

CS FOR HOUSE BILL NO. 409(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 3/12/10

Referred: Judiciary, Finance

Sponsor(s): HOUSE STATE AFFAIRS COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to state election campaigns, the duties of the Alaska Public Offices**
2 **Commission, the making, reporting, and disclosure of contributions, expenditures, and**
3 **independent expenditures, the prohibition of all anonymous expenditures, the filing of**
4 **reports, and the identification of certain communications in state election campaigns;**
5 **and providing for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 *** Section 1.** AS 15.13.010(b) is amended to read:

8 (b) Except as otherwise provided, this chapter applies to contributions,
9 expenditures, and communications made [BY A CANDIDATE, GROUP,
10 NONGROUP ENTITY, MUNICIPALITY OR INDIVIDUAL] for the purpose of
11 influencing the outcome of a ballot proposition or question as well as those made to
12 influence the nomination or election of a candidate.

13 *** Sec. 2.** AS 15.13.030 is amended to read:

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

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

4 (2) prepare and publish a manual setting out uniform methods of
5 bookkeeping and reporting for use by persons required to make reports and statements
6 under this chapter and otherwise assist **all persons** [CANDIDATES, GROUPS, AND
7 INDIVIDUALS] in complying with the requirements of this chapter;

8 (3) receive and hold open for public inspection reports and statements
9 required to be made under this chapter and, upon request, furnish copies at cost to
10 interested persons;

11 (4) compile and maintain a current list of all filed reports and
12 statements;

13 (5) prepare a summary of each report filed under AS 15.13.110 and
14 make copies of this summary available to interested persons at their actual cost;

15 (6) notify, by registered or certified mail, all persons who are
16 delinquent in filing reports and statements required to be made under this chapter;

17 (7) examine, investigate, and compare all reports, statements, and
18 actions required by this chapter, AS 24.45, and AS 39.50;

19 (8) prepare and publish a biennial report concerning the activities of
20 the commission, the effectiveness of this chapter, its enforcement by the attorney
21 general's office, and recommendations and proposals for change; the commission shall
22 notify the legislature that the report is available;

23 (9) adopt regulations necessary to implement and clarify the provisions
24 of AS 24.45, AS 39.50, and this chapter, subject to the provisions of AS 44.62
25 (Administrative Procedure Act); [AND]

26 (10) consider a written request for an advisory opinion concerning the
27 application of this chapter, AS 24.45, AS 24.60.200 - 24.60.260, or AS 39.50; **and**

28 **(11) make available to the public information contained in a report**
29 **filed under AS 15.13.040(e) within 24 hours after the filing of the report with the**
30 **commission.**

31 * **Sec. 3.** AS 15.13.040(d) is amended to read:

1 (d) Every [INDIVIDUAL,] person [, NONGROUP ENTITY, OR GROUP]
 2 making an **independent** expenditure shall make a full report of expenditures, upon a
 3 form prescribed by the commission, unless exempt from reporting.

4 * **Sec. 4.** AS 15.13.040(e) is amended to read:

5 (e) **Each person** [THE REPORT] required **to report** under (d) of this section
 6 **shall file a full report in accordance with AS 15.13.110(g) on a form prescribed by**
 7 **the commission. If the report is filed by a person that is not an individual, the**
 8 **report must be certified as correct by the treasurer or fiscal officer of the person.**

9 **The report** must contain

10 (1) the name, address, principal occupation, and employer of the
 11 individual filing the report;

12 (2) [, AND] an itemized list of **all expenditures made, incurred, or**
 13 **authorized by the person;**

14 (3) **the name of the candidate or the title of the ballot proposition**
 15 **or question supported or opposed by each expenditure and whether the**
 16 **expenditure is made to support or oppose the candidate or ballot proposition or**
 17 **question;**

18 (4) **the name, address, and nationality of each officer and director**
 19 **of the person, when applicable;**

20 (5) **the aggregate amount of all contributions made to the person,**
 21 **if any, for the purpose of influencing the outcome of an election; for all**
 22 **contributions to the person that exceed \$100 in the aggregate in a year, the date**
 23 **of the contribution and amount contributed by each contributor; and for a**
 24 **contributor**

25 (A) **who is an individual, the name, address, principal**
 26 **occupation, and employer of the contributor; or**

27 (B) **that is not an individual, the name and address of the**
 28 **contributor and the name, address, and nationality of each officer and**
 29 **director of the contributor** [EXPENDITURES. THE REPORT SHALL BE
 30 FILED WITH THE COMMISSION NO LATER THAN 10 DAYS AFTER
 31 THE EXPENDITURE IS MADE].

1 * **Sec. 5.** AS 15.13.040(h) is amended to read:

2 (h) The provisions of (d) of this section do not apply to one or more
3 expenditures made by an individual acting independently of any **other person**
4 [GROUP OR NONGROUP ENTITY AND INDEPENDENTLY OF ANY OTHER
5 INDIVIDUAL] if the expenditures

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

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

9 * **Sec. 6.** AS 15.13.040(p) is amended to read:

10 (p) For purposes of (b), **(e)**, and (j) of this section, "contributor" means the
11 true source of the funds, property, or services being contributed.

12 * **Sec. 7.** AS 15.13.067 is amended to read:

13 **Sec. 15.13.067. Who may make expenditures.** Only the following may make
14 an expenditure **that is not an independent expenditure** in an election for candidates
15 for elective office:

16 (1) the candidate;

17 (2) an individual;

18 (3) a group that has registered under AS 15.13.050; and

19 (4) a nongroup entity that has registered under AS 15.13.050.

20 * **Sec. 8.** AS 15.13 is amended by adding a new section to read:

21 **Sec. 15.13.068. Expenditures and contributions by foreign nationals.** (a) A
22 foreign national may not, directly or indirectly, in connection with an election under
23 this chapter, make a contribution or expenditure or make an express or implied
24 promise to make a contribution or expenditure.

25 (b) In this section, "foreign national" includes

26 (1) a foreign government, every political subdivision of a foreign
27 government, every official, agent, or representative of a foreign government, and
28 every agency, corporation, or instrumentality of the foreign government or of a
29 political subdivision of a foreign government;

30 (2) a person outside of the United States, unless it is established that
31 the person is an individual and a citizen of and domiciled in the United States, or that

1 the person is not an individual and is organized under or created by the laws of the
 2 United States or of any state or other place subject to the jurisdiction of the United
 3 States and has its principal place of business in the United States;

4 (3) a partnership, association, corporation, organization, or other
 5 combination of persons organized under the laws of or having its principal place of
 6 business in a foreign country; or

7 (4) a domestic subsidiary of an entity described in (1) - (3) of this
 8 subsection or a domestic corporation controlled by an entity described in (1) - (3) of
 9 this subsection, if that entity finances, participates in, or selects a person who
 10 participates in the making of a contribution or an expenditure of the domestic
 11 subsidiary or domestic corporation.

12 (c) The provisions of this section apply only to the extent permitted by federal
 13 law.

14 * **Sec. 9.** AS 15.13.082(b) is amended to read:

15 (b) A **person, other than an individual exempt from reporting under**
 16 **AS 15.13.040(h)**, [CANDIDATE, GROUP, OR NONGROUP ENTITY] may not
 17 make an expenditure unless the source of the expenditure has been disclosed as
 18 required by this chapter.

19 * **Sec. 10.** AS 15.13.084 is amended to read:

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

22 (1) anonymously [, UNLESS THE EXPENDITURE IS

23 (A) PAID FOR BY AN INDIVIDUAL ACTING
 24 INDEPENDENTLY OF ANY GROUP OR NONGROUP ENTITY AND
 25 INDEPENDENTLY OF ANY OTHER INDIVIDUAL;

26 (B) MADE TO INFLUENCE THE OUTCOME OF A
 27 BALLOT PROPOSITION AS THAT TERM IS DEFINED BY
 28 AS 15.13.065(c); AND

29 (C) MADE FOR

30 (i) A BILLBOARD OR SIGN; OR

31 (ii) PRINTED MATERIAL, OTHER THAN AN

1 ADVERTISEMENT MADE IN A NEWSPAPER OR OTHER
2 PERIODICAL]; or

3 (2) using a fictitious name or using the name of another.

4 * **Sec. 11.** AS 15.13.090 is amended to read:

5 **Sec. 15.13.090. Identification of communication.** (a) All communications
6 shall be clearly identified by the words "paid for by" followed by the name and
7 address of the person [CANDIDATE, GROUP, NONGROUP ENTITY, OR
8 INDIVIDUAL] paying for the communication. In addition,

9 (1) candidates and groups may identify the name of their campaign
10 chairperson; and

11 (2) a person other than a candidate, an individual, or a political
12 party shall clearly

13 (A) identify the person's principal officer and the officer's
14 title;

15 (B) include a statement from the principal officer
16 approving the communication;

17 (C) provide the address of the person's principal place of
18 business; and

19 (D) identify the name and city and state of residence or
20 principal place of business, as applicable, of each of the person's three
21 largest contributors under AS 15.13.040(e)(5), if any, during the 12-month
22 period before the date of the communication.

23 (b) The provisions of (a) of this section do not apply when the communication

24 (1) is paid for by an individual acting independently of any other
25 person [GROUP OR NONGROUP ENTITY AND INDEPENDENTLY OF ANY
26 OTHER INDIVIDUAL];

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

29 (3) is made for

30 (A) a billboard or sign; or

31 (B) printed material other than an advertisement made in a

1 newspaper or other periodical.

2 * **Sec. 12.** AS 15.13.090 is amended by adding new subsections to read:

3 (c) A person other than a candidate, individual, or political party may not
4 make a communication under (a) of this section unless the person's principal officer
5 has certified to the commission in writing that the officer has reviewed the
6 communication, and, based on the officer's knowledge, the communication is not
7 defamatory and does not contain any defamatory statements.

8 (d) To satisfy the requirements of (a)(2)(C) of this section and, if applicable,
9 (a)(2)(D) of this section, the following statement or statements must be read, in a
10 manner that is easily heard, or placed in the communication so as to be easily
11 discernable, or, in a communication that is transmitted by a method that includes both
12 audio and video components, be read in a manner that is easily heard and placed in the
13 communication so as to be easily discernable:

14 This communication was paid for by (person's name and city
15 and state of principal place of business).

16 The top contributors of (person's name) are (the name and city
17 and state of residence or principal place of business, as applicable, of
18 the largest contributors to the person under AS 15.13.090(a)(2)(D)).

19 (e) If a foreign government holds more than a 10 percent ownership interest in
20 a person paying for a communication under (a) of this section, the foreign government
21 must be clearly identified in the communication as a partial owner of the person. A
22 foreign government identified in a communication under this subsection must be
23 identified by the foreign government's common or usual name. In this subsection,
24 "foreign government" includes every political subdivision of the foreign government,
25 every official, agent, or representative of the foreign government, and every agency,
26 corporation, or instrumentality of the foreign government or of a political subdivision
27 of the foreign government.

28 (f) In an audio component of a communication, a person paying for the
29 communication, other than an individual, may be named under (d) of this section by
30 the person's common name.

31 * **Sec. 13.** AS 15.13.110 is amended by adding a new subsection to read:

1 (g) An independent expenditure report required under AS 15.13.040(e) shall
 2 be filed with the commission not later than 24 hours after an expenditure has been
 3 made.

4 * **Sec. 14.** AS 15.13.111(a) is amended to read:

5 (a) Each [CANDIDATE, GROUP, NONGROUP ENTITY, OR] person
 6 required to report under this chapter shall preserve all records necessary to substantiate
 7 information required to be reported under this chapter for a period of six years from
 8 the date of the election for which the information was required to be reported, unless
 9 the records have been submitted to the commission under (c) of this section.

10 * **Sec. 15.** AS 15.13.135 is amended to read:

11 **Sec. 15.13.135. Independent expenditures for or against candidates.** (a)
 12 [ONLY AN INDIVIDUAL, GROUP, OR NONGROUP ENTITY MAY MAKE AN
 13 INDEPENDENT EXPENDITURE SUPPORTING OR OPPOSING A CANDIDATE
 14 FOR ELECTION TO PUBLIC OFFICE.] An independent expenditure supporting or
 15 opposing a candidate for election to public office, except an independent expenditure
 16 made by a nongroup entity with an annual operating budget of \$250 or less, shall be
 17 reported in accordance with AS 15.13.040 and 15.13.100 - 15.13.110 and other
 18 requirements of this chapter.

19 (b) **A person** [AN INDIVIDUAL, GROUP, OR NONGROUP ENTITY] who
 20 makes independent expenditures for a mass mailing, for distribution of campaign
 21 literature of any sort, for a television, radio, newspaper, or magazine advertisement, or
 22 any other communication that supports or opposes a candidate for election to public
 23 office

24 (1) shall comply with AS 15.13.090; and

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

27 This NOTICE TO VOTERS is required by Alaska law. (I/we) certify
 28 that this (mailing/literature/advertisement) is not authorized, paid for,
 29 or approved by the candidate.

30 * **Sec. 16.** AS 15.13.140(a) is repealed.

31 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application
3 of it to any person or circumstance, is held invalid, the remainder of this Act and the
4 application to other persons or circumstances are not affected.

5 * **Sec. 18.** This Act takes effect immediately under AS 01.10.070(c).