

HOUSE FINANCE COMMITTEE  
February 8, 2010  
1:36 p.m.

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CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 1:36 p.m.

MEMBERS PRESENT

Representative Mike Hawker, Co-Chair  
Representative Bill Stoltze, Co-Chair  
Representative Bill Thomas Jr., Vice-Chair  
Representative Allan Austerman  
Representative Mike Doogan  
Representative Anna Fairclough  
Representative Neal Foster  
Representative Les Gara  
Representative Reggie Joule  
Representative Mike Kelly  
Representative Woodie Salmon

MEMBERS ABSENT

None

ALSO PRESENT

Representative Kyle Johansen; Sonia Christensen, Staff, Representative Johansen; John Cramer, Chief of Staff, Office of the Lt. Governor; Gail Fenumiai, Director, Division of Elections, Office of the Governor; Chip Thoma, Juneau; Representative Harry Crawford; John MacKinnen, Executive Director, Associated General Contractors of Alaska; Vern Jones, Chief Procurement Officer, Department of General Services

PRESENT VIA TELECONFERENCE

Pauly Hill, Executive Director, Alaska Public Offices Commission; John Ptacin, Assistant Attorney General, Department of Law; Representative Eric Croft; Jason Bruny, Executive Director, Resource Development Council

SUMMARY

HB 36                    INITIATIVES:    CONTRIBUTIONS/ PROCEDURES

HB 36 was HEARD and HELD in Committee for further consideration.

HB 225

STATE PROCUREMENT CODE

HB 225 was HEARD and HELD in Committee for further consideration.

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Co-Chair Stoltze brought the meeting to order. He indicated that the bills would not be moved out of committee today in order to hear public testimony.

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#hb36

HOUSE BILL NO. 36

"An Act prohibiting initiatives that are substantially similar to those that failed within the previous two years; relating to financial disclosure reporting dates for persons, groups, and nongroup entities that expend money in support of or in opposition to initiatives, initiative information contained in election pamphlets, initiative petitions, initiative petition circulators, and public hearings for initiatives; and requiring a standing committee of the legislature to consider initiatives scheduled for appearance on the election ballot."

REPRESENTATIVE KYLE JOHANSEN, the bill sponsor, reviewed the sponsor statement (copy on file).

#### SPONSOR STATEMENT

Alaska's lawmaking process is highly public and strives to be transparent. Shown by the passage of an omnibus ethics bill in 2006, Alaskan voters want to know who is contributing to candidate campaigns. Initiative-created law has the same authority and effect as law created by elected officials; therefore voters should be allowed to know who is making law through the initiative process. House Bill 36, also known as the Open and Transparent Initiative Act (OTIA), seeks to identify people and/or groups who financially contribute to initiative campaigns and requires all initiative groups to register with the Alaska Public Office's Commission. These guidelines are similar to those imposed upon elected officials. In addition, OTIA mandates that initiative sponsors hold public hearings in 30 house districts, limits signature-gathers to work one petition at a time, restricts the use of per-signature commission, and requires all of the language of a proposed ballot

measure be published in the petition booklets so potential signers have the opportunity to read all of the language rather than a short summary.

Initiative committees in Alaska are not held to a high enough disclosure standard. There are loopholes in the current disclosure process that allow groups to hide contributors. These are signature-gathers without accountability. There is a lack of public hearings and input. There is financial information that is not disclosed until after the election. These shortcomings are not acceptable, and the Open and Transparent Initiative Act seeks to close these loopholes, repair the initiative process, and restore the faith of Alaskans in our election process.

Representative Johansen noted that this bill was first brought before the committee at the end of last session. He reported a major issue in the legislation was the disclosure of money spent during the initiative process. He noted there is a gap in the disclosure process between the time a question is submitted to the Lt. Governor and the Department of Law decides if it is a valid question that can be legally put on the ballot. From that time until the boxes of signatures are handed to the Lt. Governor to be reviewed and approved, there is a gap in the disclosure law. The source of the money is not known during that period of time. Representative Johansen indicated that HB 36 would ensure the source is disclosed to the public. He continued that the second part of the bill would include two required public hearings in each judicial district overseen by the Lt. Governor. After the pro and con statements of the initiative were read, there would be public testimony and questions.

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Co-Chair Stoltze requested an outline of the major points of the bill. He added that the bill was heard last year, but Representative Johansen insisted on inserting the five day notice for the public.

Representative Johansen believed the public should know who is influencing the statutes and initiatives being passed. He recognized that the public is sensitive to changes in the initiative process, but he believed that it needs to be better. Representative Johansen referred to CS SSHB 36(JUD) 26-LS0197\S and proceeded to define the sections of the bill.

**Section 1.** Requires an individual, person, non- group entity, or group that contributes a total of \$500 or more to a group organized for the principal purpose of influencing a bill proposed for inclusion on the ballot

as an initiative under AS 15.45.020, to report the individual's, person's, non-group entity's, or group's contribution or contributions on a form prescribed by the Alaska Public Offices Commission (APOC) not later than 30 days after the contribution is made.

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Representative Johansen referred to the Sectional Analysis for House Bill 36 and reviewed section by section (copy on file).

**Section 2.** Provides that each person other than an individual shall register with APOC before making an expenditure in support of or in opposition to a proposed initiatives bill filed with the lieutenant governor under AS 15.45.020

**Section 3.** Expands the meaning of "proposition" under AS 15.13.065© to include an initiative proposal application filed with the lieutenant governor under AS 15.45.020

**Section 4.** Conforms subsection AS 15.13.110(e) to the enhanced initiative reporting requirements found in the bill's sec.5.

**Section 5.** Establishes new reporting requirements for initiative committees, persons, groups or non-group entities making certain contributions or expenditures in support of or in opposition to an initiative proposal application filed with the lieutenant governor under AS.15.45.020 or an initiative that has been approved for placement on the ballot.

**Section 6.** Expands the definition of "contribution" applicable to state election campaigns to include Certain purchases, payments, promises, or obligations to pay, loans or loan guarantees, deposits or gifts of money, good, or services for which a charge is ordinarily made that is made for the purpose of supporting or proposing an initiatives proposal application filed with the lieutenant governor under AS 15.45.020.

**Section 7.** Expands the definition of "expenditure" applicable to state election campaigns to include certain purchases or transfers of money or anything of value, or promises or agreements to purchase or transfer money or anything value, incurred or made for the purpose of supporting or opposing an initiative proposal application filed with the lieutenant governor under AS.15.45.020.

**Section 8.** Prohibits an initiative that is substantially similar to an initiative that has appeared on the ballot in the previous two years that was not adopted by the electorate.

**Section 9.** Requires that each initiative petition contains a copy of the proposed initiative bill.

**Section 10.** Prohibits paying initiative petition circulators on a per signature basis.

**Section 11:** Requires that the Lieutenant Governor (1) hold at least 2 hearings in each judicial district of the State and (2) provide reasonable notice of each public hearing. Provides a time frame for the Lieutenant Governor to hold the public hearings, which is after a measure is to appear on the ballot and at least 30 days prior to the election.

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Representative Johansen continued with Section 12.

**Section 12.** Requires an election pamphlet to be prepared and mailed to each household for any special election at which a ballot proposition is scheduled to appear on the ballot.

**Section 13.** Provides that an election pamphlet for a special election at which a ballot measure is scheduled to appear on the ballot shall contain (1) the full text of the proposition, (2) the ballot title and summary of the proposition, (3) a statement of the costs to the state of implementing the law proposed in an initiative, (4) a neutral summary of the proposition, (5) statements submitted that advocate voter approval or rejection of the proposition not to exceed 500 words, and (6) any additional information on voting procedures that the lieutenant governor considers necessary.

**Section 14.** Requires that a standing committee of the legislature review initiatives that the lieutenant governor has approved for placement on the ballot.

Representative Johansen noticed with initiatives that had passed when it comes to the subcommittee in the operating budget there are often impacts not anticipated. He added that this prompts departments to ask for more money or employees to carry out the initiative. Section 14 requires a standing committee of the legislature conduct a review within 30 days of the session convening to have a discussion and put on the record what this new initiative will cost.

Co-Chair Stoltze asked if that was only an informational hearing. Representative Johansen agreed, but the conversations on the impact on the budget are extremely important. Co-Chair Stoltze wondered if the attorney general and Supreme Court would retain their rights to make changes. Representative Johansen replied that this legislation does not affect those entities at all.

**Section 15.** Provides that the provisions of the Act apply to an initiative proposed by filing an application with the lieutenant governor under AS 15.45.020 on or after the effective date of the Act.

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Representative Austerman asked if most of this applies after the Lt. Governor has certified that the initiative process is valid. Representative Johansen agreed. He added that once the Lt. Governor runs the question through the Department of Law and it is considered legal for the ballot, then the reporting and disclosure and following statutes become relevant. Representative Austerman asked on average how many initiatives are certified per year

SONIA CHRISTENSEN, STAFF, REPRESENTATIVE JOHANSEN, replied that was a good question. She believed there were three or four certified for the next election.

Representative Johansen responded that the information would be provided to the committee. He added that there is a strong upward turn in the initiative process as an option for statute change.

Representative Austerman noted there were four judicial districts which would require eight meetings for each initiative. He elaborated that a zero fiscal note was attached and wondered how the department would absorb the cost for all the required travel.

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Representative Johansen indicated that the state has been split in many different ways to accomplish this. He mentioned the Lt. Governor has proposed an Initiative Day where two or three initiatives could be discussed at one time. He stated that the Lt. Governor's office indicated the travel requirements could fit within their budget.

Vice-Chair Thomas voiced his concern about contributions from out of state and asked if there was any limit on how much out of state money could be contributed.

Representative Johansen replied that he was not aware of the any set amount, but no portion of this bill refers to that issue. Vice-Chair Thomas reiterated his concern that people outside of Alaska could contribute to local affairs. He believed there should be a limit to how much money can be contributed from outside of the state in dealing with an initiative. He thought an amendment to cap the amount of outside contributions was needed. Representative Johansen agreed that was a valid point and would research the answer for the committee.

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Representative Doogan asked for more information regarding Section 12. He inquired if there were initiative petitions for special elections and wondered under what provision that would happen.

Ms. Christensen answered that initiatives can be on a special election ballot if the timing was correct. She explained that ballot measure groups cannot choose which ballot the initiative will be on. She indicated that the language in Sections 12 and 13 was not requested by the sponsor, but a legal change from the drafters.

Co-Chair Stoltze suggested looking into some past special elections.

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Representative Gara referred to Section 8. He noted that a bill under the Alaska Constitution is subject to the single-subject rule which has been defined by the courts. He wondered if initiatives were subject to the single subject rule.

Ms. Christensen responded that initiatives are subject to the single subject rule, but added that there are a few subjects that ballot measures cannot address, such as constitutional issues and appropriations.

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Co-Chair Hawker informed the committee that the statutory reference was AS 15.45.040 which states:

- (1) the bill shall be confined to one subject;
- (2) the subject of the bill shall be expressed in the title;
- (3) the enacting clause of the bill shall be: "Be it enacted by the People of the State of Alaska;"

(4) the bill may not include subjects restricted by AS [15.45.010](#).

Representative Gara wanted to make sure the scope of what an initiative can cover is not changed. He noted that an initiative is subject to the single subject rule and wanted to make sure if that one subject rule further restricts the initiative.

Representative Johansen responded that the intent is not to tighten up or put more restrictions on initiatives. He acknowledged that there might be a better way to write it.

Representative Gara voiced his concern over anything making it harder for someone to get an initiative on the ballot. He referred to Section 10 and questioned the payment of petition signature collectors. He stated that at present collectors receive one dollar per signature. He questioned what would not be allowed now under Section 10 and what is being proposed.

Representative Johansen reported that the one dollar per signature rule would be appealed under this bill and another method would be found to pay signature gatherers. He emphasized that the goal was to weed out individuals who might practice fraudulent methods to receive the one dollar per signature. He believed the safest method would be to pay an hourly wage with a possible bonus for those good at gathering signatures.

Representative Gara voiced his concern that someone trying to get initiatives on the ballot may have a more difficult time hiring a signature gatherer if the process for compensation was made more difficult. He asserted that hourly employees would require more supervision and monitoring which could make it harder to get an initiative on the ballot.

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Representative Doogan asked if the Lt. Governor was not certifying signatures then he wondered how they are verified. Representative Johansen explained that the motivation came from evidence in other states that revealed problems with paying people per signature. He remarked on his experience with signature gathers who were more interested in getting the signatures from as many people as possible and not interested in answering questions or providing information.

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Co-Chair Stoltze interjected that Ms. Fenumiai could answer this question when she testifies.

Representative Gara alleged in Section 11 that a Lt. Governor who does not like an initiative may try to make it more difficult to get on the ballot by not having a public hearing within the 30 day time period. If the Lt. Governor failed to have the public hearing before 30 days, then it could be argued that the initiative was not valid.

Representative Johansen agreed that could be a concern, although it was not the intent of the sponsor. He declared it hard to believe that any Lt. Governor would try to block an initiative process.

Representative Gara countered that it would not shock him if this happened, but went on to question other possible delays, such as weather. Representative Johansen declared if anyone could provide better language for additional comfort, he was open to it. He emphasized that there was no intent in the bill for anyone to stop the initiative process through some backdoor scheduling problem.

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Representative Fairclough suggested that that legislation go straight to ballot if the Lt. Governor did not handle the initiative requirements in a timely manner.

Co-Chair Stoltze informed the committee that he intends to take testimony from the Office of the Lt. Governor, Division of Elections, Alaska Public Offices Commission (APOC) and finally public testimony to answers some of the issues and questions.

Representative Gara inquired on the limitations of money that can be donated.

Ms. Christensen answered that the current definition of a ballot measure does not include ballot measure propositions therefore there is a loophole for the money funded to fly people around the state to collect signatures. She noted that the information is not being disclosed until it becomes an official ballot measure. There are currently no limits or reports filed for initiative contribution disclosures. She emphasized that HB 36 does not impose any limits on contributions, only the disclosure.

Representative Gara contended that first a report must be made to APOC after getting the signatures, followed by periodic reports. He surmised then that before one votes on an initiative the information would be available at APOC on who donated to the initiative, but while signatures were

being gathered there was no reporting. Ms. Christensen agreed.

Representative Kelly requested the research on capping outside contributions. Co-Chair Hawker reiterated that all information would be disseminated to the committee members.

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Representative Kelly asked if the Administration supports HB 36 as written.

JOHN CRAMER, CHIEF OF STAFF, OFFICE OF THE LT. GOVERNOR, replied that the Administration supports the bill. He agreed some valid questions had been raised. Once an initiative has been certified it will appear on the ballot.

Co-Chair Stoltze asked for the definition of Administration. Mr. Cramer responded he was referring to the Lt. Governor's office.

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Co-Chair Stoltze asked what would be the difference in the process between using a salaried employee for collecting signatures or someone who receives one dollar per signature.

GAIL FENUMIAI, DIRECTOR, DIVISION OF ELECTIONS, OFFICE OF THE GOVERNOR, remarked that the process for handling the petition booklets would be the same.

Co-Chair Stoltze asked if a salaried employee would have the same requirements to be the only one that collected signatures for a petition book. He asked for her to outline some of the safeguards.

Ms. Fenumiai answered that when the application has been approved by the Lt. Governor's office, the division of elections prepares and releases 500 petition booklets. These booklets are released to the initiative committee's prime sponsors. Once the books are handed over, the Lt. Governor's office has no further involvement in the books until they are turned over to determine if the correct number of signatures exist for the initiative to be put it on the ballot. There is no policing of how the signatures are obtained. She added that the Division of Elections has not come across any incidences of outright fraud in collecting signatures.

Co-Chair Stoltze asked if the petition booklets can be left somewhere unattended. Ms. Fenumiai responded that the petition booklet is assigned to a signature gatherer and all signatures must be witnessed by that person.

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Representative Fairclough wanted to know if the Lt. Governor's office saw any challenges in implementing the bill and if there was anything in the bill that prohibits them from putting more than one initiative together in a judicial district at one hearing.

Mr. Cramer acknowledged the Lt. Governor's office looked at that point and did not see any problems with having more than one initiative during a scheduled hearing.

Representative Fairclough reiterated if the division saw any challenges in implementing this bill. Mr. Cramer responded they do not foresee any challenges in implementing the bill, but added that the division would need to draft some regulations to carry it out.

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Representative Austerman asked if the Lt. Governor's office would return with a new supplemental or addition in the budget. Mr. Cramer answered that the division does not anticipate needing any supplemental.

Representative Gara noted that it did not seem credible that eight statewide hearings on every single initiative could result in a zero fiscal note.

Mr. Cramer replied that the Lt. Governor lives in one of the four judicial districts. He noted there are usually two to three, maybe as high as four initiatives for 2010 ballot. If the number of initiatives were higher, then the division might have to ask for additional funds. He believed that for 2010 the existing staff and budget could handle the travel load.

Representative Gara contended that there would be costs with advertising the meetings. Mr. Cramer responded that most state hearings are advertised now on the state website. He added that those pushing the initiative would probably do their own advertising to get the word out.

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Vice-Chair Thomas questioned if the salaried employee would be eligible for unemployment. Mr. Cramer responded that the Department of Labor would have to answer that question.

Representative Doogan asked if there was any part of the bill the Lt. Governor's office did not support. Mr. Cramer answered that the Lt. Governor's office had no opposition to the bill.

Representative Gara wondered with the new U.S. Supreme Court decision if there would be any problem having corporations as well as individuals identified who contribute to an Alaska election. Ms. Fenumiai responded that the Division of Elections does not track expenditures or campaign donations only the Alaska Public Offices Commission (APOC).

Representative Gara indicated that the state constitutional issue of paying one dollar per signature has been upheld in five states and struck down in five states. He asked if an Alaska Constitutional analysis had been done on this subject. Mr. Cramer replied that he did not believe so.

Co-Chair Stoltze interjected that the issue has been debated in past legislative sessions so there might be some other legal memos on the subject.

Representative Gara responded he would get his legal memo out to the committee.

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PAULY HILL, EXECUTIVE DIRECTOR, ALASKA PUBLIC OFFICE COMMISSION (via teleconference), remarked that by law there are no contribution limitations for ballot groups, whether from individuals, corporations, business organizations, political parties, groups or non groups based in or out of Alaska.

Vice-Chair Thomas asked if during the last election there were some money limits questions. Ms. Hill responded that she was not at liberty to discuss a current case. Vice-Chair Thomas wanted it on the record that someone tried to give money three different ways.

Representative Kelly questioned if a limit imposed on someone in or out of Alaska is constitutional or if a limit similar to campaign financing limit which limited outside funds to a smaller value than funds inside Alaska is constitutional.

JOHN PTACIN, ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW (via teleconference), responded that the law currently contemplates no upward limit on contributions of this nature. He added that whether there can be a difference for in or out of state groups or individual contribution, the office would need to study the issue to make a determination. Representative Kelly relayed that he would like to receive the information and also the sponsor's reaction if there is a negative response.

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Vice-Chair Thomas pointed out that since there were contribution limits in campaigns for the governor and legislators, he wondered if limits would be possible for in the initiative process.

Representative Gara proposed that if there was an initiative campaign and someone or group does not want anyone to know they are big donors, they might create a fictitious group to sponsor it. He wondered when an ad is place on television is there a disclosure requirement on naming the sponsors. Ms. Hill responded that any time a communication is made to influence an election there must be a disclosure. Representative Gara asked for APOC's position if these groups could be made to disclose their top three contributors. Ms. Hill responded that the Alaska Public Office Commission staff cannot render an opinion.

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Representative Kelly noted that with the U.S. Supreme Court decision on contributions, questions will be raised, therefore the chair and sponsor need to provide more information.

Representative Fairclough questioned if the Department of Law could research if there were constitutional issues that resulted in some state courts ruling to overturn some of these proposals.

Co-Chair Stoltze referred to a question with the fiscal note and asked why the department needs the extra resources.

Representative Gara contended there will be a legal challenge to parts of the bill that have been challenged beofre, therefore he wondered if the Department of Law would add a fiscal note for this. Mr. Ptacin agreed that the Department of Law could add a fiscal note. Co-Chair Hawker maintained that the department should continue with a zero fiscal note.

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Representative Doogan voiced concern about the provision to require public meetings in each district. He wondered if this requirement puts an unconstitutional burden on either side proposing or opposing the initiative. He also asked for the department's view of the constitutionality of this provision. Mr. Ptacin answered that it was best to put this question in memo form and the department would study it and reply.

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Representative Kelly alleged that there could be a challenge from those who believe the Lt. Governor came to the community to try and sell or refute an initiative. Representative Doogan agreed and wondered whether the system was being set up to tilt the playing field so that one group would need more money than the other group.

Representative Kelly requested answers to these questions because a challenge could be made that the Lt. Governor had his own agenda.

Representative Austerman cited the necessity of not mingling the initiative process and legislative election process within this initiative bill, so that it stays just an initiative decision.

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CHIP THOMA, JUNEAU read from a prepared speech (copy on file):

HB 36 is a Campaign Disclosure bill directed specifically at those who support and oppose Initiatives. Yet a few weeks ago, the U.S. Supreme Court issued a ruling on the Bigger Issue of WHO can Contribute to all political Campaigns and Issues, federal & state. And the Answer is: All Bets Are Off. It is wide open and could be a Major Sea Change in Alaska politics very soon. HB 36 has no become Piece-Meal legislation-a small piece of the Big Pie of campaign contributions in Alaska. Alaska in An Oil State - that is our Strength...and it also make us Vulnerable to Mischief Created by Others. There are Major Players at work here already-what if someone, or some company want to Seriously Get Involved in oil taxes - \$10-20 million worth - can We Restrict that Entity? As I said, Alaska in an Oil State - If Hugo Chavez and CITCO oil company want to influence state elections - or push initiatives, referendums, or recalls, can we restrict these foreign players or not? The question is now Wide Open - That's why HB 36 is Piece-meal - and passage without full review could invite campaign mischief through unlimited financing. Instead, there should be a Bipartisan Taskforce with an Interim Committee of House and Senate members to look at the big picture of campaign finance in Alaska & HB36. Please hold HB 36 and review it with an Interim Committee.

Mr. Thoma answered Representative Austerman's question by reporting that the Division of Elections has an initiative status section on their website that lists all proposed initiatives since 1995. He reported reviewing the last eight

years, since 2000, and noted that 52 initiatives have been proposed to the Division of Elections. He added that 73 percent were denied or withdrawn, 15 percent failed, and 12 percent passed for a total of 6 initiatives passed in 8 years. In 2005 and 2006 there were a series of lawsuits brought against the Division of Elections and the state of Alaska by a group in opposition to an initiative. Before the signatures could be checked and authorized, lawsuits were brought against the process taking months to resolve at a big cost to the state and to those opposing the initiative. He argued that if there were checks on all the financing for those collecting signatures then the finances of those opposed to gathering the signatures should be checked. He also contended that those in opposition to an initiative are the ones that spend the most money. He added this money is unregulated and could be from foreign interests.

Vice-Chair Thomas observed that there should be a cap on initiative money similar to the governor and legislative elections.

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REPRESENTATIVE HARRY CRAWFORD testified against the legislation. He reported that in his 10 year experience this is one of the most important bills he has seen. He acknowledged, in the interest of full disclosure, that he has been involved in the initiatives process in the past. He has been one of the three prime sponsors on campaign finance reform, a trust-the-people initiative, and a reserve tax initiative. He stated that every section of HB 36 is targeted at making the initiative process more difficult. He emphasized that there is one part that could kill the initiative process. He provided a background history of the initiative process from the early western frontier days when some corporations, such as the railroads, were taking control of different legislatures in some states. He stated that there needed to be a way for people to affect the democratic process therefore the initiative process was formed. The framers in Alaska knew from experience that an initiative could be killed in the very beginning when corporations came in to intimidate people trying to put an initiative on the ballot. Alaska state law does not have a disclosure provision in the initial process so that big corporations cannot come in and intimidate those people trying to get the initiative on the ballot. He added that once the initiative is on the ballot, there are disclosure laws.

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Representative Crawford emphasized that HB 36 would put the choke point right at the beginning of the process to intimidate any potential donors. He mentioned the Reserve

Tax initiative as a perfect example because people within the oil industry believed that the only way to get a gas line was by a reserve tax, so they gave money to help get the initiative on the ballot. He stressed that had they been exposed at that point, they would have been fired by their employers. The second time the reserve tax was brought up, the oil companies went to each of the labor unions and indicated they would make it difficult if the labor union supported this tax. He believed intimidation is real and this bill would allow that to proceed. He added that when dealing with the trust-the-people initiative, the sponsors had to go to court four times to overrule the Lt. Governor to get the initiative on the ballot.

Representative Gara stated that Representative Crawford had broad experience with initiatives. He pointed to a provision in HB 36 that says the signature collectors cannot be paid one dollar per signature and wondered if the Representative had any thoughts regarding this. Representative Crawford replied that this provision would make it more difficult for small entities to fund initiatives by putting the process under the minimum wage law or hourly provisions. Representative Gara asked if Representative Crawford had any concerns or experience with signature gatherers not taking the time to explain or answer people's questions.

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Representative Crawford responded that he has gathered thousands of signatures on many different subjects and has never failed to give someone all the information requested. He emphasized that when trying to get signatures for initiatives it is the sponsor's intention there not be any fraud or liability that can throw the initiative off the ballot. Representative Gara asked that since the signatures get checked by the Division of Elections, it would not be worth paying someone who tried to defraud the system. Representative Crawford emphasized that initiative sponsors work too hard to get initiative on the ballot to risk even the slightest question of misconduct. Representative Gara credited Representative Crawford for his hard work with initiatives.

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Representative Fairclough referred to Section 10 and asked the Department of Law if there was a requirement that does not allow a person or an organization into a contract concerning wage law. Mr. Ptacin responded he cannot take a position on wage and hour laws. Representative Fairclough repeated her question to ask if Section 10 precludes a contract. Mr. Ptacin again stated he could not answer the question and would like time to review it.

Representative Austerman wondered if Representative Crawford thought there should be a cap on some of the dollar figures from inside and outside interests.

Representative Crawford stated he would like to see limits put on how much an individual or corporation can give to the initiative process. He informed that in the Finance Campaign Reform Act a limit was set at \$3,000 for individual campaigns or ten percent of the total a person collects. He emphasized that he did not want corporations to speak more loudly through their money than an individual in the state.

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Co-Chair Stoltze contended that Representative Crawford was passionate about his experiences of individuals being intimidated or facing recriminations for open involvement in the initiative process. He asked if this was a correct characterization.

Representative Crawford observed that Co-Chair Stoltze represented his thoughts perfectly. Representative Crawford maintained that there were intimidating visits made by opposing sides of the Reserve Tax issue to individuals supporting the initiative.

Co-Chair Stoltze asked if he felt that the real concern for the privacy issue was to protect individuals.

Representative Crawford responded that the choke point was when you can stop the process right at the very beginning.

Co-Chair Stoltze noted that the word "secret ballot" seemed very important. Representative Crawford agreed. Co-Chair Stoltze observed that there was a national debate on a union bill and he was curious about elections.

Representative Gara believed that the "big money" funding ads gets reported to APOC at present resulting in some disclosure, but not for the people gathering the signatures. He believed it important to see who was funding the ads, but had more difficulty understanding the need to know who was providing funding at the beginning.

Representative Crawford responded that the way the present law reads that once an initiative is approved for the ballot and becomes a campaign, then disclosure is mandatory. He noted that HB 36 wanted disclosure on who is giving money at the very beginning, the choke point and HB 36 would take the process out of the hands of Alaskans to affect their government.

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REPRESENTATIVE ERIC CROFT (via teleconference), remarked that the initiative process is a constitutional right given to the people to limit and check legislative power. He urged all legislators to remember that it was intentionally put there for that purpose and they should take a hands-off approach. Its purpose is to be unpopular with legislators and he agreed it is. Legislators are frustrated by the initiative process, but again that is the purpose to do things the legislature decided not to do. He urged the committee not to put up bars on people's rights and to not pass this bill. He acknowledged that it does damage the initiative rights in some areas by making an efficient method more difficult. He added that the founding members believed in a robust initiative process for the people, but did put on limitations; constitutional changes cannot be handled through the initiative process. He believed Alaska needs to be very careful when using other states as models. He noted three different standards used throughout the bill. On page one it notes a group organized for the principle purpose of filing an initiative, later it talks about a group that has filed an initiative and even later where the Lt. Governor determines if it was properly filed. These are three different stages in the initiative right that the people possess. He noted that having the idea, having it filed, and having it approved are very different branch points and this bill covers each of them.

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Representative Croft continued with his objection to this bill. He contended that HB 36 puts limits that run from the inconvenient, to debilitating, to unconstitutional. He declared that the government should stay out of the initiative process.

[3:29:53 PM](#)

JASON BRUNY, EXECUTIVE DIRECTOR, RESOURCE DEVELOPMENT COUNCIL (via teleconference), testified in support of HB 36. The Resource Development Council appreciated the rights of Alaskans to change state law through the initiative process, but contended that a number of proposed initiatives have been brought forth that do not have the best interests of the state or the people of Alaska. He argued that the public is often misled by signature gathering tactics. The Resource Development Council believed that transparency must be at the forefront of good government. He pointed out that Vic Fisher, one of the 55 delegates to the Alaska Constitutional convention and a previous ballot initiative sponsor, believed that the imitative was a device that lends itself to special interests and groups that want to get something that they cannot get through the legislative process. He declared that special interests have embraced the initiative process over the last decade. He noted that in the past 5

years that Alaska business community has been the target of numerous punitive ballot initiatives pushed by anti-business and environmental interest groups. This bill would require both public and legislative hearings for initiatives which he believed to be good idea. Mr. Bruny believed that those trying to change state law should be held to the same standard as legislators to disclose the source of their funds while gathering signatures statewide. He added that the RDC will actively oppose an amendment that prohibits or limits outside contributions to this process. He remarked that many outside companies invest in Alaska and employ Alaskans and should have a right to participate in the process. He concluded that standards must be put in place to ensure a candid process and he applauded the sponsor and authors of the bill.

[3:34:57 PM](#)

Representative Gara asked Mr. Bruny if he cared about the provision on how signatures gatherers were paid.

Mr. Bruny maintained that he has witnessed first hand that signature gatherers want to get as many signatures as possible and often do not answer questions. He believed that to inform and educate the people, questions about the initiative need to be answered.

Representative Gara asked if someone gathering signatures who will not talk or answer question, did he want a rule to make them have to speak. Mr. Bruny wanted a process where information is dispensed to the people by the signature gatherer and he believed that removing the one dollar per signature would accomplish this.

Representative Gara continued that Mr. Bruny was arguing that a gatherer might have the incentive to get the signature quickly under the one dollar per signature rule, but the bill now says that the gatherer can be paid on their productivity, so he wondered how this changes anything. Mr. Bruny agreed that they can be paid on being productive, but at present that is not the case. He believed this to be a more responsible way to gather signatures.

[3:38:57 PM](#)

Representative Austerman wanted clarification regarding caps on the amount of money that a group in or outside can contribute for an initiative campaign.

Mr. Bruny replied that he would not want outside groups trying to get initiatives passed without the will of the people being considered, but many of the outside companies employ Alaskans and should be able to defend themselves in this process.

Co-Chair Stoltze closed public testimony.

[3:41:32 PM](#)

Representative Johansen closed by asserting that the intent of the bill is about the disclosure of money spent to change state statute. He believed the people of Alaska have right to know who is spending money and how much. He restated that the public right to know outweighs any actual or perceived acts of intimidation.

Representative Gara appreciated the way bill was presented, but did not understand the disclosure. He agreed that Alaskans do want to know who is paying for the ads and contributing to an initiative, but in the beginning there might be a local issue concerned citizens want to deal with and he wondered why the disclosure was so important at this stage.

Representative Johansen maintained that he does not see mass intimidation as an issue, but the disclosure of all money that could change Alaska's laws.

HB 36 was HEARD and HELD in Committee for further consideration.

[3:48:11 PM](#)

#hb225

HOUSE BILL NO. 225

"An Act relating to the State Procurement Code; relating to the procurement of supplies, services, professional services, construction services, state fisheries products, state agricultural products, state timber, and state lumber; relating to procurement preferences; relating to procurement by the office of the ombudsman, the Alaska Industrial Development and Export Authority, the Alaska Energy Authority, and other state agencies and public corporations; and providing for an effective date."

[3:48:19 PM](#)

Representative Fairclough introduced HB 225 as a technical and comprehensive way to streamline the procurement processes in the state of Alaska. She stated that her office started with the Veteran's Preference bill which has passed the House. She would like to hear from those who have voiced concerns regarding Section 18 of the bill. She noted that Vern Jones, Chief Procurement Officer, believes that technical issues raised in Section 18 are being misinterpreted. She wanted those who had flown to Juneau to

testify regarding their concerns and then set aside the bill.

[3:49:51 PM](#)

JOHN MACKINNEN, EXECUTIVE DIRECTOR, ASSOCIATED GENERAL CONTRACTORS OF ALASKA, voiced his concern regarding two areas of this bill. He referred to past history where there were commonplace practices among some contractors who won bids then would go back to subcontractors that bid with him and negotiate on the side. Many people considered unethical. This process was known as bid shopping. Many contractors in the industry enlisted the help of the Department of Transportation, the prime contractor in the state, to pass a bill resulting in AS 36.30.115 requiring a contractor to list their subcontractors within five working days of a bid opening. This process has worked very well. He referred to HB 225, Section 14, which allows for multi-step revised sealed bidding. This would allow the contracting agency to include successive sets of sealed bids in a process. He believed this was not intended for construction contracting business therefore it should be stated as such. Mr. MacKinnen elaborated that the present management in the Department of Transportation says that it would not use the multi-step revised sealed bidding and he believes them, but is concerned that some future management may change this. He indicated that Section 18 has a similar provision that allows multiple rounds of best and final offers. He would like language in the provision that says it is not for construction contracting.

Representative Doogan asked how the language as Mr. MacKinnon fears it might be applied, would work.

Mr. MacKinnen replied that a contracting agency would put a project out for a competitive bid and once the bids were in the agency might want to see if there was a better offer and put it out for a second round of competitive bids. He indicated that there are cases where projects are rebid which puts the contractors in difficult position because the numbers are known.

Representative Doogan asked if this was a situation where the first successful bidder may be pitted against everyone else, including themselves. Mr. MacKinnon agreed.

[3:56:10 PM](#)

VERN JONES, CHIEF PROCUREMENT OFFICER, DEPARTMENT OF GENERAL SERVICES, agreed with Mr. MacKinnon that the Department of Transportation does not plan to use this in construction procurement. The reason behind the changes is that there is seldom a chance to do a comprehensive review and updating of the procurement codes, so things were added that were

believed could be useful at a future point. He noted that in Sections 14 and 18 there are techniques that private sector companies have used with some success. He pointed out that these changes were not aimed at construction. He thought it important to put in all the tools possible in the procurement codes to be successful to get cost effective contracts. He added that the points brought up by Mr. MacKinnon were valid and had no problem with making an amendment to limit or exempt construction.

[3:58:19 PM](#)

Representative Fairclough explained it was never the intent of the bill to make unfair business practices. She wanted to propose a tool to save the state money. The Department of Transportation does not plan to use this practice so she is not opposed to an amendment.

Representative Gara mentioned that in the past some procurement bills have been hugely divisive, but often it was a housekeeping method to make things work better. He wondered if there were cleanups necessary to get items for the state at a cheaper point than might be arrived with the bidding process.

Mr. Jones responded there are many housekeeping provisions specific to modernizing and streamlining the procurement code contained in HB 225. One of the provisions raised the threshold for a formal bid from \$50,000 to \$100,000. Construction bids would be raised from \$100,000 to \$200,000. This would avoid the time consuming publicly noticed bidding process until the threshold is met thereby simplifying the process.

Representative Gara wondered once the bids were turned in there might still be circumstances where going to the store to buy the item is easier and cheaper.

Mr. Jones responded that the procurement officer must certify that the bids are appropriate in price. If an unanticipated high price occurs, then it can be revisited.

[4:03:30 PM](#)

Representative Salmon noticed approximately 45 changes in the bill and wondered if this speeds up the procurement process. Mr. Jones replied that the bill attempts to streamline, modernize, simplify and speed up the procurement process.

[4:05:17 PM](#)

Representative Fairclough interjected that she would like an opportunity to address the issues that have been raised and reach out to the business community for comments.

Representative Kelly commented that if the Associated Builders and Contractors (ABC) have not weighed in then to try and get their comments before rather than after the bill is passed. Representative Fairclough raised her concern to make the extra efforts to get businesses to respond. She indicated talking with Wayne Stevens directly and asked him to look at Section 14 and 18 and ABC was in her office earlier. Both have been tracking the issue. She added that there is an elimination of two preferences that might be controversial to the two individuals that access that preference.

Co-Chair Stoltze added that Wayne Stevens is with the Alaska State Chamber of Commerce and ABC is a building and construction organization. Representative Kelly suggested consulting the state bidders list.

[4:09:10 PM](#)

Co-Chair Stoltze noted that bid shopping is a tool or dirty word depending on the individual perspective.

SB 225 was HEARD and HELD in Committee for further consideration.

#

ADJOURNMENT

The meeting was adjourned at 4:08 PM