

**ITEM 10) Should the committee revisit AS 12-04, Use of State Resources – Campaigning, Links on Campaign Web Sites and other Campaign Materials. February 26, 2013**

Representative Paul Seaton has requested that the committee reconsider AO 12-04, specifically “electronic links to an Internet website created or maintained with legislative resources.” (NOTE: Chair Thomas is limiting the discussion to revisiting AO 12-04 in relation to the above issue as noted in Rep Seaton’s request. Other areas addressed in AO 12-04 will not be discussed.)

Rep. Seaton will be at the meeting to present his request and answer questions.

**DISCUSSION:**

The question before the committee today is not to debate the merits of AO 12-04 but to decide if the opinion should be revisited based information provided by Rep Seaton.

ACTION: Options: revisit AO 12-04 or take no action in regard to AO 12-04. If the committee decides to take no action in regard to AO 12-04, the committee may want to suggest that Rep Seaton request an advisory opinion based on the specific facts outlined in his January 24, 2013 letter.

**ITEMS IN THE PACKET**

- Request from Rep. Paul Seaton dated January 24, 2013.
- Explanation of the disclaimer when leaving BASIS and being directed to the House or Senate bill sponsor statements.
- Committee meeting minutes from August 8, 2012 regarding AO 12-04.
- AO 12-04 Conflict of Interest – Use of State Resources – Campaigning, Providing web site link.
- THE ADVISOR newsletter, August 2012, 1st Edition.
- AO 07-07 Conflict of Interest – Use of State Resources – Campaigning, Providing legislative contact information.
- AO 99-04 Conflict of Interest – Mass Emailing/Website Links/State and Local Issues.

# Alaska State Legislature

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## REPRESENTATIVE Paul Seaton

District 30

January 24, 2013

Chair H. Conner Thomas  
Legislative Ethics Committee  
P.O. Box 101468  
Anchorage AK 99510-1468

Dear Chair Conner Thomas,

I respectfully request that the Legislative Ethics Committee reconsider its Advisory Opinion 12-04 regarding electronic links to an Internet website created or maintained with legislative resources. I am concerned that the House/Senate websites created specifically for political activity, explicitly separate from the LAA website, are not allowed to have their links listed in campaign communications. Currently these partisan and political websites are managed by the Majority and Minority caucuses (listed below) and contain Legislator and Staff contact information, which appears to be inconsistent application of AO 07-07. The recent AO 12-04 maintains that these are Legislative websites rather than political websites, even though they are disclaimed to the public in LAA's redirect message as partisan websites when leaving the official legislative website. I recommend the Committee clarify its opinion to be consistent with the public message LAA currently displays and treat these sites more correctly as political websites in its opinions.

The House Majority website [www.housemajority.org](http://www.housemajority.org) and the House Democratic Caucus website [www.akdemocrats.org](http://www.akdemocrats.org) currently house each party's political communications and are managed by politically-chosen webmasters, selected by the Majority and Minority. The same is true for [www.aksenate.org](http://www.aksenate.org) and [aksenateminority.com](http://aksenateminority.com). The redirect page to sponsor statements that users access from a BASIS search takes them away from the Legislative Affairs Agency website to a political website. The redirect message currently reads: "Notice. You are now leaving the Alaska State Legislature's website maintained by Legislative Affairs Agency, a nonpartisan entity. Legislative Affairs Agency is not responsible for the content of the page to which your browser is about to be sent." (Screen shots provided below.) This redirect makes it clear you are leaving a non-partisan website and entering a partisan website. Yet, the Committee has determined they are Legislative websites that fall under the advisory opinion (due to listing contact information), even though they are political in nature.

I appreciate the value of the Majority and Minority political websites, which give constituents access to a wealth of information such as bill sponsor statements. However, they are political websites managed and controlled by our Majority and Minority caucuses, so the reasoning is inconsistent to exclude them as a resource a Legislator can link to during a campaign. I respectfully request that the Committee reconsider

AO 12-04 and determine that the Majority and Minority websites are not "Legislative" in nature and therefore don't fall within the exclusion that prevents linking from campaign materials.

I am happy to discuss this concern with the Committee and thank you for your reconsideration of the issue.

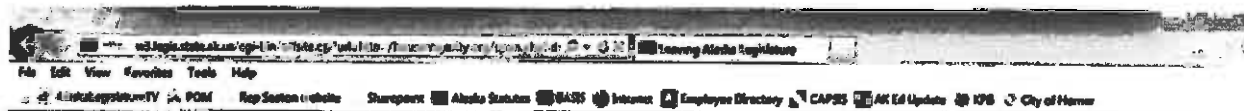
Sincerely,



Representative Paul Seaton

Screen shot examples:

**House Republican sponsor statements redirect to housemajority.org**



**Notice. You are now leaving the Alaska State Legislature's website maintained by Legislative Affairs Agency, a nonpartisan entity.**

**Legislative Affairs Agency is not responsible for the content of the page to which your browser is about to be sent.**

**You should be redirected automatically in 10 seconds. If you don't want to wait, click [here](#) now.**

**House Democrat sponsor statements redirect to akdemocrats.org**



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February 19, 2013

Joyce,

You have asked us to provide you something in writing regarding what information can be linked to the bill history. There is no official written policy; however, I hope the following information will be useful.

The Bill Action Status Inquiry System [BASIS] was in its infant stages in 1984. It was a program that was written by the programmers in the Legislative Affairs Agency. It was designed to track bills and resolutions through the legislative process by summarizing the actions and current status of every bill and resolution introduced. The BASIS program is updated mainly by the Chief Clerk and Senate Secretary with non-partisan information that reflects official floor action or committee action, as well as lists of members on committees, hearing schedules and floor session calendars.

Over time, BASIS has become more sophisticated but still the information that is provided is the same -- just offered in different views. BASIS is a database, which allows many different methods of reporting the information contained within it. One of the fundamental strengths of BASIS is the users' understanding that they are getting the most accurate, most up to date information available on bills and resolutions moving through the legislative process.

BASIS links to other resources like the Statute Information Retrieval System (SIRS) and the Bill Tracking Management Facility (BTMF) as well as Gavel-to-Gavel but all the direct links are to reporting and recording functions, nothing that analyzes or provides political content. Over time, for the ease of users, we have allowed some links in bills to sponsor statements and in bills such as budget bills to legislative finance and OMB. However, there is always a notice stating the user is leaving the official BASIS site. Anything less than that would dilute the essence of what BASIS was designed to do.

Prepared by:

Liz Clark, Senate Secretary  
Suzi Lowell, Chief Clerk

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# Alaska State Legislature

## Select Committee on Legislative Ethics

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### MINUTES from August 8, 2012 FULL COMMITTEE MEETING Anchorage LIO Library, Room 210 (Teleconferenced)

1. **CALL THE MEETING TO ORDER:** Chair Herman Walker, Jr., called the meeting to order at 9:05 a.m. Members present: Toni Mallott, Representative Chris Tuck (arrived at 9:15). Members present via teleconference: Senator John Coghill, Dennis "Skip" Cook, Representative Craig Johnson, Senator Gary Stevens (leaves at 9:15), H. Conner Thomas, Gary Turner. Staff present: Joyce Anderson, Administrator. Also present via teleconference: Chair Herman Walker, Jr., Dan Wayne, LAA Legal  
  
Others present: Franklin Andrews, Sen Davis' office
2. **APPROVAL OF AGENDA:** Motion made by Member Thomas to approve the agenda as written. No objection. Motion passes.
3. **PUBLIC COMMENT:** None.
4. **ADVISORY OPINION 12-04 - Requested by Ethics Committee: Legislative Links on Campaign websites and other Campaign Materials:** Chair Walker asked that Mr. Wayne provide an overview of the opinion. Mr. Wayne stated that the question before the committee is legislative links on campaign websites; i.e., links to webpages that were created with legislative resources. He stated that in drafting the opinion, he relied on advice from AO 07-07, which addressed campaign door knocking and handing out a legislative business card, as well as the advice that the committee has been providing since then. The draft opinion states that the Ethics Act would prohibit a link on a campaign web page that takes the reader to a legislative web page containing a legislator's contact information.

Senator Stevens asked the committee to clarify Mr. Wayne's recommendation, and asked if he was saying that there should not be any links. Mr. Wayne responded that the draft opinion relied on previous advice and applied that rationale to this situation. He further stated that if the committee was going to be consistent with previous advice, it follows the committee would advise not placing electronic legislative links on their campaign websites if they were created with legislative resources.

Chair Walker asked a member to make a motion to approve Advisory Opinion 12-04, as drafted. Senator Coghill stated that he agreed with the conclusion but asked members to explain the gray areas that prompted the advisory opinion or issues previously brought forth for discussion. Member Thomas motioned to approve Advisory Opinion 12-04, for the record. Chair Walker thanked Member Thomas and apologized for interrupting Senator Coghill and invited Senator Coghill back to the floor.

Senator Coghill asked if there was a challenge to the previous opinion. He stated that he did not see anything solid enough to put on a campaign website. He asked if there were gray areas he was missing. Chair Walker asked Ms. Anderson if she could provide some background for the issuance of the opinion.

Ms. Anderson explained to the members that the office has received numerous inquiries from legislators and their offices about putting a link to a legislative website on a campaign website. The callers indicated that the information on a legislator's legislative website is informational in nature and they did not understand why a link could not be put on their campaign website. She stated that her advice included referencing AO 07-07, which determined legislative contact information is a legislative resource. A legislator's web site contains legislative contact information and, therefore, a link to their legislative web site could not be provided on a campaign website. Many of the callers did not agree with the given reason and felt that the link should be allowed. Ms. Anderson explained that she had discussed the advice with the Chair and suggested an opinion was necessary to formalize the informal advice she has been giving out and advice provided in the ethics newsletter.

Member Turner stated that technology is changing so rapidly and he did not understand why there could not be a link. He stated that he tended to agree with those who have been calling Ms. Anderson. Member Turner stated that he felt that all a person was doing was making the public jump through another hoop to get there, such as having to use Google to obtain the information they were trying to find. He further stated that the information provided on the legislative website is biographical and factual information. Member Turner stated that he felt that not allowing a link was just another hurdle for the public.

Representative Chris Tuck joined the meeting.

Senator Stevens stated that he agreed with Member Turner. He stated that if the candidate's goal was to help voters find information, such as how a legislator voted on a Bill, he saw nothing wrong with providing the link and giving easy access to the public. Senator Stevens commented that he was disappointed with some of the ruling by this committee. He proceeded with the example of the state administration sending their employees to Anchorage on state business to attend meeting with the state paying for their travel; and on the same trip, working for or against various legislators and attending any fundraiser they wanted on their own time in the evening. He then talked about a trip he was going to take to Chicago on state business and then stop at a fundraiser in Anchorage on his return. The advice he received from Ms. Anderson was that he would have to pay for the ticket from Kodiak to Anchorage and from Anchorage to Kodiak, even though he was on state business. He provided another example of how the committee was tying up the public's hand by not allowing them to have access to information.

Chair Walker recommended returning to the issue at hand and pointed out to Senator Stevens that there was probably another forum for this discussion. Member Cook recommended that the Legislative floor would be the place to change the law. Senator Stevens asked why the Legislative Ethics Committee has a different interpretation of the travel rules than the state administration. Chair Walker interjected and again pointed out that this subject was not on today's agenda. Senator Stevens then stated he was voting against the draft opinion.

Senator Gary Stevens leaves the meeting.

Chair Walker asked members to return to the issue at hand, noting that this was not the time or place for anything but what was on their agenda. Member Cook stated that he looks at the issue the opposite of Senator Stevens' view in that the reason legislators would like to have these links is because it is another free source of information, developed by state money, to make available to the public on their campaign web site. Member Cook stated that on the other hand, this information is so readily available, anybody could simply Google the Legislature and get to that information. Regardless, the crux of the issue is that incumbent legislators want the links because it saves their campaign time and effort in getting out the information otherwise. The problem is that the committee has already decided that the legislative web site is a state resource because the sites have been created and maintained with state money. Additionally, prohibiting this use is not putting a terrible burden on the public. Member Cook stated that he does not favor giving incumbents an unfair advantage and although it is not a huge advantage, due to the fact that the information is so readily available, to be consistent with what has been previously decided, the use of the link should be prohibited.

Senator Coghill stated that he had his hand slapped for having his state phone number as contact information on his application to run for office. It had not occurred to him at the time that providing it would be unethical. He agreed with



Member Cook in that the office and campaign should be kept separate. It is slightly inconvenient but keeping it separate is cleaner and the cleaner the better.

Ms. Anderson mentioned for clarification that the advisory opinion draft, as well as information in the ethics newsletter, allows a legislator to paste information from the legislative website to a campaign website; whether it be from the general legislative website or the House/Senate legislative website. The opinion is not necessarily prohibiting the use of the *information*; rather, it is prohibiting the link.

Member Turner asked if Ms. Anderson was saying that a legislator could do a page shot of one of the legislative pages and copy it to a campaign page. Ms. Anderson stated that was correct as long as there was no legislative contact information included. She further stated that the use of this information gives the impression that the public may call a legislative office for campaign related questions and issues. Member Turner commented that pasting a shot of a legislative page is more problematic for him than providing a link. Chair Walker added that he too did not see the difference in allowing one but not the other and asked why one was allowable and not the other. Ms. Anderson stated that AO 07-07 determined that legislative contact information was a state resource. The Act states that a legislator may not 'require' a legislative employee to perform campaign related activities. In AO 07-07, the committee stated that by including legislative contact information, such as a phone number or fax on a campaign piece, the legislator is requiring the legislative employee to respond to campaign related calls. The opinion also stated that the number of campaign related inquiries received was not relevant.

Member Turner stated that he would like to revisit AO 07-07, or request a meeting for future discussion as he feels that the advice given in the opinion is leading the committee down another road by allowing a cut and paste, which can be done very easily and quickly with a snipping tool. At the same time, a legislator is not allowed to use the Juneau or interim legislative phone numbers.

Chair Walker welcomed more comments on the motion from the floor. Representative Tuck stated that legislators are good at keeping campaigning and legislative duties separate. He further stated that his office tells people to go to their campaign website, how to get there, and if they want additional information, they are asked to Google search them. It is easy enough for the public to find links for what they are searching for.

Member Mallott asked if anyone from the public can access the website and print any of the material and use it. Ms. Anderson stated yes, as well as cutting and pasting as Member Turner described.

Mr. Wayne asked if he could make an editorial suggestion to the draft opinion before a vote is taken. He suggested adding to the footnote on page 2, after the

first sentence of the third paragraph, the web site address for the Legislative Ethics Committee that cites the advisory newsletter referenced in the opinion.

Representative Johnson indicated that he was viewing the legislative websites just now and most of the information provided is biographical information, with the exception of the contacts. He stated that the information basically sums up what is in the official election brochure; therefore, he did not believe it served a purpose to be able to use the link and cross the line. Although the information is not overly favorable to one candidate or the other, he did not think crossing the line to allow the use of state funds was appropriate.

Member Thomas accepted the proposed amendment by Mr. Wayne to his original motion.

Ms. Anderson restated the motion as amended. A roll call vote was taken:  
YEAS: Rep Johnson, Rep Tuck, Skip Cook, Sen Coghill, Connor Thomas, Toni Mallott, Chair Walker. NAYS: Gary Turner. Absent: Sen Gary Stevens  
Motion passes.

5. **ADJOURN:** Member Turner moved to adjourn the meeting at 9:40 a.m. Motion approved.

# Alaska State Legislature

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August 8, 2012

### ADVISORY OPINION 2012-04

#### **SUBJECT: Conflict of Interest – Use of State Resources-Campaigning**

##### **Question Presented**

The Select Committee on Legislative Ethics waives confidentiality under AS 24.60.160 and asks: does the Legislative Ethics Act permit a legislator or legislative employee to publish, as part of a political election campaign communication on the Internet or elsewhere, an address or electronic link to an Internet website created or maintained with legislative resources?

##### **Statement of Facts**

Political election campaigning can occur in-person or through other means, including the Internet, radio, television, newspapers, and printed flyers. Election campaigns use campaign resources for that purpose. The Legislative Affairs Agency uses legislative resources to create and maintain a website for the purpose of communication between the legislature and the public, but not for campaigning. The majority and minority political organizations in both the house and the senate use legislative resources to create and maintain websites to communicate with the public also.

##### **Discussion**

On December 12, 2007, in AO 2007-07, we concluded as follows:

[L]isting a legislative office phone number on campaign advertising fliers, whether preprinted or handwritten, violates AS 24.60.030(a)(5) which prohibits the authorization of legislative resources, including office staff, for a political fund raising or campaign purpose; and AS 24.60.030(b) which prohibits a legislator from requiring a legislative employee to perform campaign activity on government time. The committee finds a legislator may not distribute legislative business cards while campaigning for re-election, even if the cards are owned by the legislator for the same reasons as stated above, or if their distribution creates the appearance of impropriety under AS 24.60.010(1).<sup>1</sup>

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<sup>1</sup> For the best understanding of AO 2007-07 we recommend reading the complete version of the opinion, which is available online at <http://www.legis.state.ak.us/search/ethics/>.

Our conclusion in AO 2007-07 seems relevant to the question before us now. If, as part of a political election campaign communication, a serving legislator's political campaign were to publish an address or electronic link to an Internet website created or maintained with legislative resources, and that Internet website displayed contact information for the legislator's legislative office, then for purposes of the Legislative Ethics Act it would be as if the campaign had listed the legislative contact information on a campaign advertising flyer.

On July 12, 2010, in Advisory Opinion 2010-09-CD, the Alaska Public Offices Commission (APOC) determined that state election law does not prohibit campaign materials or websites from referencing websites and newsletters created and maintained with legislative resources. In that opinion, however, APOC expressly stated that it was not taking a position "as to whether this activity violates any legislative ethics laws."<sup>2</sup>

In the August 2010 edition of our newsletter "The Advisor," we advised that, notwithstanding the July 12, 2010 APOC opinion, "providing a link to a legislative webpage or e-newsletter on a campaign website is prohibited under AS 24.60.030(a)(5), AS 24.60.030(b), and AS 24.60.030(h)."<sup>3</sup> We also advised that nothing in the Legislative Ethics Act "prohibits a legislator from 'pasting' certain information from a legislative website or e-newsletter to a campaign website as long as certain prohibitions are followed; i.e., no legislative contact information is displayed on the material that is 'pasted'." We re-published this advice recently, in the July 2012 edition of "The Advisor," and we adopt it, for the purposes of this advisory opinion, as an accurate summary of relevant portions of the Legislative Ethics Act.<sup>4</sup>

### **Conclusion**

For the reasons stated above and to be consistent with AO 2007-07, the committee finds that the Legislative Ethics Act does not permit a legislator or legislative employee to publish, as part of a political election campaign communication on the Internet or elsewhere, an address or electronic link to an Internet website created or maintained with legislative resources if the website contains the legislator's contact information.

Adopted by the Select Committee on Legislative Ethics on August 8, 2012.

Members present and concurring in this opinion were:

Herman G. Walker, Chair  
Representative Craig Johnson

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<sup>2</sup> A full version of the opinion is available online at <http://doa.alaska.gov/apoc/Advisory/>.

<sup>3</sup> "The Advisor" and other information is available online at the Legislative Ethics website: <http://ethics.legis.state.us/>.

<sup>4</sup> The difference between pasting the information and providing a computer link to it is that the computer link also contains a direct connection to the legislator's contact information.

Representative Chris Tuck  
Senator John Coghill  
Dennis "Skip" Cook, public member  
Antoinette "Toni" Mallott, public member  
H. Connor Thomas, public member

Member dissenting from this opinion:

Gary J. Turner, public member

Member present for discussion but absent for the vote:

Senator Gary Stevens

DCW:ljw  
12-390.ljw

# THE ADVISOR

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## INSIDE THIS ISSUE:

Ethics Committee  
Issues Advisory  
Opinion 2012-04  
Today!

## Ethics Committee Issues Advisory Opinion 2012-04 Today!

### ADVISORY OPINION 12-04

#### QUESTION:

Does the Legislative Ethics Act permit a legislator or legislative employee to publish, as part of a political election campaign communication on the Internet or elsewhere, an address or electronic link to an Internet website created or maintained with legislative resources?

#### Background Information:

- The Legislative Affairs Agency uses legislative resources to create and maintain a website for the purpose of communication between the legislature and the public.
- The House and Senate Majority and Minority use legislative resources to create and maintain websites to communicate with the public.
- AS 24.60.030(b) prohibits a legislator from requiring a legislative employee to perform campaign activity on government time. AS 24.60.030(h) permits legislative employees to respond to incidental campaign activities.
- AO 2007-07 determined legislative contact information is a state resource and cannot be used for campaign purposes. "Calls generated from a legislative phone number on campaign material do not fall in the unsolicited category nor are they beyond the legislator's control. By including the legislative phone number, the legislator is authorizing and requiring the use of state resources (office equipment and staff) for campaign activities in violation of the Act. The fact the number of campaign-related calls may be nominal or limited is not relevant."

#### DECISION:

The Legislative Ethics Act does NOT permit a legislator or legislative employee to publish, as part of a political election campaign communication on the Internet or elsewhere, an address or electronic link to an Internet website created or maintained with legislative resources IF the website contains the legislator's contact information.

A legislator or legislative employee is permitted to "paste" certain information from a legislative website or e-newsletter to a campaign website under the condition no legislative contact information is displayed on the material that is to be pasted.

# Alaska State Legislature

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December 12, 2007

### ADVISORY OPINION 2007-07

#### **Subject: Conflict of Interest – Use of State Resources - Campaigning**

RE: (1) Does a member of the legislature violate the Legislative Ethics Act if, while campaigning for legislative office, the member (1) displays the member's handwritten or professionally printed legislative office phone number on the member's campaign flyer or verbally provides the number to constituents with the notation or statement "For Legislative Business," or (2) distributes the member's legislative business card to constituents?

You are a legislator and therefore covered by the Legislative Ethics Act. You have requested an advisory opinion concerning facts and circumstances that you have related. The committee relies on facts that you have described in answering your questions.

#### **Statement of Facts**

During a legislative campaign period in which you are a candidate, the fact of your incumbent status is evident from printed campaign material, campaign ads broadcast on television and radio, the official election pamphlet published by the state's Division of Elections, and from comments made during public debates between candidates. Each week of door-to-door campaigning at the homes of constituents you receive an average of four requests from constituents for legislative services. Your legislative office phone number is public information. Your legislative office staff reports that each week during a legislative campaign period the average number of constituents that call your legislative office with campaign questions is two or three, and each time it takes staff an average of eight to ten minutes to answer the phone, refer the call to campaign headquarters, and return to regular office duties.

#### **Discussion**

Communication with constituents on legislative business is an official duty of a legislator and the legislator's staff. Providing the legislative office phone number or a business card, containing the legislator's phone and fax number and email address, to constituents facilitates the performance of that duty.

Legislative office phone numbers are published and are widely available to prospective callers. During a legislative campaign in which a member of the legislature is a candidate, it is undesirable and yet reasonably foreseeable that legislative staff will receive campaign-related calls at the member's legislative office, even when the member

has done nothing to encourage the calls.<sup>1</sup> It is also reasonably foreseeable that listing a legislative office phone number on a campaign flyer and distributing the flyer to constituents during a campaign will result in an increase in the number of campaign-related calls regardless if the legislative office number is professionally printed or handwritten on the flyer and conveyed simultaneously with the instruction that it is to be used for legislative business only and a separate phone number for campaign-related calls is listed. It is also foreseeable that an increase in campaign-related calls will result if a legislative business card is given to a constituent or left with the campaign flyer while door-to-door campaigning.

(1) Listing the legislative phone number on campaign materials would, as discussed below, lead to a violation of AS 24.60.030(a)(5) or (b).

AS 24.60.030(a)(5) says, in part, that a legislator or legislative employee may not:  
use or authorize the use of state funds, facilities, equipment, services, or  
another government asset or resource for the purpose of political fund  
raising or campaigning;

AS 24.60.030(b) says: A legislative employee may not on government time assist in political party or candidate activities, campaigning, or fund raising. A legislator may not require an employee to perform an act in violation of this subsection.

In 1998 the House Subcommittee of the Select Committee on Legislative Ethics found that there was probable cause supporting an alleged violation of AS 24.60.030(a)(4), AS 24.60.030(b) and AS 24.60.030(a)(5)(A) by a campaigning legislator who listed the legislator's office phone number on 22,200 pieces of campaign material.<sup>2</sup>

The subcommittee found in Allegation 3.a. that use of the legislative phone number on campaign pieces was a violation against using state resources for a campaign-related purpose because the legislative phone number is a *state resource*. AS 24.60.030(a)(4)<sup>3</sup>

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<sup>1</sup> A personal or campaign phone number may not be forwarded to a legislative phone number.

<sup>2</sup> Determination of Probable Cause by the House Subcommittee of the Select Committee on Legislative Ethics in Complaint H 98-04, copy attached.

<sup>3</sup> AS 24.60.030(a)(4) A legislator or legislative employee may not require a legislative employee to perform services for the private benefit of the legislator or employee at any time, or allow a legislative employee to perform services for the private benefit of a legislator or employee on government time; it is not a violation of this paragraph if the services were performed in an unusual or infrequent situation and the person's services were reasonably necessary to permit the legislator or legislative employee to perform official duties; (Note: language is the same for 1998 and 2007.)



The subcommittee found in Allegation 3.B. there was probable cause to believe that a violation of AS 24.60.030(a)(5)(A)<sup>4</sup> existed in that the legislator *authorized* staff to handle campaign calls by putting the legislative phone number on campaign material.

In Allegation 3.c.(1), the subcommittee found the inclusion of the legislative office phone number *required or allowed* staff to handle campaign related phone calls while on government time in violation of AS 24.60.030(b)<sup>5</sup>.

The subcommittee further found in Allegation 3.a. probable cause for a violation because the phone services generated by the office number appearing on campaign materials did not meet the exception for “private benefit” use in AS 24.60.030(a)(4), which the subcommittee interpreted as allowing services performed in an unusual or infrequent situation or being reasonably necessary to permit the legislator or legislative employee to perform official duties. The subcommittee further found in Allegation 3.B. no evidence that the use of state resources (office equipment and staff) for “personal purposes” was beyond limited or that the cost was above nominal pursuant to AS 24.60.030(a)(5)(A).

This committee disagrees with both these interpretations in that the term “private benefit” in AS 24.60.030(a)(4) and the term “personal purposes” in AS 24.60.030(a)(5)(A) does not apply to a benefit or services provided to a legislative campaign.

The committee relies on the restrictions in AS 24.60.030(a)(5) and AS 24.60.030(b) in prohibiting the use of the legislative phone number on campaign material. A legislator may not use or *authorize* the use of state resources for the purpose of political fund raising or campaigning and a legislator may not *require* a legislative employee to perform services on government time that assist in political party or candidate activities, campaigning or fund raising. As noted earlier in this discussion, the committee in 1998 determined the legislative phone number is a state resource.

Legislative employees may respond to incidental campaign activities under AS 24.60.030(h). The committee interprets AS 24.60.030(h) to mean that, in spite of the prohibitions in (a)(5) and (b), responding to incidental campaign activities, such as *unsolicited* campaign calls received at a campaigning legislator’s legislative office, is permitted. Calls generated from a legislative phone number on campaign material do not fall in the unsolicited category nor are they beyond the legislator’s control. By including

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<sup>4</sup> AS 24.60.030(a)(5)(A) A legislator or legislative employee may not use or authorize the use of state funds, facilities, equipment, services, or another government asset or resource for the purpose of political fund raising or campaigning; this paragraph does not prohibit limited use of state property and resources for personal purposes if the use does not interfere with the performance of public duties and the cost or value related to the use is nominal;

<sup>5</sup> 1998 and 2007 language for AS 24.60.030(b) is the same.

the legislative phone number, the legislator is authorizing and requiring the use of state resources (office equipment and staff) for campaign activities in violation of the Act. The fact the number of campaign-related calls may be nominal or limited is not relevant.

AS 24.60.030(h) says:

(h) An employee who engages in political campaign activities other than *incidental* campaign activities during the employee's work day shall take leave for the period of campaigning. Political campaign activities while on government time are permissible if the activities are part of the normal legislative duties of the employee, including answering phone calls and handling incoming correspondence.

The committee notes it is the responsibility of the legislator to have a written office policy outlining procedures for handling incidental campaign related activities; i.e., campaign related phone calls and incoming campaign correspondence. The legislator can be in violation of AS 24.60.030(a)(5) or (b) if the legislator, by act or omission, causes staff to believe that communicating with callers on campaign matters and handling incoming campaign correspondence is permitted or required.

You additionally asked if a legislator may verbally give the legislative phone number to a constituent while campaigning if the constituent does not ask for it. Absent facts clearly demonstrating that the phone number was actually given for a legislative purpose, and not a political campaign purpose, the committee might find a violation of AS 24.60.030(a)(5) or (b).

(2) We see distributing a legislative business card with the legislative office phone number while campaigning in the same light, and also find that the use of the card during campaigning creates a substantial appearance of impropriety. The card not only contains the legislative office phone number but the legislator's email address and fax number. All of which are state resources.

The legislature set forth the Act's foundational principles in AS 24.60.010, and the first one, AS 24.60.010(1), says:

(1) high moral and ethical standards among public servants in the legislative branch of government are essential to assure the trust, respect, and confidence of the people of this state;

Creating the appearance of impropriety while in office is inconsistent with this principle. In previous advisory opinions the committee has indicated that the appearance of impropriety would be a factor the committee would consider in determining whether or not the Legislative Ethics Act has been violated.<sup>6</sup>

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<sup>6</sup> See A.O. 85-04, A.O. 94-08, A.O. 94-10, A.O. 96-04, A.O. 96-07, A.O. 99-01, and A.O. 05-01.

As noted earlier in this discussion, AS 24.60.030(a)(5) prohibits the use of legislative resources for political campaigning. Moreover, even if a legislator owns the cards -- after reimbursing their cost or value to the legislature, or paying the printing cost in advance -- members of the public might reasonably assume that the cards are legislative property and therefore their distribution during a campaign would appear improper and unethical.

Absent facts clearly demonstrating that a business card distributed during a campaign activity was actually distributed for a legislative purpose, and not a political campaign purpose, the committee might find a violation of AS 24.60.030(a)(5) in the circumstances described in your request.

### **Conclusion**

For the reasons stated above, the committee finds that listing a legislative office phone number on campaign advertising fliers, whether preprinted or handwritten, violates AS 24.60.030(a)(5) which prohibits the authorization of legislative resources, including office staff, for a political fund raising or campaign purpose; and AS 24.60.030(b) which prohibits a legislator from requiring a legislative employee to perform campaign activity on government time. The committee finds a legislator may not distribute legislative business cards while campaigning for re-election, even if the cards are owned by the legislator for the same reasons as stated above, or if their distribution creates the appearance of impropriety under AS 24.60.010(1).

A campaigning legislator may give the legislative phone number or business card to constituents for a legislative purpose. Conversely, if given for campaign purposes, the legislator would be in violation of the Legislative Ethics Act.

Adopted by the Select Committee on Legislative Ethics on December 12, 2007.

Members present and concurring in this opinion were:

Dennis "Skip" Cook, Chair

Representative Bob Roses

Representative Berta Gardner

Senator Hollis French (alternate for Senator Gary Stevens)

Senator Con Bunde

H. Conner Thomas, public member

Gary J. Turner, public member

Herman G. Walker, public member

Members dissenting from this opinion were: None.

Member absent were:

Senator Gary Stevens

Ann Rabinowitz, public member

Drafted by: Ethics Staff

**Alaska State Legislature**

**Select Committee on  
Legislative Ethics**

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November 10, 1999

**ADVISORY OPINION 99-04**

**Subject: Conflict of Interest – Mass Emailing/Website Links/State and Local Issues**

RE: Use of e-mail on state-provided Internet access and computer equipment for communicating with constituents.

You are a legislator and therefore covered by the legislative ethics code. You have requested an advisory opinion concerning facts and circumstances that you have related. The committee relies on facts that you have described in answering your questions. You have waived confidentiality under AS 24.60.160.

**Statement of Facts**

You state that you have developed an e-mail list of more than 400 constituents who have corresponded with you by e-mail. You plan to use this list to send information concerning legislation, the budget, state interests in local issues, and state and federal relations. You also may send your annual spring newsletter to everyone on this e-mail list. Mailings could occur during a legislative session or in the interim between sessions. You ask a series of questions about the application of the Legislative Code of Ethics (AS 24.60) to use of e-mail for this kind of communication.

**Discussion**

Under AS 24.60.030(a)(2), a legislator or legislative employee may not use public "facilities, equipment, services, or another government asset or resource for a nonlegislative purpose, for involvement in or support of or opposition to partisan political activity, or for the private benefit of anyone." Communicating by e-mail over the legislative computer system and with state provided access to the Internet is a use of public resource. Under (a)(2), you may make use of state-supplied e-mail only if the use constitutes a legislative purpose. The committee has recognized generally the obligation of legislators to communicate with their constituents and the public generally and has recognized that it is appropriate to use state resources to further that communication, so

long as certain limits are observed. See Advisory Opinion 98-02, March 24, 1998, and Advisory Opinion 97-02, July 22, 1997. (In the context of those two Advisory Opinions, the limits related to the solicitation of money for campaign purposes and the actual gathering of signatures.) You asked specific questions, which are answered as follows.

**1. Does AS 24.60.030(c) apply to the Legislative Update mass e-mailings you have described?**

Under the subsection that you ask about, during a campaign period for an election in which a legislator or legislative employee is a candidate, the legislator or legislative employee may not use state funds to print or distribute a political mass mailing to individuals eligible to vote for the candidate. The committee has stated on pages 14-15 of its 1999 *Standards of Conduct Handbook* that

state money (such as Finance Committee funds or leadership funds) may not be used to print or distribute a mass mailing from or about a legislator who is a candidate for state, federal, municipal offices or for telephone/electric cooperative boards, during the period beginning 90 days before the primary and ending the day after the general or special election. However, a legislator's personal office allowance may be used for legislative business mailings (per LAA guidelines) at any time. The Ethics Committee may grant exceptions to this prohibition in specific cases.

(emphasis in the original).

The committee applies the same approach to the question about using e-mail for a mass mailing: AS 24.60.030(c) prohibits using state money to make specific purchases related to a mass mailing during the 90 days before an election. A legislator or legislative employee who is a candidate may use state equipment and resources, including staff time, for sending out an e-mail to constituents **so long as there is no increased cost to the state for the use.** (The committee cautions that the prohibitions in the Ethics Code against using state assets and resources for campaigning still apply, of course, and would prohibit using state supplied e-mail for campaigning at any time, not merely during this 90-day period. See AS 24.60.030(a)(5).)

The committee notes that the use of the Internet and e-mail has increased dramatically in the recent past. It is sometimes difficult to apply the provisions in the Legislative Ethics Code to circumstances created by the availability of opportunities provided by the Internet and e-mail communications. Accordingly, the committee cautions that if a legislator or legislative employee were to make extensive use of committee or leadership-funded staff or equipment during a campaign period to print or distribute a mass e-mail, the committee might reach a different conclusion and find that the use was prohibited under AS 24.60.030(c).

**2. Would it be a violation to send a mass e-mailing about a local election issue that raises issues on the state level?**

As noted in the first part of this opinion, communicating with the public is a responsibility of legislators. Accordingly, it would not be a violation of the ethics code to communicate over the state-supplied network with state-supplied equipment and other resources concerning issues that had both a state and local effect. As noted in the answer to your first question, there are restrictions for mass communications during a campaign period.

**3. Would it be a violation to include a link to your website at [www.akrepublicans.org](http://www.akrepublicans.org)?**

The "akrepublicans" website is a site for the legislative majority. It includes messages from the Senate President and the House Speaker and links to the websites of individual legislators, to a minority member website, to press releases, the majority's "Our Promise to Alaskans," maps, weather sites, other state legislatures, issues research sites, permanent fund dividend information, drivers' licenses information, and a host of other matters. In the "Promise to Alaskans" link, there is frequent mention of the "Republican led majority" and, at least as of November 1, 1999, a list of "Accomplishments since Republicans Took Control of the Legislature". The committee has some concerns about these references and urges persons covered by the ethics code to be aware of the distinction between campaigning and providing public information. The "akrepublicans" website is created and maintained by state resources. It seems likely to be a website to which members of the public would look for information about the legislature and, in order to better provide the public with that information, it seems appropriate for you to include a link to your website among the other website links. The committee cautions that this conclusion is based on its understanding of the contents of the website. Should the contents change significantly, the committee might reach a different decision.

**4. Are there other prohibitions to the use of mass e-mails?**

This question is too broad to be usefully answered. The committee notes that all of the provisions in the Legislative Ethics Code apply whether a legislator is using e-mail or some other form of communication. If you have additional more-specific questions, please feel free to ask for an additional opinion.

**Conclusion**

For the reasons stated above, the committee finds that, in general, you may use state resources to communicate with the public by mass e-mailings. However, during the 90 days before an election in which you are a candidate, you may not make expenditures specifically for the purpose of printing or distributing a mass mailing using state funds. This prohibition applies to specific purchases for distributing a communication by e-mail as well as a communication by print or other electronic means. You may communicate via e-mail about issues that have both a local and state component. You may also provide a link to your website from the Alaska legislation website "akrepublicans.org".

Adopted by the Select Committee on Legislative Ethics on November 10, 1999.

Members present and concurring in this opinion were:

Shirley McCoy, Chair  
Senator Lyman Hoffman  
Senator John Torgerson  
Dennis Cook, public member  
Ed Granger, public member  
H. Connor Thomas, public member  
Curt D. Wallace, public member

Members absent were:

Representative Al Kookesh  
Representative Pete Kott

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