

CS FOR SENATE BILL NO. 243 (ETHICS REFORM)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE SPECIAL COMMITTEE ON ETHICS REFORM

Offered: 5/3/91
Referred: Finance

Sponsor(s): SENATE SPECIAL COMMITTEE ON ETHICS REFORM

A BILL

FOR AN ACT ENTITLED

**1 "An Act relating to election campaign financing, to restrictions on election campaign
2 material, and to the Alaska Public Offices Commission."**

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

4 * Section 1. AS 15.13.030 is amended by adding a new paragraph to read:

**5 (11) issue an advisory opinion to a person affected by this chapter regarding the
6 interpretation of this chapter within 30 days of the request for the opinion or within an additional
7 period of time that the person requesting the opinion may agree to; the advisory opinion issued
8 is binding on the commission in a subsequent proceeding concerning the facts and circumstances
9 set out in the request for an advisory opinion, unless material facts were omitted or misstated in
10 the request.**

11 * Sec. 2. AS 15.13 is amended by adding new sections to read:

**12 Sec. 15.13.041. PROHIBITED SOLICITATION OF CONTRIBUTIONS. (a) A public
13 officer or employee of the state or of a municipality may not, while on the premises of a state
14 or municipal building, solicit or request a contribution to a candidate, group, or political party.**

1 (b) A person may not solicit or request a public officer to contribute to a candidate,
2 group, or political party while the public officer or employee is on the premises of a state or
3 municipal building.

4 (c) A candidate, a candidate's campaign treasurer or deputy campaign treasurer, a group,
5 or an officer of a group may not accept a contribution that the candidate, campaign treasurer,
6 deputy campaign treasurer, group, or officer of a group knows was obtained in violation of this
7 section. A person who violates this subsection is guilty of a class A misdemeanor and may be
8 fined an amount provided in AS 12.55.035 or an amount equal to four times the amount of the
9 illegal contribution, whichever is greater.

10 Sec. 15.13.043. USE OF PUBLIC OFFICE OR AGENCY FACILITIES IN A
11 CAMPAIGN. (a) A person may not use or authorize the use of public funds or property, or the
12 time of a public officer or employee, to influence the outcome of an election.

13 (b) A person may not use or authorize the use of public funds or property, or the time
14 of a public officer or employee, to produce, print, publish, broadcast, or otherwise disseminate
15 material designed and timed to influence the results of an election, regardless of the lack of
16 specific reference to the election.

17 (c) A person may not solicit, verbally or in writing, or receive a contribution on behalf
18 of a candidate or group in a facility ordinarily used for the conduct of public business.

19 (d) A person may not deliver a contribution, or cause a contribution to be delivered, in
20 a facility ordinarily used for the conduct of public business, other than a postal facility.

21 (e) A person may not distribute or post, or cause to be distributed or posted, a
22 communication designed to influence the outcome of an election in a public building.

23 (f) Nothing in this section prohibits

24 (1) the division of elections from preparing and distributing the voter election
25 pamphlet under AS 15.58;

26 (2) nonpartisan voter registration activities;

27 (3) action taken at a public meeting by members of the legislature, of a committee
28 of the legislature, or of a state or municipal board or commission, expressing a collective decision
29 or voting on a motion, proposal, bill, resolution, ordinance, or order;

30 (4) action by an elected public official of the state or of a municipality in support
31 of or in opposition to a ballot proposition or question at an open press conference or in response

1 to a specific inquiry.

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

3 (b) Two or more groups, other than political parties and subdivisions of political parties,
4 in which two or more persons hold office in each group are considered to be a single group for
5 purposes of the contribution limitations of this chapter.

6 * Sec. 4. AS 15.13.060 is amended by adding a new subsection to read:

7 (g) A person may not serve as a campaign treasurer or deputy campaign treasurer during
8 a calendar year in which the person was required to register as a lobbyist under AS 24.45, unless
9 the person acted only as a representational lobbyist as defined in the regulations of the
10 commission.

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

12 (a) A person or group, including but not limited to all political committees, businesses,
13 corporations, and labor unions, may not contribute to or expend more than \$1,000 in a calendar
14 year, whether in money, goods, or services, or a combination of money, goods, and services,
15 on behalf of or in opposition to the competing candidates for each elective office. Political
16 parties and their subdivisions are not subject to the limitation prescribed in this subsection, but
17 they are subject to the reporting requirements prescribed by AS 15.13.040(b) and 15.13.110. This
18 chapter does not prohibit

19 (1) a candidate from contributing more than \$1,000 of the candidate's own money
20 to the candidate's own campaign; or

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

25 * Sec. 6. AS 15.13.070(c) is amended to read:

26 (c) An expenditure over \$100 may not be made in cash [OR BY CASH PAYMENT
27 UNLESS A WRITTEN RECEIPT IS OBTAINED AND FILED WITH THE COMMISSION].

28 * Sec. 7. AS 15.13.070(d) is amended to read:

29 (d) A contribution may not be made, and an expenditure may not be made or incurred,
30 directly or indirectly, anonymously, in a fictitious name, or by one person or group in the name
31 of another, to influence the election of a candidate in an election. A contribution made by a

1 person wishing to remain anonymous, and received by a candidate, campaign treasurer or deputy
2 campaign treasurer, may not be used or expended, but shall be returned within 10 days to the
3 donor, if the donor's identity is known, and if no donor is found, the contribution escheats to the
4 state if not donated by the candidate to the charity of the candidate's choice. A contribution
5 from a minor under the age of 18, other than a minor who has been emancipated or who
6 is married, is considered to have been made by a parent or guardian of the individual
7 under the age of 18, and shall be counted toward the contribution limit established by this
8 section.

9 * Sec. 8. AS 15.13.070 is amended by adding new subsections to read:

10 (i) A candidate or a group controlled by a candidate may not make a contribution to
11 another candidate, except that a candidate may make a contribution to another candidate from
12 the candidate's own personal funds.

13 (j) An individual or a group may not make a loan to a candidate or to a group, or
14 guarantee a loan made by another to a candidate or to a group. This subsection does not prohibit

15 (1) a contribution in the form of a loan by a candidate or by the spouse, parent,
16 or child of a candidate to the candidate's campaign;

17 (2) an extension of credit by a person made in the person's regular course of
18 business to a candidate or a group; or

19 (3) a loan by a regulated financial institution to a candidate or group on the same
20 terms as would apply to a loan by the financial institution to a similarly situated member of the
21 public.

22 (k) A person may not act as an intermediary to transmit contributions to a candidate or
23 group from a person or group. In this section, "intermediary" does not include a candidate, a
24 treasurer, deputy treasurer, or other campaign officer, a financial institution, or a person
25 voluntarily hosting a fund-raising event at the person's home.

26 (l) A candidate for the legislature, including an incumbent legislator, may not

27 (1) solicit or accept a contribution during a legislative session; or

28 (2) accept money from an event held during a legislative session if a substantial
29 purpose of the event is either to raise money on behalf of the member for campaign purposes or
30 to raise money for state legislative political purposes.

31 (m) A municipality or a school district, or an officer or employee of a municipality or

1 a school district, acting in an official capacity, may not make a contribution to a candidate or to
2 a group.

3 * Sec. 9. AS 15.13 is amended by adding new sections to read:

4 Sec. 15.13.072. PERSONAL USE PROHIBITED. A candidate for public office may not
5 use campaign funds for personal purposes, convert campaign funds into personal income, or
6 convert goods purchased with campaign funds for personal use.

7 Sec. 15.13.074. DISBURSEMENT OF CAMPAIGN ACCOUNTS. (a) If a candidate
8 for public office or a group has unexpended and unobligated funds after the date of the election,
9 the candidate or group shall, no later than January 15 of the year following the election,

10 (1) elect to carry forward the funds for a future election campaign;

11 (2) donate the funds to an organization that qualifies as a charitable organization
12 under 26 U.S.C. 501(c), to a political party as defined in AS 15.60.010, or to the state or a
13 municipality;

14 (3) return the funds on a pro rata basis to the contributors to the candidate or
15 group; or

16 (4) transfer the funds to a legislative office account for expenditures qualifying
17 as business expenses under 26 U.S.C. 162.

18 (b) In addition to the uses listed in (a) of this section, a candidate may, no later than
19 January 15 of the year following the election, use unexpended and unobligated funds remaining
20 after the election to repay the candidate's contributions to the candidate's campaign.

21 (c) Equipment owned by a candidate or group shall, no later than January 15 of the year
22 following the election, be carried forward or donated as provided in (a)(1) and (2) of this section.
23 If the equipment was purchased solely with funds provided by a candidate personally, the
24 candidate may convert the equipment to the candidate's personal use.

25 (d) A candidate or group that elects to carry forward campaign funds for a future election
26 under (a)(1) of this section shall file an annual report with the commission under
27 AS 15.13.110(a)(4) in the year following the election, even if the candidate or group makes no
28 expenditures or receives no contributions during that year.

29 (e) Funds carried forward under (a)(1) of this section may, even after the transfer, be
30 disbursed as provided in (a) and (b) of this section. Equipment carried forward under (c) of this
31 section may, even after the transfer, be distributed as provided by that subsection.

1 (f) This section does not apply to a group that is organized to influence elections on an
2 ongoing basis.

3 Sec. 15.13.076. RESPONSIBILITY FOR VIOLATIONS. A candidate is responsible for
4 violations of this chapter by officers of the candidate's campaign committee, and the head of a
5 group is responsible for violations of this chapter by other officers of a group. Penalties assessed
6 against a candidate's campaign committee or against a group may be assessed directly against
7 the candidate or the head of the group.

8 Sec. 15.13.078. MUNICIPAL SPENDING PROHIBITED. (a) An officer or employee
9 of a state agency, a municipality, or a school district acting in an official capacity may not
10 expend state funds or municipal or school district funds, or authorize the expenditure of state
11 funds or municipal or school district funds, to influence the outcome of an election for a public
12 office or on a ballot proposition.

13 (b) This section does not prohibit the expenditure of state funds or municipal or school
14 district funds to provide to the public neutral information regarding the dates of an election and
15 the candidates and ballot propositions appearing on the ballot.

16 * Sec. 10. AS 15.13.120(d) is amended to read:

17 (d) A person who believes a violation of this chapter has occurred may file a complaint
18 with the commission. The complaint must include a statement, made under oath, that the
19 factual statements in the complaint are true, to the best of the complainant's knowledge.
20 If the commission determines there is substantial reason to believe that a violation has occurred,
21 it shall expeditiously make an investigation, which may also include an investigation of reports
22 and statements filed by the complainant if the complainant is a candidate, of the matter
23 complained of. When, in the judgment of the commission, after affording due notice and an
24 opportunity for a hearing, a person has engaged or is about to engage in any acts or practices
25 which constitute or will constitute a violation of a provision of this chapter, or a regulation or
26 order issued under it, it shall promptly report the information to the attorney general for
27 appropriate action. The commission shall report its determination and recommendation to the
28 person who filed the complaint with the commission within 60 days of receiving the complaint
29 unless circumstances require additional time to make an adequate investigation. The finding of
30 the commission may be appealed to the superior court.

31 * Sec. 11. AS 15.13.120 is amended by adding new subsections to read:

1 (i) Proceedings of the commission relating to complaints before it under this section are
2 confidential until the commission determines that there is probable cause to believe that a
3 violation of this chapter has occurred. The complaint and all documents produced or disclosed
4 as a result of the commission's investigation are confidential and not subject to inspection by the
5 public. All meetings of the commission relating to the complaint are closed to the public before
6 the determination of probable cause is made. The confidentiality provisions of this subsection
7 may be waived by the subject of the complaint.

8 (j) Except as provided in (i) of this section, meetings of the commission relating to a
9 complaint are governed by AS 44.62.310 - 44.62.312 (Open Meetings Act), and records in the
10 possession of the commission relating to the complaint are subject to AS 09.25.110 - 09.25.125.

11 * Sec. 12. AS 15.13.130 is amended by adding new paragraphs to read:

12 (8) "commission" means the Alaska Public Offices Commission created in
13 AS 15.13.020;

14 (9) "school district" means a municipal school district or a regional educational
15 attendance area established under AS 14.08;

16 (10) "state agency" means a department, agency, instrumentality, or corporate
17 authority of the state, whether in the executive, legislative, or judicial branch, and includes the
18 University of Alaska.

19 * Sec. 13. AS 15.58.030 is amended by adding a new subsection to read:

20 (h) A candidate, or a person on behalf of a candidate, submitting material under this
21 section shall swear that factual statements contained in the material are true to the best of the
22 candidate's or person's knowledge. A candidate or person who knowingly swears falsely is
23 guilty of perjury under AS 11.56.200.

24 * Sec. 14. AS 24.60.030(f) and 24.60.030(g) are repealed.