

H B

857

COMMITTEE REPORT

3/23/76

HOUSE

Mr. Speaker:

Date May 14, 1976

The Committee on JUDICIARY has had HB 857

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

S. S. [Signature] → NO REL

Members NOT concurring in the Majority report:

[Signature] recommends: do not pass
[Signature] recommends: _____
_____ recommends: _____
_____ recommends: _____
_____ recommends: _____

[Signature] Chairman

Original sponsor: State Affairs Committee

#1

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 the election campaign disclosure
7 law; and providing for an effective date."

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

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

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

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

28 (d) Every individual or [,] person [OR GROUP] making a contribu-
29 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 taria], 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. EXPENDITURES BEFORE FILING. Political [NO POLITI-
19 CAL] campaign expenditure may be made or obligation for that expenditure
20 incurred by a person in an election or by a person or group with his
21 knowledge and on his behalf before the date upon which he or she files
22 for nomination for the office which the person seeks [, EXCEPT FOR
23 PERSONAL TRAVEL EXPENSES OR FOR OPINION SURVEYS OR POLLS]. However,
24 these [THESE] expenditures [SHALL BE CHARGED AGAINST THE SPENDING LIMI-
25 TATION THAT APPLIES TO THE OFFICE FOR WHICH HE SUBSEQUENTLY FILES, AND]
26 shall be included in the first report required under this chapter [AFTER
27 FILING FOR OFFICE].

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

29 (b) Each contribution or expenditure which exceeds \$250 and which

1 is made within 10 days [ONE WEEK] of the election shall be reported to
2 the commission by date, amount, and contributor or recipient within 24
3 hours of receipt or expenditure by the candidate or campaign treasurer.

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

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

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

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

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

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

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

29 (5) knowingly accepting a contribution in violation of sec.

1 70 of this chapter;

2 (6) providing false or misleading information in the course
3 of an investigation.

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

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

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

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

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

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

24 (2) accepted a contribution in violation of secs. 70(b) or
25 70(d) of this chapter;

26 (3) made a campaign expenditure in violation of secs. 70(c),
27 70(h), or 100 of this chapter.

28 (e) When a violation of (f) of this section is charged, the case
29 shall be promptly tried and the case shall be accorded a preferred

1 status by the courts to ensure a speedy disposition on the matter.

2 (f) The commission by certified mail shall promptly notify all
3 persons who are delinquent in filing reports and statements, including
4 contributors who failed to file a statement in accordance with sec. 40
5 of this chapter, and shall make available a list of delinquents for
6 public inspection. The commission shall also report to the attorney
7 general the names of all candidates in an election whose campaign
8 treasurers have failed to file the reports required by this chapter.

9 (g) A candidate who, or whose campaign treasurer, has failed to
10 file reports required under this chapter may not file a declaration of
11 candidacy at a subsequent election for a public office subject to this
12 chapter until all delinquent reports required under this chapter have
13 been filed with the commission. The commission shall report to the
14 lieutenant governor and to municipal clerks all candidates who, or whose
15 campaign treasurers, have failed to file the required reports.

16 (h) A person who believes a violation of this chapter has occurred
17 may file a complaint with the commission. The commission shall expedi-
18 tiously make an investigation of the complaint. When the commission has
19 reasonable cause to believe that a person has engaged or is about to
20 engage in any acts or practices which constitute or will constitute a
21 violation of a provision of this chapter, or a regulation or order
22 issued under it, it shall promptly report the information to the attor-
23 ney general for appropriate action. The commission shall promptly
24 inform the person who filed the complaint of its disposition of the
25 matter.

26 (i) Prosecution for violation of a provision of this chapter may
27 not be commenced after four years have elapsed from the date of the
28 alleged violation.

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

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

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

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

17 (C) ordinary hospitality in a home;

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

19 (3) "group" means every state and regional executive commit-
20 tee of a political party and, in addition, means any combination of two
21 or more persons or individuals acting jointly who take action the major
22 purpose of which is to influence the outcome of an election; [A GROUP
23 THAT MAKES EXPENDITURES OR RECEIVES CONTRIBUTIONS WITH THE AUTHORIZATION
24 OR CONSENT, EXPRESS OR IMPLIED, OR UNDER THE CONTROL, DIRECT OR INDIRECT
25 OF A CANDIDATE SHALL BE CONSIDERED TO BE CONTROLLED BY THAT CANDIDATE;
26 A GROUP WHOSE MAJOR PURPOSE IS TO FURTHER THE NOMINATION, ELECTION, OR
27 CANDIDACY OF ONLY ONE PERSON, OR INTENDS TO EXPEND MORE THAN 50 PER CENT
28 OF ITS MONEY ON A SINGLE CANDIDATE, SHALL BE CONSIDERED TO BE CONTROLLED
29 BY THAT CANDIDATE AND ITS ACTIONS DONE WITH HIS KNOWLEDGE AND CONSENT

1 UNLESS, WITHIN 10 DAYS FROM THE DATE THE CANDIDATE LEARNS OF THE EXIS-
2 TENCE OF THE GROUP HE FILES WITH THE COMMISSION, ON A FORM PROVIDED BY
3 THE COMMISSION, AN AFFIDAVIT THAT THE GROUP IS OPERATING WITHOUT HIS
4 CONTROL; A GROUP ORGANIZED FOR MORE THAN ONE YEAR PRECEDING AN ELECTION
5 AND ENDORSING CANDIDATES FOR MORE THAN ONE OFFICE OR MORE THAN ONE POLI-
6 TICAL PARTY IS PRESUMED NOT TO BE CONTROLLED BY A CANDIDATE; HOWEVER, A
7 GROUP THAT CONTRIBUTES MORE THAN 50 PER CENT OF ITS MONEY TO OR ON
8 BEHALF OF ONE CANDIDATE SHALL BE CONSIDERED TO SUPPORT ONLY ONE CANDI-
9 DATE FOR PURPOSES OF SEC. 70 OF THIS CHAPTER, WHETHER OR NOT CONTROL OF
10 THE GROUP HAS BEEN DISCLAIMED BY THE CANDIDATE;]

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

13 * Sec. 13. This Act takes effect immediately in accordance with AS 01.10.
14 070(c).

#2

Original sponsor: State Affairs Committee

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

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22 of all reports by statewide [AND LEGISLATIVE] candidates, by legislative
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24 confirmation [IN EACH SENATE DISTRICT] are forwarded promptly to the
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26 candidate or judge is seeking office.

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17 of the complete record of each transaction with all candidates or groups
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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.]

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24 the authorization or consent, express or implied, or under the control,
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16 treasurer, the candidate shall appoint a successor as soon as practi-
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22 committees, businesses, corporations, and labor unions, may contribute
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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.
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29 (1) a candidate from contributing more than \$1,000 of his own

1 money to his own campaign; or

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12 candidate or outcome of a ballot proposition or question shall be clear-
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14 address of the candidate, group or individual paying for the advertis-
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16 CAMPAIGN TREASURER.]

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

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

29 (b) Each contribution or expenditure which exceeds \$250 and which

1 is made within 10 days [ONE WEEK] of the election shall be reported to
2 the commission by date, amount, and contributor or recipient within 24
3 hours of receipt or expenditure by the candidate or campaign treasurer.

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6 this chapter are public records and shall be kept open for [TO] public
7 inspection. Within 30 days after each election, the commission shall
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9 to the public at cost upon request. Each summary shall use uniform
10 categories of reporting.

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

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

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

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

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

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

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

5 (b) In addition to the penalties provided for in (a) of this sec-
6 tion, a person who violates secs. 60 and 110 of this chapter is liable,
7 in a civil action, to the state for a sum to be assessed by the court of
not more than \$10,000 for each day on which the violation occurs and
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-
closing his campaign expenses; or

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

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

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

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

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

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

29 (e) When a violation of (d) of this section is charged, the case

1 shall be promptly tried and the case shall be accorded a preferred
2 status by the courts to ensure a speedy disposition on the matter.

3 (f) If in a proceeding under (e) of this section, a candidate is
4 convicted of a violation of (d) of this section and the action involved
5 a successful candidate at a general election for membership in the state
6 legislature or, at a municipal election, for a seat on a city council or
7 borough assembly, or to the office of borough or city mayor, [the court
8 may not void the candidates election to office, but only] may recommend
9 that the member-elect of the legislature, ~~city~~ city or borough assembly be
10 expelled, or that the mayor be removed from office, subject to art. II,
11 sec. 12, Constitution of the State of Alaska, or AS 29.23.060(c),
12 29.23.130(f), 29.23.210(b) or 29.23.255, as applicable.

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

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

27 (i) A person who believes a violation of this chapter has occurred
28 may file a complaint with the commission. The commission shall expedi-
29 tiously make an investigation of the complaint. When the commission has

1 reasonable cause to believe that a person has engaged or is about to
2 engage in any acts or practices which constitute or will constitute a
3 violation of a provision of this chapter, or a regulation or order
4 issued under it, it shall promptly report the information to the attor-
5 ney general for appropriate action. The commission shall promptly
6 inform the person who filed the complaint of its disposition of the
7 matter.

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

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

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

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

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

28 (C) ordinary hospitality in a home;

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

1 (3) "group" means every state and regional executive commit-
2 tee of a political party and, in addition, means any combination of two
3 or more persons or individuals acting jointly who take action the major
4 purpose of which is to influence the outcome of an election; [A GROUP
5 THAT MAKES EXPENDITURES OR RECEIVES CONTRIBUTIONS WITH THE AUTHORIZATION
6 OR CONSENT, EXPRESS OR IMPLIED, OR UNDER THE CONTROL, DIRECT OR IN-
7 DIRECT, OF A CANDIDATE SHALL BE CONSIDERED TO BE CONTROLLED BY THAT
8 CANDIDATE; A GROUP WHOSE MAJOR PURPOSE IS TO FURTHER THE NOMINATION,
9 ELECTION, OR CANDIDACY OF ONLY ONE PERSON, OR INTENDS TO EXPEND MORE
10 THAN 50 PER CENT OF ITS MONEY ON A SINGLE CANDIDATE, SHALL BE CONSIDERED
11 TO BE CONTROLLED BY THAT CANDIDATE AND ITS ACTIONS DONE WITH HIS KNOW-
12 LEDGE AND CONSENT UNLESS, WITHIN 10 DAYS FROM THE DATE THE CANDIDATE
13 LEARNS OF THE EXISTENCE OF THE GROUP HE FILES WITH THE COMMISSION, ON A
14 FORM PROVIDED BY THE COMMISSION, AN AFFIDAVIT THAT THE GROUP IS OPERAT-
15 ING WITHOUT HIS CONTROL; A GROUP ORGANIZED FOR MORE THAN ONE YEAR
16 PRECEDING AN ELECTION AND ENDORSING CANDIDATES FOR MORE THAN ONE OFFICE
17 OR MORE THAN ONE POLITICAL PARTY IS PRESUMED NOT TO BE CONTROLLED BY A
18 CANDIDATE; HOWEVER, A GROUP THAT CONTRIBUTES MORE THAN 50 PER CENT OF
19 ITS MONEY TO OR ON BEHALF OF ONE CANDIDATE SHALL BE CONSIDERED TO SUP-
20 PORT ONLY ONE CANDIDATE FOR PURPOSES OF SEC. 70 OF THIS CHAPTER, WHETHER
21 OR NOT CONTROL OF THE GROUP HAS BEEN DISCLAIMED BY THE CANDIDATE;]

22 * Sec. 12. AS 15.13.070(f) and (g), 15.13.080, and 15.13.120 are re-
23 pealed. *Delete limitation on expenditures* *

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

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

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

1 (c) The assembly shall determine its own rules and order of
2 business and provide for keeping a journal of its proceedings. The
3 assembly is the judge of the election and qualifications of its members
4 and may expel a member with the concurrence of two-thirds of its mem-
5 bers, including but not limited to, a conviction for a violation of
6 AS 15.13.121(d). The assembly shall consider that conviction during its
7 organizational meeting following a municipal election.

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

9 (f) Whether or not the borough mayor is a member of the assembly,
10 the assembly may remove the mayor from office upon conviction for a
11 violation of AS 15.13.121(d) with the concurrence of two-thirds of its
12 members. The assembly shall consider that conviction during its or-
13 ganizational meeting following a municipal election.

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

15 (b) The council shall determine its own rules and order of busi-
16 ness and provide for keeping a journal of its proceedings. The council
17 is the judge of the election and qualifications of its members and may
18 expel a member with the concurrence of two-thirds of its members, in-
19 cluding but not limited to, a conviction for a violation of AS 15.13.-
20 121(d). The council shall consider that conviction during its organi-
21 zational meeting following a municipal election.

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

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

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

29 (5) is removed or expelled from office;

1 (7) is convicted of a felony, [OR] of an offense involving a
2 violation of his oath of office, or the provisions of AS 15.13.121(d).

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

4 (f) Notwithstanding the provisions of (e) of this section, the
5 expulsion of a member of a borough assembly, under AS 29.23.060(c) or of
6 a member of a city council, under AS 29.23.210(b), or the removal of a
7 borough mayor, under AS 29.23.130(e), or of a city mayor, under AS 29.-
8 23.255, is not subject to judicial review.

9 * Sec. 20. This Act takes effect immediately in accordance with AS 01.-
10 10.070(c).

4/1
Milton

Offered: 3/23/76
Referred: Judiciary

Original sponsor: State Affairs Committee

1 IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE
2 CS FOR HOUSE BILL NO. 857
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 the election campaign disclosure
7 law; and providing for an effective date."

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

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

10 (j) The commission shall establish an office [, WHICH MAY BE
11 CALLED A REGIONAL OFFICE,] in each senate district in the state to keep
12 on file for public inspection copies of all reports required to be filed
13 with the commission by candidates for statewide office and by candidates
14 for legislative office in that district; however, where one municipality
15 contains more than one election district, only one commission office
16 shall be established in that municipality. Each [THE REGIONAL] office
17 shall make all forms and pertinent material available to candidates.
18 Reports [ALL REPORTS] shall be filed by candidates, groups and indivi-
19 duals directly with the commission's [CENTRAL] district offices [OFFICE].

Handwritten note: Max of reports that regional offices then to district

20 [I filed w/central copy sent to district -
21 The commission shall ensure [INSURE] that copies of all reports by
22 statewide [AND LEGISLATIVE] candidates, by legislative candidates in
23 each senate district, and by judges seeking electoral confirmation [IN
24 EACH SENATE DISTRICT] are forwarded promptly to the [THAT DISTRICT OR
25 REGIONAL] office located in the district in which the candidate or judge
26 is seeking office.]

Handwritten note: adopted

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

28 (d) Every individual or [,] person [OR GROUP] making a contribu-
29 tion or expenditure shall make a full report, upon a form prescribed by
the commission, of the following contributions or expenditures:

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

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

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

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

21. (b) A group that makes expenditures or receives contributions with
22. the authorization or consent, express or implied, or under the control,
23. direct or indirect, of a candidate shall be considered to be controlled
24. by that candidate. A group whose major purpose is to further the nomi-
25. nation, election, or candidacy of only one person, or intends to expend
26. more than 50 per cent of its money on a single candidate, shall be con-
27. sidered to be controlled by that candidate and its actions done with his
28. knowledge and consent unless, within 10 days from the date the candidate
29. learns of the existence of the group he files with the commission, on a

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clarification

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*taken from defini-
tion section &
rearranged to
here*

1 form provided by the commission, an affidavit that the group is operat-
2 ing without his control. A group organized for more than one year
3 preceding an election and endorsing candidates for more than one office
4 or more than one political party is presumed not to be controlled by a
5 candidate.

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

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

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

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

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

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

29 (2) individuals or groups, including but not limited to all

*Specimen new
enforcement
section*

*conforms w/
supp. inc. et.
section on
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1 political committees, businesses, corporations, and labor unions, from
2 contributing to or expending on behalf of a ballot proposition or ques-
3 tion more than \$1,000 a year; however, these contributions and expendi-
4 tures shall be reported in accordance with secs. 40 and 110 of this
5 chapter.

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

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

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

16 Sec. 15.13.100. EXPENDITURES BEFORE FILING. Political [NO POLITI-
17 CAL] campaign expenditure may be made ~~or incurred~~ by a person in an
18 election or by a person or group with his knowledge and on his behalf
19 before the date upon which he or she files for nomination for the office
20 which the person seeks [, EXCEPT FOR PERSONAL TRAVEL EXPENSES OR FOR
21 OPINION SURVEYS OR POLLS]. However, these [THESE] expenditures [SHALL
22 BE CHARGED AGAINST THE SPENDING LIMITATION THAT APPLIES TO THE OFFICE
23 FOR WHICH HE SUBSEQUENTLY FILES, AND] shall be included in the first
24 report required under this chapter. ~~after filing for office~~

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

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

cannot make expenditures

not necessary

closes 3 day gap

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

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

9 Sec. 15.13.121. CRIMINAL AND CIVIL PENALTIES; FORFEITURE OF
10 OFFICE; LIMITATIONS ON ACTIONS. (a) A person who violates a provision
11 of this chapter is guilty of a misdemeanor and upon conviction is
12 punishable by imprisonment for not more than one year or by a fine of
13 not more than \$5,000. A violation includes but is not limited to any of
14 the following acts, or omissions:

15 *adopted ->*

15 (1) *knowingly* making a false statement or *false* report under this chapter;

16 (2) giving or furnishing money to another person or group for
17 the purpose of making a contribution or expenditure anonymously, in a
18 fictitious name, or in the name of another, or contributing in violation
19 of sec. 70(d) of this chapter;

20 (3) making a communication to support or defeat a candidate
21 without identification of sponsorship, in violation of sec. 90 of this
22 chapter;

23 (4) knowingly accepting a contribution in violation of sec.
24 70 of this chapter;

25 (5) providing false or misleading information in the course
26 of an investigation.

27 (b) In addition to the penalties provided for in (a) of this sec-
28 tion, a person who violates secs. 60 and 110 of this chapter is liable,
29 in a civil action, to the state for a sum to be assessed by the court of

public

enforcement

knowingly

1 not less than \$1,000 nor more than \$10,000 for each day on which the
2 violation occurs and which shall reflect, where applicable:

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

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

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

11 (d) Notwithstanding the criminal penalties and civil sums assessed
12 otherwise under this section, no candidate who files reports required by
13 secs. 60(c) - (d) and 110(a)(1) - (2) of this chapter later than three
14 days after the date established in secs. 60(c) - (d) and 110(a) of this
15 chapter may have his name placed on the ballot or have votes cast for
16 him counted by the lieutenant governor or municipal clerk. Determina-
17 tion that reports have not been filed shall be certified promptly by the
18 commission to the lieutenant governor or municipal clerk. The nomina-
19 tion to office or election to office shall be certified to the highest
20 vote getter for that nomination for that office who complies within the
21 time limits specified and that person shall be declared nominated or
22 elected.

23 (e) Notwithstanding the criminal and civil sums assessed otherwise
24 under this section, a successful candidate who files reports required
25 under secs. 110(a)(3) - (4) and 110(b) of this chapter later than three
26 days after the date established in secs. 110(a)(3) - (4) and 110(b) of
27 this chapter may not hold office. The nomination for office or election
28 to office shall be certified to the highest vote getter for that nomina-
29 tion for that office who complies within the time limits specified and

*question 14
enforceability*

pretty stiff

1 that person shall be declared nominated or elected.

2 (f) The nomination for and election to an office of a candidate
3 who himself violates or whose campaign treasurer or deputy campaign
4 treasurer violates ^{any of} the following described provisions is ~~void~~ ^{voidable} if
5 it is determined, ^{after hearing in an action filed under (g) hereof} that a candidate knowingly

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

8 (2) accepted a contribution in violation of secs. 70(b) or
9 70(d) of this chapter;

10 (3) made a campaign expenditure in violation of secs. 70(c),
11 70(h), or 100 of this chapter.

12 (g) When a violation of (f) of this section is charged, the case
13 shall be promptly tried and the case shall be accorded a preferred
14 status by the courts to ensure a speedy disposition on the matter.

15 (h) The commission shall promptly notify ^{by certified mail (attopka)} all persons who are de-
16 linquent in filing reports and statements, including contributors who
17 failed to file a statement in accordance with sec. 40 of this chapter,
18 and shall make available a list of delinquents for public inspection.
19 The commission shall also report to the attorney general the names of
20 all candidates in an election whose campaign treasurers have failed to
21 file the rep required by this chapter.

22 (i) A person who believes a violation of this chapter has occurred
23 may file a complaint with the commission. The commission shall expedi-
24 tiously make an investigation of the matter complained of. When the
25 commission has reasonable cause to believe that a person has engaged or
26 is about to engage in any acts or practices which constitute or will
27 constitute a violation of a provision of this chapter, or a regulation
28 or order issued under it, it shall promptly report the information to
29 the attorney general for appropriate action. The commission shall

definite "promptly"
by certified mail
substitute for
in original
law. original
requirement

1 promptly inform the person who filed the complaint of its disposition of
2 the matter.

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

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

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

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

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

23 (C) ordinary hospitality in a home;

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

25 (3) "group" means every state and regional executive commit-
26 tee of a political party and, in addition, means any combination of two
27 or more persons or individuals acting jointly who take action the major
28 purpose of which is to influence the outcome of an election; [A GROUP
29 THAT MAKES EXPENDITURES OR RECEIVES CONTRIBUTIONS WITH THE AUTHORIZATION

housekeeping

reinserted on page 243

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OR CONSENT, EXPRESS OR IMPLIED, OR UNDER THE CONTROL, DIRECT OR INDIRECT OF A CANDIDATE SHALL BE CONSIDERED TO BE CONTROLLED BY THAT CANDIDATE; A GROUP WHOSE MAJOR PURPOSE IS TO FURTHER THE NOMINATION, ELECTION, OR CANDIDACY OF ONLY ONE PERSON, OR INTENDS TO EXPEND MORE THAN 50 PER CENT OF ITS MONEY ON A SINGLE CANDIDATE, SHALL BE CONSIDERED TO BE CONTROLLED BY THAT CANDIDATE AND ITS ACTIONS DONE WITH HIS KNOWLEDGE AND CONSENT UNLESS, WITHIN 10 DAYS FROM THE DATE THE CANDIDATE LEARNS OF THE EXISTENCE OF THE GROUP HE FILES WITH THE COMMISSION, ON A FORM PROVIDED BY THE COMMISSION, AN AFFIDAVIT THAT THE GROUP IS OPERATING WITHOUT HIS CONTROL; A GROUP ORGANIZED FOR MORE THAN ONE YEAR PRECEDING AN ELECTION AND ENDORSING CANDIDATES FOR MORE THAN ONE OFFICE OR MORE THAN ONE POLITICAL PARTY IS PRESUMED NOT TO BE CONTROLLED BY A CANDIDATE; HOWEVER, A GROUP THAT CONTRIBUTES MORE THAN 50 PER CENT OF ITS MONEY TO OR ON BEHALF OF ONE CANDIDATE SHALL BE CONSIDERED TO SUPPORT ONLY ONE CANDIDATE FOR PURPOSES OF SEC. 70 OF THIS CHAPTER, WHETHER OR NOT CONTROL OF THE GROUP HAS BEEN DISCLAIMED BY THE CANDIDATE;)

pealed.

* Sec. 12. AS 15.13.070(f) and (g), 15.13.080, and 15.13.120 are re-
Supreme Ct. rules *mistake* *existing enforce- ment statute. Now*
(2)

[* Sec. 13. Sections 1 - 2 and 11 of this Act are retroactive to June 26, 1975.]

* Sec. 14. This Act takes effect immediately in accordance with AS 01.10.070(e).

offered by
Harrois of Aloc

4/8
Milton

Sec. 7 AS 15.13.000 is amended to read:

Sec. 15.13.100. EXPENDITURES BEFORE FILING.

Campaign expenditures may be made or incurred by a person
* or by a person or group with his knowledge and on his
behalf before the date upon which he or she files for
nomination for office which the person seeks provided that:

1) the period for filing a nominating petition or declaration
of candidacy for the position the candidate seeks is not
open; and

2) the person notifies the Alaska Public Offices Commission
in writing that he or she is a candidate for a specific
office and intends to file for that office when the period
for filing is open; and

3) the person files with the Commission the name of a
campaign treasurer as required by AS 15.13.060; and

4) the person files expenditure and disclosure reports as
required by AS 15.13.100.

applies to
municipal but
not state

110

MEMORANDUM
LEAGUE OF WOMEN VOTERS OF ALASKA

TO: Rep. Terry Gardiner, Chairman and Member_s of
House Judiciary Committee

DATE: April 1, 1976

FROM: Marjorie Gorsuch & Janice Gates, LWV
Lobbyists

RE: CSHB857

In reviewing CSHG857, the LWVAK finds that certain provisions raise questions which the House Judiciary Committee might be interested in pursuing.

Sec. 1 AS 15.13.020 (j) Lines 19-26

The LWV has long emphasized the importance of disclosure reports being filed in local offices to ensure adequate accessibility and public scrutiny. This provision requires that reports be filed with the commission's "district offices". It is unclear which offices are being referred to. We believe that it was the intent of the House State Affairs Committee that reports be filed in the district office from which the candidate is seeking office and in which the "groups and individuals" reside. The League questions the intent of Lines 20-26.

Sec. 15.13.121 (3) The League questions the application of criminal penalties in this provision unless the communication is "knowingly" made without identification of sponsorship.

Sec. 15.13.121 (d) (e)

The League questions the likelihood of enforcement of these provisions.

Sec. 15.13.121 (h)

The League finds this provision vague. It does not specify the method by which the A.P.O.C. shall notify those who are delinquent in filing reports. It does not define the term "promptly" and does not deal with the question of whether the delinquent party is still liable for civil and criminal penalties if the Commission does not, in fact, notify the candidate.

The League also recommends that the list of delinquent filers not only be available for public inspection, but that it be published. We suggest that this might be an additional deterrent to late filing.



rec. 2-18

STATE OF ALASKA
ALASKA PUBLIC OFFICES COMMISSION

610 C STREET, SUITE 209
ANCHORAGE, ALASKA 99501
(907) 274-0321

February 16, 1976

Hon. Mike Bradner
Speaker of the House
Alaska State Legislature
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Rep. Bradner:

The Alaska Public Offices Commission is submitting herewith, in accordance with AS 15.13.030(9), its recommendations and proposals for changes to the Campaign Disclosure Law (AS 15.13) and Financial Disclosure Law (AS 39.50) to the second session of the Ninth State Legislature.

We would point out that the areas of significant change in the Campaign Disclosure Law are: (1) The removal of the limitation on campaign expenditure, which brings the Alaska law into conformity with the recent U. S. Supreme Court Decision; (2) the addition of civil penalties for late filing of reports as well as changes in the criminal penalties; and (3) the provision for forfeiture of nomination to office or election to office for violation of certain sections of the Law.

While many of the amendments to the Financial Disclosure Law (AS 39.50) are of the "housekeeping" nature, there are areas of significant change: (1) Requires that former state and municipal officials who contract or offer to contract with the state or their municipality within one year after leaving office will file a statement at the time they contract or offer to contract with the state or municipality, (2) more clearly defines when an appointed public official forfeits salary, travel, and per diem and when they shall be removed from office; and (3) requires state officers and employees of the state who exercise responsibilities under AS 37.10.030 to file financial disclosure statements which shall be filed with and review by their most immediate supervisor who is required to file a statement and provides that such statements shall remain confidential.

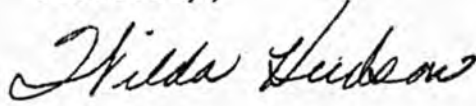
Rep. Bradner

- 2 -

2/16/76

The Commission respectfully requests that these proposed amendments be introduced, and hopefully enacted into law, this legislative session. Please be advised that I, and other members of the Commission, will be most pleased to discuss these proposed amendments with the appropriate legislative Committee if it should be desired. Commission members may be reached by notifying Wilda Hudson, Acting Executive Director, at 274-0321 or 276-4176.

Sincerely,


for GORDSON S. HARRISON, Chairman
Alaska Public Offices Commission

GSri:wgh

encls.

IN THE _____

BY _____

_____ BILL NO. _____

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: An Act relating to the financial disclosure law (CONFLICT OF INTEREST) law; and providing for an effective date."

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

* Section 1. AS 39.50.020(a) is amended to read:

(a) An appointed public official [A JUDICIAL OFFICER, COMMISSIONER, CHAIRMAN OR MEMBER OF A BOARD SPECIFIED IN SEC. 200(9) OF THIS CHAPTER, PERSONS HIRED OR APPOINTED AS HEAD OR DEPUTY HEAD OF, OR DIRECTOR OF A DIVISION WITHIN, A DEPARTMENT IN THE EXECUTIVE BRANCH, PERSONS APPOINTED AS ASSISTANT TO THE GOVERNOR, AND A MUNICIPAL OFFICER,] shall file a statement giving his income sources and business interests, under oath and on penalty of perjury, within 30 days after he takes office as a public official. Candidates for state elective office shall file such a statement at the time of filing a declaration of candidacy or within 30 days of the filing of any nominating petition, or within 30 days of becoming a candidate by any other means. candidates for elective municipal office shall file such a statement at the time of filing a nominating petition, declaration of candidacy, or other required filing for the elective municipal office. Former public officials who

contract or offer to contract with the state within one year after leaving office will file a statement at the time that they contract or offer to contract with the state; former municipal officers who contract or offer to contract with their municipality within one year after leaving office will file a statement at the time that they contract or offer to contract with their municipality. Refusal or failure to file within the time prescribed shall require that the candidate's filing fees, if any, and filing for office be refused or that his previously accepted filing fee be returned and his name removed from the filing records. The lieutenant governor or other certifying authority may not certify a person's nomination for office or his election to office if the person does not comply with the requirements of this subsection within the time specified. The nomination to office or election to office shall be certified to the highest vote getter for that nomination for that office or election to that office who complies within the time limits specified and that person shall be declared nominated or elected. A statement shall also be filed by public officials no later than April 15 [OR 15 DAYS AFTER THE PERSON FILES HIS FEDERAL INCOME TAX RETURN] in each following year [, WHICHEVER SHALL COME FIRST]. [PERSONS WHO, ON OR AFTER DECEMBER 11, 1974, WERE MEMBERS OF BOARDS OR COMMISSIONS NOT NAMED IN SEC. 200(9) OF THIS CHAPTER ARE NOT REQUIRED TO FILE STATEMENTS.]

* Sec. 2. AS 39.50.020(b) is amended to read:

(b) Public officials of the state and candidates for

state elective office, [THE GOVERNOR, LIEUTENANT GOVERNOR, MEMBERS OF THE LEGISLATURE, AND CANDIDATES FOR THESE OFFICES, JUDICIAL OFFICERS, EACH COMMISSIONER, HEAD OR DEPUTY HEAD OF, OR DIRECTOR OF A DIVISION WITHIN, A DEPARTMENT IN THE EXECUTIVE BRANCH, ASSISTANT TO THE GOVERNOR OR CHAIRMAN OR MEMBER OF A COMMISSION OR BOARD] required to report under this chapter, shall file the statement with the Alaska Public Offices Commission. Municipal officers, and candidates for elective municipal office, shall file with the municipal clerk or other municipal official designated to receive their filing for office. All statements required to be filed under this chapter are public records.

* Sec. 3. AS 39.50.070 is amended to read:

Sec. 39.50.070. FAILURE TO REPORT BY APPOINTED PUBLIC OFFICIALS [DEPARTMENT, DIVISION, OR DEPUTY DEPARTMENT HEADS]. A person hired or appointed as a public official of the state, other than a judicial officer, [THE HEAD OR DEPUTY HEAD OF, OR DIRECTOR OF A DIVISION WITHIN, A DEPARTMENT IN THE EXECUTIVE BRANCH WHO REFUSES OR FAILS TO FILE A REPORT OF FINANCIAL INTERESTS REQUIRED UNDER THIS CHAPTER WHEN DUE MAY NOT HOLD OFFICE OR] may not have his name submitted to the legislature for confirmation until he complies with the requirements of this chapter. He may not receive salary, travel expenses, or per diem for any period after the initial 30 days after the completion of his appointment or after his entry into state employment if he has not complied with the requirements of this chapter; if he has not complied with the requirements of this chapter by the 60th day he is re-

moved from office and his position is vacant. [HE MAY NOT BE CONFIRMED, HIRED, OR APPOINTED, AND HE FORFEITS AND MAY NOT BE PAID ANY SALARY AND PER DIEM AND TRAVEL EXPENSES UNTIL HE COMPLIES.] If after installation as an appointed public official [THE HEAD OR DEPUTY HEAD OF, OR DIRECTOR OF A DIVISION WITHIN, A DEPARTMENT,] he refuses or fails to file the required statement when due, he is guilty of a misdemeanor and upon conviction is punishable by a fine or not less than \$100 nor more than \$1,000 [AND SHALL BE REMOVED FROM OFFICE IF COMPLIANCE IS NOT MADE WITHIN 30 DAYS AFTER THE DUE DATE OF THE REPORT].

* Sec. 4. AS 39.50 is amended by adding a new section to read:

Sec. 39.50.160. REPORTS BY OTHER OFFICERS AND EMPLOYEES.

(a) Officers and employees of the state who exercise responsibilities under AS 37.10.030 shall file a statement containing the information required of public officials by sec. 30 of this chapter.

(b) Statements required under this section shall be filed with and reviewed by the public official in the instrumentality of the state who himself files a statement of business and financial interest and may be reviewed by the public offices commission but are otherwise confidential; notwithstanding secs. 20(b) and 50(c) of this chapter or any other provision of law.

* Sec. 5. AS 39.50.200(1) is amended to read:

(1) "public official" means a judicial officer, a member of the legislature, the governor, the lieutenant governor, a person hired or appointed as the head or deputy

head of, or director of a division within, a department in the executive branch, an assistant to the governor; the chairman, each [OR] member, and full-time executive officer of a state commission or board specified in (9) of this section, the president of the University of Alaska, its vice-presidents, chancellors, and provosts, directors of community colleges, the ombudsman, the deputy ombudsman, and their professional staff, the administrator and directors of the legislative affairs agency and the legislative budget and audit committee, the administrative director of courts, the executive director of the judicial council, and each appointed or elected municipal officer.

* Sec. 6. AS 39.50.200(8) is amended to read:

(8) "source of income" means the entity for which service is performed or which is otherwise the origin of payment; if the person whose income is being reported is employed by another, his employer is the source of his income; but if he is a proprietor [SELF-EMPLOYED BY MEANS OF A SOLE PROPRIETORSHIP], a member of a partnership, or is a shareholder in a professional corporation, or a corporation in which he or his spouse or his children, or a combination of them, hold a controlling interest, the "source" is the client, patient, or customer of the proprietorship, partnership, or corporation, but if the entity which is the origin of payment is not the same as the client, patient, or customer for whom the service is performed, both are considered the source;

* Sec. 8. AS 39.50.200(D) is amended to read:

[(J) BOARD OF FISHA AND GAME (AS 16.05.220);]

(LL) Board of Fisheries (AS 16.05.221(a);

(MM) Board of Game (AS 16.05.221);

* Sec. 9. AS 39.50.060(b) and AS 39.50.080 are repealed.

* Sec.10. This Act takes effect immediately in accordance with AS 01.10.070(c).

IN THE _____

BY _____

_____ BILL NO. _____

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - SECOND SESSION

A BILL

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

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

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

Section 15.13.020. ALASKA PUBLIC OFFICES COMMISSION.

(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. [ALL] Reports shall be filed by candidates, groups and individuals with the commission's central and district offices. The commission shall insure that copies of all reports by statewide [AND LEGISLATIVE] candidates [IN EACH SENATE DISTRICT], by legislative candidates in each senate district, and by judges seeking electoral confirmation 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) is amended to read:

(d) Every individual or [,] person [OR GROUP] making a contribution or expenditure shall make a full report, upon a form prescribed by the commission, of the following contributions or expenditures:

* Sec. 3. AS 15.13.040(d)(1) is amended to read:

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

* Sec. 4. AS 15.13.060(c) is amended to read:

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

* Sec. 5. AS 15.13.060(d) is amended to read:

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

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

(a) No person or group, including but not limited to all political committees, businesses, corporations, and labor unions, may contribute [TO OR EXPEND] more than \$1,000 a year to a candidate [ON BEHALF OF OR IN OPPOSITION TO THE COMPETING CANDIDATES] for each elective office.

* Sec. 7. AS 15.13.090 is amended to read:

Sec. 15.13.090. IDENTIFICATION OF COMMUNICATION.
All advertisements, billboards, handbills, paid-for television and radio announcements and other communications intended to influence the election of a candidate or outcome of a ballot proposition or question shall be clearly identified by the words "paid for by" followed by the name and address of the candidate, group or individual paying for the advertising. [IN ADDITION, CANDIDATES AND GROUPS MUST IDENTIFY THE NAME OF THEIR CAMPAIGN TREASURER.]

* Sec. 8. AS 15 13.110(b) is amended to read:

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

* Sec.9. AS 15.13.110(c) is amended to read:

(c) [THE REPORTS OF CANDIDATES SHALL BE FILED WITH

THE COMMISSION'S CENTRAL OFFICE.] All reports required by this chapter shall be kept open to public inspection. Within 30 days after each election, the commission shall prepare a summary of each report which shall be made available to the public at cost upon request. Each summary shall use uniform categories of reporting.

* Sec. 10. AS 15.13 is amended by adding a new section to read:

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

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

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

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

(4) making a communication to support or defeat a candidate without identification of sponsorship,

in violation of sec. 90 of this chapter;

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

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

(b) In addition to the penalties provided for in (a) of this section, a person who violates secs. 60 and 110 of this chapter is liable, in a civil action, to the state for a sum to be assessed by the court of not less than \$1000 nor more than \$10,000 for each day on which the violation occurs and which shall reflect, where applicable:

(1) reasonable compensation in the nature of liquidated damages according to the benefit received by the candidate in not disclosing his campaign expenses; or

(2) reasonable costs incurred by the state in detection, investigation, and attempted correction of the violation.

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

(d) Notwithstanding the criminal penalties and civil sums assessed otherwise under this section, no candidate who files reports required by secs. 60(c) and (d) and 110(a)(1) and (2) of this chapter later than three days after the date established in secs. 60(c) and (d) and 110(a) may have his name placed on the ballot or have votes cast for him counted by the lieutenant governor or

municipal clerk. Determination that reports have not been filed shall be certified promptly by the commission to the lieutenant governor or municipal clerk. The nomination to office or election to office shall be certified to the highest vote getter for that nomination for that office who complies within the time limits specified and that person shall be declared nominated or elected.

(e) Notwithstanding the criminal and civil sums assessed otherwise under this section, a successful candidate who files reports required under secs. 110(a)(3) and (4) and 110(b) of this chapter later than three days after the date established in secs. 110(a)(3) and (4) and 110(b) may not hold office. The nomination to office or election to office shall be certified to the highest vote getter for that nomination for that office who complies within the time limits specified and that person shall be declared nominated or elected.

(f) The nomination for and election to an office of a candidate who himself violates or whose campaign treasurer or deputy campaign treasurer violates any of the following described provisions is void if it is determined that a candidate knowingly:

(1) made a false statement on any report required of him under AS 15.13;

(2) accepted a contribution in violation of 70(b) or 70(d);

(3) made a campaign expenditure in violation of 70(c), 70(h), or 100.

(g) When a violation of (f) is charged, the case shall be promptly tried and the case shall be accorded a preferred status by the courts so as to assure a speedy disposition on the matter.

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

(i) A person who believes a violation of this chapter has occurred may file a complaint with the commission. The commission shall expeditiously make an investigation of the matter complained of. When the commission has reasonable cause to believe that a person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of a provision of this chapter, or a regulation or order issued under it, it shall promptly report the information to the attorney general for appropriate action. The commission shall promptly inform the person who filed the complaint of its disposition of the matter.

(j) Prosecution for violation of a provision of this

chapter may not be commenced after four years have elapsed from the date of the alleged violation.

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

(3) "group" means every state and regional executive committee of a political party and, in addition, means any combination of two or more persons or individuals acting jointly who take action the major purpose of which is to influence the outcome of an election; a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate shall be considered to be controlled by that candidate; a group whose major purpose is to further the nomination, election, or candidacy of only one person, or intends to expend more than 50 per cent of its money on a single candidate, shall be considered to be controlled by that candidate unless, within 10 days from the date the candidate learns of the existence of the group he files with the commission, on a form prescribed by the commission, an affidavit that the group is operating without his control; a group organized for more than one year preceding an election and endorsing candidates for more than one office or more than one political party is presumed not to be controlled by a candidate; [HOWEVER, A GROUP THAT CONTRIBUTES MORE THAN 50 PER CENT OF ITS MONEY TO OR ON BEHALF OF ONE CANDIDATE SHALL BE CONSIDERED TO SUPPORT ONLY ONE CANDIDATE FOR PURPOSES OF SEC. 70 OF THIS CHAPTER, WHETHER OR NOT CONTROL OF THE GROUP HAS BEEN DISCLAIMED BY THE CANDIDATE;]

* Sec. 12. AS 15.13.070(f) and (g), AS 15.13.080, and AS 15.13.120 are repealed.

* Sec. 13. This Act takes effect immediately in accordance with AS 01.10.070(c).

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
465-3800

MEMORANDUM

19 April 1976

SUBJECT: Amendments to Proposed CS for House Bill 857
(Judiciary)(election campaign disclosure law)

TO: Rep. Terry Gardiner, Chairman
House Judiciary Committee

FROM: Stuart C. Hall, Senior Legislative Counsel

Attached per the committee's request are amendments incorporating the changes proposed by Representatives Brown and Parr relative to submitting a conviction for violation of proposed AS 15.13.121(d) by a member-elect of a legislative body (state and local), or a Mayor-elect of a city or borough, to the appropriate legislative body for action. The amendments also empower local legislative bodies to be the judge of the election and qualifications of their members (some local legislative bodies already enjoy that authority by charter; see, e.g., Charter of the City & Borough of Juneau, and Miller v. North Pole, 532 P.2d 1013 (Alaska, 1975) construing the charter of that city).

The Director of Legal Services sees both a separation of powers problem with these amendments as well as a constitutional problem stemming from the apparent request of a court that it issue what constitutes, in effect, an advisory opinion.

Also, I see a single subject rule violation, potentially, even under the more liberal rules enunciated in Gellert v. State.

Committee members should be apprised of the fact that under present law, election contests at the local level of government are committed to the courts: AS 29.23.570 and 29.28.050(e). Read together, these sections probably constitute authority to act as the judge of the election and qualifications of council/assembly members.

Amendments to proposed CS for House Bill 857 (Judiciary) (election campaign disclosure law)

On page 7 of the proposed CS, between lines 1 and 2, insert a new subsection, and reletter the existing subsections accordingly:

(f) If in a proceeding under (e) of this section, a candidate is convicted of a violation of (d) of this section and the action involved a successful candidate at a general election for membership in the state legislature or, at a municipal election, for a seat on a city council or borough assembly, or to the office of borough or city mayor, the court may not void the candidate's election to office, but only may recommend that the member-elect of the legislature, city council or borough assembly be expelled, or that the mayor be removed from office, subject to art. II, sec. 12, Constitution of the State of Alaska, or AS 29.23.060(c), 29.23.130(e), 29.23.210(b) or 29.23.255, as applicable.

On page 9, between lines 12 and 13, insert the following new sections, and renumber the sections of the bill accordingly:

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

(37) AS 29.23.060(c)(expulsion of borough assemblyman), AS 29.23.130(e)(removal of borough mayor from office), AS 29.23.210(b) (expul^{sion} / of city councilman from office), AS 29.23.255(removal of mayor from office), AS 29.28.050(f)(expulsion, removal from office).

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

(c) The assembly shall determine its own rules and order of business and provide for keeping a journal of its proceedings. The assembly is the judge of the election and qualifications of its members and may expel a member with the concurrence of two-thirds of its members, limited to, for including but not a conviction for a violation of AS 15.13.121(d). The assembly shall consider that conviction during its organizational meeting following a municipal election.

* Sec. 15. AS 29.23.130(c) is amended to read:

1 (e) Whether or not the borough mayor is a member of the assembly,
2 the assembly may remove the mayor from office upon conviction for a violation
3 of AS 15.13.121(d) with the concurrence of two-thirds of its members. The
4 assembly shall consider that conviction during its organizational meeting
5 following a municipal election.

6 # Sec. 16. AS 29.23.210(b) is amended to read:

7 (b) The council shall determine its own rules and order of
8 business and provide for keeping a journal of its proceedings. The council
9 is the judge of the election and qualifications of its members and may
10 expel a member with the concurrence of two-thirds of its members, including
11 but not limited to a conviction for a violation of AS 15.13.121(d). The
12 council shall consider that conviction during its organizational meeting
13 following a municipal election.

14 # Sec. 17. AS 29.23 is amended by adding a new section to read:

15 Sec. 29.23.255. REMOVAL FROM OFFICE. Whether or not the mayor
16 is a member of the council, the council may remove the mayor from office
17 upon conviction for a violation of AS 15.13.121(d) with the concurrence
18 of two-thirds of its members. The council shall consider that conviction
19 during its organizational meeting following a municipal election.

20 # Sec. 18. AS 29.23.570(5) and (7) are amended to read:

21 (5) is removed or expelled from office;

22 (7) is convicted of a felony, [OR] of an offense involving a
23 violation of his oath of office, or the provisions of AS 15.13.121(d).

24 # Sec. 19. AS 29.28.050 is amended by adding a new subsection to read:

25 (f) Notwithstanding the provisions of (c) of this section, the
26 expulsion of a member of a borough assembly, under AS 29.23.060(c) or
27 of a member of a city council, under AS 29.23.210(b), or the removal of
28 a borough mayor, under AS 29.23.130(e), or of a city mayor, under AS
29 29.23.255, is not subject to judicial review.