complaints alleging violations of AS 15.13 or the regulations adopted under that chapter that occurred

"(1) within one year before January 1, 2009; or

"(2) on or after January 1, 2009."

#### NOTES TO DECISIONS

I. General Consideration.

II. Forfeiture Sanction.

#### I. GENERAL CONSIDERATION.

**This section contains no scienter requirement** and the court would not impose one. *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

**Quoted in** *Messerli v. State*, 626 P.2d 81 (Alaska 1980).

#### II. FORFEITURE SANCTION.

**Annotator's notes.** – Subsection (b), which contained a forfeiture sanction for violation AS 15.13 was repealed in 1982.

**Constitutionality of forfeiture sanction.** – The forfeiture sanction of subsection (b) (now repealed) does not conflict with any constitutional provision delimiting the qualifications of assembly or council members or with any provision reserving exclusive authority to determine a member's election to those local entities. *State, Alaska Pub. Offices Comm'n v. Marshall* 633 P.2d 227 (Alaska 1981).

Even if the forfeiture sanction of subsection (b) (now repealed) may conflict with Alaska Const., art. II, § 12, insofar as state legislative elections are concerned, it can nonetheless constitutionally apply to local elections. *State, Alaska Pub. Offices Comm'n v. Marshall* 633 P.2d 227 (Alaska 1981).

**The forfeiture sanction is valid.** *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

**The deadlines for filing are mandatory**, and the plain meaning of this section makes the forfeiture sanction applicable. *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

The statutory forfeiture of office provision applied to the election of a city councilman and borough assemblyman whose 1980 seven-day election pre-election report was not filed until well after the election. *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

**The absence of regulations is not fatal** to enforcement of the forfeiture sanction because they are not necessary to implement the sanction or to protect a constitutional right. *State, Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

**Sec. 15.13.385. Legal counsel.** (a) The attorney general is legal counsel for the commission. The attorney general shall advise the commission in legal matters arising in the discharge of its duties and represent the commission in actions to which it is a party. If, in the opinion of the commission, the public interest warrants, the commission may request the chief justice of the supreme court to appoint a special prosecutor to represent the commission in a proceeding involving an alleged violation of this chapter and to prosecute that violation.

(b) When the public interest warrants, the commission may employ temporary legal counsel from time to time in matters in which the commission is involved. (§ 26 ch 189 SLA 1975)

**Revisor's notes.** – Formerly AS 15.13.122. Renumbered in 2000

**Sec. 15.13.390. Civil penalty; late filing of required reports.** (a) A person who fails to register when required by AS 15.13.050(a) or who fails to file a properly completed and certified report within the time required by AS 15.13.040, 15.13.060(b) - (d), 15.13.110(a)(1), (3), or (4), (e), or (f) is subject to a civil penalty of not more than \$50 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. A person who fails to file a properly completed and certified report within the time required by AS 15.13.110 (a)(2) or 15.13.110(b) is subject to a civil penalty of not more than \$500 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. A person who violates a provision of this chapter, except a provision requiring registration or filing of a report within a time required as otherwise specified in this section, is subject to a civil penalty of not more than \$50 a day for each day the violation continues as determined by the commission, subject to right of appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the commission by a person against whom a civil penalty is assessed. However, the imposition of the penalties prescribed in this section or in AS 15.13.380 does not excuse that person from registering or filing reports required by this chapter.

(b) When an administrative complaint has been filed under AS 15.13.380, the commission shall give the respondent due notice and an opportunity to be heard. If, at the conclusion of the hearing, the commission determines that the respondent engaged in the alleged violation, the commission shall assess

- (1) civil penalties under (a) of this section;
- (2) the commission's costs of investigation and adjudication; and
- (3) reasonable attorney fees.

(c) The commission's determination under (b) of this section may be appealed to the superior court under AS 44.62 (Administrative Procedure Act).

(d) When an action has been filed in the superior court under AS 15.13.380, upon proof of the violation, the court shall enter a judgment in the amount of the civil penalty authorized to be collected by (a) of this section.

(e) If the commission or superior court finds that the violation was not a repeat violation or was not part of a series or pattern of violations, was inadvertent, was quickly corrected, and had no adverse effect on the campaign of another, the commission or the court may

(1) suspend imposition of the penalties; and

(2) order the penalties set aside if the person does not engage in a similar violation for a period of one year.

(f) A party who has filed a civil action under AS 15.13.380

(1) is not entitled to trial by jury on the civil action;

(2) is not entitled to be represented by legal counsel at public expense. (§ 6 ch 167 SLA 1976; am §5 ch 126 SLA 1994; am § 3 ch 59 SLA 1995; am §§22, 23 ch 48 SLA 1996; am § 7 ch 1 SLA 2002 TSSLA)

**Revisor's notes.** – Formerly AS 15.13.125. Renumbered in 2000, at which time “AS 15.13.380” was substituted for “AS 15.13.120” in subsections (a), (b), (d), and (f) in order to reflect the 2000 renumbering of AS 15.13.120.

**Effect of amendments.** – The 1996 amendment, effective January 1, 1997, rewrote subsection (a) and added subsections (b)-(f).

The 2002 amendment, effective June 26, 2002, updated a section reference in the first sentence in subsection (a).

#### NOTES TO DECISION

Penalty cannot be obviously unreasonable. – The penalty cannot be so severe and oppressive as to be wholly disproportioned to the offense and obviously unreasonable. The standard is one of obvious unreasonableness. *VECO Int'l, Inc. v. Alaska Pub. Offices Comm'n*, 753 P.2d 703 (Alaska 1988), appeal dismissed 488 U.S. 919, 109 S. Ct. 298 L. Ed. 2d 317 (1988).

**Statement of reasons for maximum penalties.** – A statement of reasons should be given by the commission when it imposes the maximum civil penalties under this section. *VECO Int'l, Inc. v. Alaska Pub. Offices Comm'n*, 753 P.2d 703 (Alaska 1988), appeal dismissed, 488 U.S. 919, 109 S. Ct. 298 L. Ed. 2d 317 (1988).

**Stated in State,** *Alaska Pub. Offices Comm'n v. Marshall*, 633 P.2d 227 (Alaska 1981).

#### Sec. 15.13.400. Definitions. In this chapter,

(1) "candidate"

(A) means an individual who files for election to the state legislature, for governor, for lieutenant governor, for municipal office, for retention in judicial office, or for



constitutional convention delegate, or who campaigns as a write-in candidate for any of these offices; and

(B) when used in a provision of this chapter that limits or prohibits the donation, solicitation, or acceptance of campaign contributions, or limits or prohibits an expenditure, includes

- (i) a candidate's campaign treasurer and a deputy campaign treasurer;
- (ii) a member of the candidate's immediate family;
- (iii) a person acting as agent for the candidate;
- (iv) the candidate's campaign committee; and
- (v) a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of the candidate;

(2) "commission" means the Alaska Public Offices Commission;

(3) "communication" means an announcement or advertisement disseminated through print or broadcast media, including radio, television, cable, and satellite, the Internet, or through a mass mailing, excluding those placed by an individual or nongroup entity and costing \$500 or less and those that do not directly or indirectly identify a candidate or proposition, as that term is defined in AS 15.13.065(c);

(4) "contribution"

(A) means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services for which charge is ordinarily made and that is made for the purpose of influencing the nomination or election of a candidate, and in AS 15.13.010(b) for the purpose of influencing a ballot proposition or question, including the payment by a person other than a candidate or political party, or compensation for the personal services of another person, that are rendered to the candidate or political party;

(B) does not include

(i) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political party, candidate, or ballot proposition or question;

(ii) ordinary hospitality in a home;

(iii) two or fewer mass mailings before each election by each political party describing the party's slate of candidates for election, which may include photographs, biographies, and information about the party's candidates;

(iv) the results of a poll limited to issues and not mentioning any candidate, unless the poll was requested by or designed primarily to benefit the candidate;

(v) any communication in the form of a newsletter from a legislator to the legislator's constituents, except a communication expressly advocating the election or defeat of a candidate or a newsletter or material in a newsletter that is clearly only for the private benefit of a legislator or a legislative employee; or

(vi) a fundraising list provided without compensation by one candidate or political party to a candidate or political party;

(5) "electioneering communication" means a communication that

(A) directly or indirectly identifies a candidate;

(B) addresses an issue of national, state, or local political importance and attributes a position on that issue to the candidate identified; and

(C) occurs within the 30 days preceding a general or municipal election;

(6) "expenditure"

(A) means a purchase or a transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, incurred or made for the purpose of

(i) influencing the nomination or election of a candidate or of any individual who files for nomination at a later date and becomes a candidate;

(ii) use by a political party;

(iii) the payment by a person other than a candidate or political party of compensation for the personal services of another person that are rendered to a candidate or political party; or

(iv) influencing the outcome of a ballot proposition or question;

(B) does not include a candidate's filing fee or the cost of preparing reports and statements required by this chapter;

(C) includes an express communication and an electioneering communication, but does not include an issues communication;

(7) "express communication" means a communication that, when read as a whole and with limited reference to outside events, is susceptible of no other reasonable interpretation but as an exhortation to vote for or against a specific candidate;

(8) "group" means

(A) every state and regional executive committee of a political party; and

(B) any combination of two or more individuals acting jointly who organize for the principal purpose of influencing the outcome of one or more elections and who take action the major purpose of which is to influence the outcome of an election; a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate shall be considered to be controlled by that candidate; a group whose major purpose is to further the nomination, election, or candidacy of only one individual, or intends to expend more than 50 percent of its money on a single candidate, shall be considered to be controlled by that candidate and its actions done with the candidate's knowledge and consent unless, within 10 days from the date the candidate learns of the existence of the group the candidate files with the commission, on a form provided by the commission, an affidavit that the group is operating without the candidate's control; a group organized for more than one year preceding an election and endorsing candidates for more than one office or more than one political party is presumed not to be controlled by a candidate; however, a group that contributes more than 50 percent of its money to or on behalf of one candidate shall be considered to support only one candidate for purposes of AS 15.13.070, whether or not control of the group has been disclaimed by the candidate;

(9) "immediate family" means the spouse, parents, children, including a stepchild and an adoptive child, and siblings of an individual;

(10) "independent expenditure" means an expenditure that is made without the direct or indirect consultation or cooperation with, or at the suggestion or the request of, or with the prior consent of, a candidate, a candidate's campaign treasurer or deputy campaign treasurer, or another person acting as a principal or agent of the candidate;

(11) "individual" means a natural person;

(12) "issues communication" means a communication that

(A) directly or indirectly identifies a candidate; and

(B) addresses an issue of national, state, or local political importance and does not support or oppose a candidate for election to public office.

(13) "nongroup entity" means a person, other than an individual, that takes action the major purpose of which is to influence the outcome of an election, and that

(A) cannot participate in business activities;

(B) does not have shareholders who have a claim on corporate earnings; and

(C) is independent from the influence of business corporations.

(14) "person" has the meaning given in AS 01.10.060, and includes a labor union, nongroup entity, and a group;

(15) "political party" means any group that is a political party under AS 15.60.010 and any subordinate unit of that group if, consistent with the rules or bylaws of the political party, the unit conducts or supports campaign operations in a municipality, neighborhood, house district, or precinct;

(16) "publicly funded entity" means a person, other than an individual, that receives half or more of the money on which it operates during a calendar year from government, including a public corporation (§ 24 ch 48 SLA 1996; am § 39 ch 21 SLA 2000; am §§25, 26 ch 1 SLA 2002; am § 7 ch 3 SLA 2002; am §§ 8, 9 ch 1 TSSLA 2002; am §§ 18, 19 ch 108 SLA 2003; am § 2 ch 90 SLA 2006)

**Revisor's notes** – Paragraph (13) was enacted as (12) and paragraphs (3), (5), (7), and (12) were enacted as (13) – (16). Renumbered in 2002 to retain alphabetical order.

**Effect of amendments.** – The 2000 amendment, effective April 28, 2000, substituted "house district" for "election district" in subparagraph (10)(B).

The first 2002 amendment, effective April 16, 2002, added paragraph (13) and in paragraph (14) inserted ", nongroup entity."

The second 2002 amendment, effective April 16, 2002, in subparagraph (4)(b), in (I) inserted "political party, " and deleted ", but it does include professional services volunteered by individuals for which they ordinarily would be paid a fee or wage;" from the end; deleted former item (ii), which read "services provided by an accountant or other person to prepare reports and statements required by this chapter; redesignated former item (iii) as item (ii); added present items (iii) to (v); and made a stylistic change.

The third 2002 amendment, effective June 26, 2002, added subparagraph (6)(C) and paragraphs (3), (5), (7) and (12).

The 2003 amendment, effective September 14, 2003, rewrote paragraphs (7) and (15).

The 2006 amendment, effective October 11, 2006, added subparagraph (4)(B)(iv) and made related stylistic changes.

**Opinions of attorney general.** – The statutory limit under AS 15.13.070(a) is applicable to "control groups" under former AS 15.13.130. Exempting such groups from the contribution limit would seriously undermine the statute's primary purpose of deterring the buying of elections and undue influence of large contributors. June 15, 1987, Op. Att'y Gen.

#### NOTES TO DECISION

**Constitutionality.** – Under the First Amendment, former AS 15.13.400(3)(B)(i) was unconstitutional to the extent that it limited the volunteering of professional services by individuals, but the statute was constitutional as to the ban on the provision of volunteer services by corporations. *Jacobus v. Alaska*, 338 F.3d 1095 (9<sup>th</sup> Cir. 2003).

Alaska's campaign finance law, AS 15.13.030 et seq., does not violate pro-life association's First Amendment rights because this section's definition of "electioneering communication" is not unconstitutionally vague or over broad either facially or as applied, and the reporting and disclosure provisions are reasonable and serve a significant state interest. *Alaska Right to Life Comm.v. Miles*, 441 F3d 773 (9<sup>th</sup> Cir. 2006).

**Applied** in *Jacobus v. Alaska*, 182 F. Supp. 2d 893 (D. Alaska 2001).

**Quoted** in State v. Alaska Civil Liberties Union, 978 P.2d 597 (Alaska 1999),  
cert. denied, U.S., 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).  
**Cited** in Libertarian Party of Alaska, Inc. v. State, 101 P.3d 616 (Alaska 2004).

