

Original sponsor: State Affairs Committee

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 488

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to election campaigns; and providing
7 for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 15.13.010 is amended to read:

10 Sec. 15.13.010. APPLICABILITY. (a) This chapter applies in every
11 election for governor, lieutenant governor, a member of the state legis-
12 lature, a delegate to a constitutional convention, or judge seeking elec-
13 toral confirmation [OR FOR A MUNICIPAL OFFICE]. It also applies to every
14 candidate for election to a municipal office in a city or borough with
15 a population of more than 1,000 inhabitants according to the latest
16 United States census figures or estimates of population certified as
17 correct for administrative purposes by the Department of Community and
18 Regional Affairs. A municipality may exempt its elected municipal
19 officers [ITSELF] from the requirements of this chapter if a majority of
20 the voters voting on the question at any regular election, as defined by
21 AS 29.78.010(14), or a special municipality-wide election called for
22 that purpose, [A GENERAL ELECTION] vote to exempt its elected municipal
23 officers [THE MUNICIPALITY] from the requirements of this chapter. The
24 question of exemption from the requirements of this chapter may be
25 submitted by the city council or borough assembly by ordinance or by
26 initiative ordinance. Nothing in this chapter prohibits a municipality
27 from regulating by ordinance campaign contributions and expenditures.

28 * Sec. 2. AS 15.13.010 is amended by adding a new subsection to read:

29 (b) Except as otherwise provided, this chapter applies to contri-

1 butions, expenditures and communications made by a candidate, group,
2 municipality or individual for the purpose of influencing the outcome of
3 a ballot proposition or question as well as those made to influence the
4 nomination or election of a candidate.

5 * Sec. 3. AS 15.13.020(a) is amended to read:

6 (a) There is created in the office of the lieutenant governor the
7 Alaska Public Offices [ELECTION CAMPAIGN] Commission consisting of five
8 members.

9 * Sec. 4. AS 15.13.020(c) is amended to read:

10 (c) The four members selected under (b) of this section shall, by
11 a majority vote, appoint the remaining fifth member of the commission.

12 * Sec. 5. AS 15.13.020(d) is repealed and re-enacted to read:

13 (d) Upon selection of the commission's fifth member, the commis-
14 sion's four members selected under (b) of this section shall draw lots
15 to determine the length of their terms of office so that one commission
16 member serves one year, one serves two years, one serves three years and
17 one serves four years. However, the terms of no two commission members
18 who are members of the same political party may expire in consecutive
19 years. The term of office of the fifth member, appointed under (c) of
20 this section, expires in the fifth year. Terms of office of the initial
21 appointees to the commission, including the fifth member, shall date
22 from February 1 before their appointment. After the terms of office of
23 the initial appointees to the commission expire, the term of office of a
24 member of the commission is five years, or until his successor is
25 appointed and qualifies. No commission member may serve more than one
26 term. However, initial appointees to the commission who do not serve a
27 full five-year term and a person appointed to fill the unexpired term of
28 his predecessor may be appointed to a successive full five-year term.

29 * Sec. 6. AS 15.13.020(e) is amended to read:

- 1 (e) No member of the commission, during tenure, may
- 2 (1) hold or campaign for elective office;
- 3 (2) be an officer of a political party, [OR] political commit-
- 4 tee or group;
- 5 (3) permit his name to be used, or make any contributions
- 6 whatsoever, in support of or in opposition to a candidate or proposition
- 7 or question that appears on any ballot in the state including but not
- 8 limited to that of a municipality; however, contributions may be made to
- 9 a candidate for the office of President of the United States;
- 10 (4) participate in any way in an election campaign or partici-
- 11 partate in or contribute to any political party; or
- 12 (5) lobby, employ or assist a lobbyist.

13 * Sec. 7. AS 15.13.020(f) is amended to read:

14 (f) Members of the commission shall receive compensation of \$100 a

15 day while attending commission meetings or participating in authorized

16 commission business and shall be entitled to necessary travel expenses

17 and per diem.

18 * Sec. 8. AS 15.13.020(h) is amended to read:

19 (h) A vacancy [VACANCY] on the commission shall be filled by the

20 appropriate appointing authority [OFFICER] within 30 days of the occur-

21 rence of the vacancy. The appointee shall serve for the remaining term

22 of his predecessor.

23 * Sec. 9. AS 15.13.020(j) is amended to read:

24 (j) The commission shall establish an office, which may be called

25 a regional office, in each senate district in the state to keep on file

26 for public inspection copies of all reports filed with the commission by

27 candidates for statewide office and by candidates for legislative office

28 in that district [AN OFFICE TO RECEIVE REPORTS AND STATEMENTS REQUIRED TO

29 BE FILED WITH IT]; however, where one municipality contains more than one

1 election district, only one commission office shall be established in
2 that municipality. The regional office shall make all forms and pertin-
3 ent material available to candidates. All reports shall be filed by
4 candidates, groups and individuals directly with the commission's central
5 district office. The commission shall insure that copies of all reports
6 by statewide and legislative candidates in each senate district are
7 forwarded promptly to that district or regional office. [THE COMMISSION
8 SHALL MAKE EVERY EFFORT TO INSURE THAT ALL REPORTS ARE FORWARDED TO THE
9 CENTRAL OFFICE PROMPTLY.]

10 * Sec. 10. AS 15.13.020 is amended by adding a new subsection to read:

11 (k) The commission shall ensure that copies of reports filed by
12 candidates for municipal office are made available for public inspection
13 in the appropriate municipality.

14 * Sec. 11. AS 15.13.030(2) is amended to read:

15 (2) prepare and publish a manual setting out uniform methods
16 of bookkeeping and reporting for use by persons required to make reports
17 and statements under this chapter and otherwise assist candidates, [AND]
18 groups, and individuals in complying with the requirements of this
19 chapter;

20 * Sec. 12. AS 15.13.030(5) is amended to read:

21 (5) prepare [AND PUBLISH] a summary of each report filed
22 under sec. 110 of this chapter and make copies of this summary available
23 to interested persons at their actual cost;

24 * Sec. 13. AS 15.13.040 is repealed and re-enacted to read:

25 Sec. 15.13.040. CONTRIBUTIONS, EXPENDITURES AND SUPPLYING OF
26 SERVICES TO BE REPORTED. (a) Each candidate shall make a full report,
27 upon a form prescribed by the commission, listing the date and amount
28 of all expenditures made by the candidate, the total amount of all con-
29 tributions, including all funds contributed by the candidate himself,

1 and for all contributions in excess of \$100 in the aggregate a year, the
2 name, address, principal occupation, and employer of the contributor and
3 the date and amount contributed by each contributor. The report shall be
4 filed in accordance with sec. 110 of this chapter and shall be certified
5 correct by the candidate or campaign treasurer.

6 (b) Each group shall make a full report upon a form prescribed by
7 the commission, listing

8 (1) the name and address of each officer and director;

9 (2) the aggregate amount of all contributions made to it;
10 and, for all contributions in excess of \$100 in the aggregate a year,
11 the name, address, principal occupation, and employer of the contributor,
12 and the date and amount contributed by each contributor; and

13 (3) the date and amount of all contributions made by it and
14 all expenditures made, incurred or authorized by it.

15 (c) The report required under (b) of this section shall be filed
16 in accordance with sec. 110 of this chapter and shall be certified as
17 correct by the group's treasurer.

18 (d) Every individual, person or group making a contribution or
19 expenditure shall make a full report, upon a form prescribed by the
20 commission, of the following contributions or expenditures:

21 (1) any contribution of cash, goods or services valued at
22 more than \$100 a year to any group or candidate; or

23 (2) any expenditure whatsoever for advertising in newspapers,
24 on radio or on television; or, for the publication, distribution or
25 circulation of brochures, flyers, or other campaign material for any
26 candidate or ballot proposition or question.

27 (e) The report required under (d) of this section shall contain
28 the name, address, principal occupation and employer of the individual
29 filing the report, and an itemized list of expenditures. The report

1 shall be filed with the commission by the contributor no later than 10
2 days after the contribution or expenditure is made. A copy of the
3 report shall be furnished to the candidate, campaign treasurer or deputy
4 campaign treasurer at the time the contribution is made.

5 (f) During each year in which an election occurs, all businesses,
6 persons, or groups which furnish any of the following services, facili-
7 ties, or supplies to a candidate or group shall maintain a record of
8 each transaction: newspapers, radio, television, advertising, advertis-
9 ing agency services, accounting, billboards, printing, secretarial,
10 public opinion polls, or research and professional campaign consultation
11 or management, media production or preparation, or computer services.
12 The records shall be maintained on the forms provided and in the manner
13 required by the commission. The supplier shall file a report of the
14 complete record of each transaction with all candidates or groups to
15 whom he provides services, facilities or supplies in accordance with
16 sec. 110 of this chapter. All records shall be available for public
17 inspection. However, all businesses, persons or groups which make
18 available to all competing candidates for the same office equal access
19 to their services, facilities or supplies are exempt from the provisions
20 of this subsection.

21 * Sec. 14. AS 15.13 is amended by adding a new section to read:

22 Sec. 15.13.045. INVESTIGATIONS, HEARINGS. (a) The commission may
23 issue subpoenas, administer oaths, hold hearings and conduct investiga-
24 tions.

25 (b) In conjunction with (a) of this section, the commission may
26 compel the attendance of witnesses and production of papers, books,
27 records, accounts, documents, and testimony, and may have the deposition
28 of witnesses taken in a manner prescribed by court rule or law for the
29 taking of depositions in civil actions when consistent with the powers

1 and duties assigned to the commission by this chapter.

2 (c) The commission may examine the papers, books, records, accounts
3 and documents of any person subject to this chapter to ascertain the
4 correctness of a report filed with the commission, or in conjunction with
5 an investigation or inspection conducted under (a) of this section.

6 (d) Subpoenas may be issued and shall be served in the manner
7 prescribed by AS 44.62.430 and court rule. The failure, refusal or
8 neglect to obey a subpoena is punishable as contempt in the manner
9 prescribed by law or court rule. The superior court may compel obedience
10 to the commission's subpoena in the same manner as prescribed for
11 obedience to a subpoena issued by the court.

12 * Sec. 15. AS 15.13.050 is amended to read:

13 Sec. 15.13.050. GROUPS. Each group, before making an expenditure
14 on behalf of, or in opposition to, a candidate or a contribution to a
15 candidate, shall register, on forms provided by the commission, with the
16 commission. If the group intends to support only one candidate, or to
17 contribute to or expend on behalf of one candidate 60 per cent of its
18 funds, the name of the candidate shall be a part of the name of the
19 group. If the group receives over 60 per cent of its contributions from
20 a single source, the name of that source must be a part of the name of
21 the group. Promptly upon receiving the registration, the commission
22 shall notify the candidate of the group's organization and intent.

23 * Sec. 16. AS 15.13.060(b) is amended to read:

24 (b) Each group shall file the name and address of its [THE]
25 campaign treasurer with the commission at the time it registers with the
26 commission under sec. 50 of [THE FIRST CONTRIBUTION OR EXPENDITURE REPORT
27 IS REQUIRED TO BE FILED BY THE GROUP UNDER] this chapter.

28 * Sec. 17. AS 15.13.060(c) is amended to read:

29 (c) Each candidate shall file the name and address of the campaign

1 treasurer with the commission no later than seven days after the date of
2 filing his declaration of candidacy or his nominating petition. The
3 name of the candidate may be placed on the ballot by the lieutenant
4 governor or municipal clerk only if the candidate has complied with this
5 subsection.

6 * Sec. 18. AS 15.13.060(d) is amended to read:

7 (d) In the case of the death, resignation or removal of a campaign
8 treasurer, the candidate shall appoint a successor as soon as practicable
9 and file his name and address with the commission within 48 hours of the
10 appointment. The candidate is disqualified when he has been found to
11 have been in wilful violation of [IF HE FAILS TO COMPLY WITH] this
12 subsection.

13 * Sec. 19. AS 15.13.060 is amended by adding a new subsection to read:

14 (f) The candidate is responsible for the performance of his
15 campaign treasurer, and any default or violation by the treasurer also
16 shall be considered a default or violation by the candidate if he knew
17 or had reason to know of the default or violation.

18 * Sec. 20. AS 15.13.070(a) is repealed and re-enacted to read:

19 (a) No person or group, including but not limited to all political
20 committees, businesses, corporations, and labor unions, may contribute
21 to or expend more than \$1,000 a year on behalf of or in opposition to
22 the competing candidates for each elective office. Political parties
23 and their subdivisions are not subject to the limitation prescribed in
24 this subsection, but they are subject to the reporting requirements
25 prescribed by secs. 40(b) and 110 of this chapter. Nothing in this
26 chapter prohibits

27 (1) a candidate from contributing more than \$1,000 of his own
28 money to his own campaign; or

29 (2) individuals or groups, including but not limited to all

1 political committees, businesses, corporations, and labor unions, from
2 contributing to or expending on behalf of a ballot proposition or ques-
3 tion more than \$1,000 a year; however, these contributions and expendi-
4 tures shall be reported in accordance with secs. 40 and 110 of this
5 chapter.

6 * Sec. 21. AS 15.13.070(f) is amended to read:

7 (f) The total amount of expenditures made by a candidate and by
8 all groups operating under his control may not exceed (1) 40 cents times
9 the total population of the state according to the latest United States
10 census figures, or estimates of population certified as correct for
11 administrative purposes by the Department of Community and Regional
12 Affairs, if the candidacy is for governor or lieutenant governor, of
13 which amount no more than 50 [40] per cent may be spent in a primary
14 election campaign and no more than 50 [60] per cent in the general
15 election campaign [, IF THE CANDIDACY IS FOR GOVERNOR AND NO MORE THAN
16 50 PER CENT IN THE PRIMARY ELECTION CAMPAIGN AND NO MORE THAN 50 PER
17 CENT IN THE GENERAL ELECTION IF THE CANDIDACY IS FOR LIEUTENANT GOVER-
18 NOR]; (2) \$1 times the total population of the geographical area of the
19 constituency according to the latest United States census figures, or
20 estimates of population certified as correct for administrative purposes
21 by the Department of Community and Regional Affairs, divided by the
22 number of seats in the senate district if the candidacy is for the state
23 senate; (3) \$1 times the total population of the geographical area of
24 the constituency according to the latest United States census figures, or
25 estimates of population certified as correct for administrative
26 purposes by the Department of Community and Regional Affairs, divided by
27 the number of seats in the house district if the candidacy is for the
28 state house of representatives. The expenditure limitations in this
29 section include expenditures for both a primary and a general election

1 campaign, or for a special election.

2 * Sec. 22. AS 15.13.080 is repealed.

3 * Sec. 23. AS 15.13.090 is amended to read:

4 Sec. 15.13.090. IDENTIFICATION OF COMMUNICATION. All advertise-
5 ments, billboards, handbills, paid-for television and radio announce-
6 ments and other communications intended to influence the election of a
7 candidate or outcome of a ballot proposition or question shall be
8 clearly [SIGNED OR] identified by the words "paid for by" followed by
9 the name and address of the candidate, group or individual paying for
10 the advertising. In addition, candidates and groups must identify the
11 name of their campaign treasurer [OR CAMPAIGN TREASURER OF THE CANDIDATE
12 OR GROUP ON WHOSE BEHALF THE COMMUNICATION APPEARS].

13 * Sec. 24. AS 15.13.100 is amended to read:

14 Sec. 15.13.100. EXPENDITURES BEFORE FILING. No political campaign
15 expenditure may be made or incurred by a person in an election or by a
16 person or group with his knowledge and on his behalf in the calendar
17 year during [BEFORE THE DATE UPON] which he or she files for nomination
18 for the office which the person seeks, except for personal travel
19 expenses or for opinion surveys or polls. These expenditures shall be
20 charged against the spending limitation that applies to the office for
21 which he subsequently files, and shall be included in the first report
22 required under this chapter after filing for office.

23 * Sec. 25. AS 15.13.110 is repealed and re-enacted to read:

24 Sec. 15.13.110. FILING OF REPORTS. (a) Each candidate and group
25 shall make a full report in accordance with sec. 40 of this chapter
26 during the period ending three days before the due date of the report and
27 beginning on the last day covered by the most recent previous report, or,
28 if a first report, all contributions received and expenditures made
29 before three days before the due date of the report. The report shall be

1 filed at the following times:

2 (1) 30 days before the election; however, this report is not
3 required if the deadline for filing a nominating petition or declaration
4 of candidacy is within 30 days of the election;

5 (2) one week before the election;

6 (3) ten days after the election; and

7 (4) December 31 of each year for expenditures and contribu-
8 tions received which were not reported that year.

9 (b) Each contribution or expenditure which exceeds \$250 and which
10 is made within one week of the election shall be reported to the commis-
11 sion by date, amount, and contributor or recipient within 24 hours of
12 receipt or expenditure by the candidate or campaign treasurer.

13 (c) The reports of candidates shall be filed with the commission's
14 central office. All reports required by this chapter shall be kept open
15 to public inspection. Within 30 days after each election, the commis-
16 sion shall prepare a summary of each report which shall be made available
17 to the public at cost upon request. Each summary shall use uniform
18 categories of reporting.

19 (d) Within 30 days after each election, each supplier shall make
20 a full report to the commission in accordance with sec. 40 of this
21 chapter. Within 60 days after each election, the commission shall pre-
22 pare a summary by candidate or group of the transactions and make the
23 summaries public.

24 * Sec. 26. AS 15.13.120(d) is amended to read:

25 (d) A person who believes a violation of this chapter has occurred
26 may file a complaint with the commission. If the commission determines
27 there is substantial reason to believe that a violation has occurred, it
28 shall expeditiously make an investigation, which may [SHALL] also include
29 an investigation of reports and statements filed by the complainant if:

1 he is a candidate, of the matter complained of. When, in the judgment
2 of the commission, after affording due notice and an opportunity for a
3 hearing, a person has engaged or is about to engage in any acts or
4 practices which constitute or will constitute a violation of a provision
5 of this chapter, or a regulation or order issued under it, it shall
6 promptly report the information to the attorney general for appropriate
7 action. The commission shall report its determination and recommenda-
8 tion to the person who filed the complaint with the commission within 60
9 days of receiving the complaint unless circumstances require additional
10 time to make an adequate investigation. The finding of the commission
11 may be appealed to the superior [SUPREME] court [BY THE PERSON WHO FILED
12 THE COMPLAINT WITH THE COMMISSION].

13 * Sec. 27. AS 15.13 is amended by adding a new section to read:

14 Sec. 15.13.122. LEGAL COUNSEL. (a) The attorney general is legal
15 counsel for the commission. He shall advise the commission in legal
16 matters arising in the discharge of its duties and represent the commis-
17 sion in actions to which it is a party. If, in the opinion of the
18 commission, the public interest warrants, the commission may request the
19 chief justice of the supreme court to appoint a special prosecutor to
20 represent the commission in a proceeding involving an alleged violation
21 of this chapter and to prosecute that violation.

22 (b) When the public interest warrants, the commission may employ
23 temporary legal counsel from time to time in matters in which the
24 commission is involved.

25 * Sec. 28. AS 15.13.125 is repealed.

26 * Sec. 29. AS 15.13.130 is amended to read:

27 Sec. 15.13.130. DEFINITIONS. In this chapter,

28 (1) "candidate" means a person who files for election to the
29 state legislature, for governor, for lieutenant governor, [OR] for

1 municipal office, for retention in judicial office, or for constitutional
2 convention delegate, or who campaigns as a write-in candidate for any of
3 these offices;

4 (2) "contribution" means purchase, payment, promise or obliga-
5 tion to pay, loan or loan guarantee, deposit or gift of money, goods or
6 services for which charge is ordinarily made and which is made for the
7 purpose of influencing the nomination or election of a candidate, and in
8 sec. 10(b) [125] of this chapter for the purpose of influencing a ballot
9 proposition or question, including the payment [,] by a person other
10 than a candidate or political party, or compensation of the personal
11 services of another person which are rendered to the candidate or
12 political party; however, "contribution" does not include

13 (A) services provided without compensation by individuals
14 volunteering a portion or all of their time on behalf of a candidate
15 or ballot proposition or question, but it does include professional
16 services volunteered by individuals for which they ordinarily would
17 be paid a fee or wage;

18 (B) services provided by an accountant or other person to
19 prepare reports and statements required by this chapter;

20 (C) ordinary hospitality in a home;

21 (3) "group" means every state and regional executive committee
22 of a political party and, in addition, means any combination of two or
23 more persons or individuals acting jointly who take action the major
24 purpose of which is to influence the outcome of an election; a group that
25 makes expenditures or receives contributions [WHOSE MAJOR PURPOSE IS TO
26 INFLUENCE THE NOMINATION OR ELECTION OF A CANDIDATE OR WHOSE EXPENDITURES
27 OR CONTRIBUTIONS ARE MADE] with the authorization or consent, express or
28 implied, or under the control, direct or indirect, of a candidate shall
29 be considered to be controlled by that candidate [OR HIS AGENT]; a group

1 whose major [SOLE] purpose is to further the nomination, election, or
2 candidacy of only one person, or intends to expend more than 60 per cent
3 of its money on a single candidate, shall be considered to be controlled
4 by that candidate [PERSON] and its actions done with his knowledge and
5 consent unless, within 10 days from the date the candidate [PERSON]
6 learns of the existence of the group he files with the commission, on a
7 form provided by the commission, an affidavit that the group is operating
8 without his control; a group organized for more than one year preceding
9 an election and endorsing candidates for more than one office or more
10 than one political party is presumed not to be controlled by a candidate;
11 however, a group that contributes more than 60 per cent of its money to
12 or on behalf of one candidate shall be considered to support only one
13 candidate for purposes of sec. 70 of this chapter, whether or not control
14 of the group has been disclaimed by the candidate;

15 (4) "expenditure" means a purchase or a transfer of money or
16 anything of value, or promise or agreement to purchase or transfer money
17 or anything of value, incurred or made for the purpose of (A) influencing
18 the nomination or election of a candidate or of any individual who files
19 for nomination at a later date and becomes a candidate; or (B) use by a
20 political party; or (C) the payment by a person other than a candidate
21 or political party of compensation for the personal services of another
22 person which are rendered to a candidate or political party; (D)
23 influencing the outcome of a ballot proposition or question; however,
24 "expenditure" does not include a candidate's filing fee or the cost of
25 preparing reports and statements required by this chapter;

26 (5) "individual" means a natural person;

27 (6) "municipality" means a home rule or general law borough
28 or city including but not limited to a unified municipality organized
29 under AS 29.68;

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(7) "person", in addition to the terms set out in AS 01.10.-
060(7), includes a labor union.

* Sec. 30. This Act takes effect immediately in accordance with AS 01.10.-
070(c).

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