

ALASKA LEGISLATURE COMMITTEE BILL FILES - 1987 - 1988 8879

SB 85

38

38

SB 85

SENATE COMMITTEE REPORT

FURTHER

3/10/88  
Mr. President:

DATE TURNED INTO OFFICE 4/7/88

Finance Committee considered SB 85

election campaign financing and the Alaska Public Offices Commission; efd

and recommended

[ ] replace with \_\_\_\_\_ CS \_\_\_\_\_ ) [ ] same title  
[  ] or adopt \_\_\_\_\_ CS SB 85 (SA) ) [  ] new title

[ ] attached amendment(s) and

[  ] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to \_\_\_\_\_

[ ] letter of intent adopted \_\_\_\_\_

Committee [  ] attached or [ ] adopted fiscal note(s)  
[ ] new [ ] updated or [  ] previous  
[  ] zero [ ] fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*Richard Hibel*  
*William H. ...*  
*John ...*  
*Paul ...*

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*Rich Hibel do pass*  
Chairman signature and recommendation

[ ] Committee Backup attached

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: CSSB 85 (SA)  
PUBLISH DATE: Senate 3/10/88

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Agency Affected: \_\_\_\_\_  
Title: "An Act relating to the powers and duties of the Alaska Public Offices Commission; efd" BRU: \_\_\_\_\_  
Sponsor: Abood Components: \_\_\_\_\_  
Requestor: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Senate State Affairs Committee Phone: 465-4522  
Division: \_\_\_\_\_ Date: \_\_\_\_\_  
Approved by Senator Mitch Abood  Date: 3/9/88  
Agency: Senate State Affairs Committee

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

Original sponsor: Abood

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR SENATE BILL NO. 85 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the power and duties of the  
7 Alaska Public Offices Commission; and providing for  
8 an effective date."

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

10 \* Section 1. AS 44.21 is amended by adding new sections to read:

11 ARTICLE 9. ALASKA PUBLIC OFFICES COMMISSION.

12 Sec. 44.21.450. ALASKA PUBLIC OFFICES COMMISSION. (a) There is  
13 created in the Department of Administration the Alaska Public Offices  
14 Commission consisting of five members. The governor shall appoint all  
15 members of the commission in the manner prescribed in (b) and (c) of  
16 this section, subject to confirmation by a majority of the legislature  
17 in joint session.

18 (b) The governor shall appoint two members of each of the two  
19 political parties whose candidate for governor received the highest  
20 number of votes in the most recent preceding general election at which  
21 a governor was elected. The two appointees from each of these two  
22 parties shall be chosen from a list of four names to be submitted by  
23 the central committee of each party.

24 (c) The four members selected under (b) of this section shall,  
25 by a majority vote, nominate to the governor an individual to serve as  
26 the fifth member of the commission. The governor shall either appoint  
27 the nominee to the commission, or shall reject the nominee and request  
28 the commission to nominate another individual to serve as the fifth  
29 member of the commission.

1 (d) The term of office for each member of the commission is five  
2 years and until a successor is appointed and qualifies. If a vacancy  
3 occurs before the expiration of a member's term, the member appointed  
4 to fill the vacancy serves for a full five-year term. A commission  
5 member may not serve more than one term.

6 (e) A member of the commission, during tenure, may not

7 (1) hold or campaign for elective office;

8 (2) be an officer of a political party, political commit-  
9 tee, or political group;

10 (3) permit the commissioner's name to be used, or make any  
11 contributions whatsoever, in support of or in opposition to a candi-  
12 date or proposition or question that appears on any ballot in the  
13 state including that of a municipality; however, contributions may be  
14 made to a candidate for the office of President of the United States;

15 (4) participate in an election campaign or participate in  
16 or contribute to a political party; or

17 (5) lobby or employ or assist a lobbyist.

18 (f) Members of the commission are entitled to receive compen-  
19 sation of \$50 a day while attending commission meetings and are enti-  
20 tled to travel expenses and per diem authorized by law under AS 39.-  
21 20.180.

22 (g) The members of the commission shall elect a chairman. A  
23 majority of the commission constitutes a quorum. The affirmative vote  
24 of at least three members is required to take official action. A  
25 vacancy does not impair the power of the remaining members to exercise  
26 the powers of the commission.

27 (h) The commission may employ an executive director and other  
28 employees it considers necessary. The executive director and an  
29 employee of the commission may not, during tenure,

1 (1) serve as a member of the commission;

2 (2) engage in an activity described in (e) of this section  
3 except as necessary to carry out the purposes of AS 44.21.450 - 44.-  
4 21.500.

5 (i) The commission shall establish a central office and shall  
6 establish or designate a commission office in each election district  
7 of the state for the filing and public inspection of the reports,  
8 registrations, or statements required to be filed with the commission.  
9 Only one commission office may be established or designated in a  
10 municipality that contains more than one election district. A dis-  
11 trict office designated under this subsection may be a municipal or  
12 other public office.

13 (j) The forms and material required for compliance with AS 15.13  
14 shall be made available in each commission office to candidates,  
15 persons, and groups required to file reports under AS 15.13.

16 (k) The commission shall promptly forward a copy of each report  
17 filed by a statewide candidate to each district office, and it shall  
18 promptly forward a copy of each report filed by a legislative candi-  
19 date to the district office in the election district where the candi-  
20 date is seeking office.

21 (1) The commission shall ensure that copies of each report filed  
22 by a candidate for municipal office are made available for public  
23 inspection in the municipality in which the candidate is seeking  
24 office.

25 Sec. 44.21.455. DUTIES OF THE COMMISSION. The commission shall

26 (1) develop and provide forms for the reports, registra-  
27 tions, and statements required under AS 15.13, AS 24.45, and AS 39.50;

28 (2) prepare and publish a manual setting out uniform meth-  
29 ods of bookkeeping and reporting for use by persons required to make

1 reports, registrations, and statements under AS 15.13 and otherwise  
2 assist candidates, groups, and individuals in complying with AS 15.13;  
3 (3) receive and hold open for public inspection reports,  
4 registrations, and statements required to be filed under AS 15.13 and,  
5 upon request, furnish copies to an interested person at cost;  
6 (4) compile and maintain a current list of each report,  
7 registration, and statement filed with the commission;  
8 (5) prepare a summary of each report, registration, or  
9 statement filed under AS 15.13 and make a copy of the summary avail-  
10 able to an interested person at cost;  
11 (6) notify, by registered or certified mail, all persons  
12 who are delinquent in filing a report or statement required under  
13 AS 15.13;  
14 (7) report to the office of the attorney general within 60  
15 days after each election the names of all persons and groups who have  
16 failed to comply with a provision of AS 15.13;  
17 (8) examine, investigate, and compare reports, statements,  
18 and actions required by AS 15.13, AS 24.45, and AS 39.50 and report to  
19 the attorney general the names of all persons or groups the commission  
20 has substantial reason to believe have violated AS 15.13, AS 24.45, or  
21 AS 39.50;  
22 (9) prepare and publish an annual report to the legislature  
23 concerning the activities of the commission; the effectiveness of  
24 AS 15.13, AS 24.45, AS 39.50, and AS 44.21.450 - 44.21.500; their  
25 enforcement by the attorney general's office; and recommendations and  
26 proposals for change; and  
27 (10) adopt regulations necessary to implement and clarify  
28 the provisions of and that are consistent with AS 15.13, AS 24.45, and  
29 AS 39.50, subject to the provisions of the Administrative Procedure

1 Act (AS 44.62).

2 Sec. 44.21.460. PRELIMINARY INVESTIGATIONS. (a) The commission  
3 shall investigate a violation of AS 15.13, AS 24.45, or AS 39.50 upon  
4 receiving a signed and sworn complaint from any person. Upon receipt  
5 of a properly signed and sworn complaint, the executive director shall  
6 immediately acknowledge receipt of the complaint to the complainant  
7 and to each person against whom the complaint was filed

8 (b) The executive director shall, within 10 working days after  
9 receiving the complaint under (a) of this section, determine whether  
10 the facts alleged, if true, would constitute a violation of AS 15.13,  
11 AS 24.45, or AS 39.50.

12 (c) The executive director may conduct a preliminary inves-  
13 tigation of a violation of AS 15.13, AS 24.45, or AS 39.50 that comes  
14 to the attention of the executive director in the normal course of  
15 business. The executive director shall immediately notify a person  
16 against whom the investigation is proceeding of the nature of the  
17 alleged violation.

18 (d) A person whose name is mentioned in a complaint or identi-  
19 fied during an investigation or at a hearing being conducted by the  
20 commission and who may have violated a provision of AS 15.13, AS 24.-  
21 45, or AS 39.50 shall be advised by the executive director of the  
22 information obtained by the commission. A person advised under this  
23 subsection may appear personally at the hearing and testify or may  
24 file a signed and sworn written statement of facts or other evidence  
25 for the record.

26 (e) If, after a preliminary investigation under (a) or (c) of  
27 this section, the commission determines that there is probable cause  
28 to believe that the person named in the complaint has committed a  
29 violation of AS 15.13, AS 24.45, or AS 39.50, the commission shall

1 commence violation proceedings by filing and serving an accusation on  
2 the person alleged to have committed the violation. The commission  
3 shall serve the accusation in the manner prescribed by court rules for  
4 serving a complaint in a civil action.

5 (f) If the commission terminates an investigation without filing  
6 an accusation, the commission shall, immediately after terminating the  
7 investigation, inform the complainant and each person against whom the  
8 complaint was filed of the information reviewed and that the commis-  
9 sion will not be taking further action concerning the complaint.

10 Sec. 44.21.465. HEARINGS. (a) A hearing shall be conducted if  
11 a respondent requests a hearing on a contested accusation or under  
12 AS 44.21.475. In the absence of a request, the commission in its  
13 discretion may decide to hold a hearing. A hearing under this section  
14 shall be conducted under AS 44.62.330 - 44.62.630 and shall be open to  
15 the public.

16 (b) When a hearing officer submits a proposed decision to the  
17 commission under AS 44.62.500, the respondent and commission staff  
18 may, within 10 working days after receipt of a copy of the proposed  
19 decision, submit written comments on the proposed decision to the  
20 commission. Before adopting the proposed decision the commission  
21 shall consider the written comments.

22 Sec. 44.21.470. IMPOSITION OF PENALTY. (a) The commission may  
23 impose the penalty provided by law for the violation only if the  
24 respondent, having been advised of the right to a hearing, admits or  
25 pleads no contest to the allegations contained in the accusation, or  
26 if the commission

27 (1) holds a hearing at which the respondent is afforded the  
28 right to appear, with or without counsel, the right to present wit-  
29 nesses or other evidence, and the right to cross examine witnesses;

1 and  
2 (2) following the hearing, determines by substantial evi-  
3 dence that the respondent has committed the violation of which the  
4 respondent was accused.  
5 (b) Except when there is no evidence of a wilful violation, the  
6 executive director of the commission may not formally or informally  
7 make a recommendation to the commission as to a particular penalty in  
8 a pending matter or make a commitment to the respondent to make a  
9 particular recommendation to the commission in the future until after  
10 the respondent has admitted or pleaded no contest to the accusation or  
11 until after a hearing and a final determination by the commission that  
12 the respondent has committed the acts charged in the accusation.  
13 (c) Before the executive director of the commission may make a  
14 recommendation to the commission for the imposition of a particular  
15 penalty in a matter, the respondent shall be given notice of the  
16 recommendation and afforded an opportunity to respond to the recom-  
17 mendation in person or in writing.  
18 (d) In imposing a penalty, the commission shall consider  
19 (1) the seriousness of the violation in terms of the extent  
20 to which the violation has impeded public disclosure of information  
21 required to be filed with the commission as to the amount and source  
22 of contributions; and  
23 (2) the extent to which the respondent's conduct, including  
24 prior violations of AS 15.13, AS 24.45, or AS 39.50 shows a continuing  
25 disregard for the law.  
26 Sec. 44.21.475. SUMMARY DISPOSITION OF VIOLATIONS. (a) Not-  
27 withstanding the provisions of AS 44.21.465 - 44.21.470, the commis-  
28 sion may establish by regulation the violations described in AS 15.13,  
29 AS 24.45, or AS 39.50 that are amenable to summary disposition without

1 formal accusation.

2 (b) If the commission discovers that a person has committed a  
3 violation that is amenable to summary disposition, the commission may,  
4 in lieu of serving an accusation on the person, mail a notice of fine  
5 to the person indicating the circumstances of the violation and the  
6 amount of the fine. The person to whom the notice is directed may pay  
7 the fine within 30 days after receiving the notice, file a notice of  
8 defense disputing the facts and requesting a hearing under AS 44.21.-  
9 465, or file an affidavit stating facts in mitigation of the amount of  
10 the fine.

11 (c) If the person does not properly respond under (b) of this  
12 section, the notice of fine constitutes an accusation and the commis-  
13 sion shall proceed against the person under AS 44.21.465 - 44.21.470.

14 (d) If the person files an affidavit stating facts in mitigation  
15 of the amount of the fine under (b) of this section, the commission  
16 shall hold a hearing limited to the amount of the fine. A hearing  
17 under this subsection shall be held in accordance with procedures  
18 adopted by regulation of the commission and is not subject to AS 44.-  
19 62.330 - 44.62.630.

20 Sec. 44.21.480. CONFIDENTIALITY. (a) A complaint, the commis-  
21 sion proceedings related to the complaint, and the records and infor-  
22 mation obtained by the commission during a preliminary investigation  
23 are confidential until a determination of probable cause has been made  
24 by the commission and an accusation is filed or a notice of fine is  
25 mailed under AS 44.21.475, unless the person alleged to be in vio-  
26 lation requests in writing that the proceedings be public. If the  
27 commission does not commence violation proceedings by filing an accu-  
28 sation or mailing a notice of fine, the complaint, the proceedings of  
29 the commission related to the complaint, and the records and

1 information obtained during the preliminary investigation remain  
2 confidential.

3 (b) A person, including a member or employee of the commission,  
4 may not disclose a matter made confidential under (a) of this section  
5 unless a court orders the disclosure or the disclosure is authorized  
6 under AS 44.21.460 - 44.21.500.

7 (c) A knowing violation of the provisions of this section is a  
8 class A misdemeanor.

9 Sec. 44.21.485. JUDICIAL REVIEW. Judicial review of a final  
10 order of the commission may be had by filing a notice of appeal under  
11 applicable rules of court governing appeals from administrative agen-  
12 cies.

13 Sec. 44.21.490. COMPELLING TESTIMONY; EXAMINATION OF RECORDS.

14 (a) In connection with an investigation or hearing involving a vio-  
15 lation of AS 15.13, AS 24.45, or AS 39.50, the commission may compel  
16 the attendance of witnesses and production of papers, books, records,  
17 accounts, documents, and testimony, and may have the depositions of  
18 witnesses taken in a manner prescribed by court rule or law for the  
19 taking of depositions in civil actions when consistent with the powers  
20 and duties assigned to the commission by law.

21 (b) The commission may examine the papers, books, records,  
22 accounts and documents of a person subject to AS 15.13, AS 24.45, or  
23 AS 39.50 to determine the correctness of a report filed with the  
24 commission or in conjunction with an investigation or inspection  
25 conducted under (a) of this section.

26 (c) Subpoenas may be issued and shall be served in the manner  
27 prescribed by AS 44.62.430 and court rule. The failure, refusal, or  
28 neglect to obey a subpoena is punishable as contempt in the manner  
29 prescribed by law or court rule. The superior court may compel

1 obedience to the commission's subpoena in the same manner as pre-  
2 scribed for obedience to a subpoena issued by the court.

3 Sec 44.21.500. DEFINITION. In AS 44.21.450 - 44.21.500 "commis-  
4 sion" means the Alaska Public Offices Commission.

5 \* Sec. 2. AS 24.45.021(a) is amended to read:

6 (a) This chapter shall be administered by the Alaska Public  
7 Offices Commission established [CREATED] under AS 44.21.450 [AS 15.-  
8 13.020(a)].

9 \* Sec. 3. AS 24.45.091 is amended to read:

10 Sec. 24.45.091. PUBLICATION OF REPORTS. Copies of the state-  
11 ments and reports filed under this chapter shall be made available to  
12 the public at the commission's central office, the office of the  
13 lieutenant governor, the legislative reference library of the Legisla-  
14 tive Affairs Agency, and at the commission's district offices [PRE-  
15 SCRIBED IN AS 15.13.020(j)] as soon as practicable after each re-  
16 porting period.

17 \* Sec. 4. AS 39.50.050(a) is amended to read:

18 (a) The Alaska Public Offices Commission established [CREATED]  
19 under AS 44.21.450 [AS 15.13.020(a)] shall administer the provisions  
20 of this chapter. The commission shall prepare and keep available for  
21 distribution, standardized forms on which the reports required by this  
22 chapter shall be filed.

23 \* Sec. 5. AS 39.50.200(a)(3) is amended to read:

24 (3) "commission" means the Alaska Public Offices Commis-  
25 sion established [CREATED] under AS 44.21.450 [AS 15.13.020(a)];

26 \* Sec. 6. AS 39.50.200(b) is repealed and reenacted to read:

27 (b) In this chapter "state commission or board" means the

28 (1) Agricultural Revolving Loan Fund Board (created admin-  
29 istratively to assist in administration of AS 03.10);

- 1                   (2) Alaska Coastal Policy Council members and their alter-
- 2                   nates (AS 44.19.155);
- 3                   (3) Alaska Commercial Fisheries Entry Commission (AS 16.-
- 4                   , 43.020);
- 5                   (4) Alaska Commission on Postsecondary Education (AS 14.-
- 6                   42.015);
- 7                   (5) Alaska Energy Center (AS 46.12);
- 8                   (6) Alaska Housing Finance Corporation (AS 18.56.010 -
- 9                   18.56.210);
- 10                  (7) Alaska Judicial Council (art. IV, sec. 8, Alaska Con-
- 11                  stitution);
- 12                  (8) Alaska Medical Facility Authority (AS 18.26.010 -
- 13                  18.26.900);
- 14                  (9) Alaska Municipal Bond Bank Authority (AS 44.85.020);
- 15                  (10) Alaska Oil and Gas Conservation Commission (AS 31.05.-
- 16                  005 - 31.05.170);
- 17                  (11) Alaska Power Authority public directors (AS 44.83.030);
- 18                  (12) Alaska Public Broadcasting Commission (AS 44.21.256);
- 19                  (13) Alaska Public Offices Commission, including the execu-
- 20                  tive director and professional staff of the commission (AS 44.21.450);
- 21                  (14) Alaska Public Utilities Commission (AS 42.05.010);
- 22                  (15) Alaska Resources Corporation (AS 37.12.010);
- 23                  (16) Alaska Royalty Oil and Gas Development Advisory Board
- 24                  (AS 38.06.020);
- 25                  (17) Alaska Seafood Marketing Institute (AS 16.51.010);
- 26                  (18) Alaska State Building Authority (AS 18.55.020);
- 27                  (19) Alaska State Council on the Arts (AS 44.27.040);
- 28                  (20) Alaska Teachers' Retirement Board (AS 14.25.035);
- 29                  (21) Alcoholic Beverage Control Board (AS 04.06.010);

- 1 (22) Board of Education (AS 14.07.075);  
2 (23) Board of Fisheries (AS 16.05.221(a));  
3 (24) Board of Game (AS 16.05.221(b));  
4 (25) Board of Parole (AS 33.16.020);  
5 (26) Board of Trustees and executive director of the Alaska  
6 Permanent Fund Corporation (AS 37.13.040);  
7 (27) Commission on Judicial Conduct (art. IV, sec. 10,  
8 Alaska Constitution);  
9 (28) Council on Domestic Violence and Sexual Assault  
10 (AS 18.66.010);  
11 (29) Employment Security Advisory Council (AS 23.20.025);  
12 (30) Fishermen's Fund Advisory and Appeals Council (AS 23.-  
13 35.010);  
14 (31) Governor's Commission on the Administration of Justice  
15 (AS 44.19.110);  
16 (32) Guide Board (AS 08.54.010);  
17 (33) Local Boundary Commission (AS 44.47.565);  
18 (34) Occupational Safety and Health Review Board (AS 18.60.-  
19 057);  
20 (35) Public Employees' Retirement Board (AS 39.35.030);  
21 (36) State Assessment Review Board (AS 43.56.040);  
22 (37) State Commission for Human Rights (AS 18.80.010);  
23 (38) State Personnel Board (AS 39.25.060);  
24 (39) University of Alaska Board of Regents (AS 14.40.120);  
25 (40) Workers' Compensation Board (AS 23.30.005).

26 \* Sec. 7. AS 15.13.020, 15.13.030, 15.13.045, and 15.13.120(d) are  
27 repealed.

28 \* Sec. 8. Alaska Public Office Commission members serving on the effec-  
29 tive date of this Act continue to serve out their terms as provided under

1 AS 15.13.020, repealed in sec. 7 of this Act. Vacancies occurring on or  
2 after the effective date of this Act shall be filled in accordance with  
3 AS 44.21.450 as enacted in sec. 1 of this Act.

4 \* Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

RECEIVED MAR 14 1988

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: CS SB 85 (State Affairs)

PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: 3/8/88  
 Title: "An Act Relating to the  
 Alaska Public Offices Commission"  
 Sponsor: Sen. Abood  
 Requestor: Senate State Affairs

Agency Affected: Alaska Public Offices Comm.  
 BRU: A.P.O.C.  
 Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	19.5	19.5	19.5	19.5	19.5
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	19.5	19.5	19.5	19.5	19.5

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

GENERAL FUND	0	19.5	19.5	19.5	19.5	19.5
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	19.5	19.5	19.5	19.5	19.5

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

see attachments

Prepared by: Karla Forsythe Executive Director Phone: 276 4176  
 Division: Alaska Public Offices Commission Date: 3/10/88

Approved by Commissioner: Daniel Patrick O'Tierney Chairman Date: 3/10/88  
 Agency: Alaska Public Offices Commission

Distribution (by preparer):

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



## CSSB 85 (State Affairs)

### Fiscal Analysis

Although many of the provisions contained in this measure would codify existing commission procedures, two sections would change current practice in ways which would create a fiscal impact for the agency.

Proposed Section 44.21.470(a) states that the commission may impose a penalty only if the respondent either admits or pleads no contest to allegations, or if the commission holds a hearing. This language has the effect of prohibiting the commission from settling a matter unless the terms of the settlement agreement contain an admission or a statement of no contest to factual allegations of wrongdoing.

In FY 87 the commission settled three matters. None of the settlement documents contain an admission or a plea of no contest; two of the documents expressly indicate that the respondent does not admit to the allegations. It is assumed for purposes of this fiscal note that these respondents would have chosen to proceed to hearing rather than to enter into a settlement which required an admission of wrongdoing or a statement of no contest.

Two of the settled matters involved simple factual allegations, and each hearing could have been concluded within one day. One of the matters involved more complex facts as well as a large number of respondents, and would have required a minimum of three hearing days. Costs for a hearing officer, witness fees and transcription total \$3000 per hearing day. Since it is difficult to quantify additional time spent by commission members in deliberation over these matters and additional staff time devoted to hearing preparation, these costs are not reflected in the fiscal note.

Proposed Section 44.21.475 will have a minor fiscal impact on the agency. This section provides that in matters amenable to summary disposition, the commission may follow less formal due process standards unless respondents wish to dispute the facts. In FY 87 150 matters subject to summary disposition were appealed to the commission. Of these, five matters appear to have involved factual disputes (focusing primarily on controverted facts about mailing of reports). Since these matters center on very simple facts, and it is unlikely that respondents will raise complicated issues through legal counsel, it is assumed that these five matters would have required a total of one and one-half days of hearings. Staff would endeavor to schedule these matters at one time to avoid any hearing officer costs attributable to five separate appearances at commission offices. Based on costs of \$3000 per day, one and one-half days of hearing would require an additional expenditure of \$4500 to fund the more formal due process procedures warranted when factual disputes arise.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

REQUEST: 2/12/87

Bill Version: SB 85

Publish Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
 Title: An Act relating to election campaign financing and the APOC  
 Sponsor: Senator MITCH ADOOD  
 Requestor: Senate State Affairs

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

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

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		172.8	172.8	172.8	172.8	172.8
TRAVEL		17.7	17.7	17.7	17.7	17.7
CONTRACTUAL		195.9	184.9	184.9	184.9	184.9
SUPPLIES		9.6	6.0	6.0	6.0	6.0
EQUIPMENT		13.2	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>409.2</b>	<b>381.4</b>	<b>381.4</b>	<b>381.4</b>	<b>381.4</b>

CAPITAL	0	0	0	0	0	0
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REVENUE	0	15.0	30.0	30.0	30.0	30.0
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND	0	409.2	381.4	381.4	381.4	381.4
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>0</b>	<b>409.2</b>	<b>381.4</b>	<b>381.4</b>	<b>381.4</b>	<b>381.4</b>

**POSITIONS:** 0 3 3 3 3 3

FULL-TIME		3	3	3	3	3
PART-TIME						
TEMPORARY						

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

Prepared by: Theda Pittman *Theda Pittman* Phone: 276-4176  
 Division: Alaska Public Offices Commission Date: 2/15/87

Approved by Commissioner: Garrey Peska *Garrey Peska* Date: 2-18-87  
 Agency: Dept. of Administration

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

*3/10/88*

*Called Brooke Miles  
 Re: SB 85  
 updated FN.  
 One is on the way.  
O-L-D*

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 85

This bill repeals the existing Campaign Disclosure Law, replacing it with a new chapter effective January 1, 1988. For the Commission, FY 88 would be particularly demanding, devoted to revising its regulations; establishing procedures to administer the new law; and publishing information for those active in the 1988 campaigns. The changes in the statutory requirements include a requirement that a quorum of the citizen Commission sit at each hearing, with or without a hearing officer, and include a complete revision of the violation provisions. Much work will have to be done quickly if the 1988 contributors, candidates, and groups are to be advised of their limitations, requirements and responsibilities. Development work will continue for the 1990 campaigns, to make necessary refinements based on the experiences of 1988.

A reasonable awareness of the new law will take 4-6 years to establish. The new procedures for handling violations will require long term changes in the way the Commission operates, but it is difficult to quantify those changes precisely. It is assumed for the purpose of this fiscal note that the FY 88 staffing and professional service levels requested will be sufficient for FY 89-92. The Commission's 1987 recommendations for statutory changes reflect the fact that its funding is insufficient to its existing tasks. For the purposes of this fiscal note, no reduction in Commission responsibilities in other areas can be assumed. Although new positions are requested, they are at low and modest salary ranges. No inflation factor is estimated. One-time equipment items are eliminated after FY 88.

Because the bill provides increased civil penalty powers, an increase in unrestricted General Fund revenue should be anticipated. However, successful assessments against 1988 campaigns will probably not be realized until late in FY 88, extending well into FY 89 due to the need to design and implement new procedures. In FY 86 the Commission collected \$32.6 in fines. The FY 87 estimate is \$25.0, with \$21.7 received to date. This fiscal note assumes the average increase per year would be \$30.0; some years will likely be higher and some lower because of the statewide-legislative-local campaign cycles. Experience will be needed to refine the estimate.

## 71000 - Personal Services

New PCN, Juneau, Associate Coordinator, Range 18A	49.1
1309, Juneau, Project Coordinator - Range 16: transfer to Anch.	0.0
1305, Juneau, Clerk III, Range 8A - 12 months	27.3
New PCN, Anchorage, Regulations Specialist II, Range 16	43.0
1306, Anchorage, Clerk IV, Range 9A - 11 months	26.3
Eliminate 6.4% vacancy factor	27.1
	<u>172.8</u>

The changes in Juneau staffing would have the effect of upgrading the existing position from range 16 to range 18 and would add a clerical person. At present the Juneau office receives many inquiries from state campaigns and officials who must file Conflict of Interest Statements; the new law would increase the number and complexity of those inquiries making it impossible to handle the

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 85

regular work of administering the Lobbying Law without a clerk.

The range 16 position now in Juneau would be transferred to Anchorage and a new Regulations Specialist II would be added. Additional staff months in Anchorage would be added to an existing Clerk IV. Eliminating the vacancy factor presently shown in the FY 88 request would assure that the Research Analyst II position actually worked year-round. This position is particularly important because it is largely devoted to assisting and auditing campaigns.

72000 - Travel	
Transportation for Commissioners	6.0
Per diem & honorarium	11.7
	17.7

The bill's prohibition against a matter being heard by a hearing officer alone and the new sanctions for violations will require additional meetings of the Commission. It is assumed the Commission would meet 12 times per year rather than six. Three days is allowed for each of the six additional meetings. This bill assumes the Commission members will continue to be volunteers who receive only a per day honorarium. The increased meeting schedule may require consideration of increased remuneration if commissioners with full-time jobs are to be able to serve.

73000 - Contractual Services	
Hearing Officers: \$75/hour; 40 hours/month on average	36.0
Depositions, Transcripts, subpoena costs	18.0
Information Dissemination on new requirements:	
Includes revised regulations as well as manuals and public information - design, layout, production, advertising	30.0
RSA Law - Attorney IV & 1/2 time Secretary	111.9
(11.0 = one time items)	195.9

74000 - Commodities	
Office Supplies & Materials	6.0
Software: Lotus/dBase III+/Multimate - 3 sets @ \$1.2 each	3.6
(3.6 = one-time items)	9.6

75000 - Equipment	
3 Compaq Deskpro Personal Computers w/peripherals	13.2
(13.2 = one-time items)	

	=====
TOTAL	\$409.2*

\* - Of the total, \$297.3 would go directly to the Commission; the remaining \$111.9 allows a Department of Law attorney time to develop procedures, assist in revising regulations, and handle the on-going violation proceedings.



Position Title <b>Regulations Specialist II</b>			No. of Positions 1	Range/Step 16/A	Barg. Unit X	Gov.	Approv.	Disapp.
Time Status F/T	Staff Months 12.0	RP Number	Location EBA	Election District	Leg.			
Type of Expenditure			Justification					
		Amount	<p>This position will be necessary to draft regulations and to assist campaigns in applying the new law to their activities. This position would provide the Commission with an intermediate level person, capable of responding to the complicated questions the new law will pose. Such a person will also assist in drafting responses to the many advisory opinion requests anticipated from campaigns.</p>					
1	2	3						
Salary	32,580							
Benefits	10,432							
Premium Pay								
Other								
Total Personal Services		43.0						
Travel		0						
Contractual		0						
Commodities		1.2						
Equipment		4.5						
Other								
Total Cost		48.7						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004		48.7					
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
For B&M Use Only								
Key Number								

**Request For  
New Position**

Agency Administration  
 BRU Alaska Public Offices Commission  
 Component Alaska Public Offices Commission

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 Revised Date

**FY 87**

Position Title Clerk III			No. of Positions	Range/Step 8/A	Barg. Unit	Gov.	Approv.	Disapp.
Time Status F/T	Staff Months 12.0	RP Number	Location ANA	Election District		Leg.		
Type of Expenditure			Justification					
		Amount	<p>Technically speaking this is not a new position. PCN 1305 has lost its funding due to budget cuts and the effects of inflation. The Juneau office has been left with 1 staff person who must answer questions and do all the routine work associated with 250 lobbyists and 250 employers. Without clerical assistance for the Lobbying Law, the Juneau office can not hope to assist the campaigns concerned about their requirements under the new law.</p>					
1	2	3						
Salary	19,668							
Benefits	7,591							
Premium Pay								
Other								
Total Personal Services		27.3						
Travel		0						
Contractual		0						
Commodities		1.2						
Equipment		4.5						
Other								
Total Cost		33.0						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004		33.0					
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
For B&M Use Only								
Key Number								

TOTAL P. 5

**Request For  
New Position**

Agency Administration  
 BRU Alaska Public Offices Commission  
 Component Alaska Public Offices Commission

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 Revised Date

**FY 87**

# Alaska State Legislature



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WHILE IN SESSION  
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Senator Mitch Abood  
SENATE DISTRICT G-A

CHAIRMAN  
STATE AFFAIRS  
MAJORITY WHIP  
MEMBER  
TRANSPORTATION  
COMMITTEE ON COMMITTEES  
LEGISLATIVE COUNCIL  
INTERNATIONAL TRADE

## SECTIONAL ANALYSIS AND NARRATIVE

FOR

CSSB 85 (SA), "An Act relating to the powers and duties of the Alaska Public Offices Commission, and providing for an effective date."

### Index of Sections

44.21.450	Alaska Public Offices Commission
44.21.455	Duties of the Commission
44.21.460	Preliminary Investigations
44.21.465	Hearings
44.21.470	Imposition of Penalty
44.21.475	Summary Disposition of Violations
44.21.480	Confidentiality
44.21.485	Judicial Review
44.21.490	Compelling Testimony; Examination of Records
44.21.495	Judicial Review
44.21.500	Definition
	Several conforming amendments
	Immediate effective date

\*\* Section 44.21.450. ALASKA PUBLIC OFFICES COMMISSION.

This section corrects a serious constitutional problem with the manner in which the commission chooses its fifth member. Article II, Section 26 of the Alaska Constitution requires all members of regulatory or quasi-judicial boards or commissions to be appointed by the Governor and confirmed by the legislature. However, since the commission was established in 1974, the four members have

chosen the commission's fifth member themselves, without appointment by the Governor or confirmation by the legislature. This section sets out a procedure for the appointment and confirmation of the fifth member; the selection of successors; and deletes obsolete material relating to the initial terms of members.

Subsection (h) is a new provision 1/ which holds commission staff to the same standard as commission members by prohibiting staff from engaging in political activity while they are employed by the APOC.

**\*\* Section 44.21.455. DUTIES OF THE COMMISSION.**

This section is identical to present law, AS 15.13.030, which describes the responsibilities of the commission to administer AS 15.13 (campaign disclosure), AS 24.45 (lobbying) and AS 39.50 (conflict of interest).

**\*\* Section 44.21.460. PRELIMINARY INVESTIGATIONS.**

Existing statutes governing APOC investigations are hopelessly confused and raise serious questions about the lack of constitutional due process afforded individuals who are subjected to APOC staff investigations.

Subsection (a) is similar to present regulation 2 AAC 50.450 (c)(1), which sets out a procedure for handling complaints which are properly filed and sworn. However, this subsection sets out a new requirement for the executive director to notify each person against whom a complaint is filed. The present APOC regulation only requires staff to acknowledge receipt of a complaint to the complainant but not to the respondent. Subsection (a) also sets out a new requirement that both parties be notified immediately.

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1/ The use of language such as "new provision" or "new requirement" means that similar language does not exist in present law.

Subsection (b) adds a new requirement for the executive director to make an initial determination whether a complaint sets out facts which, if true, would constitute a violation of the law, within 10 working days after first receiving the complaint, for purposes of notifying the complainant and the respondent.

Present APOC regulation 2 AAC 50.450 (c)(2), simply states that the staff must make this determination "promptly".

Subsection (c) provides that the staff may conduct a preliminary investigation of violations of the campaign disclosure, conflict of interest and lobbying laws on its own motion. Present APOC regulations (2 AAC 50.460 (a)(2), (b) and 2 AAC 50.450 (e)), which describe these procedures are poorly written and extremely confusing.

Subsection (c) also sets out a new requirement for an investigation which the staff begins on its own motion, that requires the executive director to immediately notify a person against whom a preliminary investigation is proceeding of the nature of the alleged violation. Present law and regulation do not require commission staff to notify a person that he or she is under investigation. It has happened in the past that individuals were not aware of the existence of an APOC investigation which involved them until after the staff terminated its investigation and made public charges in a report to the commission which recommended that action be taken against them.

Subsection (d) is a new provision which is modeled after similar provisions in Florida, Nebraska and Hawaii. The subsection provides that a person whose name is mentioned in a complaint or identified during an investigation or at a hearing as someone who may have violated AS 15.13, AS 24.45, or AS 39.50 shall be advised by the executive director of the information obtained by the commission. This person may appear personally and

testify at the hearing or may file a signed and sworn written statement of the facts or other evidence for incorporation into the record.

The intent of this subsection is to ensure that individuals who are identified as possible violators of the law, but who have not been formally made a party to an action, be allowed an opportunity to provide facts or other evidence so that an investigation or hearing can develop a full and fair record. This does not mean that everyone whose name merely comes up in a commission matter will be notified, as the APOC staff fears. It is hoped that professional staff will be able to distinguish between a casual, frivolous or malicious mention and the point at which the evidence raises a serious possibility that an individual may have violated the law.

Commission staff have also pointed to the Florida provision and argued that notification should be restricted to hearings only. While it is true that the Florida provision pertains to hearings, it is also true that the hearings in Florida are kept closed, while those in CSSB 85 (SA) are open to the public. The point being -- that an individual whose conduct is seen to rise to the level of possibly violating the law during proceedings which are confidential and hidden from public view, should be given the opportunity to incorporate his or her side of the story into the record, before being blind-sided by possibly damaging, defamatory and inaccurate staff accusations in a public hearing. This is precisely what has occurred to individuals in the past, and is the reason why the subsection was put in the bill.

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When staff concludes the preliminary investigation and submits their report, the commission deliberates. The purpose of this initial deliberation is to elicit evidence on the question of whether or not the complaint was filed on justifiable grounds.

Subsection (e) is a new provision and provides that when a preliminary investigation is ended and the commission makes a determination that there is probable

cause to believe that the person named in the complaint has committed a violation of AS 15.13 (campaign disclosure), AS 24.45 (conflict of interest) or AS 39.50 (lobbying), the commission will then commence violation proceedings by filing and serving an accusation on the person who is alleged to have committed the violation.

Subsection (f) is a new requirement which provides that if a preliminary investigation is terminated and the commission finds that no probable cause exists that the person named in the complaint has committed a violation, the commission shall immediately inform the complainant and each person against whom the complaint was filed, of the information which was reviewed and that the commission will not be taking further action concerning the complaint. The commission will then close the file.

**\*\* Section 44.21.465. HEARINGS.**

There is very little existing law governing the actual administrative procedures that the commission must follow in adjudicating violations and imposing penalties. In the absence of statutory provisions, the commission has filled the void with a large number of its own administrative regulations.

It is much better policy to include basic procedures in the law, rather than leaving such important matters to questionable regulations and staff interpretation.

Subsection (a) is new and provides that a hearing shall be conducted if a respondent requests a hearing on a contested accusation or under the conditions described in the "Summary Disposition of Violations". In the absence of a request, the commission in its discretion may decide to hold a hearing. The hearing shall be conducted under the provisions of the Administrative Procedures Act and will be open to the public.

Subsection (b) is a new requirement that when a

hearing officer submits a proposed decision to the commission, the respondent and the commission staff may, within 10 working days after receipt of a copy of the proposed decision, submit written comments on the proposed decision to the commission. This is to allow an opportunity for both sides to comment on the hearing officer's proposed decision. The commission is required to consider these written statements before adopting the hearing officer's decision.

\*\*\* Section 44.21.480 IMPOSITION OF PENALTY

This entire section contains new provisions and has no counterpart in existing law.

Subsection (a) provides that the commission may impose penalties only after a person has admitted or plead no contest to an accusation or after the commission holds a hearing at which certain due process rights have been afforded to the respondent, and at which the commission determines by substantial evidence that the person has actually committed the violation. Existing law does not address standards of proof in hearings before the commission.

Subsection (b) provides that in cases where there is evidence of a willful violation (emphasis added) of the law, the commission staff may not formally or informally make a recommendation to the commission members as to a particular penalty in a pending matter or make a commitment to the respondent to make a particular recommendation to the commission in the future until after the respondent has admitted or pleaded no contest to the accusation or until after a hearing and a final determination by the commission that the respondent has actually committed the acts charged in the accusation. This ban on plea bargaining by staff is restricted to instances where there is evidence of a flagrant, willful violation and does not in any way impair staff's ability to negotiate settlements in other cases.

Subsection (c) states that before the executive director may make a recommendation to the commission for the imposition of a particular penalty in a matter, the respondent must first be given notice of the recommendation and afforded an opportunity to respond to the recommendation in person or in writing.

Subsection (d) contains specific guidelines for the commission to follow in imposing penalties. This subsection provides that the higher penalties should be reserved for egregious conduct where the violation has impeded public disclosure of information as to the amount and source of contributions; and the extent to which the respondent's conduct, including prior violations of AS 15.13, AS 24.50, or AS 39.50 shows a disregard for the law.

The intent of this section is for the legislature to provide clear guidelines to the commission in exercising its discretionary "sentencing" authority, so that the law is the determining factor in the commission's imposition of penalties and not the staff's interpretation; It is also intended to provide some standards for judicial review of commission actions.

\*\*\* Section 44.21.485. SUMMARY DISPOSITION OF VIOLATIONS

This section authorizes the commission to establish by regulation the less serious violations that are amenable to summary disposition without formal accusation. This category of violations makes up the vast majority of the commission's business and involves such transgressions as inadvertent mistakes and the late filing of reports.

The intent of this section is to permit the commission to continue to deal with relatively minor violations in a summary fashion, without having to employ the more detailed procedures of the Administrative Procedures Act. The concept of the "summary disposition of violations" by means of a schedule of fines, is modeled after the "mail-in-bail" provisions of the Motor Vehicle Code (AS 28).

Subsection (b) states that a notice of fine may be mailed to the person who is alleged to have committed a summary violation which indicates the circumstance of the violation and the amount of the fine. The person may then pay the fine within 30 days after receiving the notice, file a notice of defense disputing the facts and requesting a hearing, or file an affidavit stating facts in mitigation of the amount of the fine.

Subsection (c) provides that if a person does not properly respond under the requirements of the section, that the notice of fine constitutes an accusation and the commission shall proceed against the person under AS 44.21.465 - 44.21.470.

Subsection (d) provides that if the person files an affidavit stating facts in mitigation of the fine, the members of the commission shall hold a hearing limited to the amount of the fine. This is not an APA-type of hearing and does not require a hearing officer.

\*\*\* Section 44.21.490. CONFIDENTIALITY

This entire section contains new provisions and has no counterpart in existing law.

Most states, including the Federal Elections Commission provide for confidentiality. In drafting the confidentiality provision for CSSB 85, we reviewed the following states: South Carolina; Hawaii; Minnesota; Nebraska; Illinois; Florida; Kansas; Washington; Massachusetts and California.

In CSSB 85, the complaint, the commission proceedings related to the complaint, and the records and information obtained by the commission during a preliminary investigation are confidential until a determination of probable cause has been made by the commission and an accusation is filed under 44.21.465, unless the person alleged to be in violation requests in writing that the proceedings be public.

If the commission finds that there is no probable cause to believe an individual has committed an offense, the parties are notified, the file is closed and the matter remains confidential. This is the same procedure used by the Ombudsman.

It is no secret that complaints have been filed as a campaign strategy to inflict maximum damage upon an opponent. It is also no secret that prejudicial material has been leaked to the press by commission staff in order to bolster their "case" in front of the commission, with no regard for whether the information is true or false.

Whatever its source, this practice denies an individual his or her constitutional rights to privacy and due process and destroys any expectation to be treated fairly under the law. A person who is targeted for staff investigation should not be blind-sided by the dissemination of prejudicial and defamatory material before the commission even makes a determination that there is probable cause to proceed.

Sensational press accounts which are purposely timed to appear before commission decisions, make a mockery out of the common law doctrine of the "deliberative process privilege" which is intended to protect from public disclosure those pre-decisional documents that reflect the decision-making authority of an agency.

The rationale for the privilege was discussed in Ryan v. Department of Justice, 617 F. 2d 781 (D.C. Cir. 1980), in which the court stated:

The [privilege] was created to protect the deliberative process of the government, by ensuring that persons in an advisory role would be able to express their opinions freely to agency decision-makers without fear of publicity. In the course of its day-to-day activities, an agency often needs to rely on the opinions and recommendations of temporary consultants, as well as its own employees. Such consultations are an integral part of its deliberative process; to conduct this process in public view would inhibit the frank discussions of policy matters and likely impair the quality of decisions.

The United States Supreme Court has emphasized that documents that are protected by the privilege remain privileged even after a final decision is reached in the matter, unless ideas expressed in the document(s) are incorporated in the final decision. The rationale for this is that "disclosure at any time could inhibit the free flow of advice, including analysis, reports, and expression of

opinion within the agency." Federal Open Market Committee of the Federal Reserve System v. Merrill, 443 U.S. 340, 360 (1979). 2/

Commentators Stone and Liebman discuss this privilege, as recognized by the federal courts, in part as follows:

...a document is protected if its disclosure would reveal "the methods by which a decision is reached, the matters considered, the contributing influences, or the role played by the work of others."

The ultimate purpose of the privilege is "to prevent injury to the quality of agency decisions." Its particular purposes are (1) to encourage open, frank discussions on policy matters between subordinates and their superiors by assuaging fear of public ridicule or criticism; (2) to protect against premature disclosure of proposed policies before they have been finally formulated or adopted; and (3) to protect against confusing the issues and misleading the public by disclosure of reasons that were not in fact the actual reasons for the agency's actions.

....The scope of the privilege is not so narrowly confined, however, it has been held to extend to "recommendations, draft documents, proposals, suggestions, and other subjective documents which reflect the personal opinion of the writer rather than the policy of the agency."

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2/ Index for Inspection or Discovery of Public Records, Dept. of Law, 1986.

S. Stone & R. Liebman, Testimonial Privileges (1983).

I think it is important not only to review the provisions of the confidentiality section in terms of the deliberative process privilege, but to weigh those provisions with the constitutional right to privacy in Alaska, which exceeds even that of the federal standard. According to a 1984 Attorney General's Opinion (1984 Inf. Op. Att'y Gen. Oct. 366-625-84):

"Regarding the (constitutional) right to privacy, first it must be determined whether the information is of the type that would be protected under Article I, Section. 22 of the Alaska Constitution, which provides that:

The right of the people to privacy is recognized and shall not be infringed.

In this regard, the issue is whether the information is "sensitive"; that is, information

. . . which a person desires to keep private and which, if disseminated, would tend to cause substantial concern, anxiety or embarrassment to a reasonable person.

Falcon v. Alaska Public Offices Commission, 570 P.2d 469, 479 (Alaska 1977). If the information is not "sensitive" it is not protected by the right to privacy.

If it is determined that the information is "sensitive", and thus protected by the constitutional amendment, then the second step in the analysis must be taken. This step involves a balancing process, in which the nature and extent of the harm to the individual that would be caused by public disclosure is balanced against the public interest furthered by disclosing the information."

At the Supreme Court's direction after the Falcon decision, the Public Offices Commission in 1978, adopted 2 AAC 50.100, a regulation which specifies the procedures to be

used when a person claims that information is exempt from disclosure under the right of privacy. The regulation reads in part:

(a) Disclosure of another person's name in a report is not required and should not be made where that disclosure alone would likely result in disclosing sensitive information which the person would want to keep private and which, if made public, would tend to cause substantial concern, anxiety, or embarrassment to a reasonable person....

The APOC narrowly restricted the application of this regulation to AS 39.50 (Conflict of Interest), in instances when a candidate for public office claims that disclosure of information to the commission, as required by statute, would violate someone's right to privacy. However, I think that it can be reasonably argued that the Falcon test which prompted this APOC regulation, is broader than APOC's interpretation and also extends to certain documents such as complaints, reports or other sensitive material obtained or produced prior to the hearing stage under 15.13, 24.45 and 35.50. These matters fall within the confidentiality provision contained in CSSB 85 (SA).

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As far as the actual procedures specified in CSSB 85 for the handling of complaints on through the hearing phase, I would like to briefly discuss similar procedures used by South Carolina, which, like CSSB 85 (SA) allows the executive director to determine from the facts presented in a complaint if sufficient cause exists to conduct a preliminary investigation of the alleged violation or failure to file required statements. If it is determined that facts are not sufficient to constitute a violation, the complaint will be dismissed and all parties will be notified. If the executive director determines that facts are sufficient to constitute a violation, a preliminary investigation will be conducted by the staff.

When the preliminary investigation is terminated, the executive director reports the results of the preliminary investigation to the Commission for review, to determine if probable cause exists to support an alleged violation. If the commission determines that there is insufficient cause to support the violation, all parties will be notified, the complaint will be dismissed and the matter will remain confidential. When sufficient facts do exist to support the alleged violation, the commission shall file an accusation. It is the probable cause determination made by the commission, resulting in the filing of an accusation which ends the confidentiality and makes the matter public.

\*\*\* Section 44.21.495. JUDICIAL REVIEW

This section has no counterpart in existing law and is modeled after a similar section in the Administrative Procedures Act.

\*\*\* Section 44.21.500. POWERS OF THE COMMISSION

This section is, apart from minor editing, identical to existing AS 15.13.045, and provides the commission with the power to compel witnesses, issue subpoenas, etc. with respect to an investigation or hearings.

\*\*\* Section 6 (13)

A new provision that requires the executive director and the professional staff of the commission to submit conflict of interest reports under AS 39.50.200 (b).

\*\*\* Several conforming amendments follow.

\*\*\* Immediate effective date.

# STATE OF ALASKA

## ALASKA PUBLIC OFFICES COMMISSION

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CSSB 85 (State Affairs)

Position Paper  
April 5, 1988

The Alaska Public Offices Commission supports one provision of this measure, but opposes two other provisions. Other sections of the bill also raise concerns.

The commission supports proposed sections 44.21.450 (a)-(c), dealing with appointment procedures for commission members. This language makes it clear that all commission appointments are made by the governor, subject to legislative confirmation, in accordance with Article III, Section 26 of the Alaska Constitution. The bill retains existing procedures which provide for four appointees recommended by the two major political parties, and one appointee recommended by the other four.

Section 44.21.480 makes a major change in confidentiality provisions covering commission investigations into allegations of violations of the laws which APOC administers. Under this section, complaints, responses, and staff investigatory reports to the commission would be confidential unless the commission decides to issue a formal accusation and proceed to hearing. The commission favors language under which complaints and responses would be public record, as is currently the case, but which would provide statutorily for confidentiality of investigations and the subsequent staff report until the commission determines whether or not to issue a formal accusation. The commission believes the public has a right to know the subject of complaints under investigation, and also the right to know which complaints have been dismissed and the reasons why.

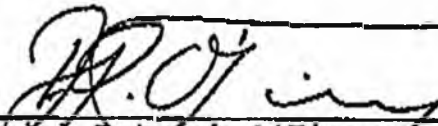
The commission opposes language in section 44.21.460 (d) which requires notice to all persons mentioned in an investigation who may have violated a law the commission administers. Although the commission agrees that all persons under investigation are entitled to respond fully to allegations against them, language in this section is far broader, and will have a chilling effect on the investigatory process.

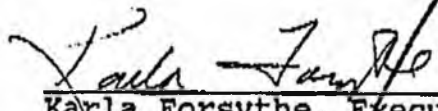
The commission is also concerned about possible adverse impacts arising from restrictions on staff's ability to settle matters prior to issuance of a formal accusation (proposed Section 44.21.470) and from requirements that various staff action be undertaken immediately or within strict time frames, such as ten days.

CSSB 85  
Position Paper  
April 5, 1988  
Page 2

Other provisions of the bill either restate existing law with minor changes; or establish procedures similar to current practices.

The fiscal note submitted by the commission reflects costs of holding additional hearings anticipated if this measure is enacted.

 4/5/88  
\_\_\_\_\_  
Daniel Patrick O'Tierney, Chairman

  
\_\_\_\_\_  
Karla Forsythe, Executive Director

POSITION PAPER

SB 85

MAR 04 1987

This bill repeals the existing Campaign Disclosure Law, replacing it with a new chapter, AS 15.14, effective January 1, 1988. The first half of the bill concentrates on basic provisions and prohibitions. The second half of the bill provides a complete re-working of the enforcement provisions.

Many of the positive provisions from SB 356, introduced in 1986, are retained but few of the problem areas identified by the Commission have been addressed in any meaningful fashion.

New provisions include:

Candidates and PACs are required to register within ten days of accepting contributions exceeding \$1,000.

The \$100 threshold for reporting contributor names is increased to \$250.

10 Day Post-election reports for candidates and groups are eliminated.

Independent expenditures are defined and a \$250 threshold established for reporting by an individual or a person.

Cash contributions are banned entirely, unless received at an event where no individual pays more than \$25 and there are 25 or more paying participants.

An individual may contribute no more than \$1,000 to a candidate or a PAC.

PACs may not receive loans and candidates may receive campaign loans only from a spouse, parent, child.

Contributions or expenditures in a fictitious name, anonymously, or in the name of another are banned. A contribution by a corporation is not a contribution in the name of a shareholder and vice versa. A candidate or PAC has ten days to dispose of a questionable contribution.

PACs may not contribute to a candidate or to other PACs or to a political party.

Campaign officers are required to be registered before acting as officers.

A person may transfer or deliver a campaign contribution without being a deputy treasurer if the contributor is disclosed and the deliveryman does not exercise discretion or control as to the amount or identity of the recipient.

Campaign funds may be used only for influencing voters.

Candidates are required to terminate campaigns by specified dates. In the case of legislative campaigns, termination is required by December 31.

Disposal of a candidate's surplus, including transfer to a new campaign, donation to charity, transfer to office allowance fund, or "paying an individual who worked in the candidate's designated election campaign, must occur prior to termination.

Solicitation by, or of, a public officer or employee on state or municipal premises is banned.

Independent expenditures are required to be identified as "not authorized by a candidate."

The publishing of false information is banned.

All violations are subject to civil penalties with no criminal provisions. Sixteen subsections describe one or more first degree (intentional) campaign financing violations subject to fines ranging from \$100 to \$25,000. The statute of limitations is four years.

Fifteen subsections describe one or more second degree failures to comply subject to fines ranging from \$25 to \$5,000 each. The statute of limitations is two years.

Candidates and groups may not pay fines from campaign funds.

First degree violations are subject to removal from office proceeding similar to those presently in effect.

Investigations, accusations, notice of defense and hearings are consistent with the Administrative Procedures Act, except that a quorum of the Commission must sit at every hearing.

Penalties may be imposed only upon a finding of clear and convincing evidence, taking into account whether the violation impeded public disclosure of information as to contributions of significant interest to the voters and the extent of a continuing disregard for the law.

Staff may not discuss settlement with a respondent prior to an admission by the respondent or a determination of violation by the Commission after holding a hearing.

A schedule of fines not to exceed \$500 may be established which do not require a formal accusation or hearing.

Commission members and staff may not disclose the existence of an investigation unless or until an accusation is filed.

Staff is required to file Conflict of Interest Statements.

The Commission reserves its support of the bill in its present form because so few of its concerns raised a year ago have been addressed. Please see Attachment A. On the other hand, the Commission concurs that numerous substantive amendments to AS 15.13 are overdue. Its most recent effort to summarize those changes is Attachment B. A draft bill based on the Commission's recommendations will be available by the March 4 hearing. If there is room for serious deliberation that might find the reasonable compromises, then the Commission wishes to encourage such discussions.

Theda Pittman / pm  
Theda Pittman, Executive Director  
Alaska Public Offices Commission

3-4-87  
Date

Jean C. Rogers / pm  
Jean C. Rogers, Chairman  
Alaska Public Offices Commission

3-4-87  
Date

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 3/4/87 5-DAY NOTICE  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: FINANCE

\*\*FISCAL NOTE(S) ATTACHED  \*\*  
IN ACCORDANCE WITH AS 24.08.035  
(see below)

1/26/87  
Mr. President:

DATE TURNED INTO OFFICE 3/10/88

STATE AFFAIRS Committee considered SB 85

relating to election campaign financing and the Alaska Public  
Offices Commission; efd.

*a majority of the Committee*  
and recommended: *it be*

replace with CS SB 85 (SA)  same title  
 attached amendment(s) and *and do pass.*  new title

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

letter of intent adopted and attached

\*\* Committee  attached or  adopted fiscal note(s)  
 zero  fiscal impact

*OFF*

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*Richley (DO PASS)*  
*Wade Hinkle*  
*Kenneth J. Janning*

*2 Acc. Questions - No Res.*

*Donald H. ...*  
Chairman signature and recommendation

Committee Backup Attached

1 IN THE SENATE

BY ABOOD

2

SENATE BILL NO. 85

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to election campaign financing and  
7 the Alaska Public Offices Commission; and providing  
8 for an effective date."

9

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

10

\* Section 1. AS 15 is amended by adding a new chapter to read:

11

CHAPTER 14. ELECTION CAMPAIGN FINANCING.

12

ARTICLE 1. ALASKA PUBLIC OFFICES COMMISSION.

13

Sec. 15.14.010. APPLICABILITY. (a) This chapter applies in  
14 each election for governor, lieutenant governor, a member of the state  
15 legislature, a delegate to a constitutional convention, and a judge  
16 seeking electoral retention.

17

(b) This chapter applies to each election for mayor, municipal  
18 governing body, and school board in a municipality with a population  
19 of more than 1,000 according to the latest estimates of population  
20 certified by the Department of Community and Regional Affairs under  
21 AS 29.60.020. A municipality may exempt its elections from the re-  
22 quirements of this chapter if a majority of the voters voting on the  
23 question at a regular election as defined by AS 29.71.800 or a special  
24 municipality-wide election called for that purpose vote to exempt its  
25 elections from the requirements of this chapter. The question of  
26 exemption from the requirements of this chapter may be submitted to  
27 the voters by initiative or by the city council or borough assembly by  
28 ordinance.

29

(c) This chapter does not prohibit a municipality from

1 additional regulation of campaign contributions and expenditures by  
2 ordinance.

3 (d) Except as otherwise provided, this chapter applies to a  
4 contribution, an expenditure or a communication made by a candidate, a  
5 political action committee, a municipality, or a person for the pur-  
6 pose of influencing the outcome of a ballot proposition or question as  
7 well as that made to influence the nomination or election of a candi-  
8 date.

9 (e) This chapter does not apply to contributions or expenditures  
10 made for the sole purpose of acquiring signatures on a state or munic-  
11 ipal initiative or referendum petition.

12 Sec. 15.14.020. ALASKA PUBLIC OFFICES COMMISSION. (a) The  
13 Alaska Public Offices Commission is established in the Department of  
14 Administration.

15 (b) The commission consists of five members.

16 (c) The governor shall appoint four members of the commission.  
17 Each of the two political parties whose candidates for governor re-  
18 ceived the highest and the second highest number of votes for the  
19 office of governor at the most recent preceding gubernatorial election  
20 is, as vacancies occur, entitled to submit nominations of four indi-  
21 viduals to the governor for two members of the commission. The four  
22 members appointed by the governor under this subsection shall appoint,  
23 by a majority vote, the fifth member when a vacancy in that position  
24 occurs.

25 (d) In filling a vacancy that is subject to appointment by the  
26 governor, the governor shall make the appointment within 30 days after  
27 receiving the nominations of four names from the central committee or  
28 other governing body of the party. The governor shall make the ap-  
29 pointment from nominees submitted to the governor by the central

1 committee or other governing body of the party.

2 (e) The term of office for each member of the commission is five  
3 years and until a successor is appointed and qualifies. If a vacancy  
4 occurs before the expiration of a member's term, the member appointed  
5 to fill the vacancy serves for the remainder of the unexpired term. A  
6 commission member may not serve more than one term, but a person  
7 appointed to fill an unexpired term may be appointed to a successive  
8 full five-year term.

9 (f) A member of the commission, during tenure, may not

10 (1) hold or campaign for elective office;

11 (2) be an officer of a political party or political action  
12 committee;

13 (3) publicly support or oppose or make a contribution in  
14 support of or in opposition to a candidate or proposition or question  
15 that appears on a state, municipal or other ballot in the state;

16 (4) participate in an election campaign or participate in  
17 or contribute to a political party; or

18 (5) lobby, employ, or assist a lobbyist.

19 (g) Members of the commission are entitled to receive compen-  
20 sation of \$100 a day while attending commission meetings and are  
21 entitled to travel expenses and per diem authorized by law for state  
22 employees.

23 (h) The members of the commission shall elect a chairman. A  
24 majority of the commission constitutes a quorum. The affirmative vote  
25 of at least three members is required to take official action. A  
26 vacancy does not impair the power of the remaining members to exercise  
27 the powers of the commission.

28 (i) The commission may employ an executive director and other  
29 employees it considers necessary. The executive director and an

1 employee of the commission may not, during tenure,

2 (1) serve as a member of the commission;

3 (2) engage in an activity described in (f) of this section.

4 (j) The commission shall establish a central office and shall  
5 establish or designate a commission office in each election district  
6 of the state for the filing and public inspection of the reports,  
7 registrations, or statements required to be filed with the commission.  
8 Only one commission office may be established or designated in a  
9 municipality that contains more than one election district. A dis-  
10 trict office designated under this subsection may be a municipal or  
11 other public office.

12 (k) The forms and material required for compliance with this  
13 chapter shall be made available in each commission office to candi-  
14 dates, persons, and political action committees required to file  
15 reports under this chapter.

16 (1) The commission shall promptly forward a copy of each report  
17 filed by a statewide candidate to each district office and it shall  
18 promptly forward a copy of each report filed by a legislative candi-  
19 date to the district office in the election district where the candi-  
20 date is seeking office.

21 (m) The commission shall ensure that copies of each report filed  
22 by a candidate for municipal office are made available for public  
23 inspection in the municipality in which the candidate is seeking  
24 office.

25 Sec. 15.14.030. DUTIES OF THE COMMISSION. The commission shall

26 (1) develop and provide forms for the reports, registra-  
27 tions, and statements required under this chapter, AS 24.45, and  
28 AS 39.50;

29 (2) prepare and publish a manual setting out uniform

1 methods of bookkeeping and reporting for use by persons required to  
2 make reports, registrations, and statements under this chapter and  
3 otherwise assist candidates, political action committees, and persons  
4 in complying with this chapter;

5 (3) receive and hold open for public inspection reports,  
6 registrations, and statements required to be filed under this chapter  
7 and, upon request, furnish copies to an interested person at cost;

8 (4) compile and maintain a current list of each report,  
9 registration, and statement filed with the commission;

10 (5) prepare a summary of each report, registration, or  
11 statement filed under this chapter and make a copy of the summary  
12 available to an interested person at cost;

13 (6) notify, by registered or certified mail, each person  
14 whom the commission or its staff has probable cause to believe is  
15 delinquent in filing a report, registration, or statement required  
16 under this chapter;

17 (7) compile within 60 days after each election a list of  
18 the names of all persons, candidates, and political action committees  
19 who have failed to timely file a report, registration, or statement  
20 required under this chapter and make the list available to the public;

21 (8) examine, investigate, and compare reports, registra-  
22 tions, statements, and actions required by this chapter, AS 24.45, and  
23 AS 39.50;

24 (9) prepare and publish an annual report to the legislature  
25 concerning the activities of the commission, the effectiveness of this  
26 chapter, and recommendations and proposals for change; and

27 (10) adopt regulations necessary to implement consistent  
28 with the provisions of this chapter, AS 24.45, and AS 39.50, subject  
29 to the provisions of the Administrative Procedure Act (AS 44.62).

1                                   ARTICLE 2. REGISTRATION AND REPORTS.

2           Sec. 15.14.040. REGISTRATION BY CANDIDATES. (a) An individual  
3 shall register with the commission on a form prescribed by the commis-  
4 sion within 10 days after the individual either

5                   (1) accepts contributions of \$1,000 or more in the aggre-  
6 gate for the purpose of seeking elective office; or

7                   (2) files for an elective office.

8           (b) The registration under (a) of this section must designate  
9 the office and the year of the election for which the campaign will be  
10 conducted, and designate whether the election is for a state or a  
11 municipal office.

12           (c) An individual required to register under this section shall  
13 include with the registration information required under AS 15.14.170.

14                                   Sec. 15.14.050. REGISTRATION BY POLITICAL ACTION COMMITTEES.

15           (a) A political action committee shall register with the commission  
16 on a form prescribed by the commission within 10 days after the polit-  
17 ical action committee either

18                   (1) accepts contributions of \$1,000 in the aggregate; or

19                   (2) makes an expenditure in support of or in opposition to  
20 the election of an individual to an office covered by this chapter, or  
21 on behalf of or in opposition to a ballot proposition or question.

22           (b) A political action committee formed solely for the purpose  
23 of sponsoring an initiative, a referendum or a recall shall register  
24 with the commission within 30 days after it files a petition with the  
25 lieutenant governor or with a municipal clerk.

26           (c) The registration of a political action committee is valid  
27 from the date of registration until the following January 31.

28           (d) A political action committee may not use or file with the  
29 commission a name that is the same as or materially similar to the

1 name of a political action committee whose registration is then on  
2 file with the commission.

3 (e) If a political action committee intends to support or oppose  
4 only one candidate or to contribute to or expend more than 50 percent  
5 of its funds on behalf of or in opposition to one candidate, the name  
6 of the candidate must be part of the name of the political action  
7 committee. On receipt of the registration, the commission shall  
8 promptly notify the candidate of the political action committee's  
9 organization and its intent.

10 (f) A political action committee that makes expenditures or re-  
11 ceives contributions with the authorization or consent, express or  
12 implied, or under the control, direct or indirect, of a candidate is  
13 controlled by the candidate. A contribution to a political action  
14 committee controlled by a candidate is a contribution to the candidate  
15 under AS 15.14.110(b).

16 (g) A political action committee required to register under this  
17 section shall include with the registration the information required  
18 under AS 15.14.170 and shall designate the year of the election for  
19 which the campaign will be conducted or shall indicate that it antici-  
20 pates continuing existence.

21 Sec. 15.14.060. REPORTS BY CANDIDATES OF CONTRIBUTIONS, LOANS,  
22 AND EXPENDITURES. (a) A candidate shall make full reports upon a  
23 form prescribed by the commission of the contributions and loans  
24 received and the expenditures made by the candidate for the designated  
25 election campaign, including

26 (1) for each individual or political party from which  
27 contributions in the aggregate amount of more than \$250 were received:

28 (A) the full name, complete address, principal occupa-  
29 tion, and employer of each individual; and

1 (B) the full name and complete address of each  
2 political party; and

3 (C) the date and amount of each contribution;

4 (2) for each person that lent any amount to the candidate  
5 or that guaranteed or otherwise agreed to assume a financial  
6 obligation in any amount for or on behalf of a candidate,

7 (A) the full name, complete address, principal occupa-  
8 tion, and employer of each individual;

9 (B) the full name, complete address, and principal  
10 business activity of each person other than an individual;

11 (C) the interest rate of the loan or financial obliga-  
12 tion;

13 (D) the date the loan or financial obligation is due;  
14 and

15 (E) the security, if any, for the loan or financial  
16 obligation;

17 (3) the total number and amount of all contributions re-  
18 ceived of \$250 or less;

19 (4) a total of all contributions received;

20 (5) the total of all expenditures made or obligated;

21 (6) the total amount of all funds that the candidate con-  
22 tributed or lent to the campaign of the candidate;

23 (7) the date, check number, the amount of the check, the  
24 full name of the payee, and the purpose of each expenditure; and

25 (8) for each fundraiser held under AS 15.14.160, the date  
26 and place of the fundraiser, the total number of paying participants  
27 at the fundraiser, the total cost of the fundraiser, and the amount of  
28 contributions received.

29 (b) A report containing the information required under (a) of

1 this section must list the contributions and loans received and the  
2 expenditures made during the period ending three days before the due  
3 date of the report and beginning on the last day covered by the most  
4 recent previous report. The report shall be filed in the central  
5 office or a district office of the commission at the following times:

6 (1) 30 days before the election unless the deadline for  
7 filing a nominating petition or declaration of candidacy is less than  
8 34 days before the election;

9 (2) seven days before the election.

10 (c) A candidate shall file a special contribution, loan, or  
11 expenditure report with the commission for each contribution, loan, or  
12 expenditure of more than \$250 that is received within the last 10 days  
13 before the election. The report must include the full name, complete  
14 address, principal occupation and employer of the contributor or  
15 lender and the date and amount of the contribution or loan, or the  
16 purpose of the expenditure. The report shall be filed within 24 hours  
17 after the contribution or loan is received or the expenditure is made.

18 (d) A candidate shall file an annual report on or before Janu-  
19 ary 31 of each year, except that a candidate shall file a final report  
20 covering contributions and loans received and expenditures made during  
21 the year in which an election designated under AS 15.14.040(b) is  
22 held. The final report shall be filed no later than 30 days after the  
23 date on which the candidate must close campaign accounts under AS 15.-  
24 14.190. The annual report must include all of the information re-  
25 quired under (a) of this section for contributions and loans received  
26 and expenditures made between January 1 and December 31 of the immedi-  
27 ately preceding year, except that a final report covering the year in  
28 which an election designated under AS 15.14.040(b) is held

29 (1) need include only the contributions, loans, and

1 expenditures that were not reported to the commission in the reports  
2 required under (b) and (c) of this section;

3 (2) must include contributions and loans received and  
4 expenditures made through the date that a campaign account is required  
5 to be closed under AS 15.14.190; and

6 (3) must include the amount and the disposition of surplus  
7 funds.

8 Sec. 15.14.070. REPORTS BY POLITICAL ACTION COMMITTEES OF CON-  
9 TRIBUTIONS AND EXPENDITURES. (e) A political action committee shall  
10 make a report on a form prescribed by the commission of contributions  
11 received by the political action committee, including

12 (1) for each person from which contributions in the  
13 aggregate amount of more than \$250 were received:

14 (A) the full name, complete address, principal occupa-  
15 tion, and employer of each individual;

16 (B) the full name, complete address, and principal  
17 business activity of each person other than an individual; and

18 (C) the date and amount of each contribution;

19 (2) the total number and amount of all contributions re-  
20 ceived of \$250 or less;

21 (3) a total of all contributions received;

22 (4) a total of all expenditures made or obligated;

23 (5) the date, check number, the amount of the check, full  
24 name of each payee, and the purpose of each expenditure including, for  
25 each expenditure that is an independent expenditure, the name of the  
26 candidate or ballot proposition or question supported or opposed by  
27 the independent expenditure; and

28 (6) for each fundraiser held under AS 15.14.160, the date  
29 and place of the fundraiser, the total number of paying participants

1 at the fundraiser, the total cost of the fundraiser, and the amount of  
2 contributions received.

3 (b) A report containing the information required under (a) of  
4 this section must list the contributions received and expenditures  
5 made during the period ending three days before the due date of the  
6 report and beginning on the last day covered by the most recent  
7 previous report. The report shall be filed in the central office or a  
8 district office of the commission at the following times:

- 9 (1) 30 days before the election;  
10 (2) seven days before the election.

11 (c) A political action committee shall file a special contribu-  
12 tion or expenditures report with the commission for each contribution  
13 or expenditure of more than \$250 that is received within the last 10  
14 days before the election. The report must include the full name,  
15 complete address, principal occupation and employer of the contributor  
16 and the date and amount of the contribution or the purpose of the  
17 expenditure. The report shall be filed within 24 hours after the  
18 contribution is received or the expenditure is made.

19 (d) A political action committee shall file an annual report on  
20 or before January 31 of each year. The annual report must include all  
21 of the information required under (a) of this section for contribu-  
22 tions received and expenditures made between January 1 and December 31  
23 of the immediately preceding year, except that an annual report  
24 covering contributions received and expenditures made during the year  
25 in which an election designated under AS 15.14.050(g) is held need  
26 include only those contributions and expenditures that were not  
27 reported to the commission in the reports required under (b) and (c)  
28 of this section. If the political action committee has not indicated  
29 a continuing existence under AS 15.14.050(g), the report filed under

1 this section is the final report.

2 Sec. 15.14.080. STATEMENT BY PERSON MAKING CONTRIBUTION OR  
3 EXPENDITURE. (a) A person who makes contributions of more than \$250  
4 in the aggregate in goods, services, or money to a candidate or polit-  
5 ical action committee or who makes independent expenditures described  
6 in AS 15.14.090 with a value of more than \$250 in the aggregate to  
7 influence the election of a candidate or the passage of a ballot  
8 proposition or question shall make and file in the central or a dis-  
9 trict office of the commission a signed statement on a form made  
10 available by the commission reporting the activity within 10 days  
11 after the contribution or expenditure is made.

12 (b) The statement must list the name, address, principal occupa-  
13 tion, and employer of the person who paid for the contribution or  
14 expenditure and include the date, amount, payee, and purpose of the  
15 contribution or expenditure.

16 (c) The statement must include a certification by the person  
17 making the statement that the contribution or expenditure consists of  
18 funds or property belonging to the contributor and that the funds have  
19 not been given or furnished by another person or political action  
20 committee.

21 (d) The person filing the statement shall furnish a copy of the  
22 statement to the candidate or the campaign treasurer of the political  
23 action committee at the time the statement is filed with the commis-  
24 sion.

25 Sec. 15.14.090. INDEPENDENT EXPENDITURE. (a) An independent  
26 expenditure is an expenditure by a person or political action commit-  
27 tee for a communication expressly advocating the election or defeat of  
28 a clearly identified candidate that is made without arrangement,  
29 coordination, or direction with or by the candidate or the agent of

1 the candidate before the publication, distribution, display, or broad-  
2 cast of the communication. An expenditure is a contribution and not  
3 an independent expenditure if it is based on information about the  
4 candidate's plans, projects, or needs provided to the expending person  
5 or political action committee by the candidate or by an agent of the  
6 candidate with a view toward having an expenditure made.

7 (b) An expenditure is made in coordination with the candidate or  
8 the agent of the candidate if it is made by or in consultation with a  
9 person

10 (1) who is or within one year before the date of the expen-  
11 diture has been authorized by the candidate or by a campaign officer  
12 to raise or expend funds on behalf of the candidate;

13 (2) who is or within one year before the date of the expen-  
14 diture has been an officer of a campaign committee of the candidate;  
15 or

16 (3) who is or within one year before the date of the expen-  
17 diture has been receiving any form of compensation or reimbursement  
18 from the candidate or from campaign funds for professional services  
19 that require the exercise of discretion or judgment relating to the  
20 conduct of the campaign.

21 (c) In this section, an "agent of the candidate" means an indi-  
22 vidual

23 (1) who has actual oral or written authority, either ex-  
24 press or implied, to make or to authorize the making of an expenditure  
25 on behalf of a candidate; or

26 (2) who has been placed in a position within the campaign  
27 organization where it would reasonably appear that in the ordinary  
28 course of campaign related activities the individual may authorize an  
29 expenditure.

1           Sec. 15.14.100. CERTIFICATION OF REPORTS. Each report, regis-  
2           tration, or statement required under this chapter shall be certified  
3           as correct by the candidate or the campaign treasurer of the candi-  
4           date, by the campaign treasurer of the political action committee, or  
5           by the person making the report, registration, or statement. The  
6           report, registration, or statement must include or be accompanied by  
7           the following certification signed by the individual filing the re-  
8           port, registration, or statement:

9           "I certify that, to the best of my knowledge, this report  
10          is true, correct, and complete."

11                   ARTICLE 3. CONTRIBUTIONS AND EXPENDITURES.

12           Sec. 15.14.110. CONTRIBUTIONS BY A PERSON. (a) Except as  
13           provided in AS 15.14.160, an individual may not make a contribution in  
14           the form of a cash payment to a candidate, a political action  
15           committee, or a political party.

16           (b) An individual may not make a contribution in excess of  
17           \$1,000 in the aggregate during a calendar year in money, goods, or  
18           services to a candidate.

19           (c) Except as provided in (d) of this section, an individual may  
20           not make a contribution in excess of \$1,000 in the aggregate during a  
21           calendar year in money, goods, or services to a political action  
22           committee.

23           (d) Except as provided in (a) of this section, a person may  
24           contribute any amount in money, goods, or services to a political  
25           action committee formed solely for the purpose of influencing the  
26           outcome of a ballot proposition or question and an individual may  
27           contribute any amount in money, goods, or services to a political  
28           party.

29           (e) A person may not make a contribution in any amount to a

1 candidate, a political action committee, or a political party in the  
2 form of a loan or loan guarantee. This subsection does not prohibit

3 (1) a contribution in the form of a loan by a candidate or  
4 the spouse, parent, or child of the candidate to the campaign of the  
5 candidate;

6 (2) an extension of credit by a person providing goods or  
7 services in the normal course of business to a candidate or a  
8 candidate's campaign; or

9 (3) a loan to a candidate from a regulated lending institu-  
10 tion that is made directly to the candidate in accordance with appli-  
11 cable banking laws and in the ordinary course of business.

12 Sec. 15.14.120. CONTRIBUTIONS BY A POLITICAL ACTION COMMITTEE  
13 AND BY A POLITICAL PARTY. (a) A political action committee and a  
14 political party may not make a contribution in the form of a cash  
15 payment to a candidate, to a political action committee, or to a  
16 political party.

17 (b) A political action committee and a political party may not  
18 make a loan or a loan guarantee to a candidate or to a political  
19 action committee.

20 Sec. 15.14.130. LIMITATIONS ON ACCEPTING CONTRIBUTIONS. (a)  
21 Except as provided in AS 15.14.160, a candidate, a campaign officer  
22 of a candidate, a political action committee, and an officer of a  
23 political action committee may not accept a contribution in the form  
24 of a cash payment from a person or a political action committee.

25 (b) A candidate and a campaign officer of a candidate may not  
26 accept a contribution in excess of \$1,000 in the aggregate during a  
27 calendar year in money, goods, or services from an individual.

28 (c) A political party or a political action committee formed  
29 solely for the purpose of influencing the outcome of a ballot

1 proposition or question may

2 (1) accept any amount in money, goods, or services;

3 (2) except as provided in AS 15.14.160, not accept a con-  
4 tribution in the form of a cash payment.

5 Sec. 15.14.140. EXPENDITURES. (a) A political party may make a  
6 contribution or expenditure of money, goods, or services without  
7 limitation as to amount or value.

8 (b) Except as provided under AS 15.14.180, a candidate may make  
9 expenditures of money, goods, or services on behalf of the candidate's  
10 own campaign without limitation as to amount or value.

11 (c) A person or political action committee may make an indepen-  
12 dent expenditure as defined in AS 15.14.090 of money, goods, or ser-  
13 vices without limitation as to amount or value on behalf of or in  
14 opposition to a candidate or ballot proposition.

15 Sec. 15.14.150. PROHIBITED CONTRIBUTIONS. (a) A contribution  
16 may not be made and an expenditure may not be made or incurred either  
17 directly or indirectly in a fictitious name, anonymously, or by one  
18 person or political action committee in the name of another. A con-  
19 tribution made by a corporation is not a contribution in the name of a  
20 shareholder of the corporation and a contribution made by a share-  
21 holder of a corporation is not a contribution in the name of the  
22 corporation.

23 (b) A contribution made by a person wishing to remain anonymous  
24 and received by a candidate or political action committee may not be  
25 accepted, but shall be returned to the donor if the identity of the  
26 donor is known. If the identity of the donor is not known, the con-  
27 tribution shall be donated to an organization that qualifies as a  
28 charitable organization under 26 U.S.C. 501(c).

29 (c) A candidate, a campaign officer of a candidate, a political

1 party, a political action committee, and a campaign officer of a  
2 political action committee or political party may not accept a con-  
3 tribution prohibited under this section. A contribution under this  
4 section is accepted unless it is returned or donated under (b) of this  
5 section within 10 days after the candidate or political action commit-  
6 tee knows or should have known that the contribution is prohibited  
7 under this section.

8 (d) A candidate and the campaign treasurer or deputy campaign  
9 treasurer of a candidate may accept a contribution only from an indi-  
10 vidual or a political party.

11 (e) A political action committee other than a political action  
12 committee whose sole activity is attempting to influence the outcome  
13 of a ballot proposition or question may accept a contribution only  
14 from an individual.

15 (f) A political party may accept a contribution only from an  
16 individual.

17 (g) A political action committee may not make a contribution to  
18 a candidate or to another political action committee or to a political  
19 party.

20 Sec. 15.14.160. PERMITTED CASH CONTRIBUTIONS. Notwithstanding  
21 the prohibition against the contribution in the form of a cash payment  
22 to a candidate, a political action committee, or a political party, an  
23 individual may contribute and a candidate, a political action  
24 committee, or a political party may accept cash at a fundraiser held  
25 by the candidate, the political action committee, or political party  
26 if food will be served at the fundraiser, if the contribution for  
27 admission to the fundraiser from any one individual is not in excess  
28 of \$25, and if there are 25 or more paying participants.

29 ARTICLE 4. CAMPAIGN CONDUCT AND ADMINISTRATION.

1           Sec. 15.14.170. CAMPAIGN OFFICERS. (a) Each candidate may and  
2 each political action committee shall appoint a campaign chairman.  
3 Each candidate and each political action committee shall appoint a  
4 campaign treasurer who is responsible for receiving, holding, and  
5 disbursing all contributions and expenditures, and for filing all  
6 reports and statements required by law. Each candidate and each  
7 political action committee may appoint deputy campaign treasurers at  
8 any time. An individual who is requested to solicit a contribution  
9 for a candidate shall be appointed by the candidate as a deputy cam-  
10 paign treasurer. An individual who is requested to solicit a  
11 contribution for a political action committee shall be appointed by  
12 the political action committee as a deputy campaign treasurer. A  
13 candidate may be a campaign treasurer.

14           (b) At the time a candidate registers with the commission under  
15 AS 15.14.040, the candidate shall file a statement in the central or a  
16 district office of the commission listing the name, address, and  
17 telephone number of the candidate's campaign treasurer. At the time a  
18 political action committee registers with the commission under AS 15.-  
19 14.050, the political action committee shall file a statement in the  
20 central or a district office of the commission listing the name,  
21 address, and telephone number of the political action committee's cam-  
22 paign treasurer. Each candidate who appoints a campaign chairman and  
23 each political action committee shall include in the statement the  
24 name, address, and telephone number of the campaign chairman.

25           (c) An individual may not act as the campaign chairman, campaign  
26 treasurer, or deputy campaign treasurer for a candidate or political  
27 action committee until the name, address, and telephone number of the  
28 individual has been filed with the commission. The address of a  
29 candidate's campaign treasurer is the address of the candidate unless

1 the candidate files a different mailing address with the commission.

2 (d) In the case of the death, resignation, or removal of a  
3 campaign officer required to be appointed under this section, the  
4 candidate or political action committee shall file the name, address,  
5 and telephone number of the successor in the central or a district  
6 office of the commission within 10 days after the vacancy occurs.

7 (e) A candidate may receive contributions and make expenditures  
8 only in person or through a campaign chairman, a campaign treasurer,  
9 or a deputy campaign treasurer. A political action committee may re-  
10 ceive contributions and make expenditures only through the campaign  
11 chairman, campaign treasurer, or deputy campaign treasurer of the  
12 political action committee. A person does not receive or make a  
13 contribution under this section on behalf of a candidate or political  
14 action committee if

15 (1) the person transfers or delivers a contribution to a  
16 candidate or a campaign officer of a candidate or political action  
17 committee and discloses to the candidate or political action committee  
18 the identity of the contributor;

19 (2) the person does not exercise discretion or control as  
20 to the amount or as to the identity of the recipient of the contribu-  
21 tion; and

22 (3) the person is not a campaign officer of the candidate  
23 or political action committee ultimately receiving the contribution.

24 (f) The candidate is responsible for the performance of the  
25 campaign officers of the candidate. The campaign chairman of a polit-  
26 ical action committee is responsible for the performance of the other  
27 officers of the political action committee. A default or violation by  
28 the officer is considered a default or violation by the candidate if  
29 the candidate knew or had reason to know of the default or violation.

1 A default or violation by the officer of the political action commit-  
2 tee is considered a default or violation by the campaign chairman of  
3 the political action committee if the campaign chairman knew or had  
4 reason to know of the default or violation.

5 Sec. 15.14.180. USE OF CAMPAIGN FUNDS. (a) Campaign funds  
6 received by a political action committee may be used only to influence  
7 the actions of the voters for or against the election of a candidate  
8 or the outcome of a ballot proposition or question.

9 (b) Campaign funds raised by a candidate may be used to repay a  
10 loan made by the candidate to the campaign of the candidate.

11 (c) Campaign funds may not be used by a candidate to repay a  
12 loan not timely reported as a loan under AS 15.14.060(a)(2).

13 (d) Surplus campaign funds shall be disposed of under AS 15.14.-  
14 200.

15 Sec. 15.14.190. TERMINATION OF CAMPAIGN ACTIVITY AND CLOSING OF  
16 CAMPAIGN ACCOUNTS. (a) A candidate shall close each campaign account  
17 relating to a designated election campaign on or before one of the  
18 following dates:

19 (1) for a statewide candidate in the general election, the  
20 date on which the successful candidate in the designated election is  
21 sworn into office;

22 (2) for a legislative candidate in the general election, by  
23 December 31 of that year;

24 (3) for a candidate in a municipal election, 30 days after  
25 the date of the election or, in the case of a run-off election, 30  
26 days after the date of a run-off election;

27 (4) for a candidate who loses in a primary election, 30  
28 days after the date of the election;

29 (5) for a candidate who withdraws before an election, 30

1 days after filing a notice of withdrawal;

2 (6) for a candidate who withdraws after registering under  
3 AS 15.14.040 but before filing for office, 30 days after the deadline  
4 for filing a declaration of candidacy or a nominating petition; or

5 (7) for a judicial candidate or a delegate to a constitu-  
6 tional convention, 30 days after the date of the election.

7 (b) A candidate and a campaign officer of a candidate may not  
8 solicit or accept a contribution for the designated election campaign  
9 after the date on which the candidate is required to close campaign  
10 accounts under (a) of this section.

11 (c) A candidate and a campaign officer of a candidate may not  
12 make expenditures of any kind, except for the disposition of surplus  
13 funds, after the date on which the candidate is required to close  
14 campaign accounts under (a) of this section for

15 (1) goods or services provided to the candidate with re-  
16 spect to the designated election campaign;

17 (2) the payment of campaign debts to an individual, person,  
18 or political action committee; or

19 (3) the payment of loans made by the candidate to the  
20 campaign of the candidate.

21 Sec. 15.14.200. SURPLUS CAMPAIGN FUNDS. (a) A candidate shall  
22 dispose of campaign funds that are not spent during the designated  
23 election campaign by

24 (1) donating the funds to an organization that qualifies as  
25 a charitable organization under 26 U.S.C. 501(c);

26 (2) donating the funds to the general fund of the state or  
27 of a municipality organized under AS 29;

28 (3) after registering with the commission under AS 15.14.-  
29 040, transferring the funds to a newly designated election campaign

1 account for a designated state election to be held not more than four  
2 years after the election designated under AS 15.14.040(b);

3 (4) paying an individual who worked in the candidate's  
4 designated election campaign;

5 (5) transferring the funds to an account for the office, in  
6 the case of a successful candidate only, and using the funds only for  
7 communication with constituents and other voters in the state by  
8 telephone, newsletter, or personal contact; or

9 (6) returning the funds to contributors on a pro rata  
10 basis.

11 (b) A candidate shall dispose of surplus funds under (a) of this  
12 section before the date on which a final report of expenditures is  
13 required to be filed under AS 15.14.070.

14 (c) A candidate who is a public official may at any time use  
15 funds raised for a campaign for a purpose described in (a)(5) of this  
16 section.

17 Sec. 15.14.210. SOLICITATION OF CONTRIBUTIONS. (a) A public  
18 officer or employee of the state or of a municipality of the state may  
19 not, while on the premises of a state or municipal office, solicit or  
20 request a contribution to a candidate, political action committee or  
21 political party.

22 (b) A person may not solicit or request a public officer or  
23 employee to contribute to a candidate, political action committee, or  
24 political party while the public officer or employee is on the prem-  
25 ises of a state or municipal office.

26 (c) A candidate, an officer of a candidate, a political action  
27 committee, and an officer of a political action committee may not  
28 knowingly accept a contribution obtained in violation of this section.

29 (d) Subsections (a) and (b) of this section do not apply to a

1 scheduled meeting held by a labor union representing public employees  
2 of the state or of a municipality of the state if the meeting is held  
3 with the permission of the employer.

4 Sec. 15.14.220. COMMUNICATIONS. (a) An advertisement,  
5 billboard, handbill, paid-for television or radio announcement, or  
6 other communication intended to influence the election of a candidate  
7 or the outcome of a ballot proposition or question shall be clearly  
8 identified by the words "paid for by" followed by the name and address  
9 of the candidate, political action committee, or the person or persons  
10 paying for the communication.

11 (b) A person or political action committee making an independent  
12 expenditure for an item described in (a) of this section shall, within  
13 the printed material or during a broadcast, state: "This communication  
14 was not authorized by any candidate."

15 (c) The information required under (a) and (b) of this section  
16 need not be included on an object used for a campaign advertisement,  
17 if the object is one that the commission, by regulation, has deter-  
18 mined is too small to practicably include the information.

19 (d) A candidate and the agents of a candidate, a political  
20 action committee, and a political party may not publish or circulate  
21 and a newspaper, magazine, or other periodical and a radio or  
22 television broadcasting station may not publish, communicate,  
23 circulate, or otherwise disseminate a matter with the knowledge that  
24 the matter contains a false statement of a material fact relating to a  
25 candidate, political action committee, political party, or ball-  
26 proposition, or ballot question.

27 ARTICLE 5. VIOLATIONS, CIVIL PENALTIES, AND PROCEDURES.

28 Sec. 15.14.230. CAMPAIGN FINANCING VIOLATIONS IN THE FIRST  
29 DEGREE. (a) A person who, with intent to avoid disclosure, fails to

1 file a report of contributions, loans, or expenditures required to be  
2 filed 30 days or seven days before an election under AS 15.14.060(b)  
3 or fails to file a report within 24 hours after receiving a contribu-  
4 tion or making an expenditure under AS 15.14.060(c) is subject to a  
5 civil penalty of not less than \$500 nor more than \$2,000 for each day  
6 that the report is due but not filed up to a maximum of \$25,000 for  
7 each report.

8 (b) A political action committee that, with intent to avoid  
9 disclosure, fails to file a report of contributions or expenditures  
10 required to be filed 30 days or seven days before an election under  
11 AS 15.14.070(b) or fails to file a report within 24 hours after re-  
12 ceiving a contribution or making an expenditure under AS 15.14.070(c)  
13 is subject to a civil penalty of not less than \$500 nor more than  
14 \$2,000 for each day that the report is due but not filed up to a  
15 maximum of \$25,000 for each report.

16 (c) A person who, with intent to avoid disclosure, files a  
17 report of contributions or expenditures containing a false or mislead-  
18 ing statement as to a contributor, contribution, loan, or expenditure  
19 required to be included in a report under AS 15.14.060(a) is subject  
20 to a civil penalty

21 (1) of not less than \$500 nor more than \$5,000 for each  
22 false or misleading statement; and

23 (2) not to exceed twice the amount of the contribution or  
24 expenditure involving the false or misleading statement.

25 (d) A political action committee that, with intent to avoid  
26 disclosure, files a report of contributions or expenditures containing  
27 a false or misleading statement as to a contributor, contribution, or  
28 expenditure required to be included in a report under AS 15.14.070(a)  
29 is subject to a civil penalty

- 1           (1) of not less than \$500 nor more than \$5,000 for each  
2 false or misleading statement; and
- 3           (2) not to exceed twice the amount of the contribution or  
4 expenditure involving the false or misleading statement.
- 5           (e) A person who knowingly makes a contribution in excess of the  
6 limitation under AS 15.14.110(b) or (c) is subject to a civil penalty
- 7           (1) of not less than \$1,000 nor more than \$5,000; and  
8           (2) not to exceed twice the amount that the contribution  
9 exceeds the limitation.
- 10          (f) A political action committee that knowingly makes a contri-  
11 bution prohibited under AS 15.14.120(b) is subject to a civil penalty
- 12          (1) of not less than \$1,000 nor more than \$5,000; and  
13          (2) not to exceed twice the amount that the contribution  
14 exceeds the limitation.
- 15          (g) Except as provided in AS 15.14.130(c), a political action  
16 committee that knowingly accepts a contribution in excess of the  
17 limitation established in AS 15.14.110(c) is subject to a civil pen-  
18 alty
- 19          (1) of not less than \$1,000 nor more than \$5,000; and  
20          (2) not to exceed twice the amount that the contribution  
21 exceeds the limitation.
- 22          (h) A person who knowingly makes a contribution in the form of  
23 cash in violation of AS 15.14.110(a) is subject to a civil penalty of
- 24          (1) not less than \$100 nor more than \$1,000 if the contri-  
25 bution is less than \$500, in the aggregate; and
- 26          (2) an additional civil penalty of not to exceed twice the  
27 amount of the cash contribution if it amounts to \$500 or more in the  
28 aggregate.
- 29          (i) A political action committee or a political party that

1 knowingly makes a contribution in the form of cash in violation of  
2 AS 15.14.120(a) is subject to a civil penalty of

3 (1) not less than \$100 nor more than \$1,000 if the contri-  
4 bution is less than \$500, in the aggregate; and

5 (2) an additional civil penalty of not to exceed twice the  
6 amount of the cash contribution if it amounts to \$500 or more in the  
7 aggregate.

8 (j) A person or political action committee that knowingly ac-  
9 cepts a contribution in the form of cash in violation of AS 15.14.-  
10 130(a) is subject to a civil penalty of

11 (1) not less than \$100 nor more than \$1,000 if the contri-  
12 bution is less than \$500, in the aggregate; and

13 (2) an additional civil penalty of not to exceed twice the  
14 amount of the cash contribution if it amounts to \$500 or more in the  
15 aggregate.

16 (k) A person, political action committee, or political party  
17 that, with intent to avoid disclosure, makes or accepts a contribution  
18 in violation of AS 15.14.150(a) or (c) is subject to a civil penalty  
19 of

20 (1) not less than \$500 nor more than \$5,000; and

21 (2) if the contribution amounts to \$500 or more, an addi-  
22 tional civil penalty of not to exceed twice the amount of the contri-  
23 bution.

24 (1) A person or political action committee that knowingly ac-  
25 cepts a contribution obtained in violation of AS 15.56.025 through a  
26 threat of physical force, job discrimination, or financial reprisals  
27 is subject to a civil penalty of not less than \$1,000 nor more than  
28 \$10,000.

29 (m) A person or political action committee that intentionally

1       solicits or requests a contribution from a public officer or employee  
2       of the state or a municipality of the state in a manner prohibited  
3       under AS 15.14.210(a) or (b) is subject to a civil penalty of not less  
4       than \$500 nor more than \$5,000.

5               (n) A person or political action committee that knowingly ac-  
6       cepts a contribution from a public officer or employee of the state or  
7       a municipality of the state in a manner prohibited under AS 15.14.-  
8       210(a) or (b) is subject to a civil penalty of not less than \$500 nor  
9       more than \$5,000.

10              (o) A candidate or an agent of the candidate, a political action  
11       committee, political party, newspaper, magazine or other periodical,  
12       or radio or television broadcasting station that knowingly publishes,  
13       circulates, communicates, or otherwise disseminates a matter  
14       containing a false statement of a material fact relating to a  
15       candidate is subject to a civil penalty of

16                      (1) not less than \$1,000 nor more than \$5,000 for each  
17       false statement of a material fact relating to a candidate; or

18                      (2) if the matter containing a false statement of a  
19       material fact concerning a candidate is disseminated within the 21  
20       days before the date of a primary, general, or special election, of  
21       not less than \$5,000 nor more than \$10,000.

22              (p) A candidate or an agent of a candidate, a political action  
23       committee, political party, newspaper, magazine or other periodical,  
24       or radio or television broadcasting station that knowingly publishes,  
25       circulates, communicates, or otherwise disseminates a matter  
26       containing a false statement of a material fact relating to a  
27       political action committee or a ballot proposition or ballot question  
28       is subject to a civil penalty of

29                      (1) not less than \$500 nor more than \$1,000 for each false

1 statement of a material fact relating to a political action committee  
2 or a ballot proposition or ballot question; or

3 (2) if the matter containing a false statement of a  
4 material fact concerning a political action committee or a ballot  
5 proposition or ballot question is disseminated within the 21 days  
6 before the date of a primary, general, or special election, of not  
7 less than \$1,000 nor more than \$5,000;

8 Sec. 15.14.240. CAMPAIGN FINANCING VIOLATIONS IN THE SECOND  
9 DEGREE. (a) A person who fails to file a report of contributions or  
10 expenditures required to be filed 30 days or seven days before an  
11 election under AS 15.14.060(b) or fails to file a report within 24  
12 hours after receiving a contribution or making an expenditure under  
13 AS 15.14.060(c) is subject to a civil penalty of not less than \$25 nor  
14 more than \$100 for each day that the report is due but not filed up to  
15 a maximum of \$5,000 for each report.

16 (b) A political action committee that fails to file a report of  
17 contributions or expenditures required to be filed 30 days or seven  
18 days before an election under AS 15.14.070(b) or fails to file a  
19 report within 24 hours after receiving a contribution or making an  
20 expenditure under AS 15.14.070(c) is subject to a civil penalty of not  
21 less than \$25 nor more than \$100 for each day that the report is due  
22 but not filed up to a maximum of \$5,000 for each report.

23 (c) A person who fails to file a report, registration, or state-  
24 ment required to be filed under this chapter, other than a report  
25 described in (a) or (b) of this section, is subject to a civil penalty  
26 of not less than \$10 nor more than \$100 per day for each day that the  
27 report, registration, or statement is due but not filed, up to a  
28 maximum fine of \$3,000 for each report, registration, or statement.

29 (d) A person who files a report of contributions or expenditures

1 containing a false or misleading statement as to a contributor, con-  
2 tribution, or expenditure required to be included in a report under  
3 AS 15.14.060(a) is subject to a civil penalty

4 (1) of not less than \$50 nor more than \$500 for each false  
5 or misleading statement; and

6 (2) not to exceed the amount of the contribution or expen-  
7 diture involving the false or misleading statement.

8 (e) A political action committee that files a report of contri-  
9 butions or expenditures containing a false or misleading statement as  
10 to a contributor, contribution, or expenditure required to be included  
11 in a report under AS 15.14.070(a) is subject to a civil penalty of

12 (1) not less than \$50 nor more than \$500 for each false or  
13 misleading statement; and

14 (2) not to exceed the amount of the contribution or expen-  
15 diture involving the false or misleading statement.

16 (f) A person who makes a contribution in excess of the limita-  
17 tion under AS 15.14.110(b) or (c) is subject to a civil penalty

18 (1) of not less than \$50 nor more than \$500; and

19 (2) not to exceed the amount that the contribution exceeds  
20 the limitation.

21 (g) A political action committee or a political party that makes  
22 a contribution prohibited under AS 15.14.120(b) is subject to a civil  
23 penalty

24 (1) of not less than \$50 nor more than \$500; and

25 (2) not to exceed the amount that the contribution exceeds  
26 the limitation.

27 (h) A person who makes a contribution in the form of cash in  
28 violation of AS 15.14.110(a) is subject to a civil penalty of not to  
29 exceed the amount of the cash contribution.

1           (i) A political action committee or a political party that makes  
2 a contribution in the form of cash in violation of AS 15.14.120(a) is  
3 subject to a civil penalty of not to exceed the amount of the cash  
4 contribution.

5           (j) A candidate or an officer of a candidate that accepts a  
6 contribution in excess of the limitation under AS 15.14.130(b) is  
7 subject to a civil penalty

8                 (1) of not less than \$50 nor more than \$500; and

9                 (2) not to exceed the amount that the contribution exceeds  
10 the limitation.

11           (k) A political action committee that accepts a contribution in  
12 excess of the limitation under AS 15.14.110(c) is subject to a civil  
13 penalty

14                 (1) of not less than \$50 nor more than \$500; and

15                 (2) not to exceed the amount that the contribution exceeds  
16 the limitation.

17           (l) A candidate, an officer of a candidate, a political action  
18 committee, or an officer of a political action committee that accepts  
19 a contribution in the form of cash in violation of AS 15.14.130(a) is  
20 subject to a civil penalty of not to exceed the amount of the cash  
21 contribution.

22           (m) A candidate who fails to close a campaign account by the  
23 date established in AS 15.14.190(a) is subject to a fine of not less  
24 than \$25 nor more than \$100 per day for each day that the account  
25 should have been but was not closed, up to a maximum of \$2,000.

26           (n) A person who fails to dispose of surplus funds by the date  
27 established in AS 15.14.200(b) is subject to a civil penalty of not  
28 less than \$25 nor more than \$100 per day for each day that the surplus  
29 funds should have been but were not disposed of, up to a maximum of

1       \$2,000.

2           (o) A person is subject to a civil penalty of not less than \$100  
3       nor more than \$2,000 if the person

4           (1) solicits or accepts a contribution or makes an expendi-  
5       ture, other than a disposition of surplus funds, after the date that  
6       campaign accounts are required to be closed under AS 15.14.190;

7           (2) uses campaign funds for a purpose not permitted under  
8       AS 15.14.180;

9           (3) uses surplus funds for a purpose not permitted under  
10       AS 15.14.200;

11          (4) acts as a campaign officer at a time when the name of  
12       the person has not been filed with the commission; or

13          (5) fails to include in a communication intended to influ-  
14       ence the election of a candidate or the outcome of a ballot proposi-  
15       tion or question the information required under AS 15.14.220(a) or  
16       (b).

17           Sec. 15.14.250. PAYMENT OF CIVIL PENALTY. A civil penalty  
18       imposed by the commission under AS 15.14.230 or 15.14.240 may not be  
19       paid from campaign funds.

20           Sec. 15.14.260. REMOVAL FROM OFFICE. (a) If, after being sworn  
21       into office, a person who was a successful candidate is found to have  
22       committed a violation in the first degree under AS 15.14.230, proceed-  
23       ings shall be held and appropriate action taken under

24           (1) art. II, sec. 12, Constitution of the State of Alaska,  
25       if the candidate is a candidate for the state legislature;

26           (2) art. II, sec. 20, Constitution of the State of Alaska,  
27       if the candidate is a candidate for governor or lieutenant governor;

28           (3) AS 29.20.170, if the candidate is a candidate for  
29       borough assembly;

1 (4) AS 29.20.280, if the candidate is a candidate for  
2 borough mayor;

3 (5) AS 29.20.170, if the candidate is a candidate for city  
4 council;

5 (6) AS 29.20.280(a), if the candidate is a candidate for  
6 city mayor;

7 (7) the provisions of the call for the constitutional  
8 convention, if the candidate is a candidate for constitutional conven-  
9 tion delegate; or

10 (8) art. IV., sec. 10, Constitution of the State of Alaska,  
11 if the candidate is a candidate for judicial retention.

12 (b) Information developed by the commission under AS 15.14.280  
13 shall be considered during a proceeding under (a) of this section.

14 (c) When, after being sworn into office, a successful candidate  
15 is charged with a violation in the first degree under AS 15.14.230(a),  
16 the commission shall promptly hear the matter and accord it a pre-  
17 ferred position for purposes of argument and decision so as to assure  
18 a speedy disposition of the matter.

19 Sec. 15.14.270. LIMITATIONS ON ACTIONS. (a) A proceeding  
20 alleging a violation of AS 15.14.230 must be commenced within four  
21 years from the date of the alleged violation.

22 (b) A proceeding alleging a violation of AS 15.14.240 must be  
23 commenced within two years from the date of the alleged violation.

24 (c) For the purposes of this section, a violation involving the  
25 failure to file a report, statement, or registration is considered to  
26 have been committed on the day after the report, statement or regis-  
27 tration was due.

28 Sec. 15.14.280. INVESTIGATIONS. (a) The commission shall  
29 investigate a violation of AS 15.14.230, 15.14.240, AS 24.50, and

1 AS 39.50 upon receiving a signed and sworn complaint from any person  
2 and may investigate a violation of AS 15.14.230, 15.14.240, AS 24.50,  
3 or AS 39.50 on its own motion.

4 (b) If an investigation is commenced by a signed and sworn  
5 complaint by a person other than a member of the commission or its  
6 employees, the commission shall, within five days after receiving the  
7 complaint, mail a copy of the complaint to each person named in the  
8 complaint.

9 (c) If, after an investigation, the commission determines that  
10 there is probable cause to believe that a person has committed a  
11 violation, the commission may commence violation proceedings by filing  
12 and serving an accusation on the person alleged to have committed the  
13 violation. The commission shall serve an accusation in the manner  
14 provided by court rules for serving a complaint in a civil action.

15 (d) If the commission terminates an investigation without filing  
16 an accusation, the commission shall, within five days after terminat-  
17 ing the investigation, inform the complainant and each person named in  
18 the complaint of the information reviewed and that the commission has  
19 terminated the investigation and will not be taking further action  
20 concerning the complaint.

21 Sec. 15.14.290. ACCUSATIONS. (a) The accusation must be a  
22 written statement of the charges setting out in ordinary and concise  
23 language the acts or omissions with which the respondent is charged,  
24 so that the respondent is able to prepare a defense. The accusation  
25 must also specify the statute or regulation that the respondent is  
26 alleged to have violated, and the maximum penalty provided for the  
27 violation. The accusation may not consist merely of charges phrased  
28 in the language of the statute and regulation.

29 (b) The commission shall include in or with the accusation a

1 statement in substantially the following form:

2 "To the Respondent: Unless you deliver or mail a written  
3 request for a hearing signed by you or on your behalf to  
4 the commission within 15 days after this accusation was  
5 personally served on you or mailed to you, the commission  
6 may proceed upon the accusation without further notice to  
7 you. You may request a hearing by delivering or mailing  
8 the enclosed form entitled 'Notice of Defense,' or by  
9 delivering or mailing a notice of defense under AS 15.14.300  
10 to the commission at its central office address (insert central  
11 office address)."

12 (c) The commission shall include with the accusation served upon  
13 the respondent a post card or other form entitled, "Notice of Defense"  
14 that, when signed by or on behalf of the respondent and returned to  
15 the commission constitutes a notice of defense under AS 15.14.300.

16 Sec. 15.14.300. NOTICE OF DEFENSE. (a) Within 15 days after  
17 service upon the respondent of the accusation, the respondent may file  
18 with the commission a notice of defense. In the notice the respondent  
19 may

20 (1) deny the accusation in whole or in part and request a  
21 hearing;

22 (2) object to the accusation on the ground that it does not  
23 state acts or omissions upon which the commission may proceed;

24 (3) object to the form of the accusation on the ground that  
25 it is so indefinite or uncertain that the respondent cannot identify  
26 the transaction or prepare a defense;

27 (4) present new matter by way of defense; or

28 (5) admit or plead no contest to the accusation in whole or  
29 in part, and present material in mitigation of penalty.

1 (b) Within the time specified in (a) of this section, the re-  
2 spondent may file one or more notices of defense upon any or all of  
3 the grounds set out in (a) of this section but all of the notices must  
4 be filed within the period unless the commission in its discretion  
5 authorizes the filing of a later notice.

6 (c) The respondent is entitled to a hearing on the merits if the  
7 respondent files a notice of defense. The notice of defense is con-  
8 sidered a specific denial of all parts of the accusation not expressly  
9 admitted. Failure to file a notice of defense within the time spec-  
10 ified in (a) of this section constitutes a waiver of the respondent's  
11 right to a hearing, but the commission in its discretion may neverthe-  
12 less grant a hearing. Unless objection is taken as provided in (a)(3)  
13 of this section, all objections to the form of the accusation are  
14 waived.

15 (d) The notice of defense must be in writing, signed by or on  
16 behalf of the respondent, and must state the respondent's address.  
17 The notice of defense need not be verified or follow a particular  
18 form.

19 Sec. 15.14.310. HEARINGS. (a) If a respondent requests a  
20 hearing on a contested accusation or, in the absence of a request, the  
21 commission in its discretion decides to hold a hearing, the commission  
22 shall mail or deliver a notice of hearing to the respondent at least  
23 10 days before the hearing. The hearing may not be held before the  
24 expiration of the time within which the respondent is entitled to file  
25 a notice of defense. The notice to respondent must be consistent with  
26 the form for notice of hearing under AS 44.62.420.

27 (b) The commission shall conduct its hearings under AS 44.62.-  
28 440 - 44.62.500, except that

29 (1) the commission may, but is not required to, appoint a

1 hearing officer under AS 44.62.350;

2 (2) if a hearing officer is not appointed, the chairman of  
3 the commission, or the commission member designated by the chairman,  
4 shall preside at the hearing, and the attorney general shall assign an  
5 assistant attorney general to the commission to advise it on matters  
6 of law during the hearing;

7 (3) the hearing may not proceed except with a quorum of the  
8 commission, whether or not a hearing officer is appointed.

9 (c) A hearing under this section shall be open to the public  
10 except that a respondent may request and the hearing officer or the  
11 presiding commission member may order that the hearing be closed if  
12 one or more of the requirements for holding an executive session under  
13 AS 44.62.310(c) is met.

14 Sec. 15.14.320. IMPOSITION OF PENALTY. (a) The commission may  
15 impose the penalty provided by law for the violation only if the  
16 accused person, having been advised of the right to a hearing, admits  
17 or pleads no contest to the allegations contained in the accusation,  
18 or if the commission

19 (1) holds a hearing at which the person accused is afforded  
20 the right to appear, with or without counsel, the right to present  
21 witnesses or other evidence and the right to cross examine witnesses;  
22 and

23 (2) following the hearing, determines by clear and convinc-  
24 ing evidence that the person has committed the violation of which the  
25 person was accused.

26 (b) The executive director of the commission may not formally or  
27 informally make a recommendation to the commission as to a particular  
28 penalty in a pending matter or make a commitment to the respondent to  
29 make a particular recommendation to the commission in the future until

1 after the respondent has admitted or pleaded no contest to the accusa-  
2 tion or until after a hearing and a final determination by the com-  
3 mission that the respondent has committed the acts charged in the  
4 accusation.

5 (c) Before the executive director of the commission may make a  
6 recommendation to the commission for the imposition of a particular  
7 penalty in a matter, the respondent must first be given notice of the  
8 recommendation and afforded an opportunity to respond to the recom-  
9 mendation in person or in writing.

10 (d) In imposing a penalty, the commission shall consider

11 (1) the seriousness of the violation in terms of the extent  
12 to which the violation has impeded public disclosure of information  
13 required to be filed with the commission as to the amount and source  
14 of contributions that are large enough to be of significant interest  
15 to voters; and

16 (2) the extent to which the respondent's conduct, including  
17 prior violations of this chapter, AS 24.50, AS 39.50, or of former  
18 AS 15.13 shows a continuing disregard for the law.

19 Sec. 15.14.330. SUMMARY DISPOSITION OF VIOLATIONS. (a) Not-  
20 withstanding the provisions of AS 15.14.290 - 15.14.320, the commis-  
21 sion may establish by regulation the violations under AS 15.14.240  
22 that are amenable to summary disposition without formal accusation or  
23 hearing and may establish a schedule of fines, not to exceed \$500, for  
24 each violation.

25 (b) If an investigation by the commission discloses that a  
26 person has committed a violation included in the schedule of fines  
27 established under (a) of this section, the commission may, in lieu of  
28 serving an accusation on the person, mail a notice of fine to the  
29 person indicating the circumstances of the violation and the amount of