

S

B

16

7

working with APOC to remove some of the more onerous reporting provisions of the conflict of interest law

CONFLICT OF INTEREST REVISIONS NOW BEING DRAFTED

Title 39, Chapter 50

e.g., increase from \$100 to \$5,000 threshold at which income sources will have to be reported -- elim. problem for most doctors and other professionals

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

JAY S. HAMMOND, GOVERNOR

REPLY TO:

- 610 C STREET, SUITE 211
ANCHORAGE, ALASKA 99501-3598
(907) 276-4176
- JUNEAU BRANCH OFFICE
POUCH CO
JUNEAU, ALASKA 99811-0222
(907) 465-4864

February 15, 1982

The Honorable Tim Kelly
Alaska State Senate
State Capitol Bldg.
Pouch V
Juneau, AK 99811

Dear Senator Kelly:

The Alaska Public Offices Commission urges passage of the Rules Committee Substitute for SB 167. Since the enactment of AS 15.13 in 1974, the Commission has sought various changes to make the Campaign Disclosure Law more effective and more reasonable; no substantive amendments have been accomplished since 1977. 1978 was the first gubernatorial election year after expenditure limitations were struck down by the courts. Experience in dealing with the volume of paperwork generated during that year, as well as subsequent elections, has made the Commission painfully aware of the need for statutory amendments.

Many of the changes included in the present bill were worked out in the 1980 Free Conference Committee and can be characterized as "fine tuning" while others are more substantive in nature. Although these changes would reduce reporting requirements substantially, they also preserve the public's right to know about the sources and uses of campaign funds.

The latest amendments in the present bill include:

- 1) increasing the maximum contribution to \$2,000;
- 2) raising the threshold at which a contributor's name must be reported to over \$250;
- 3) allowing expenditures of \$250 or less to be reported as a lump sum on each report;
- 4) restoring the four-year statute of limitations; and
- 5) simplifying a candidate's "paid for by" requirement.

Several of these changes are a natural consequence of inflation; others, such as shortening the "paid for by" requirement are the result of public input and Commission administration of the existing Law.

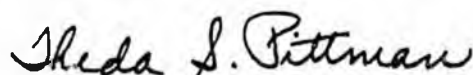
While the Commission strongly endorses the passage of this bill, we are under no illusions that this will result in a "perfect" law. Circumstances

surrounding campaigning for office are bound to change over the years and that, coupled with the Commission's experience in enforcement, will mandate future amendments. However, with such an extraordinarily large campaign year underway already, the Commission hopes to have CSSB 167 (Rules) passed quickly and implemented as soon as possible.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION

SHARI T. HOLMES, CHAIRMAN
GEORGE H. WHITE, VICE-CHAIRMAN
RICHARD F. LISTOWSKI
MILDRED O. OPLAND
JERRY L. WHITE



by: THEDA S. PITTMAN
Executive Director

TSP/mab

ALASKA PUBLIC OFFICES COMMISSION
CHECKLIST OF CSSB 167(R1s) CHANGES IN AS 15.13, CAMPAIGN DISCLOSURE
February 15, 1982

- increasing the maximum annual contribution from \$1,000 to \$2,000;
- raising the threshold at which a contributor's name must be reported to over \$250;
- allowing expenditures of \$250 or less to be reported as a lump sum on each report;
- exempting candidates for service area boards from campaign disclosure requirements;
- allowing deputy treasurers, as well as treasurers and candidates, to certify reports;
- allowing candidates who plan to accept no more than \$250 in total contributions and to spend no more than \$250 to file one Campaign Exemption Report;
- allowing contributions which exceed \$100 in cash to be accepted if receipted;
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- allowing expenditures before filing;
- establishing January 10 as the due date for Year-end Reports;
- deleting the requirement to report expenditures on 24 Hour Reports as well as changing such to "48 hour" reports;
- specifying which violations of AS 15.13 may result in criminal penalties;
- eliminating the requirement to record and report contributions returned within 72 hours;
- deleting the requirement that suppliers of services file reports;
- restoring the four-year statute of limitations for AS 15.13;
- requiring that APOC hearing process regulations be promulgated;
- prohibiting new regulations from taking effect later than 30 days before the filing deadline.

SECTIONAL ANALYSIS OF CSSB 167 (RULES)

Prepared by the Alaska Public Offices Commission

"An Act relating to election campaigns..."

Section 1: Amends AS 15.13.010(a) to exempt municipal candidates for service area boards.

Sections 2, 3, and 4: Amends AS 15.13.020 to provide selection of the fifth member of the Commission by the Governor; retains present 5-year term; no longer limits members to one term.

Sections 5 and 6: Amends AS 15.13.030 to make the Commission's authority to issue orders explicit; prohibits the application of new or amended regulations in a particular election, if the effective date is later than 30 days before the final date for filing.

Section 7: Amends AS 15.13.040(a) by raising the threshold at which a contributor's name must be reported to over \$250; specifies that only expenditures exceeding \$250 need be itemized; allows deputy treasurers to certify reports if the Commission has received notice of their appointment.

Sections 8 and 9: Amends AS 15.13.040(b) to make group reporting requirements consistent with those set for candidates by section 7.

Sections 10 and 11: Amends AS 15.13.040(d) and (e) to eliminate a Statement of Contributions from those who have contributed more than \$100; retains the requirement for a Statement of (Independent) Expenditures.

Section 12: Adds AS 15.13.042 to allow candidates limiting the financial activity of their campaigns to \$250 or less to file one certified exemption report.

Section 13: Amends AS 15.13.045 to require hearing process regulations which are consistent with the Administrative Procedures Act.

Section 14: Housekeeping which amends AS 15.13.050 by transferring language from .130(3) concerning groups which support or oppose only one candidate; specifies that groups supporting or opposing ballot issues must register before expending funds.

Section 15: Amends 15.13.060(c) to require submission of the name of a campaign chairman (if any).

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Section 21: Amends AS 15.13.100 to permit "candidates" (see section 28) to expend money before filing formally for office.

Section 22: Amends AS 15.13.110(a)(4) to establish January 10 as due date for year-end reports.

Section 23: Amends AS 15.13.110(b) to change 24 Hour Reports to 48 hour reports; limits such reports to contributions over \$250; closes a 3-day gap between the 7-Day reporting period and the proposed 48 Hour reporting period.

Section 24: Adds AS 15.13.110(f) to clarify that the 10-Day Post-election Report is the final report if a campaign has ceased and all debts are paid.

Section 25: Moves the present language in AS 15.13.120(d) concerning the right of a person to file a complaint.

Section 26: Amends AS 15.13.120(a), the criminal penalty section of the statute, to specify which violations should be viewed as Class A misdemeanors.

Section 27: Amends AS 15.13.120(c) to clarify that the Commission shall report to the Attorney General the names of both candidates and groups which have failed to file a report.

Section 28: Repeals and reenacts AS 15.13.130(1), expanding the definition of candidate to include not only those who file or campaign as write-ins, but also those who receive contributions or make expenditures, or who consent to such activities on their behalf.

Section 29: Amends AS 15.13.120(2) to exclude from the definition of "contribution" one that is returned within 72 hours of its receipt by a candidate or group.

Section 30: Amends AS 15.13.130(3) by deleting language now included in section 14 concerning groups.

Section 31: Amends AS 15.56.130 to restore the original four-year statute of limitations for Chapter 13 which was reduced to one-year as part of a recent Elections Code revision.

Section 32: Repealers include:

- AS 15.13.020(c), the selection of the 5th Commission member by the other four;
- 15.13.040(f), the Supplier of Services report,
- 15.13.070(f) and (g), language on spending limits;
- 15.13.110(d), the Supplier of Services report; and
- 15.13.120(d), complaint language moved by Section 25.

Section 33: Establishes an immediate effective date.

SENATOR
PATRICK M. RODEY
3271 MONTCLAIRE COURT
ANCHORAGE, AK 99503



SENATE MAJORITY LEADER
CHAIRMAN
SENATE JUDICIARY COMMITTEE
CHAIRMAN
SENATE SPECIAL COMMITTEE
ON BANKING

ALASKA STATE LEGISLATURE

POUCH V
JUNEAU, ALASKA 99811
(907) 465-3717

MEMORANDUM

To: All Senators

From: Senator Rodey

Re: CSSB167(Rules)

Please find attached a sectional analysis, and brief informational sheet on the bill appearing on Monday's calender. This bill cleans up many of the provisions which have made campaign disclosure reporting somewhat difficult in the past.

I hope you will join me in supporting this needed legislation.

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SENATE AMENDMENT ~~116~~

By RAY

To: CS SENATE BILL No. 167 (Rules)

To: _____ HOUSE BILL No. _____

PAGE: 1 LINE: 20

Put period • after word "board" and
delete rest of sentence.

A M E N D M E N T

#5



Offered in the SENATE

By Dinkworth

TO: CSSB 167 (Rules)

Page 14, line 4:

Delete "15.13.120(d)" and insert "15.13.120(b) and (d)"

SENATE AMENDMENT

~~2/4~~

By Fischer

To: _____ SENATE BILL No. 167

To: _____ HOUSE BILL No. _____

PAGE: 7 LINE: 11, 17, and 22

delete \$2,000 and brackets around \$1,000

El
Scoble
Stinson
VTT

SENATE AMENDMENT #3 ✓

By ~~Fischer~~ FISCHER

To: _____ SENATE BILL No. 167

To: _____ HOUSE BILL No. _____

PAGE:	5	LINE:	29
"	6	"	2
"	6	"	3

after " candidate" add "or ballot issue"

① - to -10 ~~Coalition~~
→ (favored proposition on closing bar hours)

② Committee for Informed
Choice
→ (opposed proposition on closing bar hours)

SENATE AMENDMENT

#2

By Senator Robert H. Ziegler, Sr.

To: Amend SENATE BILL No. CSSB 167 (R1s.)

To: _____ HOUSE BILL No. _____

PAGE: 4 LINE: 28

After the word "made", change the period (.) to a comma (,) and insert the following:

"or the indebtedness is incurred, whichever first occurs."

AMENDMENT # 1
CSSB 167 (Rules)

✓
AM #1
leg: Rodney

Page 12, line 1

Amended by inserting a new section on page 12: line 1

Section 27. AS 15.13.120(b)

(b) The nomination for, or election to, an office of a candidate who violates a provision of this chapter, or whose campaign treasurer or deputy campaign treasurer violates a provision of this chapter, is void, and, if he is elected, the successful candidate may not hold office and the office shall be filled as required by law in the case of vacancy. When a violation of this chapter is alleged, the candidate's right to the nomination of the office may be tested in an action brought in the superior [supreme] court as a matter of original jurisdiction. All cases of this nature shall be in a preferred position for purposes of argument and decision, so as to assure a speedy disposition of the matter.

Renumber remaining sections.

SENATE AMENDMENT

BY PARR

Amend 8
To: Amend #7

SENATE BILL No. CS SB 167 (Rules)

To: _____

HOUSE BILL No. _____

PAGE:

LINE:

line 3 of amendment 7:
delete " for a state office or "

Page 12, line 10

AS 15.13 is amended by adding a new section to read: Sec. 15.13.121. EFFECT OF CERTAIN CONVICTIONS. (a) If a successful candidate for a state office or for a seat on a city council or borough assembly or for borough or city mayor is convicted of a misdemeanor described in AS 15.13.120(a)(1), (3), or (6), the election is void and the successful candidate may not hold the office to which the candidate was elected. A vacancy occurring under this section shall be filled as required by law.

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

Renumber sections accordingly

Failed a-1
reinserted

Line 14, Page 11:

Insert the word "knowingly" between the word "or" and the word "failing".

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 25, 1982

SUBJECT: Effect of certain convictions
(Amendment to AS 15.13.120(b) in SB 167)

TO: Senator Charles H. Parr

FROM: Richard A. Bradley
Legislative Counsel

You have provided us with an amendment prepared for Senator Rodey which would (apparently) cause the repeal of AS 15.13.120(b) and its replacement with a new Sec. 121. The section had been viewed as moribund until recently; when I had been asked to draft a bill cleaning up the invalid provisions of AS 15.13, it was my usual custom to include the repeal of Sec. 120(b). And it is fair to note that until last fall, the commission has not sought to implement the provision.

But at that time, the commission filed a complaint in the Supreme Court against Joseph Marshall, a successful candidate for election to municipal office in Fairbanks. The Supreme Court enforced AS 15.13.120(b) according to its terms.

It has always been assumed that the legislature could by general law establish the requirement found in AS 15.13.-120(b) as to municipal elections. Municipalities are generally viewed as creatures of the state and the legislature may establish what qualifications it wishes for election to municipal office. In that context, what the Court said about the provisions is significant for members of the legislature as the section is reconsidered.

The Supreme Court analyzed the law under two premises: (1) the separation of powers concept; and (2) the exclusive qualifications test. See, State v. Marshall, 633 P.2d 227 (Alaska 1981).

Both were held inapplicable to Marshall.

Under the separation of powers concept, a body given by the constitution the authority to determine the qualifications of its members is the exclusive determiner of those qualifications. And it follows that if the judiciary intervenes to determine a state legislator's qualifications under a law similar to Sec. 120(b), a violation of the separation of powers doctrine is presented.

The Court noted that candidates elected to municipal office had no similar constitutional protection.

The Court said, in this context:

~~Thus even if the forfeiture sanction conflicts with art. 11, sec. 12, of the Alaska constitution insofar as state legislative elections are concerned, a question we do not reach, (footnote) it can nonetheless constitutionally apply to local elections.~~

633 P.2d at 231.

The footnote is somewhat cryptic; it notes that if the separation of powers argument is held applicable, Sec. 120(b) still applies to "local elections, the governor, lieutenant governor and to a 'judge seeking electoral confirmation'. AS 15.13.010. This possible inconsistency argues for a uniform application."

There may be a reason to treat legislators differently; the legislature possesses the constitutional mechanism to determine the qualifications of its members and the others mentioned do not.

But it is possible that the judiciary is concerned that the constitutional procedures for the retention of judges may be invaded and compromised by legislation such as that under consideration. Since the constitutional judges of the supreme and superior courts have a constitutionally established comprehensive scheme for their retention elections, there may be some belief on the Court that those procedures are the outer edges of legislative authority to regulate the election of judges. The argument I suggest is not stated, of course, and I may be wrong about the Court's hints regarding "inconsistency".

Senator Charles H. Parr
Page 3
February 25, 1982

The second reason considered by the Court in the Marshall case was the suggestion that the grounds stated in the constitution for the election of officers are the only (the exclusive) qualifications that may be established. Under that analysis, laws such as Sec. 120(b) add additional qualifications. The Court stated that a "majority of the courts have rejected this view". [633 P.2d at 232]

Note that the Court's analysis is pure dicta; municipal officers have no constitutionally established qualifications for the offices they hold. To the extent that the Court considered legislative office and municipal office as presenting identical arguments, the Court misunderstood the argument. And another fact situation must be presented to the Court before a useful interpretation can be expected.

In my view, therefore, the argument that the legislature may (or may not) establish additional qualifications for election to constitutionally established public office in addition to those qualifications established constitutionally remains open. A copy of the opinion is enclosed for your review.

RAB:ljb

Enclosure

MEMO

TO: Senator Vic

FROM.: NJG

DATE: 2/21/51

RE: CS SB 167 (Rules) relating to election campaigns & the APOC; and providing for an effective date.

This is the bill in which you stated to the APOC Commissioners that you would protect increasing the maximum contribution to \$2000, ^(a change from \$1000) & raising the threshold at which a contributor's name must be reported to over \$250 (a change from the current over \$100). APOC said these changes were in keeping with inflation. I think this weakens the intent behind reporting campaign contributions which is basically "who owes (owns) whom". I will draft an amendment in the morning if you wish.

Refer to the sectional analysis prepared by APOC for an explanation of the bill. It's basically accurate but not detailed. This bill amends Chapter 13 entitled "State Election Campaigns" of Title 15 entitled "Elections". (This chapter and the chapter in the supplement is marked with a 3" x 5" card).

The bill is also peppered with male pronouns and CHAIRMAN's.

Other highlights - no longer limits members ^{of commission} to one term & allows candidates to expend money before filing. Under current law , candidates are limited to expenditures for personal travel expenses or for opinion surveys or polls.

~~I believe a change in this law could allow an alleged candidate to spend a lot of money doing a lot of damage & clearing the field & then never filing for public office. The law does not state that you have to file for public office once money is expended. This amendment was also in our SB 167 and I didn't catch it. ^{page 9, line 8-19.}~~

~~This last paragraph is~~ ^{This is not correct as definition of candidate.}

delete

Another proposed amendment (this is for me to get the Right to Life people on the abortion proposition. I want them to have to organize a new group because the Right to Life people have 501(c)(3) status i.e. IRS tax deductible.) See page 5, line 29 - Add "or ballot issue" after "candidate" and before "or" on page 6, line 1. On page 6, line 2, add "or ballot issue" after "candidate" and before "the". On page 6, line 3, add "or ballot issue" after "candidate." You can sell this amendment by stating it will help the voters in the up-coming election because the ballot will be so long and complicated, ^{and there will be so} You can mention "capital move", "constitutional convention", etc. but please stay away from the abortion issue.

→ many ads, direct mail, etc. and it will be less confusing for the voter if the groups state in their name that they oppose or favor a ballot issue.

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

JAY S. HAMMOND, GOVERNOR

REPLY TO:

- 610 C STREET, SUITE 211
ANCHORAGE, ALASKA 99501-3598
(907) 276-4176
- JUNEAU BRANCH OFFICE
POUCH CO
JUNEAU, ALASKA 99811-0222
(907) 465-4864

February 15, 1982

The Honorable Vic Fischer
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Fischer:

The members of the Alaska Public Offices Commission and its staff would like to thank you for the opportunity to discuss recommended changes in the Campaign Disclosure Law during a recent trip to Juneau.

It is our understanding that a Rules Committee Substitute for SB 167 will be up for full Senate consideration shortly and, as promised, included herein is a sectional analysis and a brief checklist highlighting the proposed changes.

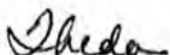
While the Commission is aware that adoption of CSSB 167 (Rules) will not solve all the problems associated with the Campaign Disclosure Law, it feels the bill would both preserve the intent of disclosure and make the Law more "livable" in many respects.

Your indication of support for constructive changes in the Campaign Disclosure Law is most appreciated and we look forward to hearing from you should you have any questions.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION

SHARI T. HOLMES, CHAIRMAN
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by: THEDA S. PITTMAN
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TSP:VLR/mab

enclosures

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Sections 19 and 20: Amends AS 15.13.090 to permit candidates to use an abbreviated identification on their political communications, i.e., "paid for by Pat Candidate."

Section 21: Amends AS 15.13.100 to permit "candidates" (see section 28) to expend money before filing formally for office.

Section 22: Amends AS 15.13.110(a)(4) to establish January 10 as due date for year-end reports.

Section 23: Amends AS 15.13.110(b) to change 24 Hour Reports to 48 hour reports; limits such reports to contributions over \$250; closes a 3-day gap between the 7-Day reporting period and the proposed 48 Hour reporting period.

Section 24: Adds AS 15.13.110(f) to clarify that the 10-Day Post-election Report is the final report if a campaign has ceased and all debts are paid.

Section 25: Moves the present language in AS 15.13.120(d) concerning the right of a person to file a complaint.

Section 26: Amends AS 15.13.120(a), the criminal penalty section of the statute, to specify which violations should be viewed as Class A misdemeanors.

Section 27: Amends AS 15.13.120(c) to clarify that the Commission shall report to the Attorney General the names of both candidates and groups which have failed to file a report.

Section 28: Repeals and reenacts AS 15.13.130(1), expanding the definition of candidate to include not only those who file or campaign as write-ins, but also those who receive contributions or make expenditures, or who consent to such activities on their behalf.

Section 29: Amends AS 15.13.120(2) to exclude from the definition of "contribution" one that is returned within 72 hours of its receipt by a candidate or group.

Section 30: Amends AS 15.13.130(3) by deleting language now included in section 14 concerning groups.

Section 31: Amends AS 15.56.130 to restore the original four-year statute of limitations for Chapter 13 which was reduced to one-year as part of a recent Elections Code revision.

Section 32: Repealers include:

- AS 15.13.020(c), the selection of the 5th Commission member by the other four;
- 15.13.040(f), the Supplier of Services report;
- 15.13.070(f) and (g), language on spending limits;
- 15.13.110(d), the Supplier of Services report; and
- 15.13.120(d), complaint language moved by Section 25.

Section 33: Establishes an immediate effective date.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 11, 1981

SUBJECT: Section 26 board status for APOC
(CSSB 167 (State Affairs))

TO: Senator Vic Fischer, Chairman
Senate State Affairs Committee

FROM: Richard A. Bradley 
Legislative Counsel

Nancy Groszek has asked that I make the members of the Public Offices Commission be confirmed by the legislature. This result may only occur if the APOC is established as a "section 26 board or commission". Bradner v. Hammond, 553 P.2d 1 (1976).

Sec. 26 [of Article III, Constitution of Alaska] provides that:

SECTION 26. When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature . . .

Either the Public Offices Commission is already a "commission" "at the head of a . . . regulatory or quasi-judicial agency" -- in which case it already is a section 26 commission and the members as a matter of constitutional law are subject to confirmation -- or there is no power in the legislature to make it into a section 26 commission unless it recasts the powers of the commission such that it becomes a "regulatory or quasi-judicial agency" -- or unless the legislature establishes the commission as a department headed by a commission.

In a memorandum to the Speaker last year, I concluded that the commission did not qualify as a section 26 commission

Senator Vic Fischer
Page 2
May 11, 1981

for purposes of the confirmation of its members. Memorandum of June 1, 1980, copy enclosed.

Since the conclusions of that memorandum resulted from a conclusion that the functions of the commission were not properly describable as those of a "regulatory or quasi-judicial agency" and since the addition of the ethics responsibility does not change the nature of those functions, in my opinion there is no basis for conferring section 26 status on the commission.

And since the Bradner case holds that the legislature may not require the confirmation of public officials not required to be confirmed under the constitution, the introduction of the language requiring confirmation is, in my view, unconstitutional.

If the committee wishes the language requiring confirmation, please return the bill and it will be added.

RAB:ljb

Enclosures

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

June 1, 1980

SUBJECT: Article III, sec. 26 and the APOC

TO: Representative Terry Gardiner
Speaker of the House of Representatives

FROM: Richard A. Bradley
Legislative Counsel

You have requested a memorandum on the applicability of Article III, sec. 26 of the Alaska Constitution to the appointment of the members of the Alaska Public Offices Commission established in AS 15.13.

Sec. 26 requires the governor to appoint members of boards or commissions which are at the head of a "regulatory or quasi-judicial agency" subject to legislative confirmation.

No provision of AS 15.13, AS 24.45, or AS 39.50 requires the legislative confirmation of the members of the commission.

The question, then, is whether the Alaska Public Offices Commission is a "regulatory or quasi-judicial agency."

The activities of the commission fall under three chapters of the Alaska Statutes.

Under AS 15.13, the commission receives the reports of candidates for political office. If reports are not filed timely or if there are defects in the reports, the commission may impose sanctions for the lateness or the other defects.

Under AS 24.45, the commission receives reports of lobbying activity and imposes sanctions for late or inadequate filings.

Under AS 39.50, the commission again receives reports of public officials concerned with the disclosure of conflicts of interest and establishes appropriate sanctions.

Under none of these laws does the activity of the commission truly partake of the concept of regulation. Rather the regulation in question has been accomplished by the legislature in its enactment of the three chapters. The role of the commission is to monitor compliance with the regulations established by the legislature and to set sanctions to the extent that it has the power and to forward cases to the Department of Law where its power is lacking or the sanctions are inadequate.

It seems clear that the aspect of regulation undertaken by the commission is of a lower level than that undertaken by the Public Utilities Commission, for example. And the difference between the regulation undertaken by APOC and APUC is so different that the distinction more closely approximates a distinction in kind rather than a distinction in degree.

Having said this, the question whether this limited aspect of "regulation" qualifies to establish the commission as a section 26 commission is close.

In my view, the legislature may determine this question itself. It may characterize the responsibilities of the commission as regulatory and require compliance with sec. 26 requirements; alternatively, it may determine that the responsibilities do not rise to the level of regulation for the purposes of sec. 26 and avoid the requirements of sec. 26.

It does this in close cases not by any affirmative statement in the law itself but rather by its determination to require confirmation of the members of the commission or not.

The Bradner v. Hammond case, 553 P.2d 1 (Alaska 1976) stands for the proposition that the legislature may not undertake to require legislative confirmation of public officers of the executive branch who are not within the sweep of the confirmation power [Article III, secs. 25 and 26] under the constitution. But the case does not limit the authority of the legislature to determine for itself close questions of whether a board or commission exercises "regulatory or quasi-judicial" powers where the legislature has the power to establish the commission and grant it "regulatory or quasi-judicial" power.

Representative Terry Gardiner
Page 3
June 1, 1980

The implicit legislative determination that the members of the commission do not require legislative confirmation constitutes, in the premises, an affirmative legislative determination that the commission does not exercise "regulatory or quasi-judicial" powers.

As I have suggested above, that conclusion is supportable by an analysis of the responsibilities of the commission.

And there is no legal significance to the submission by the governor of the names of appointees to the commission for legislative confirmation, if that has occurred. See, Bradner v. Hammond, supra, at 4, n.5.

RAB:ljb

Bradley ✓

Original sponsor: Kelly

1 IN THE SENATE

BY THE STATE AFFAIRS COMMITTEE

2 'CS FOR SENATE BILL NO. 167 (State Affairs)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to election campaigns and to the
7 composition and responsibilities of the Alaska Public
8 Offices Commission; and providing for an effective
9 date."

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

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

12 (a) This chapter applies in every election for governor, lieuten-
13 ant governor, a member of the state legislature, a delegate to a con-
14 stitutional convention, or judge seeking electoral confirmation. It
15 also applies to every candidate for election to a municipal office in a
16 city or borough with a population of more than 1,000 inhabitants accord-
17 ing to the latest United States census figures or estimates of popula-
18 tion certified as correct for administrative purposes by the Department
19 of Community and Regional Affairs. This chapter does not apply to a
20 candidate for a service area board or to a candidate for a commission
21 that serves only in an advisory capacity. A municipality may exempt
22 candidates for municipal office and persons and groups active in
23 municipal election campaigns [ITS ELECTED MUNICIPAL OFFICERS] from the
24 requirements of this chapter if a majority of the voters voting on the
25 question at any regular election, as defined by AS 29.78.010(14), or a
26 special municipality-wide election called for that purpose, vote to
27 exempt candidates for municipal office and persons and groups active
28 in municipal election campaigns [ITS ELECTED MUNICIPAL OFFICERS] from
29 the requirements of this chapter. The question of exemption from the

ADP
L. B. K.

CONFIRM BY LEGISL.



1 requirements of this chapter may be submitted by the city council or
2 borough assembly by ordinance or by initiative ordinance. Nothing in
3 this chapter prohibits a municipality from regulating by ordinance
4 campaign contributions and expenditures.

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

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

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

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

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

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

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

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

29 * Sec. 6. AS 15.13.040(a) is amended to read:

MAKES EXPLICIT

CHANGES
since election
Nov 27
from 1 party in
2 years

NEW

Relieve burden of reporting small expenditures

new deputy can't

1 Sec. 15.13.040. CONTRIBUTIONS AND [,] EXPENDITURES [AND SUPPLYING
2 OF SERVICES] TO BE REPORTED. (a) Each candidate shall make a full
3 report, upon a form prescribed by the commission, listing the total
4 [DATE AND] amount of all expenditures made or incurred by the candidate,
5 together with the date, amount, and check number for each expenditure
6 exceeding \$100 in value, the total amount of all contributions, includ-
7 ing all funds contributed by the candidate himself, and for all contri-
8 butions in excess of \$100 in the aggregate a year, the name, address,
9 principal occupation, and employer of the contributor and the date and
10 amount contributed by each contributor. The report shall be filed in
11 accordance with AS 15.13.110 and shall be certified correct by the
12 candidate or campaign treasurer. A campaign treasurer or deputy
13 treasurer may not certify a report under this section unless the ap-
14 pointment of the campaign treasurer or deputy campaign treasurer by
15 the candidate has been received by the commission.

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

17 (3) the date and amount of all contributions received [MADE
18 BY IT] and all expenditures made, incurred or authorized by it includ-
19 ing the date, amount and check number of any expenditure exceeding \$100
20 in value.

* Sec. 8. AS 15.13.040(d) is amended to read:

22 (d) Every individual or [,] person, and every [OR] group that is
23 not required to report in accordance with (b) of this section, making
24 an [A CONTRIBUTION OR] expenditure shall make a full report, upon a
25 form prescribed by the commission, of [THE FOLLOWING CONTRIBUTIONS OR
26 EXPENDITURES: (1) ANY CONTRIBUTION OF CASH, GOODS OR SERVICES VALUED
27 AT MORE THAN \$100 A YEAR TO ANY GROUP OR CANDIDATE; OR (2)] any expen-
28 diture whatsoever for advertising in newspapers, on radio or on televi-
29 sion; or, for the publication, distribution or circulation of brochures.

1 flyers, or other campaign material for or against any candidate, [OR]
2 ballot proposition or question.

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

4 (e) The report required under (d) of this section shall contain
5 the name, address, principal occupation and employer of the individual
6 filing the report, and an itemized list of expenditures. The report
7 shall be filed with the commission [BY THE CONTRIBUTOR] no later than
8 10 days after the [CONTRIBUTION OR] expenditure is made. [A COPY OF
9 THE REPORT SHALL BE FURNISHED TO THE CANDIDATE, CAMPAIGN TREASURER OR
10 DEPUTY CAMPAIGN TREASURER AT THE TIME THE CONTRIBUTION IS MADE.]

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

12 Sec. 15.13.042. LIMITED CAMPAIGN ACTIVITY. (a) A candidate who
13 does not intend to accept contributions or make expenditures which
14 exceed \$250 in total value may file a report, upon a form prescribed by
15 the commission, informing the commission of his intent. The report may
16 be filed only once and may be filed either before or at the time the
17 candidate's first report is due under AS 15.13.110. The report shall
18 be certified as correct by the candidate.

19 (b) A candidate who accepts a contribution or makes expenditures
20 which total more than \$250 after filing a report under (a) of this
21 section loses his exemption from the reporting requirements of this
22 chapter and shall file reports due under AS 15.13.110. The first
23 report is due three days after the acceptance of a contribution or the
24 making of an expenditure of more than \$250 by the candidate. A candi-
25 date who receives an unsolicited contribution and returns the contribu-
26 tion to the contributor within 72 hours of its receipt does not lose
27 the exemption provided in this section.

28 * Sec. 11. AS 15.13.050 is repealed and reenacted to read:

29 Sec. 15.13.050. GROUPS. (a) Each group, before making an expen-

work sheet
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1 Sec. 15.13.040. CONTRIBUTIONS AND [,] EXPENDITURES [AND SUPPLYING
2 OF SERVICES] TO BE REPORTED. (a) Each candidate shall make a full
3 report, upon a form prescribed by the commission, listing the total
4 [DATE AND] amount of all expenditures made or incurred by the candidate,
5 together with the date, amount, and check number for each expenditure
6 exceeding \$100 in value, the total amount of all contributions, includ-
7 ing all funds contributed by the candidate himself, and for all contri-
8 butions in excess of \$100 in the aggregate a year, the name, address,
9 principal occupation, and employer of the contributor and the date and
10 amount contributed by each contributor. The report shall be filed in
11 accordance with AS 15.13.110 and shall be certified correct by the
12 candidate or campaign treasurer. A campaign treasurer or deputy
13 treasurer may not certify a report under this section unless the ap-
14 pointment of the campaign treasurer or deputy campaign treasurer by
15 the candidate has been received by the commission.

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23 not required to report in accordance with (b) of this section, making
24 an [A CONTRIBUTION OR] expenditure shall make a full report, upon a
25 form prescribed by the commission, of [THE FOLLOWING CONTRIBUTIONS OR
26 EXPENDITURES: (1) ANY CONTRIBUTION OF CASH, GOODS OR SERVICES VALUED
27 AT MORE THAN \$100 A YEAR TO ANY GROUP OR CANDIDATE; OR (2)] any expen-
28 diture whatsoever for advertising in newspapers, on radio or on televi-
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8 10 days after the [CONTRIBUTION OR] expenditure is made. [A COPY OF
9 THE REPORT SHALL BE FURNISHED TO THE CANDIDATE, CAMPAIGN TREASURER OR
10 DEPUTY CAMPAIGN TREASURER AT THE TIME THE CONTRIBUTION IS MADE.]

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14 exceed \$250 in total value may file a report, upon a form prescribed by
15 the commission, informing the commission of his intent. The report may
16 be filed only once and may be filed either before or at the time the
17 candidate's first report is due under AS 15.13.110. The report shall
18 be certified as correct by the candidate.

19 (b) A candidate who accepts a contribution or makes expenditures
20 which total more than \$250 after filing a report under (a) of this
21 section loses his exemption from the reporting requirements of this
22 chapter and shall file reports due under AS 15.13.110. The first
23 report is due three days after the acceptance of a contribution or the
24 making of an expenditure of more than \$250 by the candidate. A candi-
25 date who receives an unsolicited contribution and returns the contribu-
26 tion to the contributor within 72 hours of its receipt does not lose
27 the exemption provided in this section.

28 * Sec. 11. AS 15.13.050 is repealed and reenacted to read:

29 Sec. 15.13.050. GROUPS. (a) Each group, before making an expen-

1 diture on behalf of, or in opposition to, a candidate, or a contribution
2 to a candidate, shall register, on forms provided by the commission,
3 with the commission. If the group intends to support or oppose only
4 one candidate, or to contribute to or expend on behalf of, or in
5 opposition to, one candidate 50 percent or more of its funds, the name
6 of the candidate shall be a part of the name of the group. Promptly
7 upon receiving the registration, the commission shall notify the
8 candidate of the group's organization and intent.

9 (b) A group that makes expenditures or receives contributions
10 with the express or implied authorization or consent or is under the
11 direct or indirect control of a candidate is considered to be con-
12 trolled by the candidate.

13 (c) A group whose major purpose is to further the nomination or
14 election of a single candidate or which intends to expend 50 percent or
15 more of its money on a single candidate is considered to be controlled
16 by that candidate and its actions considered to have been done with the
17 knowledge and consent of the candidate unless, within 10 days from the
18 date the candidate learns from the commission of the existence of the
19 group, he files with the commission, on a form provided by the commis-
20 sion, an affidavit certifying that the group is operating without his
21 control.

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

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

1 * Sec. 12. AS 15.13.070(a) is amended to read:

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

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

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

17 * Sec. 13. AS 15.13.070(b) is repealed and reenacted to read:

18 (b) A person may not make and a candidate or group may not accept
19 a contribution over \$100 in cash unless a receipt for the total amount
20 is issued by the candidate or group and received by the person making
21 the contribution. *Now \$100 is limit*

22 * Sec. 14. AS 15.13.070(d) is amended to read:

23 (d) A [NO] contribution may not be made, and an [NO] expenditure
24 may not be made or incurred, directly or indirectly, anonymously, in a
25 fictitious name, or by one person or group in the name of another, to
26 influence the election of a candidate in an election. A contribution
27 made by a person wishing to remain anonymous, and received by a candi-
28 date, campaign treasurer or deputy campaign treasurer, may not be used
29 or expended, but shall be returned to the donor, if his identity is

APC: delegates leaves if open account do cash account over \$1,000 thru repeated donations

1 known, and if his identity is not known [NO DONOR IS FOUND], the contri-
2 bution shall be [ESCHEATS TO THE STATE IF NOT] donated by the candidate
3 to the charity of his choice. A candidate may accept contributions of
4 \$5 or less without recording the name of the contributor.

5 * Sec. 15. AS 15.13.090 is amended to read:

6 Sec. 15.13.090. IDENTIFICATION OF COMMUNICATION. (a) All advertise-
7 ments, billboards, handbills, paid-for television and radio announce-
8 ments and other communications intended to promote [INFLUENCE] a
9 election of a candidate which are paid for by the candidate or the candi-
10 campaign committee of the candidate [OR OUTCOME OF A BALLOT PROPOSITION OR
11 QUESTION] shall be clearly identified by the words "paid for by"
12 followed by the name [AND ADDRESS] of the candidate or campaign commit-
13 tee of the candidate [, GROUP OR INDIVIDUAL PAYING FOR THE ADVERTISING.

14 IN ADDITION, CANDIDATES AND GROUPS MUST IDENTIFY THE NAME OF THEIR
15 CAMPAIGN CHAIRMAN].

16 * Sec. 16. AS 15.13.090 is amended by adding new subsections to read:

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

24 (c) The commission may by regulation exempt from this section
25 communications which in its judgment do not afford space for the
26 identification required by this section.

27 * Sec. 17. AS 15.13.100 is amended to read:

28 Sec. 15.13.100. EXPENDITURES, CONTRIBUTIONS, AND REGISTRATION BE-
29 FORE FILING. Political campaign contributions may be made or received.

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

11 * Sec. 18. AS 15.13.110(b) is amended to read:

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

17 * Sec. 19. AS 15.13.110 is amended by adding new subsections to read:

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

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

21 (2) the campaign fund has been closed;

22 (3) the campaign has been concluded; and

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

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

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

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

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

4 * Sec. 20. AS 15.13 is amended by adding a new section to read:

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

13 (b) If the commission determines, after notice and opportunity
 14 for a hearing, that a person has violated a provision of this chapter
 15 or a regulation or order issued under this chapter, the commission
 16 shall promptly report its determination to the attorney general for
 17 appropriate action.

18 (c) The commission shall report its determination to the person
 19 who filed the complaint within 60 days of receiving the complaint,
 20 unless circumstances require additional time to make an adequate inve-
 21 stigation.

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

24 * Sec. 21. AS 15.13.120(a) is amended to read:

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

reasonably complete

1 (1) refusing or failing to make a statement or report re-
2 quired to be made under this chapter [, OR FAILING TO MAKE A STATEMENT
3 OR REPORT AT THE TIME THE STATEMENT OR REPORT IS REQUIRED TO BE MADE
4 UNDER THIS CHAPTER];

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

7 (3) knowingly making a false statement or report under this
8 chapter;

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

13 (5) making a communication to support or defeat a candidate
14 without identification of sponsorship under AS 15.13.090(b) ~~X~~, IN
15 VIOLATION OF AS 15.13.090];

16 (6) knowingly accepting a contribution in violation of
17 AS 15.13.070.

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

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

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

28 Sec. 15.13.121. EFFECT OF CERTAIN CONVICTIONS. (a) If a success-
29 ful candidate for the state legislature or for a seat on a city council

1 or borough assembly or for borough or city mayor is convicted of a
2 misdemeanor described in AS 15.13.170(a)(1), (3), or (6), the eligi-
3 bility of the successful candidate to hold the office to which elected
4 shall be determined as to

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

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

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

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

10 (5) a city mayor under AS 29.23.255.

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

15 * Sec. 24. AS 15.13.130(1) is repealed and reenacted to read:

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

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

25 (B) he has received contributions or made expenditures
26 before filing for office;

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

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

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

* Sec. 25. AS 15.13.130(2) is amended by adding a new subparagraph to read:

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

* Sec. 26. AS 15.13.020(c), 15.13.040(f), 15.13.070(f) and (g), 15.13.110(d), and 15.13.120(b) are repealed.

* Sec. 27. λ This Act takes effect July 1, 1981. *Sec 1 + 10*

adheres Jan 1, '82 effect.
S

PATRICK RODEY
ANCHORAGE

601 W. 5TH AVE. SUITE 820
ANCHORAGE, ALASKA 99501

Alaska State Senate
JUNEAU, ALASKA 99811

DURING SESSION

POUCH V
JUNEAU, ALASKA 99811

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M E M O R A N D U M

DATE: March 19, 1981
TO: Members, Senate Special Committee on Legislative Reform
FROM: Senator Rodey, Chairman *PRR*
RE: Legislative Reform

This is to formalize the arrangements agreed upon at our last committee meeting a week ago. At that time consensus was reached that the different areas of reform - and relevant bills and resolutions - should be divided up among the members of the special committee. The assignments are as follow:

Senator Kelly - length of session: SJR 6/HJR 12
appropriations: SJR 20
legislative employees' salaries

Senator Fischer - ethics/APOC/financial disclosure:
SB 167/SB 175/HB 107/ HB 153/HB 154

Senator Ray - terms of legislators: SJR 9/ SJR 24
conference committees: SCR 1/HCR 3
bill content/germaneness

Senators Rodey & Bennett -
uniform rules changes: SCR 8
legislative procedures: HB 155
legislative contracts: HB 156
joint finance committee
public notice of committee meetings
establishment of interim committees
other miscellaneous: HJR 7/HJP 8/HB 109/HB 168

The idea is for members to review the proposals, collect the back-up and make recommendations to the full committee. I expect the committee to have completed its task by the end of April. In addition to informal meetings which may be called between now and then, the committee will be holding public hearings in Fairbanks on Saturday, April 11, and in Anchorage on Saturday, April 18. The League of Women Voters will also be conducting a conference on legislative reform on Saturday, April 25.

If there are any questions, please contact me. Thank you.

SECTIONAL ANALYSIS OF CSSB 167(SA) *work draft*
"An Act relating to the Alaska Public Offices Commission..."
Prepared by the Alaska Public Offices Commission -- May 5, 1981

Section 1: Amends AS 15.13.010(a) to clarify that a municipality voting on exemption from AS 15.13 is voting to exempt candidates (rather than "elected municipal officers"), persons, and groups active in municipal election campaigns. Also eliminates the present applicability of AS 15.13 to municipal candidates for service area boards or any local board or local commission which is advisory only.

Section 2: Amends AS 15.13.020(b) so that the fifth member of the Commission is appointed by the Governor (not by the other four members) without regard to party affiliation; does not specify that the members are subject to Legislative confirmation.

Section 3: Amends AS 15.13.020(d) to delete references to the fifth member of the Commission for consistency with new method of appointment in Section 2; retains present 5 - year term of commission members. (SB 167 proposed three year terms which would have made it impossible to prevent the terms of 2 members of the same party from expiring in consecutive years. Three - year terms would also diminish the commission's collective knowledge in gubernatorial election years unless members succeed themselves.)

Section 4: Amends AS 15.13.020(h) to make the selection of Commission vacancies consistent with the new method of original appointment established in Section 2.

Section 5: Amends AS 15.13.030(10) to make explicit the Commission's authority to issue orders. The existing language of 15.13.120(d) shows that the authority to issue orders was intended when it refers to "violation of a provision of this chapter, or a regulation or order issued under it....."

Section 6: Amends AS 15.13.040(a), replacing the present requirement to itemize all expenditures with a provision that only expenditures exceeding \$100 need to be reported by date, amount, and check number -- this provision would parallel the previously-authorized deputy treasurers to certify reports; presently the ability to certify is limited to the candidate and treasurer. Makes explicit the requirement to report unpaid obligations as expenditures in keeping with the definition of expenditure in .130(3).

Section 7: Amends .040(b)(3) to clarify that "contributions" on a group report are received by the group - the present language refers to both contributions and expenditures as being "made" by the group. Provides language consistent with Section 6 alleviating the detailed listing of expenditures of \$100 or less.

Section 8: Amends .040(d) to clarify that the requirements of this subsection do not apply to groups reporting under 040(b) e.g., PAC's. Eliminates language requiring that individuals submit a statement of contributions once they contribute in excess of \$100. (The Commission presently ignores this inconsistency with .080 and enforces the requirement to report once a contribution exceeds \$250.) Clarifies that an independent expenditure against a candidate is required to be reported.

Section 9: Amends .040(e) for consistency with Section 8 and eliminates a requirement to furnish the campaign with a copy of the independent expenditure report required by .040(d).

Section 10: Adds a new section to AS 15.13 allowing candidates who do not intend to accept more than \$250 in contributions and who do not intend to expend more than \$250 to file one certified exemption report. Specifies that the candidate who so files and later exceeds the limitations must report within three days but that returning an unsolicited contribution within 72 hours of its receipt will prevent loss of the exemption. For two years the Commission has, by regulation, allowed those who planned zero campaign activity to file a "Campaign Exemption Reporting Form." The process has been of benefit to both the Commission and many municipal candidates; the Commission asks that it be part of the Statute and that it include those whose plans call for limited financial activity.

Section 11: Housekeeping which amends AS 15.13.050 by transferring language from .130(3) (defining a political group) into the section which presently provides information about group requirements.

Section 12: Amends 15.13.070(a) by removing reference to expenditure limitations which no longer exist and removes confusion over the intent of the phrase "competing candidates." Does not address two things which may deserve further attention: 1) specifying that political party subdivisions are exempt from the \$1,000 limitation only so long as they are not, in actuality, acting as a candidate's campaign committee; and 2) clarifying in (a)(2) that initiative, referendum or recall petition efforts are not subject to the \$1,000 limitation.

Section 13: Amends 070(b) so that the recipient of a cash contribution in excess of \$100 must issue a receipt rather than -- as is presently the case -- refuse it or be in violation. The Commission feels that cash contributions exceeding \$100 should be allowable as long as a receipt is issued because there are areas of the state where facilities for purchasing money orders, cashier's checks or bank drafts are limited. Deletes the phrase "or by cash payment" which presently forbids purchasing with cash an item intended as a non-monetary contribution if the cost exceeds \$100.

Section 14: Amends .070(d) to allow a candidate to accept contributions of \$5 or less without recording the name of the contributor. The amendment appears harmless, but it creates a large "loophole" should an individual choose to circumvent the law. If this language were enacted, there would be nothing illegal about making a contribution of \$5 daily in addition to donating the \$1,000 maximum allowed by law. If the intent is to relieve the burden of bookkeeping at fund-raisers, the Commission's administrative regulation, 6 AAC 29.326, exempts the recording by name of those at fund-raisers so long as there are 25 or more paying participants and no one pays more than \$50.

^{+16:}
Section 15A Amends 15.13.090 concerning identification of communications so that a candidate need include only his or her name or that of the candidate's campaign committee in the identification but an individual, person, or group would be required to provide a name as well as an address or phone number. The Commission feels that the intent of .090 would be well served by alleviating some of the detail presently required of candidates on the items they pay for themselves but continuing to require that those not known to the public need to provide fuller identification.

~~Section 16:~~ Amends 15.13.090 by adding a new subsection which says the Commission can exempt small items from the identification requirements. The Commission has already promulgated such a regulation, 6 AAC 29.370.

Section 17: Amends 15.13.100 so that candidates are allowed to expend money before filing formally for office. The present language prohibits such expenditures except for personal travel and surveys or polls and has often caused candidates to violate the law inadvertently. The new language also clarifies that contributions may be accepted before filing and mentions the need to report such contributions and any expenditures on the first report required under 15.13.110.

Section 18: Amends AS 15.13.110(b) to eliminate the requirement to file reports of major expenditures (in excess of \$250) during the week prior to the election. Extends the time period during which major contributions must be reported from 7 to 10 days, thereby eliminating the 3 day gap between the present 7 Day reporting period and the 24 Hour reporting period. Increases the amount of time from 24 to 48 hours within which the reports of major contributions must be filed. Allows deputy treasurers to file 48 Hour reports consistent with changes in section 6.

Section 19: Amends AS 15.13.110 by adding a new subsection which names the 10 Day post-election report as the final campaign disclosure report if the campaign has closed and all debts are paid. Clarifies that year-end reports must be filed until any outstanding debt or obligation is satisfied.

Section 20: Adds a new section to AS 15.13 which is substantially the same as the present language in AS 15.13.120(d) concerning the the right of a person to file a complaint and specifying the Commission's responsibility to investigate such complaints.

Section 21: Amends AS 15.13.120(a), the criminal penalty section of the statute, in an effort to clarify specific violations which should be viewed as class A misdemeanors. The current language makes any violation of AS 15.13 a criminal offense.

Section 22: Amends AS 15.13.120(c) to clarify that the Commission should report to the Attorney General the names of both candidates and groups when they have failed to file a report. Deletes language requiring referral of contributors in keeping with changes in Section 9.

Section 23: Adds a new section to AS 15.13 which specifies the procedures for determining the eligibility of a successful candidate to hold office, if convicted of a misdemeanor. In conjunction with the repeal of .120(b), would eliminate the existing provision which says that the election of a successful candidate who violates the law is null and void but fails to suggest what procedures are to be undertaken, by whom in enforcement.

Section 24: Repeals and reenacts AS 15.13.130(1), expanding the definition of candidate to include not only those who file or campaign as write-ins, but also those who receive contributions or make expenditures, or who consent to such activities on their behalf.

Section 25: Amends AS 15.13.120(2) to exclude from the definition of "contribution" a contribution that is returned to the contributor within 72 hours of its receipt by a candidate or group.

Section 26: Repealers include:

- AS 15.13.020(c), the selection of the 5th Commission member by the other four;
- 15.13.040(f), the Statement of Contributions by contributors giving over \$100;
- 15.13.070(f) and (g), language on spending limits, found to be unconstitutional;
- 15.13.110(d), the Supplier of Services report; and
- 15.13.120(b), concerning eligibility of convicted candidates to hold office.

Finally, SB 167 would have repealed the 30 Day Pre-election report also. One of the major objectives of disclosure is to give the public access to information in a timely fashion, and requiring only one large report just before the election would mean that the information would not, in fact, be available before the election. Cutting down the number of reports would not eliminate their complexity; approval of sections 6 and 7 would be of more aid to those reporting, without diminishing the value of the information to the public.

CSSB 167(SA) makes no provision to rectify the current inconsistency between AS 15.13.120(e) which provides a four year statute of limitations for Campaign Disclosure violations and AS 15.56.131 which allows only one year for initiating prosecution of any violation in the Election Code. From Senate floor discussion in 1980 when the Election Code revisions were passed, it is clear that 15.56.131 was not intended to affect 15.13.120(e).

Perhaps something like the following would accomplish the task:

Section . AS 15.56.131 is amended to read:

Sec. 15.56.131. TIME LIMITATION. A prosecution for an offense described in the Alaska Election Code (AS 15.05 - 15.10 and 15.15 - 15.60) may not be maintained unless it is begun within one year after the date of the election in connection with which the offense is alleged to have been committed.

15.13

STATE OF ALASKA

ALASKA PUBLIC OFFICES COMMISSION

JAY S. HAMMOND, GOVERNOR

JUNEAU BRANCH OFFICE:
POUCH CO
JUNEAU, ALASKA 99811

LOCATION:
ROOM 302 GOLDSTEIN BUILDING
130 SEWARD STREET
PHONE: (907) 455-4864 OR 455-3471

February 5, 1981

The Honorable Senator Tim Kelly
Pouch V
Juneau, Alaska 99811

Dear Senator Kelly:

The Alaska Public Offices Commission would like to express its appreciation for the opportunity to present its views regarding revisions to Alaska's Disclosure Laws. As you are aware, each year since its creation in 1974, the Commission has offered suggestions to eliminate many of the burdensome requirements while also safeguarding the public mandate for disclosure.

During the 1980 session the Legislature passed FCCS HB 230 which was eventually vetoed by the Governor. The Commission felt that a major portion of this Bill contained amendments which would solve many of the present criticisms; however, it also contained several sections which would have severely hampered the Commission's ability to monitor the 1980 elections, as well as, damaged the public perception of the stature of the Commission in years to come. Therefore, the Commission supported Governor Hammond's veto of FCCS HB 230.

It is the understanding of the Commission, however, that FCCS HB 230 will be used as the basic guideline for legislative changes to be made this session. Therefore, the following discussion includes the Commission's views on those sections of FCCS HB 230 which were found to be objectionable, areas the Commission supports and has expanded upon, and several further suggestions that were not addressed in the original Bill.

This discussion paper, in most instances, does not include specific language for the suggested revisions, but rather explains the problem and offers recommendations.

Senator Tim Kelly
Page 2
February 5, 1981

Should you wish further discussion of the comments offered herein,
our staff will be happy to accommodate you.

On Behalf of

ALASKA PUBLIC OFFICES COMMISSION

RICHARD F. LISTOWSKI
Chairman

RFL:NAC/jk

cc: Senator Vic Fischer
Senator Bettye Farenkamp
Senator Pat Rody

AMENDMENTS TO AS 15.13
CAMPAIGN DISCLOSURE LAW

Sec. 15.13.010 (Re: Applicability)

Presently all candidates who run in a municipal race, in a city with a population of more than 1,000, must register and file with the APCC. On several occasions the Commission has received requests from various clerks regarding the applicability of AS 15.13 to candidates for Service Area Boards or members of an elective board who serve in an advisory capacity. According to the clerks it is often difficult to get people to run for these positions, the candidates spend no money, and the positions are strictly of an advisory nature. A review of the reports on file with the APOC shows that ninety-nine percent of the time there are no expenditures and that when expenditures are made, they average approximately \$10.

Having such candidates file the periodic reports or the statement that will be discussed under Sec. 042 later in this paper, appears to be meaningless. Therefore, the Commission recommends that language which eliminates filing by candidates for Service Area Boards and advisory boards be included.

Sec. 15.13.020 (Re: Selection of Commission Members)

FCCS HB 230 proposed that the current five-year terms of Commission members be reduced to three years. And, that the present process of selection -- recommendation by the two major political parties -- be eliminated.

The Commission opposes elimination of party recommendation. The current process gives credence to the ideology of a bi-partisan commission and guarantees the public appropriate input into the selection of individuals who will monitor the campaign process.

The Commission agrees that the Governor should confirm the remaining fifth Commission member. However, it suggests that the Governor appoint such a member from a list of two names submitted by the four members selected under .020(b). This mechanism would protect the independent and neutral status of this fifth position as well as respect the executive and legislative roles in the appointment process.

Reduction of the term length creates major problems. First, the initial selection process becomes somewhat confusing. In order to avoid the term of two members of the same political party from expiring in consecutive years, initial appointment would be as follows: One Democrat and one Republican serve an initial one-year term; one Democrat and one Republican serve an initial three-year term; the fifth position serves an initial two-year term. This system avoids the problem of consecutive expiration; however, it also means that two new members are appointed each year. Since the major elections are held every other year, the Commission could often find itself with two members who have relatively little knowledge regarding the complex issues of the campaign process and resulting disclosure.

Therefore, the Commission suggests amending this section by 1)

retaining the current process of political party input; 2) appointment of all members by the governor -- rather than only four; 3) confirmation of all members by the legislature; and, 4) retaining five-year terms with the provision of serving no more than one full term.

Sec. 15.13.030 (Re: Limitation on Regulations)

The new subsections contained in FCCS HB 230 to .030, do not prohibit the Commission from promulgating regulations, but these sections do limit the effectiveness of such. The Commission is aware that it must be cautious, especially once the campaign process has begun, not to change guidelines which will ultimately leave candidates unaware of the requirements. However, given the time it takes to promulgate regulations, such an amendment severely hampers the Commission's ability to clarify certain areas of the law in times when it can be proven that a specific need exists.

Sec. 15.13.042 (Re: Filing a Report of Limited or No Campaign Activity)

FCCS HB 230 included language which would allow candidates who did not intend to spend money or accept contributions to file a single report at the beginning of the campaign certifying zero monetary activity. The Commission suggests retaining this exemption provision but would include language allowing candidates to receive and spend up to \$250 before the periodic reports set out in Sec. 110 would be required.

Sec. 15.13.060 (Re: Certification of Reports)

Sec. 15.13.060 requires a candidate or group to appoint a campaign treasurer and states that the treasurer or the candidate is responsible for filing the necessary reports. This requirement has caused several problems, in that, there are often times when the candidate or a group treasurer is out of town on the due date. The group may have several deputy treasurers yet none has the authority to sign the report.

Therefore, the Commission suggests that appropriate language be included in Sec. .060 which allows a deputy treasurer to sign the reports in the absence of the candidate or group treasurer.

AS 15.13.070(b) (Re: Limit on Cash Contributions)

It has been brought to the attention of the Commission that the prohibition against cash contributions which are in excess of \$100 creates problems, especially for those in the bush areas. Often there are no facilities for purchasing money orders, cashier's checks or bank drafts.

Therefore, the Commission suggests that cash contributions in excess of \$100 be allowed; however, for any contribution in excess of this amount, the candidate or group is required to issue a written receipt. By issuing a receipt, the contribution gets into the system, the paper trail begins, and the possibility of the cash being inadvertently misplaced is minimized.

Sec. 15.13.070(d) (Re: Exemption from Recording Requirements)

An amendment offered in FCCS HB 230 to AS 15.13.070(d) allows candidates to accept contributions of \$5.00 or less without recording the name of the contributor. This amendment appears harmless enough; however, it does leave a very large "loophole," should an individual choose to circumvent the law. If this language were to be enacted, there would be nothing to prevent an individual from mailing a five dollar contribution on a daily basis to the same candidate in addition to donating the maximum amount allowed by the law. Such an amendment does not appear to be in line with the intent of the Act. If the impetus for inclusion of this exemption was to eliminate the recording of the names of contributors at events such as fund-raisers where the individuals in attendance are contributing small sums of money, please note that the Commission has adopted administrative regulation 6 AAC 29.326 which pertains to record-keeping requirements for fund raisers. This regulation eliminates the need to record the names of individuals donating to a fund-raiser so long as there are 25 or more persons in attendance and the cash amount received from any individual does not exceed \$50.00.

Sec. 15.13.090 (Re: Identification of Political Communications)

Sec. 15.13.090 has long been an area of criticism and concern. Presently all political advertisements must be identified with the words "paid for by" the name and address of the group and the name of the campaign chairman of the group. Many candidates and groups feel that if there is a billboard which states "Vote for John Smith," and the placard is paid for by John Smith's campaign committee, requiring a full trailer which gives the name, address and treasurer of the committee is unnecessary and tantamount to bureaucratic harassment.

However, the flip side of the coin is the advertisement which says "Vote Against John Smith" or "John Smith Opposes The Curb Your Dog Law," and the authors fail to appropriately identify who is sponsoring the communication.

This past election has given the citizens of Alaska an extensive education regarding "negative campaign" efforts. And, it remains essential that such advertising be properly identified so that the public has the appropriate information.

Therefore, the Commission would suggest .090 be separated into two categories. Category One would allow candidates or a candidate's campaign committee to identify all political communications in support of the candidate with the phrase "paid for by John Smith for House" or "paid for by the Committee to Elect John Smith."

Category Two would address all other groups or individuals paying for political advertisements. The identification on those advertisements must include the name of the group, as well as a contact address or phone number for the group.

FCCS HB 230 offered an amendment which 1) eliminated the 30-day pre-election report; 2) changed the 7-day pre-election report to a 10-day pre-election report; 3) eliminated reporting of expenditures during the 24 hour reporting period; and, 4) changed the 24 hour reporting period to a 48 hour reporting period. Although the Commission is in agreement with the latter two amendments, it strongly opposes elimination of the 30-day report and a change in the 7-day report.

This opposition is based on the following reasons: First, one of the major objectives of this or any disclosure law is to make information available to the public at a time when it will have the most impact. Eliminating the 30-day pre-election report and changing a 7-day pre-election report to a 10-day pre-election report means that major portion of the campaign activity information will be submitted just before the election. Given the vagaries of the mail system, it is quite possible that with the proposed changes, many reports will not reach the Commissions offices until a few days prior to the election. As campaign costs increase, so will the time it takes to audit the reports and distribute the information in a meaningful fashion.

Secondly, the 30-day pre-election report gives candidates and groups the opportunity to review the requirements and learn the proper method of reporting. This knowledge and experience helps to ensure that subsequent pre-election reports contain no major errors and that therefore, the public has access to accurate information.

The Commission is aware that many arguments have been raised in opposition to the number of reports required by AS 15.13. However, it is the opinion of the Commission that such criticisms are based on the complexity of the information required rather than the number of reports required.

The Commission has discussed this problem with its staff and feels that many of these problems are of an administrative rather than a legislative nature. The Commission has instructed staff to revise the reporting forms so that the following changes will be accommodated: elimination of itemization of expenditures which are less than \$100; revision of the reporting of accrued expenditures; and revision of the reporting of repayment of loans.

The only change the Commission would suggest to Sec. 110 would be to expand the 24 hour report (i.e., amendments to 48 hours) to include the 3 day period prior to the due date of the 7-day report. This 3 day period is presently uncovered by statute.

Sec. 15.13 120 (Re: Criminal Penalties)

FCCS HB 230 would no longer consider "making a communication to support or defeat a candidate without identification of sponsorship" a criminal offense. The Commission agrees that if a candidate fails to put the words "paid for by" on a flier or leaflet, it should not be considered a criminal matter, especially if the material distributed is supportive of a candidate. However, as shown by this past election there are individuals who will circulate material in opposition to candidates; this material is often fallacious, misleading and capable of

causing irrevocable injury to the candidate. When such communications are distributed without identification, the public has no basis for making a determination regarding the validity or intent of the sponsor, or of the candidate, bond proposition or ballot issue in question.

Therefore, the Commission suggests maintaining criminal sanctions for unidentified communications whether by an individual, group or candidate, if the purpose is to oppose a candidate, ballot issue or bond proposition.

FCCS HB 230 also reduces the Statute of Limitations for prosecution of a criminal act from four years to one year. The Commission strongly objects to such a revision primarily because the Commission is not an adjudicatory body. In many instances violations do not surface until several months after a report is filed. In off-election years only one report is required at the end of the calendar year. If there is substantial reason to believe a violation has occurred, the Commission's staff must make a preliminary investigation, forward its findings to the Commission, the Commission must hold a hearing -- or in some instances two (2) hearings, and only after this process has occurred may it forward a case to the Attorney General where the decision to dismiss or prosecute is made.

Hence, the Commission recommends the Statute of Limitations remain four years.

AMENDMENTS TO AS 24.45
THE REGULATION OF LOBBYING LAW

AS 24.45.041(c) (Re: Required Photograph)

AS 24.45.041(c) makes reference to a photograph of the lobbyist which may be submitted. AS 24.45.041(e) indicates that the directory of lobbyists shall include such photographs if submitted. As few lobbyists have ever supplied a photograph, and as the directories are simply xerox copies of the registration statements -- making inclusion of any photo difficult -- the Commission suggests that all reference to lobbyist photographs be deleted.

AS 24.45.051 (Re: Reduction of Itemization)

Section 37 of FCCS HB 230 amends AS 24.45.051 to clearly state what lobbyists are required to report, although it does not expand what is currently required. The Commission recommends that this section be amended to the effect that the lobbyist need report only aggregate amounts received for the reporting period and the year, for both salary, fee or retainer and expense disbursements and reimbursements. Thus, the expense portion would not be itemized on the report, merely summarized; however, the expense total would reflect reimbursements or disbursements for the same items that now need be listed individually. This change is also suggested for employer reports required under AS 24.45.051. The Commission contends that such a change would foster simplification of the reporting requirements and thus encourage more timely compliance by those subject to the law. Further, the Commission does not feel that this proposed change would undermine the intent of the original legislation, as the most critical financial information would still be available to the public.

Sec. 24.45.081(a) (Re: Reporting Periods)

Section 24.45.081(a) as amended by FCCS HB 230 would provide for quarterly reporting periods for lobbyists whether or not the legislature were in session. The Commission recommends that the existing situation be maintained, that is: the lobbyist be required to report monthly for the period that the legislature is in session and quarterly thereafter. This suggestion is based on the fact that if lobbyists report only on a quarterly basis throughout the session, the legislative session will be well advanced (mid to late April) before any information concerning financial activity of lobbyists is available to the public. Such a situation is viewed by the Commission as counter to the intent of the Regulation of Lobbying Law.

A final recommendation by the Commission concerning changes to AS 24.45 relates to including in the law language for employers which is comparable to that which presently exists in Sec. 041 for lobbyists. Current language in .041 states that the Commission may not renew lobbying credentials until all previously required lobbyist reports have been filed. By not registering a lobbyist for any employer who did not file all previously required employer reports, the Commission would possess a reasonable yet effective tool with which to foster compliance with the Law.

AMENDMENTS TO AS 39.50
THE CONFLICT OF INTEREST LAW

FCCS HB 230 contained only two sections amending AS 39.50. One of these amendments had been suggested by the Commission in prior years and continues to merit support; the other amendment is of dubious value. Beyond those two amendments, there are other areas of AS 39.50 which could be addressed and the Commission hopes will be addressed, particularly if it is the desire to develop an omnibus bill enacting a comprehensive review of the State's disclosure laws.

There is some "housekeeping" which will not be discussed here, except for general comments about the statute and the type of legislation it represents. Public expectation concerning the scope and jurisdiction of AS 39.50 is often disappointed because the title is a misnomer. AS 39.50 is a financial disclosure statute, not a "Conflict of Interest Law." Simply stated AS 39.50 does not define a Conflict of Interest, it doesn't prohibit Conflicts of Interest, and it doesn't provide any guidance to public officials specifying the actions necessary to remedy a Conflict of Interest. The title gives rise to expectations that are not met and which would be less likely if the title were accurate. As a financial disclosure law, AS 39.50 provides the public with access to information concerning the financial and business interests of key decision-makers on both the state and municipal level. The following discussion of amendments focuses on improvements to the existing financial disclosure law.

AS 39.50.020(a) (Re: Applicability)

In addition to concurring with the amendments proposed in FCCS HB 230 which would assure that all candidates will have Statements on file covering the same preceding year, there should be additional language requiring a termination Statement by those who leave a position which requires them to file. Presently, the public official who leaves government is not required to disclose financial and business interests for any part of the period he or she was in office since the previous Statement was filed. Thus, an official who resigns prior to the April 15th deadline for Statements covering the preceding calendar year can work a maximum of fifteen months for which financial disclosure is not required.

Two brief additions should be made to FCCS HB 230 concerning the fact that the requirement to file a municipal statement does not apply to the candidate for elective municipal office who has a current statement on file with the municipality in which he or she seeks office and that a state public official who files for state elective office is not required to file a statement at the time of becoming a candidate if he or she has a current statement on file with the Commission. The inclusion of such explicit language should be helpful in preventing the unfortunate situation of a candidate's declaration being invalidated due to simple confusion over the need to file a COI Statement.

Sec. 39.50.030(a) (Re: Contents of Statements)

Sec. 030(a) states that "...an asset or liability under \$500, household goods, and personal effects need not be identified." The Commission recommends that this threshold be raised to \$1,000 as current economic conditions make assets or liabilities under \$1,000 of minimal value for public disclosure purposes. Further, this higher threshold is consistent with the "source of income" threshold the Commission is addressing in a later section of this discussion paper.

Sec. 39.50.030(b) (Re: Contents of Statements)

Section 46 of FCCS HB 220 eliminated requirements that public officials include in their Statements information concerning a non-dependant child. On the surface, that might appear to be sensible; however, the complete phrase in the statute is "a non-dependant child who is living with him," and, if only the words "or non-dependant child of his" are removed, the phrase "who is living with him" then modifies spouse or dependant child. The Commission is of the opinion that the financial concerns of an official's spouse or dependant child should be reported notwithstanding permanent residency status. Thus the Commission recommends that the entire phrase "or non-dependant child of his who is living with him" be removed from Sec. 030(b) where it appears.

Sec. 39.50.030(b) (1) (Re: Reporting Income over \$100)

Currently, public officials or candidates must report the source of all income over \$100, including capital gains, whether or not taxable, received by him or his spouse or children during the preceding calendar year. The Commission contends that this low threshold makes the reporting very burdensome for some individuals subject to the law without actually providing critical financial information. Further, the Commission asserts that by increasing the threshold to \$1,000, truly significant sources of income would not be obfuscated by the inclusion of income sources of limited value.

Sec. 39.50.030(b) (6) (Re: Loans or Loan Guarantees)

This subsection presently requires the reporting of only personal loans to the official and family members as indicated. Given the emphasis on the need to report business interests (i.e., partnership, professional corporation, and corporation in which there is controlling interest) in other sections of this law dealing with sources of income, contracts, and leases, this subsection should be amended to include the requirement to report the same information about business loans, loan guarantees, and creditors.

Sec. 39.50.030(b) (7) (Re: Contracts)

Subsection (7) as presently written requires State and municipal officers to report contracts they hold with the state, but not contracts they hold with the municipality. One could hardly believe that this

situation was intended; it must have been a drafting oversight. A municipal official's contract relationship (if any) with the municipality he or she serves is critical to adequate disclosure. Such could also be the case in situations in which a state official makes state funding allocation decisions regarding municipalities with which he or she has a contract. Therefore, the Commission suggests that the definition of "instrumentality of the state" be amended to include municipalities.

Sec. 39.50.050(d) (Re: Publishing of Reports)

In six years of experience there has never been a request for a copy of all the contents of all Statements; "publishing" all 500 plus Conflict of Interest Statements would only be wasteful. If a section concerning accessibility of the Statements is desirable, it should reflect the current practice of making copies of particular Statements upon request for the regular copying charge.

New Section Needed (Re: Municipal Officers)

As 39.50 does not provide for penalties for failure to report by municipal officers as it does for state public officials in sections .070, .089, .110, .120 and .130. The only penalty provision which applies to municipal officials provides a civil penalty for late filing. Short of the potential dangers of a charge of "wilful violation" under section .050, it would appear that a municipal official who doesn't file at all is in less jeopardy than one who simply files late.