

Original sponsor: State Affairs Committee

Offered: 5/14/76
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 857 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

NINTH LEGISLATURE - SECOND SESSION

5

A BILL

6

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

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

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* Section 1. AS 15.13.020(j) is amended to read:

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(j) The commission shall establish an office [, WHICH MAY BE
CALLED A REGIONAL OFFICE,] in each senate district in the state to keep
on file for public inspection copies of all reports required to be filed
with the commission by candidates for statewide office and by candidates
for legislative office in that district; however, where one municipality
contains more than one election district, only one commission office
shall be established in that municipality. Each [THE REGIONAL] office
shall make all forms and pertinent material available to candidates.
Reports [ALL REPORTS] shall be filed by candidates, groups and indivi-
duals directly with the commission's central or district offices
[OFFICE]. If the candidate files required reports with the commission's
central office, the [THE] commission shall ensure [INSURE] that copies
of all reports by statewide [AND LEGISLATIVE] candidates, by legislative
candidates in each senate district, and by judges seeking electoral
confirmation [IN EACH SENATE DISTRICT] are forwarded promptly to the
[THAT DISTRICT OR REGIONAL] office located in the district in which the
candidate or judge is seeking office.

* Sec. 2. AS 15.13.040(d) and (f) are amended to read:

(d) Every individual or [,] person [OR GROUP] making a contribu-
tion or expenditure shall make a full report, upon a form prescribed by

1 the commission, of the following contributions or expenditures:

2 (1) any contribution of cash, goods or services valued at
3 more than \$250 [\$100] a year to any group or candidate; or

4 (2) any expenditure whatsoever for advertising in newspapers,
5 on radio or on television; or, for the publication, distribution or
6 circulation of brochures, flyers, or other campaign material for any
7 candidate or ballot proposition or question.

8 (f) During each year in which an election occurs, all [BUSINESSES,
9 persons who [, OR GROUPS WHICH] furnish any of the following services,
10 facilities, or supplies to a candidate or group shall maintain a record
11 of each transaction: newspapers, radio, television, advertising,
12 advertising agency services, accounting, billboards, printing, secre-
13 tarial, public opinion polls, or research and professional campaign
14 consultation or management, media production or preparation, or computer
15 services. The records shall be maintained on the forms provided and in
16 the manner required by the commission. The supplier shall file a report
17 of the complete record of each transaction with all candidates or groups
18 to whom he provides services, facilities or supplies in excess of \$250
19 for each candidate or group in the aggregate in accordance with sec. 110
20 of this chapter. [ALL RECORDS SHALL BE AVAILABLE FOR PUBLIC INSPEC-
21 TION.]

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

23 (b) A group that makes expenditures or receives contributions with
24 the authorization or consent, express or implied, or under the control,
25 direct or indirect, of a candidate shall be considered to be controlled
26 by that candidate. A group whose major purpose is to further the nomi-
27 nation, election, or candidacy of only one person, or intends to expend
28 more than 50 per cent of its money on a single candidate, shall be con-
29 sidered to be controlled by that candidate and its actions done with his

1 knowledge and consent unless, within 10 days from the date the candidate
2 learns of the existence of the group he files with the commission, on a
3 form provided by the commission, an affidavit that the group is operat-
4 ing without his control. A group organized for more than one year
5 preceding an election and endorsing candidates for more than one office
6 or more than one political party is presumed not to be controlled by a
7 candidate.

8 * Sec. 4. AS 15.13.060(c) and (d) are amended to read:

9 (c) Each candidate shall file the name and address of the campaign
10 treasurer with the commission no later than seven days after the date of
11 filing his declaration of candidacy or his nominating petition. [THE
12 NAME OF THE CANDIDATE MAY BE PLACED ON THE BALLOT BY THE LIEUTENANT
13 GOVERNOR OR MUNICIPAL CLERK ONLY IF THE CANDIDATE HAS COMPLIED WITH THIS
14 SUBSECTION.]

15 (d) In the case of the death, resignation or removal of a campaign
16 treasurer, the candidate shall appoint a successor as soon as practi-
17 cable and file his name and address with the commission within 48 hours
18 of the appointment. [THE CANDIDATE IS DISQUALIFIED WHEN HE HAS BEEN
19 FOUND TO HAVE BEEN IN WILFUL VIOLATION OF THIS SUBSECTION.]

20 * Sec. 5. AS 15.13.070(a) is amended to read:

21 (a) No person or group, including but not limited to all political
22 committees, businesses, corporations, and labor unions, may contribute
23 [TO OR EXPEND] more than \$1,000 a year to a candidate [ON BEHALF OF OR
24 IN OPPOSITION TO THE COMPETING CANDIDATES] for each elective office.
25 Political parties and their subdivisions are not subject to the limita-
26 tion prescribed in this subsection, but they are subject to the report-
27 ing requirements prescribed by secs. 40(b) and 110 of this chapter.
28 Nothing in this chapter prohibits

29 (1) a candidate from contributing more than \$1,000 of his own

1 money to his own campaign; or

2 (2) individuals or groups, including but not limited to all
3 political committees, businesses, corporations, and labor unions, from
4 contributing to or expending on behalf of a ballot proposition or ques-
5 tion more than \$1,000 a year; however, these contributions and expendi-
6 tures shall be reported in accordance with secs. 40 and 110 of this
7 chapter.

8 * Sec. 6. AS 15.13.090 is amended to read:

9 Sec. 15.13.090. IDENTIFICATION OF COMMUNICATION. All advertise-
10 ments, billboards, handbills, paid-for television and radio announce-
11 ments and other communications intended to influence the election of a
12 candidate or outcome of a ballot proposition or question shall be clear-
13 ly identified by the words "paid for by" followed by the name and
14 address of the candidate, group or individual paying for the advertis-
15 ing. [IN ADDITION, CANDIDATES AND GROUPS MUST IDENTIFY THE NAME OF THEIR
16 CAMPAIGN TREASURER.]

17 * Sec. 7. AS 15.13.100 is amended to read:

18 Sec. 15.13.100. CONTRIBUTIONS, EXPENDITURES BEFORE FILING. Politi-
19 cal [NO POLITICAL] campaign contributions or expenditures, [EXPENDITURE
20 MAY BE MADE] or obligations for those expenditures, may be received or
21 accepted and made or incurred by a person in an election or by a person
22 or group with his knowledge and on his behalf before the date upon which
23 he or she files for nomination for the office which the person seeks [,
24 EXCEPT FOR PERSONAL TRAVEL EXPENSES OR FOR OPINION SURVEYS OR POLLS].
25 However, these contributions or [THESE] expenditures [SHALL BE CHARGED
26 AGAINST THE SPENDING LIMITATION THAT APPLIES TO THE OFFICE FOR WHICH HE
27 SUBSEQUENTLY FILES, AND] shall be included in the first report required
28 under this chapter [AFTER FILING FOR OFFICE].

29 * Sec. 8. AS 15.13.110(b) and (c) are amended to read:

1 (b) Each contribution or expenditure which exceeds \$250 and which
2 is made within 10 days [ONE WEEK] of the election shall be reported to
3 the commission by date, amount, and contributor or recipient within 24
4 hours of receipt or expenditure by the candidate or campaign treasurer.

5 (c) [THE REPORTS OF CANDIDATES SHALL BE FILED WITH THE COMMIS-
6 SION'S CENTRAL OFFICE.] All statements, records and reports required by
7 this chapter are public records and shall be kept open for [TO] public
8 inspection. Within 30 days after each election, the commission shall
9 prepare a summary of reports [EACH REPORT] which shall be made available
10 to the public at cost upon request. Each summary shall use uniform
11 categories of reporting.

12 * Sec. 9. AS 15.13 is amended by adding a new section to read:

13 Sec. 15.13.121. CRIMINAL AND CIVIL PENALTIES; LIMITATIONS ON
14 ACTIONS. (a) A person who violates a provision of this chapter is
15 guilty of a misdemeanor and upon conviction is punishable by imprison-
16 ment for not more than one year or by a fine of not more than \$5,000. A
17 violation includes but is not limited to any of the following acts or
18 omissions:

19 (1) knowingly failing to make a statement or report required
20 to be made, or at the time it is required to be made, under this
21 chapter;

22 (2) knowingly making a false statement or false report
23 under this chapter;

24 (3) giving or furnishing money to another person or group
25 for the purpose of making a contribution or expenditure anonymously,
26 in a fictitious name, or in the name of another, or contributing in
27 violation of sec. 70(d) of this chapter;

28 (4) making a communication to support or defeat a candidate
29 without identification of sponsorship, in violation of sec. 90 of this

1 chapter;

2 (5) knowingly accepting a contribution in violation of sec.
3 70 of this chapter;

4 (6) providing false or misleading information in the course
5 of an investigation.

6 (b) In addition to the penalties provided for in (a) of this sec-
7 tion, a person who violates secs. 60 and 110 of this chapter is liable,
8 in a civil action, to the state for a sum to be assessed by the court of
9 not more than \$10,000 for each day on which the violation occurs and
10 which shall reflect, where applicable:

11 (1) reasonable compensation in the nature of liquidated
12 damages according to the benefit received by the candidate in not dis-
13 closing his campaign expenses; or

14 (2) reasonable costs incurred by the state in detection, in-
15 vestigation, and attempted correction of the violation.

16 (c) Action under (b) of this section may not be used for punitive
17 purposes and sums assessed by the court must be compensatory or remedial
18 in nature.

19 (d) The nomination for and election to an office of a candidate
20 who himself violates or whose campaign treasurer or deputy campaign
21 treasurer violates any of the following described provisions is voidable
22 if it is determined in an action filed under (e) of this section that a
23 candidate knowingly

24 (1) made a false statement on any report required of him
25 under this chapter;

26 (2) accepted a contribution in violation of secs. 70(b) or
27 70(d) of this chapter;

28 (3) made a campaign expenditure in violation of secs. 70(c),
29 70(h), or 100 of this chapter.

1 (e) When a violation of (d) of this section is charged, the case
2 shall be promptly tried and the case shall be accorded a preferred
3 status by the courts to ensure a speedy disposition on the matter.

4 (f) If in a proceeding under (e) of this section, a candidate is
5 convicted of a violation of (d) of this section and the action involved
6 a successful candidate at a general election for membership in the state
7 legislature or, at a municipal election, for a seat on a city council or
8 borough assembly, or to the office of borough or city mayor, the court
9 may not void the candidate's election to office.

10 (g) The commission by certified mail shall promptly notify all
11 persons who are delinquent in filing reports and statements, including
12 contributors who failed to file a statement in accordance with sec. 40
13 of this chapter, and shall make available a list of delinquents for
14 public inspection. The commission shall also report to the attorney
15 general the names of all candidates in an election whose campaign
16 treasurers have failed to file the reports required by this chapter.

17 (h) A candidate who, or whose campaign treasurer, has failed to
18 file reports required under this chapter may not file a declaration of
19 candidacy at a subsequent election for a public office subject to this
20 chapter until all delinquent reports required under this chapter have
21 been filed with the commission. The commission shall report to the
22 lieutenant governor and to municipal clerks all candidates who, or whose
23 campaign treasurers, have failed to file the required reports.

24 (i) A person who believes a violation of this chapter has occurred
25 may file a complaint with the commission. The commission shall expedi-
26 tiously make an investigation of the complaint. When the commission has
27 reasonable cause to believe that a person has engaged or is about to
28 engage in any acts or practices which constitute or will constitute a
29 violation of a provision of this chapter, or a regulation or order

1 issued under it, it shall promptly report the information to the attor-
2 ney general for appropriate action. The commission shall promptly
3 inform the person who filed the complaint of its disposition of the
4 matter.

5 (j) Prosecution for violation of a provision of this chapter may
6 not be commenced after four years have elapsed from the date of the
7 alleged violation.

8 * Sec. 10. AS 15.13.130(2) is amended to read:

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

18 (A) services provided without compensation by individu-
19 als volunteering a portion or all of their time on behalf of a
20 candidate or ballot proposition or question, but it does include
21 professional services volunteered by individuals for which they
22 ordinarily would be paid a fee or wage;

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

25 (C) ordinary hospitality in a home;

26 * Sec. 11. AS 15.13.130(3) is amended to read:

27 (3) "group" means every state and regional executive commit-
28 tee of a political party and, in addition, means any combination of two
29 or more persons or individuals acting jointly who take action the major

1 purpose of which is to influence the outcome of an election; [A GROUP
2 THAT MAKES EXPENDITURES OR RECEIVES CONTRIBUTIONS WITH THE AUTHORIZATION
3 OR CONSENT, EXPRESS OR IMPLIED, OR UNDER THE CONTROL, DIRECT OR IN-
4 DIRECT, OF A CANDIDATE SHALL BE CONSIDERED TO BE CONTROLLED BY THAT
5 CANDIDATE; A GROUP WHOSE MAJOR PURPOSE IS TO FURTHER THE NOMINATION,
6 ELECTION, OR CANDIDACY OF ONLY ONE PERSON, OR INTENDS TO EXPEND MORE
7 THAN 50 PER CENT OF ITS MONEY ON A SINGLE CANDIDATE, SHALL BE CONSIDERED
8 TO BE CONTROLLED BY THAT CANDIDATE AND ITS ACTIONS DONE WITH HIS KNOW-
9 LEDGE AND CONSENT UNLESS, WITHIN 10 DAYS FROM THE DATE THE CANDIDATE
10 LEARNS OF THE EXISTENCE OF THE GROUP HE FILES WITH THE COMMISSION, ON A
11 FORM PROVIDED BY THE COMMISSION, AN AFFIDAVIT THAT THE GROUP IS OPERAT-
12 ING WITHOUT HIS CONTROL; A GROUP ORGANIZED FOR MORE THAN ONE YEAR
13 PRECEDING AN ELECTION AND ENDORSING CANDIDATES FOR MORE THAN ONE OFFICE
14 OR MORE THAN ONE POLITICAL PARTY IS PRESUMED NOT TO BE CONTROLLED BY A
15 CANDIDATE; HOWEVER, A GROUP THAT CONTRIBUTES MORE THAN 50 PER CENT OF
16 ITS MONEY TO OR ON BEHALF OF ONE CANDIDATE SHALL BE CONSIDERED TO SUP-
17 PORT ONLY ONE CANDIDATE FOR PURPOSES OF SEC. 70 OF THIS CHAPTER, WHETHER
18 OR NOT CONTROL OF THE GROUP HAS BEEN DISCLAIMED BY THE CANDIDATE;]

19 * Sec. 12. AS 15.13.070(f) and (g), 15.13.080, and 15.13.120 are re-
20 pealed.

21 * Sec. 13. AS 29.13.100 is amended by adding a new paragraph to read:

22 (37) AS 29.23.060(c) (expulsion of borough assemblyman),
23 AS 29.23.130(f) (removal of borough mayor from office), AS 29.23.210(b)
24 (expulsion of city councilman from office), AS 29.23.255 (removal of
25 mayor from office), AS 29.28.050(f) (expulsion, removal from office).

26 * Sec. 14. AS 29.23.060(c) is amended to read:

27 (c) The assembly shall determine its own rules and order of
28 business and provide for keeping a journal of its proceedings. The
29 assembly is the judge of the election and qualifications of its members

1 and, with the concurrence of two-thirds of its members, may expel a mem-
2 ber for cause including but not limited to, for a conviction for a
3 violation of AS 15.13.121(d). The assembly shall consider that convic-
4 tion during its first meeting following final disposition of a con-
5 viction.

6 * Sec. 15. AS 29.23.130 is amended by adding a new subsection to read:

7 (f) Whether or not the borough mayor is a member of the assembly,
8 the assembly, with the concurrence of two-thirds of its members, may
9 remove the mayor from office upon conviction for a violation of AS 15.13
10 121(d). The assembly shall consider that conviction during its first
11 meeting following final disposition of a conviction.

12 * Sec. 16. AS 29.23.210(b) is amended to read:

13 (b) The council shall determine its own rules and order of busi-
14 ness and provide for keeping a journal of its proceedings. The council
15 is the judge of the election and qualifications of its members and,
16 with the concurrence of two-thirds of its members, may expel a member
17 for cause including but not limited to, for a conviction for a violation
18 of AS 15.13.121(d). The council shall consider that conviction during
19 its first meeting following final disposition of a conviction.

20 * Sec. 17. AS 29.23 is amended by adding a new section to read:

21 Sec. 29.23.255. REMOVAL FROM OFFICE. Whether or not the mayor is
22 a member of the council, the council, with the concurrence of two-thirds
23 of its members, may remove the mayor from office upon a conviction for a
24 violation of AS 15.13.121(d). The council shall consider that convic-
25 tion during its first meeting following final disposition of a convic-
26 tion.

27 * Sec. 18. AS 29.23.570(5) and (7) are amended to read:

28 (5) is removed or expelled from office;

29 (7) is convicted of a felony, [OR] of an offense involving a

1 violation of his oath of office, or the provisions of AS 15.13.121(d).

2 * Sec. 19. AS 29.28.050 is amended by adding a new subsection to read:

3 (f) Notwithstanding the provisions of (e) of this section, the
4 expulsion of a member of a borough assembly, under AS 29.23.060(c) or of
5 a member of a city council, under AS 29.23.210(b), or the removal of a
6 borough mayor, under AS 29.23.130(e), or of a city mayor, under AS 29.-
7 23.255, is not subject to judicial review.

8 * Sec. 20. AS 15.13.070(f) and (g), 15.13.080, and 15.13.120 are repealed.

9 * Sec. 21. This Act takes effect immediately in accordance with AS 01.-
10 10.070(c).

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