

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

February 7, 2008

8:06 a.m.

MEMBERS PRESENT

Representative Bob Roses, Vice Chair
Representative John Coghill
Representative Kyle Johansen
Representative Craig Johnson
Representative Andrea Doll

MEMBERS ABSENT

Representative Bob Lynn, Chair
Representative Max Gruenberg

COMMITTEE CALENDAR

HOUSE BILL NO. 299

"An Act relating to campaign contributions made to candidates in state elections; and providing for an effective date."

- HEARD AND HELD

PENDING INTRODUCTION & REFERRAL

"An Act relating to parental notice and consent for a minor's abortion; relating to penalties for an abortion procedure; relating to a judicial bypass procedure for an abortion; relating to coercion of a minor to have an abortion; relating to reporting of abortions performed on minors; and amending court rules."

- BILL HEARING POSTPONED

PREVIOUS COMMITTEE ACTION

BILL: HB 299

SHORT TITLE: CAMPAIGN CONTRIBUTIONS

SPONSOR(S): REPRESENTATIVE(S) KELLER

01/11/08	(H)	PREFILE RELEASED 1/11/08
01/15/08	(H)	READ THE FIRST TIME - REFERRALS
01/15/08	(H)	STA, JUD
02/07/08	(H)	STA AT 8:00 AM CAPITOL 106

WITNESS REGISTER

REPRESENTATIVE WES KELLER
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 299 as prime sponsor.

JIM POUND, Staff
Representative Wes Keller
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 299, on behalf of Representative Keller, prime sponsor.

BROOK MILES, Executive Director
Alaska Public Offices Commission (APOC)

POSITION STATEMENT: Provided comments regarding HB 299.

ACTION NARRATIVE

VICE CHAIR BOB ROSES called the House State Affairs Standing Committee meeting to order at [8:06:07 AM](#). Representatives Coghill, Johansen, Johnson, Doll, and Roses were present at the call to order.

VICE CHAIR ROSES provided updates regarding the improving health of Representative Bob Lynn.

HB 299-CAMPAIGN CONTRIBUTIONS

[8:07:19 AM](#)

VICE CHAIR ROSES announced that the only order of business was HOUSE BILL NO. 299, "An Act relating to campaign contributions made to candidates in state elections; and providing for an effective date."

[8:07:31 AM](#)

REPRESENTATIVE WES KELLER, Alaska State Legislature, presented HB 299 as prime sponsor. He stated that the legislature is one of representation. At some level, he said, he is accountable to every one of the 15,000 people that he represents, while on another level he is accountable for every constituent who voted for him. Yet another level, he noted, is the accountability he has to the people who contributed to his campaign. He continued:

If I accept a contribution from a sport fisherman that is not in my district, I pick up some level of accountability to that sport fisherman ... to explain if I vote for something that looks like it doesn't support that ... issue that he stood for when he gave me the check. Of course, the level of accountability to a contributor varies with every circumstance, but it is there.

REPRESENTATIVE KELLER noted that the Alaska Public Offices Commission (APOC) reports are readily accessible to everyone. He indicated that through these reports he came to the conclusion that over half of most of the contributions were made by "people who were out of district," which he said he found disturbing. He chose three legislators' statistics to give to Legislative Legal and Research Services and found that the percent of each legislator's funds that came from outside his/her district was 80, 69, and 74 percent, respectively. The bigger the "war chest," the better a chance a legislator will win a campaign. He stated:

From a voter's perspective, it's always easier to approach a candidate or your representative if you've got a record of a donation that went to them, you know, it just give[s] you a position of confidence to approach them. And, of course, a number of shrewd contributors and people who are astute out there give ... to all sides of the campaign, you know, so they ... have that access.

[8:10:38 AM](#)

REPRESENTATIVE KELLER remarked that HB 299 is a simple bill that says, "No more poaching." The bill would not allow anyone who cannot vote for a candidate to give that candidate a contribution. Furthermore, it would do away with campaign contributions from lobbyists and special interests. He stated that the reason HB 299 would not affect the right to free speech is that it would not limit in any way what a political action committee (PAC) could do. A PAC would still be able to spend as much money as it wants to oppose or support a candidate; it just could not do it through a campaign organization. Furthermore, anyone in a PAC or a PAC itself would still be able to contribute to a political party. Representative Keller said HB 299, with an effective date of 2009, would not affect the 2008 elections. He stated his hope that HB 299 would cut down on the

cost of campaigns due to the proposed elimination of "deep pocket" influences to campaign contributions. He gave credit for the bill concept to his staff, Jim Pound, and he urged the committee to support HB 299.

8:13:32 AM

VICE CHAIR ROSES recalled that the bill sponsor had said that the proposed legislation would allow PACs to continue to have independent expenditure for or against a candidate but would not allow them to donate to a candidate's campaign. He said his district is in a low-income area and the contributions he received from the people in that district amounted to almost nothing. In a case where a candidate running had a tremendous amount of support from PACs, the proposed legislation would tip the scale to the point where the individual who is not receiving contributions from a PAC would have no money, whereas the other person would have lots of people campaigning on their behalf, even though money was not given directly to the campaign.

8:14:47 AM

REPRESENTATIVE KELLER clarified that he did not mean to say that the bill would decrease the power of PACs, but rather that they will not be able to give to a candidate's campaign. Regarding Vice Chair Roses' low-income constituency, Representative Keller said, "I would contend that fifty \$10 donations give you a whole lot more momentum than a \$500 contribution from one exterior..."

8:15:50 AM

REPRESENTATIVE COGHILL directed attention to language in Section 7, [on page 3, beginning on line 27, amending the definition of "group" as found in AS 15.13.400(8)], which read:

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

REPRESENTATIVE COGHILL said, "I'm trying to think how effective that's going to be under this new scenario, for a PAC, if they can't put more than 50 percent of their money against or for a candidate. He said he is also trying to figure out how this

language applies to the previous statement by Vice Chair Roses. He asked if the sponsor had thought of changing that language.

REPRESENTATIVE KELLER said the intent was to leave that language alone. He deferred to his staff for further comment.

[8:17:03 AM](#)

JIM POUND, Staff, Representative Wes Keller, Alaska State Legislature, on behalf of Representative Keller, indicated to Representative Coghill that the ability for creating groups in support of or opposed to certain candidates exists in statute, but the name of the candidate must be listed. He said a PAC can create a group, but the sponsor does not want to change the limits regarding how much the PAC can spend in a particular district.

REPRESENTATIVE COGHILL said the key difference is what [a PAC] can contribute - which it would be barred from doing - to how much [a PAC] can spend. He said that is a different dynamic that he will have to consider for awhile.

[8:18:12 AM](#)

REPRESENTATIVE JOHNSON described a scenario in which the Republican Party forms a group for each senate district to oppose all the Democrats. The groups "run amuck," raising an unlimited amount of money, spending as much money as they want up to the 50 percent limit, and say what they want to say, without any input from the candidate. He said he does not see how that would benefit the election process. He asked the bill sponsor if he had considered such a scenario.

[8:19:24 AM](#)

REPRESENTATIVE KELLER responded that he does not foresee a problem, because of the law that says a group must clearly state its support of a certain candidate.

REPRESENTATIVE JOHNSON asked what would prevent the groups from calling themselves "citizens in support of better government in support of conservative costs."

MR. POUND reiterated that existing statute requires a group to use the name of the candidate it opposes or supports in its disclaimer.

REPRESENTATIVE JOHNSON questioned what keeps the group from spending as much money as it wants. In response to Mr. Pound, he reiterated his aforementioned scenario for clarification. He said he thinks this scenario may make a candidate less responsible to his/her constituents.

[8:22:48 AM](#)

REPRESENTATIVE KELLER asked if Representative Johnson is saying that if the dynamics were changed so that the groups cannot contribute directly to the candidate, then they would form and have a new dynamic in a campaign. He commented that that could happen now. That level of influence is already there, just not visible, he said. The group that raises unlimited funds has to show where those funds come from and how they are being spent, just the same as it would for a campaign.

REPRESENTATIVE JOHNSON said he doesn't want to be argumentative, but stated, "That removes accountability from the candidate." He explained, "It takes what ... is being told to my constituent out of my hand and places it in someone else's, and by law I can't have any influence on that - I can't have any knowledge of that." Conversely, any money coming directly to him, Representative Johnson said, he is accountable for.

REPRESENTATIVE JOHNSON emphasized how problematic it is for him to hear someone state that contributions influence a legislator's decision. As he stated before the committee in the past, he emphasized that he tells everyone he meets that his/her contribution will not influence his vote.

REPRESENTATIVE KELLER clarified that that is not what he said, and he said he is sensitive to the issue. He explained that his argument is that there is always some level of accountability. For example, he said if someone gives him a check, his accountability to that person may involved saying, "I will listen to your point," or "I will listen to what you have to say when you disagree with me, ... but we know already that we're going to disagree." He added, "But I'm just saying that that is something that's really taking away from the dollar contribution capability of the constituent to a particular candidate - that's all I'm saying."

REPRESENTATIVE JOHNSON responded that he has a problem with the term "accountability to a contributor." He stated that his accountability is to the laws of the state, the Constitution of

the State of Alaska, his constituents, and himself. He concluded, "Accountability to me cannot be purchased."

8:27:47 AM

REPRESENTATIVE JOHANSEN asked for confirmation that individuals from a district that abuts his district, where there is a shared economic and cultural interest, would not be allowed to contribute to his campaign. Furthermore, his own sister in Anchorage and brother in Juneau would not be allowed to contribute to his campaign.

8:28:52 AM

REPRESENTATIVE KELLER answered that's correct. He said his premise and belief is that a legislator's job is to represent his/her constituents.

REPRESENTATIVE JOHANSEN suggested that anyone outside his district could give money to a group that happens to support him.

REPRESENTATIVE KELLER said it depends on how Representative Johansen is defining "group." If he means a political party, then the answer is yes - a party can write a check in support of a candidate of its choice. A PAC, he said, can expend the money as it wishes. Regarding parties, Representative Keller said early on he appreciated that parties have values that are built upon grass roots, and he likes "screening by party."

REPRESENTATIVE JOHANSEN noted that in his district, approximately 60-75 percent of his voters do not belong to a political party and probably as many have no idea what a PAC is. He observed that it is interesting that the individual Alaskan would be limited [by the proposed legislation], but money could be sent through political action committees and political parties. He said, "Believe me, when people look at those APOC reports and they see eight [contributions] in a row from the same company, I think they can put two and two together." He stated that he has a problem with "where this bill's going."

8:32:13 AM

REPRESENTATIVE COGHILL said there had been some misstatements regarding "the avenue of giving," and he said he anticipated a correction from a representative from APOC.

8:32:35 AM

REPRESENTATIVE DOLL said she thinks the sponsor's intentions are good, but that HB 299 is not the manner through which to achieve them. She said she thinks it is desirable to encourage participation in democracy, and she said she would not like to see such participation limited to the boundaries of a district. She noted that the bill sponsor had mentioned the importance of individual contributions, but the bill does not foster them.

REPRESENTATIVE KELLER contended that if the bill were to pass, it would increase constituent involvement, because the value of their dollar in a campaign contribution would be higher. To Representative Johnson, he emphasized that he had never meant to imply "that any of you are bought any more than I am or any of us." He said he hopes the proposed legislation would bring about more grass roots involvement in campaigning and in [political] parties, indirectly.

8:35:31 AM

REPRESENTATIVE COGHILL stated that campaign contributions are not necessarily about the candidate but about "the message that needs to go into a district"; therefore, he said there probably is a misperception that the money given to a candidate somehow enriches a candidate. He said he agrees with [Representative Johnson] that a contribution helps a candidate deliver his/her message; it does not influence the messenger. He asked if the sponsor has contemplated removing groups and PACS from the bill. He continued:

I think you run into some constitutional issues, you run into the freedom of association issues, but if you're going to limit a candidate to a district, it would seem to me [that] you'd want to just level the whole field and say, "Only from that district can anybody ever speak about that candidate." And you see the problem that begins to create. ... But have you contemplated that?

MR. POUND responded, "That is a blatant violation of the First Amendment."

REPRESENTATIVE COGHILL concurred and then explained the reason he had asked the question is because he thinks that a problem may result within a district by giving advantage to outside influences. He commented that the size of some single districts

in Alaska are bigger than some states, and making the kind of personal contact necessary to increase contribution levels could be difficult. He noted that there is little campaign time in which to get out a message, and there could be disadvantages, especially if a group is formed to undermine the efforts of the person campaigning within the district. Representative Coghill said he agrees that the issue at hand is freedom of association, so it is not possible to do away with groups. He recalled [Representative Johansen's] remark regarding the number of his constituents who are not affiliated with a political party, and he questioned how a candidate is supposed to get his/her message out to those people other than "being able to get people to get that message out."

[8:40:29 AM](#)

REPRESENTATIVE KELLER said the low percentage of voter turnout is a significant factor that caused him to sponsor HB 299. He said, "If there's ... a deep pocket that looks over all the campaigns in the state of Alaska, and he or she has an agenda, and he picks various campaigns, ... what he's doing is reducing the influence of the people that might be..." The question he said, is: "Who's going to be the representative - the real representation - of the people in the district?" Money buys a message, he said. He surmised that another question is: "Who's being represented if 80 percent of the funding for the message is coming from out of district?" He said this discourages people in his district from getting involved.

[8:42:18 AM](#)

REPRESENTATIVE JOHANSEN suggested each individual voter needs to look at the information available from APOC to find out who is supporting a candidate's campaign and whether or not he/she is worth voting for.

[8:43:30 AM](#)

REPRESENTATIVE KELLER replied that the information is not obvious in APOC's records.

REPRESENTATIVE JOHANSEN asked Representative Keller, "Do you feel that putting the money through parties and PACS is going to make it any more clear for the voter to figure out who's giving to a PAC and a party?"

REPRESENTATIVE KELLER answered that that truly is his intent.

8:45:14 AM

REPRESENTATIVE JOHNSON said HB 299 would probably serve him well in his district, because it is not that large; however, in Representative Woody Salmon's district, for example, the area is so large that it would take an inordinate amount of money and time for him to go out and visit all his constituents. He stated his concern has to do with the disparity in districts.

8:46:55 AM

REPRESENTATIVE KELLER thanked the committee for its consideration of HB 299.

8:47:43 AM

BROOK MILES, Executive Director, Alaska Public Offices Commission (APOC), told the committee that although the commission has taken no position on HB 299, it has legal concerns regarding the provisions of the bill. Regarding cross-district giving, she reminded the committee that when campaign finance reform was passed by the legislature in 1996, there were provisions which precluded lobbyists from cross-district giving. She said that provision was upheld by the Alaska Supreme Court, and in the opinion of the court it was clearly because there was strong evidence to support a compelling state interest, with respect to that group of individuals. She stated, "On a constitutional level we're just not sure that the court would find that for all of the residents of Alaska." Ms. Miles mentioned the restriction of PACs from making legal campaign contributions and "the new ban on corporate contributions," which she said exists in Alaska. She also mentioned "the ability for individuals within a corporation to form PACS, make contributions within a limit, and then the PAC be able to contribute directly to candidates." She concluded, "So, in both of those areas we believe there could be constitutional and legal concerns and suggest that you research those thoroughly before moving forward with this legislation."

8:50:03 AM

REPRESENTATIVE COGHILL said Ms. Miles' points hit the nail on the head.

8:50:48 AM

VICE CHAIR ROSES closed public testimony.

[8:50:55 AM](#)

REPRESENTATIVE COGHILL recalled his early years in the legislature when he intended to repeal APOC. He said that idea was born out of "how to get just-in-time reporting." He said the state is slowly moving into that arena today. The idea of getting local participation is "exactly the right thing," he said, however, he remarked that he does not know if [HB 299] is the way to do it. He stated that he cannot support the bill.

[8:52:05 AM](#)

REPRESENTATIVE DOLL reiterated her appreciation for the intent of the bill, but said at this point she is afraid the legislation would be "throwing out the baby with the bathwater." She said she thinks the goal is to have more individual participation across lines and she does not want to cut off support with neighboring districts. Subsequently, she stated that at this time, she cannot support the bill.

[8:53:08 AM](#)

VICE CHAIR ROSES said it would be difficult for his low-income district to raise the kind of money it would take to go up against the influence of a large group of union PACS, as well as some of the other individual PACS. He explained, "It's not just the contributions that they may decide to make to a political party, or whether they go out and do individual expenditure, but it's the mobilizing of a workforce to go out and canvas the neighborhood." For example, he noted that in the last campaign, one of the union PACS organized 20 people to go door to door, which means 20 times more coverage of an area in the same amount of time than that covered by a single candidate. He added, "And that doesn't show up, but it certainly has a tremendous amount of influence." Limiting who can contribute inadvertently gives much more power to the groups and PACS than to the individual, which he stated is his concern.

VICE CHAIR ROSES announced that HB 299 was heard and held.

[8:54:35 AM](#)

VICE CHAIR ROSES announced the upcoming committee calendar.

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [8:54:43 AM](#).