

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 3, 2008

1:10 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative Nancy Dahlstrom, Vice Chair
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 414

"An Act relating to the crime victim compensation fund."

- MOVED HB 414 OUT OF COMMITTEE

HOUSE BILL NO. 355

"An Act requiring the disclosure of the identity of certain persons, groups, and nongroup entities that expend money in support of or in opposition to ballot initiatives and the aggregate amounts of significant contributions or expenditures made by those persons, groups, and nongroup entities."

- HEARD AND HELD

HOUSE BILL NO. 255

"An Act relating to dual sentencing of certain juvenile offenders; amending Rule 24.1, Alaska Delinquency Rules; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 414

SHORT TITLE: CRIME VICTIM COMPENSATION FUND

SPONSOR(S): JUDICIARY

02/25/08 (H) READ THE FIRST TIME - REFERRALS
02/25/08 (H) JUD, FIN
03/03/08 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 355

SHORT TITLE: DISCLOSURE OF CONTRIBUTIONS: INITIATIVES
SPONSOR(S): REPRESENTATIVE(S) JOHANSEN

02/06/08 (H) READ THE FIRST TIME - REFERRALS
02/06/08 (H) JUD, FIN
02/13/08 (H) JUD AT 1:00 PM CAPITOL 120
02/13/08 (H) Scheduled But Not Heard
02/22/08 (H) JUD AT 1:00 PM CAPITOL 120
02/22/08 (H) Scheduled But Not Heard
03/03/08 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

JANE W. PIERSON, Staff
to Representative Jay Ramras
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 414 on behalf of the sponsor, the House Judiciary Committee, which is chaired by Representative Ramras.

GERAD G. GODFREY, Chair
Violent Crimes Compensation Board (VCCB)
Department of Administration (DOA)
Anchorage, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 414.

REPRESENTATIVE KYLE JOHANSEN
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 355.

SONIA CHRISTENSEN, Staff
to Representative Kyle Johansen
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 355, testified on behalf of the sponsor, Representative Johansen.

CHRISTINA ELLINGSON, Acting Director

Alaska Public Offices Commission (APOC)
Department of Administration (DOA)
Anchorage, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 355.

CHIP THOMA
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 355.

STEVE CLEARY, Executive Director
Alaska Public Interest Research Group (AkPIRG)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 355.

MARGARET PATON-WALSH, Assistant Attorney General
Labor and State Affairs Section
Civil Division (Anchorage)
Department of Law (DOL)
Anchorage, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 355.

ACTION NARRATIVE

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at [1:10:34 PM](#). Representatives Samuels, Dahlstrom, Coghill, and Ramras were present at the call to order. Representatives Lynn, Holmes, Gruenberg arrived as the meeting was in progress.

HB 414 - CRIME VICTIM COMPENSATION FUND

[1:11:55 PM](#)

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 414, "An Act relating to the crime victim compensation fund."

[1:12:06 PM](#)

JANE W. PIERSON, Staff to Representative Jay Ramras, Alaska State Legislature, presented HB 414 on behalf of Representative Ramras, chair of the House Judiciary Committee, sponsor. She explained that the Violent Crimes Compensation Board (VCCB) was established under AS 18.67 in 1972 to help mitigate the financial hardships victims suffer as a direct result of violent

crime. The board may compensate medical expenses, counseling costs, lost income, lost support, funeral expenses, and/or other reasonable costs sustained by Alaskan victims of violent crimes. The VCCB awards approximately 85 percent of its budget directly to victims and/or their service providers. Based on the past four years, the average amount the board awards annually is \$1,345,338.

MS. PIERSON stated that HB 414 would create a non general fund (GF) program definition for the VCCB under AS 37.05.146(c). Revenues could be placed directly into this fund and be matched at \$.60 on every dollar from federal grants. Therefore, the VCCB could obtain additional funding without any additional cost to the state. Funding sources for the VCCB include inmate salaries, restitution payments, permanent fund dividends (PFDs), and payments made by VCCB claimants under repayment agreements. However, those funds are currently deposited directly into the state's GF and any fund balance not expended is returned to the GF. Again, this bill would allow the VCCB to retain unexpended funds and obtain matching federal funds at the rate of \$.60 per state dollar.

CHAIR RAMRAS that he is sympathetic with the intent of HB 414 since he has been a victim of property crime himself.

REPRESENTATIVE DAHLSTROM referred to the VCCB annual report, and said that she reads that report and supports the work the VCCB accomplishes. She relayed her support of HB 414, which, she surmised, would allow the VCCB the ability to roll unexpended funds forward.

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GERAD G. GODFREY, Chair, Violent Crimes Compensation Board (VCCB), Department of Administration (DOA), concurred with Ms. Pierson's summation. He noted that when a claimant comes to the VCCB he/she must sign a subrogation agreement. The VCCB realizes that some claimants will receive a settlement award, for example, for an accident involving a driver who was driving under the influence (DUI). Although eventually the claim will be settled, it may take considerable time, and, meanwhile, the victim's bills continue to accrue, oftentimes when the person cannot work. Mr. Godfrey highlighted that the VCCB awards are for tangible losses based on a formula, with a maximum of \$40,000. The claimant or his/her attorney will reimburse the VCCB for the settlement once awarded. He characterized the VCCB award as a de facto loan, so when the settlements are received,

the funds are directed to the general fund (GF) rather than to the VCCB. He too noted that the VCCB receives funding from garnished PFDs. Additionally, the VCCB received funding of approximately \$400,000 during Governor Murkowski's administration. He explained that if the VCCB can recoup settlement awards from subrogation agreements and court ordered restitution or judgments, then the VCCB may become self-sustaining. He referred to a graph in members' packets that illustrates the projected funding of the VCCB, and opined that if HB 414 passes, the VCCB could eventually operate on interest alone.

REPRESENTATIVE GRUENBERG asked whether the money coming from inmates' PFDs is deposited into the GF and then appropriated to the VCCB.

MR. GODFREY answered that the legislature makes the appropriation but he is not sure of the appropriation process. However, he noted, the largest percentage of the PFD is appropriated to the Department of Corrections (DOC), which he surmised is appropriate since the DOC houses the inmates.

MS. PIERSON advised that garnished PFDs are first deposited into the GF and are then allocated to the VCCB.

CHAIR RAMRAS, after first determining that no one else wished to testify, closed public testimony on HB 414.

[1:25:26 PM](#)

REPRESENTATIVE DAHLSTROM moved to report HB 414 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 414 was reported from the House Judiciary Standing Committee.

HB 355 - DISCLOSURE OF CONTRIBUTIONS: INITIATIVES

[1:26:20 PM](#)

CHAIR RAMRAS announced that the final order of business would be HOUSE BILL NO. 355, "An Act requiring the disclosure of the identity of certain persons, groups, and nongroup entities that expend money in support of or in opposition to ballot initiatives and the aggregate amounts of significant contributions or expenditures made by those persons, groups, and nongroup entities."

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REPRESENTATIVE KYLE JOHANSEN, Alaska State Legislature, sponsor, explained that he had introduced HB 355 in order to begin discussions about the initiative process and the need for openness and transparency of funding during that process. He offered his concern that funding is obscured, and remarked upon the importance of requiring disclosure of an individual or a group that funds ballot initiatives, regardless of whether the group supports or opposes the ballot initiative. Legislators and potential legislators currently must disclose income, campaign contributions, and investments, to provide the public a basis for making decisions about the people they elect. This bill would require disclosure of those who influence ballot initiatives. He explained that his intent is to require full disclosure of groups such that if a group in Wyoming is funding a ballot initiative, the public has a right to know it.

REPRESENTATIVE JOHANSEN opined that when a question is on the ballot, the issue becomes a public-relations battle with little discussion about the proposed change and is instead more about slogans. He acknowledged that HB 355 might have to be altered and that some issues may still need to be addressed.

REPRESENTATIVE SAMUELS asked who is currently allowed to contribute funds to organizations that sponsor ballot initiatives.

1:33:40 PM

SONIA CHRISTENSEN, Staff to Representative Kyle Johansen, Alaska State Legislature, on behalf of Representative Johansen, sponsor, stated that there are no restrictions with regard to who can contribute to ballot initiatives.

REPRESENTATIVE JOHANSEN offered that he did not believe that any limit is imposed on the amount that can be contributed to support ballot initiatives.

CHAIR RAMRAS described his experience in collecting signatures for a ballot initiative, and acknowledged that it is a difficult task. He mentioned two distinct aspects to ballot initiatives as being collecting signatures and advocating for or against the issue to be placed on the ballot. He relayed his own experiences with collecting signatures, and noted that although he had initially been opposed to the legislation allowing a sponsor of a ballot initiative to pay someone to collect

signatures, [he no longer is]. Additionally, he found some people would not support his initiative because they had concerns about retribution.

REPRESENTATIVE JOHANSEN opined that if someone wants to donate money for a ballot initiative, he/she should not fear retribution. However, the contributor should be required to disclose that donation. He said that although he supports the initiative process, his main concern and the reason for introducing HB 355 is that ballot initiatives have become a multimillion-dollar industry and so it is difficult for the public to discern who is funding the ballot initiative. He offered his understanding that some businesses focus on ballot initiatives for profit. He stressed that citizens have a right to know the source of funding for ballot initiatives.

CHAIR RAMRAS stated said that he shares Representative Johansen's concern about outside interests "hijacking" ballot initiatives.

[1:45:43 PM](#)

REPRESENTATIVE SAMUELS recalled the ballot initiative Chair Ramras collected signatures for all summer long. He pointed out that someone could have spent millions to oppose the ballot initiative and that it would be difficult to find out who paid for the campaign opposing the initiative.

CHAIR RAMRAS offered his understanding that HB 355 would not affect that aspect of ballot initiatives. However, he said his exclusive concern is to protect the ability of individuals to place something on the ballot. He said that he supports full disclosure for donations by individuals and groups once the initiative is on the ballot.

MS. CHRISTENSEN clarified that HB 355 would apply to any committee that spends or incurs \$500 in expenditures and would require the group to file with the Alaska Public Offices Commission (APOC).

CHAIR RAMRAS recalled that he helped collect 46,000 signatures for the ballot initiative to limit the legislative session to 90 days, and that a group opposed to the initiative spent \$1 million to oppose it. He asked whether a group opposing an initiative is currently required to report and disclose its source of funds on a ballot initiative.

MS. CHRISTENSEN answered that currently the source of the funding would need to be disclosed.

CHAIR RAMRAS surmised that HB 355 is limited to funding spent to collect signatures.

REPRESENTATIVE JOHANSEN stated that his intention, regardless of whether the legislation actually does so, is to require financial disclosure for those who either collect signatures or run a campaign to support or oppose a ballot initiative.

REPRESENTATIVE HOLMES asked what specifically would be changed by HB 355.

MS. CHRISTENSEN indicated that a sectional analysis in members' packets provide that information.

REPRESENTATIVE SAMUELS posed a scenario in which a group forms, but its contributors are not known to the public.

CHAIR RAMRAS agreed. He reiterated his earlier concern for adverse impacts on private citizens who seek to place an initiative on the ballot.

[1:53:30 PM](#)

CHRISTINA ELLINGSON, Acting Director, Alaska Public Offices Commission (APOC), Department of Administration (DOA), noted that the APOC just addressed this reporting question at its meeting in February 2008. She offered that under Section 4 of HB 355, the reporting statute would be changed by deleting "an initiative". She explained that people must gather signatures to get an initiative, referendum, or a recall on the ballot, and that currently, AS 15.13.110(e) identifies when reports are required, such that each group is required to report contributions and expenditures 30 days after filing with the lieutenant governor and 10 days after the end of each calendar quarter. However, under HB 355, the reports would be required the 15th day of each month before the election and two weeks prior to the election. She stated that the rest of bill pertains to Division of Elections matters. Currently, once the first 100 signatures are obtained by a "loosely formed" group, then that group must file with the APOC.

CHAIR RAMRAS relayed his understanding that HB 355 attempts to have a "loosely formed" group provide fuller disclosure to the public.

MS. ELLINGSON agreed. However, she opined that this bill does more [than that]. She clarified that the first filing is generally done by the sponsor of the initiative. She characterized the initiatives' sponsors as often being a "handful of people" who will register as a group. She further noted that sometimes the group is represented by attorneys who are hired to assist them.

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CHIP THOMA stated that he supports HB 355, and that he has been involved in three local initiatives and two statewide initiatives, and that in each instance the opposition to the initiatives was overwhelming and the funding sources were not documented. He said that he is not a lobbyist nor is he compensated in any way for his presence before the committee. He offered that he joined the cruise ship initiative since he thought it was a good cause. He relayed that Joe Geldhof, a Juneau attorney, authorized him to report to the committee that the cruise ship initiative received one outside contribution in the amount of \$10,000 for advertising purposes. An additional \$30,000 was raised to obtain signatures, which were collected by volunteers or paid signature gatherers. He noted that the cruise ship initiative had strong local support, especially from the Alaska Native Sisterhood (ANS), which was concerned that cruise ships would affect their subsistence foods. He pointed out that the opposition spent over \$2 million to fight the initiative, though he did not know who furnished the funding for over 27 mailers and the television advertising campaign to combat this initiative. However, he stated that he later learned that the Northwest Cruise Ship Association based in Vancouver, Canada, provided the funding through PacWest, a major group from Miami, Florida. He said that his group prevailed in its efforts, although he opined that the group could have won by much greater margin if the funding source had been known and publicized.

MR. THOMA suggested that the bill should also apply to statewide municipal ballot initiatives, that registered lobbyists should be prohibited from donating to any ballot initiative campaign, and that proposed AS 15.45.780 contain a "top ten" contributor list for all ballot initiative advertising such that anyone contributing over \$500 or \$1,000 to a ballot initiative campaign should be listed. He recalled one local initiative to ban fluoride in drinking water. Supposedly the issue was locally funded; however, the American Dental Society primarily funded an

opposition campaign. Additionally, he offered that Alaska doesn't have a professional signature gathering group. He concluded with his support for HB 355.

REPRESENTATIVE COGHILL referred to the reporting requirements of the bill, and asked Mr. Thoma whether he thought the requirements were reasonable and if he thought that the proposed requirements would affect how people would conduct ballot initiative advertisement campaigns.

MR. THOMA answered that advertising decisions generally must be made early on, so he does not think that the changes to the reporting requirement would affect advertising. However, he stressed that a cumulative donor list should be filed with any advertising for ballot initiatives.

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STEVE CLEARY, Executive Director, Alaska Public Interest Research Group (AkPIRG), after relaying that AkPIRG has been operating in Alaska since 1974, has approximately 1,600 members, and that its mission is to protect consumers and advocate for open and honest government in Alaska, stated that AkPIRG supports HB 355, which he characterized as "a great step for Alaska." He too remarked that ballot initiatives are an important part of the lawmaking process in Alaska. He said that AkPIRG believes in full disclosure, which he characterized as essential for open government, and that the public has a right to know who is funding a ballot initiative. The current system allows and rewards secrecy by allowing a group to pay signature gatherers and put forth an initiative without having to disclose the source of funding for its ballot initiative campaign. He stated that AkPIRG believes that Alaskans should know the funding source in the signature gathering phase and not just after an initiative has been placed on the ballot. He acknowledged that once something is on the ballot, the issue achieves some legitimacy. Therefore, it is critical that Alaskans know, prior to that phase, the sources of the funding for the signature gathering.

MR. CLEARY said that the AkPIRG is currently working on the Clean Elections Ballot initiative. Alaskans for Clean Elections chose to disclose its contributions during the signature gathering phase even though it is not currently required to do so. In contrast to that, the "anti-corruption" initiative would negate the Clean Elections initiative, he opined. That group is not required to list its contributors or expenses during the

signature gathering phase. He said that the AkPIRG believes that the bulk of the "anti-corruption" initiative funding is coming from Mr. Howard Rich, a New York business tycoon who has funded ballot measures all across the United States. Similar measures have been thrown off the ballot in Montana, he offered, such as one sponsored by a group named "Montanans in Action" even though its funding sources originated in New York.

REPRESENTATIVE SAMUELS asked Mr. Cleary if he has had experience with subgroups donating funding to the main group that organizes to support or oppose an initiative, such that it is difficult to ascertain the original source of funding for the ballot initiative, regardless of whether it is in the signature gathering phase or the actual ballot initiative campaign.

MR. CLEARY stated that he has not experienced such, but would research that issue further.

[2:14:02 PM](#)

MARGARET PATON-WALSH, Assistant Attorney General, Labor and State Affairs Section, Civil Division (Anchorage), Department of Law (DOL), stated that the DOL has one potential problem with HB 355. She referred to Section 6 of proposed AS 15.45.780. She stated that a potential First Amendment concern was raised by a U.S. Supreme Court decision, McIntyre v. the Ohio Elections Commission, 514 U.S. 335(1995). In that case, Mrs. McIntyre handed out flyers at a school board meeting in opposition to a bond proposal. The requirement that political advertising would include the name of the committee person, group, or nongroup entity that was behind it, would run afoul of First Amendment protections for anonymous speech that were outlined in McIntyre, she opined. In that case, the court addressed Ohio's interest regarding public information, which is clearly what is motivating HB 355, she surmised. The court found the state's interest insufficient to justify trumping a person's right to anonymous speech. Thus, she expressed concern about the constitutionality of proposed Section 6, absent some attempt to define political advertising. The current election statutes defines "communication" in AS 15.13, a narrower definition that would exclude flyers that the U.S. Supreme Court found were protected in McIntyre, she opined.

REPRESENTATIVE COGHILL asked whether the contribution amount matters enough to impose a \$500 limit, and whether a threshold was indicated in McIntyre.

MS. PATON-WALSH answered that the funding issue is not very clear in McIntyre. She offered that the court makes some reference to the small scale of Mrs. McIntyre's activities. However, the court did not make a clear distinction, nor is it the central part of the analysis of the issue. She opined that it is possible that some argument could be made based on the threshold amount. She said she could not predict, but her sense is that given the cost of reproducing flyers at Kinkos, it could be that \$500 would be too low a threshold to cover activities such as those engaged in by Mrs. McIntyre. Even if the threshold were raised, it is not clear if that would be a compelling basis for the distinction, she surmised.

REPRESENTATIVE COGHILL asked whether a person who contributes \$50 to a political campaign could assert the right to anonymity. Currently, he noted, that person is required to furnish name and address along with his/her contribution.

MS. PATON-WALSH answered that a person could not assert the right to anonymity, which is more closely connected to political speech; so the financial contribution, although it could be characterized as a political statement, is in some ways distinguished by the U.S. Supreme Court as a political "flyer." If a person writes out his/her support or opposition to an initiative and posts it in various places around a city, that "posting" is considered a direct expression of the person's political speech.

REPRESENTATIVE COGHILL acknowledged that the court has already determined that people have a right to know who made the contribution, for example, when someone makes a contribution of \$500 or more.

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REPRESENTATIVE SAMUELS relayed that he must disclose the source of advertising expenditures by listing "paid for by" on the advertisement. He asked why anonymity on expenditures for a group in ballot initiative situations is allowed.

MS. PATON-WALSH answered the court hasn't actually addressed that issue of "paid for by" a particular candidate. The court has only made a distinction between elections for office and ballot or bond initiatives. She advised that McIntyre addresses an "issue" election and not an election of an individual, and that she does not know the extent to which that anonymity protection would expand if that issue came before the court.

She explained that there were three opinions are expressed in McIntyre: the majority opinion, concurring opinions, and a dissent opinion.

MS. PATON-WALSH again offered that one solution to address the constitutional issues in the bill would be to add a definition of political advertising that excludes the areas of known jurisprudence protections by the court and leaves open areas that have not yet been determined by the court. She opined the current definition of communication in AS 15.13.090 essentially provides protection for the types of speech engaged in by Mrs. McIntyre but not for many other things.

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REPRESENTATIVE LYNN asked why there is anonymity for initiatives but not for an individual's campaign, particularly given that most elected officials are elected due to their stance on issues. He asked whether other states have passed similar legislation and, if so, whether constitutional challenges have been raised with respect to anonymity.

MS. PATON-WALSH answered that McIntyre is essentially the preeminent case on this issue. The state of Ohio had prohibited anonymous leaflet advertising, she said, and so Mrs. McIntyre was fined under that statute, but the U.S. Supreme Court ruled it unconstitutional. She opined that the "paid for by" language requirement is a standard provision found in many other states and at the federal level, and that a huge gray area exists between what Mrs. McIntyre did and the "paid for by" issue. Again, McIntyre provides the only clues as to what may happen with regard to anonymous speech. She said that she is not able to say with certainty whether something will be constitutional since so little information exists.

REPRESENTATIVE LYNN said that he struggles to understand why a contribution to a political campaign cannot be anonymous, yet a contribution to an initiative can be.

REPRESENTATIVE JOHANSEN offered that he shares that same concern.

REPRESENTATIVE HOLMES referred to page 2, lines 20-31, of proposed Section 5, and asked about the reporting requirements for a group that raises money for several purposes and contributes more than \$500 per year. Would the organization or

the individuals or members that contributed to the organization be required to be disclosed as contributors?

MS. ELLINGSON answered that ballot issues just report the funding source. She posed a scenario such that if a group decided to support an initiative, it would remit the funds from its own funds. Under current disclosure law a "group" is triggered when it solicits money from its members; otherwise an entity could simply make a donation that is derived from its general membership fees.

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REPRESENTATIVE HOLMES surmised, then, that if a group made a donation from its general membership funds, the only reporting required would be for the single donation from it for the purpose of a ballot initiative. She asked whether the group would be required to report if it specifically solicited funds for a ballot initiative.

MS. ELLINGSON answered that the group would be required to report and would have to name itself.

REPRESENTATIVE HOLMES referred to proposed AS 15.45.760, which requires that the committee name must include the ballot title and the word "for" or the word "against". She inquired as to whether, in actual practice, multiple groups would have the same name.

MS. ELLINGSON answered no, and explained an outside entity had tried to tie up every conceivable variation of a name so that others could not use it. She noted that most groups devise their own name.

REPRESENTATIVE HOLMES stated that she did not find a definition of "initiative committee" in HB 355.

MS. ELLINGSON answered that initiatives fall under the definition of "group" in statute.

REPRESENTATIVE HOLMES referred to proposed AS 15.45.760, and opined that several groups could have similar names. She asked whether multiple groups are formed or if it is usually just one group "for" and one group "against" an initiative.

MS. ELLINGSON answered that sometimes multiple groups are formed. Although proposed AS 15.45.760 pertains to the Division

of Elections, some provisions in HB 355 probably should fall under APOC's campaign disclosure purview, she suggested.

REPRESENTATIVE HOLMES expressed concern that if more than one group is formed, they could be limited with regard to what name they get to choose.

REPRESENTATIVE COGHILL surmised that the titles of the groups would not lend itself to "a clean debate."

[2:36:46 PM](#)

REPRESENTATIVE GRUENBERG asked the sponsor to also consider what aspects of the bill APOC should administer.

CHAIR RAMRAS asked MS. Ellingson to elaborate on the genesis of the requirement for disclosure for campaign contributions but not for initiatives.

MS. ELLINGSON said that that APOC decision arose out of several court cases. Up until 1997, statutes stated that disclosure applied to activities that are intended to influence the outcome of the election. Thus, an argument could be made that without a question on the ballot, there isn't an election. The commission held discussions on whether it is constitutional to require disclosure since a group may not gather enough signatures to place the initiative on the ballot and hold an election.

CHAIR RAMRAS asked why disclosure is required even if the initiative never makes it to the ballot, particularly given that many initiatives fail.

MS. ELLINGSON agreed. She offered that some groups voluntarily disclose their signature-gathering funds.

CHAIR RAMRAS surmised that once an organization advertises that it is collecting signatures, the group would need to disclose.

MS. ELLINGSON clarified that if a group is collecting signatures and requests people to vote for or against the initiative in the event that it is on the ballot, the group must report and disclose the contributors.

MS. ELLINGSON, in response to a question, answered that a group that is only in the signature-gathering stage would not be required to disclose since an election might not ultimately be held. She pointed out that candidates and groups have different

standards for reporting requirements, and opined that candidates are held to a higher standard. Furthermore, if a candidate ran for office and later withdrew, he/she would still be required to report his/her expenditures and distribution of funds.

CHAIR RAMRAS opined that a person who runs for office is fully engaged in running for office. If that person withdraws from the race, he/she is out of the race. In the case of a ballot initiative, until a person submits the signatures and requests certification, the ballot initiative will not be on the ballot, and once those signatures are submitted, the person then loses custody of the ballot initiative.

REPRESENTATIVE LYNN offered his concern that listing names of contributors would have the effect of creating a database of people who support or oppose an initiative. He offered an example of groups such as Planned Parenthood and Alaska Right to Life, whose goals are diametrically opposed to one another.

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MS. ELLINGSON surmised that groups could contribute \$1,000 to an initiative group, and that group could form a separate arm to solicit funds for specific ballot issues. She offered that currently, about four groups have formed whose specific purpose is for a ballot initiative and the groups' name reflects its purpose. In response to [comments], she agreed that the groups could contribute to candidates or a ballot initiative, but that the list of contributors is already on record. Thus, no new list of contributors would be created, because such groups already have a list of their contributors on file.

REPRESENTATIVE SAMUELS argued that an organization could form another arm and that arm could contribute to candidates and the public will still not know the source of the contributions.

MS. ELLINGSON answered that the public can simply review the reporting by the secondary group. She advised that ballot initiatives "enjoy the ability of being able to collect as much money as they want from any source that they want."

REPRESENTATIVE SAMUELS stressed that the point of HB 353 is to identify any money that is collected that is intended to influence public policy in Alaska regardless of whether or not an initiative is successfully placed on the ballot. The public should know the source of the funds, he opined. He posed a scenario in which an organization contributes \$1 million to a

ballot measure, and opined that if the original source of the \$1 million is unknown, then the goal of the bill will not have been met. He said, "The goal is to have a transparent process so we know who is trying to influence public policy in the State of Alaska, whether it is the Sierra Club [or] ExxonMobil Corporation"

MS. ELLINGSON answered that disclosure is required at the time the person makes a contribution to the organization to inform the public about an issue. For example, several entities that favor one side of an issue but which may not be located in Alaska can contribute large sums of money, though the contributions must all be disclosed as being to the group they contribute to or must be listed as an independent expenditure. Thus, the public can identify whether the source is from a large company or an individual contributor. She recalled one ballot initiative that addressed same-sex marriages. One of the major contributors was the Church of Jesus Christ of Latter-Day Saints, widely known as the LDS Church or the Mormon Church from Utah; although it reported its contributions of \$150,000 to one of the groups, it was not required to reveal who made the individual contributions to the church.

[2:51:25 PM](#)

REPRESENTATIVE GRUENBERG offered his understanding that the McIntyre decision provides for the right of anonymous free speech in political situations in certain cases. He asked whether, in the event that the legislature cannot control the right of a group to disclose contributions, the state would have the right to require that the group disclose that it had refused to reveal its financial sources in election pamphlet material.

MS. PATON-WALSH offered to research that issue further and respond in writing. She offered a distinction that the protection for anonymous speech pertains to a published statement of a political position. She posed a scenario in which a person who writes an advertisement in the form of a flyer against a proposition does not need to sign the material. However, if the person spends money to advertise, he/she must disclose the funding.

REPRESENTATIVE GRUENBERG surmised that that would pertain to the language in proposed AS 15.13.780.

MS. PATON-WALSH agreed, and offered that her concern is solely confined to proposed AS 15.13.780 regarding the issue of anonymity of speech.

REPRESENTATIVE GRUENBERG suggested that a remedy to the constitutional concern could be to add the phrase, "or the fact that the author of the advertising refused to reveal the source."

MS. PATON-WALSH said she would research that issue further.

CHAIR RAMRAS asked whether APOC supports the changes proposed in HB 355 with respect to the signature-gathering portion of the bill.

[2:57:43 PM](#)

MS. ELLINGSON referred to proposed AS 15.13.110(e), and noted that it states that the first report will be within 30 days after the first filing with the lieutenant governor and quarterly thereafter; proposed AS 15.13.110(e) read:

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.

MS. ELLINGSON explained that [APOC] staff has never required disclosure during signature gathering unless a group is advocating for or against a ballot measure.

CHAIR RAMRAS recalled his experience in collecting signatures and noted that since his group was not advocating for a position, his report was zero.

REPRESENTATIVE SAMUELS asked whether HB 355 is intended to ban groups from contributing and only allow individuals to make contributions, with no limit on amounts, yet requiring full disclosure. He also asked whether the bill's current language would pass constitutional muster.

CHAIR RAMRAS pointed out that the Fairbanks North Star Borough (FNSB) raised \$150,000 for a ballot initiative to raise property

tax exemptions. He asked whether such an initiative would be affected by passage of the bill.

REPRESENTATIVE SAMUELS opined that the FNSB couldn't contribute at all on statewide initiatives since funding would be solely by individuals.

CHAIR RAMRAS surmised that if contributions were limited to individuals, then the FNSB would be precluded from altering property tax exemptions.

REPRESENTATIVE SAMUELS agreed.

MS. PATON-WALSH advised that there is no First Amendment concern raised by the hypothetical example because an individual is not allowed to make an anonymous contribution. She offered to research that issue further for the committee.

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REPRESENTATIVE GRUENBERG asked Ms. Paton-Walsh to also consider Article 11 of the Alaska State Constitution and the constitutional decisions rendered by the Alaska Supreme Court in conjunction with the fundamental right of association. He opined that severe problems would result if the legislature were to ban the right of association.

MS. PATON-WALSH offered to research that issue further. She offered her understanding that Representative Samuels was not suggesting that groups be prevented from forming in support of or in opposition to ballot initiatives. However, another organization could not contribute to a ballot initiative committee in order to conceal the original source of its funding.

REPRESENTATIVE GRUENBERG opined that the group would simply offer that its reason to band together pertained to the right to associate and not to concealing its contributors. He said he is interested in who would administer the various parts of the bill, and opined that the APOC is well suited to administer much of the bill. He then referred to proposed AS 15.45.780, and asked whether McIntyre applies and, if so, if a group chooses to be anonymous, whether that fact shall be disclosed in all advertising.

REPRESENTATIVE HOLMES referred to language on page 3, lines 9-10, regarding naming the initiative committees.

REPRESENTATIVE COGHILL asked whether the findings and intent provision is necessary. He referred to proposed AS 15.13.110(g), and asked what other reporting requirements are needed to determine the entire schedule.

REPRESENTATIVE LYNN offered his strong support for the concept of the bill. He stated that he would like to see [the provisions of statutes pertaining to] contributions for initiatives be aligned with those for candidates. He highlighted that the process should be as transparent as possible. Furthermore, if corporations cannot contribute to an individual's campaign, then why should corporations be allowed to contribute to ballot initiatives.

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REPRESENTATIVE SAMUELS surmised that generally the U.S. Supreme Court has found it is far different to contribute to individuals than it is to contribute to ideas.

REPRESENTATIVE GRUENBERG opined that HB 355 raises important constitutional issues that need to be considered.

[HB 355 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:10 p.m.