

HB

421

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

ALASKA PUBLIC OFFICES COMMISSION

610 C STREET, SUITE 209
ANCHORAGE, ALASKA 99501
PHONE: 276-4176 AND 274-0321

SECTION ANALYSIS OF HB 421

"An Act relating to Conflict of Interest;..."

Prepared for: State Affairs Committee
Alaska State House of Representatives

Prepared by: Randall P. Burns *RPB*
Executive Director
Alaska Public Offices Commission

Date: April 3, 1979

AMENDMENT

EFFECT

Section 1

This amendment would require individuals who formally file for State elective office during an off-election year to file a "current" Conflict of Interest Statement before June 1 of the actual election year, thus guaranteeing that all candidates will have Statements on file covering the same preceding year.

Section 2

The proposed language would require that public officials subject to the Conflict of Interest Law who resign from their hired, appointed or elected positions file a Statement covering the period from the final date of their last Conflict of Interest Statement through the date of their termination.

Current law does not require the public official leaving government to disclose his business and financial interests for any part of the period that he was in office since his previous Statement was filed. Thus, an official who resigns prior to April 15th can now have worked, at maximum, fifteen months for which there is no Statement from the official for his last year and one-quarter in office.

(Detailed rationale for these two proposed Amendments can be found on pages 10-13 of the Commission's 1977 Annual Report.)

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"An Act relating to the regulation of election campaigns;..."

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AMENDMENT

EFFECT

- Section 1 The proposed language makes clear that citizens of a municipality, when voting on exemption from AS 15.13, are voting to exempt all parties potentially subject to the Campaign Disclosure Law.
- In addition, the Legislature, in 1977, amended AS 15.13 to require groups sponsoring initiative, referendum or recall petitions to file Campaign Disclosure reports (see AS 15.13.110(e)). This language simply amends the "Applicability Section" to state that this law does apply to attempts to influence an initiative, referendum or recall effort.
- Section 2 This section adds a single word ("purpose") to clarify that candidates should briefly identify the purpose of campaign expenditures. (Candidates are already providing this information to the public. However, in light of the Commission's recommended change in Section 6 of this bill -- which eliminates the need for suppliers of campaign services to file reports -- it is particularly important that the statute clearly require candidates to briefly state the purpose of expenditures.)
- Section 3 This section requires the same reporting requirement of groups, as described above in Section 2 for candidates (i.e., that a group briefly state the purpose of its expenditures).
- Section 4 This amendment, in conjunction with the repeal of AS 15.13.080 listed in Section 24 of this bill, proposes to eliminate the requirement that individuals, person or groups contributing over \$250 must file a Contributor's Statement (APOC Form 15-5) with the Commission.

Further proposed changes, on page 3, lines 1 & 2, clarifies, in accordance with the intent of the Legislature's 1977 amendment, that persons making expenditures for advertising must report when attempting to influence initiative, referendum or recall petition efforts, as well as clarifying that expenditures both for or against candidates and issues must be reported.

Section 5 The changes in this section are coupled with the proposed elimination of the requirement that "major" contributors file reports in Section 4 of this bill. Removes the language requiring the Form 15-5 be filed in 10 days.

Section 6 This proposed change would eliminate the need for the supplier of Campaign Services (newspapers, radio and television stations, printers, pollsters, etc.) to file reports with the Commission.

Section 7 This section proposes new language which would allow the candidate who does not intend to spend money or raise money (i.e., no financial campaign activity) to be able to state that fact at the outset of his or her campaign and not have to file any reports, unless the candidate does later begin spending or raising funds during the campaign.

Section 8 Actually, there are no proposed language changes in this section. What this section does is remove most of the language which is currently found in AS 15.13.130(3), which defines a "group," and places it here in AS 15.13.050, which specifically deals with the registering and reporting requirements of groups. This "move" is suggested so that people may read about groups in one section. People often do not read the definition section, where a substantial portion of the important information about campaign groups is currently found. This would solve that confusion.

Section 9 This section proposes new language requiring groups organized in support or opposition to ballot issues or petition drives to register before beginning campaign activity. The law currently requires groups supporting or opposing candidates to register prior to commencement, but is silent on when other groups should register.

An additional new section is proposed, which would require "on-going" groups, like political parties and political action committees, to annually renew their registration. This is necessary, as treasurers and officers change often, and there is no required procedure for updating the original registrations.

- Section 10 The proposed language in this section clarifies that a candidate is responsible for the performance of not only his treasurer, but also any deputy treasurers the candidate or treasurer may appoint to assist in the campaign.
- Section 11 This section removes the confusion over the intent of the phrase "competing candidates," and also clarifies that the subdivisions of a political party are exempt from the \$1,000 limitation so long as they are not, in actuality, acting as a candidates's campaign committee.
- In addition, and in accordance with the 1977 amendment to AS 15.13.110(e), this clearly states that more than \$1,000 may be contributed to groups attempting to influence a petition drive.
- Section 12 The intent of the proposed changes in this section is to allow candidates to raise and spend money for their campaign prior to formally declaring for office, so long as that activity is reported when required. The current language basically prohibits campaign activity prior to filing for office.
- Section 13 The proposed additional language in this section would eliminate the need for municipal candidates and groups to file the 30 day pre-election report, and would also eliminate the need for legislative candidates to file the 30 day report, so long as they had not experienced over \$1,000 in contribution or expenditure activity.
- Section 14 The amendment would eliminate the need to report expenditures on a 24 Hour Report Form during the week prior to an election.
- Section 15 This section proposes new language which names the 10 day post-election report as the final campaign disclosure report, if the campaign has ceased and all debts are paid, and stipulates the reporting requirements upon groups who must remain in active status after the 10 day report is filed.
- Section 16 This section, and the following section, attempts to clarify the criminal penalty section of the Campaign Disclosure Law. This section limits the scope of the penalty section, and views as misdemeanors only those items specifically enumerated. The current law makes any violation of AS 15.13 a criminal offense.

- Section 17 The changes proposed here eliminate the (probably) unconstitutional provision that voided a candidate's election if he or she were found guilty of a violation of the Campaign Disclosure Law, and replaces that provision with language requiring the Lieutenant Governor to withhold certification of a candidate's election pending resolution of a suit against a candidate for a certain alleged violation of the Campaign Disclosure Law.
- Section 18 This section is basically housekeeping, eliminating language in conjunction with the proposed changes discussed in Section 4, and clarifying that the Commission should report to the Attorney General the names of both candidates and groups when they have failed to file a report.
- Section 19 This section is not actually proposed new language. This language already exists in the statute as AS 15.13.120(d). However, in order to make it easy for people to find the complaint procedures, the language in (d) has been placed in a new section by itself and entitled "complaints."
- Section 20 This section substantially amends and expands the civil penalty section of the law. In conjunction with the limitations to the scope of the criminal penalty section proposed in Section 16 of this bill, an expansion of the civil penalty section is proposed here. The Commission's ability to more quickly and fairly administer the Campaign Disclosure Law rests with its ability to assess civil penalties for violations previously considered criminal violations. In addition to current civil penalties for the filing of late reports, this section proposes penalties for failing to register when required or failing to properly identify political campaign communications.
- Section 21 The proposed language in this section would allow the Commission to also request the Attorney General to appoint a special prosecutor, and limit that choice to the private bar.
- Section 22 This section would considerably expand the definition of the word candidate, and encompasses the numerous alternative ways of becoming a "candidate."
- Section 23 This section clarifies what is meant by the word "group" and, in addition, removes most of the information about groups, which was transferred to AS 15.13.080 in Section 8 of this bill (see Section 8 analysis).

Section 24

This is the "repealer" section and repeals the following:

AS 15.13.070(f), (g) and (h) - these are the subsections of the law which set out the limitation on expenditures later declared unconstitutional by the U. S. Supreme Court.

AS 15.13.080 - this is the section which required major contributors to file a report of their contributions within 10 days (see Section 4 analysis).

AS 15.13.110(d) - this section required the supplier of campaign services to file reports of their business transactions within 30 days of an election (see Section 6 analysis).

AS 15.13.120(d) - this is the subsection dealing with complaints, which was placed into a separate section (see Section 19 analysis).

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"An Act relating to the regulation of lobbying;..."

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AMENDMENT

EFFECT

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| Section 1 | This amendment proposes new language in recognition of the two reasons for registering as a lobbyist: 1) because a person is specifically employed, contracted with, or retained to lobby, or 2) because a person expends more than \$100 on public officials while attempting to influence the decisions of public officials. |
| Section 2 | The language in this section proposes to reduce the number of unnecessary copies of the lobbyists' registration statements that are currently required to be distributed by the Commission. |
| Section 3 | This is a new section of the law, and creates what has been labeled a "representational lobbyist" category. Section 16 of this bill defines a "representational lobbyist." This new section requires a representational lobbyist to register before lobbying, but the representational lobbyist does not have to file reports. Only the "employer" (the person or group reimbursing the representational lobbyist) must report. |
| Section 4 | This section proposes new language that sets out what a lobbyist is required to report. The current section is poorly written and confusing. This new language clearly states what is required, although it does not expand what is now required of lobbyists. Subsection (5) has been amended to increase the dollar threshold from \$100 to \$1000. |
| Section 5 | This section amends the law to clarify the reporting requirements of employers of lobbyists. Generally, the proposed new wording makes it clear that <u>groups</u> employing lobbyists must file reports |

as employers. The current language is unclear. In addition, the amendments will require the employer to report on the accrual basis rather than on the cash basis, and also will clarify the reporting of gifts to public officials or members of their immediate family.

Section 6 This amendment creates a new subsection which stipulates that the Commission may not accept an employer of a lobbyist's registration until all delinquent reports from the previous year have been filed. This new language parallels already existing language regarding the annual renewal of a lobbyist's registration.

Section 7 This section of the bill proposes a new section of the law, and would require the "employer" of a representational lobbyist to register as the source of the reimbursement within 15 days (also see Section 3 of this bill).

Section 8 This proposed new language considerably simplifies the current section setting out the reporting periods, and amends the section so that both lobbyists and employers of lobbyists need only report quarterly. This amendment eliminates the lobbyist's monthly reporting requirement. This amendment does, however, require that the reports be filed within 15 days of the end of each calendar quarter, instead of the present one-month time frame allowed for the filing of reports.

Section 9 This proposed amendment parallels the changes in Section 2 of this bill by eliminating the unnecessary duplication and distribution of reports filed.

Section 10 This amendment would create a new section which gives the Commission discretionary powers to revoke or suspend the registration of a lobbyist or an employer of a lobbyist when they have refused or failed to file a required report. This language requires that an opportunity for a hearing must be afforded before the Commission can take such action.

Section 11 This proposed language amends the exemption section of the law by making it clear that an individual who lobbies without compensation and does not spend over \$100 on behalf of public officials or their immediate families should not register and report as a lobbyist. Current language requires that an individual, in order to remain exempt for registering as a lobbyist, must confine his or her comments to public hearings and appearances before legislative committees. This restriction upon uncompensated individuals seems overburdensome; therefore, its removal has been proposed.

- Section 12 The definition of what is considered "administrative" lobbying has been a major source of trouble for the Commission. The proposed language in this section attempts to place limits on the overbroad scope of what is currently considered reportable administrative lobbying by excluding from consideration those activities that are routine and necessary when dealing with the bureacracy, and those appearances at proceedings which are public and for which a record is generally kept.
- Section 13 This amendment narrows the scope of the law to the immediate family of public officials, not any individual in government.
- Section 14 The proposed changes in this section further emphasize the Commission's attempts to exclude from consideration as reportable lobbying activities those activities which are mandated by existing laws and regulations.
- Section 15 This proposed new language more clearly and simply defines a lobbyist. The current definition is vague and difficult to administer and enforce.
- Section 16 The proposed changes in this section only correct references to language in another statute (AS 39.50 - the Conflict of Interest Law) that do not exist as referenced.
- Section 17 This section proposes additions to the definition section of the law. It sets out definitions for "representational lobbyist" (i.e., one who lobbies without compensation but who receives reimbursement for expenses), and for the term "source of income" (i.e., either the person or group directly paying the lobbyist, or other entities making payments through the direct employer).