

Senate Bill 17

Campaign Contributions

Increasing the Limits on Campaign Contributions

Section 1:

Individuals: \$500 >> \$700 per year

Section 2:

A non political party group: \$1000 >> \$1,400 per year

Section 3:

Nongroup entity (such as XXX): \$1000 >> \$1,400 per year

Section 4 concerning Governor and Lt. Governor campaigns:

Individuals \$1,000 >> \$1,400; groups \$2,000 >> \$2,800 per year

Effective Date and CPI Increases

Section 5:

Beginning in the first quarter of calendar year 2024 and every four years thereafter, the commission shall, by regulation, adjust the contribution limitations set out in this section by a percentage equal to the percentage of increase over the preceding four-year period in all items of the Consumer Price Index for all urban consumers for Anchorage, Alaska, rounded to the nearest \$10 increment.

A Brief History

- In 1995, citizens filed an initiative that included lowering the limits on individual campaign contributions from \$1000 to \$500.
 - The legislature heard the call of the people and enacted a new law before the initiative came to fruition. The stated purpose of the new law was “to restore the public’s trust in the electoral process and to foster good government.”
- Years later, the legislature raised the limit back to \$1,000.
- In 2006, the people once again filed an initiative, and this time it came to be, lowering the limits again to \$500 – with 73% support.

A Brief History

- In 2021, the U.S. Ninth Circuit Court of Appeals ruled the limit unconstitutional.
 - The Court argued that because \$500 was unusually low, applied to all state races, and was not indexed with inflation to grow over time, that it infringed on donors' freedom of speech and gave an unfair advantage to incumbents.
 - In the aftermath of the decision, Alaska's Public Office Commission set the individual-to-candidate limit at \$1,500.

SB 17's ceilings would roughly track inflation for what Alaskans approved in 2006, though are a bit higher.

How it Could Survive Legal Challenge

To review, The Ninth Circuit Court argued that, since \$500 was unusually low, applied to all state races, and was not indexed with inflation to grow over time, it infringed on donors' freedom of speech and gave an unfair advantage to incumbents.

SB 17's limits are **not** unusually low and **are** indexed with inflation to grow over time. Thus, it follows from that ruling that these would survive a challenge made on the same grounds as the last one.

In the 40 states that do have limits on contributions to legislative candidates, the average is \$2,848 *per election*, ranging from \$180 in Montana to \$13,704. Ours would be slightly higher or lower depending on the source of the contribution—not unusual.

Reviewing the Increases

- Section 1:

- Individuals: \$500 >> \$700 per year

- Section 2:

- A non-political party group: \$1000 >> \$1,400 per year

- Section 3:

- Nongroup entity (such as XXX) : \$1000 >> \$1,400 per year

- Section 4 concerning Governor and Lt. Governor campaigns:

- Individuals \$1,000 >> \$1,400; groups \$2,000 >> \$2,800 per year

You may be familiar with some related cases

In *McCutcheon v. Federal Election Commission* (2014), the court held that states cannot place limits on aggregate contributions (the total of all contributions to all candidates) by individuals or groups. *Existing limits on per-candidate contributions were not addressed and thus not changed.* (NCSL)

In *Citizens United v. Federal Election Commission* (2010), independent expenditures were at hand. SB 17 would not limit those.

Reviewing the Increases

- Section 1:

- Individuals: \$500 >> \$700 per year

- Section 2:

- A non-political party group: \$1000 >> \$1,400 per year

- Section 3:

- Nongroup entity: \$1000 >> \$1,400 per year

- Section 4 concerning Governor and Lt. Governor campaigns:

- Individuals \$1,000 >> \$1,400; groups \$2,000 >> \$2,800 per year

Definition of Nongroup entities

15.13.400

(14) "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.

“Group that is not a political party”

15.13.400

(9) "group" means (A) every state and regional executive committee of a political party;

(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; and

(C) any combination of two or more individuals acting jointly who organize for the principal purpose of filing an initiative proposal application under AS 15.45.020 or who file an initiative proposal application under AS 15.45.020;

I should repeat that this law would not apply to independent expenditures.