

HOUSE FINANCE COMMITTEE
March 16, 2010
9:08 a.m.

9:08:05 AM

CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 9:08 a.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; Kevin Brooks, Deputy Commissioner,
Department of Administration

PRESENT VIA TELECONFERENCE

Alpheus Bullard, Attorney, Legislative Affairs; Holly Hill,
Executive Director, Alaska Public Offices Commission
(APOC); Thomas Dosik, Attorney, Department of Law;
Lieutenant Governor Craig Campbell

SUMMARY

HB 36 INITIATIVES: CONTRIBUTIONS/ PROCEDURES

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

[9:08:12 AM](#)

Co-Chair Stoltze brought the meeting to order and explained the morning agenda. He informed that the Lt. Governor was available by teleconference for questions.

Representative Kyle Johansen indicated that he had looked at the five amendments.

[9:09:58 AM](#) AT EASE
[9:10:52 AM](#) RECONVENED
#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."

[9:11:03 AM](#)

Co-Chair Stoltze MOVED to ADOPT Amendment 1, 26-LS0197\S.4, Bullard, 3/11/10 (copy on file):

Page 2, line 6:

Insert a new bill section to read:

"*Sec. 3 AS 15.13.050 is amended by adding a new subsection to read:

(c) If a group intends to make contributions or expenditures only in support of or opposition to a single initiative on the ballot, the title or common name of the initiative must be a part of the name of the group. If the group intends to make contributions or expenditures only in opposition to a single initiative on the ballot, the group's name must clearly state that it opposes the initiative by using

a word such as "opposes," "opposing," "in opposition to," or "against" in the group's name.

Co-Chair Hawker OBJECTED for the purpose of discussion.

REPRESENTATIVE KYLE JOHANSEN mentioned that this was a sponsor amendment. He noted that Representative Doogan had a question about the word "only" in line 4.

Co-Chair Stoltze asked if Representative Doogan had an amendment to an amendment. Representative Doogan replied that he did not.

SONIA CHRISTENSEN, STAFF, REPRESENTATIVE JOHANSEN remarked that the current statute this amendment is modeled after says that 33 1/3 percent of a group's funds, if used for a specific candidate, must have the candidate's name must be in their title. There were some issues with the word "only" on line 4 that may be creating a loophole so groups could spread out their funds to avoid having to name themselves clearly. The sponsor is open to including more specific language such as 33 1/3 percent of their funds going toward a certain ballot measure would require that ballot measure in their title.

Co-Chair Hawker WITHDREW his OBJECTION to Amendment 1.

Co-Chair Stoltze WITHDREW Amendment 1.

[9:13:19 AM](#)

Representative Gara MOVED to ADOPT Amendment 5, 26-LS0197\S.11, Bullard, 3/11/10 (copy on file):

Page 6, line 21:

Insert a new subsection to read:

"(c) Penalties for a violation of this section shall not include removal of an initiative from the ballot."

Co-Chair Stoltze OBJECTED for the purposes of discussion.

Representative Johansen remarked that he had no problem with the amendment.

LIEUTENANT GOVERNOR CRAIG CAMPBELL (via teleconference) asked for further explanation of Amendment 5.

Co-Chair Stoltze remarked that Amendment 5 deals with the Lt. Governor conducting the public hearings within the judicial districts.

Representative Gara read Amendment 5. He noted that under this bill the Lt. Governor has to hold a few meetings before the initiative goes on the ballot or before the vote. He depicted a scenario where the Lt. Governor, hostile to an initiative, might not hold the required hearings. In that case, the penalty should not be that the courts strike the initiative off the ballot. Representative Gara emphasized that this amendment was not directed toward the present Lt. Governor.

[9:15:46 AM](#)

Lt. Governor Campbell responded to the amendment and believed that the public does need to hear both sides of any initiative. He liked that this helped make an initiative more transparent and agreed that the public hearings were important.

Co-Chair Stoltze asked the Lt. Governor if he could imagine any elected official not wanting to go out and discuss an issue. Lt. Governor Campbell agreed that he could not foresee that happening. He noted that the initiative process in the office of the Lt. Governor was unbiased and non political. He added that the Lt. Governor is the administrator, not the enforcer.

Co-Chair Stoltze asked if the Attorney General could provide information that affects the Lt. Governor's decision. Lt. Governor Campbell explained that the initiatives rest within the Lt. Governor's office, but the process is much more than the Lt. Governor. When initiatives are received, the Attorney General performs a review to see if it meets the merit of being on the ballot. The Lt. Governor certifies an initiative based on the recommendations from the Attorney General. Initiatives are done on the course of law, not politics.

[9:18:11 AM](#)

Representative Fairclough remarked to Lt. Governor Campbell that a recent discussion had questioned the Lt. Governor's office's ability to carry out the public hearings without

additional cost. Lt. Governor Campbell noted the zero fiscal note attached to the bill and maintained that he already travels a great deal around the state and conducting these hearings would be within his existing travel budget.

9:19:35 AM

Co-Chair Stoltze thanked Lt. Governor Campbell for his participation in the meeting.

Co-Chair Stoltze WITHDREW his OBJECTION to Amendment 5. There being NO further OBJECTION, Amendment 5 was adopted.

Co-Chair Stoltze MOVED to ADOPT Amendment 2, 26-LS0197\S.1 Bullard, 1/25/10 (copy on file):

Page 1, line 1, following **"initiative"**:
Insert **"and those who file or organize in order to file them"**

Page 4, following line 30:

Insert a new bill section to read:
"*Sec. 8 AS 15.13.400(8) is amended to read:
(8) "group means
(A) every state and regional executive committee of a political party; [and]
(B) an combination of two or more individuals acting jointly who organize for the principal purpose of influencing the outcome of one or more elections and who take action the major purpose of which is to influence the outcome of an election; a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate shall be considered to be controlled by that candidate; a group whose major purpose is to further the nomination, election, or candidacy of only one individual, or intends to expend more than 50 percent of its money on a single candidate, shall be considered to be controlled by that candidate and its actions done with the candidate's knowledge and consent unless, within 10 days from the date the candidate learns of the existence of the group the candidate files with the commission, on a form provided by the commission, an affidavit that the group is operating without the

candidate's control; a group organized for more than one year preceding an election and endorsing candidates for more than one office or more than one political party is presumed not to be controlled by a candidate; however, a group that contributes more than 50 percent of its money to or on behalf of one candidate shall be considered to support only one candidate for purposes of AS 15.13.070, whether or not control of the group has been disclaimed by the candidate; and

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

Co-Chair Hawker OBJECTED for the purpose of discussion.

Representative Johansen remarked that this amendment was from Alaska Public Offices commission (APOC) and he saw no reason to oppose it.

Co-Chair Stoltze remarked that Alaska Public Offices commission (APOC) is reticent to discuss issues and take positions on amendments.

[9:21:06 AM](#)

Representative Austerman requested that there be a tie in regarding the title change to the statute.

KEVIN BROOKS, DEPUTY COMMISSIONER, DEPARTMENT OF ADMINISTRATION, offered that APOC is hesitant to take any position, but would be available to answer any questions and act as a resource. He stated that his understanding of the amendment is that the current language deals with elections and the amendment would broaden it to cover the initiative process. The corresponding title change would be appropriate for clarification.

Co-Chair Stoltze asked if this is an amendment advocated on behalf of the administration. Mr. Brooks believed that based on intent of the bill, it would help clarify and administer their role.

Co-Chair Stoltze emphasized that someone must take a position on something if it is being advocated.

Representative Johansen interjected that Amendment 2 and 3 were brought to his office by the administration therefore

he assumed this is something that they wanted and a decision on their part had been made to support these amendments. Mr. Brooks clarified that the amendments are appropriate and the administration does support them.

[9:23:49 AM](#)

Representative Austerman questioned the title change language and requested drafter, Mr. Bullard, be available to answer questions. Co-Chair Stoltze contended that legislative legal worked with APOC and the Department of Administration.

[9:24:44 AM](#)

ALPHEUS BULLARD, ATTORNEY, LEGISLATIVE AFFAIRS (via teleconference), indicated he was available for questions. Representative Austerman asked him to explain why the title is changed on Amendment 2. Mr. Bullard spoke to the title change in the amendment and clarified that the title in every bill be an accurate description of the content. This amendment operates to expand the definition of "group" which is outside ballot initiatives and applications.

Representative Austerman asked if it would make a difference in the change in item (c) if there was not a title change. Mr. Bullard did not believe that legally or procedurally that the title change should affect the process; the change is just a more accurate description of the bill's content.

[9:27:02 AM](#)

Representative Gara stressed that this amendment seemed lopsided; those who support the initiative must file, but those who oppose the initiative do not need to file. He wondered if Alaska Public Offices Commission was looking at language to help deal with this. He believed that if an amendment is opposed then no one would find out until 30 days before an election, but those who support the initiative are recognized on Day 1.

Mr. Brooks remarked that he tightened existing language in the bill, but did not look at other possibilities.

[9:28:14 AM](#)

HOLLY HILL, EXECUTIVE DIRECTOR, ALASKA PUBLIC OFFICES COMMISSION (APOC) (via teleconference) spoke of Amendment 2 and said that part (C) clarifies the purpose, but different phrasing or language could be added for further clarification. She stressed that she does not support or oppose amendment.

Representative Gara thought her recommendations might go too far. He offered if someone proposed a high profile initiative like parental consent or mining, then there may be people who dislike it and organize meetings around their table. He was not sure if they should be required to file, but the public would be interested in any amount of money spent.

Ms. Hill asked that Mr. Dosik provide further clarification.

THOMAS DOSIK, ATTORNEY, DEPARTMENT OF LAW (via teleconference) noted that the amendment was originally just meant to clarify some of the language in Section I of the bill. The bill language required reporting of those who spent \$500 or more for a group organizing for the principle purpose of filing an initiative proposal. It did not seem necessary to include in the amendment a group organized to oppose an amendment. The small group scenario would not qualify until they took action.

[9:32:03 AM](#)

Representative Gara argued that this technical amendment takes one side over another.

Co-Chair Hawker disagreed with the analysis. This is not a conjunctive defining one group in this provision but three stand separate qualifications to be a group. He was concerned that in content of proposed amendment it is either filing or opposing. He thought better language needed for further conversation.

Co-Chair Hawker asked if this amendment will be revisited and rewritten.

Co-Chair Hawker MAINTAINED his OBJECTION.

Representative Austerman contended that if it is to be rewritten he would like to know if the title change is something the sponsor wants or not.

Co-Chair Hawker WITHDREW his OBJECTION.

Co-Chair Stoltze WITHDREW Amendment 2.

Co-Chair Stoltze remarked that he would not be offering Amendment 3. Representative Kelly asked if Amendment 3 would be offered at another meeting. Co-Chair Stoltze did not believe it would be brought up.

Representative Austerman remarked if Amendment 3 is offered, he would keep the language, but strike the title change.

[9:36:38 AM](#)

Representative Doogan MOVED to ADOPT Amendment 4, 26-LS0197\S.8, Bullard, 3/15/10 (copy on file):

Page 1, line 1:

Delete **"and to ballot initiatives"**

Insert", **to ballot initiatives, and to communications made in connection with initiative elections"**

Page 2, following line 19:

Insert new bill sections to read:

****Sec. 4. AS 15.13.090(a) is amended to read:**

(a) All communications shall be clearly identified by the words "paid for by" followed by the name and address of the **person** [CANDIDATE, GROUP, NONGROUP ENTITY, OR INDIVIDUAL] paying for the communication. In addition,

(1) candidates and groups may identify the name of their campaign chairperson; **and**

(2) **a person paying for a communication relating to an initiative shall clearly**

(A) **if applicable, identify the person's principal officer of the person, approving the communications;**

(B) **include a statement from the person, or principal officer of the person, approving the communication;**

(C) provide the address of the person, if the person is an individual, group, nongroup entity, or other nonprofit organization, or the address of the person's principal place of business; and

(D) identify the five contributors contributing the largest amounts to the person, if any, during the 12-month period before the state of the communication, with words "top five contributors." [.]

*Sec. 5.AS 15.13.090 is amended by adding a new subsection to read:

(c) In this section, "contributors" means the true source of the funds being contributed to the person paying for the communication."

Co-Chair Stoltze OBJECTED for the purposes of discussion.

Representative Doogan explained that his amendment is an attempt to make sure that the names of the principle funders of initiatives, on either side, are made available to the public. It would set out requirements for someone advertising for or against an initiative and require that these advertisements would include the names of the five principle funders of the initiative for or against.

Representative Johansen explained that this is same disclaimer as on the website. He had no problem with the concept, but questioned how this could be practically achieved at the end of a 30 second commercial.

Representative Doogan remarked that it does not necessarily have to be five names; it could be shortened to three names. His goal was to make sure that the people knew who was paying for this advertisement.

[9:40:34 AM](#)

Co-Chair Hawker commented that it was important that the language be clarified if it is put into law. He alleged that the initiative may only have three or less sponsors paying for the advertisement. He suggested other possibilities in regards to donors and offered that one might consider identifying this information online with a web reference in the advertising.

[9:41:44 AM](#)

Representative Doogan agreed that would solve the problem for those people who wanted to do the research, but not for those who were just listening to the advertisement. He noted in campaign ads, the name of the sponsor is revealed when the advertisement is heard. He was not sure if Co-Chair Hawker's suggestion gets where he wants to go with his amendment. Co-Chair Stoltze asked if putting the top three contributors would adequately define who was funding the initiative. Representative Doogan replied not necessarily. It provides information to people listening and prohibits big funders from hiding behind some made-up name. Co-Chair Stoltze remarked that in looking at the intent, maybe it should be the top three contributors over certain amounts. He believed it was Representative Doogan's intent to try and see who may be trying to buy the election. Maybe a number has to be chosen that triggers the announcement.

[9:44:25 AM](#)

Representative Doogan agreed that was right. He remarked that if it said the top three people over \$500 that would be a better indicator for full disclosure. Co-Chair Stoltze noted that there are usually two sides to an initiative and it is usually reported who is funding it. Representative Doogan agreed that is true, but not in every case. He wanted the state to be responsible for getting accurate information to the people on who is funding initiatives. Co-Chair Stoltze agreed on part of that, but the point is to identify who is bankrolling the initiative.

[9:46:38 AM](#)

Representative Gara agreed the concern is that the \$500 only applies to regular campaigns, but in initiatives the contributions are unlimited. Co-Chair Stoltze acknowledged that it depends on the initiative.

Representative Johansen responded that he likes the concept of Co-Chair Hawker, but was concerned that APOC would not be able to handle it. The information is on commercials now, but he is not opposed to Representative Doogan's amendment.

[9:48:20 AM](#)

Mr. Brooks responded that he had no comment, but would like to hear from Ms. Hill. Ms. Hill responded she does not have

an opinion. She noted there are several other bills referring to the same set of language for disclaimers.

Co-Chair Stoltze inquired about the ability to gather the information. Ms. Hill declared the amendment could be implemented as offered.

[9:49:31 AM](#)

Vice-Chair Thomas explained that he was not thrilled with websites since many in his district were not as knowledgeable about computers. He emphasized that most of his constituents wanted to read or hear the information.

Representative Fairclough wondered in the amendment if there would be a loophole with a 12 month period. If APOC had to intervene, the amount could be given before and money could be out there and ready. In an election cycle, candidates have an eighteen month cycle when they can start raising money. She asked Ms. Hill if the right number is 12 months or 18 months to capture all money influencing an initiative prior to it reaching a ballot. Ms. Hill responded that she does not have an opinion, but ballot initiatives have a certain time frame to gather signatures and get on the ballot. She added they could be a multiyear process.

Co-Chair Stoltze asked if Ms. Hill had a technical observation on how this process would work. Ms. Hill responded that there was no data on this type of process because it is not required. Representative Fairclough inquired if the identification would require the first and last name or just the last name of the contributor.

[9:53:27 AM](#)

Representative Doogan contended that he had no problem specifying both names, since he did not believe APOC would do anything with just one name anyway.

Co-Chair Hawker expressed his concern attaching any amendment that compromises the ability of the bill. He maintained that the bill stood on its own and was very well crafted. He read from Section 4, line 9-10 and agreed with subsection (1) on line 13-14 and subsection (2)(A), line 15-16. He noted in (A) one could still list a fraudulent name for the "principal officer and the officer's title"

section. He continued that (B) is already in the federal statutes so is not necessary. Item (C) is now getting into the address of the group and the principal officer which is redundant and confusing. He believed the real substance in the amendment is in (D) in identifying who was paying for this initiative. Co-Chair Hawker thought it would be practical and informative if it simply made a statement that the disclosure shall include the name of any contributor who provided greater than ten percent of the total funding received. This eliminates the problems with dates. He did believe there would have to be additional language to identify a contributor. Co-Chair Hawker asked Representative Johansen if this was not a complex issue that might be addressed on its own and not tagged into the bill.

[9:58:03 AM](#)

Representative Johansen believed the bill stood on its own.

Co-Chair Stoltze agreed that the definitions must be clear but not a meaningless more complicated exercise.

Representative Kelly inquired how other states have handled this situation.

Representative Johansen remarked that Ms. Christensen had been researching this issue for three and a half years and could comment to the choices in other states.

Ms. Christensen asserted that there are a few other states that want this type of requirement. Most of them list the contributors in the election pamphlet. She agreed to provide more information if it was wanted. Representative Kelly emphasized that he wanted to make sure all resources had been tapped.

Co-Chair Hawker indicated that he was informed that the language is being considered in other legislation making its way through the legislative system. The information is so complex so that it deserves legislation on its own.

[10:00:25 AM](#)

Representative Doogan declared that this language comes from the legal department. He contended that he would have a difficult time supporting this legislation if it did not

contain the necessary language from the beginning. He emphasized that he just wants the public to know who is funding an initiative.

Co-Chair Stoltze agreed that is a good concept, but would like to see it resolved through committee.

[10:03:07 AM](#)

Representative Austerman pointed out that the language was written by the same legislative legal attorney. He suggested that Mr. Bullard explain his reasons for writing the amendment in this way.

Mr. Bullard explained that Amendment 4 was requested and modeled on a provision from a senate bill currently under consideration in the Senate Finance Committee. This was requested and what was drafted. Co-Chair Stoltze asked Representative Doogan if this language captured his intent. Representative Doogan agreed that the goal was to make sure that the people who place and pay for ads on initiatives are properly identified at the time the ad is broadcast.

Mr. Bullard responded there is a great deal of latitude on how this is approached. He noted that there is nothing that requires the sub paragraphs to read exactly the way they do. These are dictated by policy choices and as an amalgamation of other things seen in federal and state statutes that have proved effective. He noted that it could read differently to better approach the needs of this state.

Co-Chair Stoltze asked if Mr. Bullard might have taken a different approach if the senate bill did not exist.

[10:07:00 AM](#)

Mr. Bullard responded what is drafted is what was requested.

Co-Chair Stoltze WITHDREW his OBJECTION.

Representative Doogan WITHDREW Amendment 4.

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

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ADJOURNMENT

The meeting was adjourned at 10:08 AM