

S B

1 1 4

HOUSE JUDICIARY STANDING COMMITTEE

DATE: 5/5/98 ISSUE: Amend #3

	YEA	NAY	PRESENT
Representative Croft	✓		
Representative Rokeberg		✓	
Representative Porter		✓	
Representative James		✓	
Vice Chair Bunde			
Representative Berkowitz	✓		
Chairman Green		✓	
TOTALS:			

PASSED _____ FAILED ✓

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 114(JUD)

Revision Date: 4/29/98
Title: "An Act relating to contributions from employees.."

Department Affected: Administration
BRU: Alaska Public Offices Commission
Component: Alaska Public Offices Commission

Sponsor: (S) JUD
Requestor: (H) JUD

COMPONENT SERIAL NO. 70

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	.5	0	.5	0	.5	0
CONTRACTUAL	60.9	47.1	60.9	42.1	60.9	42.1
SUPPLIES	.4	.3	.3	.3	.3	.3
EQUIPMENT	0	.0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	61.8	47.4	61.7	42.4	61.7	42.4

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	61.8	47.4	61.7	42.4	61.7	42.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	61.8	47.4	61.7	42.4	61.7	42.4

Estimate of any current year (FY 97) cost: \$ 0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

SEE ATTACHED

Prepared by: Karen Boorman, Director
Division: Alaska Public Offices Commission

Phone: 276-4176
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 4/29/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 114(JUD)

ANALYSIS: (continued)

SB 114 requires employers to obtain written authorization from employees annually before they may withhold wages for political contributions. Employers must keep authorization forms and documents reflecting dates and amounts of contributions on file for three years. In addition, the bill prohibits giving in the name of another and discrimination against an officer or employee for failure to contribute or otherwise support or oppose a political candidate, group or issue.

The Commission estimates that this bill will result in three additional complaints each election year; two additional complaints in non-election years. Because of the complex nature of the evidence required to establish "giving in the name of another" or employment discrimination and because the new campaign finance law requires that complaints be resolved in 180 days, the Commission would need to secure additional investigative support on a contractual basis. In the complaints described, the Commission also estimates that allegations would require that the Commission retain a hearing officer to hold an administrative hearing to resolve factual disputes.

The Commission has not had to deal with employment discrimination in the past. If authority over discrimination complaints was assigned to a more appropriate regulatory agency with expertise in employment discrimination, the associated cost of complaint resolution would be reduced.

In summary, the fiscal note reflects contractual funds to handle additional complaints--including additional investigative support; retention of a hearing officer; deposition costs; and other investigative costs. Additional costs associated with complaint resolution include supply costs for paper, folders and file cabinets. Remaining contractual, supply and travel costs reflect development and distribution of forms; promulgation of regulations in the second year; and education of employers with payroll deduction plans. Specific costs include paper, internal copying costs, advertising notice, and postage charges. Educational efforts would be accomplished through mailings and training in Anchorage and Fairbanks. Travel to Fairbanks would occur in the first year of implementation of the bill, then each succeeding election year.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 1
Bill Version: SB 114
(S) Publish Date: 4-1-97

Revision Date: _____ Department Affected: Administration
Title: "An Act relating to contributions from employees."

Component: Alaska Public Offices Commission

Sponsor: (S) Judiciary Committee

Requestor: (S) JUD COMPONENT SERIAL NO. 70

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	.5	.5		.5	0	.5
CONTRACTUAL	33.6	60.9	47.1	60.9	42.1	60.9
SUPPLIES	.4	.3	.3	.3	.3	.3
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	34.5	61.7	47.4	61.7	42.4	61.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	34.5	61.7	47.4	61.7	42.4	61.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	34.5	61.7	47.4	61.7	42.4	61.7

Estimate of any current year (FY 97) cost: \$ 0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

SEE ATTACHED

Prepared by: Karen Boorman Phone: 276-4176
Division: Alaska Public Offices Commission Date: _____

Approved by Commissioner: Mark Boyer *Mark Boyer*
Agency: Department of Administration Date: 3/19/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB114

ANALYSIS: (continued)

SB 114 requires employers to obtain written authorization from employees annually before they may withhold wages for political contributions. Employers must keep authorization forms and documents reflecting dates and amounts of contributions on file for three years. In addition, the bill prohibits giving in the name of another and discrimination against an officer or employee for failure to contribute or otherwise support or oppose a political candidate, group or issue.

The Commission estimates that this bill will result in three additional complaints each election year; two additional complaints in non-election years. Because of the complex nature of the evidence required to establish "giving in the name of another" or employment discrimination and because the new campaign finance law requires that complaints be resolved in 180 days, the Commission would need to secure additional investigative support on a contractual basis. In the complaints described, the Commission also estimates that allegations would require that the Commission retain a hearing officer to hold an administrative hearing to resolve factual disputes.

The Commission has not had to deal with employment discrimination in the past. If authority over discrimination complaints was assigned to a more appropriate regulatory agency with expertise in employment discrimination, the associated cost of complaint resolution would be reduced.

In summary, the fiscal note reflects contractual funds to handle additional complaints--including additional investigative support; retention of a hearing officer; deposition costs; and other investigative costs. Additional costs associated with complaint resolution include supply costs for paper, folders and file cabinets. Remaining contractual, supply and travel costs reflect development and distribution of forms; promulgation of regulations in the first year; and education of employers with payroll deduction plans. Specific costs include paper, internal copying costs, advertising notice, and postage charges. Educational efforts would be accomplished through mailings and trainings in Anchorage and Fairbanks. Travel to Fairbanks would occur in the first year of implementation of the bill, then each succeeding election year.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 3
Bill Verson: SB 114
(S) Publish Date: 4-1-97

Revision Date: _____
Title: An Act relating to contributions from employee compensation for political purposes
Sponsor: Senate Judiciary
Requestor: Senate Judiciary

Department Affected: Administration
BRU: Centralized Administrative Services
Component: Finance
COMPONENT SERIAL NO. 59

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	0.0	7.0	7.0	7.0	7.0	7.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	7.0	7.0	7.0	7.0	7.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	7.0	7.0	7.0	7.0	7.0

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.) Since some portion of all union dues deducted from employees in the state's 12 bargaining agreements covering 10,500 employees may be used for political purposes, union dues authorizations would have to be renewed in writing annually. This will generate a tremendous amount of paper and bureaucratic processing. To handle this extra work will require approximately 175 hours of a personnel assistant, and 200 hours of an administrative clerk annually for online data entry and filing.

Prepared by: Don Wanie
Division: Finance

Phone: 465-3435
Date: _____

Approved by Commissioner: Mark Bover
Agency: Department of Administration

Arson M. Elgee
Date: 3/18/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. No. 4
Bill Verson: SB 114
(S) Publish Date: 4-1-97

Revision Date: _____
Title: Employees: Political contrib & activitie

Department Affected: Labor
BRU: Office of the Commissioner

Sponsor: Senate Judiciary
Requestor: Senate Judiciary

Component: _____
Alaska Labor Relations Agency

COMPONENT SERIAL NO. 1200

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
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CHANGE IN REVENUE FUND SOURCE #						
--------------------------------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY97) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)
AS 23.40.220 addresses a public employee's written authorization for deductions for dues, fees, and other employee benefits. Section 2 of SB 114 would amend AS 23.40.220 as follows: "If all or part of a deduction under this section will be used to make a political contribution, the written authorization must comply with AS 15.13.160." It is not anticipated that the proposed amendment to AS 23.40.220 would have a fiscal impact on the operation of the Alaska Labor Relations Agency (ALRA). Since July 1, 1990, approximately eight unfair labor practice charges relating to dues deductions have been filed with ALRA, one of which concerned use of dues for political contribution purposes. Though the proposed amendment to AS 23.40.220 could increase the number of unfair labor practice charges filed, a significant increase is not anticipated. Additional staff would not be needed.

Prepared by: Jan Hart DeYoung, Hearing Examiner Phone: 269-4896
Division: Alaska Labor Relations Agency Date: 3/17/97

Approved by Commissioner:  Tom Cashen, Commissioner
Agency: Department of Labor Date: 3/17/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 5
Bill Version: CSSB 114 (JUD)
(S) Publish Date: 4-9-97

Revision Date: _____ Dept. Affected: Department of Law
Title: "An Act relating to contributions from
employee compensation for political purposes; . . . BRU: Civil Division
Sponsor: Senate Judiciary Committee Component: General Legal Services
Requester: Senate Judiciary Committee COMPONENT SERIAL NO. 2087

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	11.8	9.2	5.5	9.2	5.5	9.2
TRAVEL	0.8	0.7	0.6	0.7	0.6	0.7
CONTRACTUAL	2.3	1.9	1.3	1.9	1.3	1.9
SUPPLIES	0.2	0.2	0.1	0.2	0.1	0.2
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	15.0	12.0	7.5	12.0	7.5	12.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	15.0	12.0	7.5	12.0	7.5	12.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	15.0	12.0	7.5	12.0	7.5	12.0

Estimate of any current year (FY97) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

CSSB 114 (JUD) prohibits an employer or labor organization from increasing the salary of an officer or employee, or giving a emolument, with the intent that all or part of the increase or emolument be given as a political contribution ("giving in the name of another.") The bill also prohibits discrimination against an officer or employee for failure to contribute or otherwise support a political candidate, group or issue. CSSB 114 (JUD) further prohibits an employer from withholding wages for a political contribution without an annual written authorization from the employee.

Evidence in "giving in the name of another" cases are more time intensive and factually and legally complex than other Alaska Public Offices Commission (APOC) type cases. To do these cases, the Department of Law would need to commit more discovery, investigative, and research time. Employment discrimination cases would also be a new type of case for the commission and the Department of Law, as the APOC does not currently have this authority. They are also more factually complex. In addition, new regulations and criteria would need to be developed.

Prepared by: Juan M. Kasson *Juan M. Kasson* Phone: 465-5370
Division: Administrative Services Division Date: 4/4/97
Approved by Commissioner: Bruce M. Botelho, Attorney General *Bruce Botelho for* Date: 4/4/97
Agency: Department of Law

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ANALYSIS CONTINUATION:

The Department of Law has based its fiscal note costs on the assumption that there would be three additional cases each election year, and two additional complaints in non-election year (one "giving in the name of another" case and one discrimination case). In addition, in the first year, regulations development would occur. The department estimates that approximately 125 hours of attorney time would be required for the election year projected caseload, plus \$1,125 for direct case travel and deposition costs. In non-election years, approximately 75 hours would be needed, plus \$975 in direct case travel and contractual. In addition, in FY 98 approximately 35 hours of attorney time would be required for promulgation of the new regulations.

If the employment discrimination cases could be handled by another regulatory agency with experience in these types of cases, the Department of Law's cost projections could likely decrease.

The cost estimates are based on the department's FY 97 standard attorney cost schedule (\$87/hour) and include clerical support, communications, space, supplies, data processing, and other normal overhead expenses. Direct case costs are included separately.

1

AMENDMENT

BY REPRESENTATIVE CROFT

OFFERED IN HOUSE JUDICIARY

TO CSSB 114 (JUD)

1A Page 2, line 11" *will be drawn*

Delete "on a form prescribed by the commission"

1B Page 2, lines 13 - 14: *FAILED*

Delete "The written request is valid for no more than one calendar year from the date of signing by the employee."

AMENDMENT

3

BY REPRESENTATIVE CROFT

OFFERED IN HOUSE JUDICIARY
TO CSSB 114 (JUD)

FAILED

Page 2, line 9, following "contributions":

Delete "to groups or"

AMENDMENT

#4

BY REPRESENTATIVE CROFT

OFFERED IN HOUSE JUDICIARY
TO CSSB 114 (JUD)

Page 2, line 9, following "groups":

Delete "or"

FAILED

AMENDMENT

5

BY REPRESENTATIVE CROFT

OFFERED IN HOUSE JUDICIARY
TO CSSB 114 (JUD)

FAILED

Page 2, line 29, following "AS 15.13.160.":

Insert "A labor organization shall provide each employee whose dues or fees are contributed to a political action committee an opportunity to request that that portion of the dues or fees that are intended to be used as a political contribution be refunded. The request is valid until revoked. The labor organization shall refund the amount intended to be used as a political contribution to the employee no later than 30 days after the labor organization receives the payroll deduction from the employer."

2

House Judiciary Committee

Page 2 line 11.
delete prescribed
add approved

Adopted (Rescind)

6

House Judiciary Committee

P 2 line 15

in excess of \$100,000 PER YEAR

FAILS

ALASKA PUBLIC OFFICES COMMISSION

POSITION PAPER ON CSSB 114(JUD)

Introduction:

The Public Offices Commission met on March 13, 1997 to discuss SB 114, which will amend AS 15.13 by prohibiting employers or labor organizations from giving officers or employees money to contribute to political campaigns; prohibiting discrimination for political activity; and requiring employers to obtain written authorization before withholding money for political purposes. The Commission identified the following concerns still applicable to CSSB114(JUD):

Analysis of AS 15.13.160 as Proposed:

(1) Subparagraph (a)(1) is currently illegal under existing law which prohibits "giving in the name of another." See AS 15.13.120(a)(4); 2 AAC 50.357. The Commission had no objection to the inclusion of the provision in state statute.

(2) Subparagraph (a)(2) which prohibits discrimination for failure to make political contributions or otherwise support or oppose a political candidate, group, or issue requires that the Commission exercise authority over an area of law outside the purview of campaign finance law. It would require the Commission to delve into the complex field of employment discrimination. The Commission believes that authority over employment discrimination is best assigned to the regulatory entity with existing expertise in employment matters.

(3) The Commission is concerned about the chilling effect of the requirement in paragraph (c) that authorization forms and other documents be available for public inspection. Under current campaign disclosure law, the names of individuals who contribute more than \$250 to a candidate, group or party are accessible to the public via Individual Contributor's Statements (15-5 reports) and candidate, group and party reports. The names of individuals who give less than \$100 are kept on file by the candidate or group but need not be disclosed unless required by the Commission in the course of an investigation. The requirement that employers produce the names and amounts of any employee participating in a payroll deduction plan, extends the requirements of public disclosure to new levels. Rather than further the purposes of the campaign disclosure law, that the public be aware of the potential influences on public officials, the Commission is concerned that this new requirement will discourage individuals from participating in the political process at all.

(4) Paragraph (c) requires that copies of the authorization forms along with documents and books of accounts be maintained by the "person or entity who withheld a contribution." The Commission is concerned that union political action committees have no responsibility to maintain authorization forms, even though they are the entities that participate in the political campaign.

With regard to labor organization political action committees (PACs), the employer withholds

union dues for an employee, then the employer transfers those dues to the labor PAC for use in a political campaign. As currently written, the bill places the responsibility of maintaining the documents solely on the shoulders of the employer. The Commission believes that responsibility should be shared with the labor PACs that actually make the political contributions. To address this concern, the Commission recommends that paragraph (c) be amended to read as follows:

For a period of at least four years after a disbursement under (b) of this section, a person or entity who withheld a contribution under (b) of this section shall maintain documents and books of accounts, including a copy of each employee's written request, the amounts and dates funds were actually withheld, and the amounts and dates funds were transferred to a group. In addition, copies of the form should be kept by the entity that files group reports with the APOC. These documents and books of account are open to public inspection at the entity that files group reports with the APOC during normal business hours.