

H B

327

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF  
HB 327

Campaign Contributions

Received May 2, 1989  
by Reps. Finkelstein, Ulmer, Brown, and Koponen

Heard January 31, 1990  
Heard February 8, 1990  
Heard February 13, 1990

Adopted CSHB 327 (SA) February 13, 1990

Passed Out of Committee February 13, 1990  
3 Do Pass  
2 No Recommendation  
1 Do Not Pass

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# HOUSE COMMITTEE REPORT

(7)

Date Referred: May 2, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: \_\_\_\_\_

The ST. TE AFFAIRS Committee considered:

HB 327

HOUSE BILL NO. 327 [CAMPAIGN CONTRIBUTIONS]

"An Act relating to contributions to a campaign for public office."

**RECOMMENDATIONS:**

- be replaced with CS HB 327  the same title
- have attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact APOC
- zero fiscal note \_\_\_\_\_
- zero with analysis \_\_\_\_\_

- fiscal note(s) \_\_\_\_\_
- zero fiscal note(s) \_\_\_\_\_
- zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS?**

**SIGNING:**

(Check approp. column)

Do Not Pass    No Rec    Amend

*[Handwritten signatures]*

	Do Not Pass	No Rec	Amend
<i>[Signature]</i>		✓	
<i>[Signature]</i> <small>You are making it harder for any individual to run for office or assist.</small>	✓		
<i>[Signature]</i>		✓	

*[Handwritten Signature]*

Chairman's Signature

Item 2

**FISCAL NOTE**

**REQUEST:**

Revision Date: 1/4/90  
Title: An act relating to contributions to a campaign for public office  
Sponsor: Rep. Finkelstein, et. al.  
Requestor: \_\_\_\_\_

Agency Affected: AK Pub. Offices Commission  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	9.0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>9.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>REVENUE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	9.0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>9.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS:**

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	1	0	0	0	0	0

**ANALYSIS : (Attach a separate page if necessary)**

SEE ATTACHED NARRATIVE

Prepared by: Karla L. Forsythe, Executive Director Phone: 276-4176  
Division: Alaska Public Offices Commission Date: 1/4/90  
Approved by Commissioner: Burke Riley, Chair Date: 1-12-90  
Agency: Alaska Public Offices Commission

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

HB 327 NARRATIVE

This measure would change AS 15.13, the campaign disclosure law, in several ways:

- It would decrease the \$1,000 contribution limit to \$500.
- It would incorporate into law specific ways to dispose of a campaign surplus.
- It would extend the 24 hour reporting requirement to days 8 and 9 before an election.
- It would require candidates with a surplus to file a campaign disclosure report annually.

The commission believes there would be a modest but measurable impact on its workload, primarily stemming from the decrease in the contribution limit. This change will generate many questions.

In order to mount a publicity campaign to advise those affected of this change, and to make parallel changes in commission regulations, forms, and manuals, the commission would require the contractual services of a half-time administrative assistant, Range 12, for six months. It is assumed that this measure would become effective after the 1990 elections, but sufficiently in advance of the 1991 elections so that municipal candidates could become familiar with its provisions (possibly March, 1991). It is anticipated that the administrative assistant would perform duties from December 1990 through May, 1991.

The costs of reprinting the statute and ongoing interpretation questions related to this section could be absorbed with existing resources.

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

Item 3

## ALASKA PUBLIC OFFICES COMMISSION

REPLY TO:

- 2221 E. Northern Lights, Room 128  
Anchorage, AK 99508  
(907) 276-4176
- Juneau Branch Office  
Box CO  
Juneau, AK 99811-0222  
(907) 465-4864

January 17, 1990

RECEIVED

JAN 12 1990

Representative H. A. "Red" Boucher, Chair  
House State Affairs Committee  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Boucher:

I am writing with regard to HB 327, an act relating to contributions to a campaign for public office, which is presently before the House State Affairs Committee.

The commission reviewed this measure at its November, 1989 meeting. A majority of members favor some of the changes which would be accomplished by this measure, but disagree with some of the other provisions.

The bill would decrease the current \$1,000 campaign contribution limit to \$500. A majority of commission members favor retaining the limit in existing law.

The bill provides that an individual who accepts campaign contributions may not convert surplus campaign funds to personal income at any time. A majority of commission members support this concept. However, the bill would also incorporate into law several provisions relating to use of surplus funds which are similar to provisions presently contained in commission regulations (2 AAC 50.400).

As committee members may be aware, the commission is in the process of reviewing its regulations for possible revisions. Preliminarily, the commission is of the view that its regulations should be changed to provide that any campaign surplus should be returned pro rata to contributors, or donated to a charitable institution. Moreover, the commission is of the view that a contribution from a candidate's present campaign to a candidate's future campaign is a contribution from a controlled group, and therefore is limited to \$1,000 under AS 15.13.070(a) and AS 15.13.130(4).

Representative H. A. "Red" Boucher  
January 17, 1990  
Page 2

Although the commission has not reached a final conclusion about how surpluses should be addressed in a revised regulation, and welcomes comments from all interested persons as it examines this issue, the commission generally favors more limited ways of disposing of surpluses than this bill would authorize.

In section three, the bill extends the current 24 hour reporting requirement to days 8 and 9 before the election. The commission supports this provision, which would close a gap in pre-election reporting.

Finally, section 4 of the bill provides that a candidate who has funds in excess of debts during a campaign shall continue to file a report each December 31. The commission favors a provision requiring campaign accounts to be closed as of December 31 (with contributions not to be accepted after the election), rather than a continuing reporting requirement.

In addition to these substantive concerns, the commission suggests one wording change.

In Section 1, at line 13, existing statutory language ("on behalf of or in opposition to the competing candidates") has been deleted, thereby providing that no more than \$500 can be contributed to a candidate.

With the elimination of these words, it is possible that persons opposing a single candidate could establish a group and fund it with unlimited contributions. This problem could be avoided by retaining the reference to contributions in opposition to a candidate.

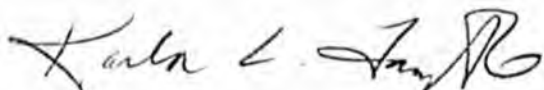
With regard to fiscal impact, the commission believes that changing the law to establish a \$500 contribution limit would have a modest but measurable impact on its workload, justifying a modest fiscal note. A fiscal note outlining the possible impact is attached.

Representative H. A. "Red" Boucher  
January 17, 1990  
Page 3

Thank you for your consideration of these comments. If you or other committee members have any questions, please let me know.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Karla L. Forsythe  
Executive Director

Attachments

cc: Representative David Finkelstein  
Representative Fran Ulmer  
Representative Kay Brown  
Representative Niilo Koponen  
APOC Members  
APOC Senior Staff  
Bob Evans, Office of the Governor  
Sioux Plummer, Special Assistant, Dept. of Administration



Official Business

# Alaska State Legislature

Item 4

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

February 7, 1990

To: House State Affairs Committee members

Fr: Rep. David Finkelstein

Re: New committee substitute for HB 327, relating to campaign financing rules

The new committee substitute would make the following changes to our campaign financing laws:

Section 1. Exempts municipal candidates from reporting requirements if they raise and expend less than \$1000.

Section 2. Candidates may not accept contributions after December 31 of the year of the election unless they refile for office.

Surplus campaign funds may not be converted to personal income; five alternative uses of such funds are allowed.

Candidates shall close campaign accounts by Jan. 12 of the year after the election, and submit their final report by January 31.

This section also would limit the amount an individual could contribute to his/her personal campaign to a maximum of \$1000. (Rep. Boucher's proposal)

Section 3. Corporations and labor unions are excluded from making contributions to candidates. Groups may not contribute more than \$1000 to parties.

Section 4. State and municipal funds could not be used in elections, except in an informational and non-advocacy role.

Section 5. Same as Section 3.

Section 7. Removes the loophole which allows contributions over \$250 to be made eight and nine days before an election and not be reported until after the election.

Section 8. Establishes a civil penalty of not more than \$250 for failure to identify communications ("Paid for by..." tags).

PUBLIC DISCLOSURE LAW RELATING TO USE OF FACILITIES IN CAMPAIGNS

RCW 42.17.130 Forbids use of public office or agency facilities in campaigns. No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency: *Provided*, That the foregoing provisions of this section shall not apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency. [1979 1st ex.s. c 265 § 2; 1975-'76 2nd ex.s. c 112 § 6; 1973 c 1 § 13 (Initiative Measure No. 276 § 13).]

WAC 390-05-271 General applications of RCW 42.17.130. (1) RCW 42.17.130 does not restrict the right of any individual to express his or her own personal views concerning, supporting, or opposing any candidate or ballot proposition, if such expression does not involve a use of the facilities of a public office or agency.

(2) RCW 42.17.130 does not prevent a public office or agency from (a) making facilities available on a non-discriminatory, equal access basis for political uses or (b) making an objective and fair presentation of facts relevant to a ballot proposition, if such action is part of the normal and regular conduct of the office or agency. [Statutory Authority: RCW 42.17.370(1), 80-02-055 (Order 80-01), § 390-05-271, filed 1/17/80; 79-02-056 (Order 79-01), § 390-05-271, filed 1/31/79.]

WAC 390-05-273 Definition of normal and regular conduct. Normal and regular conduct of a public office or agency, as that term is used in the proviso to RCW 42.17.130, means conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner. No local office or agency may authorize a use of public facilities for the purpose of assisting a candidate's campaign or promoting or opposing a ballot proposition, in the absence of a constitutional, charter, or statutory provision separately authorizing such use. [Statutory Authority: RCW 42.17.370(1), 79-02-056 (Order 79-01), § 390-05-273, filed 1/31/79.]

# STATE OF ALASKA

## ALASKA PUBLIC OFFICES COMMISSION

February 12, 1990

Representative David Finkelstein  
Pouch V  
Juneau, Alaska 99811

Dear Representative Finkelstein:

It is my understanding that HB 327 has been referred to a specially-created House State Affairs subcommittee for further discussion and for preparation of a committee substitute.

The Alaska Public Offices Commission met by teleconference the morning of February 9, 1990, to discuss this measure (Commission members Annie Laurie Howard, Jane Behlke, Rodman Wilson, and Winston Burbank participating). The commission would appreciate your consideration of the following comments on the latest version of the proposed committee substitute.

### Section 1

The commission favors this provision, which exempts small municipal campaigns from APOC reporting requirements.

### Section 2

The commission supports language contained in this section which provides that contributions may not be received by state candidates after December 31 of an election year (although the commission continues to prefer an end to contributions as of election day). The commission also supports the language which requires campaign account closure on January 12, and a report to the commission on January 31.

The commission anticipates that this report would be combined with the year-end report required under current law. The commission therefore suggests including in the committee substitute an amendment to AS 15.13.110(a)(4), to provide that a report shall be filed January 31 of each year for expenditures and contributions received which were not reported during the previous calendar year (as opposed to December 31 as provided in current law).

With regard to the language in the proposed committee substitute which provides that post-election contributions may be received by municipal candidates until 45 days after the election, it would be helpful if this language could be amended to provide

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STEVE COWPER, GOVERNOR

REPLY TO:

Item 6

- 2221 E. Northern Lights, Room 128  
Anchorage, AK 99508  
(907) 276-4176
- Juneau Branch Office  
Box CO  
Juneau, AK 99811-0222  
(907) 465-4864

BY-APFCX 907276701-  
Representative David Finkelstein  
February 12, 1990  
Page 2

that municipal campaign accounts must be closed 57 days after the election, with an additional two weeks allowed for filing a report with APOC. This amendment would conform the procedure for closing municipal campaigns with the proposed procedure for closing state campaigns.

As you know, the commission believes that surplus campaign funds should be returned pro rata to contributors or donated to charity. The commission has no objection to providing that these funds may be transferred to a general fund. With regard to pro rata return, the commission suggests return of contributions only if the amount to be returned exceeds \$100.

The commission continues to favor a prohibition on transferring surplus funds to a future campaign or to a legislative office account. It is the commission's view that each campaign is discrete, and that contributions from one campaign should not be used to fund a future, separate campaign.

As I have previously discussed with your staff, the portion of the committee substitute which authorizes transfer of surplus funds to future campaigns parallels a similar provision in existing commission regulations (2 AAC 50.400, copy attached). The Department of Law has advised that under current law a campaign can contribute no more than \$1000 to a future or different campaign. The reasoning is that a campaign is a group controlled by a candidate, and that a group may contribute no more than \$1,000 to a candidate. Since the commission currently plans to amend its regulations in accordance with this decision, the commission suggests that Section 2 clearly indicate the legislature's intent on this issue. If it is the legislature's intent that unlimited funds can be transferred to a future campaign, the statute should incorporate language which specifically reflects this intent.

### Section 3

The proposed committee substitute prohibits union or corporate contributions to candidates, but allows group contributions. Since unions or corporations could still form groups (political action committees), it is unlikely that this provision would effect a major change in current financing patterns, other than to parallel the federal system. The commission continues to favor a complete ban on contributions by unions, corporations and political action committees.

The commission notes that there may be constitutional problems with efforts to limit contributions of personal funds by a candidate to his or her own campaign. Also with regard to this

Representative David Finkelstein  
February 12, 1990  
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section, the commission does not favor the provision in the existing committee substitute which limits group contributions to political parties to \$1,000. The commission believes that political parties should not be limited in the amount of contributions they can receive.

#### Section 4

This section provides that public funds may not be used to support or oppose a candidate, or to urge adoption or rejection of a ballot proposition. It further provides that public facilities cannot be used to prepare paid advertisements, and that only informational as opposed to advocacy statements may be funded at public expense.

The commission is concerned that this language is not sufficiently specific to give guidance to public officials, nor would it give adequate guidance to the commission in administering the law. A majority of commission members suggest that the subcommittee consider adopting language similar to a law on this subject adopted in Washington state (copy attached).

The commission further suggests that the subcommittee consider adopting a specific penalty for violations of this section. Without additional language, the applicable penalty under AS 15.13 would be criminal prosecution for a misdemeanor. This could result in incarceration of borough assemblies and other municipal or state entities, which does not seem a rational remedy. The commission proposes including language authorizing the commission to assess a penalty, including personal liability for those persons who have authorized these expenditures, in an amount up to three times the amount expended. This would give the commission the flexibility to provide a penalty which is rationally related to the type of conduct involved. This approach is not unique to APOC; a similar penalty structure has been proposed for licensees or permittees found to have violated alcoholic beverage laws (see CSSB 157).

The commission notes that administration of such a provision, either as worded in the committee substitute or in the Washington statute, would create substantial new responsibilities for the commission. The executive director of the Washington State Disclosure Commission has indicated that a substantial part of his agency's activities are devoted to these issues, particularly at the local level. He estimates that out of approximately 50 issues dealt with by his agency in the course of a year, from 10 to 25 involve use of public funds. The Washington Public Disclosure Commission has undertaken a preventive approach, through providing

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Representative David Finkelstein  
February 12, 1990  
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training and information to localities to help them avoid inadvertent violations of the law. Although this approach helps avoid complaints, it is also time-consuming. Since AS 15.13 authorizes complaint investigation as well as advice and assistance, adequate funding will be critical to effective administration of this new provision in Alaska law.

#### Section 5

This section specifies types of union and corporate activity which do not constitute contributions. The commission believes the language authorizing these activities is confusing. First, the proposed substitute provides that communications from unions and corporations to members, stockholders and families are not a contribution. Under current commission regulations, a communication is a contribution if it endorses a particular candidate or solicits money (2 AAC 50.313(1)(4)). The committee substitute should clearly indicate whether communications of this type will be considered contributions.

Language relating to establishment and solicitation of contributions to a separate segregated fund for political purposes is also confusing. Is it the intent of this section to permit unions and corporations to establish political action committees? This language also could apply to the situation encountered in the case of VECO v. APOC, in which the Alaska Supreme Court found that VECO executives and employees formed a group and contributed excessive, unreported funds to candidates. Is this language intended to exempt this type of activity from the \$1000 contribution limit?

#### Section 6

The commission notes that the proposed committee substitute reiterates AS 15.13.090 (identification of communications). The new language would provide that the commission has the ability to adopt regulations to implement this section, authority already granted to the commission under AS 15.13.030(10). The commission believes that substantive changes to AS 15.13.090 are needed to allow candidates more flexibility in identifying their communications.

The commission suggests one of two alternatives. The first alternative is to revise the statute to provide a more flexible approach to identification of political communications. Suggested language is attached. Alternatively, the commission suggests that the statute be amended to provide that political communications must be clearly identified as to source of payment, but that the

Representative David Finkelstein  
February 12, 1990  
Page 5

remainder of existing law be deleted, with the commission given authority to determine by regulation what constitutes a clear communication.

Amendments to AS 15.13.090 could result in a positive change for both candidates and the commission, and the commission urges your careful consideration of these concerns.

#### Section 7

The commission supports the language in section 7, which would close the two day pre-election reporting gap.

#### Section 8

The commission supports the language in this section, which would provide a \$250 maximum civil penalty for failure to properly identify political communications, while retaining the criminal sanction in the event of an egregious violation.

#### Fiscal Impact

Based on the commission's belief that enactment of the committee substitute would generate many new complaints and requests for advice and assistance, and would require changes to the commission's manuals, forms and regulations, the commission anticipates requesting approximately \$130,000 in funding for new positions: a Range 16 paralegal investigator (cost: \$44,382); a Range 16 research analyst II to provide assistance, advice and training (\$44,382); a Range 10 secretary, since the commission is currently staffed with only one secretary who cannot absorb additional duties (\$31,645), and with funds for necessary equipment (\$8,500).

Although the commission does not agree with all of the proposed provisions in this bill, the commission commends the legislature, the State Affairs Committee, and the subcommittee for giving serious consideration to these issues. The commission will be glad to work with the full committee or the subcommittee to suggest alternative wording, or to offer any other assistance appropriate.

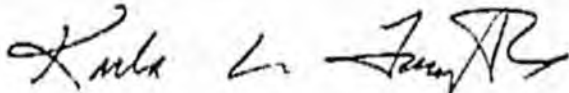
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Representative David Finkelstein  
February 12, 1990  
Page 6

Thank you for the opportunity to submit comments.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Karla L. Forsythe  
Executive Director

Attachments:

1. 2 AAC 50.400
2. RCW 42.17.130
3. 2 AAC 50.313(1)(4)
4. Proposed language, section 6

cc: APOC Members  
APOC Senior Staff  
Sioux Plummer, Special Assistant  
Dept. of Administration  
Nancy Gordon, Assistant Attorney General

administer oaths or, if none of the preceding alternatives is available, may be signed by the official without benefit of the oath so long as the official states, in writing, that the affidavit is signed under penalty of perjury: or

(2) pay, within 30 days after receipt of the assessment notice described in (d)(2) of this section, the civil penalty assessed.

(f) If a candidate or group subject to a civil penalty assessment for the late filing of a campaign disclosure report refuses, or fails, within the time required, to submit an affidavit or make payment, then commission staff will refer the matter to the attorney general for appropriate action. The commission will not hear an appeal if an affidavit is not filed within the time required.

(g) An affidavit timely filed with the commission will be considered at the next regular meeting of the commission. If a candidate or group's appeal is

(1) denied by the commission, commission staff will notify the candidate or group of its decision within 15 days, and require that the civil penalty originally assessed be paid within 30 days after the date of the letter containing notification of the commission's decision: or

(2) accepted by the commission, commission staff will notify the candidate or group of its decision within 15 days, informing him or it that the civil penalty assessment has been waived and that the matter is considered closed: or

(3) accepted, in part, by the commission, commission staff will notify the candidate or group of its decision within 15 days, and require that the reduced civil penalty assessment be paid within 30 days after the date of the letter containing notification of the commission's decision.

(h) A candidate or group may appeal the commission's decision to deny or partially accept reasons for lateness to the superior court within 30 days after his receipt of the notice under Rule 45 of the Appellate Rules of the Alaska Court System. If no appeal is made within 30

days and no payment is made, the matter will be referred to the attorney general for appropriate action.

(i) If, upon review of a report required by AS 15.13.110(a), (b), or (c), the commission's staff finds substantial or continuous noncompliance with AS 15.13 or any provision of this chapter, or with requests by staff for information required to be reported under this chapter, the matter must be brought to the commission for review. The commission will, in its discretion, reduce or waive any initial civil penalty, uphold any initial civil penalty, increase the amount of any initial civil penalty to an amount not exceeding the maximum amount established in AS 15.13.125, or instruct its staff to begin preliminary investigation into the matter. Where no initial civil penalty has been assessed, the commission will, in its discretion, assess a civil penalty up to the maximum amount established in AS 15.13.125 if the candidate or group in question does not comply. (Eff. 7/22/78, Reg. 67; am 5/14/80, Reg. 74; am 5/24/81, Reg. 78; am 10/18/81, Reg. 80; am 6/29/84, Reg. 90; am 1/4/86, Reg. 97)

Authority: AS 15.13.010  
AS 15.13.030(10)  
AS 15.13.125

**2 AAC 50.395. REPORTING BY A BUSINESS ENTITY OR LABOR ORGANIZATION.** Repealed 1/4/86.

**2 AAC 50.397. REPORTING BY PERSONS OUTSIDE THE STATE.** Persons residing outside the State of Alaska are subject to the same reporting requirements, restrictions, and responsibilities under AS 15.13 as those placed upon persons residing within the state. (Eff. 4/28/79, Reg. 70)

Authority: AS 15.13.030(10)

**2 AAC 50.400. DISBURSEMENT OF A SURPLUS BALANCE IN A CAMPAIGN ACCOUNT.** (a) The disbursement of a surplus balance of a candidate or group's campaign account must be reported to the commission within 10 days after final disposition of the balance.

(b) A candidate disbursing the surplus balance in his campaign account may

(1) give the money to charity;

(2) repay his contributors;

(3) repay himself, if he made contributions to his own campaign;

(4) take, as income, any money which exceeds the amount which he personally contributed to his campaign;

(5) leave the money in a campaign account until the next time he campaigns for elective office; however, any interest realized from a surplus in a campaign account must remain in the account and be reported on the first report required of him when he is again a candidate for elective office;

(6) contribute the money to another candidate or a group controlled by a candidate, not to exceed the \$1,000 limitation, or to a political party or group supporting a ballot proposition or question; or

(7) transfer the money to his office allowance fund.

(c) A group disbursing the surplus balance in its campaign account may

(1) give the money to charity; or

(2) repay its contributors; or

(3) leave the money in a campaign account until the following election, if the group plans to remain active; however, any interest realized from a surplus in a campaign account must remain in the account and be reported on the first report required of the group when it is again active in an election; or

(4) contribute the money to a candidate or a group controlled by a candidate, subject to the \$1,000 limitation and other prohibitions under AS 15.13 and 2 AAC 50, or to a political party or group supporting a ballot proposition or question.

(d) Any candidate or group wishing to disburse the surplus balance in a campaign account in a manner not described in (b) or (c) of this

section may request commission review and approval of the manner in which he or it wishes to disburse the surplus. (Eff. 7/22/78, Reg. 67; am 10/18/81, Reg. 80)

Authority: AS 15.13.030(10)

2 AAC 50.401. POST-ELECTION FUND-RAISING BY CANDIDATES AND CONTROLLED GROUPS. (a) A candidate or a candidate-controlled group may make post-election expenditures for the purpose of raising money to discharge a debt from a prior campaign, in accordance with (c) of this section.

(b) Absent a debt arising from a prior campaign, a candidate may not spend money for the purpose of seeking public office unless the individual is in compliance with AS 15.13.100, the early campaigning provisions of 2 AAC 50.380, or an advisory opinion issued under (c) of this section and 2 AAC 50.905.

(c) A candidate who is in debt from a prior campaign and who has not complied with either AS 15.13.100 or 2 AAC 50.380 by December 31st of the year after the election, shall request an advisory opinion under 2 AAC 50.905 concerning the applicability of AS 15.13.100 to further expenditures to pay off the debt. Absent an advisory opinion request, the commission staff may commence a preliminary investigation to review the applicability of AS 15.13.100 to expenditures by the candidate.

(d) A debt arising from a prior campaign includes

(1) a candidate's personal contributions made before the date of the prior election;

(2) campaign debts which have not been reported on a candidate's contribution campaign disclosure statement;

(3) post-election expenditures made for the purpose of discharging a debt arising from a prior campaign; and

(4) the costs reasonably associated with winding up the affairs of the prior campaign, including social events held immediately after the election for the benefit of campaign workers

WASHINGTON STATE STATUTE  
USE OF PUBLIC FUNDS IN CAMPAIGNS

RCW 42.17.130 Forbids use of public office or agency facilities in campaigns. No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees or the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency: Provided, That the foregoing provisions of this section shall not apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

(3) a payment made by any individual for his or her own travel expenses, if such payments are voluntary and are made without any understanding that they will be directly or indirectly repaid:

(4) a payment made by a business, corporation, trade association, labor organization, or other organization not organized primarily to influence elections to communicate directly with its members or employees, or their families, on any subject, if the communication is of the same format and nature used by the organization when it has communicated in the past on nonpolitical subjects, does not request members or their families to do anything other than exercise the right to vote, and does not solicit individual contributions to a clearly identified candidate or group chosen by the organization:

(5) a gift, subscription, loan, advance, or deposit of money or anything of value made with respect to a recount of a state or municipal election.

(m) A contribution made by a married individual is not attributed to that individual's spouse, unless otherwise specified in writing by the spouse at the time the contribution is made. (Eff. 1/4/86, Reg. 97)

Authority: AS 15.13.030(10) AS 15.13.070  
AS 15.13.040 AS 15.13.130

**2 AAC 50.314. DEFINITION OF "GROUP"; REPORTING BY BUSINESSES.** (a) In 2 AAC 50.310 - 2 AAC 50.405, "group" includes

(1) every combination of two or more persons who are elected, appointed, or otherwise chosen, or who cooperate for the purpose of raising, soliciting, collecting, or disbursing money or anything of value, or for directing or controlling those activities to secure or defeat the election to public office of an individual or candidate or to secure or defeat a ballot proposition:

(2) a political action committee, draft group, association, club, corporation, partnership, trade association, incorporated or unincorporated association, or labor organization organized to aid or promote the nomination, election, defeat, or recall, of any candidate for political office

or to aid the passage or defeat of a ballot proposition:

(3) two or more persons who jointly make a contribution in the name of another as described in 2 AAC 5 .357.

(b) A corporation, partnership, sole proprietorship, trade association, fraternal or charitable organization, incorporated or unincorporated association, firm, or business trust may report its contributions and expenditures as required by AS 15.13.040(d) and (e) as an individual if

(1) all contributions and expenditures to influence the outcome of an election are made from the organization's general day-to-day operating account;

(2) the organization does not conduct a fund-raising drive or assessment among its members or employees for the purpose of influencing an election;

(3) the organization does not exercise direction, control, or discretion over the choice of the recipient candidate or group, and the organization does not exercise direction, control, or discretion over the expenditure of money or other things of value collected, pooled, solicited, or otherwise paid by others for the purpose of influencing an election. (Eff. 1/4/86, Reg. 97)

Authority: AS 15.13.030(10)  
AS 15.13.040  
AS 15.13.130(3)

**2 AAC 50.315. CONTRIBUTION LIMITATION EXEMPTION.** (a) Groups that nominated a candidate for governor who received at least three percent of the total vote cast at the 1982 general election for governor are considered to be exempt from the contribution limitation set out in AS 15.13.070(a).

(b) Until the effective date of a statutory definition of "political party" that replaces AS 15.60.010(20) as it exists on the effective date of this section (and was held invalid in *Vogler v Miller*, 660 P.2d 1192 [Alaska 1983]), a group, other than a group described in (a) of this section, desiring an exemption from the contribution limitation set out in AS 15.13.070(a) must submit to the commission on government

2 AAC  
50.313  
(1)(4)

0014761511

Proposed Addition to SB 384

Sec. 15.13.090 Repeal and rewrite to read:

Sec. 15.13.090. Identification of advertising.

(a) Advertisements, including handbills, billboards, yard signs and other communications intended to influence the election of a candidate or outcome of a ballot proposition or question, shall be clearly identified with the words "paid for by" followed by the name and address of the candidate, group, or individual paying for the advertisement.

(b) Lettering in an advertisement other than a newspaper shall be at least 3/8 inches high if the advertisement exceeds 12 inches in length or width.

(c) In radio and television advertisements the words "I paid for this ad" may be used and the address omitted if the words are spoken by the candidate.

(d) The "paid for by" line may be omitted from advertising items less than 3 inches in length or width and from motor vehicle bumper or window stickers.

If the above language is deemed to contain too much detail for a statute, rewrite Sec. 15.13.090, in order to allow more flexibility about the "paid for by" line, to read:

Sec. 15.13.090. Identification of communication.

Advertisements, including handbills, billboards, yard signs, other communications intended to influence the election of a candidate or outcome of a ballot proposition or question, and radio and television advertisements shall be identified as to payer in accordance with regulations promulgated by the commission.

### FISCAL NOTE

**REQUEST:**

Revision Date: 2/23/90  
 Title: An Act relating to election campaigns  
 Sponsor: Rep. Finkelstein  
 Requestor: \_\_\_\_\_

Agency Affected: Dept. of Administration  
 BRU: Alaska Public Offices Commission  
 Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	60.2	62.1	64.0	66.0	68.0	70.1
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	5.1	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>65.3</b>	<b>62.1</b>	<b>64.0</b>	<b>66.0</b>	<b>68.0</b>	<b>70.1</b>

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	65.3	62.1	64.0	66.0	68.0	70.1
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>65.3</b>	<b>62.1</b>	<b>64.0</b>	<b>66.0</b>	<b>68.0</b>	<b>70.1</b>

**POSITIONS:**

FULL-TIME	1	1	1	1	1	1
PART-TIME	1	1	1	1	1	1
TEMPORARY	0	0	0	0	0	0

**ANALYSIS : (Attach a separate page if necessary)**

SEE ATTACHED.

Prepared by: Karla L. Forsythe, Executive Director Phone: 276-4176  
 Division: Alaska Public Offices Commission Date: 2/23/90  
 Approved by Commissioner: Annie Laurie Howard, Acting Chair Date: 2/23/90  
 Agency: Alaska Public Offices Commission

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

CSHB 327

NARRATIVE

This bill makes both major and minor changes in the Campaign Disclosure Law. Major changes include: providing a campaign contribution and account closing date; restricting uses of surpluses; prohibiting direct contributions from unions and corporations; prohibiting use of public funds for political purposes and authorizing civil penalties up to three times the amount misused for those who violate the prohibition. Minor changes include: exempting small municipal campaigns from reporting requirements; permitting the commission to establish regulatory guidelines for clear identification of the source of funds for a political communication; closing the two-day pre-election reporting gap; permitting the commission to assess a \$250 maximum civil penalty for failure to identify political communications properly.

Virtually all of these changes will require some transition activity, to publicize the changes in the law and to make certain that those subject to it are adequately apprised as to how the change will impact them. Also, Commission regulations would be revised and reprinted. The commission will be required to develop major new regulations in some areas, including prohibition on use of public funds and identification of political communications. Although the commission's work on these regulations will be absorbed as part of normal commission meetings, additional staff time will be needed to work on these changes.

Commission staff currently respond to numerous interpretation questions from persons subject to the law. The commission anticipates that requests for informal and formal advice will increase significantly as a result of restrictions on disposition

of surpluses, the prohibition on direct contributions from labor unions and corporations, and the prohibition on the use of public funds.

Additionally, the commission anticipates that complaints will increase substantially as a result of prohibitions on disposition of campaign surplus, the establishment of a campaign contribution and account close-out date, and the prohibition on the use of public funds. Also, there will be a major shift in work as business and labor entities change from filing occasional reports as "persons" under the law, to filing periodic group reports.

In order to absorb this additional work, the commission would need an additional staff paraprofessional position classified as a Range II Paralegal. This position would investigate complaints, and would provide informal advice and assistance to candidates, groups and public entities with regard to ongoing questions attributable to these changes. Because the commission only has one secretary at the present time, an additional half-time Range 10 Secretary will be required to handle typing, photocopying and data entry attributable to these activities. Although the commission has one surplus computer terminal and printer, a new computer terminal with a laser printer, a desk, and moveable partitions would be needed to equip the new clerical position.

The FY 91 salary, benefits and equipment costs for these positions are set out below:

Salary and Benefits

Paralegal II (Range 16) full-time	\$44,382
Secretary I (Range 10) part-time	15,822
1 Personal Computer, Laser Printer	3,993
1 Desk/Chair	875
Moveable Partitions	<u>200</u>
	\$65,272

Amendment # 16

MEMORANDUM

RECEIVED MAR 11 1990  
State of Alaska  
Office of the Governor  
Division of Policy

TO: David Finkelstein  
Representative  
Alaska State Legislature

DATE: March 8, 1990

FROM: *M. Halloran*  
Mary Halloran  
Director, Policy

PHONE: 465-3568

SUBJECT: Proposed Amendment: HB 327

We would appreciate consideration of the attached amendment to HB 327. The amendment would limit campaign finance activities by lobbyists. In so doing, we believe it would contribute to an improved public attitude towards campaign activities.

Thank you.

cc: House Judiciary members

*Litigation  
Copy for the bill file  
please  
or  
give to clerk 12/11/90*

Proposed amendment to HB 327:

# 16

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

Sec. 15.13.075. CAMPAIGN ACTIVITIES BY LOBBYISTS. (a) An individual who is registered as a lobbyist under AS 24.45 may contribute the lobbyist's own money, goods, and services to a candidate, subject to the limits of AS 15.13.070.

(b) A lobbyist may not

(1) serve as a campaign treasurer or deputy campaign treasurer for a candidate for governor, lieutenant governor, or the legislature; or

(2) solicit, receive, collect, handle, disburse, or account for campaign contributions for a candidate for governor, lieutenant governor, or the legislature.

(c) In (b) of this section, "lobbyist"

(1) means a person who has registered under AS 24.45.041 within the last 12 months and is described under AS 24.45.171(8)(A);

(2) does not include a volunteer lobbyist described in AS 24.45.161(a)(1) or a representational lobbyist as defined under regulations of the commission.

# Alaska State Legislature



House of Representatives  
House Judiciary Committee

*3/27*

*New*

P. O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990  
(907) 465-4712

AMENDMENT PACKAGE FOR CS HB 327 (State Affairs)

A M E N D M E N T # 1

OFFERED IN THE HOUSE

BY REP. GRUENBERG

TO: CSHB 327 (State Affairs)

Page 1, after line 8:

Insert a new bill section to read:

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

(a) This chapter applies in every election for governor, lieutenant governor, a member of the state legislature, a delegate to a constitutional convention, or judge seeking electoral confirmation. It also applies to every candidate for election to a municipal office, including every candidate for election as a member of a charter commission, in a municipality with a population of more than 1,000 inhabitants according to the latest United States census figures or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs. A municipality may exempt its elected municipal officers from the requirements of this chapter if a majority of the voters voting on the question at a regular election, as defined by AS 29.71.800(20), or a special municipality-wide election called for that purpose, vote to exempt its elected municipal officers from the requirements of this chapter. The question of exemption from the requirements of this chapter may be submitted by the governing body by ordinance or by initiative election. This chapter does not prohibit a municipality from regulating by ordinance campaign contributions and expenditures."

Page 1, line 9:

Delete "Section 1."

Insert "Sec. 2"

Renumber the following bill sections accordingly.

Page 6, line 26:

Delete "4, and 7 - 9"

Insert "2, 5, and 8 - 10"

Page 6, line 28:

Delete "2, 3, 5, and 6"

Insert "3, 4, 6, and 7"

A M E N D M E N T # 2

OFFERED IN THE HOUSE

BY REP. GRUENBERG

TO: CSHB 327 (State Affairs)

Page 1, line 6, after "campaigns":

Insert "and to the Public Offices Commission"

Page 6, following line 25:

Insert a new bill section to read:

"\* Sec. 10. AS 39.50.200(7) is amended to read:

(7) "municipal officer" includes a borough or city mayor, borough assemblyman, city councilman, school board member, elected utility board member, city or borough manager, members of a city or borough planning or zoning commission or charter commission within a home rule or general law city or borough, or a unified municipality;"

Renumber the following bill sections accordingly.

Page 6, line 26:

Delete "7 - 9"

Insert "7 - 10"

A M E N D M E N T #3

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 1, line 11:

Delete "of" and insert "totaling" in two places

A M E N D M E N T

#4

Page 1 of 2

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 1, line 24, after "contribution":

Insert "postmarked or delivered" ✓

Page 1, lines 25 - 26:

Delete "until the person files a declaration of candidacy or a nominating petition"

Page 1, line 27, after "contribution":

Insert "postmarked or delivered" ✓

Page 1, lines 28 - 29:

Delete "until the person files a declaration of candidacy or nominating petition"

Page 2, line 5:

Delete "leaving the funds in"

Insert "transferring the funds to"

Page 2, lines 7 - 8:

Delete "an account for the office, in the case of a successful candidate only"

Amend. #4 Page 2 of 2

Insert "a legislative office account for expenditures qualifying as a business expense under 26 U.S.C. 162"

Page 2, line 16:

Delete "January"

Insert "February"

A M E N D M E N T # 4(a)

*Terry Martin*

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 1, line 24:

Delete "December 31"

Insert "November 15"

A M E N D M E N T #5

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 2, line 14, after "basis":

Insert ";

(6) donating the funds to a political party or the subdivision of a political party"

A M E N D M E N T # 6

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 2, line 23 through page 3, line 15:

Delete all material.

Renumber the following bill sections accordingly.

Page 3, line 29 through page 4, line 22:

Delete all material.

Renumber the following bill sections accordingly.

Page 6, line 26:

Delete "4, and 7 - 9"

Insert "3, and 5 - 7"

Page 6, line 28:

Delete ", 3, 5, and 6"

Insert "and 4"

A M E N D M E N T # 7

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 2, line 29 through page 3, line 2:

Delete "or to a group. A group may not contribute more than \$1,000 a year to a political party and its subdivisions"

A M E N D M E N T

#8

OFFERED IN THE HOUSE

BY REP. FINKELSTEIN

TO:: CSHB 327 (State Affairs)

Page 3, lines 2 - 3:

Delete ". A candidate may not contribute more than \$1,000 to the candidate's own campaign"

Page 3, lines 8 - 10:

Delete

"[(1) A CANDIDATE FROM CONTRIBUTING MORE THAN \$1,000 OF THE CANDIDATE'S OWN MONEY TO THE CANDIDATE'S OWN CAMPAIGN; OR  
(2)]"

Insert

"(1) a candidate from contributing more than \$1,000 of the candidate's own money to the candidate's own campaign; or  
(2)"

A M E N D M E N T #9

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 2, line 27, after "\$1,000":

Insert "in the aggregate"

Page 3, line 1, after "\$1,000":

Insert "in the aggregate"

AMENDMENT # 10

To: CSHB 327 (SA)

By: Rep. Martin

On page 2, line 29, following "A group", insert  
"or individual"

On page 3, line 1, following "more than" insert  
"an aggregate total of"

On page 3, line 1, following "party", delete "and" and insert  
". including all of"

A M E N D M E N T # 11

OFFERED IN THE HOUSE

TO:: CSHB 327 (State Affairs)

Page 3, line 1, after "\$1,000":

Insert "in the aggregate"

Page 3, line 2, after "visions.":

Insert "An individual may not contribute more than \$10,000 in the aggregate a year to a political party and its subdivisions."

AMENDMENT

# 12

To: CSHB 327 (SA)

By: Rep. Martin

On Page 3, line 3, following the word "campaign", insert:

"A candidate may not accept more than an aggregate total of \$5.000 per campaign from the members of a professional or trade association, group or organization."

AMENDMENT

#13

To: CSHB 327 (SA)

By: Rep. Martin

On page 2, line 27,28, delete "a year" and insert in its place:

"per campaign"

On page 3, line 1, delete "a year" and insert in its place:

"per campaign"

On page 3, line 13, delete "a year" and insert in its place:

"per campaign"

A M E N D M E N T

# 14

OFFERED IN THE HOUSE

BY REP. FINKELSTEIN

TO:: CSHB 327 (State Affairs)

Page 3, line 6, after "15.13.110":

Insert "and may not make any contributions to a candidate for election  
in a municipal election"

A M E N D M E N T #15 Page 1 of 2

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 4, line 2:

Delete "corporation"

Insert "business organization"

Page 4, line 6:

Delete "corporation"

Insert "business organization"

Page 4, line 7:

Delete "corporation"

Insert "business organization"

Page 4, line 8:

Delete "corporation".

Insert "business organization"

Page 4, line 14:

Delete "corporacion"

Insert "business organization"

After "stockholders" insert ", shareholders, or members"

Page 4, line 19:

Delete "corporation"

Insert "business organization"

Amendment # 15 Page 2 of 2

Page 4, line 22:

Delete "corporation"

Insert "business organization"

Page 4, after line 22:

Insert a new subsection to read:

"(c) In this section, "business organization" means a profit or nonprofit corporation, a company, partnership, firm, association, business trust, or society."

A M E N D M E N T

# 16

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 4, line 11, after "organization.":

Insert "A business organization and a labor organization may not contribute to a group or to a political party and its subdivisions."

A M E N D M E N T

# 17 Page 1 of 2

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 3, line 29:

Delete "a new section"

Insert "new sections"

Page 4, after line 22:

Insert a new section to read:

"Sec. 15.13.075. CAMPAIGN ACTIVITIES BY LOBBYISTS. (a) An individual who is registered as a lobbyist under AS 24.45 may contribute the lobbyist's own money, goods, and services to a candidate, subject to the limits of AS 15.13.070.

(b) A lobbyist may not

(1) serve as a campaign treasurer or deputy campaign treasurer for a candidate for governor, lieutenant governor, or the legislature; or

(2) receive, collect, handle, disburse, or account for campaign contributions for a candidate for governor, lieutenant governor, or the legislature.

(c) In (b) of this section, "lobbyist"

(1) means a person who has registered under AS 24.45.041 within the last 12 months and is described under AS 24.45.171(8)(A);

(2) does not include a volunteer lobbyist described in

Amendment # 17 Page 2 of 2

AS 24.45.161(a)(1) or a representational lobbyist as defined under regulations of the commission."

A M E N D M E N T

# 18

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 6, line 16:

Delete "uses"

Insert "authorizes the use of"

A M E N D M E N T

# 19

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 6, after line 20:

Insert a new subsection to read:

"(f) A person or group who contributes over \$250 to a candidate or contributes goods or services to a candidate with a value of more than \$250 without furnishing to the commission the report required by AS 15.13.080 is subject to a civil penalty of not more than \$250 if the person or group gave over \$5,000 in political contributions in a previous year. The determination of the commission is subject to a right of appeal to superior court."

Reletter the following subsections accordingly.

Amendment # 20

Page 1 of 2

# MEMORANDUM

RECEIVED MAR 1 1990  
State of Alaska  
Office of the Governor  
Division of Policy

TO: David Finkelstein  
Representative  
Alaska State Legislature

DATE: March 8, 1990

FROM: *MH* Mary Halloran  
Director, Policy

PHONE: 465-3568

SUBJECT: Proposed Amendment: HB 327

We would appreciate consideration of the attached amendment to HB 327. The amendment would limit campaign finance activities by lobbyists. In so doing, we believe it would contribute to an improved public attitude towards campaign activities.

Thank you.

cc: House Judiciary members

*Litigation  
Copy for the bill files  
please  
give to clerk as well*

Proposed amendment to HB 327:

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

Sec. 15.13.075. CAMPAIGN ACTIVITIES BY LOBBYISTS. (a) An individual who is registered as a lobbyist under AS 24.45 may contribute the lobbyist's own money, goods, and services to a candidate, subject to the limits of AS 15.13.070.

(b) A lobbyist may not

(1) serve as a campaign treasurer or deputy campaign treasurer for a candidate for governor, lieutenant governor, or the legislature; or

(2) solicit, receive, collect, handle, disburse, or account for campaign contributions for a candidate for governor, lieutenant governor, or the legislature.

(c) In (b) of this section, "lobbyist"

(1) means a person who has registered under AS 24.45.041 within the last 12 months and is described under AS 24.45.171(8)(A);

(2) does not include a volunteer lobbyist described in AS 24.45.161(a)(1) or a representational lobbyist as defined under regulations of the commission.

# Court approves spending limits

By RUTH MARCUS  
The Washington Post

WASHINGTON — The Supreme Court ruled Tuesday that states and the federal government can constitutionally prohibit corporations, including trade associations and other non-profit groups, from spending money on behalf of political candidates.

In the past, the court has said limits can be placed on direct contributions to candidates. Tuesday's 6-3 ruling is the first time the justices have upheld a restriction on independent expenditures of funds for political purposes.

The case arose when the Michigan State Chamber of Commerce wanted to buy a newspaper advertisement supporting a candidate for the state legislature but was prohibited from doing so by a state law making it a felony for corporations to spend money to promote candidates. The federal government and 20 other states have similar restrictions on independent expenditures.

In a 1986 decision, the court struck down the federal ban as applied to a Massachusetts anti-abortion group. It said advocacy groups established for political purposes and free from the influence of business corporations should not be subject to the prohibition against independent expenditures just because they are organized as nonprofit corporations.

The opinion Tuesday in *Austin vs. Michigan Chamber of Commerce* refused to

extend that exemption to business-oriented non-profit organizations. Groups such as the National Association of Realtors and the American Medical Association had asked the justices to free them to participate in the political process through independent expenditures.

But the Federal Election Commission warned in a friend-of-the-court brief that removing the prohibition would allow such "business associations" to serve "as conduits for business corporation funds," undermining congressional efforts to limit "the use of corporate wealth to influence the outcome of federal elections."

In his opinion for the court Tuesday, Justice Thurgood Marshall agreed, finding that the free speech rights of corporations are outweighed by the state's compelling interest in ensuring that corporations do not corrupt the political process by exerting undue influence.

In a concurring opinion, Justice William J. Brennan Jr. noted that corporations can still participate in the political process by establishing political action committees that accept contributions from employees.

The ruling drew a stinging dissent from Justice Antonin Scalia, who took the unusual step of reading his dissent from the bench. Scalia, who dissented along with Justices Anthony M. Kennedy and Sandra Day O'Connor, accused the majority of abandoning long-accepted principles of free speech.

# NASA works out bugs

By MARCIA DUNN  
The Associated Press

CAPE CANAVERAL, Fla. — The shuttle mission to propel the \$1.5 billion Hub-

The mosquito-like midges were found on the orbiter's payload bay doors Sunday when a servicing machine was retracted to receive the



The Associated Press

... in a ceremony taking his Mafia oath, is led into jail.

# Secrets revealed

... launched a dragnet through Rhode Island, Massachusetts and Connecticut, authorities said. They were held on charges including murder, racketeering, kidnapping, drug trafficking, gambling, obstruction of justice and witness intimidation.

"This is the first time that you're going to hear it right from their own mouths," said Dennis O'Callaghan, assistant special agent in charge of the five-year FBI investigation.

Tortora and three other men allegedly

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A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. FINKELSTEIN

TO:: CSHB 327 (State Affairs)

Page 3, line 6, after "15.13.110":

Insert "and may not make any contributions to a candidate for election  
in a municipal election"

#2

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. FINKELSTEIN

TO : CSHB 327 (State Affairs)

Page 3, line 1, after "\$1,000":

Insert "in the aggregate"

Page 3, line 2, after "visions.":

Insert "An individual may not contribute more than \$5,000 in the aggregate a year to a political party and its subdivisions."

# 3

6-1305E1  
Bradley

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. FINKELSTEIN

TO:: CSHB 327 (State Affairs)

Page 3, lines 2 - 3:

Delete ". A candidate may not contribute more than \$1,000 to the candidate's own campaign"

Page 3, lines 8 - 10:

Delete

"[(1) A CANDIDATE FROM CONTRIBUTING MORE THAN \$1,000 OF THE CANDIDATE'S OWN MONEY TO THE CANDIDATE'S OWN CAMPAIGN; OR  
(2)]"

Insert

"(1) a candidate from contributing more than \$1,000 of the candidate's own money to the candidate's own campaign; or  
(2)"

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. GRUENBERG

TO: CSHB 327 (State Affairs)

Page 1, after line 8:

Insert a new bill section to read:

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

(a) This chapter applies in every election for governor, lieutenant governor, a member of the state legislature, a delegate to a constitutional convention, or judge seeking electoral confirmation. It also applies to every candidate for election to a municipal office, including every candidate for election as a member of a charter commission, in a municipality with a population of more than 1,000 inhabitants according to the latest United States census figures or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs. A municipality may exempt its elected municipal officers from the requirements of this chapter if a majority of the voters voting on the question at a regular election, as defined by AS 29.71.800(20), or a special municipality-wide election called for that purpose, vote to exempt its elected municipal officers from the requirements of this chapter. The question of exemption from the requirements of this chapter may be submitted by the governing body by ordinance or by initiative election. This chapter does not prohibit a municipality from regulating by ordinance campaign contributions and expenditures."

Page 1, line 9:

Delete "Section 1."

Insert "Sec. 2"

Renumber the following bill sections accordingly.

Page 6, line 26:

Delete "4, and 7 - 9"

Insert "2, 5, and 8 - 10"

Page 6, line 28:

Delete "2, 3, 5, and 6"

Insert "3, 4, 6, and 7"

A M E N D M E N T

OFFERED IN THE HOUSE

BY REP. GRUENBERG

TO: CSHB 327 (State Affairs)

Page 1, line 6, after "campaigns":

Insert "and to the Public Offices Commission"

Page 6, following line 25:

Insert a new bill section to read:

"\* Sec. 10. AS 39.50.200(7) is amended to read:

(7) "municipal officer" includes a borough or city mayor, borough assemblyman, city councilman, school board member, elected utility board member, city or borough manager, members of a city or borough planning or zoning commission or charter commission within a home rule or general law city or borough, or a unified municipality;"

Renumber the following bill sections accordingly.

Page 6, line 26:

Delete "7 - 9"

Insert "7 - 10"

# 6

AMENDMENT

To: CSHB 327 (SA)

By: Rep. Martin

On page 2, line 27,28, delete "a year" and insert in its place:

"per campaign"

On page 3, line 1, delete "a year" and insert in its place:

"per campaign"

On page 3, line 13, delete "a year" and insert in its place:

"per campaign"

# 7

AMENDMENT

To: CSHB 327 (SA) By: Rep. Martin

On page 2, line 29, following "A group", insert  
"or individual"

On page 3, line 1, following "more than" insert  
"an aggregate total of"

On page 3, line 1, following "party", delete "and" and insert  
", including all of"

# 8

AMENDMENT

To: CSHB 327 (SA) By: Rep. Martin

On Page 3, line 3, following the word "campaign", insert:

"A candidate may not accept more than an aggregate total of \$5,000 per campaign from the members of a professional or trade association, group or organization."

A M E N D M E N T # 6

3/27/90

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 2, line 23 through page 3, line 15:

Delete all material.

Renumber the following bill sections accordingly.

Page 3, line 29 through page 4, line 22:

Delete all material.

Renumber the following bill sections accordingly.

Page 6, line 26:

Delete "4, and 7 - 9"

Insert "3, and 5 - 7"

Page 6, line 28:

Delete ", 3, 5, and 6"

Insert "and 4"

*get  
new packet*

A M E N D M E N T # 7

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 2, line 29 through page 3, line 2:

Delete "or to a group. A group may not contribute more than \$1,000 a year to a political party and its subdivisions"

A M E N D M E N T #8

OFFERED IN THE HOUSE

BY REP. FINKELSTEIN

TO:: CSHB 327 (State Affairs)

Page 3, lines 2 - 3:

Delete ". A candidate may not contribute more than \$1,000 to the candidate's own campaign"

Page 3, lines 8 - 10:

Delete

"[(1) A CANDIDATE FROM CONTRIBUTING MORE THAN \$1,000 OF THE CANDIDATE'S OWN MONEY TO THE CANDIDATE'S OWN CAMPAIGN; OR  
(2)]"

Insert

"(1) a candidate from contributing more than \$1,000 of the candidate's own money to the candidate's own campaign; or  
(2)"

A M E N D M E N T #9

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 2, line 27, after "\$1,000":

Insert "in the aggregate"

Page 3, line 1, after "\$1,000":

Insert "in the aggregate"

AMENDMENT # 10

To: CSHB 327 (SA)

By: Rep., Martin

On page 2, line 29, following "A group", insert  
"or individual"

On page 3, line 1, following "more than" insert  
"an aggregate total of"

On page 3, line 1, following "party", delete "and" and insert  
", including all of"

A M E N D M E N T # 11

OFFERED IN THE HOUSE

TO:: CSHB 327 (State Affairs)

Page 3, line 1, after "\$1,000":

Insert "in the aggregate"

Page 3, line 2, after "visions.":

Insert "An individual may not contribute more than \$10,000 in the aggregate a year to a political party and its subdivisions."

AMENDMENT

# 12

To: CSHB 327 (SA) P... Rep. Martin

On Page 3, line 3, following the word "campaign", insert:

"A candidate may not accept more than an aggregate total of \$5,000 per campaign from the members of a professional or trade association, group or organization."

AMENDMENT

#13

To: CSHB 327 (SA)

By: Rep. Martin

On page 2, line 27,28, delete "a year" and insert in its place:

"per campaign"

On page 3, line 1, delete "a year" and insert in its place:

"per campaign"

On page 3, line 13, delete "a year" and insert in its place:

"per campaign"

A M E N D M E N T # 14

OFFERED IN THE HOUSE

BY REP. FINKELSTEIN

TO: CSHB 327 (State Affairs)

Page 3, line 6, after "15.13.110":

Insert "and may not make any contributions to a candidate for election in a municipal election"

A M E N D M E N T #15 Page 1 of 2

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 4, line 2:

Delete "corporation"

Insert "business organization"

Page 4, line 6:

Delete "corporation"

Insert "business organization"

Page 4, line 7:

Delete "corporation"

Insert "business organization"

Page 4, line 8:

Delete "corporation"

Insert "business organization"

Page 4, line 14:

Delete "corporation"

Insert "business organization"

After "stockholders" insert ", shareholders, or members"

Page 4, line 19:

Delete "corporation"

Insert "business organization"

Amendment # 15 Page 2 of 2

Page 4, line 22:

Delete "corporation"

Insert "business organization"

Page 4, after line 22:

Insert a new subsection to read:

"(c) In this section, "business organization" means a profit or nonprofit corporation, a company, partnership, firm, association, business trust, or society."

A M E N D M E N T

# 16

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 4, line 11, after "organization.":

Insert "A business organization and a labor organization may not contribute to a group or to a political party and its subdivisions."

A M E N D M E N T # 17 Page 1 of 2

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 3, line 29:

Delete "a new section"

Insert "new sections"

Page 4, after line 22:

Insert a new section to read:

"Sec. 15.13.075. CAMPAIGN ACTIVITIES BY LOBBYISTS. (a) An individual who is registered as a lobbyist under AS 24.45 may contribute the lobbyist's own money goods, and services to a candidate, subject to the limits of AS 15.13.070.

(b) A lobbyist may not

(1) serve as a campaign treasurer or deputy campaign treasurer for a candidate for governor, lieutenant governor, or the legislature; or

(2) receive, collect, handle, disburse, or account for campaign contributions for a candidate for governor, lieutenant governor, or the legislature.

(c) In (b) of this section, "lobbyist"

(1) means a person who has registered under AS 24.45.041 within the last 12 months and is described under AS 24.45.171(8)(A);

(2) does not include a volunteer lobbyist described in

Amendment # 17 Page 2 of 2

AS 24.45.161(a)(1) or a representational lobbyist as defined under regulations of the commission."

A M E N D M E N T

# 18

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 6, line 16:

Delete "uses"

Insert "authorizes the use of"

A M E N D M E N T

# 19

OFFERED IN THE HOUSE

TO: CSHB 327 (State Affairs)

Page 6, after line 20:

Insert a new subsection to read:

"(f) A person or group who contributes over \$250 to a candidate or contributes goods or services to a candidate with a value of more than \$250 without furnishing to the commission the report required by AS 15.13.080 is subject to a civil penalty of not more than \$250 if the person or group gave over \$5,000 in political contributions in a previous year. The determination of the commission is subject to a right of appeal to superior court."

Reletter the following subsections accordingly.

Amendment # 20

Page 1 of 2

# MEMORANDUM

RECEIVED MAR 11 1990  
State of Alaska  
Office of the Governor  
Division of Policy

TO: David Finkelstein  
Representative  
Alaska State Legislature

DATE: March 8, 1990

FROM: *M. Halloran*  
Mary Halloran  
Director, Policy

PHONE: 465-3568

SUBJECT: Proposed Amendment: HB 327

We would appreciate consideration of the attached amendment to HB 327. The amendment would limit campaign finance activities by lobbyists. In so doing, we believe it would contribute to an improved public attitude towards campaign activities.

Thank you.

cc: House Judiciary members

*Litigation  
Copy for the bill file  
please  
sure to check to see*

Proposed amendment to HB 327:

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

Sec. 15.13.075. CAMPAIGN ACTIVITIES BY LOBBYISTS. (a) An individual who is registered as a lobbyist under AS 24.45 may contribute the lobbyist's own money, goods, and services to a candidate, subject to the limits of AS 15.13.070.

(b) A lobbyist may not

(1) serve as a campaign treasurer or deputy campaign treasurer for a candidate for governor, lieutenant governor, or the legislature; or

(2) solicit, receive, collect, handle, disburse, or account for campaign contributions for a candidate for governor, lieutenant governor, or the legislature.

(c) In (b) of this section, "lobbyist"

(1) means a person who has registered under AS 24.45.041 within the last 12 months and is described under AS 24.45.171(8)(A);

(2) does not include a volunteer lobbyist described in AS 24.45.161(a)(1) or a representational lobbyist as defined under regulations of the commission.



# HOUSE COMMITTEE REPORT

2/16

(7)

Date Referred: May 2, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: \_\_\_\_\_

*Finance added 2/16*

The STATE AFFAIRS Committee considered:

HB 327

HOUSE BILL NO. 327

[CAMPAIGN CONTRIBUTIONS]

"An Act relating to contributions to a campaign for public office."

### RECOMMENDATIONS:

- be replaced with 15 HB 327 (SA)  the same title
- have attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

FIN

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact APOC
- zero fiscal note
- zero with analysis

- fiscal note(s) \_\_\_\_\_
- zero fiscal note(s) \_\_\_\_\_
- zero fn/analysis \_\_\_\_\_

### SIGNING DO PASS:

### SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

SIGNING DO PASS	SIGNING	Do Not Pass	No Rec	Amend
<u>[Signature]</u> FLANKELSTEIN	<u>[Signature]</u> HANLEY			✓
<u>[Signature]</u> BOUCHER	<u>[Signature]</u>			✓
<u>[Signature]</u> MENARI	<u>[Signature]</u>			
	<u>[Signature]</u> MCELLEN			✓

[Signature]

Chairman's Signature

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## ALASKA PUBLIC OFFICES COMMISSION

REPLY TO:

- 2221 E. Northern Lights, Room 128  
Anchorage, AK 99508  
(907) 276-4176
- Juneau Branch Office  
Box CO  
Juneau, AK 99811 0222  
(907) 465-4864

February 22, 1990

Representative Peter Goll  
Representative Max Gruenberg  
Co-Chairmen, House Judiciary Committee  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Goll and Representative Gruenberg:

I am writing with regard to CSHB 327 (State Affairs), an act relating to election campaigns.

It is my understanding that this measure will be heard in the House Judiciary Committee on Monday, February 26, 1990. The Alaska Public Offices Commission would greatly appreciate it if the Committee would consider the following comments as it reviews this measure.

### Section 1

This section exempts municipal campaigns with financial activity under \$1,000 from filing campaign disclosure reports.

The commission supports this provision. Because the commission for many years has lacked the resources to monitor these small campaigns and summarize their disclosure reports, the commission as a matter of policy has exempted these campaigns from reporting requirements. This policy also has benefitted candidates with limited financial ability who have found it unduly burdensome to comply with reporting requirements. The exemption is in keeping with the reporting exemption in current law for candidates in municipalities with populations of 1,000 or less (AS 15.13.010; Attachment 1). Codification would give the commission's policy the force of law.

The commission suggests one minor technical change. By inserting the word "totalling" in lines 11 and 12, page 1, the statutory language would clarify that municipal candidates who accept contributions and make expenditures totalling less than \$1,000 need not file disclosure reports.

Representative Peter Goll  
Representative Max Gruenberg  
February 23, 1990  
Page 2

## Section 2

Paragraph (a) of section 2 addresses closure of campaign accounts. This section would prohibit post-election fundraising by state candidates after December 31 of the election year, and by local candidates 45 days after the local election.

Although the commission prefers an end to contributions as of the date of the election, the commission supports the establishment of a campaign closure date. However, there are several concerns with paragraph (a) as currently drafted.

First, it would be helpful if the statute clarified that contributions may not be accepted if they are postmarked after December 31st. Many last minute contributions do not reach campaigns until after the end of the year, so this clarification would prevent questions and complaints to the commission.

This section also provides that a candidate may not begin to accept contributions until the person files a declaration of candidacy. Under current law (AS 15.13.100; Attachment 2), a candidate cannot make campaign-related expenditures prior to filing except for personal travel, opinions surveys and polls. This means that prior to declaring, potential candidates cannot spend money to raise money, although there appears to be no ban on receiving unsolicited contributions. This provision, which would be reinforced by the proposed new language, has created practical problems for municipal campaigns.

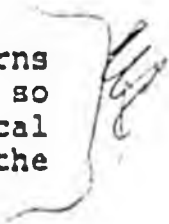
For state candidates, a declaration of candidacy may be filed at any time, so candidates have ample opportunity to raise funds. However, municipal campaigns are restricted to a very short fundraising period, because municipal ordinances typically do not permit declaration of candidacy until a few months before the election. For example, in Anchorage and Fairbanks, candidates cannot file until August for the October election. In Bethel and in Palmer, candidates cannot file until September for an October election.

As a means of addressing this problem, the commission adopted a regulation permitting candidates to file a letter of intent. Under 2 AAC 50.380 (Attachment 2), filing a letter of intent has the effect of extending the filing date, since a candidate may then campaign as long as he or she complies with all the requirements of the campaign disclosure law. At present, two Anchorage

Representative Peter Goll  
Representative Max Gruenberg  
February 23, 1990  
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candidates have filed letters of intent for the 1990 elections to be held in October (Tom Fink and Bud Knox), and one assembly member, Mark Begich, has filed a letter of intent for the 1991 race.

The reference to the declaration of candidacy is problematic for another reason. It is unclear from paragraph (a) as presently worded whether filing a declaration of candidacy permits a candidate to accept contributions for a previous campaign, or whether the intent is that each campaign is separate for contribution purposes.

✓ One way to resolve the confusion about these two concerns would be to delete the reference to declaration of candidacy, so that the section would simply provide that a candidate for local office may not accept a contribution more than 45 days after the local election. 

Paragraph (b) of this section provides that an individual who accepts campaign contributions may not convert campaign funds to personal income at any time. The commission supports the concept that surplus campaign funds may not be taken as personal income.

Additionally, this section provides that campaign surpluses can be used only for five purposes: leaving the funds in a campaign account for a future election campaign, transferring the funds to an account for the candidate's office, donating the funds to a charitable organization under 26 USC 501(c), donating the funds to a general fund, or returning the funds to contributors on a pro rata basis.

Current commission regulations do not restrict the manner of disposition of surpluses (2 AAC 50.400; Attachment 4). As part of the upcoming revisions to its regulations, in the absence of legislative action the commission anticipates restricting disposition of surpluses to charitable donations or return to contributors. The pro rata return, in the view of some commission members, should be applicable only to those persons who have contributed more than \$100 to the candidate.

Although the commission does not believe surpluses should be available for office accounts, if the Committee disagrees, the commission suggests that the Committee narrow the language by providing that the expenditures must qualify as business expenses under 26 USC 162.

Representative Peter Goll  
Representative Max Gruenberg  
February 23, 1990  
Page 4

The commission also believes that surplus funds should not be transferred to a future campaign. Under current commission regulations, unlimited funds can be transferred. In the absence of legislative action, the commission anticipates changing its regulations to limit the amount which can be transferred to \$1,000. This is based on advice from the Department of Law that under current law a campaign can contribute no more than \$1,000 to a future or a different campaign. The reasoning is that a campaign is a group controlled by a candidate, and that a group may contribute no more than \$1,000 to a candidate.

If the Committee believes an amount in excess of \$1,000 should be transferrable to a future campaign, the commission suggests the Committee clarify its intent, by specifically stating the amount which can be transferred.

Paragraph (c) provides that a candidate for state office shall close each campaign account before January 12 and report to the commission not later than February 15. The commission originally suggested extending the year-end report due date in order to give legislators more time to file these reports, and candidates more time to review their records. If the date for the report to the commission is extended until February 12, it would be preferable to change the January 12 date on line 16 of page 2 to February 12. This would mean that campaign accounts would have to be closed by February 12, with a report to the commission three days afterward, which is consistent with current practice.

### Section 3

This section provides that only individuals or groups may contribute \$1,000 to a candidate or to a group. The commission believes that as a result of this provision, corporations and unions which presently report as individuals would form political action committees and report as groups. As shown on the attached sheet (Attachment 5), approximately 25 businesses and unions which contribute in excess of \$1,000 to candidates currently report to the commission as persons rather than groups, and could be anticipated to form political action committees.

The commission favors this result, because groups report periodically during an election cycle, rather than only after each contribution. Also, failure to file timely and properly completed reports can result in civil penalties; reporting violations by

Representative Peter Goll  
Representative Max Gruenberg  
February 23, 1990  
Page 5

group entities which report as persons are not subject to civil penalties under current law, and must be criminally prosecuted.

However, since many of these entities which are likely to form political action committees are major participants in Alaska politics, the change in reporting format is likely to result in additional questions and complaints to the commission, increasing the commission's current workload.

This section also provides that a group may not contribute more than \$1,000 a year to a political party and its subdivisions. The commission does not favor this provision, and believes that parties should be able to receive contributions in unlimited amounts. If the Committee disagrees, the commission suggests clarifying the language to indicate that the \$1,000 yearly limit is an aggregate amount, which includes political parties and subdivisions, and does not permit separate \$1,000 contributions to a central committee and then to each individual subdivision.

Additionally, this section provides that a candidate may not contribute more than \$1,000 to his or her own campaign. The commission is concerned that this provision raises constitutional issues.

#### Section 4

This section provides that public agencies at the state and local level may not use public funds to support or oppose the election of a candidate, or to urge the adoption or rejection of a ballot proposition, but that public funds may be used to provide information as long as the public entity does not advocate a particular position.

The commission is concerned that this section as written does not provide adequate guidance to public entities. For example, it would be helpful to define "public funds". As an alternative, the commission suggests the Committee consider the wording in a similar statute adopted in the State of Washington (Attachment 6).

The Executive Director of the Washington State Public Disclosure Commission indicates that the provision barring the use of public funds generates more work for his agency than almost any other provision administered by the Washington State Commission. The Alaska Public Offices Commission likewise anticipates the need

Representative Peter Goll  
Representative Max Gruenberg  
February 23, 1990  
Page 6

for additional resources to advise public entities about the scope of the prohibition, and to handle complaints.

Under current law, municipalities must report expenditures to influence the outcome of an election (AS 15.13.010; see Attachment 1). The language in Section 4 should clarify that a state or municipal entity which uses public funds to provide information must report these expenditures to the commission.

Finally, the prohibition on use of public funds should extend to support of or opposition to groups and political parties, as well as candidates.

#### Section 5

This section reiterates that corporations and labor unions may not make direct contributions. This section further provides that these entities may form separate segregated funds (political action committees), may organize "get-out-the-vote drives", or communicate with their members. It is the commission's understanding that this provision is taken directly from federal law. The commission would anticipate adopting regulations similar to those adopted by the Federal Election Commission to implement this section.

Since not all businesses are organized as corporations, the Committee may wish to include the terms "business" along with the terms "corporation and labor organization".

#### Section 6

Current law spells out in detail the manner in which the source of funding for a political communication must be identified (AS 15.13.090; Attachment 7)). This section would allow the Alaska Public Offices Commission to attempt through its regulations to make it as easy and inexpensive as possible for campaigns to provide meaningful information to the public about the funding source for political communications.

#### Section 7

This section reiterates that the year-end report to the commission would not be due until February 15. Current law provides that this report is due on December 31 (AS 15.13.110; Attachment 8). The commission has effectively extended the due

Representative Peter Goll  
Representative Max Gruenberg  
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date to January 16, by providing that civil penalties will not be assessed except for reports received after January 16.

#### Section 8

The commission supports this section, which closes the current two-day pre-election reporting gap for large contributions.

#### Section 9

This section redrafts AS 15.13.125 (see Attachment 7) by breaking it down into separate paragraphs. Additionally, this section permits the commission to assess a civil penalty of not more than \$750 for failure to properly identify a political communication. Under current law, each instance of failure to properly identify a communication must be handled as a complaint, with the theoretical possibility of criminal prosecution. Permitting the commission to assess a civil penalty allows the commission to resolve these matters more informally when warranted.

Paragraph (e) of this section provides that an individual who uses public funds is subject to a civil penalty not to exceed three times the misused funds. The commission suggests that the penalty be made applicable to those who authorize the expenditure of funds rather than those who use the funds, so that persons acting at the direction of others will not be the only ones subject to liability under this provision. ✓

The commission has previously indicated to Representative Finkelstein, the bill's sponsor, that the provisions of CSHB 327 would increase staff's workload and require new resources. The commission's fiscal note (Attachment 9) indicates that the workload generated by this bill would warrant the additional of two new positions to APOC's staff (currently 9.25 full-time equivalent positions assigned to administer the three disclosure laws).

Representative Peter Goll  
Representative Max Gruenberg  
February 23, 1990  
Page 8

The commission hopes these comments are helpful. If Committee members have any questions about the commission's position, please let me know.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION

Karla L. Forsyth  
Executive Director

Attachments:

1. AS 15.13.010
2. AS 15.13.100
3. 2 AAC 50.380
4. 2 AAC 50.400
5. Top 25 Contributors
6. Washington Law
7. AS 15.13.125
8. AS 15.13.110
9. Fiscal Note

cc: ✓ Representative Finkelstein  
Representative Ulmer  
Representative Brown  
Representative Koponen  
Senator Pourchot  
Commission Members  
Nancy Gordon, Assistant Attorney General  
APOC Senior Staff  
Mary Halloran, OMB  
Sioux Plummer, Dept. of Administration

## Chapter 13. State Election Campaigns.

Section	Section
10. Applicability	80. Statement by contributor
20. Alaska Public Offices Commission	90. Identification of communication
30. Duties of the commission	100. Expenditures before filing
40. Contributions, expenditures and supplying of services to be reported	110. Filing of reports
45. Investigations, hearings	120. Penalty: limitations on actions
50. Groups	122. Legal counsel
60. Campaign treasurers	125. Civil penalty: late filing of required reports
70. Contributions and expenditures: amount and form of payment	130. Definitions

Collateral references. — 28 Am. Jur. 2d, Elections, §§ 4-7, 10, 280-290. 28 C.J.S., Elections, §§ 2-4, 6, 118(7), 218(1)-216(8).

**Sec. 15.13.010. Applicability.** (a) This chapter applies in every election for governor, lieutenant governor, a member of the state legislature, a delegate to a constitutional convention, or judge seeking electoral confirmation. It also applies to every candidate for election to a municipal office in a municipality with a population of more than 1,000 inhabitants according to the latest United States census figures or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs. A municipality may exempt its elected municipal officers from the requirements of this chapter if a majority of the voters voting on the question at a regular election, as defined by AS 29.71.800(20), or a special municipality-wide election called for that purpose, vote to exempt its elected municipal officers from the requirements of this chapter. The question of exemption from the requirements of this chapter may be submitted by the governing body by ordinance or by initiative election. This chapter does not prohibit a municipality from regulating by ordinance campaign contributions and expenditures.

(b) Except as otherwise provided, this chapter applies to contributions, expenditures and communications made by a candidate, group, municipality or individual for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate. (§ 1 ch 76 SLA 1974; am §§ 1, 2 ch 189 SLA 1975; am § 32 ch 74 SLA 1985)

**Effect of amendments.** — The 1985 amendment in subsection (a) substituted "municipality" for "city or borough" in the second sentence, "a" for "any" preceding "regular election" and "AS 29.71.800(20)" for "AS 29.78.010(14)" in the third sentence, and "governing body" for "city council or borough assembly" and "election" for "ordinance" in the next-to-last sentence.

## NOTES TO DECISIONS

Applied in *Vogler v Miller*, Sup. Ct. Op. No. 2639 (File No. 6959), 660 P.2d 1192 (1983).

Cited in *State Pub. Offices Comm'n v. Marshall*, Sup. Ct. Op. No. 2408 (File No. 5614), 633 P.2d 227 (1981).

*Collateral references.* — Construction and application of provisions of corrupt practices act regarding contributions by corporations. 125 ALR 1029.

Power of corporation to make political

contribution or expenditure under state law. 79 ALR3d 491.

State regulation of the giving or making of political contributions or expenditures by private individuals. 84 ALR3d 944.

**Sec. 15.13.080. Statement by contributor.** A person or group contributing to a candidate over \$250 or contributing goods or services to a candidate with a value of more than \$250 to influence the election of a candidate shall furnish the commission a signed statement, on a form made available by the commission. The statement shall itemize the contributions and goods and state that the contributor is not a person or group prohibited by law from contributing and that the contribution consists of funds or property belonging to the contributor and has not been given or furnished by another person or group. The contributor's statement shall be filed with the commission by the contributor no later than 10 days after the contribution is made. A copy of the statement shall be furnished the candidate, campaign treasurer, or deputy campaign treasurer at the time the contribution is made. (§ 1 ch 76 SLA 1974; am § 29 ch 139 SLA 1978)

**Sec. 15.13.090. Identification of communication.** All advertisements, billboards, handbills, paid-for television and radio announcements and other communications intended to influence the election of a candidate or outcome of a ballot proposition or question shall be clearly identified by the words "paid for by" followed by the name and address of the candidate, group or individual paying for the advertising. In addition, candidates and groups must identify the name of their campaign chairman. (§ 1 ch 76 SLA 1974; am § 22 ch 189 SLA 1975; am § 38 ch 100 SLA 1980)

*Collateral references.* — Validity and construction of state statute prohibiting anonymous political advertising. 4 ALR4th 741.

**Sec. 15.13.100. Expenditures before filing.** A political campaign expenditure may not be made or incurred by a person in an election or by a person or group with the person's knowledge and on the person's behalf before the date upon which the person files for nomination for the office which the person seeks, except for personal travel expenses or for opinion surveys or polls. These expenditures must be included in

the first report required under this chapter after filing for office. (§ 1 ch 76 SLA 1974; am § 23 ch 189 SLA 1975; am § 25 ch 14 SLA 1987)

Effect of amendments. — The 1997 amendment in the first sentence substituted "A" for "No" at the beginning of the section, inserted "not" following "expenditures may," and substituted "the person's" for "his" in two places and "the person" for

"he or she" and in the last sentence substituted "must" for "shall be charged against the spending limitation that applies to the office for which he subsequently files, and shall."

**Sec. 16.13.110. Filing of reports.** (a) Each candidate and group shall make a full report in accordance with AS 16.13.040 during the period ending three days before the due date of the report and beginning on the last day covered by the most recent previous report, or, if a first report, all contributions received and expenditures made before three days before the due date of the report. The report shall be filed at the following times:

(1) 30 days before the election; however, this report is not required if the deadline for filing a nominating petition or declaration of candidacy is within 30 days of the election;

(2) one week before the election;

(3) ten days after the election; and

(4) December 31 of each year for expenditures and contributions received which were not reported that year.

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

(c) The reports of candidates shall be filed with the commission's central office. All reports required by this chapter shall be kept open to public inspection. Within 30 days after each election, the commission shall prepare a summary of each report which shall be made available to the public at cost upon request. Each summary shall use uniform categories of reporting.

(d) Within 30 days after each election, each supplier shall make a full report to the commission in accordance with AS 16.13.040. Within 60 days after each election, the commission shall prepare a summary by candidate or group of the transactions and make the summaries public.

(e) A group formed to sponsor an initiative, a referendum or a recall shall report 30 days after its first filing with the lieutenant governor. Thereafter each group shall report within 10 days after the end of each calendar quarter on the contributions received and expenditures made during the preceding calendar quarter until reports are due under (a) of this section. (§ 1 ch 76 SLA 1974; am § 24 ch 189 SLA 1975; am § 2 ch 133 SLA 1977)

unless it specifically and expressly advocates the election or defeat of a candidate (including himself), or the passage or defeat of a ballot issue.

(c) The commission will, in its discretion, review a communication by an incumbent elected official when a question concerning whether or not the communication is a reportable campaign expense arises. (Eff. 7/22/73, Reg. 67)

Authority: AS 15.13.010 AS 15.13.090  
AS 15.13.030(10) AS 15.13.130(4)  
AS 15.13.045

**2 AAC 50.380. EARLY CAMPAIGNING.** (a) An individual wishing to campaign for municipal elective office shall comply with AS 15.13.100 by providing written notification to the commission of his or her candidacy only if the filing period has not yet opened. An individual wishing to campaign for state elective office shall comply with AS 15.13.100 by filing a declaration of candidacy with the lieutenant governor or a letter of intent with the commission.

(b) A letter of intent filed under (a) of this section is valid only for the next election or until it is withdrawn by the individual, whichever occurs first. A letter of intent must include a statement certifying that the individual will comply with the requirements of AS 15.13 although he or she has not satisfied the filing requirements as a candidate. A letter of intent need not include the specific seat for which the individual may file. (Eff. 5/16/76, Reg. 58; am 5/14/80, Reg. 74; am 1/4/86, Reg. 97)

Authority: AS 15.13.030(10)  
AS 15.13.100

**2 AAC 50.385. REPORTING BY ORGANIZATIONS AND BUSINESS OR TRADE ASSOCIATIONS.** Repealed 1/4/86.

**2 AAC 50.390. CIVIL PENALTY ASSESSMENTS FOR THE LATE FILING OF A CAMPAIGN DISCLOSURE REPORT.** (a) A report required to be filed within the time required by AS 15.13.110(a) and (b) is delinquent if not received, in accordance with 2 AAC 50.310, on or before the due date.

(b) The report continues to be delinquent and subject to a civil penalty until received.

(c) Commission staff will send notice to each candidate or group of his or its delinquency under AS 15.13.110(a) within five working days after the due date of the report.

(d) Upon receipt of a delinquent campaign disclosure report of contributions received by a candidate or a group, commission staff will

(1) calculate the initial civil penalty, for each day of delinquency, as follows:

(A) \$10 a day for each 30-day report or 10-day report;

(B) \$10 a day for each year-end report received after January 16;

(C) \$50 a day for each 7-day report; and

(D) \$50 a day up to a maximum of \$300 for each 24-hour report;

(2) send notice of the civil penalty assessed against the candidate or group within five working days after receipt of a delinquent report, or in the case of non-receipt of a report required by AS 15.13.110(b), within 15 working days after receiving the information, and include

(A) a statement of the amount of the assessment; and

(B) an affidavit appeal form.

(e) A candidate or group subject to a civil penalty assessment may

(1) submit, within 30 days after receipt of the assessment notice described in (d)(2) of this section, an affidavit stating reasons for the late filing to show why a civil penalty should not be assessed: an affidavit

(A) is a statement in writing made under oath and upon penalty of perjury; and

(B) must be sworn to before a notary public, municipal clerk, court clerk, postmaster, or any other person authorized to

administer oaths or, if none of the preceding alternatives is available, may be signed by the official without benefit of the oath so long as the official states, in writing, that the affidavit is signed under penalty of perjury; or

(2) pay, within 30 days after receipt of the assessment notice described in (d)(2) of this section, the civil penalty assessed.

(f) If a candidate or group subject to a civil penalty assessment for the late filing of a campaign disclosure report refuses, or fails, within the time required, to submit an affidavit or make payment, then commission staff will refer the matter to the attorney general for appropriate action. The commission will not hear an appeal if an affidavit is not filed within the time required.

(g) An affidavit timely filed with the commission will be considered at the next regular meeting of the commission. If a candidate or group's appeal is

(1) denied by the commission, commission staff will notify the candidate or group of its decision within 15 days, and require that the civil penalty originally assessed be paid within 30 days after the date of the letter containing notification of the commission's decision; or

(2) accepted by the commission, commission staff will notify the candidate or group of its decision within 15 days, informing him or it that the civil penalty assessment has been waived and that the matter is considered closed; or

(3) accepted, in part, by the commission, commission staff will notify the candidate or group of its decision within 15 days, and require that the reduced civil penalty assessment be paid within 30 days after the date of the letter containing notification of the commission's decision.

(h) A candidate or group may appeal the commission's decision to deny or partially accept reasons for lateness to the superior court within 30 days after his receipt of the notice under Rule 45 of the Appellate Rules of the Alaska Court System. If no appeal is made within 30

days and no payment is made, the matter will be referred to the attorney general for appropriate action.

(i) If, upon review of a report required by AS 15.13.110(a), (b), or (e), the commission's staff finds substantial or continuous noncompliance with AS 15.13 or any provision of this chapter, or with requests by staff for information required to be reported under this chapter, the matter must be brought to the commission for review. The commission will, in its discretion, reduce or waive any initial civil penalty, uphold any initial civil penalty, increase the amount of any initial civil penalty to an amount not exceeding the maximum amount established in AS 15.13.125, or instruct its staff to begin preliminary investigation into the matter. Where no initial civil penalty has been assessed, the commission will, in its discretion, assess a civil penalty up to the maximum amount established in AS 15.13.125 if the candidate or group in question does not comply. (Eff. 7/22/78, Reg. 67; am 5/14/80, Reg. 74; am 5/24/81, Reg. 78; am 10/18/81, Reg. 80; am 6/29/84, Reg. 90; am 1/4/86, Reg. 97)

Authority: AS 15.13.010  
AS 15.13.030(10)  
AS 15.13.125

2 AAC 50.395. REPORTING BY A BUSINESS ENTITY OR LABOR ORGANIZATION. Repealed 1/4/86.

2 AAC 50.397. REPORTING BY PERSONS OUTSIDE THE STATE. Persons residing outside the State of Alaska are subject to the same reporting requirements, restrictions, and responsibilities under AS 15.13 as those placed upon persons residing within the state. (Eff. 4/28/79, Reg. 70)

Authority: AS 15.13.030(10)

2 AAC 50.400. DISBURSEMENT OF A SURPLUS BALANCE IN A CAMPAIGN ACCOUNT. (a) The disbursement of a surplus balance of a candidate or group's campaign account must be reported to the commission within 10 days after final disposition of the balance.

(b) A candidate disbursing the surplus balance in his campaign account may

- (1) give the money to charity;
- (2) repay his contributors;
- (3) repay himself, if he made contributions to his own campaign;

(4) take, as income, any money which exceeds the amount which he personally contributed to his campaign;

(5) leave the money in a campaign account until the next time he campaigns for elective office; however, any interest realized from a surplus in a campaign account must remain in the account and be reported on the first report required of him when he is again a candidate for elective office;

(6) contribute the money to another candidate or a group controlled by a candidate, not to exceed the \$1,000 limitation, or to a political party or group supporting a ballot proposition or question; or

(7) transfer the money to his office allowance fund.

(c) A group disbursing the surplus balance in its campaign account may

- (1) give the money to charity; or
- (2) repay its contributors; or
- (3) leave the money in a campaign account until the following election, if the group plans to remain active; however, any interest realized from a surplus in a campaign account must remain in the account and be reported on the first report required of the group when it is again active in an election; or
- (4) contribute the money to a candidate or a group controlled by a candidate, subject to the \$1,000 limitation and other prohibitions under AS 15.12 and 2 AAC 50, or to a political party or group supporting a ballot proposition or question.

(d) Any candidate or group wishing to disburse the surplus balance in a campaign account in a manner not described in (b) or (c) of this

section may request commission review and approval of the manner in which he or it wishes to disburse the surplus. (Eff. 7/22/78, Reg. 67; am 10/18/81, Reg. 80)

Authority: AS 15.13.030(10)

2 AAC 50.401. POST-ELECTION FUND-RAISING BY CANDIDATES AND CONTROLLED GROUPS. (a) A candidate or a candidate-controlled group may make post-election expenditures for the purpose of raising money to discharge a debt from a prior campaign, in accordance with (c) of this section.

(b) Absent a debt arising from a prior campaign, a candidate may not spend money for the purpose of seeking public office unless the individual is in compliance with AS 15.13.100, the early campaigning provisions of 2 AAC 50.380, or an advisory opinion issued under (c) of this section and 2 AAC 50.905.

(c) A candidate who is in debt from a prior campaign and who has not complied with either AS 15.13.100 or 2 AAC 50.380 by December 31st of the year after the election, shall request an advisory opinion under 2 AAC 50.905 concerning the applicability of AS 15.13.100 to further expenditures to pay off the debt. Absent an advisory opinion request, the commission staff may commence a preliminary investigation to review the applicability of AS 15.13.100 to expenditures by the candidate.

(d) A debt arising from a prior campaign includes

- (1) a candidate's personal contributions made before the date of the prior election;
- (2) campaign debts to others that were reported on a 10-day post-election campaign disclosure statement;
- (3) post-election expenditures made for the purpose of discharging a debt arising from a prior campaign; and
- (4) the costs reasonably associated with winding up the affairs of the prior campaign, including social events held immediately after the election for the benefit of campaign workers

WASHINGTON STATE STATUTE  
USE OF PUBLIC FUNDS IN CAMPAIGNS

RCW 42.17.130 Forbids use of public office or agency facilities in campaigns. No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of public office or agency include, but are not limited to, use of stationery, post machines, and equipment, use of employees or the office or by during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency: Provided, That the foregoing provisions of this section shall not apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

**Sec. 15.13.125. Civil penalty: late filing of required reports.** A person who fails to file a properly completed and certified report within the time required by AS 15.13.110(a)(1), (3), (4) or 15.13.110(d) is subject to a civil penalty of not more than \$10 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. A person who fails to file a properly completed and certified report within the time required by AS 15.13.110(a)(2) or 15.13.110(b) is subject to a civil penalty of not more than \$50 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the commission by a person against whom a civil penalty is assessed. However, the imposition of the penalties prescribed in this section or in AS 15.13.120 does not excuse that person from filing reports required by this chapter. (§ 8 ch 167 SLA 1976)

#### NOTES TO DECISIONS

Penalty cannot be obviously unreasonable. — The penalty cannot be so severe and oppressive as to be wholly disproportionate to the offense and obviously unreasonable. The standard is one of obvious unreasonableness. *Veco Int'l, Inc. v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 3295 (File No. S-1598), 753 P.2d 703 (1988).

Statement of reasons for maximum

penalties. — A statement of reasons should be given by the commission when it imposes the maximum civil penalties under this section. *Veco Int'l, Inc. v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 3295 (File No. S-1598), 753 P.2d 703 (1988).

Stated in *State, Pub. Offices Comm'n v. Marshall*, Sup. Ct. Op. No. 2408 (File No. 5614), 633 P.2d 227 (1981).

**Sec. 15.13.130. Definitions.** In this chapter

(1) "candidate" means a person who files for election to the state legislature, for governor, for lieutenant governor, for municipal office, for retention in judicial office, or for constitutional convention delegate, or who campaigns as a write-in candidate for any of these offices;

(2) "contribution" means purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods or services for which charge is ordinarily made and which is made for the purpose of influencing the nomination or election of a candidate, and in AS 15.13.010(b) for the purpose of influencing a ballot proposition or question, including the payment by a person other than a candidate or political party, or compensation of the personal services of another person which are rendered to the candidate or political party; however, "contribution" does not include

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

the first report required under this chapter after filing for office. (§ 1 ch 78 SLA 1974; am § 23 ch 189 SLA 1975; am § 25 ch 14 SLA 1987)

Effect of amendments. — The 1987 amendment in the first sentence substituted "A" for "No" at the beginning of the section, inserted "no:" following "expenditures may," and substituted "the person's" for "his" in two places and "the person" for "he or she" and in the last sentence substituted "must" for "shall be charged against the spending limitation that applies to the office for which he subsequently files, and shall."

**Sec. 16.13.110. Filing of reports.** (a) Each candidate and group shall make a full report in accordance with AS 15.13.040 during the period ending three days before the due date of the report and beginning on the last day covered by the most recent previous report, or, if a first report, all contributions received and expenditures made before three days before the due date of the report. The report shall be filed at the following times:

(1) 30 days before the election; however, this report is not required if the deadline for filing a nominating petition or declaration of candidacy is within 30 days of the election;

(2) one week before the election;

(3) ten days after the election; and

(4) December 31 of each year for expenditures and contributions received which were not reported that year.

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

(c) The reports of candidates shall be filed with the commission's central office. All reports required by this chapter shall be kept open to public inspection. Within 30 days after each election, the commission shall prepare a summary of each report which shall be made available to the public at cost upon request. Each summary shall use uniform categories of reporting.

(d) Within 30 days after each election, each supplier shall make a full report to the commission in accordance with AS 15.13.040. Within 60 days after each election, the commission shall prepare a summary by candidate or group of the transactions and make the summaries public.

(e) A group formed to sponsor an initiative, a referendum or a recall shall report 30 days after its first filing with the lieutenant governor. Thereafter each group shall report within 10 days after the end of each calendar quarter on the contributions received and expenditures made during the preceding calendar quarter until reports are due under (a) of this section. (§ 1 ch 78 SLA 1974; am § 24 ch 189 SLA 1975; am § 2 ch 133 SLA 1977)

**FISCAL NOTE**

**REQUEST:**

Revision Date: 2/23/90  
Title: An Act relating to election campaigns  
Sponsor: Rep. Finkelstein  
Requestor: \_\_\_\_\_

Agency Affected: Dept. of Administration  
ARJ: Alaska Public Offices Commission  
Components: \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
PERSONAL SERVICES	60.2	52.1	64.0	56.0	68.0	70.1
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	5.1	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>65.3</b>	<b>52.1</b>	<b>64.0</b>	<b>56.0</b>	<b>68.0</b>	<b>70.1</b>

CAPITAL	0	0	0	0	0	0
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REVENUE	0	0	0	0	0	0
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND	65.3	52.1	64.0	56.0	68.0	70.1
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>65.3</b>	<b>52.1</b>	<b>64.0</b>	<b>56.0</b>	<b>68.0</b>	<b>70.1</b>

**POSITIONS:**

FULL-TIME	1	1	1	1	1	1
PART-TIME	1	1	1	1	1	1
TEMPORARY	0	0	0	0	0	0

**ANALYSIS : (Attach a separate page)**

SEE ATTACHED.

Prepared by: Karla L. Foravella, Executive Director Phone: 276-4176  
 Division: Alaska Public Offices Commission Date: 2/23/90  
 Approved by Commissioner: Annie Laurie Howard  
 Agency: Alaska Public Offices Commission Date: 2/23/90

Distribution (by preparer):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

## NARRATIVE

This bill makes both major and minor changes in the Campaign Disclosure Law. Major changes include: providing a campaign contribution and account closing date; restricting uses of surpluses; prohibiting direct contributions from unions and corporations; prohibiting use of public funds for political purposes and authorizing civil penalties up to three times the amount misused for those who violate the prohibition. Minor changes include: exempting small municipal campaigns from reporting requirements; permitting the commission to establish regulatory guidelines for clear identification of the source of funds for a political communication; closing the two-day pre-election reporting gap; permitting the commission to assess a \$250 maximum civil penalty for failure to identify political communications properly.

Virtually all of these changes will require some transition activity, to publicize the changes in the law and to make certain that those subject to it are adequately apprised as to how the change will impact them. Also, Commission regulations would be revised and reprinted. The commission will be required to develop major new regulations in some areas, including prohibition on use of public funds and identification of political communications. Although the commission's work on these regulations will be absorbed as part of normal commission meetings, additional staff time will be needed to work on these changes.

Commission staff currently respond to numerous interpretation questions from persons subject to the law. The commission anticipates that requests for informal and formal advice will increase significantly as a result of restrictions on disposition

of surpluses, the prohibition on direct contributions from labor unions and corporations, and the prohibition on the use of public funds.

Additionally, the commission anticipates that complaints will increase substantially as a result of prohibitions on disposition of campaign surplus, the establishment of a campaign contribution and account close-out date, and the prohibition on the use of public funds. Also, there will be a major shift in work as business and labor entities change from filing occasional reports as "persons" under the law, to filing periodic group reports.

In order to absorb this additional work, the commission would need an additional staff paraprofessional position classified as a Range II Paralegal. This position would investigate complaints, and would provide informal advice and assistance to candidates, groups and public entities with regard to ongoing questions attributable to these changes. Because the commission only has one secretary at the present time, an additional half-time Range 10 Secretary will be required to handle typing, photocopying and data entry attributable to these activities. Although the commission has one surplus computer terminal and printer, a new computer terminal with a laser printer, a desk, and moveable partitions would be needed to equip the new clerical position.

The FY 91 salary, benefits and equipment costs for these positions are set out below:

Salary and Benefits

Paralegal II (Range 16) full-time	\$44,382
Secretary I (Range 10) part-time	15,822
1 Personal Computer, Laser Printer	3,993
1 Desk/Chair	875
Moveable Partitions	<u>200</u>
	\$65,272

CAMPAIGN FINANCE: CSHB 327 (State Affairs)

\*\* Outline \*\*

*Hayden*

Major changes to current law

- With exception of the prohibition on misuse of public funds, these changes would not take effect for this election (effective date 1/1/91)

1. Establish a deadline for accepting contributions. A contribution can be accepted if it is delivered or postmarked on the day of the deadline (amendments 4 a and c)

Alternatives

Election day or shortly thereafter (Martin & APOC)

Municipal: 45 days after election  
State: December 31 (section 2, paragraph a)  
APPROVED

2. Establish a campaign account closing date.

Alternatives

Before December 31 (APOC first choice)

January 12 (APOC 2nd choice)

State: February 12  
Municipal: 45 days after election (amendment 4g)  
APPROVED

3. Change date for filing report with APOC

Alternatives

December 31 (current law; APOC 1st choice)

January 15 (APOC 2nd choice)

State: February 15  
Municipal: 60 days after election (section 2, paragraph c, and section 7)  
APPROVED

4. Establish by law what can be done with campaign surpluses

Alternatives

Can't use for personal income.  
Can only give to charity,  
return pro rata to contributors  
of over \$100, give to general  
funds or to a political party  
(APOC, Martin)

Can't use for personal income.  
CAN transfer funds to a  
candidate's campaign (intent:  
entire surplus can be transferred,  
amendment 4bb), can transfer funds  
to a legislative office account  
for business expenses, give to  
charity or to general funds,  
return pro rata to contributors,  
or give to a political party  
(section 2, paragraph b;  
amendments 4e and f; amendment 5)  
APPROVED

5. Let business and labor organizations continue to contribute, but through forming political action committees

Alternatives

Allow contributions from  
individuals and parties only,  
not from groups, pacs,  
businesses or unions  
(Governor, APOC)

Change to resemble  
federal system, which  
doesn't prohibit these  
contributions, but allows  
them to form pacs, to  
have more disclosure to  
public of their contribu-  
tion and expenditure  
activity  
(State Affairs; section  
3, paragraph a and section  
5; APOC 2nd choice)

No change to law.  
Groups, pacs,  
businesses and  
unions can  
contribute  
(Amendment 6)

Allow contributions from  
individuals, parties, and  
"issue" pacs  
(groups other than those  
formed by business and labor  
organizations)  
(Amendment 16)

Change should include all  
labor and all business  
organizations, not  
just corporations  
(Amendment 15)

6. Limit amounts which can be given to political parties.

Alternatives

No change to current law, which allows contributions to parties in any amount  
(Amendment 7)

Limit contributions from groups to \$1000  
(State Affairs, section 3, Paragraph a)

Limit contributions from individuals to \$10,000  
(Amendment 11)

Limit contributions from groups and from individuals to \$1000 (Martin, amendment 10); also clarify that \$1000 covers contributions to both the central parties and their subdivisions

Prohibit business and labor organizations from contributing to parties  
(Amendment 16)

7. Limit the amount candidates can give to their own campaigns.

Alternatives

Candidates can only give \$1000 to themselves  
(State Affairs, section 3 paragraph a)

Keep current law, which allows unlimited contributions from candidates to themselves  
(APOC; amendment 8)

8. Limit to \$5000 the amount candidates can take from different categories of contributors (examples: no more than \$5000 from all lawyers combined; no more than \$5000 from all labor organizations combined; no more than \$5000 from individual members of the State Chamber of Commerce combined). Therefore, no more contributions could be accepted from individual members of these categories once the total reached \$5000. (Martin; Amendment 12).

APOC position: does not favor.

9. Rather than allowing \$1000 each year, limit it to \$1000 per campaign. (Martin and APOC; Amendment 13).

10. Don't let political parties contribute to municipal candidates (Amendment 14; Finkelstein and APOC).

Current law is silent. APOC's understanding is that municipal elections are nonpartisan by charter or by ordinance).

11. Restrict lobbyist participation in fundraising for governor, lt. governor and legislative seats. Exclude volunteer and representational lobbyists.

#### Alternatives

Can't serve as treasurer or deputy treasurer, and can't collect, handle, disburse, or account for campaign contributions. (Amendment 17)

All these, PLUS prohibit lobbyists from soliciting contributions (Amendment 20).

12. Effective immediately, prohibit state or municipalities from using public funds to support or oppose a candidate or ballot question, but allow use of public funds to provide information on a public issue if no particular position is advocated (State Affairs, section 4). Penalty for those who misuse funds could be up to 3 times the amount misused; APOC handles the penalty

Amendment: if this provision stays in the bill, clarify that the penalty is imposed against the person who authorized the misuse (Amendment 18).

APOC position: this is a public policy issue with many ramifications. It is separate from campaign finance, and should be discussed further, possibly in the context of a separate bill.

13. Currently, contributors who do not report contributions are not penalized. This is because the law provides only for criminal prosecution, not for civil penalties, so there is little enforcement. This is a problem in non-election years, when candidates don't file reports with APOC listing contributions until the end of the year. This means the public has no way of knowing about ongoing contribution activity (which can be occurring during a legislative session) -- unless contributors file their required reports on time.

The amendment would change the law to provide that a large contributor, who gave more than \$5000 across the board in any year, could be penalized by APOC up to \$250. (Amendment 19).

The commission believes this is a major issue, and members have widely differing views. APOC staff suggests making the penalty available against those who have contributed \$2000 over a two-year period, and calculate the penalty based on the \$10 daily accrual which is provided by current law for other reports filed late with APOC.

#### Minor changes to current law

1. Charter commission candidates would have to file campaign disclosure and conflict of interest reports with APOC ( Amendments 1 and 2). APPROVED.
2. Effective immediately, municipal candidates who spend or accept \$1000 or less would not have to file campaign disclosure reports with APOC; currently authorized by APOC policy, but should be in law (Section 1; amendment 3.) APPROVED.
3. Effective immediately, close the reporting gap on days 8 and 9 before the election (State Affairs, section 8). No amendments proposed.

#### Clarification issues

1. The \$1000 limit on contributions to candidates is in the aggregate; \$1000 covers both the primary and general elections (Amendment 9; conforms to APOC interpretation on current law).
2. If a candidate decides to use surplus funds to repay contributors, should the surplus be divided pro rata among all contributors no matter how small which might mean spending 25 cents to return an even smaller pro rata amount, OR should the pro rata return be limited to contributions of more than \$100? (page 2, lines 13 -14).

3. The law would still require clear identification of a political ad, but the State Affairs bill, effective immediately, would leave the specifics to the commission, rather than stating the exact wording required (section 6). The bill also provides that the commission may assess a penalty up to \$250 for failure to clearly identify an ad (criminal sanctions would remain for serious violations). (section 9, paragraph d).

APOC believes the following wording would be more clear:

"All advertisements, billboards, handbills, paid-for television and radio announcements, and other communications intended to influence the election of a candidate or outcome of a ballot proposition or question shall be clearly identified as to source of payment. BY THE WORDS "PAID FOR BY" FOLLOWED BY THE NAME AND ADDRESS OF THE CANDIDATE, GROUP OR INDIVIDUAL PAYING FOR THE ADVERTISING. IN ADDITION, CANDIDATES AND GROUPS MUST IDENTIFY THE NAME OF THEIR CAMPAIGN CHAIRMAN.

The commission already has authority under AS 15.13.020 to promulgate regulations, so there is no need to restate the authority.

4. Section 7 should be conformed with references in section 2 to municipal candidates.

5. Amendments 4 b and d should be reconsidered, because the language they would have deleted would help avoid an inadvertent but major problem for municipal candidates.

2-27-90

Submitted by: Assemblymen Barnett,  
Begich and Wood  
Prepared by: Assembly Budget  
Analyst  
For reading: February 27, 1990

ANCHORAGE, ALASKA  
AR NO. 90-61

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SEEKING  
ALTERNATIONS OF STATE STATUTES TO LIMIT CONTRIBUTIONS FROM  
POLITICAL PARTIES IN NONPARTISAN ELECTIONS

WHEREAS, the Anchorage Charter and Code provide that all  
persons holding elective office serve in a nonpartisan capacity;  
and

WHEREAS, it is fitting and proper to maintain a nonpartisan  
posture in all campaigns involving Municipal elections in  
furtherance of the clear directive of the framers of the Anchorage  
Charter; and

WHEREAS, Alaska Statute 15.13.070 (a) does not limit political  
parties and their subdivisions to the \$1,000 limit placed on other  
groups and individuals; and

WHEREAS, most Alaskan voters have chosen not to be affiliated  
with either political party; and

WHEREAS, the intent of the nonpartisan election process  
dictated by the Charter can be seriously undercut by allowing  
unlimited contributions from political parties to Municipal races;  
and

WHEREAS, Municipal elections are nonpartisan and, it is  
therefore, reasonable to place a \$1,000 limitation on political  
parties.

NOW, THEREFORE, the Anchorage Municipal Assembly resolves:

That the Legislature is encouraged to amend A.S. 15.13.070 to  
limit the contributions from a political party and its subdivisions  
to \$1,000 to any candidate in nonpartisan Municipal elections.

PASSED AND APPROVED by the Anchorage Assembly this  
27<sup>th</sup> day of February, 1990.

*Leatha Skynner*  
Chair

ATTEST:

*Richard E. Teldkamp*  
Municipal Clerk

DOCB/AR14