

ALASKA STATE LEGISLATURE
SENATE RULES STANDING COMMITTEE

February 13, 2012

10:35 a.m.

MEMBERS PRESENT

Senator Johnny Ellis, Chair
Senator Kevin Meyer
Senator Lyman Hoffman
Senator Bert Stedman
Senator Gary Stevens

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 311(STA) am
"An Act relating to the filing of information with the Alaska
Public Offices Commission; and providing for an effective date."

- MOVED SCS CSHB 311(RLS) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 311

SHORT TITLE: REPORTS TO APOC

SPONSOR(S): RULES

02/01/12	(H)	READ THE FIRST TIME - REFERRALS
02/01/12	(H)	STA
02/07/12	(H)	STA AT 8:00 AM CAPITOL 106
02/07/12	(H)	Moved CSHB 311(STA) Out of Committee
02/07/12	(H)	MINUTE(STA)
02/09/12	(H)	STA AT 8:00 AM CAPITOL 106
02/09/12	(H)	Moved CSHB 311(STA) Out of Committee
02/09/12	(H)	MINUTE(STA)
02/10/12	(H)	STA RPT CS(STA) NT 5DP 1AM
02/10/12	(H)	DP: P.WILSON, KELLER, PETERSEN, SEATON, LYNN
02/10/12	(H)	AM: JOHANSEN
02/10/12	(H)	TRANSMITTED TO (S)
02/10/12	(H)	VERSION: CSHB 311(STA) AM
02/10/12	(S)	READ THE FIRST TIME - REFERRALS
02/10/12	(S)	RLS

02/13/12

(S)

RLS AT 10:30 AM BUTROVICH 205

WITNESS REGISTER

REPRESENTATIVE MIKE HAWKER

Alaska State Legislature

Juneau, AK

POSITION STATEMENT: Sponsor of HB 311.

PAUL DAUPHINAIS, Executive Director

Alaska Public Offices Commission (APOC)

Department of Administration (DOA)

Anchorage, AK

POSITION STATEMENT: Answered questions pertaining to new APOC reporting system.

ACTION NARRATIVE

[10:35:08 AM](#)

CHAIR JOHNNY ELLIS called the Senate Rules Standing Committee meeting to order at 10:35 a.m. Present at the call to order were Senators Stedman, Meyer, Stevens, Hoffman, and Chair Ellis.

HB 311- REPORTS TO APOC

[10:36:00 AM](#)

CHAIR ELLIS announced HB 311 to be up for consideration [CSHB 311(STA) AM was before the committee.]

REPRESENTATIVE MIKE HAWKER, sponsor of HB 311, said this bill clarifies campaign disclosure report filing requirements to the Alaska Public Offices Commission (APOC). He stated that it is important for the state to maintain transparency and full disclosure to maintain the credibility of the election process.

He said this is a bi-partisan effort and does five significant things: first it preserves the statutory mandate that campaign finance disclosures be submitted electronically as the default. It also provides that the APOC shall always accept some version of an electronic spreadsheet or data file uploaded to them in satisfaction of electronic reporting requirements. The bill also requires that any changes in the format of the prescribed submission be done between election cycles and not in the middle of them. Nothing prohibits voluntary earlier compliance.

The bill also provides a specific exception to the general premise that says all reports should be filed electronically.

The exception is for people who do not own a computer or have access to reliable high speed Internet at their residence. This provision was designed out of fairness and to make certain that no Alaskan, no matter where they reside in the state or their technical skill set, will be denied an equal opportunity to run for public office. The last thing it does is allow continued paper filing in a transition period for anyone who chooses to file on paper for the current election cycle only. He said HB 311 is designed to be retroactive specifically to be sure activities related to the current election cycle are encompassed.

[10:38:09 AM](#)

REPRESENTATIVE HAWKER stated it is the intent of this bill to allow anyone in the current campaign cycle to submit their disclosures for the duration of this campaign cycle via an Excel spreadsheet in the form and format that was acceptable when they began their campaign. It is also the intent that anyone be allowed to file paper reports through the end of this campaign cycle. The last reporting date is February 15, 2013. He also noted a zero fiscal note.

SENATOR STEVENS asked him to explain the changes to the fines for errors or mistakes.

REPRESENTATIVE HAWKER explained that he is not qualified to discuss changes in the fines, but if one fails to file in compliance with APOC's regulatory authority (although they could be filing in explicit compliance with state statute), the fine is \$500/day.

CHAIR ELLIS asked him to note the impending deadline.

REPRESENTATIVE HAWKER answered for candidates involved in the current campaign cycle who have been conducting campaign activities and raising and spending funds within the purview of the law, their first report is due to APOC in two days, on the 15th of this month. If those candidates are going to be protected, they have two days to pass the bill. He emphasized that this bill does not in any way change the substance of the disclosures they must make to APOC. It would only affect the manner of reporting and only for candidates, not groups or political action committees.

[10:41:11 AM](#)

SENATOR MEYER remarked that legislators cannot use state computers to do these reports or have staff assist in the process.

REPRESENTATIVE HAWKER said that was correct. No one who currently has an elected office and is serving in Juneau at this time may use the state-owned equipment that is at their disposal to conduct legislative business. APOC testified that they would make a computer available in their offices between the hours of 8:00 a.m. and 5:00 p.m., but a question was raised in the House State Affairs Committee if that was even ethically permissible considering that is also a state asset.

SENATOR MEYER said if you didn't happen to bring your own laptop or maybe don't even have one, you would perhaps have no means of doing these reports in a timely fashion.

REPRESENTATIVE HAWKER concurred and said the folks at the APOC told him to go to the public library.

SENATOR ELLIS noted that the executive director of APOC was on line and available for questions.

[10:42:58 AM](#)

SENATOR HOFFMAN said many individuals have problems with the current the filing system and asked if those problems will be corrected before next years and if the program would be made more user friendly.

REPRESENTATIVE HAWKER replied that testimony from the APOC in the House State Affairs Committee indicated that the commission was satisfied with its program at this time. But there have been conflicting reports from people who have been asked or required to use that program. He further directed that question to the APOC.

[10:44:04 AM](#)

SENATOR HOFFMAN asked Mr. Dauphinais to comment on the four different pages: the initial page, the summary page, the expense page and the income page that have no drop down box. It's very cumbersome to get to the back page and there was no way to print one page at a time. He said many individuals feel the program could be improved to make it more user friendly and asked if that would that take place between now and the requirement at the end of February 2013.

PAUL DAUPHINAIS, Executive Director, Alaska Public Offices Commission (APOC), Department of Administration (DOA), answered that every time they get feedback from someone they try to deal with it as expeditiously as possible. In some cases they have been able to deal with issues within a couple of hours and they intend to continue that.

SENATOR HOFFMAN asked if they would have a drop down box so some of the pages could be bypassed to get to the last one, the income and expense report.

MR. DAUPHINAIS said he will speak to his programmers and get back to him on that.

SENATOR MEYER said he has a volunteer that helps with the report and while he finally got it submitted, he had tried before and the APOC wasn't receiving it.

He also said that before session he knew the APOC was working on many issues and one of them was the accumulation totals. The old system would let you know if the \$500 amount was exceeded, but he didn't see that feature in the new system. That is a concern because accepting over \$500 could result in a fine.

Also, the total amount accepted from out-of-state contributors used to get flagged if it went over the \$5,000 limit and that feature doesn't work now either.

[10:47:36 AM](#)

MR. DAUPHINAIS responded that part of the problem is as information is input into the program, the name of a contributor needs to be put in precisely the same way every time for it the cumulative feature to work correctly. If there is a slight difference in the name of the contributor he will be treated as two different people.

SENATOR STEDMAN said he agrees with the direction of automating, but if you look at the penalties versus the complexity of the system and the possible need for a more user friendly layout, "they don't equal out" and that concerns him. Under the last example, if you put in Bert Stedman as a contributor and the next time you put in Bert K. Stedman, his address is the same, but his name isn't.

This software does not coordinate with the bank statements either, he said. The software reports when the contribution arrived and the bank reports when the deposit went in. If you

put 10 contributions in one deposit, it's difficult to go back under an audit unless you have a completely separate system to show when a check hit the bank and what deposit it was in. And if you run two separate systems it is very easy to negate an entry or make a data error.

[10:50:06 AM](#)

SENATOR STEDMAN suggested putting a work group together consisting of two or three Senate and House members who are familiar with computers and automation work as an advisory group to the people that are writing the software, because clearly there is a disconnect between the software that is being imposed and how legislators actually function and stay in compliance - which everybody is trying to do.

SENATOR HOFFMAN recommended a deposit system that allows for 30 or so contributors in a batch instead of having to total them out at the end of the report and figure out where the problems are.

SENATOR STEVENS remarked that they are zeroing in on the legislative response, but this has implications far beyond them to city council members, school board members and people who are appointed to boards and commissions. His other concern was that being faced with the possibility of a \$500 fine every day for any mistakes you make discourages people from running for public office. He wanted it clarified who this applies to overall and to know what changes have occurred in the penalties.

[10:53:02 AM](#)

MR. DAUPHINAIS replied that this bill applies to statewide and municipal candidates only. People being appointed to boards and commissions need a public official financial disclosure and that is not covered by this bill. Regarding fines, AS 15.13.390 on civil penalties has not changed. He said he didn't think this would discourage people, because the reporting requirements and deadlines hadn't changed. The fines had not changed either.

In fact, he said the latest amendment to the bill opens up many of the waivers or exemptions that were granted to municipal candidates in municipalities with populations under 15,000 for people who don't own a computer or potentially choose not to have Internet in their home.

SENATOR STEVENS asked if he was saying this does not apply to municipal candidates who receive or spend funds for campaigns.

MR. DAUPHINAIS replied no, this does apply to municipal candidates, the difference being in terms of reporting. He explained that people in municipalities of under 15,000 people have always been able to report via paper rather than electronically, although if they chose to do so electronically he would be happy.

SENATOR STEVENS asked him to cover the penalties.

MR. DAUPHINAIS replied that penalties are covered under AS 15.13.390. For those who fail to register [indisc.] or fail to file a properly completed and certified report within the time required, that individual is subject to a civil penalty of not more than \$50/day for each day of delinquency and it continues as determined by the commission subject to the right of appeal in Superior Court. A person who fails to file a properly completed and certified report - for 7 day and 24 hour reports - within the time required is subject to a penalty of not more than \$500/day for each day of delinquency and that continues as determined by the commission subject to right of appeal in Superior Court.

A person who violates a provision of this chapter, except a provision requiring registration or filing of a report within the time required as otherwise specified is subject to a civil penalty of not more than \$50/day for each day the violation continues as determined by the commission subject to the right of appeal in Superior Court.

[10:56:44 AM](#)

CHAIR ELLIS found no further comments or questions for the sponsor and thanked him. He said the Rules Committee had prepared a committee substitute to address some of the concerns expressed by Senate leadership.

SENATOR STEVENS moved to adopt SCS CSHB 311(RLS), \X [version 27-LS1233\X].

CHAIR ELLIS objected for committee discussion and asked Senator Stevens to review the proposed changes.

SENATOR STEVENS explained that the CS replaces section 4, which allows candidates that are currently in office to file their APOC reports in the same manner in which they were allowed to when they originally filed for office.

He commented that it has been very difficult dealing with APOC not just for himself, but also for several other members, and he wanted to pass some of the difficulties on. He said, "APOC has just simply not been very forthcoming about helping us adapt to this new system." For example, he attended a workshop a couple of weeks ago and expressed a concern that legislators had said to him that they had just learned about the online requirement and had arrived in Juneau without their computers (Senator Meyer's issue). So should they be sent back home so they can go to their home and file this properly or should another solution be found? One of the solutions suggested was to go to the library with all of their checks, deposits and expenses and do them in public somewhere. But that to him didn't seem the best way to handle it.

So, he asked the young APOC attorney who led the workshop discussion why legislators couldn't use the computers in their office (there are rules against that, but it's the one time they are down here without their computers). She said, "I will get back to you on that." But she never got back to him; in fact he hasn't heard any response.

SENATOR STEVENS said a second thing he had a problem with was getting a blank form so he could do a draft. He called APOC, could not talk to Mr. Dauphinais, but talked to his deputy who said they hadn't thought about people needing a draft and asked him to check back next week to see if was available. Finally, Senator Stevens said he found a kindly secretary at APOC who did send a blank form to him - the idea being that you do need a draft to make sure it is done properly.

[11:00:26 AM](#)

He repeated his concern that this could have a daunting impact on legislators. He said is on his 12th year in the legislature and has always mailed these things in and has always typed them out so they are easily readable and easily scan-able and available the next day to the public. It concerned him that he would have to go online and do a report.

SENATOR STEVENS quipped that he considered this the "Geezer Amendment" and that people shouldn't have to hire professionals to do this for them as some do. He concluded that he had several concerns: the fact that the attorneys said they would get back to him and didn't, the fact that he asked for the forms they didn't have and as far as he knows they still don't have and the fact that this would have an impact on people who are

questioning whether they should continue running when they are facing a fine of such magnitude.

CHAIR ELLIS removed to his objection finding no further objections said SCS CSHB 311(RLS) was adopted.

CHAIR ELLIS found no further comments and asked for a motion.

11:02:01 AM

SENATOR STEVENS moved to report SCS CSHB 311 (RLS), version \X, from committee with individual recommendations and the attached fiscal note(s). There were no objections and it was so ordered.

11:02:28 AM

Finding no further business to come before the Rules Committee, Chair Ellis adjourned the meeting at 11:02 a.m.