

HOUSE CS FOR CS FOR SENATE BILL NO. 284(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/13/10

Referred: Finance

Sponsor(s): SENATE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (d) Every [INDIVIDUAL,] person [, NONGROUP ENTITY, OR GROUP]
30 making an **independent** expenditure shall make a full report of expenditures **made**
31 **and contributions received**, upon a form prescribed by the commission, unless

1 exempt from reporting.

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

3 (e) **Each person** [THE REPORT] required **to report** under (d) of this section
4 **shall file a full report in accordance with AS 15.13.110(g) on a form prescribed by**
5 **the commission. The report** must contain

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

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

10 (3) **the name of the candidate or the title of the ballot proposition**
11 **or question supported or opposed by each expenditure and whether the**
12 **expenditure is made to support or oppose the candidate or ballot proposition or**
13 **question;**

14 (4) **the name and address of each officer and director, when**
15 **applicable;**

16 (5) **the aggregate amount of all contributions made to the person,**
17 **if any, for the purpose of influencing the outcome of an election; for all**
18 **contributions, the date of the contribution and amount contributed by each**
19 **contributor; and, for a contributor**

20 (A) **who is an individual, the name and address of the**
21 **contributor and, for contributions in excess of \$50 in the aggregate during**
22 **a calendar year, the name, address, principal occupation, and employer of**
23 **the contributor; or**

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

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

30 (h) The provisions of (d) of this section do not apply to one or more
31 expenditures made by an individual acting independently of any **other person**

1 [GROUP OR NONGROUP ENTITY AND INDEPENDENTLY OF ANY OTHER
2 INDIVIDUAL] if the expenditures

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

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

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

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

9 * **Sec. 7.** AS 15.13.040 is amended by adding a new subsection to read:

10 (q) For purposes of (e) of this section,

11 (1) "director" means a member of the board of directors of a
12 corporation or any person performing a similar function with respect to any
13 organization;

14 (2) "officer" means a president, vice president, secretary, or treasurer,
15 principal financial officer, or comptroller of a corporation, or any person routinely
16 performing functions similar to those of a president, vice president, secretary, or
17 treasurer, principal financial officer, or comptroller with respect to any organization.

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

19 **Sec. 15.13.052. Independent expenditures; political activities accounts.** (a)

20 Before making an independent expenditure in support of or in opposition to a
21 candidate or before making an independent expenditure in support of or in opposition
22 to a ballot proposition or question, each person other than an individual, candidate, or
23 nongroup entity with an annual operating budget of \$250 or less, shall establish a
24 political activities account. The political activities account may be a separate account
25 in the person's general treasury. The political activities account must be administered
26 using generally accepted accounting principles. All funds used by the person to make
27 independent expenditures must be drawn from the person's political activities account.

28 (b) Records necessary to substantiate that the requirements of (a) of this
29 section have been met must be made available for inspection by the commission.

30 (c) Each person who has established a political activities account under this
31 section shall preserve all records necessary to substantiate the person's compliance

1 with the requirements of this section for each of the six preceding years.

2 * **Sec. 9.** AS 15.13.067 is amended to read:

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

- 6 (1) the candidate;
- 7 (2) an individual;
- 8 (3) a group that has registered under AS 15.13.050; and
- 9 (4) a nongroup entity that has registered under AS 15.13.050.

10 * **Sec. 10.** AS 15.13 is amended by adding new sections to read:

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

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

- 16 (1) an individual who is not a United States citizen or lawfully
17 admitted for permanent residence under 8 U.S.C. 1101(a)(20);
- 18 (2) a foreign government, every political subdivision of a foreign
19 government, every official, agent, or representative of a foreign government, and
20 every agency, corporation, or instrumentality of the foreign government or of a
21 political subdivision of a foreign government;
- 22 (3) a person outside of the United States, unless it is established that
23 the person is an individual and a citizen of and domiciled in the United States, or that
24 the person is not an individual and is organized under or created by the laws of the
25 United States or of any state or other place subject to the jurisdiction of the United
26 States and has its principal place of business in the United States; or
- 27 (4) a partnership, association, corporation, organization, or other
28 combination of persons organized under the laws of or having its principal place of
29 business in a foreign country.

30 (c) The provisions of this section prohibit a foreign national from making a
31 contribution or expenditure in connection with a state election only to the extent

1 (1) that federal law prohibits a foreign national from making a
2 contribution or expenditure in connection with a state election; and

3 (2) permitted by federal law.

4 **Sec. 15.13.069. Certain expenditures that comply with charitable gaming**
5 **provisions permitted.** Notwithstanding another provision of this title, a charitable
6 gaming permittee that is a qualified organization under AS 05.15.690 may use the net
7 proceeds of a raffle or lottery to make expenditures for the purposes permitted under
8 AS 05.15.150(a)(3).

9 * **Sec. 11.** AS 15.13.082(b) is amended to read:

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

14 * **Sec. 12.** AS 15.13.084 is amended to read:

15 **Sec. 15.13.084. Prohibited expenditures.** A person may not make an
16 expenditure

17 (1) anonymously, unless the expenditure is

18 (A) paid for by an individual acting independently of any
19 **person** [GROUP OR NONGROUP ENTITY AND INDEPENDENTLY OF
20 ANY OTHER INDIVIDUAL];

21 (B) made to influence the outcome of a ballot proposition as
22 that term is defined by AS 15.13.065(c); and

23 (C) made for

24 (i) a billboard or sign; or

25 (ii) printed material, other than an advertisement made
26 in a newspaper or other periodical;

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

28 * **Sec. 13.** AS 15.13.090 is amended to read:

29 **Sec. 15.13.090. Identification of communication.** (a) All communications
30 shall be clearly identified by the words "paid for by" followed by the name and
31 address of the **person** [CANDIDATE, GROUP, NONGROUP ENTITY, OR

1 INDIVIDUAL] paying for the communication. In addition, **except as provided by (d)**
 2 **of this section, a person shall clearly**

3 **(1) provide the person's address or the person's principal place of**
 4 **business;**

5 **(2) for a person other than an individual or candidate, include**

6 **(A) the name and title of the person's principal officer;**

7 **(B) a statement from the principal officer approving the**
 8 **communication; and**

9 **(C) identification of the name and city and state of**
 10 **residence or principal place of business, as applicable, of each of the**
 11 **person's three largest contributors under AS 15.13.040(e)(5), if any,**
 12 **during the 12-month period before the date of the communication**

13 [CANDIDATES AND GROUPS MAY IDENTIFY THE NAME OF THEIR
 14 CAMPAIGN CHAIRPERSON].

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

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

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

21 (3) is made for

22 (A) a billboard or sign; or

23 (B) printed material other than an advertisement made in a
 24 newspaper or other periodical.

25 * **Sec. 14.** AS 15.13.090 is amended by adding new subsections to read:

26 (c) To satisfy the requirements of (a)(1) of this section and, if applicable,
 27 (a)(2)(C) of this section, a communication that includes a print or video component
 28 must have the following statement or statements placed in the communication so as to
 29 be easily discernable:

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

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

4 (d) Notwithstanding the requirements of (a) of this section, in a
5 communication transmitted through radio or other audio media and in a
6 communication that includes an audio component, the following statements must be
7 read in a manner that is easily heard; the second statement is not required if the person
8 paying for the communication has no contributors:

9 This communication was paid for by (person's name).

10 The top contributors of (person's name) are (the name of the largest
11 contributors to the person under AS 15.13.090(a)(2)(C)).

12 (e) Contributors required to be identified under (a)(2)(C) of this section must
13 be listed in order of the amount of their contributions. If more than three of the largest
14 contributors to a person paying for a communication contribute equal amounts, the
15 person may select which of the contributors of equal amounts to identify under
16 (a)(2)(C) of this section. In no case shall a person be required to identify more than
17 three contributors under (a)(2)(C) of this section.

18 (f) The provisions of this subsection apply to a person who makes an
19 independent expenditure for a communication described in (a) of this section. If the
20 person paying for the communication is not a natural person, the provisions also apply
21 to the responsible officer or officers of the corporation, company, partnership, firm,
22 association, organization, labor organization, business trust, or society who approves
23 the independent expenditure for the communication. A person who makes a
24 communication under this subsection may not, with actual malice, include within or as
25 a part of the communication a false statement of material fact about a candidate for
26 election to public office that constitutes defamation of the candidate. For purposes of
27 this subsection, a statement constitutes defamation of the candidate if the statement

28 (1) exposes the candidate to strong disapproval, contempt, ridicule, or
29 reproach; or

30 (2) tends to deprive the candidate of the benefit of public confidence.

31 * **Sec. 15.** AS 15.13.110 is amended by adding a new subsection to read:

1 (g) An independent expenditure report required under AS 15.13.040(e) shall
 2 be filed with the commission not later than 10 days after an independent expenditure
 3 has been made. However, an independent expenditure that exceeds \$250 and that is
 4 made within nine days of an election shall be reported to the commission not later than
 5 24 hours after the expenditure is made.

6 * **Sec. 16.** AS 15.13.111(a) is amended to read:

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

12 * **Sec. 17.** AS 15.13.135 is amended to read:

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

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

26 (1) shall comply with AS 15.13.090; and

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

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

1 * **Sec. 18.** AS 15.56.014(a) is amended to read:

2 (a) A person commits the crime of campaign misconduct in the second degree
3 if the person

4 (1) knowingly circulates or has written, printed, or circulated a letter,
5 circular, or publication relating to an election, to a candidate at an election, or an
6 election proposition or question without the name and address of the author appearing
7 on its face;

8 (2) except as provided by AS 15.13.090(b), knowingly prints or
9 publishes an advertisement, billboard, placard, poster, handbill, paid-for television or
10 radio announcement, or communication, as that term is defined in AS 15.13.400,
11 intended to influence the election of a candidate or outcome of a ballot proposition or
12 question without the words "paid for by" followed by the name and address of the
13 **person** [CANDIDATE, GROUP, OR INDIVIDUAL] paying for the advertising or
14 communication and, if a candidate or group, with the name of the campaign chair;

15 (3) knowingly makes a communication, as that term is defined in
16 AS 15.13.400,

17 (A) containing false factual information relating to a candidate
18 for an election;

19 (B) that the person knows to be false; and

20 (C) that would provoke a reasonable person under the
21 circumstances to a breach of the peace or that a reasonable person would
22 construe as damaging to the candidate's reputation for honesty or integrity, or
23 to the candidate's qualifications to serve if elected to office.

24 * **Sec. 19.** AS 15.13.140(a) is repealed.

25 * **Sec. 20.** This Act takes effect immediately under AS 01.10.070(c).