

Original sponsor: Kelly

Offered: 2/18/82

1 IN THE SENATE

BY THE RULES COMMITTEE

2

CS FOR SENATE BILL NO. 167 (Rules)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - SECOND 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, lieutenant
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 or groups active in municipal election
23 campaigns [ITS ELECTED MUNICIPAL OFFICERS] from the requirements of this
24 chapter if a majority of the voters voting on the question at any regu-
25 lar election, as defined by AS 29.78.010(14), or a special municipality-
26 wide election called for that purpose, vote to exempt candidates for
27 municipal office and persons and groups active in municipal election
28 campaigns [ITS ELECTED MUNICIPAL OFFICERS] from the requirements of this
29 chapter. The question of exemption from the requirements of this

1 chapter may be submitted by the city council or borough assembly by
2 ordinance or by initiative ordinance. Nothing in this chapter prohibits
3 a municipality from regulating by ordinance campaign contributions and
4 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 AS 15.13.020(b) is repealed and reenacted to read: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. An
10 appointee from a political party shall be chosen from a list of two
11 names submitted by the central committee of the political party. The
12 fifth member of the commission shall be appointed without regard to
13 party affiliation.

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 AS 15.13.020(d) is repealed and reenacted to read:

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

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

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

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

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

1 (AS 44.62).

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

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

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

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

14 Sec. 15.13.040. CONTRIBUTIONS AND [,] EXPENDITURES [AND SUPPLYING
15 OF SERVICES] TO BE REPORTED. (a) Each candidate shall make a full
16 report, upon a form prescribed by the commission, listing the total
17 [DATE AND] amount of all expenditures made or obligations incurred by
18 the candidate, together with the date, amount, and check number for
19 each expenditure exceeding \$250 in value, the total amount of all
20 contributions, including all funds contributed by the candidate himself,
21 and for all contributions in excess of \$250 [\$100] in the aggregate a
22 year, the name, address, principal occupation, and employer of the
23 contributor and the date and amount contributed by each contributor.
24 The report shall be filed in accordance with AS 15.13.110 and shall be
25 certified correct by the candidate or campaign treasurer. A campaign
26 treasurer or deputy treasurer may not certify a report under this
27 section unless notice of the appointment of the campaign treasurer or
28 deputy campaign treasurer by the candidate has been received by the
29 commission.

1 * Sec. 8. AS 15.13.040(b)(2) is amended to read:

2 (2) the aggregate amount of all contributions made to it;
3 and, for all contributions in excess of \$250 [\$100] in the aggregate a
4 year, the name, address, principal occupation, and employer of the
5 contributor, and the date and amount contributed by each contributor;
6 and

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

8 (3) the total [DATE AND] amount of [ALL CONTRIBUTIONS MADE
9 BY IT AND] all expenditures made, incurred or authorized by it includ-
10 ing the date, amount and check number of any expenditure exceeding \$250
11 in value.

12 * Sec. 10. AS 15.13.040(d) is amended to read:

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

23 * Sec. 11. AS 15.13.040(e) is amended to read:

24 (e) The report required under (d) of this section shall contain
25 the name, address, principal occupation and employer of the individual
26 filing the report, and an itemized list of expenditures. The report
27 shall be filed with the commission [BY THE CONTRIBUTOR] no later than
28 10 days after the [CONTRIBUTION OR] expenditure is made. [A COPY OF
29 THE REPORT SHALL BE FURNISHED TO THE CANDIDATE, CAMPAIGN TREASURER OR

1 DEPUTY CAMPAIGN TREASURER AT THE TIME THE CONTRIBUTION IS MADE.]

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

3 Sec. 15.13.042. LIMITED CAMPAIGN ACTIVITY. (a) A candidate who
4 does not intend to accept contributions that exceed \$250 in total value
5 and who does not intend to make expenditures that exceed \$250 in total
6 value may file a report, upon a form prescribed by the commission,
7 informing the commission of his intent to engage in limited campaign
8 activity. The report may be filed only once and shall be filed at the
9 time the candidate's first report is due under AS 15.13.110. The
10 report shall be certified as correct by the candidate.

11 (b) A candidate who accepts contributions that exceed \$250 in
12 total value or makes expenditures that exceed more than \$250 in total
13 value after filing a report under (a) of this section loses his exemp-
14 tion from the reporting requirements and shall file reports due under
15 AS 15.13.110. The first report is due three days after the loss of the
16 exemption. A candidate who receives a contribution and returns the
17 contribution to the contributor within 72 hours of its receipt does not
18 lose the exemption from the reporting requirements.

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

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

24 * Sec. 14. AS 15.13.050 is repealed and reenacted to read:

25 Sec. 15.13.050. GROUPS. (a). Each group, before making an expen-
26 diture on behalf of or in opposition to a candidate or a ballot issue
27 or before making a contribution to a candidate, shall register with the
28 commission on forms provided by the commission.

29 (b) If the group intends to support or oppose only one candidate

1 or contributes or expends 50 percent or more of its funds to, on behalf
2 of, or in opposition to one candidate, the name of the group shall
3 clearly identify support for or opposition to the candidate.

4 (c) A group that makes expenditures or receives contributions
5 with the express or implied authorization or consent or is under the
6 direct or indirect control of a candidate is considered to be con-
7 trolled by the candidate.

8 (d) A group whose major purpose is to further the nomination or
9 election of a single candidate or that expends 50 percent or more of
10 its money on a single candidate is considered to be controlled by that
11 candidate and its actions considered to have been done with the knowledge
12 and consent of the candidate unless, within 10 days from the date
13 the candidate is notified by the commission of the existence of the
14 group, he files with the commission an affidavit certifying that the
15 group is operating without his control.

16 (e) A group that contributes 50 percent or more of its money to
17 or on behalf of a single candidate is considered to support only that
18 single candidate for purposes of AS 15.13.070, whether or not control
19 of the group has been disclaimed by the candidate.

20 (f) A group that is organized for more than one year preceding an
21 election and that endorses more than one candidate is presumed not to
22 be controlled by a single candidate.

23 * Sec. 15. AS 15.13.060(c) is amended to read:

24 (c) Each candidate for state office shall file the name and
25 address of the campaign treasurer and the campaign chairman with the
26 commission, or submit, in writing, the name and address of the campaign
27 treasurer and chairman to the director [LIEUTENANT GOVERNOR] for filing
28 with the commission, no later than 15 days after the date of filing his
29 declaration of candidacy or his nominating petition. Each candidate

1 for municipal office shall file the name and address of the campaign
2 treasurer and the campaign chairman with the commission no later than
3 seven days after the date of filing his declaration of candidacy or his
4 nominating petition. If the candidate does not designate a campaign
5 chairman the candidate is the campaign chairman. If the candidate does
6 not designate a campaign treasurer, the candidate is the campaign trea-
7 surer.

8 * Sec. 16. AS 15.13.070(a) is amended to read:

9 (a) A [NO] person or group, including but not limited to all
10 political committees, businesses, corporations, and labor unions, may
11 not contribute [TO OR EXPEND] more than \$2,000 [\$1,000] a year on
12 behalf of or in opposition to a candidate [THE COMPETING CANDIDATES]
13 for [EACH] elective office. Political parties and their subdivisions
14 are not subject to the limitation prescribed in this subsection, but
15 they are subject to the reporting requirements prescribed by AS 15.13-
16 40(b) and 15.13.110. Nothing in this chapter prohibits

17 (1) a candidate from contributing more than \$2,000 [\$1,000]
18 of his own money to his own campaign; or

19 (2) individuals or groups, including but not limited to all
20 political committees, businesses, corporations, and labor unions, from
21 contributing to or expending on behalf of a ballot proposition or ques-
22 tion more than \$2,000 [\$1,000] a year; however, these contributions and
23 expenditures shall be reported in accordance with AS 15.13.040, 15.13.-
24 080, and 15.13.110.

25 * Sec. 17. AS 15.13.070(b) is repealed and reenacted to read:

26 (b) A person may not make and a candidate or group may not accept
27 a contribution over \$100 in cash unless a receipt for the total amount
28 is issued by the candidate or group and received by the person making
29 the contribution. The commission may by regulation authorize candidates

1 and groups to accept a contribution of \$50 or less without recording
2 the name of the contributor.

3 * Sec. 18. AS 15.13.070(d) is amended to read:

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

14 * Sec. 19. AS 15.13.090 is amended to read:

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

25 * Sec. 20. AS 15.13.090 is amended by adding new subsections to read:

26 (b) All advertisements, billboards, handbills, paid-for television
27 and radio announcements, and other communications not paid for by a
28 candidate or the campaign committee of a candidate that are intended to
29 support or oppose a candidate, a ballot proposition, a referendum, or a

1 recall shall be identified by the words "paid for by" followed by the
2 name of the group, individual, or person, together with a mailing
3 contact address or telephone number.

4 (c) The commission may by regulation exempt from this section
5 communications that in its judgment do not afford space for the identi-
6 fication required by this section.

7 * Sec. 21. AS 15.13.100 is amended to read:

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

20 * Sec. 22. AS 15.13.110(a)(4) is amended to read:

21 (4) January 10 [DECEMBER 31 OF EACH YEAR] for expenditures
22 and contributions received through December 31 of the preceding year
23 which were not reported that year.

24 * Sec. 23. AS 15.13.110(b) is amended to read:

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

1 * Sec. 24. AS 15.13.110 is amended by adding new subsections to read:

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

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

5 (2) the campaign fund has been closed;

6 (3) the campaign has been concluded; and

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

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

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

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

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

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

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

26 (d) If the commission determines, after notice and opportunity
27 for a hearing, that a person has violated a provision of this chapter
28 or a regulation or order issued under this chapter, the commission
29 shall promptly report its determination to the attorney general for

1 appropriate action.

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

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

8 * Sec. 26. AS 15.13.120(a) is amended to read:

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

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

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

20 (3) knowingly making a false statement or report under this
21 chapter;

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

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

28 (6) knowingly accepting a contribution in violation of
29 AS 15.13.070.

1 * Sec. 27. AS 15.13.120(c) is amended to read:

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

10 * Sec. 28. AS 15.13.130(1) is repealed and reenacted to read:

11 (1) "candidate" means an individual who seeks nomination for
12 election to, or election to, the state legislature, the office of
13 governor or lieutenant governor, or municipal office, or who seeks
14 retention in judicial office or nomination or election as a constitu-
15 tional convention delegate; an individual shall be considered to seek
16 nomination or election if

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

20 (B) he has received contributions or made expenditures
21 before filing for office;

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

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

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

28 * Sec. 29. AS 15.13.130(2) is amended by adding a new subparagraph to
29 read:

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

3 * Sec. 30. AS 15.13.130(3) is amended to read:

4 (3) "group" means every state and regional executive commit-
5 tee of a political party and, in addition, means any combination of two
6 or more persons or individuals acting jointly who take action the
7 major purpose of which is to influence the outcome of an election; [A
8 GROUP THAT MAKES EXPENDITURES OR RECEIVES CONTRIBUTIONS WITH THE
9 AUTHORIZATION OR CONSENT, EXPRESS OR IMPLIED, OR UNDER THE CONTROL,
10 DIRECT OR INDIRECT, OF A CANDIDATE SHALL BE CONSIDERED TO BE CONTROLLED
11 BY THAT CANDIDATE; A GROUP WHOSE MAJOR PURPOSE IS TO FURTHER THE
12 NOMINATION, ELECTION, OR CANDIDACY OF ONLY ONE PERSON, OR INTENDS TO
13 EXPEND MORE THAN 50 PERCENT OF ITS MONEY ON A SINGLE CANDIDATE, SHALL
14 BE CONSIDERED TO BE CONTROLLED BY THAT CANDIDATE AND ITS ACTIONS DONE
15 WITH HIS KNOWLEDGE AND CONSENT UNLESS, WITHIN 10 DAYS FROM THE DATE THE
16 CANDIDATE LEARNS OF THE EXISTENCE OF THE GROUP HE FILES WITH THE
17 COMMISSION, ON A FORM PROVIDED BY THE COMMISSION, AN AFFIDAVIT THAT THE
18 GROUP IS OPERATING WITHOUT HIS CONTROL; A GROUP ORGANIZED FOR MORE THAN
19 ONE YEAR PRECEDING AN ELECTION AND ENDORSING CANDIDATES FOR MORE THAN
20 ONE OFFICE OR MORE THAN ONE POLITICAL PARTY IS PRESUMED NOT TO BE
21 CONTROLLED BY A CANDIDATE; HOWEVER, A GROUP THAT CONTRIBUTES MORE THAN
22 50 PERCENT OF ITS MONEY TO OR ON BEHALF OF ONE CANDIDATE SHALL BE
23 CONSIDERED TO SUPPORT ONLY ONE CANDIDATE FOR PURPOSES OF AS 15.13.070,
24 WHETHER OR NOT CONTROL OF THE GROUP HAS BEEN DISCLAIMED BY THE CANDI-
25 DATE;]

26 * Sec. 31. AS 15.56.130 is amended to read:

27 Sec. 15.56.130. TIME LIMITATION. A prosecution for an offense
28 described in AS 15.05 - AS 15.10 and AS 15.15 - AS 15.60 [THE ALASKA
29 ELECTION CODE (AS 15.05 - 15.60)] may not be maintained unless it is

1 begun within one year after the date of the election in connection with
2 which the offense is alleged to have been committed.

3 * Sec. 32. AS 15.13.020(c), 15.13.040(f), 15.13.070(f) and (g), 15.13.-
4 110(d), and 15.13.120(d) are repealed.

5 * Sec. 33. This Act takes effect immediately in accordance with AS 01.-
6 10.070(c).

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