

Original sponsor: Kelly

Offered: 6/4/81
Referred: Rules

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2

CS FOR SENATE BILL NO. 167 (Judiciary)

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."

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

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

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(a) This chapter applies in every election for governor, lieutenant governor, a member of the state legislature, a delegate to a constitutional convention, or judge seeking electoral confirmation. It also applies to every candidate for election to a municipal office in a city or borough with a population of more than 1,000 inhabitants according to the latest United States census figures or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs. This chapter does not apply to a candidate for a service area board or to a candidate for a commission that serves only in an advisory capacity. A municipality may exempt candidates for municipal office [ITS ELECTED MUNICIPAL OFFICERS] from the requirements of this chapter if a majority of the voters voting on the question at any regular election, as defined by AS 29.78.010(14), or a special municipality-wide election called for that purpose, vote to exempt candidates for municipal office and persons and groups active in municipal election campaigns [ITS ELECTED MUNICIPAL OFFICERS] from the requirements of this chapter. The question of exemption from the requirements of this chapter may be submitted by the city council or

1 borough assembly by ordinance or by initiative ordinance. Nothing in
2 this chapter prohibits a municipality from regulating by ordinance
3 campaign contributions and expenditures.

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 AS 15.13.020(b) is repealed and reenacted to read:

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

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

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

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

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

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

26 (10) adopt regulations and issue orders necessary to implement
27 and clarify the provisions of AS 24.45, AS 39.50 and this chapter,
28 subject to the provisions of the Administrative Procedure Act (AS 44.-
29 62).

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

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

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

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

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

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

29 (3) the date and amount of all contributions received [MADE

1 BY IT] and all expenditures made, incurred or authorized by it includ-
2 ing the date, amount and check number of any expenditure exceeding \$100
3 in value.

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

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

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

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

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

24 Sec. 15.13.042. LIMITED CAMPAIGN ACTIVITY. (a) A candidate who
25 does not intend to accept contributions that exceed \$250 in total value
26 and who does not intend to make expenditures that exceed \$250 in total
27 value may file a report, upon a form prescribed by the commission,
28 informing the commission of his intent to engage in limited campaign
29 activity. The report may be filed only once and may be filed either

1 before or at the time the candidate's first report is due under AS 15.-
2 13.110. The report shall be certified as correct by the candidate.

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

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

14 (e) The commission shall adopt regulations consistent with AS 44.-
15 62.330 - 44.62.630 to establish a fair and impartial process for taking
16 of evidence and holding hearings in investigations and audits conducted
17 by the commission.

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

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

28 (b) A group that makes expenditures or receives contributions
29 with the express or implied authorization or consent or is under the

1 direct or indirect control of a candidate is considered to be con-
2 trolled by the candidate.

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

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

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

20 * Sec. 14. AS 15.13.060(c) is amended to read:

21 (c) Each candidate for state office shall file the name and
22 address of the campaign treasurer and the campaign chairman with the
23 commission, or submit, in writing, the name and address of the campaign
24 treasurer and chairman to the lieutenant governor for filing with the
25 commission, no later than 15 days after the date of filing his declara-
26 tion of candidacy or his nominating petition. Each candidate for
27 municipal office shall file the name and address of the campaign trea-
28 surer and the campaign chairman with the commission no later than seven
29 days after the date of filing his declaration of candidacy or his

1 nominating petition. If the candidate does not designate a campaign
2 chairman the candidate is the campaign chairman. If the candidate does
3 not designate a campaign treasurer, the candidate is the campaign trea-
4 surer.

5 * Sec. 15. AS 15.13.070(a) is amended to read:

6 (a) A [NO] person or group, including but not limited to all
7 political committees, businesses, corporations, and labor unions, may
8 not contribute [TO OR EXPEND] more than \$1,000 a year on behalf of or
9 in opposition to a candidate [THE COMPETING CANDIDATES] for [EACH]
10 elective office. Political parties and their subdivisions are not
11 subject to the limitation prescribed in this subsection, but they are
12 subject to the reporting requirements prescribed by AS 15.13.040(b) and
13 15.13.110. Nothing in this chapter prohibits

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

16 (2) individuals or groups, including but not limited to all
17 political committees, businesses, corporations, and labor unions, from
18 contributing to or expending on behalf of a ballot proposition or ques-
19 tion more than \$1,000 a year; however, these contributions and expendi-
20 tures shall be reported in accordance with AS 15.13.040 and 15.13.110.

21 * Sec. 16. AS 15.13.070(b) is repealed and reenacted to read:

22 (b) A person may not make and a candidate or group may not accept
23 a contribution over \$100 in cash unless a receipt for the total amount
24 is issued by the candidate or group and received by the person making
25 the contribution. The commission may by regulation authorize candidates
26 and groups to accept a contribution of \$50 or less without recording
27 the name of the contributor.

28 * Sec. 17. AS 15.13.070(d) is amended to read:

29 (d) A [NO] contribution may not be made, and an [NO] expenditure

1 may not be made or incurred, directly or indirectly, anonymously, in a
2 fictitious name, or by one person or group in the name of another, to
3 influence the election of a candidate in an election. A contribution
4 made by a person wishing to remain anonymous, and received by a candi-
5 date, campaign treasurer or deputy campaign treasurer, may not be used
6 or expended, but shall be returned to the donor, if his identity is
7 known, and if his identity is not known [NO DONOR IS FOUND], the contri-
8 bution shall be [ESCHEATS TO THE STATE IF NOT] donated by the candidate
9 to the charity of his choice.

10 * Sec. 18. AS 15.13.090 is amended to read:

11 Sec. 15.13.090. IDENTIFICATION OF COMMUNICATION. All advertise-
12 ments, billboards, handbills, paid-for television and radio announce-
13 ments and other communications intended to promote [INFLUENCE] the
14 election of a candidate which are paid for by the candidate or the cam-
15 paign committee of the candidate [OR OUTCOME OF A BALLOT PROPOSITION OR
16 QUESTION] shall be clearly identified by the words "paid for by" fol-
17 lowed by the name [AND ADDRESS] of the candidate or campaign commit-
18 tee of the candidate [, GROUP OR INDIVIDUAL PAYING FOR THE ADVERTISING.
19 IN ADDITION, CANDIDATES AND GROUPS MUST IDENTIFY THE NAME OF THEIR
20 CAMPAIGN CHAIRMAN].

21 * Sec. 19. AS 15.13.090 is amended by adding new subsections to read:

22 (b) All advertisements, billboards, handbills, paid-for television
23 and radio announcements, and other communications not paid for by a
24 candidate or the campaign committee of a candidate that are intended to
25 support or oppose a candidate, a ballot proposition, a referendum, or a
26 recall shall be identified by the words "paid for by" followed by the
27 name of the group, individual, or person, together with a mailing
28 contact address or telephone number.

29 (c) The commission may by regulation exempt from this section

1 communications which in its judgment do not afford space for the identi-
2 fication required by this section.

3 * Sec. 20. AS 15.13.100 is amended to read:

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

16 * Sec. 21. AS 15.13.110(b) is amended to read:

17 (b) Each contribution [OR EXPENDITURE] which exceeds \$250 and
18 which is made within 10 days [ONE WEEK] of the election shall be re-
19 ported to the commission by date, amount, and contributor [OR RECIP-
20 IENT] within 48 [24] hours of receipt [OR EXPENDITURE] by the candidate
21 or campaign treasurer or deputy treasurer.

22 * Sec. 22. AS 15.13.110 is amended by adding new subsections to read:

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

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

26 (2) the campaign fund has been closed;

27 (3) the campaign has been concluded; and

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

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

1 by

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

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

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

9 * Sec. 23. AS 15.13 is amended by adding a new section to read:

10 Sec. 15.13.115. COMPLAINTS. (a) A person who believes that a
11 violation of this chapter has occurred may file a complaint with the
12 commission. If the commission determines that there is substantial
13 reason to believe that a violation of this chapter has occurred, it
14 shall expeditiously investigate the subject matter of the complaint.
15 The investigation may include but is not limited to an investigation of
16 the reports and statements filed with the commission by the complainant,
17 if he is a candidate.

18 (b) If the commission determines, after notice and opportunity
19 for a hearing, that a person has violated a provision of this chapter
20 or a regulation or order issued under this chapter, the commission
21 shall promptly report its determination to the attorney general for
22 appropriate action.

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

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

29 * Sec. 24. AS 15.13.120(a) is amended to read:

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

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

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

12 (3) knowingly making a false statement or report under this
13 chapter;

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

18 (5) making a communication to support or defeat a candidate
19 without identification of sponsorship, in violation of AS 15.13.090;

20 (6) knowingly accepting a contribution in violation of
21 AS 15.13.070.

22 * Sec. 25. AS 15.13.120(c) is amended to read:

23 (c) Promptly after the final date for filing statements and re-
24 ports, the commission shall notify all persons who have become delin-
25 quent in filing them [, INCLUDING CONTRIBUTORS WHO FAILED TO FILE A
26 STATEMENT IN ACCORDANCE WITH AS 15.13.040,] and shall make available a
27 list of these delinquents for public inspection. The commission shall
28 also report to the attorney general the names of all candidates and
29 groups in an election whose campaign treasurers have failed to file the

1 reports required by this chapter.

2 * Sec. 26. AS 15.13 is amended by adding a new section to read:

3 Sec. 15.13.121. EFFECT OF CERTAIN CONVICTIONS. (a) If a success-
4 ful candidate for the state legislature or for a seat on a city council
5 or borough assembly or for borough or city mayor is convicted of a
6 misdemeanor described in AS 15.13.120(a)(1), (3), or (6), the eligi-
7 bility of the successful candidate to hold the office to which elected
8 shall be determined as to

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

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

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

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

14 (5) a city mayor under AS 29.23.255.

15 (b) When a candidate or a nominee is charged with a misdemeanor
16 described in (a) of this section, the case shall be promptly tried and
17 the case shall be accorded a preferred status by the courts to ensure a
18 speedy disposition of the matter.

19 * Sec. 27. AS 15.13.130(1) is repealed and reenacted to read:

20 (1) "candidate" means an individual who seeks nomination for
21 election to, or election to, the state legislature, the office of
22 governor or lieutenant governor, or municipal office, or who seeks
23 retention in judicial office or nomination or election as a constitu-
24 tional convention delegate; an individual shall be considered to seek
25 nomination or election if

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

29 (B) he has received contributions or made expenditures

1 before filing for office;

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

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

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

8 * Sec. 28. AS 15.13.130(2) is amended by adding a new subparagraph to
9 read:

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

12 * Sec. 29. AS 15.56.130 is amended to read:

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

18 * Sec. 30. AS 15.13.020(c), 15.13.040(f), 15.13.070(f) and (g), 15.13.-
19 110(d), and 15.13.120(b) are repealed.

20 * Sec. 31. Sections 2 - 10 and 12 - 30 of this Act take effect January 1,
21 1982.

22 * Sec. 32. Sections 1 and 11 of this Act take effect July 1, 1981.
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