

Introduced: 5/13/81
Referred: Judiciary

Original sponsor: Kelly

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR SENATE BILL NO. 167 (State Affairs)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to election campaigns and to the
7 composition and responsibilities of the Alaska Public
8 Offices Commission; and providing for an effective
9 date."

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

11 * Section 1. AS 15.13.010(a) is amended to read:

12 (a) This chapter applies in every election for governor, lieuten-
13 ant governor, a member of the state legislature, a delegate to a con-
14 stitutional convention, or judge seeking electoral confirmation. It
15 also applies to every candidate for election to a municipal office in a
16 city or borough with a population of more than 1,000 inhabitants accord-
17 ing to the latest United States census figures or estimates of popula-
18 tion certified as correct for administrative purposes by the Department
19 of Community and Regional Affairs. This chapter does not apply to a
20 candidate for a service area board or to a candidate for a commission
21 that serves only in an advisory capacity. A municipality may exempt
22 candidates for municipal office and persons and groups active in
23 municipal election campaigns [ITS ELECTED MUNICIPAL OFFICERS] from the
24 requirements of this chapter if a majority of the voters voting on the
25 question at any regular election, as defined by AS 29.78.010(14), or a
26 special municipality-wide election called for that purpose, vote to
27 exempt candidates for municipal office and persons and groups active in
28 municipal election campaigns [ITS ELECTED MUNICIPAL OFFICERS] from the
29 requirements of this chapter. The question of exemption from the

1 requirements of this chapter may be submitted by the city council or
2 borough assembly by ordinance or by initiative ordinance. Nothing in
3 this chapter prohibits a municipality from regulating by ordinance
4 campaign contributions and expenditures.

5 * Sec. 2. AS 15.13.020(b) is repealed and reenacted to read:

6 (b) The governor shall appoint two members of the commission from
7 each of the two political parties whose candidates for governor re-
8 ceived the highest and the second highest number of votes at the most
9 recent preceding general election at which a governor was elected. The
10 fifth member of the commission shall be appointed without regard to
11 party affiliation.

12 * Sec. 3. AS 15.13.020(d) is repealed and reenacted to read:

13 (d) Members of the commission serve five-year terms. A member of
14 the commission serves until his successor is appointed and qualified.
15 The terms of two commission members who are members of the same politi-
16 cal party may not expire in consecutive years. The term of office of a
17 member of the commission dates from February 1 of the year of appoint-
18 ment.

19 * Sec. 4. AS 15.13.020(h) is amended to read:

20 (h) A vacancy on the commission shall be filled by the governor
21 [APPROPRIATE APPOINTING AUTHORITY] within 30 days of the occurrence of
22 the vacancy. The appointee shall serve for the remaining term of his
23 predecessor.

24 * Sec. 5. AS 15.13.030(10) is amended to read:

25 (10) adopt regulations and issue orders necessary to implement
26 and clarify the provisions of AS 24.45, AS 39.50 and this chapter,
27 subject to the provisions of the Administrative Procedure Act (AS 44.-
28 62).

29 * Sec. 6. AS 15.13.030 is amended by adding new subsections to read:

1 (b) A candidate who accepts a contribution or makes expenditures
2 which total more than \$250 after filing a report under (a) of this
3 section loses his exemption from the reporting requirements of this
4 chapter and shall file reports due under AS 15.13.110. The first
5 report is due three days after the acceptance of a contribution or the
6 making of an expenditure of more than \$250 by the candidate. A candi-
7 date who receives an unsolicited contribution and returns the contribu-
8 tion to the contributor within 72 hours of its receipt does not lose
9 the exemption provided in this section.

10 * Sec. 12. AS 15.13.045 is amended by adding a new subsection to read:

11 (e) The commission shall adopt regulations consistent with
12 AS 44.62.330 - 44.62.630 to establish a fair and impartial process for
13 taking of evidence and holding hearings in investigations and audits
14 conducted by the commission.

15 * Sec. 13. AS 15.13.050 is repealed and reenacted to read:

16 Sec. 15.13.050. GROUPS. (a) Each group, before making an expen-
17 diture on behalf of, or in opposition to, a candidate, or a contribution
18 to a candidate, shall register, on forms provided by the commission,
19 with the commission. If the group intends to support or oppose only
20 one candidate, or to contribute to or expend on behalf of, or in
21 opposition to, one candidate 50 percent or more of its funds, the name
22 of the candidate shall be a part of the name of the group. Promptly
23 upon receiving the registration, the commission shall notify the
24 candidate of the group's organization and intent.

25 (b) A group that makes expenditures or receives contributions
26 with the express or implied authorization or consent or is under the
27 direct or indirect control of a candidate is considered to be con-
28 trolled by the candidate.

29 (c) A group whose major purpose is to further the nomination or

1 election of a single candidate or which intends to expend 50 percent or
2 more of its money on a single candidate is considered to be controlled
3 by that candidate and its actions considered to have been done with the
4 knowledge and consent of the candidate unless, within 10 days from the
5 date the candidate learns from the commission of the existence of the
6 group, he files with the commission, on a form provided by the commis-
7 sion, an affidavit certifying that the group is operating without his
8 control.

9 (d) A group that contributes 50 percent or more of its money to
10 or on behalf of a single candidate is considered to support only that
11 single candidate for purposes of AS 15.13.070, whether or not control
12 of the group has been disclaimed by the candidate.

13 (e) A group organized for more than one year preceding an election
14 which endorses candidates for more than one office or candidates of
15 more than one political party is presumed not to be controlled by a
16 single candidate.

17 * Sec. 14. AS 15.13.070(a) is amended to read:

18 (a) A [NO] person or group, including but not limited to all
19 political committees, businesses, corporations, and labor unions, may
20 not contribute [TO OR EXPEND] more than \$1,000 a year on behalf of or
21 in opposition to a candidate [THE COMPETING CANDIDATES] for [EACH]
22 elective office. Political parties and their subdivisions are not
23 subject to the limitation prescribed in this subsection, but they are
24 subject to the reporting requirements prescribed by AS 15.13.040(b) and
25 15.13.110. Nothing in this chapter prohibits

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

28 (2) individuals or groups, including but not limited to all
29 political committees, businesses, corporations, and labor unions, from

1 (b) A new or amended regulation of the commission may not be
2 applied to a candidate or group during a period beginning 30 days
3 before the last date to file a declaration of candidacy or a nominating
4 petition in a state election and ending the day after the general
5 election.

6 (c) A new or amended regulation of the commission may not be
7 applied to a candidate or group during a period beginning 30 days
8 before the last day to file a declaration of candidacy or a nominating
9 petition in a municipal election and ending the day after the municipal
10 election.

11 * Sec. 7. AS 15.13.040(a) is amended to read:

12 Sec. 15.13.040. CONTRIBUTIONS AND [,] EXPENDITURES [AND SUPPLYING
13 OF SERVICES] TO BE REPORTED. (a) Each candidate shall make a full
14 report, upon a form prescribed by the commission, listing the total
15 [DATE AND] amount of all expenditures made or incurred by the candidate,
16 together with the date, amount, and check number for each expenditure
17 exceeding \$100 in value, the total amount of all contributions, includ-
18 ing all funds contributed by the candidate himself, and for all contri-
19 butions in excess of \$100 in the aggregate a year, the name, address,
20 principal occupation, and employer of the contributor and the date and
21 amount contributed by each contributor. The report shall be filed in
22 accordance with AS 15.13.110 and shall be certified correct by the
23 candidate or campaign treasurer. A campaign treasurer or deputy
24 treasurer may not certify a report under this section unless notice of
25 the appointment of the campaign treasurer or deputy campaign treasurer
26 by the candidate has been received by the commission.

27 * Sec. 8. AS 15.13.040(b)(3) is amended to read:

28 (3) the date and amount of all contributions received [MADE
29 BY IT] and all expenditures made, incurred or authorized by it includ-

1 ing the date, amount and check number of any expenditure exceeding \$100
2 in value.

3 * Sec. 9. AS 15.13.040(d) is amended to read:

4 (d) Every individual or [,] person, and every [OR] group that is
5 not required to report in accordance with (b) of this section, making
6 an [A CONTRIBUTION OR] expenditure shall make a full report, upon a
7 form prescribed by the commission, of [THE FOLLOWING CONTRIBUTIONS OR
8 EXPENDITURES: (1) ANY CONTRIBUTION OF CASH, GOODS OR SERVICES VALUED
9 AT MORE THAN \$100 A YEAR TO ANY GROUP OR CANDIDATE; OR (2)] any expen-
10 diture whatsoever for advertising in newspapers, on radio or on televi-
11 sion; or, for the publication, distribution or circulation of brochures,
12 flyers, or other campaign material for or against any candidate, [OR]
13 ballot proposition or question.

14 * Sec. 10. AS 15.13.040(e) is amended to read:

15 (e) The report required under (d) of this section shall contain
16 the name, address, principal occupation and employer of the individual
17 filing the report, and an itemized list of expenditures. The report
18 shall be filed with the commission [BY THE CONTRIBUTOR] no later than
19 10 days after the [CONTRIBUTION OR] expenditure is made. [A COPY OF
20 THE REPORT SHALL BE FURNISHED TO THE CANDIDATE, CAMPAIGN TREASURER OR
21 DEPUTY CAMPAIGN TREASURER AT THE TIME THE CONTRIBUTION IS MADE.]

22 * Sec. 11. AS 15.13 is amended by adding a new section to read:

23 Sec. 15.13.042. LIMITED CAMPAIGN ACTIVITY. (a) A candidate who
24 does not intend to accept contributions or make expenditures which
25 exceed \$250 in total value may file a report, upon a form prescribed by
26 the commission, informing the commission of his intent. The report may
27 be filed only once and may be filed either before or at the time the
28 candidate's first report is due under AS 15.13.110. The report shall
29 be certified as correct by the candidate.

1 contributing to or expending on behalf of a ballot proposition or ques-
2 tion more than \$1,000 a year; however, these contributions and expendi-
3 tures shall be reported in accordance with AS 15.13.040 and 15.13.110.

4 * Sec. 15. AS 15.13.070(b) is repealed and reenacted to read:

5 (b) A person may not make and a candidate or group may not accept
6 a contribution over \$100 in cash unless a receipt for the total amount
7 is issued by the candidate or group and received by the person making
8 the contribution.

9 * Sec. 16. AS 15.13.070(d) is amended to read:

10 (d) A [NO] contribution may not be made, and an [NO] expenditure
11 may not be made or incurred, directly or indirectly, anonymously, in a
12 fictitious name, or by one person or group in the name of another, to
13 influence the election of a candidate in an election. A contribution
14 made by a person wishing to remain anonymous, and received by a candi-
15 date, campaign treasurer or deputy campaign treasurer, may not be used
16 or expended, but shall be returned to the donor, if his identity is
17 known, and if his identity is not known [NO DONOR IS FOUND], the contri-
18 bution shall be [ESCHEATS TO THE STATE IF NOT] donated by the candidate
19 to the charity of his choice. A candidate may accept contributions of
20 \$5 or less without recording the name of the contributor.

21 * Sec. 17. AS 15.13.090 is amended to read:

22 Sec. 15.13.090. IDENTIFICATION OF COMMUNICATION. All advertise-
23 ments, billboards, handbills, paid-for television and radio announce-
24 ments and other communications intended to promote [INFLUENCE] the
25 election of a candidate which are paid for by the candidate or the cam-
26 paign committee of the candidate [OR OUTCOME OF A BALLOT PROPOSITION OR
27 QUESTION] shall be clearly identified by the words "paid for by"
28 followed by the name [AND ADDRESS] of the candidate or campaign commit-
29 tee of the candidate [, GROUP OR INDIVIDUAL PAYING FOR THE ADVERTISING.

1 IN ADDITION, CANDIDATES AND GROUPS MUST IDENTIFY THE NAME OF THEIR
2 CAMPAIGN CHAIRMAN].

3 * Sec. 18. AS 15.13.090 is amended by adding new subsections to read:

4 (b) All advertisements, billboards, handbills, paid-for television
5 and radio announcements, and other communications not paid for by a
6 candidate or the campaign committee of a candidate that are intended to
7 support or oppose a candidate, a ballot proposition, a referendum, or a
8 recall shall be identified by the words "paid for by" followed by the
9 name of the group, individual, or person, together with a mailing
10 contact address or telephone number.

11 (c) The commission may by regulation exempt from this section
12 communications which in its judgment do not afford space for the
13 identification required by this section.

14 * Sec. 19. AS 15.13.100 is amended to read:

15 Sec. 15.13.100. EXPENDITURES, CONTRIBUTIONS, AND REGISTRATION BE-
16 FORE FILING. Political campaign contributions may be made or received,
17 and expenditures [NO POLITICAL CAMPAIGN EXPENDITURE] may be made or
18 incurred by a candidate [PERSON] in an election, or by a person or
19 group with the candidate's [HIS] knowledge and on the candidate's [HIS]
20 behalf, before the date upon which the candidate [HE OR SHE] files for
21 nomination for the office which he [THE PERSON] seeks. The contribu-
22 tions and expenditures [, EXCEPT FOR PERSONAL TRAVEL EXPENSES OR FOR
23 OPINION SURVEYS OR POLLS. THESE EXPENDITURES SHALL BE CHARGED AGAINST
24 THE SPENDING LIMITATION THAT APPLIES TO THE OFFICE FOR WHICH HE SUBSE-
25 QUENTLY FILES, AND] shall be included in the first report required
26 under AS 15.13.110 [THIS CHAPTER AFTER FILING FOR OFFICE].

27 * Sec. 20. AS 15.13.110(b) is amended to read:

28 (b) Each contribution [OR EXPENDITURE] which exceeds \$250 and
29 which is made within 10 days [ONE WEEK] of the election shall be re-

1 reported to the commission by date, amount, and contributor [OR RECIP-
2 IENT] within 48 [24] hours of receipt [OR EXPENDITURE] by the candidate
3 or campaign treasurer or deputy treasurer.

4 * Sec. 21. AS 15.13.110 is amended by adding new subsections to read:

5 (f) The report required by (a)(3) of this section is the final
6 report if at the time the report is made

7 (1) there is no outstanding debt or obligation;

8 (2) the campaign fund has been closed;

9 (3) the campaign has been concluded; and

10 (4) in the case of a group, the group has dissolved.

11 (g) Reports shall be filed as required by (a)(4) of this section
12 by

13 (1) a candidate who has an outstanding debt or obligation
14 until the debt or obligation is satisfied;

15 (2) a group that has an outstanding debt or obligation until
16 the debt or obligation is satisfied or until the group is dissolved.

17 (h) When a final report has been submitted under this section,
18 the duties of the campaign treasurer cease and there is no obligation
19 to file further reports.

20 * Sec. 22. AS 15.13 is amended by adding a new section to read:

21 Sec. 15.13.115. COMPLAINTS. (a) A person who believes that a
22 violation of this chapter has occurred may file a complaint with the
23 commission. If the commission determines that there is substantial
24 reason to believe that a violation of this chapter has occurred, it
25 shall expeditiously investigate the subject matter of the complaint.
26 The investigation may include but is not limited to an investigation of
27 the reports and statements filed with the commission by the complainant,
28 if he is a candidate.

29 (b) If the commission determines, after notice and opportunity

1 for a hearing, that a person has violated a provision of this chapter
2 or a regulation or order issued under this chapter, the commission
3 shall promptly report its determination to the attorney general for
4 appropriate action.

5 (c) The commission shall report its determination to the person
6 who filed the complaint within 60 days of receiving the complaint,
7 unless circumstances require additional time to make an adequate inves-
8 tigation.

9 (d) The determination of the commission on a complaint may be
10 appealed to the superior court.

11 * Sec. 23. AS 15.13.120(a) is amended to read:

12 (a) A person who violates a provision of this subsection [CHAPTER]
13 is guilty of a class A misdemeanor [AND, UPON CONVICTION, IS PUNISHABLE
14 BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR OR BY A FINE OF NOT MORE
15 THAN \$5,000]. A violation includes [BUT IS NOT LIMITED TO] any of the
16 following acts or omissions:

17 (1) refusing or failing to make a reasonably complete state-
18 ment or report required to be made under this chapter [, OR FAILING TO
19 MAKE A STATEMENT OR REPORT AT THE TIME THE STATEMENT OR REPORT IS
20 REQUIRED TO BE MADE UNDER THIS CHAPTER];

21 (2) knowingly making a campaign contribution [OR EXPENDITURE]
22 which exceeds the limitations of AS 15.13.070(a) [AS 15.13.070(f)];

23 (3) knowingly making a false statement or report under this
24 chapter;

25 (4) giving or furnishing money to another person or groups
26 for the purpose of making a contribution or expenditure anonymously, in
27 a fictitious name, or in the name of another, or contributing in viola-
28 tion of AS 15.13.070(d);

29 (5) making a communication to support or defeat a candidate

1 without identification of sponsorship under AS 15.13.090(b) [, IN
2 VIOLATION OF AS 15.13.090];

3 (6) knowingly accepting a contribution in violation of
4 AS 15.13.070.

5 * Sec. 24. AS 15.13.120(c) is amended to read:

6 (c) Promptly after the final date for filing statements and re-
7 ports, the commission shall notify all persons who have become delin-
8 quent in filing them [, INCLUDING CONTRIBUTORS WHO FAILED TO FILE A
9 STATEMENT IN ACCORDANCE WITH AS 15.13.040,] and shall make available a
10 list of these delinquents for public inspection. The commission shall
11 also report to the attorney general the names of all candidates and
12 groups in an election whose campaign treasurers have failed to file the
13 reports required by this chapter.

14 * Sec. 25. AS 15.13 is amended by adding a new section to read:

15 Sec. 15.13.121. EFFECT OF CERTAIN CONVICTIONS. (a) If a success-
16 ful candidate for the state legislature or for a seat on a city council
17 or borough assembly or for borough or city mayor is convicted of a
18 misdemeanor described in AS 15.13.170(a)(1), (3), or (6), the eligi-
19 bility of the successful candidate to hold the office to which elected
20 shall be determined as to

21 (1) a member of the legislature under art. II, sec. 12 of
22 the state constitution;

23 (2) a borough assemblyman under AS 29.23.060(c);

24 (3) a borough mayor under AS 29.23.130(f);

25 (4) a city councilman under AS 29.23.210(b);

26 (5) a city mayor under AS 29.23.255.

27 (b) When a candidate or a nominee is charged with a misdemeanor
28 described in (a) of this section, the case shall be promptly tried and
29 the case shall be accorded a preferred status by the courts to ensure a

1 speedy disposition of the matter.

2 * Sec. 26. AS 15.13.130(1) is repealed and reenacted to read:

3 (1) "candidate" means an individual who seeks nomination for
4 election to, or election to, the state legislature, the office of
5 governor or lieutenant governor, or municipal office, or who seeks
6 retention in judicial office or nomination or election as a constitu-
7 tional convention delegate; an individual shall be considered to seek
8 nomination or election if

9 (A) he has taken the action necessary under the law of
10 this state to qualify himself for nomination or election to an
11 office;

12 (B) he has received contributions or made expenditures
13 before filing for office;

14 (C) he has given his consent, implicit or explicit, for
15 a person or group to receive contributions or make expenditures to
16 bring about his nomination or election to office;

17 (D) he has campaigned as a write-in candidate for
18 office; or

19 (E) he is the subject of a recall election;

20 * Sec. 27. AS 15.13.130(2) is amended by adding a new subparagraph to
21 read:

22 (D) a contribution that is returned to the contributor
23 within 72 hours of its receipt by a candidate or group;

24 * Sec. 28. AS 15.56.130 is amended to read:

25 Sec. 15.56.130. TIME LIMITATION. A prosecution for an offense
26 described in AS 15.05 - AS 15.10 and AS 15.15 - AS 15.60 [THE ALASKA
27 ELECTION CODE (AS 15.05 - 15.60)] may not be maintained unless it is
28 begun within one year after the date of the election in connection with
29 which the offense is alleged to have been committed.

1 * Sec. 29. AS 15.13.020(c), 15.13.040(f), 15.13.070(f) and (g), 15.13.-
2 110(d), and 15.13.120(b) are repealed.

3 * Sec. 30. Sections 2 - 10 and 12 - 29 of this Act take effect January 1,
4 1982.

5 * Sec. 31. Sections 1 and 11 of this Act take effect July 1, 1981.

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