

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3877 SCRA SB 356 (FILE 3) 353

1 expelling the person elected;

2 (7) is convicted of a misdemeanor under former [VIOLATION  
3 OF] AS 15.13 or is found to have committed a violation in the first  
4 degree under AS 15.14.220;

5 (8) no longer physically resides in the municipality and  
6 the governing body by two-thirds vote declares the seat vacant; or

7 (9) if a member of the governing body, misses three con-  
8 secutive regular meetings and is not excused.

9 \* Sec. 8. AS 29.20.280(a) is amended to read:

10 (a) The governing body shall, by two-thirds concurring vote,  
11 declare the office of mayor vacant only when the person elected

12 (1) fails to qualify or take office within 30 days after  
13 election or appointment;

14 (2) unless excused by the governing body, is physically  
15 absent for 90 consecutive days;

16 (3) resigns and the resignation is accepted;

17 (4) is physically or mentally unable to perform the duties  
18 of office;

19 (5) is convicted of a felony or of an offense involving a  
20 violation of the oath of office;

21 (6) is convicted of a felony or misdemeanor described in  
22 AS 15.56;

23 (7) is convicted of a misdemeanor under former [VIOLATION  
24 OF] AS 15.13 or is found to have committed a violation in the first  
25 degree under AS 15.14.220;

26 (8) no longer physically resides in the municipality; or

27 (9) if a member of the governing body in a second class  
28 city, misses three consecutive regular meetings and is not excused.

29 \* Sec. 9. AS 39.50.050(a) is amended to read:

1 (a) The Alaska Public Offices Commission established [CREATED]  
2 under AS 15.14.020 [AS 15.13.020(a)] shall administer the provisions  
3 of this chapter. The commission shall prepare and keep available for  
4 distribution, standardized forms on which the reports required by this  
5 chapter shall be filed.

6 \* Sec. 10. AS 39.50.200(a) is amended to read:

7 (a) In this chapter:

8 (1) "assistant to the governor" includes any executive,  
9 legislative, special, administrative or press assistant to the gover-  
10 nor, and any person similarly employed;

11 (2) "child" includes a biological child, an adoptive  
12 child, and a stepchild;

13 (3) "commission" means the Alaska Public Offices Commis-  
14 sion established [CREATED] under AS 15.14.020 [AS 15.13.020(a)];

15 (4) "instrumentality of the state" means a state depart-  
16 ment or agency, whether in the legislative, judicial, or executive  
17 branch, including such entities as the University of Alaska and the  
18 Alaska State Housing Authority;

19 (5) "judicial officer" means a person appointed as a  
20 justice to the supreme court or as a judge to the court of appeals,  
21 superior court, district court, or magistrate court;

22 (6) "mother or father" includes a biological parent, an  
23 adoptive parent, and a step-parent;

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

29 (8) "public official" means a judicial officer, a member

1 of the legislature, the fiscal analyst of the legislative finance  
2 division, the legislative auditor of the legislative audit division,  
3 the executive director of the Legislative Affairs Agency and the  
4 directors of the divisions within the Legislative Affairs Agency, the  
5 governor, the lieutenant governor, a person hired or appointed as the  
6 head or deputy head of, or director of a division within, a department  
7 in the executive branch, and assistant to the governor, chairman or  
8 member of a state commission or board, and each appointed or elected  
9 municipal officer;

10 (9) "source of income" means the entity for which service  
11 is performed or which is otherwise the origin of payment; if the  
12 person whose income is being reported is employed by another, the  
13 employer is the source of income; but if the person is self- employed  
14 by means of a sole proprietorship, partnership, professional corpora-  
15 tion, or a corporation in which the person, the person's spouse or  
16 children, or a combination of them, hold a controlling interest, the  
17 "source" is the client or customer of the proprietorship, partnership  
18 or corporation, but if the entity which is the origin of payment is  
19 not the same as the client or customer for whom the service is per-  
20 formed, both are considered the source;

21 \* Sec. 11. AS 39.50.200(b) is repealed and reenacted to read:

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

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

25 (2) Alaska Coastal Policy Council members and their alter-  
26 nates (AS 44.19.155);

27 (3) Alaska Commercial Fisheries Entry Commission (AS 16.-  
28 43.020);

29 (4) Alaska Commission on Postsecondary Education

1 (AS 14.42.015);

2 (5) Alaska Energy Center (AS 46.12);

3 (6) Alaska Housing Finance Corporation (AS 18.56.010 -  
4 18.56.210);

5 (7) Alaska Judicial Council (art. IV, sec. 8, Alaska Con-  
6 stitution);

7 (8) Alaska Medical Facility Authority (AS 18.26.010 -  
8 18.26.900);

9 (9) Alaska Municipal Bond Bank Authority (AS 44.85.020);

10 (10) Alaska Power Authority public directors (AS 44.83.030);

11 (11) Alaska Oil and Gas Conservation Commission (AS 31.05.-  
12 005 - 31.05.170);

13 (12) Alaska Public Broadcasting Commission (AS 44.21.256);

14 (13) Alaska Public Offices Commission, including the execu-  
15 tive director and employees of the commission (AS 15.14.020);

16 (14) Alaska Public Utilities Commission (AS 42.05.010);

17 (15) Alaska Resources Corporation (AS 37.12.010);

18 (16) Alaska Royalty Oil and Gas Development Advisory Board  
19 (AS 38.06.020);

20 (17) Alaska Seafood Marketing Institute (AS 16.51.010);

21 (18) Alaska State Council on the Arts (AS 44.27.040);

22 (19) Alaska State Housing Authority (AS 18.55.020);

23 (20) Alaska Teachers' Retirement Board (AS 14.25.035);

24 (21) Alcoholic Beverage Control Board (AS 04.06.010);

25 (22) Board of Education (AS 14.07.075);

26 (23) Board of Fisheries (AS 16.05.221(a));

27 (24) Board of Game (AS 16.05.221(b));

28 (25) Board of Parole (AS 33.16.020);

29 (26) Board of Trustees and executive director of the Alaska

1 Permanent Fund Corporation (AS 37.13.040);

2 (27) Commission on Judicial Conduct (art. IV, sec. 10,  
3 Alaska Constitution);

4 (28) Council on Domestic Violence and Sexual Assault  
5 (AS 18.66.010);

6 (29) Employment Security Advisory Council (AS 23.20.025);

7 (30) Fishermen's Fund Advisory and Appeals Council (AS 23.-  
8 35..

9 (31) Governor's Commission on the Administration of Justice  
10 (AS 44.19.110);

11 (32) Local Boundary Commission (AS 44.47.565);

12 (33) Occupational Safety and Health Review Board (AS 18.60.-  
13 057);

14 (34) Public Employees' Retirement Board (AS 39.35.030);

15 (35) State Assessment Review Board (AS 43.56.040);

16 (36) State Commission for Human Rights (AS 18.80.010);

17 (37) State Personnel Board (AS 39.25.060);

18 (38) University of Alaska Board of Regents (AS 14.40.120);

19 (39) Workers' Compensation Board (AS 23.30.005).

20 (b) Unlawful solicitation of campaign contributions is a class C  
21 felony.

22 \* Sec. 12. AS 44.62.330(a)(39) is amended to read:

23 (39) Alaska Public Offices Commission except to the extent  
24 that AS 44.62.350 - 44.62.630 is inconsistent with AS 15.14.270 -  
25 15.14.350

26 \* Sec. 13. AS 15.13 and AS 15.56.010(1) and (2) are repealed.

27 \* Sec. 14. Alaska Public Office Commission members serving on the  
28 effective date of this Act continue to serve out their terms as provided  
29 under AS 15.13.020, repealed in sec. 13 of this Act. Vacancies occurring

1 on or after January 1, 1987, shall be filled in accordance with AS 15.14.-  
2 020 enacted in sec. 1 of this Act.

3 \* Sec. 15. Notwithstanding AS 15.14.010(b) as enacted in sec. 1 of this  
4 Act, the election of a municipality held under former AS 15.13.010(a) to  
5 exempt its officers from the application of AS 15.13 is confirmed as an  
6 exemption from the application of AS 15.14.

7 \* Sec. 16. In accordance with AS 15.14.180 as enacted in sec. 1 of this  
8 Act, a candidate shall, no later than January 31, 1987, close each campaign  
9 account relating to a campaign for an election held before January 1, 1987,  
10 unless the campaign has outstanding debts. If the campaign has outstanding  
11 debts, the candidate may keep campaign accounts open after January 31,  
12 1987, but shall close each campaign account within 30 days after all debts  
13 have been paid and in no event later than January 1, 1988, whether or not  
14 there are outstanding debts remaining on that date. During the time that  
15 an account remains open under this section, contributions may be solicited  
16 and accepted and expenditures made only for the purpose of retiring  
17 outstanding debts of a campaign for an election held before January 1,  
18 1987. An outstanding campaign debt remaining on January 1, 1988, becomes  
19 the personal debt of the candidate.

20 \* Sec. 17. This Act applies to election campaign activities that take  
21 place after January 1, 1987.

22 \* Sec. 18. This Act takes effect January 1, 1987.  
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Amendments to SB 356 -- Campaign Financing -- Made in Senate C&RA

Gross & Burke Amendments

- Amend #1 Page 1, line 19, delete "United States census figures or"  
COGHILL MOVED, UNANIMOUS CONSENT 3/4/86
- Amend #2 Page 20, line 24, delete "solicits a contribution and"  
FISHER MOVED UNANIMOUS CONSENT 3/6/86
- Amend #3 Page 24, lines 24-29 through page 25, lines 1-2, amend subsection  
(a) -- (see atch #1)  
STURGULEWSKI MOVED, 3-Y, 1-N 3/4/86
- Amend #4 Page 25, lines 3-10, amend subsection (b) as follows:  
(see atch #2)  
STURGULEWSKI MOVED, UNANIMOUS CONSENT 3/4/86
- Amend #5 Page 32, lines 27-28, amend subsection (b) to read:  
(b) a proceeding [PROSECUTION] alleging a violation of AS 15.14.230  
must be commenced within two years from the date of the alleged  
violation [OFFENSE].  
FISCHER MOVED, UNANIMOUS CONSENT 3/4/86
- Amend #6 Page 44, lines 7-8 and lines 27-28, amend subparagraph (7)  
in both instances to read:  
(7) is convicted of a misdemeanor under former AS 15.13 or is found  
to have committed a violation in the first degree under AS.15.14.220  
[VIOLATION OF AS 15.13]  
COGHILL MOVED, UNANIMOUS CONSENT 3/4/86
- Amend #7 Page 49, lines 11-16, delete Sec. 17 and insert the following:  
and (see atch #3)
- Amend #8 COGHILL MOVED, UNANIMOUS CONSENT 3/6/86

Senator Sturgulewski Amendment

- Amend #9 Page 1, lines 17 & 18  
(b) This chapter applies to each election for mayor, municipal governing  
body, [ASSEMBLY] and [OR] school board ...  
STURGULEWSKI MOVED, UNANIMOUS CONSENT 3/4/86

Senator Vic Fischer Amendments

Amend #10 Change contribution limit from \$2,000 to \$1,000 throughout bill

FISCHER MOVED, UNANIMOUS CONSENT 3/4/86

Amend #11 Change disclosure requirement from \$250 to \$100 throughout bill

FISCHER MOVED, UNANIMOUS CONSENT 3/4/86

Amend #12 Change reporting requirement limit from \$500 to \$250 for special contributions, loans, or expenditures made or received within the last 10 days before the election.

Page 9, line 29, delete [\$500], insert \$250

FISCHER MOVED, UNANIMOUS CONSENT 3/4/86

Amend #13 Delete Political Action Committee contribution limit of \$25,000.  
(see atch #4)

FISCHER MOVED, UNANIMOUS CONSENT 3/6/86

Amend #14 Page 21, line 29 -- delete ["legislative candidate"]

Page 22, line 3 -- add new subsection (2) and renumber sections accordingly

"(2) for a legislative candidate in the general election, 30 days after the date of the election;"

Page 22, line 4 add after "the election;" or 30 days after the date of a run-off election in the case of candidates in a run-off election.

(amend is combination of wording from Fischer & Sturgulewski)  
STURGULEWSKI MOVED, UNANIMOUS CONSENT 3/6/86

Amend #15 Page 23, Line 26, subsection (b)

Delete [..public officer or employee of the state], insert person

FISCHER MOVED, UNANIMOUS CONSENT 3/6/86

Senator Sturgulewski Amendments

Amend #16 Throughout bill change ["over \$100"] to read "more than \$100"

STURGULEWSKI MOVED, UNANIMOUS CONSENT 3/6/86

Amend #17 Page 10, lines 10 & 11

delete ["filed by January 31 following"]

insert "must be filed no later than 30 days after the date on which campaign accounts must be closed under 15.14.180. An annual report for the year in which an election designated under AS 15.14.040(b)"

STURGULEWSKI MOVED, UNANIMOUS CONSENT 3/6/86

Amend #18 Page 15, line 14

change to read "...as correct by the candidate, campaign treasurer of the candidate, by the campaign..."

STURGULEWSKI MOVED, UNANIMOUS CONSENT 3/6/86

Atch #1

PROPOSED AMENDMENTS TO CSSB 356 (SA)

- (1) Page 1, line 19, delete "United States census figures or"  
(2) Page 20, lines 24-27, delete subsection (1) and substitute the following:

(1) the person transfers or delivers contributions of others of \$4,000 or less in the aggregate during a year to a candidate, a campaign officer of a candidate, a political action committee, or an officer of a political action committee and discloses to the candidate or political action committee the identity of the contributors;

**AMEND. # 3.** Page ~~24~~<sup>24</sup>, lines 24-29 through page ~~26~~<sup>25</sup>, lines 1-2, amend subsection (a) to read:

(a) A person who, with intent to avoid disclosure, fails to file a report of contributions, expenditures, or loans [CONTRIBUTIONS OR EXPENDITURES] required to be filed 30 days or seven days before an election under AS 15.14.060(b) or fails to file a report within 24 hours after receiving a contribution or making an expenditure under AS 15.14.060(c) is subject to a civil penalty of not less than \$500 [\$100] nor more than \$2,000 [\$300] for each day that the report is due but not filed up to a maximum of \$25,000 for each report.

Amend #4

Attch #2

Page 25, lines 3-10, amend subsection (b) as follows:

(b) A political action committee that, with intent to avoid disclosure, fails to file a report of contributions, expenditures or loans [CONTRIBUTIONS OR EXPENDITURES] required to be filed 30 days or seven days before an election under AS 15.14.070(b) or fails to file a report within 24 hours after receiving a contribution or making an expenditure under AS 15.14.070(c) is subject to a civil penalty of not less than \$500 [\$100] nor more than \$1,000 [300] for each day that the report is due but not filed up to a maximum of \$25,000 for each report.

~~(5) Page 32, lines 27-28, amend subsection (b) to read:~~

~~(b) A proceeding [PROSECUTION] alleging a violation of AS 15.14.230 must be commenced within two years from the date of the alleged violation [OFFENSE].~~

(6) Page 44, lines 7-8 and lines 27-28, amend subparagraph

(7) in both instances to read:

(7) is convicted of a misdemeanor under former AS 15.13 or is found to have committed a violation in the first degree under AS 15.14.220 [VIOLATION OF AS 15.13].

AMEND #7

Atch #3

Page 49, lines 11-16, delete sec. 17 and insert the following:

\*Sec. 17. In accordance with AS 15.14.180 enacted in sec. 1 of this Act, a candidate shall, no later than January 31, 1987, close each campaign account relating to a campaign for an election held before the effective date of this Act unless the campaign has outstanding debts. If the campaign has outstanding debts, the candidate may keep campaign accounts open after January 31, 1987, but shall close each campaign account within 30 days after all debts have been paid and in no event later than January 1, 1988, whether or not there are outstanding debts remaining on that date. During the time that an an account remains open under this section, contributions may be solicited and accepted and expenditures made only for the purpose of retiring outstanding debts of a campaign for an election held before the effective date of this Act. An outstanding campaign debt remaining on January 1, 1988 becomes the personal debt of the candidate.

Page 49, lines 17-19, amend sec. 18 to read:

\*Sec. 18. This Act applies to election campaign activities that take place afater January 1, 1987 [AND THAT RELATE TO STATE OR MUNICIPAL ELECTIONS HELD AFTER JANUARY 1, 1987].

Atch #4

A M E N D M E N T

By V. Fischer

CSSB 356(SA)  
2/24/86

**AMEND#13**

Deletes PAC contribution limit of \$25,000.

Page 16, lines 26 - 28:

Delete "and may not contribute more than \$25,000 in the aggregate during a calendar year to candidates or political action committees generally,"

Page 26, lines 7 - 8:

Delete "or in excess of the \$25,000 limitation under AS 15.14.120 (b)"

Page 29, lines 25 - 26:

Delete "or in excess of the \$25,000 limitation under AS 15.14.120 (b)"

PROPOSED AMENDMENTS TO CSSB 356 (SA)

- (1) Page 1, line 19, delete "United States census figures or"
- (2) Page 20, lines 24-27, delete subsection (1) and substitute the following:

(1) the person transfers or delivers contributions of others of \$4,000 or less in the aggregate during a year to a candidate, a campaign officer of a candidate, a political action committee, or an officer of a political action committee and discloses to the candidate or political action committee the identity of the contributors;

- (3) Page <sup>24</sup>~~23~~, lines 24-29 through page <sup>25</sup>~~26~~, lines 1-2, amend subsection (a) to read:

(a) A person who, with intent to avoid disclosure, fails to file a report of contributions, expenditures, or loans [CONTRIBUTIONS OR EXPENDITURES] required to be filed 30 days or seven days before an election under AS 15.14.060(b) or fails to file a report within 24 hours after receiving a contribution or making an expenditure under AS 15.14.060(c) is subject to a civil penalty of not less than \$500 [\$100] nor more than \$2,000 [\$300] for each day that the report is due but not filed up to a maximum of \$25,000 for each report.

(4) Page 25, lines 3-10, amend subsection (b) as follows:

(b) A political action committee that, with intent to avoid disclosure, fails to file a report of contributions, expenditures or loans [CONTRIBUTIONS OR EXPENDITURES] required to be filed 30 days or seven days before an election under AS 15.14.070(b) or fails to file a report within 24 hours after receiving a contribution or making an expenditure under AS 15.14.070(c) is subject to a civil penalty of not less than \$500 [\$100] nor more than \$1,000 [300] for each day that the report is due but not filed up to a maximum of \$25,000 for each report.

(5) Page 32, lines 27-28, amend subsection (b) to read:

(b) A proceeding [PROSECUTION] alleging a violation of AS 15.14.230 must be commenced within two years from the date of the alleged violation [OFFENSE].

(6) Page 44, lines 7-8 and lines 27-28, amend subparagraph

(7) in both instances to read:

(7) is convicted of a misdemeanor under former AS 15.13 or is found to have committed a violation in the first degree under AS 15.14.220 [VIOLATION OF AS 15.13].

(8) Page 49, lines 11-16, amend to read:

\*Sec. 17. AS 15.14.180 as enacted in sec. 1 of this Act does not apply to campaign accounts for campaigns for elections [ELECTION CAMPAIGNS] held before the effective date of this Act and does not apply to contributions solicited or accepted and to expenditures made for the purpose of retiring campaign debts incurred by a candidate in a campaign for an election [AN ELECTION CAMPAIGN] held before the effective date of this Act.

(9) Page 49, line 19, change "January 16" to "January 1"

Sturgulewski → Amend # 9

OK

A M E N D M E N T

Sec. 15.14.010:

(b) This chapter applies to each election for mayor, municipal governing body, [ASSEMBLY]...

This changes the language in this section to conform to the language used in Title 29 the muncipal code. Legal services should be directed to use consistent language throughout this bill.

line 17 page

moved Fischer # 10  
adopted

A M E N D M E N T

By V. Fischer

CSSB 356(SA)  
2/24/86

Changes contribution limit from \$2,000 to \$1,000 (as in present law).

Page 15, line 27:

Delete "\$2,000" and insert "\$1,000"

Page 16, line 2

Delete "\$2,000" and insert "\$1,000"

Page 16, line 25:

Delete "\$2,000" and insert "\$1,000"

Page 17, line 27:

Delete "\$2,000" and insert "\$1,000"

Page 18, line 3:

Delete "\$2,000" and insert "\$1,000"

Page 26, line 1:

Delete "\$2,000" and insert "\$1,000"

Page 26, line 7:

Delete "\$2,000" and insert "\$1,000"

Page 26, line 15:

Delete "\$2,000" and insert "\$1,000"

Page 29, line 19:

Delete "\$2,000" and insert "\$1,000"

Page 29, line 25:

Delete "\$2,000" and insert "\$1,000"

Page 30, line 11:

Delete "\$2,000" and insert "\$1,000"

Page 30, line 17:

Delete "\$2,000" and insert "\$1,000"

*Fisher moved #11  
adopted  
4 yes*

A M E N D M E N T

By V. Fischer

CSSB 356(SA)  
2/24/86

Changes disclosure requirement from \$250 to \$100 (as in current law).

Page 8, line 10:

Delete "\$250" and insert "\$100"

Page 9, line 10:

Delete "\$250" and insert "\$100"

Page 11, line 3:

Delete "\$250" and insert "\$100"

Page 12, line 4:

Delete "\$250" and insert "\$100"

# 12  
Fisher moved  
unanimous consent

A M E N D M E N T

By V. Fischer

CSSB 356(SA)  
2/24/86

Changes reporting requirement limit from \$500 to \$250  
(as at present) for special contributions, loans, or  
expenditures made or received within the last 10 days before  
the election.

Page 9, line 29 delete "\$500" and insert "\$250"

# 13

A M E N D M E N T

By V. Fischer

CSSB 356(SA)  
2/24/86

Deletes PAC contribution limit of \$25,000.

Page 16, lines 26 - 28:

Delete "and may not contribute more than \$25,000 in the aggregate during a calendar year to candidates or political action committees generally,"

Page 26, lines 7 - 8:

Delete "or in excess of the \$25,000 limitation under AS 15.14.120 (b)"

Page 29, lines 25 - 26:

Delete "or in excess of the \$25,000 limitation under AS 15.14.120 (b)"

#14

A M E N D M E N T

By V. Fischer

CSSB 356(SA)  
2/24/86

Changes closing date for campaign activities and  
accounts from 30 to 60 days after election or withdrawal.

Page 22, line 3:

Delete "30" and insert "60"

Page 22, line 5;

Delete "30" and insert "60"

Page 22, line 7;

Delete "30" and insert "60"

Page 22, line 10:

Delete "30" and insert "60"

Page 22, line 13:

Delete "30" and insert "60"

# 15

A M E N D M E N T

By V. Fischer

CSSB 356(SA)  
2/24/86

Prohibits any person from soliciting contributions from public employees on state property, (per A.G. letter of 2/27/86), but allows labor unions representing public employees to meet in state offices and solicit or request contributions for a candidate or PAC.

Page 23, lines 21 - 22:

Delete "A public officer or employee of the state or of a municipality of the state" and insert "An individual"

Page 23, line 25:

After "party" insert "from a public employee"

Page 24, lines 5 - 6:

Delete all material

Page 24, line 5

Insert "(d) Subsections (a) and (b) of this section do not apply to a meeting held by a labor union representing public employees of the state or of a municipality of the state."

# STATE OF ALASKA

## ALASKA PUBLIC OFFICES COMMISSION

BILL SHEFFIELD, GOVERNOR

REPLY TO:

610 O STREET, SUITE 211  
ANCHORAGE, ALASKA 99501-3598  
(907) 275-4178

JUNEAU BRANCH OFFICE  
POUCH CO  
JUNEAU, ALASKA 99811-0222  
(907) 485-4864

March 6, 1986  
Telecopy

The Honorable Edna DeVries, Chairman  
Senate Community & Regional Affairs  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Dear Senator DeVries and members of the Committee:

Enclosed is a copy of Jean Rogers' testimony on CSSB 356(SA) as provided at the teleconference meeting on February 28.

The Commission discussed the additional questions raised by members of the Committee at its meeting on Friday and asked that I provide you with a summary of their discussion.

### Provisions on Loans:

It appears that CSSB 356(SA) contains inconsistent provisions with respect to loans that would make it difficult to administer. Which provisions are intended to be controlling? For example, the definition of "contribution" includes "[L]oan or loan guarantee...." Page 40, line 10. Candidates and PACs may not accept a contribution in the form of a loan or a loan guarantee. Page 18, line 12; page 17, line 8. Loans and loan repayments are required to be reported by candidates and PACs. Page 8, line 4; page 10, line 26.

Page 16, line 10, AS 15.14.110(3) reads:

(e) An individual or person may not make a contribution in any amount to a candidate or political action committee in the form of a loan or a loan guarantee. This subsection does not prohibit

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

(2) an extension of credit by a person providing goods or services in the normal course of business to a political action committee, a candidate, or a candidate's campaign.

The Commission's experience has shown there is, unfortunately, no simple solution to the problem of pre-campaign loans to a potential

candidate or non-campaign loans to an existing candidate. The Commission has had many discussions about ways to delineate by statutory or regulatory language allowable loans from those which are not allowable. No single, simple test has been found so far. Individuals who are candidates or who may become candidates can not be, nor should they be, deprived by a campaign finance law of their right to engage in other financial transactions unrelated to the campaign.

Under the language in AS 15.14.110(e)(1), the Commission would be required, in cases of alleged violation, to determine whether a loan transaction to a candidate from someone other than a spouse, parent or child of the candidate was, in reality, a contribution. The determination problem is the same as under present law. The change produced by the new language is that it appears to limit those who may make any loans to the campaign at all to those who fit into the four specified categories: candidate, spouse, parent, child. The language in subsection (e)(2) does not indicate that spouse/parent/child loans may exceed \$2,000; presumably they may not.

Case Law Reference re: return of prohibited contributions.

People v. de Grazia, 434 NE2d 543 (Ill. App. Ct 1982). See also 27 Am. Jur. 2d Sec. 879 Escheat at notes 15-16 (1966).

SB 401 - Repeal of Campaign Disclosure Regulations and Regulations on complaints, preliminary investigations, hearings, advisory opinions:

A position paper has been filed on this bill. Copy enclosed.

Summary Statement with respect to CSSB 356(SA):

There are some provisions the Commission can support and others which it can not support. The provisions related to violations, enforcement, and procedures must provide realistic and useful tools for administering the Law. In the absence of such tools, the other changes may never be implemented effectively.

The Commission asked that I convey to you again its appreciation for the special efforts that were made to set up the audio conference. I look forward to hearing from you, should you have any questions about the enclosed information.

Sincerely,  
ALASKA PUBLIC OFFICES COMMISSION

THEDA PITTMAN  
Executive Director

cc: Mike McMullen, Dept. of Administration  
APOC Members

February 28, 1986

Senate Community & Regional Affairs  
Teleconference  
CSSB 356(SA)

My name is Jean Rogers. I'm the chairman of the Alaska Public Offices Commission. Arlayne Knox from Fairbanks who is the vice-chairman of the Commission is here with me as is our newest member, Annie Laurie Howard of Anchorage. Yesterday afternoon the Commission spent some time discussing the bill before you. We find there are things in the bill we support and things in the bill we oppose. I'll try to give you a few examples of each in just a moment.

But first, the members of the Commission wish to point out that this bill is very different from both the one that was initially introduced into State Affairs and from the proposals which received public testimony in October. Quite frankly, with such complex language on a subject of intense public interest, a proposal needs to be put on the table and left there in the same form long enough for people to obtain a copy, read it, and think about it before they testify. Unless that is done, the debate takes place only on a few key issues and many other critical provisions are adopted without scrutiny.

All fall the public discussion centered on Mr. Gross's proposal to abolish the contribution limitation. Now we know that provision is not to be part of the language, but the debate about that proposal has created the impression that everyone knows what's in the bill.

With respect to the the provisions we discussed yesterday, we were reviewing the State Affairs Committee Substitute dated February 24th. The items we like the most include the registration section for candidates and political action committees, the codification of independent expenditures, the requirement to terminate a campaign, the ban on solicitations under force or in public offices. While there may well be room for improvement in these sections, we believe the concepts to be good ones and worth pursuing.

Now let me turn to the provisions which give us the most concern. They are listed in the order they appear in the bill.

Page 18, line 27, subsection 150(a) - As you know we do not support the continuation of contributions by subsidiaries. The records of the past two elections amply illustrate how the limitation is undermined by this practice.

Page 19, line 1, subsection 150(b) - The law needs to spell out that any kind of prohibited contribution must be returned whether was anonymous, in the name of another, in a fictitious name, an excess contribution, etc. We have found case law elsewhere that suggest both the present statute and the proposal before you are inadequate on this subject.

Page 19, line 11, subsection 150(c) - If a person is allowed 10 days to return a prohibited contribution, then the Commission will end up

with cases where the issue is what to do about someone who returned a contribution in 11 days, or 12 days or 13 days. Complainants frequently use such provisions to their advantage. It would make more sense to require immediate return and give the Commission room to consider the facts in a specific situation.

Page 20, line 21, subsection 160(e) -- Much has already been said about the language which undermines the requirement to list deputy treasurers. Those of us who believe the public has the right to know who's carrying around campaign money would like to know how a person could solicit a contribution and carry it to a campaign without exercising any discretion over the identify of the campaign or the amount of the contribution. The real bagmen in life don't say, "I hope you give a contribution of some amount to some candidate and if you do, I'll take it to them." That's the only behavior this language would sanction.

Page 21, line 4, subsection 160(f) - This language parrots existing law about the responsibility of candidates. Our experience has shown that there's much room for improvement with respect to the candidates and the organizers of groups being required to be responsible. Anything you can do to strengthen this language would be appreciated.

Campaign Violations in the 1st and 2nd degree - subsections 220 and 230. Although it appears the Commission could levy substantial fines for 1st degree violations, that would be unlikely. In order to assess the larger fines, the Commission would have to prove by clear and convincing evidence that an act was taken with intent to avoid disclosure. This standard of proof is unreasonably high and would mean few penalties at the higher levels. In the second degree area, we feel that the fines may be too low.

Page 32, Statute of Limitations, section 260 - the term should be 4 years for both kinds of violations, especially since 4-year terms of office are covered by this law.

Page 36, subsection 310(b), "ban on plea bargaining," - The Commission staff serves at the pleasure of the Commission; those who are unhappy with its performance are most welcome to write and let us know.

Page 38, subsection 330, confidentiality - Even if we supported the premise - and we're not sure we do - this language is flawed. The confidentiality requirement is clearly imposed on the Commission and its staff but the complainant would still be free to talk. The language forbids discussion if no accusation is ever filed. Certainly the public has an interest in what cases are dismissed and why. The language in subsection (b) is so prohibitive that it might be illegal to conduct an investigation. If a subpoena were issued with the name of the respondent on it, such could be construed as divulging the existence of an investigation.

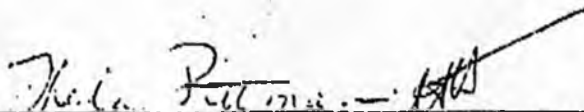
That concludes my remarks on behalf of the Commission. Thank you for this opportunity and for the special effort you made to arrange this teleconference. We're most appreciative.

POSITION PAPER  
SB 401

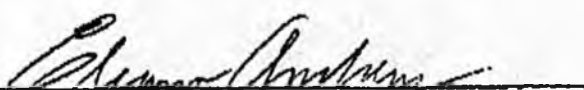
This legislation annuls 34 administrative regulations promulgated by the Alaska Public Offices Commission in accordance with the provisions of the Administrative Procedure Act (AS 44.62). The specific regulations to be annulled include all long-standing and newly-revised regulations, twenty-nine in number, "[N]ecessary to implement and clarify the provisions of ...." AS 15.13, Alaska's Campaign Disclosure Law. AS 15.13(10). The remaining five regulations annulled by the bill are general provisions, procedural in nature, which are also applicable to AS 24.45, Regulation of Lobbying, and to AS 39.50, Conflict of Interest. The latter regulations include the Commission's procedures for handling complaints, preliminary investigations, hearings, and advisory opinions.

These changes would affect approximately 200 state candidates, 350 municipal candidates in 24 municipalities, over 250 political groups, and their major contributors. Candidates, groups, and contributors desiring to comply with AS 15.13 would be unsure of their responsibilities and would swamp the Commission with anxious inquiries. Those desiring to operate unfettered by the requirements of Alaska law would claim they didn't know their actions were improper.

With the 1986 campaigns well underway, the Commission would be required -- in order to assist those campaigns and in order to comply with its enabling legislation -- to publicize its intent to adopt Campaign Disclosure regulations and then to undertake the adoption of emergency regulations. Since emergency regulations are effective only for a short period of time, a notice of intent to adopt permanent regulations would also be undertaken as soon as the emergency action was complete. The process would require 6-9 months and additional funding due to the size of the task and the requirements of the Administrative Procedures Act.

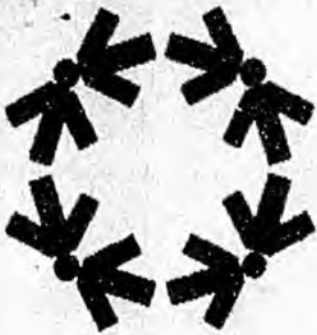
  
Exec. Dir., Public Offices Commission

2/15/86  
Date

  
Commissioner Eleanor Andrews  
Department of Administration

2/18/86  
Date

2/20/86  
①



# AKPIRG

## ALASKA PUBLIC INTEREST RESEARCH GROUP

Post Office Box 1093 / Anchorage, Alaska 99510 / (907) 278-3661

Senator Edna DeVries, Chair  
Senate Community & Regional Affairs Comm.  
Box V  
Juneau, AK 99811  
Attn: Yvonne Alford

6 March 1986

Dear Senator DeVries,

We appreciate the opportunity to provide comment on SB356 as it passes through your committee. There are a number of serious concerns that we have with the bill, as I suggested in my oral testimony last week, and I will make every effort to include them all here. As you know, commenting on this bill has been a major difficulty since the continual changes have made the exercise a study in trying to hit a rapidly moving target. As the basis for our comments I am using the CS of 2/24/86. I am aware from this morning's press reports that some major and very positive changes have been made to the bill in your committee.

For the record, however, we will respond to the 2/24 version since we do not have information on all the recent changes made. We note with disappointment that you did not support the retention of the \$1000 and \$100 limits just returned to the bill and we encourage your reconsideration of those features and the others described below as the committee continues its work. We look forward to further improvements to this legislation which we regard as one of the most fundamentally important issues that any government must address--that is, the accountability and integrity to which we will hold any candidate to assure the public that the highest standards of representational democracy will be observed at all times.

Our comments follow the pagination of the 2/24 version:

- p2 1 5 "political action committee" is first used here. It appears to us that this term is not defined anywhere in the new version nor is it incorporated by reference from any other statute. **DISREGARD**
- p3 1 27 We feel strongly that the importance of the Commission warrants daily compensation of \$150 to \$200 per day. The public should be confident of the service of the most highly qualified people and more adequate daily compensation furthers this goal.
- p4 1 7-8 This is the first of many places in which "and" is used rather than "or". Generally, we suggest using

"or" so as not to suggest that both subjects or actions must occur. ie. this should read "The executive director or an employee..."

p4 1 23-27 Define "prompt" as a fixed period of time within which candidate reports must be forwarded to district offices.

p8 1 19-22 Note here, as contradicted later, that loans are implied to be permissible. We commend the policy of having all loans, of any amount, fully reported. This commendable treatment is also found at p 11, 1 12-16. This language should be retained.

p16 1 10-12 Here loans are prohibited, in contrast to above and later in the draft. We believe this is a mistake.

p16 1 14 We do not believe it is ethical or consistent to permit children or others below voting age to be financially involved in campaigns in which they cannot vote. We believe they should be involved in other, voluntary ways, but see this as an avenue ripe for abuse by the economically powerful. Minors should be prohibited from making loans or contributions to candidates, with the possible exception of to their own parents.

p17 1 8-9 We commend the position that PACs are prohibited from making loans.

p17 1 10-12 The intent of this provision is a good one. We recommend adopting language similar to that offered by Dept. of Law specifying the number of overlapping officers as more than one, ie. "sharing 2 or more officers...". This provision must also be applied to corporations--presumably by the inclusion of the misleading inclusive term "persons" within this section or wherever else appropriate. We also note here that it is our understanding of the remaining relevant definitions that, generally, "persons" is intended to always include corporations. We find this a confusing use of the term that is also awkward in some places in the bill. It would be far clearer and preferable to specifically refer to corporations in any and all places it is intended and to clearly define the term "corporation" as well.

p18 1 12 "and" to "or" as described above. Also, note prohibitive reference to loans in conflict with sections above.

p19 1 7 "assume a political..."

p19 1 8 "and" to "or"

- p20-21  
1 21-3 This section is an intolerable effort to allow unaccountable and unlimited independent fund-raising by persons who aren't associated with the campaign. Such a scheme is a blatant challenge to the tenets of full disclosure and accountability. It should be opposed by every responsible lawmaker and stricken completely.
- p21 1 12-13 The language here does not seem to hold the campaign chairmen sufficiently accountable because it allows, and may even encourage, them to stay uninformed about the conduct of their subordinates. We strongly urge the adoption of language along the lines of Law's "should have known with exercise of reasonable diligence".
- p22 1 3-6 Deadlines for legitimate, active candidates who compete through the primary should not be penalizing in effect. The easiest terminology is for all such candidates to have the swearing-in date of the winner be the deadline. If that is deemed too permissive for the losers in primaries, then terminology should give length of time equal to the time between the relevant election and swearing-in dates. Other candidates who drop out early need not be given any consideration beyond what is provided in the draft.
- p22 1 18 "and" to "or"
- p22 1 18-27 This subsection seems unnecessarily confusing. Why not simply say "No expenditures are permitted after closing a campaign except for distribution of surplus funds as per AS 15.14.190." If this or similar language is adopted, then p23. 1 1 should read "election campaign only by...".
- p23 1 10-11 (4) here seems too loosely constructed. This could provide a wide loophole for all manner of payments after closing that are not intended. This should be eliminated or much more clearly defined.
- p24 1 3 "and" to "or"
- p24 1 5-6 solicitation by anyone, elected, hired or appointed, should not be permitted on government property. There should be a clear and absolute distinction between public service on public property and private campaigning and solicitation.
- p24 et seq The provisions of Article 5 are entirely unsatisfactory in defense of the public interest goals of the highest standards of conduct, accountability and disclosure. Generally we have several overall criticisms

and we encourage revision of this article to respond to these criticisms.

1) It is necessary to prove intent, under the current language, which is an unreasonable standard to apply to those who wish to represent the public. Violations of campaign laws, as long as those laws are clear and reasonable, should be enforced without regard to intent or ability to prove intent. Citizens have complete right to expect lawful conduct from their elected representatives and all candidates. The entire premise of proving intent should be replaced by a standard similar to that applied above to campaign chairmen, ie. "should have know with exercise of reasonable diligence" or similar standard.

2) Requiring the criminal level of proof, "clear and convincing" is again far too stringent a requirement. The current level of "preponderance of the evidence" is appropriate for the same reasons discussed just above and should be retained in this bill.

3) This section generally removes powers of enforcement from the commission and places them in the Dept. of Law. Law is too cumbersome, too busy with other issues and too slow to be an appropriate enforcement agent. The commission should retain all powers of enforcement that it currently holds. With the various improvements either in or achievable in this bill, the commission will be well-equipped and properly guided to conduct the investigative and deliberative roles of enforcement that are its clear and proper duty.

p36 l 25-27 In accordance with comments above, "clear and convincing" is too high a standard of proof to be required. "preponderance of evidence" is the correct level to apply.

p38 l 17 "and" to "or"

p49 l 11-16 Sec. 17 here does not adequately address how the excluded campaign accounts, pre-existing at the effective date, should subsequently be handled. It seems clear to us that any such campaign account is in place for a particular campaign. In that light, all existing campaigns should declare whether they are or aren't for an ensuing election. If they are for an election to come in the next 2 or 4 years, they may remain in place and immediately become subject to the new laws, starting on the effective date. If they are not for a coming election, they should be required to close within 5 days of the new bill's effective date. Since, if passed, this bill will not become law for 6 or 7 months after passage, all account holders, active or not, will have ample time to respond to their individual needs

prior to the effective date. We suggest a 5-day grace period only to acknowledge that some of the old accounts may be rolled over into new campaigns (under the new law) and there should be a time period available to permit that rollover to occur legally.

We also have several general comments which follow.

As suggested elsewhere above, there appears to be potentially serious confusion with regard to definitions of key terms and phrases. The committee should carefully trace all important terms and phrases to insure they are fully and clearly defined. For instance, AS 15.13, which is repealed and replaced by this bill, contains a definition of "group" which is now replaced, apparently, by "political action committee" and "political party" definitions. Is the committee satisfied that all relevant groups formerly covered are properly included in this new pair of terms? We are also concerned, as described above, about the vague way in which corporations are treated under the definition of "person" and about the way in which "person" and "individual" have overlapping meanings that become confusing and even misleading in certain contexts in the bill.

The current draft does not satisfactorily deal with contributions, loans, etc. by subsidiary organizations. We have suggested ways to deal with some aspects of this question through prohibition of concurrent involvement of entities sharing 2 or more officers, etc. Even this, however does not completely cover the possible subsidiaries that could be created and led by distinctly different individuals, yet still operate according to a single corporate or other control. The committee should carefully review this area and add whatever language necessary to eliminate this insidious means of multiplying economic influence beyond ethical limits.

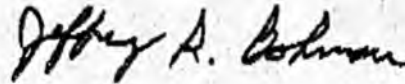
Finally, as addressed in our brief oral testimony last week, all legislators are encouraged to take a far more positive, enlightened and responsible view of the commission and the role of thorough campaign financing laws. The debate has for too long focused on what the bill does or does not do to candidates. This is putting the cart before the horse and is a poor reflection of the vision and principle that the public expects of its representatives. The primary purpose of these laws is to assure the public that they will have open, accountable and ethical performance of the highest standards from candidates and elected officials. If, in order to achieve those goals, some challenging demands are placed on candidates, that is a small and fair price to pay. None of the requirements of this bill or of the many improvements that can still be made should result in the discouragement of potential candidates. In fact, the effect of these measures will be to make candidacy more accessible to all, which is a fundamentally democratic achievement.

We encourage you and the committee to make the additional

5

changes that we and others have suggested and we commend you on the efforts made to date. If we can be of any assistance, we will be happy to do so. We will continue to watch closely as this critical legislation progresses and we look forward to seeing comprehensive, enlightened legislation passed in the near future.

Sincerely,



Jeffrey R. Bohman  
Executive Director

cc. Sen. Vic Fischer, APOC Ex. Dir. Theda Pittman

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : CSSB 356 (State Affairs)  
 Title : "An Act relating to election campaign financing and the Alaska Public Offices Commission; ..."  
 Sponsor : Sen. State Affairs Committee  
 Requestor : Governor's Office/OMB  
 Date of Request : February 28, 1986

**FISCAL DETAIL**

Agency Affected : Department of Law  
 BRU : Legal Services  
 Components : Legal Services Operations

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

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES		72.9	100.2	103.2	106.3	109.5
TRAVEL		4.0	4.9	5.0	5.2	5.4
CONTRACTUAL		10.8	13.4	13.8	14.2	14.6
SUPPLIES		6.0	3.7	3.8	3.9	4.0
EQUIPMENT		9.5	-0-	-0-	-0-	-0-
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>103.2</b>	<b>122.2</b>	<b>125.8</b>	<b>129.6</b>	<b>133.5</b>

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

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

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		103.2	122.2	125.8	129.6	133.5
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

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

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

Please see attached analysis.

Prepared by : Richard I. Pegues, Director Phone : 465-3672  
 Division : Administrative Services Division Date : 3-3-86  
 Approved by Commissioner : Richard I. Pegues / FOR Date : 3-3-86  
 Agency : Department of Law Attorney General : Harold M. Brown

Distribution (by Agency preparing fiscal note) :

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

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSSB 356 (State Affairs)

This bill completely revises existing statutes governing election campaign financing and the operations of the Alaska Public Offices Commission. Because of the number of changes contained in the bill, it will be necessary to adopt a substantial body of regulations, both substantive and technical, to implement the bill's provisions. In this respect, regulations drafting will be a major undertaking, particularly in the areas of accusations, contested accusations, and summary disposition of violations. Such an undertaking can be expected to take a large portion of an attorney's time (40% to 50% in the three months before the bill's effective date and 20% to 30% in the 12 months following implementation.)

Moreover, the bill provides that the commission may conduct hearings without a hearing officer and, in such circumstances, the attorney general shall assign an assistant attorney general to advise the commission on matters of law during hearings. The attorney general is also legal counsel to the commission and advises the commission in legal matters arising out of the discharge of its duties and represents the commission in actions to which it is a party. These latter duties require that a second assistant attorney general be assigned to advise the APOC staff in order to avoid conflicts of representation that would otherwise occur if the same attorney advised both the commission and the APOC staff in matters brought before the commission by the staff.

Although the department currently devotes considerable attorney time to APOC matters, the multi-level representation necessitated by the bill will require that additional Department of Law attorney and support staff resources be provided to the APOC and its staff. Complaints handled by the APOC are increasing, and they are becoming more controversial. Contested accusations are more contentious and, as they generally receive the greatest public attention, there is a public expectation that the accusations will be speedily resolved. To do so in a manner that protects the rights of candidates, public officials, and the public requires that the legal advice furnished to the commission and its staff be provided as promptly and as efficiently as possible. The Department of Law therefore requests that an Attorney IV, together with a part-time legal secretary, be added to its Anchorage civil office to accomplish the purposes of this bill.

Funding Summary CSSB 356 (State Affairs)

	<u>Attorney IV</u>	<u>Legal Sec. I (PPT)</u>	<u>Total</u>
71000	60.0	12.9	72.9
72000	4.0	-0-	4.0
73000	6.2	4.6	10.8
74000	3.5	2.5	6.0
75000	<u>1.5</u>	<u>8.0</u>	<u>9.5</u>
Total	75.2	28.0	103.2

The fiscal note costs shown above are for 10-month start-up costs for FY 87. Costs after FY 87 are on 12-month, full-year basis and include a 3% annual inflation factor, less one-time costs that occur in FY 87.

Position Title <b>Attorney IV</b>			No. of Positions <b>1</b>	Range/Step <b>24A</b>	Barg. Unit <b>PX</b>	Gov.	Approv.	Disapp.
Time Status <b>PFT</b>	Staff Months <b>10</b>	RP Number	Location <b>Anchorage</b>		Election District <b>8</b>	Leg.		
Type of Expenditure			Justification					
			This Attorney IV position will be required to handle the additional workload that will occur as a result of the enactment of CSSB 356. This bill, which completely revises the statutes governing election campaign financing and the operations of the Alaska Public Offices Commission, will require that the Department of Law provide attorney legal services at both the APOC commission and staff levels. Different attorneys must be used for these purposes to avoid any conflicts of representation. Because the accusations brought before the commission involve the rights and reputations of candidates and public officials, allocation of this position to the full-working level of Attorney IV is recommended.					
Amount								
1	2	3						
Salary	46,870							
Benefits	13,174							
Premium Pay								
Other								
Total Personal Services		60,044						
Travel		4,000						
Contractual		6,180						
Commodities		3,500						
Equipment		1,500						
Other								
Total Cost		75,224						
Receipt Code	Funding Source							
	Federal Receipts	1002						
	G. F. Match	1003						
	General Funds	1004	75,224					
	I-A Receipts	1005						
	Program Receipts	1028						
	CIP Receipts	1061						
	Other							
For B&M Use Only								
Key Number _____								

Request For  
New Position

Agency Department of Law  
 BRU Legal Services  
 Component Legal Services Operations

FY 87

Page 1 of 1  
 Revised Date

Position Title <b>Legal Secretary I</b>			No. of Positions 1	Range/Step 10B	Barg. Unit GGU	Gov.	Approv.	Disapp.
Time Status PPT	Staff Months 10	RP Number	Location Anchorage		Election District 8	Leg.		
Type of Expenditure			Justification					
Amount			<p>This part-time position is requested to provide law office support services for the attorney who will be needed to handle the increased workload required by CSB 356. The position will provide typing of legal forms, briefs, legal opinions, and memoranda. The position will also provide office communication and schedule appointments and travel. The typing load is expected to be particularly heavy in view of the overall changes to the state elections campaign financing statutes, which will require the drafting of a substantial body of procedural and substantive regulations. Allocation to the Legal Secretary I level is recommended in view of the specialized nature of the assignments to be undertaken.</p>					
1	2	3						
Salary	9,470							
Benefits	3,429							
Premium Pay								
Other								
Total Personal Services		12,899						
Travel		-0-						
Contractual		4,570						
Commodities		2,500						
Equipment		8,000						
Other								
Total Cost		27,969						
Receipt Code	Funding Source							
	Federal Receipts 1002							
	G. F. Match 1003							
	General Funds 1004		27,969					
	I-A Receipts 1005							
	Program Receipts 1028							
	CIP Receipts 1061							
	Other							
For B&M Use Only								
Key Number								

**Request For  
New Position**

Agency Department of Law  
 BRU Legal Services  
 Component Legal Services Operations

Page 1 of 1  
 Revised Date

**FY 87**

TELECOPY via LAA - THIS sheet plus five - Originals may be mailed.

March 6, 1986

TO: Yvonne Alford, c/o Senator DeVries  
Phone Number: 465-4989

FROM: Theda Pittman, APOC, 276-4176

RE: APOC Testimony CSSB 356(SA).

#####

# STATE OF ALASKA

## ALASKA PUBLIC OFFICES COMMISSION

**BILL SHEFFIELD, GOVERNOR**

REPLY TO:

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

March 6, 1986  
Telecopy

The Honorable Edna DeVries, Chairman  
Senate Community & Regional Affairs  
Alaska State Senate  
Pouch V  
Juneau, AK 99811

Dear Senator DeVries and members of the Committee:

Enclosed is a copy of Jean Rogers' testimony on CSSB 356(SA) as provided at the teleconference meeting on February 28.

The Commission discussed the additional questions raised by members of the Committee at its meeting on Friday and asked that I provide you with a summary of their discussion.

Provisions on Loans:

It appears that CSSB 356(SA) contains inconsistent provisions with respect to loans that would make it difficult to administer. Which provisions are intended to be controlling? For example, the definition of "contribution" includes "[L]oan or loan guarantee...." Page 40, line 10. Candidates and PACs may not accept a contribution in the form of a loan or a loan guarantee. Page 18, line 12; page 17, line 8. Loans and loan repayments are required to be reported by candidates and PACs. Page 8, line 4; page 10, line 26.

Page 16, line 10, AS 15.14.110(3) reads:

(e) An individual or person may not make a contribution in any amount to a candidate or political action committee in the form of a loan or a loan guarantee. This subsection does not prohibit

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

(2) an extension of credit by a person providing goods or services in the normal course of business to a political action committee, a candidate, or a candidate's campaign.

The Commission's experience has shown there is, unfortunately, no simple solution to the problem of pre-campaign loans to a potential

candidate or non-campaign loans to an existing candidate. The Commission has had many discussions about ways to delineate by statutory or regulatory language allowable loans from those which are not allowable. No single, simple test has been found so far. Individuals who are candidates or who may become candidates can not be, nor should they be, deprived by a campaign finance law of their right to engage in other financial transactions unrelated to the campaign.

Under the language in AS 15.14.110(e)(1), the Commission would be required, in cases of alleged violation, to determine whether a loan transaction to a candidate from someone other than a spouse, parent or child of the candidate was, in reality, a contribution. The determination problem is the same as under present law. The change produced by the new language is that it appears to limit those who may make any loans to the campaign at all to those who fit into the four specified categories: candidate, spouse, parent, child. The language in subsection (e)(2) does not indicate that spouse/parent/child loans may exceed \$2,000; presumably they may not.

Case Law Reference re: return of prohibited contributions.

People v. de Grazia, 434 NE2d 543 (Ill. App. Ct 1982). See also 27 Am. Jur. 2d Sec. 879 Escheat at notes 15-16 (1966).

SB 401 - Repeal of Campaign Disclosure Regulations and Regulations on complaints, preliminary investigations, hearings, advisory opinions:

A position paper has been filed on this bill. Copy enclosed.

Summary Statement with respect to CSSB 356(SA):

There are some provisions the Commission can support and others which it can not support. The provisions related to violations, enforcement, and procedures must provide realistic and useful tools for administering the Law. In the absence of such tools, the other changes may never be implemented effectively.

The Commission asked that I convey to you again its appreciation for the special efforts that were made to set up the audio conference. I look forward to hearing from you, should you have any questions about the enclosed information.

Sincerely,  
ALASKA PUBLIC OFFICES COMMISSION

THEDA PITTMAN  
Executive Director

cc: Mike McMullen, Dept. of Administration  
APOC Members

February 28, 1986

Senate Community & Regional Affairs  
Teleconference  
CSSB 356(SA)

My name is Jean Rogers. I'm the chairman of the Alaska Public Offices Commission. Arlayne Knox from Fairbanks who is the vice-chairman of the Commission is here with me as is our newest member, Annie Laurie Howard of Anchorage. Yesterday afternoon the Commission spent some time discussing the bill before you. We find there are things in the bill we support and things in the bill we oppose. I'll try to give you a few examples of each in just a moment.

But first, the members of the Commission wish to point out that this bill is very different from both the one that was initially introduced into State Affairs and from the proposals which received public testimony in October. Quite frankly, with such complex language on a subject of intense public interest, a proposal needs to be put on the table and left there in the same form long enough for people to obtain a copy, read it, and think about it before they testify. Unless that is done, the debate takes place only on a few key issues and many other critical provisions are adopted without scrutiny.

All fall the public discussion centered on Mr. Gross's proposal to abolish the contribution limitation. Now we know that provision is not to be part of the language, but the debate about that proposal has created the impression that everyone knows what's in the bill.

With respect to the the provisions we discussed yesterday, we were reviewing the State Affairs Committee Substitute dated February 24th. The items we like the most include the registration section for candidates and political action committees, the codification of independent expenditures, the requirement to terminate a campaign, the ban on solicitations under force or in public offices. While there may well be room for improvement in these sections, we believe the concepts to be good ones and worth pursuing.

Now let me turn to the provisions which give us the most concern. They are listed in the order they appear in the bill.

Page 18, line 27, subsection 150(a) - As you know we do not support the continuation of contributions by subsidiaries. The records of the past two elections amply illustrate how the limitation is undermined by this practice.

Page 19, line 1, subsection 150(b) - The law needs to spell out that any kind of prohibited contribution must be returned whether was anonymous, in the name of another, in a fictitious name, an excess contribution, etc. We have found case law elsewhere that suggest both the present statute and the proposal before you are inadequate on this subject.

Page 19, line 11, subsection 150(c) - If a person is allowed 10 days to return a prohibited contribution, then the Commission will end up

with cases where the issue is what to do about someone who returned a contribution in 11 days, or 12 days or 13 days. Complainants frequently use such provisions to their advantage. It would make more sense to require immediate return and give the Commission room to consider the facts in a specific situation.

Page 20, line 21, subsection 160(e) -- Much has already been said about the language which undermines the requirement to list deputy treasurers. Those of us who believe the public has the right to know who's carrying around campaign money would like to know how a person could solicit a contribution and carry it to a campaign without exercising any discretion over the identify of the campaign or the amount of the contribution. The real bagmen in life don't say, "I hope you give a contribution of some amount to some candidate and if you do, I'll take it to them." That's the only behavior this language would sanction.

Page 21, line 4, subsection 160(f) - This language parrots existing law about the responsibility of candidates. Our experience has shown that there's much room for improvement with respect to the candidates and the organizers of groups being required to be responsible. Anything you can do to strengthen this language would be appreciated.

Campaign Violations in the 1st and 2nd degree - subsections 220 and 230. Although it appears the Commission could levy substantial fines for 1st degree violations, that would be unlikely. In order to assess the larger fines, the Commission would have to prove by clear and convincing evidence that an act was taken with intent to avoid disclosure. This standard of proof is unreasonably high and would mean few penalties at the higher levels. In the second degree area, we feel that the fines may be too low.

Page 32, Statute of Limitations, section 260 - the term should be 4 years for both kinds of violations, especially since 4-year terms of office are covered by this law.

Page 36, subsection 310(b), "ban on plea bargaining," - The Commission staff serves at the pleasure of the Commission; those who are unhappy with its performance are most welcome to write and let us know.

Page 38, subsection 330, confidentiality - Even if we supported the premise - and we're not sure we do - this language is flawed. The confidentiality requirement is clearly imposed on the Commission and its staff but the complainant would still be free to talk. The language forbids discussion if no accusation is ever filed. Certainly the public has an interest in what cases are dismissed and why. The language in subsection (b) is so prohibitive that it might be illegal to conduct an investigation. If a subpoena were issued with the name of the respondent on it, such could be construed as divulging the existence of an investigation.

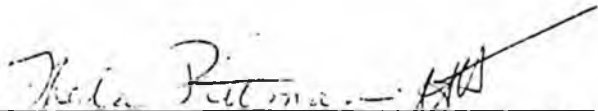
That concludes my remarks on behalf of the Commission. Thank you for this opportunity and for the special effort you made to arrange this teleconference. We're most appreciative.

POSITION PAPER  
SB 401


This legislation annuls 34 administrative regulations promulgated by the Alaska Public Offices Commission in accordance with the provisions of the Administrative Procedure Act (AS 44.62). The specific regulations to be annuled include all long-standing and newly-revised regulations, twenty-nine in number, "[N]ecessary to implement and clarify the provisions of ...." AS 15.13, Alaska's Campaign Disclosure Law. AS 15.13.030(10). The remaining five regulations annuled by the bill are general provisions, procedural in nature, which are also applicable to AS 24.45, Regulation of Lobbying, and to AS 39.50, Conflict of Interest. The latter regulations include the Commission's procedures for handling complaints, preliminary investigations, hearings, and advisory opinions.

These changes would affect approximately 200 state candidates, 350 municipal candidates in 24 municipalities, over 250 political groups, and their major contributors. Candidates, groups, and contributors desiring to comply with AS 15.13 would be unsure of their responsibilities and would swamp the Commission with anxious inquiries. Those desiring to operate unfettered by the requirements of Alaska law would claim they didn't know their actions were improper.

With the 1986 campaigns well underway, the Commission would be required -- in order to assist those campaigns and in order to comply with its enabling legislation -- to publicize its intent to adopt Campaign Disclosure regulations and then to undertake the adoption of emergency regulations. Since emergency regulations are effective only for a short period of time, a notice of intent to adopt permanent regulations would also be undertaken as soon as the emergency action was complete. The process would require 6-9 months and additional funding due to the size of the task and the requirements of the Administrative Procedures Act.

  
\_\_\_\_\_  
Exec. Dir., Public Offices Commission

2/15/86  
Date

  
\_\_\_\_\_  
Commissioner Eleanor Andrews  
Department of Administration

2/18/86  
Date

FEB 22 1986  
2/20  
①

C&RA 3/6/86

Gross & Burke

No. 2 - Passed

No. 7 - Rewrite passed

No. 13 - passed unanimous consent - Fischer

Moved to reconsider Fisher amend #11  
reconsideration passed

Coghill - No

DeVries - No

Sturgis - Yes

Fisher - Yes

Ferguson - Yes

Ferguson

incumbent should be limited in  
some way, because new-comers  
don't have a fair chance -

Give new version to committee.

then take up next Thursday —

Sturgis - Go through bill again —

SB 356 - Mtg 3/4/86

### Gross & Burke amendments

- No. 1. Coghill moved, unanimous consent  
~~No. 2. Held over~~ - passed unanimous consent 3/6/86  
No. 3. Sturgulowski moved, passed 3 yea 1 nay  
No. 4. Sturgulowski moved, passed unanimous consent  
No. 5. Fischer moved, passed unanimous consent  
No. 6. Coghill moved, passed unanimous consent  
~~No. 7. Attornies to redraft~~ - 1 yro grace period.  
acct closed when debt paid off  
No. 8. Fischer moved, passed unanimously

### Sturgulowski amendment

- No. 9 - Sturgulowski moved, passed unanimously  
~~#~~

### Five Fischer amendments

- No. 10 - Fischer moved - unanimous  
No. 11 - Fischer moved - unanimous  
No. 12 - Fischer moved - unanimous

Fischer 13, 14, 15 held over.

Gross & Burke

PROPOSED AMENDMENTS TO CSSB 356 (SA)

(1) Page 1, line 19, delete "United States census figures or"

(2) Page 20, lines 24-27, delete subsection (1) and substitute the following:

(1) the person transfers or delivers contributions of others of \$4,000 or less in the aggregate during a year to a candidate, a campaign officer of a candidate, a political action committee, or an officer of a political action committee and discloses to the candidate or political action committee the identity of the contributors;

(3) Page 25, lines 24-29 through page 26, lines 1-2, amend subsection (a) to read:

(a) A person who, with intent to avoid disclosure, fails to file a report of contributions, expenditures, or loans [CONTRIBUTIONS OR EXPENDITURES] required to be filed 30 days or seven days before an election under AS 15.14.060(b) or fails to file a report within 24 hours after receiving a contribution or making an expenditure under AS 15.14.060(c) is subject to a civil penalty of not less than \$500 [\$100] nor more than \$2,000 [\$300] for each day that the report is due but not filed up to a maximum of \$25,000 for each report.

7  
~~69~~

Page 49, lines 11-16, amend to read:

\*Sec. 17. AS 15.14.180 as enacted in sec. 1 of this Act does not apply to campaign accounts for campaigns for elections [ELECTION CAMPAIGNS] held before the effective date of this Act and does not apply to contributions solicited or accepted and to expenditures made for the purpose of retiring campaign debts incurred by a candidate in a campaign for an election [AN ELECTION CAMPAIGN] held before the effective date of this Act.

8  
~~67~~

Page 49, line 19, change "January 16" to "January 1"

# 13



*passed unanimous consent*

A M E N D M E N T

By V. Fischer

CSSB 356(SA)  
2/24/86

Deletes PAC contribution limit of \$25,000.

Page 16, lines 26 - 28:

Delete "and may not contribute more than \$25,000 in the aggregate during a calendar year to candidates or political action committees generally,"

Page 26, lines 7 - 8:

Delete "or in excess of the \$25,000 limitation under AS 15.14.120 (b)"

Page 29, lines 25 - 26:

Delete "or in excess of the \$25,000 limitation under AS 15.14.120 (b)"

Fisher moved #14  
F-4-S-N-Cog-Y  
Deltri-N Ferg-No

#14

A M E N D M E N T

By V. Fischer

CSSB 356(SA)  
2/24/86

Move Muri candidates  
up into Section 1

Changes closing date for campaign activities and  
accounts from 30 to 60 days after election or withdrawal.

Page 22, line 3:

Delete "30" and insert "60"

Page 22, line 5;

Delete "30" and insert "60"

Page 22, line 7;

Delete "30" and insert "60"

Page 22, line 10:

Delete "30" and insert "60"

Page 22, line 13:

Delete "30" and insert "60"

Sturg  
passed  
unanimous  
consent

Amend pg 22, Line 4 or 30 days  
after the date of election - case of  
candidate in a run-off  
election

# 15

A M E N D M E N T

By V. Fischer

CSSB 356(SA)  
2/24/86

Prohibits any person from soliciting contributions from public employees on state property, (per A.G. letter of 2/27/86), but allows labor unions representing public employees to meet in state offices and solicit or request contributions for a candidate or PAC.

Page 23, lines 21 - 22:

Delete "A public officer or employee of the state or of a municipality of the state" and insert "An individual"

Page 23, line 25:

After "party" insert "from a public employee"

Page 24, lines 5 - 6:

Delete all material

Page 24, line 5

*Moved by Fischer* - Fischer Y  
Fera N

Sturg - N  
Coq - N  
DeVries - N

Insert "(d) Subsections (a) and (b) of this section do not apply to a meeting held by a labor union representing public employees of the state or of a municipality of the state."

*subsection (b)  
solicitation of public employees  
delete "by" or "to"  
insert "person"  
State and  
passed unanimous  
Fischer*

Tech amendments  
Gross/Burke 3/4/86

PROPOSED AMENDMENTS TO CSSB 356 (SA)

Moved Coghill unanimous consent  
amend # 2

Amend. # 2

Page 1, line 19, delete "United States census figures or" (1)

Page 20, lines 24-27, delete subsection (1) and  
substitute the following: (2)

(1) the person transfers or delivers contributions of others of \$4,000 or less in the aggregate during a year to a candidate, a campaign officer of a candidate, a political action committee, or an officer of a political action committee and discloses to the candidate or political action committee the identity of the contributors;

(3) Page <sup>24</sup>~~25~~, lines 24-29 through page <sup>25</sup>~~26~~, lines 1-2, amend subsection (a) to read: (3)

(a) A person who, with intent to avoid disclosure, fails to file a report of contributions, expenditures, or loans [CONTRIBUTIONS OR EXPENDITURES] required to be filed 30 days or seven days before an election under AS 15.14.060(b) or fails to file a report within 24 hours after receiving a contribution or making an expenditure under AS 15.14.060(c) is subject to a civil penalty of not less than \$500 [\$100] nor more than \$2,000 [\$300] for each day that the report is due but not filed up to a maximum of \$25,000 for each report.

Hold action til Thursday

if intent moved fine should be much larger

intent to deceive  
deceive w/o intent  
distinguish between  
inadvertent and  
wilful, deliberate

(4)

(4) Page 25, lines 3-10, amend subsection (b) as follows:

(b) A political action committee that, with intent to avoid disclosure, fails to file a report of contributions, expenditures or loans [CONTRIBUTIONS OR EXPENDITURES] required to be filed 30 days or seven days before an election under AS 15.14.070(b) or fails to file a report within 24 hours after receiving a contribution or making an expenditure under AS 15.14.070(c) is subject to a civil penalty of not less than \$500 [\$100] nor more than \$1,000 [<sup>2000</sup>300] for each day that the report is due but not filed up to a maximum of \$25,000 for each report.

(5)

(5) Page 32, lines 27-28, amend subsection (b) to read:

(b) A proceeding [PROSECUTION] alleging a violation of AS 15.14.230 must be commenced within two years from the date of the alleged violation [OFFENSE].

(6)

(6) Page 44, lines 7-8 and lines 27-28, amend subparagraph ~~in~~ in both instances to read:

(7) is convicted of a misdemeanor under former AS 15.13 or is found to have committed a violation in the first degree under AS 15.14.220 [VIOLATION OF AS 15.13].

Hold r 7  
change ~~(8)~~

(7)

Page 49, lines 11-16, amend to read:

election held  
before effective  
date, rather  
than campaign  
before effective  
date

\*Sec. 17. AS 15.14.180 as enacted in sec. 1 of this Act does not apply to campaign accounts for campaigns for elections [ELECTION CAMPAIGNS] held before the effective date of this Act and does not apply to contributions solicited or accepted and to expenditures made for the purpose of retiring campaign debts incurred by a candidate in a campaign for an election [AN ELECTION CAMPAIGN] held before the effective date of this Act.

~~(8)~~  
(8)

Page 49, line 19, change "January 16" to "January 1"

Page 49, lines 11-16, delete sec. 17 and insert the following:

#17  
adopted  
unanimous  
consent

\*Sec. 17. In accordance with AS 15.14.180 enacted in sec. 1 of this Act, a candidate shall, no later than January 31, 1987, close each campaign account relating to a campaign for an election held before the effective date of this Act unless the campaign has outstanding debts. If the campaign has outstanding debts, the candidate may keep campaign accounts open after January 31, 1987, but shall close each campaign account within 30 days after all debts have been paid and in no event later than January 1, 1988, whether or not there are outstanding debts remaining on that date. During the time that an an account remains open under this section, contributions may be solicited and accepted and expenditures made only for the purpose of retiring outstanding debts of a campaign for an election held before the effective date of this Act. An outstanding campaign debt remaining on January 1, 1988 becomes the personal debt of the candidate.

Page 49, lines 17-19, amend sec. 18 to read:

\*Sec. 18. This Act applies to election campaign activities that take place afater January 1, 1987 [AND THAT RELATE TO STATE OR MUNICIPAL ELECTIONS HELD AFTER JANUARY 1, 1987].

A M E N D M E N T

06 March 1986  
by STURGULEWSKI

Senate Bill 356

Current law addresses dollar amounts by saying "over \$100", etc.

Senate Bill 356 as drafted refers to dollar amounts by saying "\$100 or more". This could lead to a lot of \$99.99 contributionss. Legal Services should be directed by change dollar amount references throughout the bill to conform to current law.

" read more than \$100 "

Sturg - moved unanimous consent

Fisher - make sure all references are changed

17

Sturg moved  
asked unanimous  
consent

A M E N D M E N T

06 March 1986  
by STURGULEWSKI

Senate Bill 356

Page 10, line 10:

delete: "filed by January 31 following"

insert: "must be filed no later than ~~15~~ 30 days after the date on which campaign accounts must be closed under 15.14.180. An annual report for the year in which an election designated under AS 15.14.040(b)"

The "10-day after" report called for in current law has been deleted in this proposed legislation, and replaced by only an annual report requirement, due on 31 January of each year.

This leaves a losing primary candidate five months before a final report is due. This amendment standardizes reporting of closed campaign accounts for an election year by providing that the annual report be filed 15 days after the campaign account is closed as set out by 15.14.180.

18

Sturgulewski moved  
unanimous consent

A M E N D M E N T

06 March 1986  
by STURUGLEWSKI

Senate Bill 356

Page 15, line 14:

change to read: "...as correct by the candidate, campaign treasurer of the candidate, by the campaign..."

Current law includes the candidate as being able to certify the campaign report. This change adds the candidate to the list of persons able to certify a campaign report in the proposed bill.

Ferguson - candidate should not  
certify his own acct

06 March 1986  
by STURGULEWSKI

Senate Bill 356

Sec.15.14.180. TERMINATION OF CAMPAIGN ACTIVITY AND CLOSING OF CAMPAIGN ACCOUNTS. (a) A candidate shall close each campaign account relating to a designated election campaign on or before one of the following dates:

(1) for a legislative or statewide candidate in the general election, the date on which the successful candidate is sworn into office;

This section creates for legislators a time frame of about a month longer than any other candidate for closing a campaign account. The practical effect of this section limits a statewide candidate to less than 30 days to close a campaign account, and the following subsections specify that other candidates have only 30 days in which to close an account. In 1986, for example, the elapsed time between the general election and the first Monday in December, when statewide candidates assume office, is 26 days.

A M E N D M E N T

Page 21, line 29:

DELETE: "legislative candidate"

Page 22, line 3:

ADD: new subsection "(2) for a legislative candidate in the general election, 30 days after the date of the election;"

Renumber following subsections accordingly.

*Sturgulewski moved  
unanimous  
consent.*

A M E N D M E N T

06 March 1986  
by STURGULEWSKI

Senate Bill 356

Page 22, line 3:

add: " , or 30 days after a run-off election;"

The proposed bill makes no provision for municipal run-off elections. This addition clarifies that an account could remain open until 30 days after a run-off election, generally held 20 days after a regular election.

SB 356 - Mtg 3/4/86

Gross & Burke amendments

- No 1. Coghill moved, unanimous consent
- No. 2. Held over
- No. 3. Sturgulewski moved, passed 3 yrs 1 day
- No. 4. Sturgulewski moved, passed unanimous consent
- No. 5. Fischer moved, passed unanimous consent
- No. 6. Coghill moved, passed unanimous consent
- No. 7. Attornies to redraft - 1 yr grace period  
acct closed when debt paid off
- No 8. Fischer moved, passed unanimously

Sturgulewski amendment

- No. 9 - Sturgulewski moved, passed unanimously

~~#~~

Vic Fischer amendments

- No. 10 - Fisher moved - unanimous
- No. 11 - Fischer moved - unanimous
- No 12 - Fischer moved - unanimous

Fisher 13, 14, 15 held over.

GA RA Committee  
5B-356  
3/4/86

Burke  
Went thru bill based on Coth's  
Tech amendments:

Amendment #1 passed unanimously consent

Amend #2 - Gross  
Sturg - What happens when event raises more  
than \$4000

Gross. have never enforced law the way it is written

Fisher. hired fund raiser who gets 10% of money  
would not have to register

Burke. Yes, but this would be shown in  
expenditure action

Coghill. 1/2 amendment makes problem worse

Amend #3

Close up discretionary power of Commission

Coghill: say fine \$25,000 but waive everything  
but \$1500.

~~pk 745-5703~~  
~~Dist 16~~  
~~Cross Keeling~~  
~~Box 135~~  
~~Palmer,~~

Averum: if deal w/ offenses as crimes can use  
officer of court

Gross - Regulations - any inconsistent w/ Act will have to  
be re-written

Com

- Amend # 3 moved Arliss - passed unanimous consent
- Amend # 4 moved Arliss - passed unanimous consent
- Amend # 5 moved Fischer - " " "
- # 6 moved Coghill - " " "
- # 7 ↓ make changes so that acct closed if debt  
paid off  
allow some grace period, but not indefinite  
1 yr. grace period
- # 8 moved Fischer - passed

Arliss

pg 1, line 17 delete assembly insert  
line 18 or to "and"

Amendments 13, 14, 15 held to Thursday



Official Business

# Alaska State Legislature

## Senate

### Committee on Community and Regional Affairs

Senator Edna DeVries, Chairman

Members:

Senator Ferguson, Vice Chairman

Senator Coghil

Senator Sturgulewski

Senator V. Fischer

Pouch V

Juneau, Alaska 99811

Committee Meeting March 4, 1986

SB 356 -- An Act relating to election campaign financing

Note: The minutes from the February 28 meeting wherein testimony was taken from the Alaska Public Offices Commissioners, have been transcribed verbatim.

The committee requested a written copy from the Commission of Chairman Rogers' comments; and also written comments from Jeff Bowman of AKPIRG. A telephone contact with Theda Pittman and Jeff Bowman this morning elicited the information that written comments will be forthcoming from both sometime this week.

Attached are proposed amendments to SB 356 from Gross & Burke.

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE  
SUITE 200  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 276-3550

1st NATIONAL CENTER  
100 CUSHMAN ST.  
SUITE 400  
FAIRBANKS, ALASKA 99701  
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3600

**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

February 27, 1986

The Honorable Edna DeVries  
Chair, Senate Committee on Community  
and Regional Affairs  
Alaska State Legislature  
P.O. Box "V"  
Juneau, AK 99811

Re: CSSB 356; Revision of campaign  
financing laws

Dear Senator DeVries:

I understand that CSSB 356 has been referred to your committee for review. As you know, the Department of Law identified a variety of problems with SB 356 as originally introduced by the Senate Affairs Committee. While CSSB 356 is an improvement over the original bill, I regret to say that it is still far from perfect. One provision in particular troubles me greatly.

This is proposed section 15.14.200, "Solicitation of Contributions." The committee substitute prohibits public employees from soliciting contributions to candidates, political action committees and political parties from other public employees "while on the premises of a state or municipal office." This is fine as far as it goes. However, CSSB 356 exempts officials "elected to office by popular vote" from this prohibition. See proposed section 15.14.200(d). Furthermore, the bill allows candidates, lobbyists, or any other person connected with a political campaign to solicit contributions from public employees on public premises.

Proposed section 15.14.200 should be strengthened to prohibit any person from soliciting political campaign contributions from public employees on public premises. This prohibition should include elected officials, lobbyists, and campaign workers. Any time an elected official or a candidate for elective office (especially a gubernatorial candidate) solicits contributions from a public employee, there is a substantial risk of perception on both the part of the state employee and the public that the contribution was less than voluntary. This is especially true in the case of public employees in the exempt and partially-exempt service, who ultimately serve at the pleasure of elected officials.

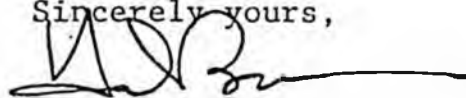
The Honorable Edna DeVries, Chair  
Senate Committee on Community and  
Regional Affairs  
Re: CSSB 356

February 27, 1986  
Page 2

For example, every attorney in the Department of Law is either partially-exempt or exempt under the state's personnel laws. I cannot help but think that solicitations on behalf of any gubernatorial candidate in our offices would create the impression that an attorney's job may be at risk unless he or she contributes to the campaign. While prohibiting campaign solicitations on public premises would not prevent solicitation from public employees at home, the risk of an impression that refusing to contribute would result in retaliation is much less than it would be if the solicitation was made at the workplace. Consequently, I believe it is entirely appropriate to draw a bright line and prohibit any campaign fundraising from public employees on public premises.

Thank you very much in advance for your consideration of my concerns. Please let me know if the Department of Law can be of any assistance to your committee in its review of CSSB 356.

Sincerely yours,



Harold M. Brown  
Attorney General

HMB:RDM:cck

cc: The Honorable Frank Ferguson  
Alaska State Senate

The Honorable John B. Coghill  
Alaska State Senate

The Honorable Vic Fischer  
Alaska State Senate

The Honorable Arliss Sturgulewski  
Alaska State Senate

Theda S. Pittman, Executive Director  
Alaska Public Offices Commission  
Anchorage

LAW OFFICES  
**GROSS & BURKE**  
A PROFESSIONAL CORPORATION  
424 NORTH FRANKLIN STREET  
JUNEAU, ALASKA 99801

AVRUM M. GROSS  
SUSAN A. BURKE

(907) 586-2777

February 25, 1986

To: Members of the Senate Community and Regional Affairs  
Committee

From: Avrum M. Gross  
Susan A. Burke

SECTIONAL ANALYSIS OF CSSB 356 (State Affairs)  
CAMPAIGN FINANCING PRACTICES REVISION

The following is a section by section analysis of CSSB 356 (State Affairs), which revises the campaign financing laws now contained in AS 15.13.

Article 1. ALASKA PUBLIC OFFICES COMMISSION.

Sec. 15.14.010. APPLICABILITY. This section is almost identical to existing AS 15.13.010. One change from existing law is to cite to the specific statute under which the Department of Community and Regional Affairs certifies municipal populations for purposes of identifying those municipalities with populations of more than 1,000 to which the chapter applies. Also, the language in the existing law that states that the law applies to elections "to a municipal office" has been replaced with language that specifically refers to the offices that are to be covered --

mayor, assembly, and school board. This change insures that service area elections are not covered by the law.

The bill contains no counterpart to existing AS 15.13.011, which exempts presidential primary elections from the provisions of the chapter, since the law providing for a presidential primary in Alaska has been repealed.

Sec. 15.14.020. ALASKA PUBLIC OFFICES COMMISSION. Subsections (a) through (g) deal with the appointment of commissioners and are in substance the same as the appointment provisions contained in AS 15.13.020. However, existing law only provides for the initial appointment of commissioners; it contains no procedure for the appointment of successors. The new sec. 15.14.020 establishes such procedures consistent with that used for initial appointments and establishes a period of 30 days after a vacancy within which the appointment must be made.

Under existing law, a member of the commission is prohibited from certain kinds of political activity, but an exception is made for contributions by commission members to a candidate for President of the United States. Under subsection (h) of sec. 15.14.020, this exception is no longer allowed.

Subsection (i) of sec. 15.14.020 changes the amount of compensation received by APOC commissioners to \$100 per day.

Presently, members of the commission receive compensation of \$50 per day -- the generally applicable per diem rate when the commission was established approximately 12 years ago.

Subsection (j) of this section amends existing law dealing with a quorum of the commission to provide that while a majority of the commission constitutes a quorum, a vote of at least three members is required for the commission to take any affirmative action. The purpose of this change is to insure that all actions by the commission will be taken by a bipartisan majority.

Subsection (k) includes a new provision that prohibits the executive director and employees of the commission from engaging in the types of political activity that commission members are prohibited from undertaking under subsection (h).

Sec. 15.14.030. DUTIES OF THE COMMISSION. This section is nearly identical to the present 15.13.030, which spells out the responsibilities of the APOC. Existing law requires the commission to report violations of the law to the Attorney General. Because the bill now contains only civil penalties, to be administered by the commission under provisions similar to the Administrative Procedure Act, subsections (7) and (8) of sec. 15.14.030 do not contain a

requirement that violations be reported to the Attorney General.

Article 2. REGISTRATION AND REPORTS.

Sec. 15.14.040. REGISTRATION BY CANDIDATES. Sec. 040 establishes the point at which a person becomes subject to the requirements of the law for filing reports required to be filed by candidates. It is set as the time the candidate files for nomination or previously, if he accepts contributions from others of more than \$1000 in the aggregate. Present law has no similar provision; AS 15.13.100 does provide, however, that candidates may not make expenditures for other than travel or polls prior to filing for office. This bill does not include the existing prohibition on expenditures prior to filing. A person under the provisions of this bill would be free to spend any amount of his or her own money campaigning without having to register with the commission or actually file for office. Such expenditures would, of course, be reported to the commission once the person did file for office or began to receive contributions from others.

Sec. 15.14.050. REGISTRATION BY POLITICAL ACTION COMMITTEES. Subsection (a) of this section is nearly identical to the present AS 15.13.050. It requires that political action committees register prior to making any

contributions to a candidate or independent expenditures on behalf of or in opposition to a candidate. Subsection (b) applies to committees that are not supporting candidates but instead are formed solely to support initiatives or referendums. Registration for such a committee is required within 30 days after the committee files a petition commencing the process of the initiative or referendum, regardless of whether contributions are solicited or expenditures made.

Subsection (c) is new, and provides that the registration of a PAC is valid only from the date of registration until the following January 31. In effect, this subsection requires a political action committee to renew its registration annually.

Subsection (d) is also new, and provides that a political action committee may not register using a name that is the same or materially similar to the name of another political action committee already registered. Similar provisions are found in the corporations code, and are designed to avoid confusion as to the identity of PACs.

Subsections (e) and (f) deal with PACs that are formed for the purpose of supporting only one candidate or that are so much controlled by a candidate as to be, in essence, nothing more than a campaign committee of the candidate.

These provisions are modeled after provisions of existing law contained in the definition of "group."

Sec. 15.14.060. REPORTS BY CANDIDATES OF CONTRIBUTIONS, LOANS AND EXPENDITURES. This section describes the information that must be included in contribution and expenditure reports and establishes the dates at which those reports must be filed. Under present law, these requirements are set out in AS 15.13.110 and AS 15.13.040. The bill makes very few substantive changes in the existing reporting requirements.

Under existing law, reports of contributions and expenditures must be filed on December 31 of each year, 30 days before an election, one week before an election, and ten days after an election. In addition, a report must be filed within 24 hours of a contribution of \$250 or that is received within one week of an election. The first change made in the bill to existing law is to raise from \$100 to \$250 the amount of aggregate contributions by a single contributor that requires disclosure of the identity and business affiliation of the contributor. The second change is to raise from \$250 to \$500 the amount of a contribution that must be reported within 24 hours of receipt during the period immediately prior to the election. These changes

merely reflect the effects of inflation since the adoption of the existing provisions 12 years ago.

The bill also eliminates the requirement that a report of contributions and expenditures be filed ten days after an election. That report has no impact on the election itself. Moreover, since under AS 15.14.180 of the bill campaign accounts must be closed as of the date the successful candidate is sworn into office and a final report filed shortly thereafter, the same information contained in the report filed ten days after an election will be included in the final report. Thus there is little if anything to be gained by filing the ten day report. The ten day report has, in effect, been replaced in the bill with a "final report," to be filed on or before January 31 of the year following the election. There is no existing requirement that campaign books be closed at any time; accordingly, there is no requirement under present law for a final report.

The bill also deals with an apparent oversight in the existing law regarding the special reports required for contributions of greater than \$500 made within one week of an election. Since under present law, (AS 15.13.110) reports need only include contributions made up to three days before the date of the report, the general report filed

one week before the election actually only includes contributions made up to ten days before the election. The report that is required for larger contributions made within one week of the election, then, leaves a gap of three days during which such contributions need not be specially reported. The new AS 15.14.060(c) closes this inadvertent loophole by requiring reports of \$500 contributions commencing ten days before the election.

The date for the year end contribution and expenditure report by candidates has been also changed from December 31 to January 31, and covers all contributions received and expenditures made between January 1 and December 31 of the immediately preceding year. The same change has been made for contribution and expenditure reports by political action committees in Sec. 15.14.070.

The bill for the first time would require candidates to report all loans received, including the amount, purpose, terms and identity of the lender. Sec. 15.14.110(e) of the bill prohibits contributions to candidates and PACs in the form of loans. Unless candidates and PACs are required to report all loans, there is no way to effectively enforce the prohibition against contributions in the form of loans.

The bill eliminates the requirements of existing AS 15.13.070(f) that limit the total expenditures that may be

made in a campaign, since such limits are unconstitutional. It also eliminates the provision in AS 15.13.040(f) that requires businesses providing media services to a candidate to report the amount of expenditures made by the candidate and received by them. The APOC stopped enforcing this provision years ago and there is no reason to carry it forward in the law.

Sec. 15.14.070. REPORTS BY POLITICAL ACTION COMMITTEES OF CONTRIBUTIONS, LOANS, AND EXPENDITURES. This section is similar to the present AS 15.13.040 and 15.13.110, and establishes the same reporting requirements for political action committees as sec. 15.14.060 establishes for candidates.

Sec. 15.14.080. STATEMENT BY PERSON MAKING CONTRIBUTION OR EXPENDITURE. This section is nearly identical to existing AS 15.13.080, and requires that persons contributing \$250 or more to a candidate or PAC must file a statement with the commission to that effect. This section also requires persons to file such statements concerning "independent" expenditures of \$250 or more.

Sec. 15.14.090. INDEPENDENT EXPENDITURES. The definition of "independent expenditure" set forth in this section raises one of the more difficult issues in the area of campaign financing regulation. Because the United States

Supreme Court has held that there may not be any limits imposed on the amount a person or political action committee spends "independently" of a candidate, and because this bill maintains limits on contributions to candidates by persons and political action committees, some definition must be established to differentiate the truly "independent" expenditure by a person or political action committee from one that is made in coordination with a candidate and therefore subject to the contribution limits. While the differences are easy to distinguish conceptually, fashioning a distinction in statutory language that will work in practice is not so easy.

One of the difficult problems of enforcing the contribution limits as they apply to non-independent expenditures -- particularly in a relatively small state like Alaska -- arises from the fact that professional media consultants often work, during the same election, for a number of individual candidates and also for political action committees. If a consultant is advising a PAC and that PAC is making expenditures on behalf of a candidate who is also one of the consultant's clients, there is a strong possibility that knowledge gained by the consultant from working with the candidate will, consciously or unconsciously, be applied to the development of media

prepared on behalf of the candidate by the political action committee.

From the standpoint of enforcing the contribution limits on political action committees, it is difficult to prove affirmatively, without an objective standard in the law, that a consultant has used information from the candidate in developing "independent" media for a PAC. Unless there is a clear, objective test for nonindependent expenditures, there will be no way to enforce the contribution limits.

This section attempts to establish an objective standard for "independent" expenditures. It is modeled after federal law. It provides, in essence, that an expenditure is not an independent expenditure -- and thus subject to the contribution limitations -- if the expenditure is made in consultation with someone who either was an officer of the candidate's campaign or worked in a professional capacity for the candidate's campaign within one year before the expenditure is made. This does not mean that expenditures made in consultation with candidates or their consultants are illegal. The provision would simply be a means of letting PACs, candidates, campaign workers, and media consultants know when expenditures that are made by "independent" supporters of a candidate must be reported

as contributions and included within the \$2,000 contribution limitation. This provision will unquestionably have some effect on a media consultant's ability to take employment both from a candidate and from PACs that seek to spend more than \$2,000 on that candidate's behalf.

The definition is far from perfect, since it is going to be difficult in many cases to determine if an expenditure is truly independent or whether it has been made through consultation with a candidate. Communication with the Federal Election Commission staff indicates that there have been few, if any, successful efforts to enforce this provision a federal level. Nonetheless, the distinction must be made since under rulings of the Supreme Court, there are no limits on the amount of independent expenditures that may be made by a PAC or individual to support a candidate, while expenditures that are not independent are deemed contributions and may be limited.

Sec. 15.14.100. CERTIFICATION OF REPORTS. Present law requires in numerous sections that reports made to the commission be certified. The proposed section makes that requirement generally applicable to all reports and adds a specific form for the certification.

ARTICLE 3. CONTRIBUTIONS AND EXPENDITURES.

Sec. 15.14.110. CONTRIBUTIONS BY A PERSON. Subsection (a) of this section includes the present limitation of \$100 on the amount that may be contributed to a candidate or PAC in the form of cash. Subsection (b) raises the present limit of \$1,000 for contributions made by persons directly to candidates to \$2,000. Subsection (c) imposes for the first time a limit on the amount that a person may contribute to a PAC, and sets that limit at \$2,000. Subsection (d) permits, as does existing law, unlimited contributions to political parties, and restates the constitutional rulings of the United States Supreme Court that no limits may be imposed on contributions to groups formed solely for the purpose of supporting or opposing ballot propositions or questions. Subsection (e) prohibits persons from making contributions in the form of loans in any amount to candidates or political action committees. The theory behind this prohibition is that a candidate will feel more of an ongoing obligation to a contributor who lends the candidate money than to a contributor who merely gives a contribution in the form of an outright gift. Loans to candidates made by themselves or by members of their immediate families would still be permitted, as would

ordinary extensions of business credit made in the course of a campaign.

Sec. 15.14.120. CONTRIBUTIONS BY A POLITICAL ACTION COMMITTEE. Subsections (a) through (c) contain the same limitations on contributions by political action committees that sec. 15.14.110 imposes on contributions by persons. Subsection (b) of this section additionally prohibits a PAC from contributing more than \$25,000 in the aggregate during a year to candidates and other political action committees generally.

Subsection (e) is concerned primarily with the potential problem of spinning off additional PACs from a "parent" PAC simply to avoid the contribution limitations. This subsection provides that multiple PACs are considered to be a single group for purposes of the contribution limits if the PACs share a majority of the same officers. This is far from an ideal solution to this problem; however, it is extremely difficult to draft objective indicators of "control" or "sameness" among PACs that will identify truly spurious spin-offs but that do not at the same time include genuinely distinct PACs.

Subsection (f) makes it clear that if a political action committee makes a non-independent expenditure for a communication supporting a slate of candidates, the

committee must allocate that expenditure for purposes of the contribution limitation among those candidates on a pro rata basis.

Subsection (g) provides (as in present law) that political parties may make unlimited contributions to candidates. The distinction is made because political parties are far different than the new type of political action committees that have sprung up in the last decade. Political parties are democratically run, and they represent a wide spectrum of interests as compared with political action committee that more and more tend to represent narrow economic or political concerns.

Sec. 15.14.130. LIMITATIONS ON ACCEPTING CONTRIBUTIONS. The two previous sections (15.14.110 and 15.14.120) prohibit persons and PACs from making contributions beyond the limits provided in those sections. This section contains the counterpart provision that prohibits candidates, campaign officers, PACs and PAC officers from accepting contributions made in excess of those limits.

Sec. 15.14.140. EXPENDITURES. This section replaces the unconstitutional provisions of present AS 15.13.070(f) that limit campaign expenditures; the revision brings the law into conformity with U.S. Supreme Court decisions.

Subsection (a) provides that there is no limit on the amount a candidate may expend for his own campaign. Subsection (b) provides that persons or PACs may also make unlimited expenditures of funds so long as those expenditures are independent expenditures.

Sec. 15.14.150. PROHIBITED CONTRIBUTIONS. This section continues the prohibition contained in present law, AS 15.13.070(d), against anonymous contributions or expenditures and against contributions and expenditures made in the name of another. This section also provides, contrary to regulations recently adopted by APOC, that contributions by a shareholder of a corporation are not contributions in the name of the corporation. This would permit a subsidiary corporation and its parent corporation each to contribute \$2,000 to the same candidate.

#### ARTICLE 4. CAMPAIGN CONDUCT AND ADMINISTRATION.

Sec. 15.14.160. CAMPAIGN OFFICERS. This section is similar to the existing provisions of AS 15.13.060. The new section retains the requirement of existing law that candidates and PACs must appoint a campaign treasurer. It adds a new requirement, however, that PACs must also appoint a campaign chairman. The existing statute requires candidates for state offices to file the name of their campaign treasurers with the director of the division of

elections, who then files it with the commission. The new section deletes the requirement of filing with the division of elections and instead provides for filing the names of campaign officers directly with the commission.

Under existing law, contributions may be "received" and expenditures made only through a campaign officer -- chairman, treasurer or deputy treasurer, or by a candidate personally. Sec. 15.14.160(e) of the bill would exempt a person from registering as a deputy campaign treasurer if the person's only activity is soliciting contributions and transferring contribution checks from contributors to candidates.

Subsection (f) is virtually identical to the existing provisions of AS 15.13.060(f), which provides that a default or violation of a campaign treasurer is considered a default or violation by the candidate if the candidate "knew or had reason to know of the default or violation." The new subsection expands the candidate's responsibility to all campaign officers, not just campaign treasurers.

Sec. 15.14.170. USE OF CAMPAIGN FUNDS. This section is new, and in effect prohibits the personal use of campaign funds by providing that campaign funds may be used only for campaign purposes. While the standards in the bill describing the permissible use of campaign funds --