

LEG. FINANCE - BILLS 1985 - 1986 2261

SB 401 cont. - SB 404 2261

(3) ~~the nonfinancial relationship is such that a reasonable person would believe the member capable of fair and impartial judgment~~ (Eff. 6/29/84, Register 90, am / / , Register)

Dis. 12/19/85

- Authority: AS 15.13.030(8)
- AS 15.13.030(10)
- AS 15.13.045
- AS 15.13.120(d)
- AS 24.45.021(b)
- AS 24.45.131
- AS 39.50.050(b)

Handwritten notes in a circle: "Publisher: ... to the ... Art. 5. ... 12/19/85"

2 AAC 50. is amended by adding a new section 905 to read:

2 AAC 50.905. ADVISORY OPINIONS (a) Any person or group may request an advisory opinion concerning ~~the Campaign Disclosure Law (AS 15.13), the Conflict of Interest Law (AS 39.50), or the Lobbying Act (AS 24.45)~~ ^{of this chapter}.

(b) Each advisory opinion request must describe ~~set forth~~ a specific transaction or activity that the requesting ~~person or group~~ ^{person or group} is presently engaged in, or intends to undertake in the future. Advisory opinion requests must include a complete description of all relevant facts. Requests posing a hypothetical situation, or regarding the activities of third parties, will not be considered by the Commission staff.

(c) The Commission staff shall review all requests for advisory opinions submitted under ~~2 AAC 50.905(d)~~ ^{2 AAC 50.905(d)}. If the staff determines a request is incomplete or does not qualify ~~under (a) or (b)~~ ^{under (a) or (b)}, it shall notify the requesting person or ~~political~~ group and specify the deficiencies in the request.

(d) Advisory opinion requests and advisory opinions are public records.

(e) The Commission staff shall issue ~~an~~ ^{an} advisory opinion approving or disapproving of the activity, and may make other recommendations ~~it will make~~ to the Commission.

(f) ~~The Commission will review the proposed advisory opinion and will, at its next regularly scheduled meeting, the Commission may, in its discretion, review the staff recommendation written or oral comments by any person, or any other relevant evidence. The Commission may, in its discretion, approve, disapprove, or modify the staff recommendation. The Commission must will approve an advisory opinion by the affirmative vote of 10 members, or the advisory opinion will be disapproved.~~ ^{The Commission will review the proposed advisory opinion and will, at its next regularly scheduled meeting, the Commission may, in its discretion, review the staff recommendation written or oral comments by any person, or any other relevant evidence. The Commission may, in its discretion, approve, disapprove, or modify the staff recommendation. The Commission must will approve an advisory opinion by the affirmative vote of 10 members, or the advisory opinion will be disapproved.}

(g) An advisory opinion rendered by the Commission may be relied upon to the extent Commission staff ~~shall~~ ^{may} not commence a preliminary investigation ~~under~~ ^{under} ~~2 AAC 50.460, 2 AAC 50.390(i), or 2 AAC 50.507(i) of~~

(1) any person involved in the specific transaction or activity with respect to which an advisory opinion ~~is rendered~~ approving the activity ~~is~~ was rendered.

(2) any person involved in any specific transaction or activity which is indistinguishable in all its material aspects from the transaction or activity with respect to which ~~such~~ ^{an} advisory opinion ~~is~~ was rendered.

(h) The Commission ^{within its discretion,} ~~may~~ reconsider an advisory opinion at any time upon the motion of a Commissioner who voted with the majority that originally approved the opinion, and the Commission adopts the motion to reconsider by the affirmative vote of ~~its~~ ^a members. Adoption of a motion to reconsider vacates the advisory opinion to which it relates. Actions taken in good faith reliance by the requesting party before they receive written notice of ~~reconsideration~~ ^{may} not be the subject of a preliminary investigation under 2 AAC 50.460, 2 AAC 50.390(i), or 2 AAC 50.507(i). (Eff. / /, Register)

Authority: A.S. 15.13.030(2)
~~A.S. 15.13.330(13)~~

2 AAC 50.910 is amended to read:

2 AAC 50.910. AVAILABILITY OF REPORTS FILED WITH THE COMMISSION. Except as provided under 2 AAC 50.351(d), copies of any report required to be filed with the commission may be obtained at cost. (Eff. 5/15/75, Register 58; am / /86, Register)

Authority: AS 15.13.030(10)
AS 15.13.040(f)
AS 15.13.110(c)
AS 39.50.020(b)
AS 39.50.050(c)

Alaska State Legislature

INTERIM OFFICE
1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-2843

IN SESSION:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4714

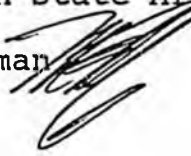


Senator Mitch Abood
CHAIRMAN

Senate Committee on State Affairs

MEMORANDUM

TO: Members of the Committee on State Affairs

FROM: Senator Mitch Abood, Chairman 

DATE: February 3, 1986

SUBJECT: APOC Regulations

This committee and its counsel, Mr. Gross & Ms. Burke, have been working on a comprehensive revision of the campaign financing laws since February of 1985. I might also add, that the APOC, Ms. Pittman and the Department of Law had been with us every step of the way.

In August 1985, we discovered that the APOC intended to make highly questionable deletions and changes to their regulations. Mr. Gross and I asked the APOC to postpone their new regs so that we would not be working at cross purposes with one another. The APOC refused our request.

On November 20, 1985, the Public Offices Commission held a meeting in Anchorage. I obtained a copy of the Commission's agenda, and the information packet put together by the Commission staff. Among the materials was a memorandum to Ms. Pittman from Mr. Monkman, from the Department of Law attached to a copy of the edited APOC regulations. "Edited" is probably the wrong word to use to describe these regs -- "ripped apart" is perhaps closer to truth.

The regulations were pitifully drafted; confusing and illogical. Most of the regulations had no statutory reason to exist. They were written by Mr. Johanson, an employee of the APOC, as a tool for selective enforcement involving two investigations which were ongoing at the time. One of these has since been terminated by a hearing officer.

Page 2

On November 25th, I wrote the APOC on behalf of the committee, notifying them of the committee's intent to exercise its authority by law as their standing committee. The law is clear -- it tells an agency to cease and desist in revising and repealing regulations until the standing committee has reviewed them to determine whether the regulations properly implemented legislative intent.

The APOC never responded to our letter. They simply ignored it.

On January 14th, I received a copy of the new APOC regulations from the Office of the Lt. Governor. They had become effective on January 4th.

It is ironic that a commission which preaches full public disclosure pushes through their regulations without legislative oversight. It is ironic that this commission which selectively subjects certain individuals to 'trial by press' rather than an examination of the facts, will not hesitate to give a litany of excuses for why they fail to obey their own laws.

The employees of the commission find the time to write and distribute press releases on such substantive issues as turning over the name of an individual to the Attorney General for prosecution for failure to pay a \$3.00 fine. However, they refuse to provide the Legislature with an annual report of their own activities as required by statute, and routinely neglect to notify complainants and respondents of commission hearings involving them, as required by their own regulations.

The Alaska Public Offices Commission was created to provide public disclosure and to assist candidates and private citizens in participating in the election process. They were not intended to become a political parole board.

In the campaign disclosure law, a candidate is held responsible for the actions of his or her campaign. The Public Offices Commission should be held equally responsible for the actions of its employees.

ADMINISTRATIVE CODE

A.P.O.C. CAMPAIGN DISCLOSURE REGULATIONS

THIS SHOWS THE REGULATIONS WHICH WERE REPEALED OR DELETED BY
THE A.P.O.C. EFFECTIVE JANUARY 4, 1986.



(1) denied by the commission, commission staff will notify him of its decision within 15 days, and require that he pay the civil penalty originally assessed against him within 30 days of the date of the letter containing notification of the commission's decision; or

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

(3) accepted, in part, by the commission, commission staff will notify him of its decision within 15 days, and require that he pay the reduced civil penalty assessment within 30 days of the date of the letter containing notification of the commission's decision.

(i) A municipal officer may appeal the commission's decision to deny or partially accept his reasons for lateness to the superior court within 30 days of 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. (Eff. 9/9/78, Reg. 67; am 5/14/80, Reg. 74).

Authority: AS 15.13.030(10) AS 39.50.050(b)
AS 39.50.020 AS 39.50.135

2 AAC 50.140. PROCEDURES FOLLOWED UPON A REFUSAL OR FAILURE BY A MUNICIPAL OFFICER TO FILE THE CONFLICT-OF-INTEREST STATEMENT WHEN DUE. (a) If the statement is not filed by the applicable due dates described in 2 AAC 50.130(b), the commission will simultaneously

(1) notify the municipal officer by certified mail, return receipt requested, that the applicable due date has passed, that his conflict-of-interest statement is delinquent, and that he is now subject to criminal penalties;

(2) inform the applicable municipal clerk that the municipal officer has been notified of his delinquency by certified mail, and the officer is now subject to criminal penalties for late filing; and

(3) inform the Office of the Attorney General that the municipal officer has not filed his statement.

(b) If the statement is not filed within 30 days of the applicable due dates described in 2 AAC 50.130(b), the commission will simultaneously

(1) notify the municipal officer that the commission is notifying the Office of the Attorney General of his noncompliance and requesting that the attorney general take appropriate action;

(2) inform the applicable municipal clerk that the municipal officer has been notified of his failure, and that the attorney general is being notified; and

(3) inform the Office of the Attorney General that the municipal officer has not filed his statement, and request that appropriate proceedings be initiated by that office. (Eff. 9/9/78, Reg. 67)

Authority: AS 15.13.030(10) AS 39.50.060
AS 39.50.020 AS 39.50.200(6)
AS 39.50.050(b)

2 AAC 50.200. DEFINITIONS. In 2 AAC 50.010 - 2 AAC 50.200

(1) "board member" means a member of a state commission or board specified in AS 39.50.200(9);

(2) "judicial officer," as defined in AS 39.50.200(2), does not include a person appointed as an acting magistrate. (Eff. 9/9/78, Reg. 67)

Authority: AS 15.13.030(10)
AS 39.50.050(b)
AS 39.50.200(2) and (9)

ARTICLE 2. CAMPAIGN DISCLOSURE

- Section
- 310. Filing
 - 315. Contribution limitation exemption
 - 320. General recordkeeping requirements for candidates and groups
 - 321. Reporting contributions and expenditures
 - 322. (Repealed)

- 323. (Repealed)
- 324. Shared campaign reporting
- 325. Recordkeeping requirements for nonmonetary contributions
- 326. Recordkeeping requirements and exemptions when reporting a fund-raiser
- 330. Reporting campaign expenditures for transportation
- 332. Reporting zero contribution or expenditure activity
- 333. Reportable date of contribution
- 334. Persons who may accept contributions
- 340. Expenditures to advertising agencies or campaign management services
- 342. Registration of groups supporting or opposing ballot issues
- 350. Contributions of professional services
- 351. Independent expenditures
- 355. Loans
- 360. Municipalities
- 361. (Repealed)
- 362. Draft groups
- 363. Subcommittees of a candidate's campaign committee or of a controlled group
- 369. Proper identification of political communications
- 370. Objects too small to contain the proper identification
- 375. Communications by incumbent elected officials
- 380. Early campaigning
- 385. Reporting by organizations and business or trade associations
- 390. Civil penalty assessments for the late filing of a campaign disclosure report
- 395. Reporting by a business entity or labor organization
- 397. Reporting by persons outside the state
- 400. Disbursement of a surplus balance in a campaign account
- 405. Definitions for
2 AAC 50.310-2 AAC 50.405 and
AS 15.13

2 AAC 50.310. FILING. (a) All reports that are required to be filed under the provisions of AS 15.13 and this chapter must be received by the commission on or before the due date. Except for the 24 Hour Report, "received" means either

(1) hand-carried to the commission's central office or its branch office in the state capital; or

(2) postmarked. The date shown by the postmark is presumed to be the date it was deposited in the United States mail.

(b) The 24 Hour Report required by AS 15.13.110(b) must be filed with the commission's central office either by a collect telegram or by actual physical delivery within the prescribed time. 24 Hour Reports may not be mailed.

(c) All forms will be available at the commission's central and branch offices, at district offices during state election years, and at the participating municipalities. (Eff. 5/14/80, Reg. 74)

Authority: AS 15.13.020(j) and (k)
AS 15.13.030(10)
AS 15.13.110(a) and (b)

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 an application for exemption. In accordance with (c) of this section, the commission will review the application and, in its discretion and on a case-by-case basis, grant the exemption.

(c) Among the criteria which will be considered in deciding whether to grant an exemption are:

(1) an organized membership, composed of registered voters, which represents a political program;

(2) prior history as a political group under AS 15.13.050 including the receipt of substantial contributions and the disbursement of substantial expenditures made for the purpose

of influencing the election of legislative candidates in more than one district; and

(3) the percentage of votes received by a statewide candidate nominated in the name of the group in the preceding general election. (Eff. 1/2/84, Reg. 89)

Authority: AS 15.13.030(10)
AS 15.13.070(a)

2 AAC 50.320. GENERAL RECORDKEEPING REQUIREMENTS FOR CANDIDATES AND GROUPS. (a) Every candidate and group required to report contributions or expenditures under the provisions of AS 15.13 shall maintain detailed records of all contributions received and expenditures made in accordance with the uniform methods of bookkeeping set out in the commission's bookkeeping guide.

(b) A candidate or his treasurer, and the treasurer of a group, may issue a receipt, and shall record the receipt of every contribution received, unless otherwise exempted by this chapter, regardless of the dollar amount or value of the contribution. While the identity of a person who has contributed no more than \$100 to a campaign is not required to be individually reported by the treasurer on a campaign disclosure report, the name of such a contributor, along with the amount and type of his contribution, must be recorded by the treasurer and maintained by the treasurer, for comparative purposes, in case that person makes additional contributions which total over \$100.

(c) The identity of a person who has contributed over \$100 in the aggregate per year to a candidate's or group's campaign must be reported in accordance with 2 AAC 50.321.

(d) Each bookkeeping record required under this section shall be maintained by the candidate or the treasurer of a group and may not be destroyed for a period of four years from the date of the contribution. The records shall be available for inspection by the commission upon request of the commission. (Eff. 5/14/80, Reg. 74)

Authority: AS 15.13.020(2) AS 15.13.040
AS 15.13.030(10) AS 15.13.120(e)

2 AAC 50.321. REPORTING CONTRIBUTIONS AND EXPENDITURES. (a) Each candidate or group filing reports under AS 15.13 must identify

(1) each monetary contribution, or aggregate of contributions from the same contributor, which totals in excess of \$100 by reporting

(A) the date received;

(B) the check number;

(C) the name and address of the contributor;

(D) the principal occupation and employer of the contributor; and

(E) the amount;

(2) each nonmonetary contribution, or aggregate of nonmonetary contributions from the same contributor, valued at more than \$100 a year, by reporting

(A) the date received;

(B) the name and address of the contributor;

(C) the principal occupation and employer of the contributor;

(D) a description of the contributions; and

(E) its estimated fair market value;

(3) each loan, or aggregate of loans from the same contributor, which totals in excess of \$100, by reporting

(A) the date received;

(B) the name and address of the lender, guarantor or cosigner;

(C) the principal occupation and employer of the lender, loan guarantor or cosigner;

(D) the interest rate; and

(E) the amount;

(4) each paid expenditure by reporting

(A) the date of the payment;

(B) the check number;

(C) the name and address of the payee;

(D) the purpose of the expenditure; and

(E) the amount; and

(5) each accrued expenditure by reporting

(A) the date the expenditure was incurred;

(B) the name and address of the business or individual with whom the debt was incurred;

(C) the purpose of the accrued expenditure; and

(D) the amount.

(b) When reporting monetary and nonmonetary contributions or loans, a cumulative total must be kept by each candidate or group of the contributions (including loans) made to it, regardless of the total, and reported pursuant to (a) of this section when

(1) monetary contributions by the same contributor bring the total to over \$100; or

(2) nonmonetary contributions by the same contributor bring the estimated total value to over \$100; or

(3) loans by the same lender, guarantor, or cosigner bring the total to over \$100; or

(4) a combination of monetary or nonmonetary contributions or loans by the same contributor brings the total to over \$100. (Eff. 7/22/78, Reg. 67)

Authority: AS 15.13.030(10)
AS 15.13.040(a) and (b)
AS 15.13.130(2) and (4)

2 AAC 50.322. RECORDKEEPING REQUIREMENTS FOR AUCTIONS AND GARAGE SALES. Repealed 5/14/80.

2 AAC 50.323. RECORDKEEPING REQUIREMENTS FOR CONTRIBUTIONS RECEIVED FROM THE SALE OF CAMPAIGN MATERIAL. Repealed 5/14/80.

2 AAC 50.324. SHARED CAMPAIGN REPORTING. Except for expenditures by the candidates for governor and lieutenant governor of the same political party who have been nominated to run in the general election, the following provisions apply to all candidates and groups, other than a political party, subject to the provisions of AS 15.13 and this chapter:

(1) The use, by one candidate, of the money, goods or services raised or generated by his campaign, to influence the election of another candidate, is considered a contribution and cannot exceed the \$1,000 limitation set by AS 15.13.070(a); nothing in AS 15.13 or this chapter, however, limits an individual's right to make any expenditure whatsoever to influence the election of a candidate, so long as that expenditure is not made at the suggestion of that candidate, directly or indirectly paid for by that candidate, or otherwise controlled by that candidate.

(2) An expenditure made by one group, other than a political party, on behalf of another group which is controlled by a candidate is considered a contribution and may not exceed the \$1,000 limitation set by AS 15.13.070(a).

(3) A candidate may not join his campaign committee with that of one or more candidates in order that they may file a single report of their joint campaign, nor may a group join with one or more groups in order that they may file a single report of their joint efforts.

(4) Candidates or groups prohibited from forming a joint campaign under (3) of this section may share in campaign efforts, under (5) of this section, so long as they keep separate campaign accounts and file separate statements of their contributions and expenditures under AS 15.13 and 2 AAC 50.

(5) Two or more candidates, or two or more

groups, may share in campaign efforts so long as the cost of, and receipts from, shared efforts are allocated equally to each participating candidate or group's campaign.

(6) So long as the costs of, and receipts from, shared efforts are allocated equally to each participant of a shared campaign, neither the costs or receipts are considered as a contribution from one participant to any of the other participants.

(7) Each candidate or group filing reports pursuant to AS 15.13 and 2 AAC 50 must complete an APOC Form 15-SA, the "Shared Campaign Activities" form, which represents his or its proportionate share of the receipts and expenditures of a shared campaign effort.

(8) A proportionate share of the amount of an expenditure benefiting one or more candidates, or one or more groups, of a shared campaign effort, but paid for in full by one of the candidates, or by one of the groups, will be considered a contribution by

(A) the paying candidate to the other candidates; or

(B) the paying group to the other groups.

(9) Media communications regarding a shared campaign activity are considered properly identified so long as the identification includes the words "paid for by" and the name of each candidate or group sharing in the cost of the communications. The address and treasurer of each participating candidate or group need not be listed. However, if a communication is paid for in its entirety by only one of the participants then, in accordance with 2 AAC 50.369, full and proper identification is required. (Eff. 7/22/78, Reg. 67; am 5/14/80, Reg. 74; am 6/29/84, Reg. 90)

Authority: AS 15.13.030(10)
AS 15.13.040(a) and (b)
AS 15.13.070(a)
AS 15.13.090

~~2 AAC 50.323 RECORDKEEPING REQUIREMENTS FOR NONMONETARY CONTRIBUTIONS. (a) In order to establish the value of a nonmonetary contribution under circumstances where no easily determined, regular, or~~

~~meaningful pricing precedent exists, a campaign treasurer shall, on the applicable campaign disclosure statement, report the contribution with a detailed description of the good or service provided, including the name and address of the donor, in lieu of the requirement that he make a determination of the monetary value of the contribution. This nonmonetary contribution shall not be counted towards determining the \$1,000 limitation for the contributor involved. Applicable circumstances include the use of an office, including office equipment and telephones for local calls, on an infrequent and irregular basis; the closing of a restaurant for an evening and the donation of those facilities to a candidate or group for a fund-raiser, etc.~~

~~(b) In circumstances where a nonmonetary contribution is a donated good or service for which a fair market value exists, a campaign treasurer shall record and report, except as required by (c) and (e) of this section, only those nonmonetary contributions which exceed \$50 in estimated fair market value. Contribution of a good or service whose estimated fair market value does not exceed \$50 does not count toward determining the \$1,000 limitation for the contributor involved. Goods and services include, but are not limited to, items donated to a garage sale; food donated to a potluck dinner; wood, paint, or carpentry expertise donated for sign construction; paper donated for flyers; and other items donated to a campaign for its use.~~

~~(c) The actual cost or value of a good or service purchased specifically by a person for donation to a campaign, or purchased at the request or suggestion of a campaign for use by that campaign, is considered a nonmonetary contribution to the candidate or group receiving the donation, and shall be recorded and reported in full as required by AS 15.13 and 2 AAC 50.370 and 2 AAC 50.321.~~

~~(d) Nonmonetary contributions of air, land, and water transportation and hotel/motel accommodations must be valued as follows:~~

~~(1) air travel~~

~~(A) if a commercial or charter service is used, the actual commercial or charter cost,~~

(B) if a noncommercial, business plane is used, the actual cost of plane operation to the destination;

(C) if an individually owned plane is used, the actual cost of plane operation to the destination, or the mileage allowance set out in the State of Alaska Administrative Manual, published by the Department of Administration, as of June 29, 1984;

(2) motor vehicle

(A) if a rented or leased vehicle is used, the actual charge for the vehicle;

(B) if a noncommercial, business vehicle is used, the actual cost of vehicle operation to the destination;

(C) if an individually owned vehicle is used, the actual cost of vehicle operation to the destination, or the mileage allowance set out in the State of Alaska Administrative Manual, published by the Department of Administration, as of June 29, 1984;

(3) water travel

(A) if a commercial or charter service is used, the actual commercial or charter cost;

(B) if a noncommercial, business vessel is used, the actual cost of vessel operation to the destination;

(C) if an individually owned, noncommercial vessel is used, the actual cost of vessel operation to the destination, or the mileage allowance set out in the State of Alaska Administrative Manual, published by the Department of Administration, as of June 29, 1984;

(4) room and board donated or paid for by a contributor at a commercial establishment must be valued at the rate ordinarily charged for such accommodations.

Editor's Note: A copy of the travel and moving provisions of the State of Alaska Administrative Manual, referred to in 2 AAC 50.325(d), may be obtained from the Alaska Public Offices Commission, 610 C Street, Suite 211, Anchorage, AK 99501, phone (907) 276-4176.

(e) In circumstances where a nonmonetary contribution is a professional service, the value of the professional service, and any costs or expenses associated with performing that service which have been paid by the donor, shall be recorded and reported in full, and as provided for by 2 AAC 50.350. For the purposes of this section, a "professional service" shall be defined to include any service concerned with research, public opinion surveys or polls, computer services, campaign media production or preparation, and campaign consultation or management.

(f) Contributions of goods or services listed below are exempt from being reported by a campaign treasurer:

(1) a candidate's own contribution of goods or services, or goods remaining from prior campaigns which are reused by his campaign; excluding transportation costs, which shall be reported as required by (d) of this section, or at the actual cost to the campaign;

(2) volunteer services, except as specified in (d) of this section;

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

(4) ordinary hospitality in a home: "ordinary hospitality in a home" means a small (no more than 25 people), informal get-together in a private home, where friends and neighbors of the host are invited to meet the candidate; functions held in private homes for the purpose of raising funds do not meet the criteria of ordinary hospitality in a home. (Eff. 5/14/80, Reg. 74; am 5/24/81, Reg. 78; am 6/29/84, Reg. 90)

Authority: AS 15.13.030(10)
AS 15.13.040

2 AAC 50.326. RECORDKEEPING REQUIREMENTS AND EXEMPTIONS WHEN REPORTING A FUND-RAISER. (a) A candidate or his treasurer, and the treasurer of a group, shall report all the contribution and expenditure activity related to a campaign fund-raiser in a format designated by the commission, and in accordance with this section. Fund-raisers sponsored in conjunction with several candidates

or groups are viewed as shared fund-raising activities and, while subject to the provisions of this section, must be reported separately on APOC Form 15-3SA and in accordance with 2 AAC 50.324.

(b) When reporting a fund-raiser, a candidate or his treasurer, and the treasurer of a group, shall state the total number of contributing participants, the date and place where the event was held, if applicable, a description of the type of fund-raising activity, and the total costs of, and receipts from, the event.

(c) For the purposes of this section, "fund-raiser" includes, but is not limited to, a garage sale; a raffle or drawing; an auction; a spaghetti feed or potluck dinner; the sale of campaign material, such as posters, buttons, stickers, clothing, key chains and ashtrays; or a sponsored concert.

(d) The requirement in AS 15.13.040 and 2 AAC 50.320 that a candidate or his treasurer, or the treasurer of a group, must record the name of every person making a contribution, regardless of the amount of that contribution, does not apply to events which meet the following criteria:

(1) fund-raisers, similar in nature to spaghetti feeds, bingo games, dances, or concerts, where

(A) there are 25 or more paying participants; and

(B) except as described in (f) of this section, the cash amount received from any one person does not exceed \$50;

(2) fund-raisers, such as a raffle, lottery or a drawing, where

(A) 25 or more tickets are sold; and

(B) except as described in (f) of this section, the price of a ticket or the amount received from any one person purchasing chances does not exceed \$50;

(3) fund-raisers, the income from which is based on the sale of campaign material, where, except as described in (g)

(A) the price of an item being sold does not exceed \$10; or

(B) the amount received from any one person purchasing items does not exceed \$50;

(4) fund-raisers, such as garage sales and auctions, where, except as described in (g)

(A) the fair market value of an item donated for sale or auction does not exceed \$50; or

(B) the amount received from any one person purchasing items at the garage sale or auction does not exceed \$50.

(e) When reporting receipts from a fund-raiser which meets the recording exemption set out in (d) of this section, the candidate or his treasurer, or the treasurer of a group, need only report the total amount of contributions received from or generated by the fund-raiser, along with the total number of paying participants, tickets sold, or items purchased, as applicable.

(f) If a person contributes in excess of the exempted amounts stated in (d)(1)(B) or (d)(2)(B) of this section, then the name of that person, and the amount and type of that contribution, must be recorded as set out in 2 AAC 50.320.

(g) If the cost of or value of an item exceeds the exempted amount, or if a person contributes or pays in excess of the exempted amounts stated in (d)(3) or (4), then the name of that contributor or buyer must be recorded as set out in 2 AAC 50.320.

(h) A contribution made by a person to attend or otherwise participate in a "fund-raiser," as defined in (c) of this section, whether or not exempted from full recording under this section, may not be received by or on behalf of a candidate in violation of AS 15.13.070(a). (Eff. 5/14/80, Reg. 74; am 5/24/81, Reg. 78; am 6/29/84, Reg. 90)

Authority: AS 15.13.030(10)
AS 15.13.040

~~2 AAC 50.330. REPORTING CAMPAIGN EXPENDITURES FOR TRANSPORTATION.~~~~(a) Direct campaign expenditures for transportation or reimbursements to a person for transportation are reportable and must be valued in accordance with 2 AAC 50.325(d).~~~~(b) Personal living expenses of the candidate and the candidate's campaign workers, or the campaign workers of a political group, are not considered campaign expenditures and need not be reported unless the candidate's or group's campaign actually pays, either directly or through reimbursement, for the room and board of the traveling campaign workers or the candidate. (Eff. 5/16/76, Reg. 58; am 5/14/80, Reg. 74; am 6/29/84, Reg. 90)~~~~Authority: AS 15.13.030(10)
AS 15.13.040~~

2 AAC 50.332. REPORTING ZERO CONTRIBUTION OR EXPENDITURE ACTIVITY.

(a) Each candidate or group required to file a full report of all contributions received and expenditures made in accordance with AS 15.13 and this chapter shall report in accordance with the reporting schedule set out in AS 15.13.110(a), regardless of the amount of their reportable contributions or expenditures. In the absence of any contribution or expenditure activity whatsoever during a reporting period, each candidate or group not already exempt from reporting under (b) or (c) of this section shall submit by the appropriate due date the "Short Form" on Schedule A of the Campaign Disclosure Statement certifying that no contributions have been received or expenditures made.

(b) A candidate who does not intend to receive or accept contributions, or make expenditures during his campaign for municipal or state public office, including any personal campaign contributions or expenditures, may file APOC Form 15-0, the "Campaign Reporting Exemption Form." A candidate who files the exemption form is not required to submit any other reports to the commission concerning his campaign. The reporting exemption is revoked if a candidate accepts contributions or spends money to influence his election. A candidate whose exemption is revoked must immediately register his change of status on APOC Form 15-1 and, in accordance with AS 15.13.110, must dis-

close his campaign contribution and expenditure activity beginning with the first campaign disclosure report due following his change in status. Failure to report campaign contribution or expenditure activity after the reporting exemption is revoked subjects the candidate to both civil and criminal penalties for noncompliance with the reporting requirements of AS 15.13 and 2 AAC 50.

(c) The treasurer of a political party subdivision or political action committee previously registered with the commission which does not intend to receive or accept contributions, or make expenditures, during a municipal campaign may, in accordance with the requirements set forth in (b) of this section, file APOC Form 15-0. (Eff. 7/22/78, Reg. 67; am 5/14/80, Reg. 74)

Authority: AS 15.13.030(10)
AS 15.13.040(a) and (b)
AS 15.13.110

2 AAC 50.333. REPORTABLE DATE OF A CONTRIBUTION. A contribution is considered received, and reportable as such, on the day in which that contribution is in the possession of a candidate, or a treasurer or deputy treasurer of a candidate or group, in accordance with AS 15.13.070(e) and this chapter. (Eff. 7/22/78, Reg. 67)

Authority: AS 15.13.030(10)
AS 15.13.070(e)

2 AAC 50.334. PERSONS WHO MAY ACCEPT CONTRIBUTIONS. (a) A candidate's campaign committee, or a group, may authorize a person who is not registered as a deputy treasurer to accept or solicit campaign contributions on its behalf for any single event. Campaign committees or groups are not in violation of AS 15.13.070(e) if contributions collected by the authorized person are turned over to a candidate, treasurer, or deputy treasurer of the intended committee or group within 72 hours.

(b) An individual who is, or will be, fundraising on a regular basis throughout a political campaign must be registered as a deputy treasurer in accordance with AS 15.13.060(e).

(c) Individuals that have not been "authorized" to accept campaign contributions by

either a candidate or his treasurer, or the treasurer of a group, are prohibited from collecting campaign contributions on behalf of a candidate's campaign committee or a group. (Eff. 4/28/79, Reg. 70; am 5/14/80, Reg. 74)

Authority: AS 15.13.030(10) AS 15.13.070(e)
AS 15.13.060 AS 15.13.130(2)

2 AAC 50.340. EXPENDITURES TO ADVERTISING AGENCIES OR CAMPAIGN MANAGEMENT SERVICES. Whenever a required report includes an expenditure to an advertising agency, or to an individual or business which provides campaign consultation or management services, the report shall be accompanied by a statement detailing all services rendered, including the identity of each business from which campaign goods or services were purchased or subcontracted, or media advertising placed, and their costs. (Eff. 5/16/76, Reg. 58; am 5/14/80, Reg. 74)

Authority: AS 15.13.030(10)
AS 15.13.040(f)

2 AAC 50.342. REGISTRATION OF GROUPS SUPPORTING OR OPPOSING BALLOT ISSUES. Each group, before making an expenditure in support of or in opposition to a ballot proposition, shall register with the commission on forms provided by the commission. (Eff. 5/14/80, Reg. 74)

Authority: AS 15.13.010(b) AS 15.13.040(b)
AS 15.13.030(10) AS 15.13.050

~~**2 AAC 50.350. CONTRIBUTION OF PROFESSIONAL SERVICES.** (a) A contribution as defined by AS 15.13.130(2) includes donated services where the services performed are the same kind of service for which the donor has received more than 25 percent of his income in any one of the preceding three calendar years.~~

~~(b) Contributed professional services shall be valued under AS 15.13.130(2)(A) at the amount which the donor receives for the kind of services contributed. (Eff. 5/16/76, Reg. 58)~~

~~Authority: AS 15.13.030(10)
AS 15.13.130(2)~~

2 AAC 50.351. INDEPENDENT EXPENDITURES. (a) An independent expenditure is a disbursement of funds which is made expressly to support or oppose an individual's candidacy or a ballot issue. An independent expenditure is

not made with the cooperation, consent, in consultation with, or at the request or suggestion of, a candidate, a candidate's campaign committee, or a group, and must be reported in accordance with AS 15.13.040(d)(2) and (e) by the maker of the expenditure.

(b) An expenditure made at the request of, in consultation with, or at the suggestion of a candidate, a candidate's campaign committee, or a group supporting or opposing a ballot issue, is considered an in-kind contribution by the person making the expenditure, and must be reported in accordance with AS 15.13.040(a) by the candidate or group benefiting from the contribution, and by the "contributor" in accordance with AS 15.13.040(d)(1) and (e).

(c) There is no limit on the amount or frequency of independent expenditures.

(d) The report of an expenditure to influence the outcome of a ballot issue required to be filed under AS 15.13.040(d)(2) will be closed to the public only if the commission determines, in response to a written request, that the individual who makes the expenditure would likely be subject to undue harassment, threats, or economic reprisals as the result of public disclosure. After publication, the person granted an exemption shall provide the commission with a copy of the communication in order to enable the commission to verify which communications were sponsored by that person. (Eff. 5/14/80, Reg. 74; am 6/29/84, Reg. 90)

Authority: AS 15.13.030(10)
AS 15.13.040
AS 15.13.090

~~**2 AAC 50.355. LOANS.** (a) A loan from an individual or person to a candidate is considered a contribution to the extent of the outstanding balance. An unpaid loan, when added to other contributions from the same lender, may not exceed the \$1,000 contribution limitation.~~

~~(b) A loan to a candidate from a regulated lending institution which is endorsed, guaranteed, or co-signed by a person or persons other than the candidate, is considered a contribution to the extent of the outstanding balance. If a loan is endorsed, guaranteed, or co-signed by~~

more than one person, each guarantor's contribution is calculated by dividing the amount of the loan by the number of persons who guaranteed it, and the calculated amount contributed by each may not exceed the \$1,000 contribution limitation.

(c) Repealed 10/18/81.

(d) A bank loan made directly to a candidate, in accordance with applicable banking laws and in the ordinary course of business, does not count as a contribution by the bank. It must, however, be reported by the candidate as the candidate's personal contribution to the campaign.

(e) A loan may be forgiven, or the guarantor may pay off a loan, so long as the amount forgiven or paid does not exceed \$1,000. The candidate must indicate on the applicable campaign disclosure report when a loan reverts to a monetary contribution. (Eff. 5/14/80, Reg. 74; am 10/18/81, Reg. 80)

Authority: AS 15.13.030(10) AS 15.13.070
AS 15.13.040 AS 15.13.130(2)

2 AAC 50.360. MUNICIPALITIES. (a) ^{IF} When a municipality seeks to influence the outcome of an election, it shall report in the same manner as a group. For the purpose of complying with AS 15.13.040(b)(1)'s requirement to list the name and address of each officer and director, the municipality shall list the name and address of its mayor and of its council or assembly members. For the purpose of complying with AS 15.13.040(b)(1)'s requirement to list the name and address of its campaign treasurer, the municipality shall list the name and address of its finance director, controller, treasurer, or equivalent officer. For the source of contributions (AS 15.13.070(h)), the municipality shall list the particular fund from which the appropriation is made.

(b) All communications which are paid for by a municipality and which are related to an election are considered to be intended to influence the outcome of an election unless they are only notices of the election or unless they are required by statute, charter, or ordinance.

(c) The municipality shall file with the commission a list of candidates and their mailing

addresses within seven days following the deadline for filing for municipal office. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.010 AS 15.13.060
AS 15.13.030(10) AS 15.13.090

2 AAC 50.361. REPORTING BY SPECIAL INTEREST GROUPS. Repealed 10/18/81.

2 AAC 50.362. DRAFT GROUPS. (a) A draft group must report its contribution and expenditure activity as a group, under the requirements of AS 15.13 and this chapter.

(b) A draft group

(1) may make expenditures in order to raise, through contributions to the group, the money necessary to

(A) defray its own administrative costs; and

(B) attempt to draft persons to become candidates, including the expenditure of money to

(i) extoll the qualities of persons the group is attempting to draft; and

(ii) inform the general public both of the group's position on issues, as well as the qualities of leadership it seeks in potential candidates; and

(2) may not

(A) engage in any political activity other than an activity described in (b)(1) and (c) of this section;

(B) accept contributions in excess of \$1,000 from any person or group;

(C) except for personal travel expenses, opinion surveys, or polls, make any expenditure that might benefit a person who the group has successfully drafted for office and who has made it known that he or she will be seeking election to public office; however, the group may continue in its attempts to draft other persons for elective office; and

(D) except as provided in (c) of this section, make contributions to, contribute previously produced material to, or expend funds on behalf of, any person who has declared that he or she is seeking office or who has filed a declaration of candidacy or nominating petition or become a candidate by any other means.

(c) A draft group that expends more than 50 percent of its funds in an effort to draft one individual or, in the case of gubernatorial and lieutenant gubernatorial candidates, a team of individuals, to campaign for public office is, for the purposes of AS 15.13.130(3) and this chapter, considered a controlled group. If the person or team subject to the draft formally declares for public office, then the amount contributed to the draft group must be added to any contributions made the same year to the drafted candidate's or team's own campaign committee, in order to determine whether a contributor has made the maximum allowable contribution as outlined in AS 15.13.070(a). As a controlled group, the draft group may contribute the maximum allowed by law to the candidate or team of candidates. (Eff. 7/22/78, Reg. 67; am 5/14/80, Reg. 74; am 6/29/84, Reg. 90)

Authority: AS 15.13.010
AS 15.13.030(10)
AS 15.13.040(b)
AS 15.13.070(a)
AS 15.13.100
AS 15.13.130(2), (3) and (4)

2 AAC 50.363. SUBCOMMITTEES OF A CANDIDATE'S CAMPAIGN COMMITTEE OR OF A CONTROLLED GROUP. A subcommittee may be created within a candidate's campaign committee or within a controlled group. These subcommittees are not considered separate groups and shall not maintain separate bank accounts and records or file separate reports. The name of the candidate or controlled group must be a part of the name of the subcommittee. The name of the subcommittee shall not be used when identifying political advertising under AS 15.13.090 and 2 AAC 50.369. (Eff. 7/22/78, Reg. 67; am 5/14/80, Reg. 74)

Authority: AS 15.13.030(10) AS 15.13.050
AS 15.13.040(a) AS 15.13.090

2 AAC 50.369. PROPER IDENTIFICATION OF POLITICAL COMMUNICATIONS. (a) Except as provided in (d) of this section, "proper identification" of a communication intended to influence the election of a candidate or the outcome of a ballot issue means that the communication is clearly identified with the words "paid for by," followed by the name and full address of the candidate, group, or individual actually paying for the advertising. The name of the campaign chairman must also be identified. If the candidate and the chairman are the same person, the name need not be repeated.

(b) Standard English abbreviations may be used in the written identification.

(c) "Clearly identified," as used in AS 15.13.090, means that

(1) in all printed communications, the proper identification must be visible, separate from the text of the advertisement itself, and large enough to be read by a person with average vision without the aid of corrective lenses;

(2) in all audio-visual communications, the proper identification must either

(A) be visual, and of sufficient size and duration to be read in full by the viewer; or

(B) be spoken, and played at the same audio level as the text of the communication itself; or

(C) be both visual and spoken, in accordance with (A) and (B) of this paragraph;

(3) in all audio communications, the proper identification must be spoken at the same audio level as the text of the communication itself.

(d) If the commission determines, under 2 AAC 50.351(d), that an expenditure report will not be made public, the political communication intended to influence the outcome of a ballot proposition or question is properly identified if, in place of the "paid for by" phrase, the communication includes, in the manner required by (c) of this section, the commission waiver

identification number assigned by the commission to that communication. (Eff. 4/28/79, Reg. 70; am 10/18/81, Reg. 80; am 6/29/84, Reg. 90)

Authority: AS 15.13.030(10)
AS 15.13.090

2 AAC 50.370. OBJECTS TOO SMALL TO CONTAIN THE PROPER IDENTIFICATION.

If the size of an object utilized for a campaign advertisement is such that it is impractical to print the identification of the candidate, group, or person paying for the advertisement on the object, the advertisement shall instead be identified in a regular expenditure report to the commission. Objects considered too small for full identification include pencils, pens, and buttons. (Eff. 5/16/76, Reg. 58; am 5/14/80, Reg. 74)

Authority: AS 15.13.030(10)
AS 15.13.090

2 AAC 50.375. COMMUNICATIONS BY INCUMBENT ELECTED OFFICIALS. (a) A

communication by an incumbent state elected official, who is also a declared candidate for elective office, with his constituency via a newsletter or other printed matter, or a paid radio or television spot, does not constitute a reportable campaign expense unless it

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

(b) A communication by an incumbent municipal elected officer who is also a declared candidate for elective office, with his constituency via a newsletter or other printed matter, or a paid radio or television spot, does not constitute a reportable campaign expense 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. 7/22/78, 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. 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 candidacy for a particular municipal office only if the filing period has not opened. The ability to file a letter announcing one's intent to run for public office only applies, however, to individuals campaigning for municipal office. 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. (Eff. 5/16/76, Reg. 58; am 5/14/80, Reg. 74).

Authority: AS 15.13.030(10)
AS 15.13.100

2 AAC 50.385. REPORTING BY ORGANIZATIONS AND BUSINESS OR TRADE ASSOCIATIONS. (a) A group, as defined by AS 15.13.130(3), does not include an organization or business or trade association, if

(1) the major purpose of such an organization or association is other than to influence the outcome of an election; and

(2) the money for any political contributions or expenditures is paid from the general fund of such an organization or association, as opposed

to a special fund as described in (d) of this section.

(b) "Major purpose" means, in this section, that the stated major goals and objectives of an organization or business or trade association are primarily directed towards attempting to influence the outcome of elections and, in actual dollar amounts, that more of the organization's or business or trade association's money is devoted to contributions or expenditures to influence the outcome of an election than to any other single purpose.

(c) Organizations and business or trade associations which, in accordance with (a) of this section, do not have to register and report as political groups, but who do make campaign contributions from their general funds to, or expenditures for or against, a candidate or political group, must file reports under AS 15.13.040(d) and (e).

(d) If, however, an organization or association not defined as a political group conducts a special fund drive among, or levies a special assessment upon, its membership, and if the proceeds of such a special fund drive or assessment are to be used primarily to influence the outcome of an election, then the organization or association which raises campaign funds in this manner must file reports of its campaign activity in accordance with AS 15.13.040(b) and (c), and is considered a group as defined in AS 15.13.130(3). (Eff. 7/22/78, Reg. 67; am 5/14/80, Reg. 74)

Authority: AS 15.13.010
AS 15.13.030(10)
AS 15.13.040(b),(c),(d) and (e)
AS 15.13.130(3)

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, commission staff will

(1) calculate the initial civil penalty as follows:

(A) if the report is delinquent 30 days or less

(i) \$1 a day, up to a maximum of \$10, for the late filing of a report to be filed within the time required by AS 15.13.110(a)(1) and (3); and

(ii) \$5 a day, up to a maximum of \$50, for the late filing of a report to be filed within the time required by AS 15.13.110(a)(2) and (b);

(B) if the report is delinquent more than 30 days, then the commission will, in its discretion and on a case-by-case basis, assess a civil penalty not to exceed the total amount allowed by AS 15.13.125;

(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)

Authority: AS 15.13.030(6) and (10)
AS 15.13.110(a) and (b)
AS 15.13.125

2 AAC 50.395. REPORTING BY A BUSINESS ENTITY OR LABOR ORGANIZATION. (a) A business entity or labor organization making a contribution or expenditure from its general fund or treasury, for the purpose of influencing the outcome of an election, shall make a full report of its contribution and expenditure activity under AS 15.13.040(d) and (e), and in accordance with AS 15.13 and 2 AAC 50.

(b) The subscribers to a contingency fund constitute a group, as defined by AS 15.13.130(3), if a contingency fund is maintained by a business entity or labor organization, if political campaign contributions or expenditures of the business entity or labor organization are made from the fund, and if the major purpose of the fund is political. A "contingency fund" as used in this chapter, is a discretionary account established separate from the business entity's or labor organization's general treasury and variously, often voluntarily, funded. "Major purpose" means that in actual dollar amounts, more of the fund's money is devoted to contributions or expenditures to influence the outcome of an election than to any other single purpose.

(c) A group organized as in (b) of this section must register and report under AS 15.13.040(b)

and (c), and in accordance with AS 15.13 and this chapter, unless the head or principal executive officer of the business entity or labor organization certifies, under oath and upon penalty of perjury

(1) that none of its contingency fund money is used for political purposes; or

(2) that its contingency fund

(A) is funded only through a voluntary uniform assessment, or nonvoluntary but uniform assessment, upon its subscribers, and

(B) accepts no individual contributions into the contingency fund.

(d) If a contingency fund meets the requirements of (c)(1) or (2) of this section, then its political contribution or expenditure activity must be reported separately to the commission, under AS 15.13.040(d) and (e), and in accordance with AS 15.13 and 2 AAC 50.

(e) If the major purpose of the business entity or labor organization's contingency fund is not to influence the outcome of an election, under (b) of this section, but if political contributions or expenditures are made from the fund, then a full report of the contingency fund's contribution and expenditure activity must be made under AS 15.13.040(d) and (e), and in accordance with AS 15.13 and 2 AAC 50.

(f) A group organized as in (b) of this section and which reports under AS 15.13.040(b) and (c), and in accordance with AS 15.13 and 2 AAC 50, must report the name and address of each subscriber to the contingency fund, his principal occupation and employer, and the amount paid into the fund by the subscriber, if the subscriber has promised to pay, paid directly, or otherwise paid or contributed into the fund an amount exceeding \$100 in a calendar year. The name, address, occupation, and employer of a subscriber contributing in excess of \$100 as described in this subsection must be reported under AS 15.13 and 2 AAC 50.321.

(g) A business entity or labor organization shall report under (a) of this section unless it conducts a special fund drive among, or levies a special assessment upon, its employees or

members, the proceeds of which are to be used for political contributions or expenditures. If a business entity or labor organization acts as described in this subsection, then the individual contributors become members of a group, as defined by AS 15.13.130(3), and must register and report under AS 15.13.040(b) and (c), and in accordance with AS 15.13 and 2 AAC 50. (Eff. 7/22/78, Reg. 67; am 5/14/80, Reg. 74)

Authority: AS 15.13.010
AS 15.13.030(10)
AS 15.13.040(b), (c), (d) and (e)
AS 15.13.130(3)

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 50.405. DEFINITIONS FOR 2 AAC 50.310 - 2 AAC 50.405 AND AS 15.13. In 2 AAC 50.310 - 2 AAC 50.405 and in AS 15.13

(1) "business entity" means a sole proprietorship, partnership, corporation or professional corporation, company, firm, business trust, or any other business entity or a combination of these;

(2) "draft group" means a group of two or more persons organized for the purpose of drafting one or more individuals to run for

elective office by becoming a candidate as defined in AS 15.13.130(1);

(3) "labor organization" means a local, national, or international union, or labor council, or any other labor organization recognized under state or federal law;

~~(4) "contribution" includes, in addition to the items listed in AS 15.13.130(2), goods or services received by a candidate or political group, or on behalf of a candidate or political group, as the result of a fund-raising activity. (Eff. 7/22/78, Reg. 67; am 6/29/84, Reg. 90)~~

Authority: AS 15.13.030(10)
AS 15.13.130(1), (2) and (3)

**ARTICLE 3.
CAMPAIGN DISCLOSURE AND
REGULATION OF LOBBYING
COMPLAINTS AND INVESTIGATIONS**

Section

450. Complaints
460. Preliminary investigation
470. Hearings

2 AAC 50.450. **COMPLAINTS.** (a) A complaint filed with the commission must be in writing and must contain the following:

(1) the full name and mailing address of the person making the complaint;

(2) the name of the person or group alleged to be in violation;

(3) allegations of specific facts which, if true, would constitute

(A) a violation of AS 15.13 or of a provision of 2 AAC 50.310 – 2 AAC 50.405; or

(B) a violation of AS 24.45 or of a provision of 2 AAC 50.505 – 2 AAC 50.545;

(C) a violation of AS 39.50 or of a provision of 2 AAC 50.010 – 2 AAC 50.200;

(4) the basis of the complainant's knowledge of the alleged facts, differentiating between statements made upon personal knowledge and

those made upon other sources of information and belief;

(5) any documentation, relevant to the facts alleged, which is available to the complainant.

(b) The complaint shall be signed by the complainant and the signature shall be verified by a notary public, municipal clerk, court clerk, postmaster, or any person authorized to administer oaths. Notarial service will be provided by the commission without cost.

(c) Upon receipt of a complaint properly filed and sworn, the commission staff shall promptly

(1) acknowledge receipt to the complainant; and

(2) determine whether the complaint sets out facts which, if true, would constitute a violation of law.

(d) If the staff determines that a complaint does not set out facts which, if true, would constitute a violation of the law, it shall promptly inform the complainant and close the file. Following a determination under the subsection:

(1) the staff, upon request of the respondent, shall furnish a copy of all of the information in its file on the complaint to the respondent;

(2) the complainant may request that the commission review the staff's determination; the review will be conducted in closed session; following the review, the commission will, by majority vote:

(A) uphold the staff's determination and close the matter; or

(B) determine that the complaint is sufficient on its face, and will be handled under (e), (1), (2), and (4) of this section.

(e) If the staff or the commission under (d)(2)(B) of this section determines that a complaint sets out facts which, if true, would constitute a violation of the law, the staff will

(1) notify the complainant;

(2) notify the respondent, providing a copy

of the complaint, any accompanying documents, and a copy of the commission's investigative and hearing procedures;

(3) inform the commission that a complaint has been filed, providing a copy of the complaint and any accompanying documents; and

(4) begin a preliminary investigation.

(f) A person against whom a complaint is filed may file an answer. The answer must

(1) specifically admit or deny all material allegations of the complaint;

(2) state any defenses expected to be raised by the respondent;

(3) include any relevant documentation in the possession of the respondent; and

(4) be a signed and sworn statement. (Eff. 5/16/76, Reg. 58; am 12/29/77, Reg. 64; am 6/29/84, Reg. 90)

Authority: AS 15.13.030(8) AS 24.45.021(b)
AS 15.13.030(10) AS 24.45.131
AS 15.13.045 AS 39.50.050(b)
AS 15.13.120(d)

2 AAC 50.460. PRELIMINARY INVESTIGATION. (a) The commission staff shall undertake a preliminary investigation if

(1) a properly filed and sworn complaint has been found to be sufficient; or

(2) information has been obtained by the commission or staff in the normal course of business which, if true, would constitute a violation of the law.

(b) When the staff initiates an investigation based on (a)(2) of this section, it shall set out in writing the facts, information, and law involved, along with documentation, and process this material in accordance with 2 AAC 50.450(e).

(c) In conducting a preliminary investigation, the staff may use any of the methods set out in AS 15.13.045. It may also

(1) request written and sworn statements from any party, witness, or other person which

are relevant to the investigation; and

(2) use the services of the Alaska State Troopers or private investigators to secure factual information pertinent to the investigation.

(d) Upon completion of a preliminary investigation, the staff shall provide a written summary of the investigation to the commission at the next regularly scheduled meeting, or at a special meeting. The summary must include a staff recommendation for dismissal, for continued investigation, or that the matter be addressed in a hearing. Notice of the meeting and a copy of the summary must be provided to the respondent and complainant in advance of the meeting. The decision of the commission with respect to the findings of the preliminary investigation will be sent by certified mail to the complainant and respondent. (Eff. 5/16/76, Reg. 58; am 12/29/77, Reg. 64; am 6/29/84, Reg. 90)

Authority: AS 15.13.030(8) AS 18.65.090
AS 15.13.030(10) AS 24.45.021(b)
AS 15.13.045(a) AS 24.45.131
AS 15.13.120(d) AS 39.50.050(b)

2 AAC 50.470. HEARINGS. (a) If the commission decides that a hearing will be held, notice of hearing will be sent to the respondent by personal service or by certified mail, return receipt requested. If the respondent cannot be found after diligent effort, service will be made by publishing notice of the hearing in a newspaper of general circulation once a week for four weeks, the final notice appearing at least 30 days before the hearing.

(b) Notice of a hearing must be provided to all parties at least 30 days before a hearing. The time and place of the hearing will be set with due regard and consideration for the convenience of the parties, and the commission will consider a party's request for a change in the time or place of a hearing. The commission will, in its discretion, for any good cause and upon proper notice, change the time and place of a hearing.

~~(c) The chairman of the commission or, upon the chairman's inability to participate, the designee of the chairman, will conduct the meeting and have all the authority of a hearing~~

~~officer, with the exception of the ability to decide dispositive motions. All dispositive motions will be heard and decided by the commission.~~

(d) The commission staff is responsible for presenting the facts, verified by investigation, which it has determined appear to constitute a violation of the law. In the course of the hearing, the staff will be given no special consideration, but will be considered as a party to the hearing.

(e) The only parties to the hearing will be the staff, representing the complainant or itself, and the respondent.

(f) A party has the right to present evidence and be represented by an attorney. Entities may be represented by an official within the entity, an authorized agent, counsel, or a combination of these.

(g) The rules of evidence are the same as those in AS 44.62.460. In addition

(1) documentary evidence may be presented in the form of copies if the original is not readily available; upon request, the parties will be given the opportunity to compare the copy to the original;

(2) in the discretion of the chairman or the designee, nonparties may present a sworn statement; if such a statement is presented, all parties will be given an opportunity to challenge, cross-examine, or rebut;

(3) depositions or affidavits may be presented if a witness is unable to testify at a hearing.

~~(h) At the request of a party, the commission will, in its discretion, issue a subpoena to be served on a witness in accordance with the rules of civil procedure. A witness who is not a party and who appears under a subpoena is entitled to receive fees and mileage in the same amount and under the same circumstances as prescribed by court rule for a witness in a civil action in superior court. Fees, mileage, and expenses of subsistence must be paid by the party at whose request the witness is subpoenaed. A subpoena~~

~~may be either for testimony at a hearing or for a deposition.~~

(i) Depositions must be taken according to AS 44.62.440(a).

(j) Before the hearing, upon request during regular business hours, the respondent will have access to read or copy at cost any information contained in the case file held by the staff, with the exception of internal memos and documents privileged under the attorney-client privilege.

(k) At the discretion of the commission, all or part of the hearing may be conducted by telephone, audio or video teleconferencing, or other electronic means, provided the parties have an opportunity to participate in the hearing while it is taking place.

(l) The hearing will be recorded by tape recording or stenographic notes at the commission's expense. The recording will be maintained with the public file of the proceedings. The commission will not prepare a transcript unless such a requirement is imposed by law. If the hearing is open, and at the commission's discretion, any person may pay for additional recordings or for a transcript from the commission's recording. If a transcript is prepared by the commission, the respondent may have access to it for the purpose of duplication.

(m) A hearing will be open to the public except when the respondent requests a closed hearing and the commission finds that it should be closed under AS 44.62.310, ~~or when the commission for any good cause, determines that a closed hearing is appropriate.~~ If the hearing is open but is conducted by telephone, audio or video teleconferencing, or other electronic means, the public notice will designate at least one public access place and ~~whatever recording is made by the commission will be made available to the public.~~

~~(n) After the hearing, the commission will, in its discretion, go into executive session for purposes of deliberation.~~

~~(o) Upon completion of its deliberation, the commission will reconvene in open session, having provided the respondent with prior notice, if possible, and the commission chairman~~

~~or the designee will entertain one or more formal motions addressing the alleged violations. A roll call vote will be taken on each surviving motion. A commissioner who was not present at the hearing may not participate in the commission's deliberations, motions, or votes, including any reconsideration motions or votes.~~

~~(p) The commission will issue a written decision based on its findings of fact and conclusions of law. The decision will be reasonably specific so as to provide interested parties with a clear understanding of the commission's basis for its action. A copy of the decision will be served on all parties and any complainant.~~

(q) If the commission decides to forward a case to the attorney general's office for prosecution, the staff shall prepare and send to the attorney general's office a record comprised of

(1) a copy of the commission's hearing decision, including its findings of fact and conclusions of law;

(2) a verbatim transcript of the proceedings before the commission; and

(3) copies of all documentary evidence, memoranda, exhibits, correspondence, and other tangible evidence contained in the public file of the proceeding.

(r) The commission will, in its discretion, reconsider its decision in accordance with AS 44.62.540. A request for reconsideration must be filed within 10 days after the vote under (o) of this section has been taken, and must state specific grounds upon which reconsideration is requested. A decision will be reconsidered only if

(1) there was a substantial procedural error in the original proceeding;

(2) the commission acted without jurisdiction in the original proceeding;

(3) the original vote was based on fraud, misrepresentation, material mistake of fact or law; or

(4) new evidence has come to light.

(s) Contempt before the commission will be handled under AS 44.62.590.

(t) A commission member is disqualified from participation in a hearing if the member has a substantial financial relationship with the complainant or with the alleged violator. A commission member is disqualified from participation in a hearing if the member feels, and states on the public record, that he or she is unable to consider the complaint in an unbiased manner and reach a fair and impartial decision.

(u) A commission member has a conflict of interest if the member, a person in the member's immediate family, the member's employer, business, or business associate has a financial relationship with the complainant or the alleged violator or with an immediate family member, business, or business associate of the complainant or alleged violator. The commission member shall state publicly the nature of the conflict and a majority of the remaining members present may authorize the member to participate. Other relationships with the principals of the hearing, which may cause an appearance of impropriety or conflict, must be publicly disclosed by a member, and the member's participation is subject to approval by the majority of the remaining members present. In conflict cases, approval to participate will depend upon whether

(1) the financial relationship or interest is relatively insignificant; and

(2) the interest held by the member or the member's family, business, or business associate is similar to that possessed by a large class of persons; or

(3) the nonfinancial relationship is such that a reasonable person would believe the member capable of fair and impartial judgment. (Eff. 6/29/84, Reg. 90)

Authority: AS 15.13.030(8) AS 24.45.021(b)
AS 15.13.030(10) AS 24.45.131
AS 15.13.045 AS 39.50.050(b)
AS 15.13.120(d)

influencing legislative or administrative action as defined in AS 24.45.171(1), (6), (7) and this chapter; when a person becomes a lobbyist upon meeting the tests of this section, he must register in accordance with AS 24.45.041 and must report in accordance with AS 24.45.051 and 2 AAC 50. (Eff. 12/29/77, Reg. 64)

Authority: AS 24.45.021(b)
 AS 24.45.041
 AS 24.45.051
 AS 24.45.061(b)
 AS 24.45.171(1),(6),(7),(8)(A),
 (10)(B),(11) and (12)

ARTICLE 5. GENERAL PROVISIONS

Section

910. Availability of reports filed with the commission
 920. Definitions

2 AAC 50.910. AVAILABILITY OF REPORTS FILED WITH THE COMMISSION. Copies of any report required to be filed with the commission may be obtained at cost. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10) AS 39.50.020(b)
 AS 15.13.040(f) AS 39.50.050(c)
 AS 15.13.110(c)

2 AAC 50.920. DEFINITIONS. In this chapter, "commission" means the Alaska Public Offices Commission. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.020(a)
 AS 15.13.030(10)

CHAPTER 55. PUBLIC BROADCASTING COMMISSION

Editor's Note: In light of the Executive Order No. 50 (1981) relocation of the Alaska Public Broadcasting Commission from the Department of Education to the Department of Administration, the commission's regulations have been relocated from 4 AAC 63 to 2 AAC 55, as of Register 84 (January 1983). The history notes under each section in the new location carry forward the history from the old location.

Section

10. Commission goals
 20. Financial support
 30. Qualified corporations
 40. Requirements of qualified corporations
 50. Noncompliance
 60. Requirements for institutional licensees to receive financial support
 70. Commission designee
 80. Definitions

2 AAC 55.010. COMMISSION GOALS. The goals of the commission are to

(1) assist in the establishment and support of public broadcasting facilities in the state in order to provide the people of Alaska with the opportunity to

(A) make informed decisions as participants in local, state, and national governments;

(B) understand complex issues in both the private and public sectors;

(C) further their general education, welfare, health, safety, cultural enrichment, and entertainment;

(D) understand in detail the problems, needs, and strengths of their local communities and encourage them to participate in solving those problems, meeting those needs, and celebrating those strengths; and

(E) have access to public broadcast media.

(2) provide Alaskans with the goals and objectives of public broadcasting as defined in the Public Broadcasting Act of 1967 (47 USC § 396) and the Carnegie Commission Report. (Eff.

Introduced: 2/13/86
Referred: State Affairs

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

2 SENATE BILL NO. 401

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act annulling regulations adopted by the Alaska
7 Public Offices Commission."

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

9 * Section 1. The following regulations are annulled: 2 AAC 50.310, 2
10 AAC 50.313, 2 AAC 50.314, 2 AAC 50.315, 2 AAC 50.316, 2 AAC 50.319, 2 AAC
11 50.320, 2 AAC 50.321, 2 AAC 50.324, 2 AAC 50.326, 2 AAC 50.332, 2 AAC
12 50.333, 2 AAC 50.334, 2 AAC 50.340, 2 AAC 50.342, 2 AAC 50.351, 2 AAC
13 50.357, 2 AAC 50.360, 2 AAC 50.362, 2 AAC 50.363, 2 AAC 50.369, 2 AAC
14 50.370, 2 AAC 50.375, 2 AAC 50.380, 2 AAC 50.390, 2 AAC 50.397, 2 AAC
15 50.400, 2 AAC 50.401, 2 AAC 50.405, 2 AAC 50.450, 2 AAC 50.460, 2 AAC
16 50.470, 2 AAC 50.905, 2 AAC 50.910.

COMMITTEE REPORT
SENATE

FURTHER:

2/13/86

Date 3/25/86

Mr. President

The Committee on FINANCE considered SB 402
relating to ice classics.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 402 (FIN)
- new title
- same title and recommends "DO PASS"
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
e Rev
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

~~J. H. ...~~
 Rick Halford
 Carl G. ...
 ...
 John ...

MEMBERS HAVING
OTHER RECOMMENDATIONS

~~...~~

Co - Jan ...
 Chairman
do pass
 Chairman recommendation

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 2/18/86

REQUEST
Bill/Resolution No: SB 402
Title: An Act relating to ice classics

Sponsor: Sackett
Requestor: Senate Finance
Date of Request: 2/14/86

FISCAL DETAIL
Agency Affected: Revenue
BRU: Public Services

Components: Public Services Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LAND & STRUCTURES	-	-	-	-	-	-
GRANTS/CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-

CAPITAL	-	-	-	-	-	-
---------	---	---	---	---	---	---

REVENUE	-	-	-	-	-	-
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

Prepared by: *Sally Smith*
 Division: Public Services

Phone: 465-2392
 Date: February 18, 1986

Approved by: *Mary A. Sundale*
 Commissioner:
 Agency: Revenue

Date: 2/21/86

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management & Budget
 Impacted Agency(ies)

Introduced: 2/13/86
Referred: Finance

THE FINANCE COMMITTEE
BY SACKETT

1 IN THE SENATE

2

CS SENATE BILL NO. 402 (FIN)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to ice classics."

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

8 * Section 1. AS 05.15.210(12) is amended to read:

9 (12) "ice classic" means a game of chance where a prize of
10 money is awarded for the closest guess of the time the ice moves in a
11 body of water or watercourse in the state and is limited to the Nenana
12 and Chena Ice Pools in the same manner as they were conducted in 1959
13 and previous years, [AND] a Kuskokwim Ice Classic to be operated and
14 administered by Bethel Social Services, Inc., and a Yukon River Ice
15 Classic, to be operated and administered by the City of Fort Yukon,

AMENDMENT ADOPTED BY SFC 3/25/86

Line 15

After "Classic" INSERT "o" and DELETE remaining language.

ANALYSIS FOR SENATE BILL 402

An Act relating to ice classics

Under current law, an ice classic is a game of chance where a monetary prize is awarded for the closest guess of when the ice moves from a predetermined point. These classics are limited to the Nenana, Chena and Kuskowkwim Rivers. This bill would allow for the establishment of the Yukon River Ice Classic which would be administered by the City of Fort Yukon.

There is no fiscal impact.

SENATE FINANCE COMMITTEE

M E M O R A N D U M

DATE: March 25, 1986

TO: Lynn Barnes
Legal Services

FROM: Vicki (4935)
Cap Bldg Rm 413

RE: CS for SB 402 (Finance)

Please prepare a Finance Committee Substitute for SB 402 reflecting the amendment adopted by the Senate Finance Committee.

CS SB 402 (Fin) was reported out at the Committee meeting this morning and read across at the 11:00 a.m. Senate floor session.

Please return to me asap.

THANX!

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 24, 1986

SUBJECT: Constitutionality of various bills relating
 to games of chance

TO: Senator Jan Faiks

FROM: George Utermohle *GU*
 Legislative Counsel

You have asked whether HB 208, SB 402, and SB 339 are "local or special legislation" and thus unconstitutional.

Article II, section 19 of the Alaska Constitution provides in part:

The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination. 11

The test employed by the Alaska Supreme Court for Article II, section 19 is substantially the same as that applied to equal protection analysis. Upon examining the legislative goals and the means used to advance them, the court determines whether the legislation bears a fair and substantial relationship to legitimate purposes. (State v. Lewis, 559 P.2d 630, 643 (Alaska 1977)) To satisfy the fair and substantial relationship standard, the classifications must be tailored to the purpose of the legislation. A classification created by the legislation must be neither overinclusive nor underinclusive. (Isakson v. Rickey, 550 P.2d 350, 362 (Alaska 1976)) If the "fair and substantial relationship" standard is met, the bill will not be invalidated because of incidental local or private advantages. (Lewis, 559 P.2d at 643)

Permits for games of chance are given to municipalities and qualified organizations so that they can raise money for

Senator Faiks
Page 2
March 24, 1986

political, educational, civic, public, charitable, patriotic, or religious projects. (AS 05.15.150(a)) Allowing municipalities and qualified non-profit organizations to raise money for projects that promote the public health, welfare, and morals is a legitimate state purpose. Legislation creating games of chance violate Article II, section 19 of the Alaska Constitution if the legislation does not bear a fair and substantial relationship to the purpose of allowing municipalities and qualified organizations to raise money for their beneficial projects.

HB 208 authorizes a new game of chance, salmon classic, for which permits can be issued. The bill creates no classifications among municipalities and qualified organizations, so there is no issues of under or over-inclusiveness. Therefore the bill's means bears a fair and substantial relationship to the legislative purpose of raising funds for beneficial organizations. HB 208 is constitutional under the local or special legislation provision of the Alaska Constitution.

SB 339 authorizes a new game of chance, mercury classic, for which permits can be issued and gives the Greater Fairbanks Chamber of Commerce sole authority to operate mercury classics. The bill creates a special class of qualified organization permitted to operate a mercury classic. Absent a valid legislative purpose for creating a class of qualified organizations consisting solely of the Greater Fairbanks Chamber of Commerce, the bill is local and special legislation. There is nothing in the bill itself or in the bill's history to suggest a purpose for the legislation other than the general purpose behind all permits for games of chance. The bill is local and special interest legislation because there is not a fair and substantial relationship between the provisions of the bill and the purpose of the bill. Also the local or private advantages conferred on the Greater Fairbanks Chamber of Commerce are not incidental effect of the bill but are the whole effect of the bill.

SB 402 authorizes a new ice classic, the Yukon River Ice Classic, and grants an exclusive franchise to the City of Fort Yukon to operate it. Absent a rational basis for giving sole authority to operate an a Yukon River ice classic to the City of Fort Yukon, the bill is local and special legislation. There is nothing in the bill or the bill's legislative history to suggest a special purpose or goal for the bill. Therefore the bill can be assumed to promote the

Senator Faiks
Page 3
March 24, 1986

same general purpose behind all permits for the games of chance. For the same reasons as explained for SB 339, above, SB 402 is local or special interest legislation and is unconstitutional.

Please contact me if I can provide further assistance.

GU:csh
c6/048

Alaska State Legislature

SENATOR

John C. Sackett

CO-CHAIRMAN
SENATE FINANCE COMMITTEE

MEMBER
LABOR & COMMERCE COMMITTEE
BUDGET & AUDIT COMMITTEE
SENATE ADVISORY COUNCIL
COMMITTEE ON COMMITTEES



Senate

HOME ADDRESS
P. O. BOX 11
RUBY, ALASKA 99788

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
TELEPHONE 465-3753

ANCHORAGE
TELEPHONE 272-3404

MEMORANDUM

Date: March 20, 1986

To: Members, Senate Finance Committee

From: Senator John C. Sackett

Subj: SB-402, Yukon Ice Classic

SB-402, creating a Yukon Ice Classic, is at the request of the City of Fort Yukon. In early January, the Fort Yukon City Council discussed and approved the idea of creating an "ice classic" to be conducted in much the same fashion as the Nenana Ice Classic. SB-402, amends the current statute (AS 05.15.210(12)) by adding a Yukon River Ice Classic to the list of classics permitted by the Department of Revenue.

The Fort Yukon City Council views the creation of an ice classic as a way to generate revenues for locally operated public services. Creation of the classic and revenues generated from ticket sales is seen as a way to offset anticipated revenue losses to the City as the State's revenues decline.

COMMITTEE REPORT

SENATE

FURTHER:

3/18/86

Date _____

Mr. President

The Committee on FINANCE considered SB 404

relating to insurance; authorizing joint insurance arrangements;
repealing a prohibition against certain types of group insurance;
efd.

and (a majority of the committee) (the committee) reports it back with
the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

2/13/86

Date MARCH 17, 86

Mr. President

The Committee on Labor & Commerce considered SB 404

relating to insurance; authorizing joint insurance arrangements; repealing a prohibition against certain types of group insurance; efd.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

do pass

do pass with attached amendment(s)

replace with/or adopt CS for SB 404 (J+C)
 new title
 same title and recommends _____

and attached a "LETTER OF INTENT" NEW FISCAL NOTE

reports it back without recommendation

recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

[Signature]
[Signature]
[Signature]
[Signature]

[Signature]
Chairman
[Signature]
Chairman recommendation



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Letter of Intent for CSSB 404 (L&C)

It is the intent of the Senate Labor and Commerce Committee that the Division of Insurance urge both domestic and foreign insurance companies, conducting business in the state, to write insurance policy contracts in comprehensible, "layman's" language.

Offered: 3/18/86
Referred: Finance

Original sponsor: Josephson

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 404 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to cancellation and nonrenewal of
7 insurance; authorizing joint insurance arrangements;
8 and providing for an effective date."

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

10 * Section 1. AS 21.36.190(d) is amended to read:

11 (d) This section does not apply to workers' compensation insur-
12 ance when issued to an association of employers formed for purposes
13 other than the purchase of insurance and that

14 (1) has a constitution and bylaws; the requirement of this
15 paragraph does not apply to municipalities, school districts, and
16 regional educational attendance areas;

17 (2) incorporates a safety program;

18 (3) as a group has preferred characteristics over similar
19 risks written on an individual basis; and

20 (4) has filed and received approval from the director for
21 the rating program to be applied to the group.

22 * Sec. 2. AS 21.36.190 is amended by adding a new subsection to read:

23 (e) The provisions of (a) and (b) of this section do not apply
24 to coverage purchased through a joint insurance arrangement formed
25 under AS 21.76.

26 * Sec. 3. AS 21.36.210(a) is amended to read:

27 (a) An insurer may not exercise its right to cancel a policy of
28 personal [AN] automobile insurance [POLICY] except for the following
29 reasons:
S

1 (1) nonpayment of premium; or
2 (2) the driver's license or motor vehicle registration of
3 either the named insured or of an operator who resides in the same
4 household as the named insured or who customarily operates a motor
5 vehicle insured under the policy has been under suspension or revoca-
6 tion during the policy period or, if the policy is a renewal, during
7 its policy period or the 180 days immediately preceding its effective
8 date.

9 * Sec. 4. AS 21.36.210(d) is amended to read:

10 (d) This section does not apply to

11 (1) the failure to renew a policy, except as to coverage in
12 force for less than 12 months;

13 (2) a policy that has been in effect less than 60 days at
14 the time notice of cancellation is mailed or delivered by the insurer,
15 unless it is a renewal policy;

16 (3) a policy issued under an automobile assigned risk plan
17 or automobile insurance plan;

18 (4) a policy insuring more than four motor vehicles;

19 (5) a policy covering the operation of a garage; automobile
20 sales agency, repair shop, or service station; or public parking
21 place;

22 (6) a policy providing insurance only on an excess basis;

23 (7) any other contract providing insurance to the named
24 insured, even though the contract may incidentally provide insurance
25 with respect to motor vehicles.

26 * Sec. 5. AS 21.36.210(f) is amended to read:

27 (f) An [NOTWITHSTANDING (e) OF THIS SECTION, AN] insurer may not
28 exercise its right to cancel a policy of personal insurance other than
29 personal automobile insurance, except for the following reasons [THE

1 TYPE DESCRIBED IN (e) OF THIS SECTION IF ONE OF THE FOLLOWING CONDI-
2 TIONS OR CIRCUMSTANCES ARISES]:

3 (1) nonpayment of premiums, including nonpayment of addi-
4 tional premiums, calculated in accordance with the current rating
5 manual of the insurer, justified by a physical change in the insured
6 property or a change in its occupancy or use;

7 (2) conviction of the insured of a crime having as one of
8 its necessary elements an act increasing a hazard insured against;

9 (3) discovery of fraud or material misrepresentation made
10 by the insured or a representative of the insured in obtaining the
11 insurance or by the insured in pursuing a claim under the policy;

12 (4) discovery of a grossly negligent act or omission by the
13 insured that substantially increases the hazards insured against; or

14 (5) physical changes in the insured property that result in
15 the property becoming uninsurable.

16 * Sec. 6. AS 21.36.220 is amended to read:

17 Sec. 21.36.220. NOTICE OF CANCELLATION. An insurer may not
18 exercise its right to cancel a personal insurance policy unless a
19 written notice of cancellation is mailed or delivered to the named
20 insured, at the address shown in the policy, at least 20 days before
21 the effective date of cancellation. However, if [, EXCEPT THAT WHEN]
22 cancellation is for nonpayment of premium, the notice shall be mailed
23 or delivered to the named insured at the address shown in the policy
24 at least 10 days before the effective date of cancellation, and must
25 [SHALL] include or be accompanied by a statement of the reason for the
26 cancellation. [THIS SECTION DOES NOT APPLY TO THE FAILURE TO RENEW A
27 POLICY, EXCEPT AS TO COVERAGE IN FORCE FOR LESS THAN 12 MONTHS.]

28 * Sec. 7. AS 21.36.220 is amended by adding a new subsection to read:

29 (b) An insurer may not exercise its right to cancel a policy of

1 business or commercial insurance unless a written notice of cancella-
2 tion is mailed or delivered to the named insured, at the address shown
3 in the policy, and to the agent or broker of record, at least 60 days
4 before the effective date of cancellation. However, if cancellation
5 is for nonpayment of premium, the notice shall be mailed or delivered
6 to the named insured at the address shown in the policy and to the
7 agent or broker of record at least 10 days before the effective date
8 of cancellation, and must include or be accompanied by a statement of
9 the reason for the cancellation.

10 * Sec. 8. AS 21.36 is amended by adding a new section to read:

11 Sec. 21.36.235. RETURN OF PREMIUM UPON CANCELLATION. If an
12 insurer cancels a policy under AS 21.36.220(b), it shall return any
13 unearned premium to the agent or broker of record or directly to the
14 insured or premium finance company, if applicable, by the effective
15 date of cancellation, except that if cancellation is for nonpayment of
16 premium, any unearned premium shall be returned within 30 days after
17 the notice of cancellation is given. If the unearned premium is
18 returned by the insurer to a person other than the insured, that
19 person shall promptly return the unearned premium to the insured
20 unless otherwise provided by agreement between the person and the
21 insured.

22 * Sec. 9. AS 21.36.240 is amended to read:

23 Sec. 21.36.240. FAILURE TO RENEW. An insurer may not fail to
24 renew a personal insurance policy in force for less than 12 months.
25 An insurer may not fail to renew a policy [IN FORCE FOR 12 MONTHS OR
26 MORE] unless a written notice of nonrenewal is mailed or delivered to
27 the named insured, at the address shown in the policy, at least 20
28 days for a personal insurance policy, and at least 60 days for a
29 business or commercial insurance policy, before the expiration date of

1 the policy [,] or of the anniversary date of a policy written for a
2 term longer than one year or with no fixed expiration date. This
3 section does not apply

4 (1) if the insurer has in good faith manifested in any way
5 its willingness to renew;

6 (2) in case of nonpayment of premium for the expiring
7 policy; or

8 (3) if the insured fails to pay the premium as required by
9 the insurer for renewal.

10 * Sec. 10. AS 21.36.250 is amended to read:

11 Sec. 21.36.250. NOTICE OF ELIGIBILITY. When a policy of automo-
12 bile liability insurance is cancelled, other than for nonpayment of
13 premium, or is not renewed in accordance with [FOR FAILURE TO RENEW A
14 POLICY OF AUTOMOBILE LIABILITY INSURANCE TO WHICH] AS 21.36.240 [AP-
15 PLIES], the insurer shall notify the named insured of possible eligi-
16 bility for automobile insurance through the automobile assigned risk
17 plan, or automobile insurance plan. The notification must [SHALL]
18 accompany or be included in the notice of cancellation or nonrenewal
19 required by AS 21.36.220 [AS 21.36.230] and 21.36.240.

20 * Sec. 11. AS 21.36.310 is amended to read:

21 Sec. 21.36.310. DEFINITIONS. In AS 21.36.210 - 21.36.310

22 (1) "business or commercial insurance" means insurance
23 other than personal insurance, life insurance, disability insurance,
24 title insurance, or an annuity contract;

25 (2) "nonpayment of premium" means failure of the named
26 insured to discharge when due any obligations of the named insured in
27 connection with the payment of premium on a policy, or any installment
28 of the premium, whether the premium is payable directly to the insurer
29 or its agent or indirectly under any premium finance plan or extension

1 of credit;

2 (3) "personal automobile insurance" means insurance not
3 related to business or commercial activities, covering [(2) "POLICY"
4 MEANS AN INSURANCE POLICY COVERING THE RISKS AND EXPOSURES LISTED IN
5 AS 21.36.210(e) OR AN AUTOMOBILE POLICY THAT INCLUDES] automobile
6 liability [COVERAGE], uninsured or underinsured motorists [MOTORIST
7 COVERAGE], automobile medical payments [COVERAGE], or automobile
8 physical damage [COVERAGE], that is delivered or issued for delivery
9 in this state, [INSURING AS THE NAMED INSURED, ONE INDIVIDUAL OR HUS-
10 BAND AND WIFE RESIDENT OF THE SAME HOUSEHOLD,] and under which the
11 insured vehicles are of the following types only:

12 (A) a motor vehicle of the private passenger or sta-
13 tion wagon type that is not used as a public or livery convey-
14 ance, nor rented to others, or

15 (B) any other four-wheel motor vehicle with a load
16 capacity of 1,500 pounds or less that is not used in the occupa-
17 tion, profession, or business of the insured, nor used as a
18 public or livery conveyance, nor rented to others;

19 (4) "personal insurance" does not include an annuity con-
20 tract or a policy of life insurance, disability insurance, or title
21 insurance; the term means personal automobile insurance, or insurance
22 covering

23 (A) loss of or damage to real property that is used
24 predominantly for residential purposes and that does not consist
25 of more than four dwelling units;

26 (B) loss of or damage to personal property, including
27 personal effects, household furniture, fixtures and equipment
28 located in not more than four dwelling units; or

29 (C) legal liability of natural persons for loss of,

1 damage to, or injury to, persons or property if the insurance
2 does not cover liability arising from or in connection with
3 business or commercial activities;

4 (5) [(3)] "renewal" or "renew" means

5 (A) the issuance and delivery by an insurer of a
6 policy replacing at the end of the policy period a policy previ-
7 ously issued and delivered by the same insurer,

8 (B) the issuance and delivery of a certificate or
9 notice extending the term of a policy beyond its policy period or
10 term, or

11 (C) the extension of the term of a policy beyond its
12 policy period or term under a provision for extending the policy
13 by payment of a continuation premium.

14 * Sec. 12. AS 21 is amended by adding a new chapter to read:

15 CHAPTER 76. JOINT INSURANCE ARRANGEMENTS.

16 Sec. 21.76.010. AUTHORITY TO ESTABLISH JOINT INSURANCE ARRANGE-
17 MENTS. (a) Municipalities, school districts, and regional educa-
18 tional attendance areas may enter into cooperative agreements with
19 each other for the purpose of establishing, operating, or participat-
20 ing in joint insurance arrangements through which the participating
21 members agree to pool contributions and

22 (1) assume risks from losses on a group basis; or

23 (2) purchase coverage on a group basis.

24 (b) A joint insurance arrangement under (a)(1) of this section
25 may be only for property insurance.

26 (c) A joint insurance arrangement under (a)(2) of this section
27 may be for any kind of insurance defined by this title except for

28 (1) life, annuity, disability, and title insurance; and

29 (2) surety.

1 (d) A joint insurance arrangement shall be considered an alter-
2 native or supplement to any other policy or contract of insurance
3 authorized or required by law, including insurance under AS 21.75.

4 Sec. 21.76.020. REGULATION BY DIVISION OF INSURANCE. A joint
5 insurance arrangement may not be considered insurance for the purpose
6 of any other law of the state and is not subject to regulations of the
7 director except as expressly provided in this chapter.

8 Sec. 21.76.030. GENERAL PROVISIONS OF COOPERATIVE AGREEMENTS. A
9 cooperative agreement shall provide for the proper operation of the
10 joint insurance arrangement, and include provisions for

11 (1) administration of the arrangement by a board of direc-
12 tors, specifying the number of members of the board and other require-
13 ments necessary for the proper functioning of the board;

14 (2) appointment of an administrator and other persons as
15 necessary for the proper functioning of the arrangement;

16 (3) organization of the arrangement, including a roster of
17 participating members and the names of the members of the board of
18 directors;

19 (4) procedures to establish and promote an aggressive risk
20 management and program among the members of the arrangement, including
21 procedures for identifying and reducing the risks that can be reduced
22 through implementing better safety technologies and improved work
23 techniques and procedures;

24 (5) enforcing the collection of contributions or payments
25 in default from members of the arrangement;

26 (6) the addition of new members to the arrangement or the
27 withdrawal of members from the arrangement;

28 (7) the method of apportioning costs and disposition of
29 excess contributions;

1 (8) transmission of financial statements and audit reports
2 of the arrangement to participating members;

3 (9) terminating the arrangement and disposing of its as-
4 sets; and

5 (10) establishing and administering a joint insurance fund.

6 Sec. 21.76.040. FINANCIAL PROVISIONS OF AGREEMENTS. (a) A
7 cooperative agreement must include a provision requiring an annual
8 determination by a casualty actuary who is a member of the American
9 Academy of Actuaries that procedures for establishing reserves for
10 losses of the joint insurance arrangement are actuarially sound.

11 (b) A joint insurance arrangement shall be subject to an annual
12 independent audit. The audit shall be conducted in accordance with
13 generally accepted auditing standards and must include a review of the
14 actuarial assumptions used for establishing the reserves under (a) of
15 this section. The audit report must include certification from a
16 casualty actuary who is a member of the American Academy of Actuaries
17 that the actuarial assumptions continue to be sound and the level of
18 the reserves are adequate.

19 (c) A joint insurance arrangement shall use a method of account-
20 ing that conforms with generally accepted government accounting prin-
21 ciples.

22 Sec. 21.76.050. CONTRACTING WITH PRIVATE ADMINISTRATORS. A
23 cooperative agreement may authorize the board of directors to enter
24 into contracts for services necessary to perform the functions of a
25 joint insurance arrangement. The person contracting to perform the
26 functions must be appropriately licensed under this title if this
27 title so requires.

28 Sec. 21.76.060. DELEGATION OF POWER TO SETTLE CLAIMS. A cooper-
29 ative agreement may delegate to the board of directors, or authorize

1 delegation by the board to another person or group, the power to
2 compromise, arbitrate, or otherwise settle claims on behalf of the
3 arrangement.

4 Sec. 21.76.070. EXCESS INSURANCE. A cooperative agreement may
5 authorize the board of directors to purchase excess or catastrophic
6 insurance on behalf of the joint insurance arrangement. The cost of
7 the insurance shall be apportioned in the manner specified in the
8 joint insurance agreement. The board may purchase insurance under
9 this section only from an insurer authorized to do business in the
10 state or from an unauthorized insurer if the insurance is placed
11 through a licensed surplus lines broker.

12 Sec. 21.76.080. JOINT INSURANCE FUND. (a) A joint insurance
13 arrangement shall establish a joint insurance fund. The fund consists
14 of money

15 (1) contributed by members of the joint insurance arrange-
16 ment through budgetary appropriations or transfers from a self-insur-
17 ance reserve; and

18 (2) collected by the joint insurance arrangement through
19 subrogation of a claim paid from the fund to a member of the arrange-
20 ment.

21 (b) An expenditure may be made from a joint insurance fund only
22 to pay claims, losses, or benefits, including interest on them, and
23 the administrative and adjustment expenses incurred in connection with
24 them, involving the types of protection for which the fund provides
25 coverage as specified in the joint insurance agreement.

26 (c) The administrator shall keep the fund separate from other
27 funds of a member of a joint insurance arrangement.

28 (d) For each type of protection offered by the joint insurance
29 arrangement, the method of accounting must show the order, source,

1 date, and amount of each payment from the fund.

2 (e) Within 60 days of the end of the fiscal year, the adminis-
3 trator shall furnish a detailed report of the operation and condition
4 of the fund to the board of directors and the director of insurance.
5 The report furnished to the director of insurance shall be available
6 for public inspection.

7 (f) Money held by a fund as reserves and money not needed for
8 daily operations may be invested by the board of directors.

9 (g) A fund may not be terminated unless the administrator certi-
10 fies that an amount of money sufficient to pay accrued and contingent
11 expenditures has been placed in a fully collateralized escrow account.

12 Sec. 21.76.090. FILING OF AGREEMENT. The board of directors
13 shall file a copy of the cooperative agreement with the director of
14 insurance at least 60 days before the effective date of the agreement.
15 The agreement shall be available for public inspection.

16 Sec. 21.76.100. REGULATIONS. A cooperative agreement may au-
17 thorize the board of directors to adopt regulations not inconsistent
18 with law for the fair and equitable administration of the joint insur-
19 ance arrangement and the joint insurance fund.

20 Sec. 21.76.110. SUBROGATION. A joint insurance arrangement has
21 a cause of action for reimbursement of money paid to a participating
22 member for a loss or injury if the participating member recovers money
23 for the loss or injury from a third party. The joint insurance ar-
24 rangement also has a direct cause of action for reimbursement against
25 a third party responsible for loss or injuries sustained by a partic-
26 ipating member if the joint arrangement has paid money to the partic-
27 ipating member for the loss or injuries.

28 Sec. 21.76.900. DEFINITIONS. In this chapter

29 (1) "adjustment expenses" means expenses for investigative.

1 processing, legal, actuarial, arbitration, and settlement services
2 incurred in the adjustment of losses, claims, or benefits;

3 (2) "administrator" means a person or group appointed by
4 the board of directors to administer a joint insurance arrangement or
5 a joint insurance fund;

6 (3) "board" or "board of directors" means the board of
7 directors provided for in a cooperative agreement;

8 (4) "cooperative agreement" means a written agreement
9 entered into by two or more entities described in AS 21.76.010 for the
10 purpose of establishing, operating, or participating in a joint insur-
11 ance arrangement;

12 (5) "fund" or "joint insurance fund" means a fund estab-
13 lished under AS 21.76.080;

14 (6) "joint insurance arrangement" means a joint insurance
15 arrangement authorized under AS 21.76.010.

16 * Sec. 13. AS 21.39.155(a) is amended to read:

17 (a) The director may require carriers, except a reciprocal
18 insurer formed by and insuring only a group of municipalities or
19 nonprofit public utilities under AS 21.75 or a joint insurance ar-
20 angement formed under AS 21.76, as a condition of writing a line of
21 insurance dealing with workers' compensation, to participate in an
22 assigned risk pool if the director finds that mandatory carrier part-
23 icipation is in the public interest.

24 * Sec. 14. AS 21.80.180(5) is amended to read:

25 (5) "insolvent insurer" means an insurer

26 (A) authorized to transact insurance in this state,
27 except an assessable reciprocal insurer formed by and insuring
28 only municipalities or nonprofit public utilities, a joint insur-
29 ance arrangement formed under AS 21.76, the Medical Indemnity

1 Corporation of Alaska, and the Health Care Providers Joint Under-
2 writing Association established under AS 21.88, either at the
3 time the policy was issued or when the insured event occurred,
4 and

5 (B) determined to be insolvent by a court of compe-
6 tent jurisdiction;

7 * Sec. 15. AS 21.80.180(6) is amended to read:

8 (6) "member insurer" means a person, except an assessable
9 reciprocal insurer formed by and insuring only municipalities or
10 nonprofit public utilities, a joint insurance arrangement formed under
11 AS 21.76, the Medical Indemnity Corporation of Alaska, and the Health
12 Care Providers Joint Underwriting Association established under
13 AS 21.88, who

14 (A) writes any kind of insurance to which this chap-
15 ter applies under AS 21.80.020 including the exchange of recipro-
16 cal or interinsurance contracts, and

17 (B) is licensed to transact insurance in this state;

18 * Sec. 16. AS 21.36.210(e), 21.36.230, and 21.36.300 are repealed.

19 * Sec. 17. This Act takes effect immediately in accordance with AS 01.-
20 10.070(c).
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Introduced: 2/13/86
Referred: Labor and Commerce
and Finance

1 IN THE SENATE

BY JOSEPHSON

2 SENATE BILL NO. 404

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to insurance; authorizing joint
7 insurance arrangements; repealing a prohibition
8 against certain types of group insurance; and provid-
9 ing for an effective date."

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

11 * Section 1. AS 21 is amended by adding a new chapter to read:

12 CHAPTER 76. JOINT INSURANCE ARRANGEMENTS.

13 Sec. 21.76.010. AUTHORITY TO ESTABLISH JOINT INSURANCE ARRANGE-
14 MENTS. (a) Municipalities, school districts, and regional educa-
15 tional attendance areas may enter into cooperative agreements with
16 each other for the purpose of establishing, operating, or participat-
17 ing in joint insurance arrangements through which the participating
18 members agree to pool contributions and

19 (1) assume risks from losses on a group basis; or

20 (2) purchase coverage on a group basis.

21 (b) A joint insurance arrangement may be for any kind of insur-
22 ance defined by this title except for

23 (1) life, annuity, disability, and title insurance; and

24 (2) surety.

25 (c) A joint insurance arrangement shall be considered an alter-
26 native or supplement to any other policy or contract of insurance
27 authorized or required by law, including insurance under AS 21.75.

28 Sec. 21.76.020. REGULATION BY DIVISION OF INSURANCE. A joint
29 insurance arrangement may not be considered insurance for the purpose
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1 of any other law of the state and is not subject to regulations of the
2 director except as expressly provided in this chapter.

3 Sec. 21.76.030. GENERAL PROVISIONS OF COOPERATIVE AGREEMENTS. A
4 cooperative agreement shall provide for the proper operation of the
5 joint insurance arrangement, and include provisions for

6 (1) administration of the arrangement by a board of direc-
7 tors, specifying the number of members of the board and other require-
8 ments necessary for the proper functioning of the board;

9 (2) appointment of an administrator and other persons as
10 necessary for the proper functioning of the arrangement;

11 (3) organization of the arrangement, including a roster of
12 participating members and the names of the members of the board of
13 directors;

14 (4) procedures to establish and promote an aggressive risk
15 management and program among the members of the arrangement, including
16 procedures for identifying and reducing the risks that can be reduced
17 through implementing better safety technologies and improved work
18 techniques and procedures;

19 (5) enforcing the collection of contributions or payments
20 in default from members of the arrangement;

21 (6) the addition of new members to the arrangement or the
22 withdrawal of members from the arrangement;

23 (7) the method of apportioning costs and disposition of
24 excess contributions;

25 (8) transmission of financial statements and audit reports
26 of the arrangement to participating members;

27 (9) terminating the arrangement and disposing of its as-
28 sets; and

29 (10) establishing and administering a joint insurance fund.

1 Sec. 21.76.040. FINANCIAL PROVISIONS OF AGREEMENTS. (a) A
2 cooperative agreement must include a provision requiring an annual
3 determination by a casualty actuary who is a member of the American
4 Academy of Actuaries that procedures for establishing reserves for
5 losses of the joint insurance arrangement are actuarially sound.

6 (b) A joint insurance arrangement shall be subject to an annual
7 independent audit. The audit shall be conducted in accordance with
8 generally accepted auditing standards and must include a review of the
9 actuarial assumptions used for establishing the reserves under (a) of
10 this section. The audit report must include certification from a
11 casualty actuary who is a member of the American Academy of Actuaries
12 that the actuarial assumptions continue to be sound and the level of
13 the reserves are adequate.

14 (c) A joint insurance arrangement shall use a method of account-
15 ing that conforms with generally accepted government accounting prin-
16 ciples.

17 Sec. 21.76.050. CONTRACTING WITH PRIVATE ADMINISTRATORS. A
18 cooperative agreement may authorize the board of directors to enter
19 into contracts for services necessary to perform the functions of a
20 joint insurance arrangement. The person contracting to perform the
21 functions must be appropriately licensed under this title if this
22 title so requires.

23 Sec. 21.76.060. DELEGATION OF POWER TO SETTLE CLAIMS. A cooper-
24 ative agreement may delegate to the board of directors, or authorize
25 delegation by the board to another person or group, the power to
26 compromise, arbitrate, or otherwise settle claims on behalf of the
27 arrangement.

28 Sec. 21.76.070. EXCESS INSURANCE. A cooperative agreement may
29 authorize the board of directors to purchase excess or catastrophic

1 insurance on behalf of the joint insurance arrangement. The cost of
2 the insurance shall be apportioned in the manner specified in the
3 joint insurance agreement. The board may purchase insurance under
4 this section only from an insurer authorized to do business in the
5 state or from an unauthorized insurer if the insurance is placed
6 through a licensed surplus lines broker.

7 Sec. 21.76.080. JOINT INSURANCE FUND. (a) A joint insurance
8 arrangement shall establish a joint insurance fund. The fund consists
9 of money

10 (1) contributed by members of the joint insurance arrange-
11 ment through budgetary appropriations or transfers from a self-
12 insurance reserve; and

13 (2) collected by the joint insurance arrangement through
14 subrogation of a claim paid from the fund to a member of the arrange-
15 ment.

16 (b) An expenditure may be made from a joint insurance fund only
17 to pay claims, losses, or benefits, including interest on them, and
18 the administrative and adjustment expenses incurred in connection with
19 them, involving the types of protection for which the fund provides
20 coverage as specified in the joint insurance agreement.

21 (c) The administrator shall keep the fund separate from other
22 funds of a member of a joint insurance arrangement.

23 (d) For each type of protection offered by the joint insurance
24 arrangement, the method of accounting must show the order, source,
25 date, and amount of each payment from the fund.

26 (e) Within 60 days of the end of the fiscal year, the adminis-
27 trator shall furnish a detailed report of the operation and condition
28 of the fund to the board of directors and the director of insurance.
29 The report furnished to the director of insurance shall be available

1 for public inspection.

2 (f) Money held by a fund as reserves and money not needed for
3 daily operations may be invested by the board of directors.

4 (g) A fund may not be terminated unless the administrator certi-
5 fies that an amount of money sufficient to pay accrued and contingent
6 expenditures has been placed in a fully collateralized escrow account.

7 Sec. 21.76.090. FILING OF AGREEMENT. The board of directors
8 shall file a copy of the cooperative agreement with the director of
9 insurance at least 60 days before the effective date of the agreement.
10 The agreement shall be available for public inspection.

11 Sec. 21.76.100. REGULATIONS. A cooperative agreement may au-
12 thorize the board of directors to adopt regulations not inconsistent
13 with law for the fair and equitable administration of the joint insur-
14 ance arrangement and the joint insurance fund.

15 Sec. 21.76.110. SUBROGATION. A joint insurance arrangement has
16 a cause of action for reimbursement of money paid to a participating
17 member for a loss or injury if the participating member recovers money
18 for the loss or injury from a third party. The joint insurance
19 arrangement also has a direct cause of action for reimbursement
20 against a third party responsible for loss or injuries sustained by a
21 participating member if the joint arrangement has paid money to the
22 participating member for the loss or injuries.

23 Sec. 21.76.900. DEFINITIONS. In this chapter

24 (1) "adjustment expenses" means expenses for investigative,
25 processing, legal, actuarial, arbitration, and settlement services
26 incurred in the adjustment of losses, claims, or benefits;

27 (2) "administrator" means a person or group appointed by
28 the board of directors to administer a joint insurance arrangement or
29 a joint insurance fund;

1 (3) "board" or "board of directors" means the board of
2 directors provided for in a cooperative agreement;

3 (4) "cooperative agreement" means a written agreement
4 entered into by two or more entities described in AS 21.76.010 for the
5 purpose of establishing, operating, or participating in a joint insur-
6 ance arrangement;

7 (5) "fund" or "joint insurance fund" means a fund estab-
8 lished under AS 21.76.080;

9 (6) "joint insurance arrangement" means a joint insurance
10 arrangement authorized under AS 21.76.010.

11 * Sec. 2. AS 21.39.155(a) is amended to read:

12 (a) The director may require carriers, except a reciprocal
13 insurer formed by and insuring only a group of municipalities or
14 nonprofit public utilities under AS 21.75 or a joint insurance ar-
15 angement formed under AS 21.76, as a condition of writing a line of
16 insurance dealing with workers' compensation, to participate in an
17 assigned risk pool if the director finds that mandatory carrier part-
18 icipation is in the public interest.

19 * Sec. 3. AS 21.80.180(5) is amended to read:

20 (5) "insolvent insurer" means an insurer

21 (A) authorized to transact insurance in this state,
22 except an assessable reciprocal insurer formed by and insuring
23 only municipalities or nonprofit public utilities, a joint insur-
24 ance arrangement formed under AS 21.76, the Medical Indemnity
25 Corporation of Alaska, and the Health Care Providers Joint Under-
26 writing Association established under AS 21.88, either at the
27 time the policy was issued or when the insured event occurred,
28 and

29 (B) determined to be insolvent by a court of

1 competent jurisdiction;

2 * Sec. 4. AS 21.80.180(6) is amended to read:

3 (6) "member insurer" means a person, except an assessable
4 reciprocal insurer formed by and insuring only municipalities or
5 nonprofit public utilities, a joint insurance arrangement formed under
6 AS 21.76, the Medical Indemnity Corporation of Alaska, and the Health
7 Care Providers Joint Underwriting Association established under
8 AS 21.88, who

9 (A) writes any kind of insurance to which this chap-
10 ter applies under AS 21.80.020 including the exchange of recipro-
11 cal or interinsurance contracts, and

12 (B) is licensed to transact insurance in this state;

13 * Sec. 5. AS 21.36.190 is repealed.

14 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
15 10.070(c).
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ALASKA STATE LEGISLATURE

14th Legislature 2nd Session

SENATE BILL NO. 404

By JOSEPHSON

"An Act relating to insurance; authorizing joint insurance arrangements; repealing a prohibition against certain types of group insurance; and providing for an effective date."

Introduced in the Senate 2/13, 1986

HISTORY IN THE SENATE

19 86	Read first time and referred to Committee on										
2 1	Labor & Commerce and Finance										
3 18	Reported back with recommendation that <i>replace w/CS, new title of Intent. to pass to Finance.</i>										
	Read second time and										
	Read third time and										
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Excused	Excused										
	Reported correctly engrossed										
	Signed by President										
	Sent to House										

SECRETARY OF THE SENATE

HISTORY IN THE HOUSE

19	Read first time and referred to Committee on										
	Reported back with recommendation that										
	Read second time and										
	Read third time and										
	<table border="0"> <tr><td>PASS</td><td>Effective Date</td></tr> <tr><td>Yeas</td><td>Yeas</td></tr> <tr><td>Nays</td><td>Nays</td></tr> <tr><td>Absent</td><td>Absent</td></tr> <tr><td>Excused</td><td>Excused</td></tr> </table>	PASS	Effective Date	Yeas	Yeas	Nays	Nays	Absent	Absent	Excused	Excused
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PASS	Effective Date										
Yeas	Yeas										
Nays	Nays										
Absent	Absent										
Excused	Excused										
	Reported correctly engrossed										
	Signed by Speaker										
	Returned to Senate										

CHIEF CLERK OF THE HOUSE

HISTORY IN THE SENATE

19	Received from House
	To enrolling
	Reported correctly enrolled
	Sent to Governor
 by Governor
	Filed with Lt. Governor
	Chapter No.



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

March 21, 1986

The Honorable Jan Faiks
Co-Chair
Senate Finance Committee
P.O. Box V
Juneau, Alaska 99811

Dear Jan:

SB 404 was reported favorably by the Labor and Commerce Committee, and is my proposal to permit municipalities and school districts to enter into joint insurance arrangements.

The idea is simply to provide local governments with more "clout" when they seek insurance in the market place and to enter into joint arrangements that will help their risk management programs.

The Alaska Municipal League has strongly endorsed SB 404, and I know of no objectors. The comments of the Division of Insurance were favorable.

SB 404 entails no cost to the State, even administratively.

I would appreciate the scheduling of SB 404 before the Finance Committee. SB 404 is not offered as a major solution to any current insurance "crisis", but it would be helpful to these political subdivisions and school districts which are trying to get and keep coverage.

Thank you for any attention you are able to give this request.

With best wishes, I am

Sincerely,

A handwritten signature in cursive script, appearing to read "Joe P. Josephson".

Joe P. Josephson
State Senator

JPJ:rak

Enclosures: "Back-up" materials on SB 404

SB 404: "An Act relating to insurance, authorizing joint insurance arrangements, repealing a prohibition against certain types of group insurance, and providing for an effective date."

This legislation allows municipalities, school districts and Regional Educational Attendance Areas to establish joint insurance arrangements for group assumption of losses or group purchase of insurance coverage.

This bill effectively allows self insurance by groups of municipalities, school districts and Regional Educational Attendance Areas. This is probably a reasonable action provided the parties to the grouping are fully aware of the implications of that action, and the Division of Insurance has no regulatory responsibility for those groups.

Markets are currently available for workers' compensation, and group purchase is possible through a safety group. We view inclusion of workers' compensation in this bill as a reduction of the protections built into the system for the benefit of the injured worker. Insurer financial regulation, 100% backup by the Alaska Insurance Guaranty Act, rate regulation, and more accrue to assure that the insurer meets its obligations in a timely fashion. We believe that that action is unnecessary for workers' compensation insurance.

This bill repeals the fictitious group statute. That statute is intended to avoid unfairly discriminatory rates. We have no problem with removing the entities impacted by the joint insurance arrangement from that law, except for workers compensation, but the law should not be repealed.

We recommend that Section 5 on page 7, which repeals AS 21.36.190, be amended to read:

Add a new subsection to AS 21.36.190 to read:

(e) Except as provided in (d)(2)-(4) of this section, this section does not apply to coverage purchased through a joint insurance arrangement formed under AS 21.76.

Also on page 1, line 23, after "disability," insert the words "workers' compensation."



Loren H. Lounsbury
Loren H. Lounsbury, Commissioner
Department of Commerce & Economic
Development

Date: 3/07/86

John L. George
John L. George, Director of Insurance


Date: 3/6/86

Alaska MUNICIPAL League

TELEPHONE
(907) 586-1325

105 MUNICIPAL WAY, SUITE 301
JUNEAU, ALASKA 99801

To: Senator Fred F. Zharoff, Chairman
Members of Senate Labor and Commerce Committee

From: Scott A. Burgess, Executive Director 

Date: March 12, 1986

Subject: Legislation Addressing Insurance Pooling (SB404 and SB377)

The Alaska Municipal League, representing 116 direct member municipalities, strongly supports legislation that would enable municipalities to pool their insurance costs, and losses. Currently, municipal insurance pools, sponsored by state municipal leagues, are operating in 23 states. Never has any municipal insurance pool gone into default. Never has any municipal insurance pool been unable to pay a claim. All have been very successful.

Municipal insurance pooling lowers costs, and increases availability of insurance to municipalities. Pools offer municipalities a chance to pay premiums based solely upon loss history. In addition, municipalities in an insurance pool can recoup a portion of that premium through a year-end dividend payment, based upon their success at controlling losses. Under a pool, the availability of insurance to municipalities would no longer be subject to the cycles of the general insurance market.

If legislation allowing the formation of a municipal insurance pool were passed, the AML would most likely obtain reinsurance from the National League of Cities, which will begin offering reinsurance on May 1 of this year through a reinsurance pool supported by the 23 state municipal league pools currently in operation. In addition, several other reinsurance opportunities would be available to an Alaska Municipal League insurance pool, due to the success, and past performance, of the League's current insurance program. Though not a pool, the League currently sponsors a program which is providing insurance to over 75 municipalities and school districts in the State for worker's compensation, general liability, business auto, and errors and omissions coverage for law enforcement, public officials, and school board members.

Senator Fred F. Zharoff, Chairman
Members of Senate Labor and Commerce Committee
March 12, 1986
Page Two

Regarding SB 377, the Alaska Municipal League supports legislation that would increase availability and decrease costs of insurance for municipalities. In addition, the Alaska Municipal League encourages careful consideration by the Legislature of this and all insurance legislation affecting municipalities. Attached please find copies of a resolution and policy statement language adopted by the Alaska Municipal League during its annual conference November 16, 1985.

Thank you for your consideration of this important issue. If the League may be of further assistance in any way, please feel free to call.

SAB:TRS:phl

Attachments

PART III
PUBLIC SAFETY

A. FINANCIAL IMPACT

1. State Public Safety Responsibility: The League strongly urges the Legislature to provide full funding of the Department of Public Safety so that, at the very least, the current level of services Statewide can be maintained.

2. Detention Costs: The League recommends that costs associated with prisoner care and prisoner transportation be borne by the State. When a municipal police officer makes an arrest for a violation of a state law, the State should continue to assume the legal and financial responsibility for the prisoner as soon as the prisoner is incarcerated.

3. Financial Impact: The League supports full financial assistance for programs impacted by mandatory services, enforcement, referral or sentencing.

4. Public Defenders: The League recommends the State resume full financial responsibility for the Public Defender Agency.

B. TRAINING

The League urges the Legislature to assure that local full-time and volunteer police, fire, and emergency medical personnel throughout the State have access to adequate facilities and program resources for training. Further, the League endorses public fire education and arson investigation, Village Public Safety Officers, and the Police Standards Council. The League urges full funding of these programs.

C. COURT SYSTEM

1. Use of TV Capacity: The League encourages the court system to make maximum use of TV capacity and other cost saving techniques for arraignment, grand jury, and similar court functions to release the burden on highly trained, public safety personnel.

2. Judicial Presence: The League supports the funding of a judicial system that would assure the presence of sufficient judicial officers in each community in the State when the need arises.

3. Local Trials: The League recommends local felony trials if adequate facilities are available in the community where the offense occurred.

D. STATE ASSISTANCE

1. Emergency Management: The League supports full State and federal funding of civil defense and emergency preparedness activities.

2. Fire Fighting Equipment: The League supports full funding for basic fire fighting equipment which meets minimum Insurance Services Office (ISO) or State criteria for small Alaska cities and fire service districts.

3. Substance Abuse Counseling: The League encourages state funding of positions for counseling on drug and alcohol programs, particularly in conjunction with the existing juvenile probation system

4. Substance Abuse and Domestic Violence: The League recognizes the serious individual and public safety problems that exist in all communities in Alaska as a result of substance abuse and domestic violence. It supports the enforcement of the domestic violence sections of Title 25, Marital and Domestic Relations (AS 25.35.010-AS 25.35.060), in all parts of the State as a public safety priority.

E. HAZARDOUS MATERIALS REPORT

The League supports legislation which would require producers, shippers, distributors, and commercial and industrial users to submit to all affected municipal governments, the Standard Material Safety Data Sheet on all toxic material physical agents being shipped to or through, or stored, manufactured, utilized, produced as a by-product, or otherwise found at any time, on the property or rights-of-way of any enterprise or site within the municipal boundaries.

F. TORT REFORM

The League urges the Legislature to review tort reform and to work for a viable municipal insurance system.

RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE

RESOLUTION NO. 86-13

A RESOLUTION OF THE ALASKA MUNICIPAL LEAGUE
URGING THE STATE LEGISLATURE TO INVESTIGATE
TORT REFORM AND THE REASONS BEHIND THE
UNAVAILABILITY OF CERTAIN LINES OF INSURANCE.

WHEREAS, insurance rates have increased astronomically and this has caused businesses to close and has created a financial burden on taxpayers in Alaska, and

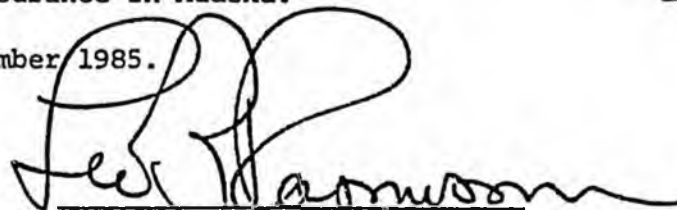
WHEREAS, municipal insurance rates have increased as much as 500% in some areas, and

WHEREAS, day care operators, air carriers, truckers, contractors, CHARR-affiliated businesses, doctors, and architects are in many cases unable to obtain any insurance, and

WHEREAS, the Alaska Municipal League feels strongly that an investigation into causes should be made and a solution to this problem must be found this year;


NOW, THEREFORE, BE IT RESOLVED by the Alaska Municipal League that the Office of the Governor and the Alaska State Legislature are urged to immediately pursue all avenues available to solve this problem and find a way to provide insurance in Alaska.

Adopted this 16th day of November 1985.



LEO B. RASMUSSEN, President

ATTEST:



SCOTT A. BURGESS, Executive Director

TESTIMONY

of

Scott A. Burgess
Executive Director
Alaska Municipal League

October 8, 1985

Testimony, presented on behalf of Alaska's municipalities, for the Governor's Special Task Force on Insurance

Commissioner Lounsbury, members of the task force:

The town of South Tucson, Arizona went bankrupt. A police officer in the town was accidentally shot in the back by his partner. The court awarded the officer damages thirty-six times the amount of liability insurance South Tucson was carrying, over \$1 million more than the city's entire annual budget.

If South Tucson was in Alaska, it would be among the five largest municipalities in the state. If South Tucson was in Alaska, they would still have gone bankrupt. Though several approaches to the problem experienced by South Tucson are being practiced in other parts of the country, none is being practiced here in Alaska.

The Alaska Municipal League certainly encourages the effort being made today, and we certainly encourage the task force to turn today's effort into relief for municipalities, and others experiencing insurance problems.

As far as municipalities go, the problem is pretty basic. Insurance companies consider them a high risk. When the market gets tight, it is insurance for municipalities that experiences the first premium increase, and, later, the first cancellations. It is not that municipalities are more negligent than anyone else that makes them a greater risk in the eyes of insurers, rather it is the court system's lessons to the public which teach citizens that for the greatest compensation, you sue whomever has the most money, the "deep-pocket" theory. In Alaska, the State is exempt(09.50.250), and that leaves municipalities as the target at the top for frivolous and marginal liability suits, with no restrictions on damages.

What can be done? There are several solutions, none of them the total answer, but all of them currently being used successfully somewhere in the U.S. First, there are statutory limits in other states on the fees of trial lawyers, which can dramatically reduce the final amount of liability awards.

Secondly, there are statutory restrictions on what, specifically, municipalities can, and can not, be held liable for.

Thirdly, Alaska could follow the lead of 28 states which have set reasonable dollar limits on liability judgments.

The fourth solution, is providing for "liability insurance pools" by statute. The State tried to address this in 1983, but fell a little short in my view. Because the League has an insurance program, I want to address this potential solution in greater detail.

A liability insurance pool is being used in several states to allow municipalities to create a pool of money to insure themselves through a representative entity such as the Alaska Municipal League. The entity, using the pooled premiums, pays first dollar coverage up to an agreed amount and buys any required excess insurance on their own. Each participant pays premiums into the pool, then, at the end of the year, receives back a dividend payment based on the premiums minus expenses and losses. Therefore, the ability of the members of the pool to reduce their losses, potentially, saves the municipalities, and their taxpayers, money in the future premiums they pay, and in the dividends they receive back.

While the League is still interested in the State sanctioning of a self-insured retention program or pool, minor amendments to the 1983 law providing for "reciprocals", may allow municipalities to help themselves to solve many of their insurance problems under Chapter 75., Reciprocal Insurers.

Alaska has in place the enabling Statutes, called "reciprocal insurance agreements", but the statutes set front-loading, financial requirements that could unnecessarily prevent such agreements from ever being formed, at least among municipalities.

There are two solutions to this problem, both of them within the scope of this task force. The first is legislation that would reduce the amount of capital required on deposit or in surplus by reciprocal insurers. That section, AS 21.75.050, needs some clarification regardless of the amount required. Even the experts in the insurance industry, as well as those within the State's Division of Insurance differ on what the language actually requires as a minimum surplus amount.

The second solution also involves legislation. That language would allow groups forming insurance pools to build up their surplus to the required level over some set period of time. That would permit the use of premiums to meet the State's surplus capital requirements. Without these changes, the only way such a program could get off the ground is through a one-time assessment against participants in the program, which could run as high as \$150,000 apiece. I can assure you, such a membership fee is a major deterrent to forming a reciprocal program under existing law.

The Alaska Municipal League has attempted to provide insurance for its municipal members, and to provide cost savings and some degree of stability to the participants by setting up the AML Insurance Program in April 1984. The League endorsed Frank B. Hall Company of Alaska to help the League set up the program. As of June of this year, the AML program has offered first dollar coverage for member municipalities from the Old Republic Insurance Company. Currently, 55 Alaska local government entities have signed up for coverage through AML.

Old Republic has a financial rating of A-15, and provides first dollar coverage on a basic Comprehensive General Liability policy form, up to \$500,000. Errors and omissions coverage is provided separately by Markel Service, Inc. for Law Enforcement and Public Officials and School Board Liability up to a limit of \$1 million. The AML program has topped \$3 million in premiums, and offers coverage for Workers Compensation, General Liability, Business Auto, Law Enforcement, Public Officials, and School Board.

The current AML program cannot provide municipalities with much stability, however. If Old Republic decides to stop providing coverage, which they can do at any time, the AML program comes to a screeching halt. The other major shortcomings of the our relatively young insurance program is our inability to provide first dollar coverage higher than \$500,000. That leaves a gap in coverage for most municipalities between \$500,000 and \$1 million, which is the lowest level at which they are able to purchase excess insurance coverage independently. Because the League's individually-participating, member municipalities are still subject to the current marketplace for first dollar coverage, the League program cannot offer the most stable, and lowest cost program to its members. The Board of Directors of the Alaska Municipal League believes a self-insured retention pool is the solution. If the League can accomplish the same result with revisions to the reciprocal insurer provisions of the Alaska Statutes, we would very much like to proceed in that direction.

The League appreciates the recognition of the insurance problems faced by the State, its political subdivisions, and others by the Governor and the members of this task force, and offers its assistance and support in finding solutions; those offered above and others. Thank you for your time.



National League of Cities
 1301 Pennsylvania Avenue NW
 Washington, D.C. 20004
 (202) 626-3000
 Cable: NLCMIES

Officers
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 George V. Vanovich
 Mayor, Cleveland, Ohio
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 Henry G. Cisneros
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 George Lalmer
 Mayor, St. Paul, Minnesota
 Executive Director
 Alan Beas

GROUP SELF-INSURANCE POOLS
 SPONSORED BY STATE MUNICIPAL LEAGUES

<u>State</u>	<u>Type of Risk Covered</u>				
	<u>Health & Accident</u>	<u>Workers Compensation</u>	<u>Liability</u>	<u>Unemployment Compensation</u>	<u>Property</u>
Alabama		X			
Arkansas	X	X	X		
Connecticut		X	(1)		
Florida	X	X	X		
Georgia		X			
Illinois		X	X		X
Iowa		X			
Kentucky		X		X	
Louisiana (3)		X	X		
Maine	X	X	(1)	X	
Massachusetts		X(2)			
Michigan		X	X	X	X
Minnesota	X	X	X		X
New Hampshire	X			X	
New Mexico		X			
North Carolina	X	X	(1)		
Oklahoma (3)	X	X	X		
South Carolina (3)	X	X			
Tennessee	X	X	X		
Texas		X	X		
Utah	X	(1)			X
Vermont		(1)		X	
Virginia		X			

- (1) Pool being developed (as of 8/85)
- (2) Fronted safety group program rather than pure pool
- (3) Not participating in NLC/RMPSP

Prepared by: National League of Cities
 December, 1985



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Letter of Intent for CSSB 404 (L&C)

It is the intent of the Senate Labor and Commerce Committee that the Division of Insurance urge both domestic and foreign insurance companies, conducting business in the state, to write insurance policy contracts in comprehensible, "layman's" language.

Introduced: 2/13/86
Referred: Labor and Commerce
and Finance

1 IN THE SENATE

BY JOSEPHSON

2

SENATE BILL NO. 404

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to insurance; authorizing joint insurance arrangements; repealing a prohibition against certain types of group insurance; and providing for an effective date."

7

8

9

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

11 * Section 1. AS 21 is amended by adding a new chapter to read:

12

CHAPTER 76. JOINT INSURANCE ARRANGEMENTS.

13

Sec. 21.76.010. AUTHORITY TO ESTABLISH JOINT INSURANCE ARRANGEMENTS. (a) Municipalities, school districts, and regional educational attendance areas may enter into cooperative agreements with each other for the purpose of establishing, operating, or participating in joint insurance arrangements through which the participating members agree to pool contributions and

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19

(1) assume risks from losses on a group basis; or

20

(2) purchase coverage on a group basis.

21

(b) A joint insurance arrangement may be for any kind of insurance defined by this title except for

22

23

(1) life, annuity, disability, and title insurance; and

24

(2) surety.

25

(c) A joint insurance arrangement shall be considered an alternative or supplement to any other policy or contract of insurance authorized or required by law, including insurance under AS 21.75.

26

27

28

Sec. 21.76.020. REGULATION BY DIVISION OF INSURANCE. A joint insurance arrangement may not be considered insurance for the purpose

29

1 of any other law of the state and is not subject to regulations of the
2 director except as expressly provided in this chapter.

3 Sec. 21.76.030. GENERAL PROVISIONS OF COOPERATIVE AGREEMENTS. A
4 cooperative agreement shall provide for the proper operation of the
5 joint insurance arrangement, and include provisions for

6 (1) administration of the arrangement by a board of direc-
7 tors, specifying the number of members of the board and other require-
8 ments necessary for the proper functioning of the board;

9 (2) appointment of an administrator and other persons as
10 necessary for the proper functioning of the arrangement;

11 (3) organization of the arrangement, including a roster of
12 participating members and the names of the members of the board of
13 directors;

14 (4) procedures to establish and promote an aggressive risk
15 management and program among the members of the arrangement, including
16 procedures for identifying and reducing the risks that can be reduced
17 through implementing better safety technologies and improved work
18 techniques and procedures;

19 (5) enforcing the collection of contributions or payments
20 in default from members of the arrangement;

21 (6) the addition of new members to the arrangement or the
22 withdrawal of members from the arrangement;

23 (7) the method of apportioning costs and disposition of
24 excess contributions;

25 (8) transmission of financial statements and audit reports
26 of the arrangement to participating members;

27 (9) terminating the arrangement and disposing of its as-
28 sets; and

29 (10) establishing and administering a joint insurance fund.

1 Sec. 21.76.040. FINANCIAL PROVISIONS OF AGREEMENTS. (a) A
2 cooperative agreement must include a provision requiring an annual
3 determination by a casualty actuary who is a member of the American
4 Academy of Actuaries that procedures for establishing reserves for
5 losses of the joint insurance arrangement are actuarially sound.

6 (b) A joint insurance arrangement shall be subject to an annual
7 independent audit. The audit shall be conducted in accordance with
8 generally accepted auditing standards and must include a review of the
9 actuarial assumptions used for establishing the reserves under (a) of
10 this section. The audit report must include certification from a
11 casualty actuary who is a member of the American Academy of Actuaries
12 that the actuarial assumptions continue to be sound and the level of
13 the reserves are adequate.

14 (c) A joint insurance arrangement shall use a method of account-
15 ing that conforms with generally accepted government accounting prin-
16 ciples.

17 Sec. 21.76.050. CONTRACTING WITH PRIVATE ADMINISTRATORS. A
18 cooperative agreement may authorize the board of directors to enter
19 into contracts for services necessary to perform the functions of a
20 joint insurance arrangement. The person contracting to perform the
21 functions must be appropriately licensed under this title if this
22 title so requires.

23 Sec. 21.76.060. DELEGATION OF POWER TO SETTLE CLAIMS. A cooper-
24 ative agreement may delegate to the board of directors, or authorize
25 delegation by the board to another person or group, the power to
26 compromise, arbitrate, or otherwise settle claims on behalf of the
27 arrangement.

28 Sec. 21.76.070. EXCESS INSURANCE. A cooperative agreement may
29 authorize the board of directors to purchase excess or catastrophic

1 insurance on behalf of the joint insurance arrangement. The cost of
2 the insurance shall be apportioned in the manner specified in the
3 joint insurance agreement. The board may purchase insurance under
4 this section only from an insurer authorized to do business in the
5 state or from an unauthorized insurer if the insurance is placed
6 through a licensed surplus lines broker.

7 Sec. 21.76.080. JOINT INSURANCE FUND. (a) A joint insurance
8 arrangement shall establish a joint insurance fund. The fund consists
9 of money

10 (1) contributed by members of the joint insurance arrange-
11 ment through budgetary appropriations or transfers from a self-
12 insurance reserve; and

13 (2) collected by the joint insurance arrangement through
14 subrogation of a claim paid from the fund to a member of the arrange-
15 ment.

16 (b) An expenditure may be made from a joint insurance fund only
17 to pay claims, losses, or benefits, including interest on them, and
18 the administrative and adjustment expenses incurred in connection with
19 them, involving the types of protection for which the fund provides
20 coverage as specified in the joint insurance agreement.

21 (c) The administrator shall keep the fund separate from other
22 funds of a member of a joint insurance arrangement.

23 (d) For each type of protection offered by the joint insurance
24 arrangement, the method of accounting must show the order, source,
25 date, and amount of each payment from the fund.

26 (e) Within 60 days of the end of the fiscal year, the adminis-
27 trator shall furnish a detailed report of the operation and condition
28 of the fund to the board of directors and the director of insurance.
29 The report furnished to the director of insurance shall be available

1 for public inspection.

2 (f) Money held by a fund as reserves and money not needed for
3 daily operations may be invested by the board of directors.

4 (g) A fund may not be terminated unless the administrator certi-
5 fies that an amount of money sufficient to pay accrued and contingent
6 expenditures has been placed in a fully collateralized escrow account.

7 Sec. 21.76.090. FILING OF AGREEMENT. The board of directors
8 shall file a copy of the cooperative agreement with the director of
9 insurance at least 60 days before the effective date of the agreement.
10 The agreement shall be available for public inspection.

11 Sec. 21.76.100. REGULATIONS. A cooperative agreement may au-
12 thorize the board of directors to adopt regulations not inconsistent
13 with law for the fair and equitable administration of the joint insur-
14 ance arrangement and the joint insurance fund.

15 Sec. 21.76.110. SUBROGATION. A joint insurance arrangement has
16 a cause of action for reimbursement of money paid to a participating
17 member for a loss or injury if the participating member recovers money
18 for the loss or injury from a third party. The joint insurance
19 arrangement also has a direct cause of action for reimbursement
20 against a third party responsible for loss or injuries sustained by a
21 participating member if the joint arrangement has paid money to the
22 participating member for the loss or injuries.

23 Sec. 21.76.900. DEFINITIONS. In this chapter

24 (1) "adjustment expenses" means expenses for investigative,
25 processing, legal, actuarial, arbitration, and settlement services
26 incurred in the adjustment of losses, claims, or benefits;

27 (2) "administrator" means a person or group appointed by
28 the board of directors to administer a joint insurance arrangement or
29 a joint insurance fund;

1 (3) "board" or "board of directors" means the board of
2 directors provided for in a cooperative agreement;

3 (4) "cooperative agreement" means a written agreement
4 entered into by two or more entities described in AS 21.76.010 for the
5 purpose of establishing, operating, or participating in a joint insur-
6 ance arrangement;

7 (5) "fund" or "joint insurance fund" means a fund estab-
8 lished under AS 21.76.080;

9 (6) "joint insurance arrangement" means a joint insurance
10 arrangement authorized under AS 21.76.010.

11 * Sec. 2. AS 21.39.155(a) is amended to read:

12 (a) The director may require carriers, except a reciprocal
13 insurer formed by and insuring only a group of municipalities or
14 nonprofit public utilities under AS 21.75 or a joint insurance ar-
15 angement formed under AS 21.76, as a condition of writing a line of
16 insurance dealing with workers' compensation, to participate in an
17 assigned risk pool if the director finds that mandatory carrier part-
18 icipation is in the public interest.

19 * Sec. 3. AS 21.80.180(5) is amended to read:

20 (5) "insolvent insurer" means an insurer

21 (A) authorized to transact insurance in this state,
22 except an assessable reciprocal insurer formed by and insuring
23 only municipalities or nonprofit public utilities, a joint insur-
24 ance arrangement formed under AS 21.76, the Medical Indemnity
25 Corporation of Alaska, and the Health Care Providers Joint Under-
26 writing Association established under AS 21.88, either at the
27 time the policy was issued or when the insured event occurred,
28 and

29 (B) determined to be insolvent by a court of

1 competent jurisdiction;

2 * Sec. 4. AS 21.80.180(6) is amended to read:

3 (6) "member insurer" means a person, except an assessable
4 reciprocal insurer formed by and insuring only municipalities or
5 nonprofit public utilities, a joint insurance arrangement formed under
6 AS 21.76, the Medical Indemnity Corporation of Alaska, and the Health
7 Care Providers Joint Underwriting Association established under
8 AS 21.88, who

9 (A) writes any kind of insurance to which this chap-
10 ter applies under AS 21.80.020 including the exchange of recipro-
11 cal or interinsurance contracts, and

12 (B) is licensed to transact insurance in this state;

13 * Sec. 5. AS 21.36.190 is repealed.

14 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
15 10.070(c).

Offered: 3/18/86
Referred: Finance

Original sponsor: Josephson

1 IN THE SENATE

BY THE LABOR AND
COMMERCE COMMITTEE

2

CS FOR SENATE BILL NO. 404 (L&C)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to cancellation and nonrenewal of insurance; authorizing joint insurance arrangements; and providing for an effective date."

7

8

9

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

10

* Section 1. AS 21.36.190(d) is amended to read:

11

(d) This section does not apply to workers' compensation insurance when issued to an association of employers formed for purposes other than the purchase of insurance and that

12

13

14

(1) has a constitution and bylaws; the requirement of this paragraph does not apply to municipalities, school districts, and regional educational attendance areas;

15

16

17

(2) incorporates a safety program;

18

19

(3) as a group has preferred characteristics over similar risks written on an individual basis; and

20

21

(4) has filed and received approval from the director for the rating program to be applied to the group.

22

* Sec. 2. AS 21.36.190 is amended by adding a new subsection to read:

23

(e) The provisions of (a) and (b) of this section do not apply to coverage purchased through a joint insurance arrangement formed under AS 21.76.

24

25

26

* Sec. 3. AS 21.36.210(a) is amended to read:

27

(a) An insurer may not exercise its right to cancel a policy of personal [AN] automobile insurance [POLICY] except for the following reasons:

28

29

- 1 (1) nonpayment of premium; or
2 (2) the driver's license or motor vehicle registration of
3 either the named insured or of an operator who resides in the same
4 household as the named insured or who customarily operates a motor
5 vehicle insured under the policy has been under suspension or revoca-
6 tion during the policy period or, if the policy is a renewal, during
7 its policy period or the 180 days immediately preceding its effective
8 date.

9 * Sec. 4. AS 21.36.210(d) is amended to read:

10 (d) This section does not apply to

11 (1) the failure to renew a policy, except as to coverage in
12 force for less than 12 months;

13 (2) a policy that has been in effect less than 60 days at
14 the time notice of cancellation is mailed or delivered by the insurer,
15 unless it is a renewal policy;

16 (3) a policy issued under an automobile assigned risk plan
17 or automobile insurance plan;

18 (4) a policy insuring more than four motor vehicles;

19 (5) a policy covering the operation of a garage; automobile
20 sales agency, repair shop, or service station; or public parking
21 place;

22 (6) a policy providing insurance only on an excess basis;

23 (7) any other contract providing insurance to the named
24 insured, even though the contract may incidentally provide insurance
25 with respect to motor vehicles.

26 * Sec. 5. AS 21.36.210(f) is amended to read:

27 (f) An [NOTWITHSTANDING (e) OF THIS SECTION, AN] insurer may not
28 exercise its right to cancel a policy of personal insurance other than
29 personal automobile insurance, except for the following reasons [THE