

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6117 HOUSE STATE AFFAIRS

521

containing  
ular ticket  
s place or  
increased;  
is workers  
promises  
l opinions  
o corpora-

e a public  
ination or  
je.

any polit-  
office, or  
mployment.  
of a public

ll be fined  
rm not to

and. Sec. 222,

(1) A cor-  
rection with  
a candidate

t or receive

istration of  
ibutions or  
ns solicited  
f the corpo-

nalty provi-

en. Sec. 10790,  
973; amd. Sec.

A corpora-  
e an emolu-  
on that the  
uted to sup-

37-128.

**13-35-230. Repealed. Sec. 407, Ch. 571, L. 1979.**  
History: En. 23-47-137 by Sec. 37, Ch. 334, L. 1977; R.C.M. 1947, 23-47-137.

**13-35-231. Unlawful for political party to endorse judicial candidate.** A political party may not endorse, contribute to, or make an expenditure to support or oppose a judicial candidate.

History: En. 23-47-138 by Sec. 38, Ch. 334, L. 1977; R.C.M. 1947, 23-47-138; amd. Sec. 223, Ch. 571, L. 1979.

**Cross-References**

Election of Supreme Court Justices, 3-2-101,  
3-2-102.

Election of District Court Judges, 3-5-201,  
3-5-202.

Election of Justice of the Peace, 3-10-201.  
Violation as misdemeanor, 13-35-103.

**13-35-232. Repealed. Sec. 407, Ch. 571, L. 1979.**  
History: En. 23-47-139 by Sec. 39, Ch. 334, L. 1977; R.C.M. 1947, 23-47-139.

**13-35-233. Solicitation of votes on election day.** (1) It is unlawful for a person or a political committee to place an advertisement supporting or opposing a candidate or a ballot issue for use on election day. Failure to remove billboards, yard signs, or posters on election day is not considered a violation.

(2) A person convicted of solicitation of votes on election day is guilty of a misdemeanor and shall be imprisoned in the county jail for a term not to exceed 6 months or be fined not to exceed \$1,000, or both.

History: En. Sec. 1, Ch. 539, L. 1979.

**13-35-234. Political criminal libel -- misrepresenting voting records.** (1) It is unlawful for any person to make or publish any false statement or charge reflecting on any candidate's character or morality or to knowingly misrepresent the voting record or position on public issues of any candidate. A person making such a statement or representation with knowledge of its falsity or with a reckless disregard as to whether it is true or not is guilty of a misdemeanor.

(2) In addition to the misdemeanor penalty of subsection (1), a successful candidate who is adjudicated guilty of violating this section may be removed from office as provided in 13-35-106 and 13-35-107.

History: En. Sec. 2, Ch. 539, L. 1979; amd. Sec. 1, Ch. 545, L. 1983.

**Cross-References**

When owner of radio station not held responsible for defamatory broadcast, 27-1-811.

Misdemeanor penalty, 46-18-212.

**Part 3**

**Code of Fair Campaign Practices**

**13-35-301. Adoption of code of fair campaign practices.** The following code of fair campaign practices is adopted by Montana:

"There are basic principles of decency, honesty, and fair play that every candidate for public office in the United States has a moral obligation to observe and uphold, in order that, after vigorously contested but fairly conducted campaigns, our citizens may exercise their constitutional right to a free and untrammled choice and the will of the people may be fully and clearly expressed on the issues before the country. Therefore:

I will conduct my campaign in the best American tradition, discussing the issues as I see them, presenting my record and policies with sincerity and frankness, and criticizing without fear or favor the record and policies of my opponent and his party which merit such criticism.

I will defend and uphold the right of every qualified American voter to full and equal participation in the electoral process.

I will conduct my campaign without the use of personal vilification, character defamation, whispering campaigns, libel, slander, or scurrilous attacks on my opposition or his personal or family life.

I will not use campaign material of any sort which misrepresents, distorts, or otherwise falsifies the facts, nor will I use malicious or unfounded accusations which aim at creating or exploiting doubts, without justification, as to the loyalty and patriotism of my opposition.

I will not make any appeal to prejudice based on race, sex, creed, or national origin.

I will not undertake or condone any dishonest or unethical practice which tends to corrupt or undermine our American system of free elections or which hampers or prevents the full and free expression of the will of the voters.

Insofar as is possible, I will immediately and publicly repudiate support deriving from any individual or group which resorts, on behalf of my candidacy or in opposition to that of my opponent, to the methods and tactics that I have pledged not to use or condone."

History: Ea. Sec. 1, Ch. 475, L. 1979.

**13-35-302. Candidates to be given opportunity to subscribe to campaign practices code — publicity.** (1) The commissioner of campaign practices shall prepare a form which contains the code of fair campaign practices provided for in 13-35-301 and a place for a candidate to sign the form and to indicate that the candidate endorses, subscribes to, and pledges to abide by the code.

(2) Each candidate required to file statements or reports with the commissioner shall be sent a copy of this form. Signing the form is voluntary, and a failure or refusal to sign is not a violation of the election laws. A form shall be sent for each election as soon as feasible. The signed form shall be returned to the commissioner.

(3) The commissioner shall supply the secretary of state, the county registrars, and the city and town clerks with forms. Any candidate not required to file with the commissioner but wishing to subscribe to the code may obtain the form from the commissioner, the secretary of state, a county registrar, or a city or town clerk and may sign the form and deliver it to the commissioner.

History: Ea. Sec. 2, Ch. 475, L. 1979.

## CHAPTER 36

### CONTESTS

#### Part 1 — General Provisions

13-36-101. Grounds for contest of nomination or election to public office.

13-36-102. Time for commencing contest.

13-36-103. Court having jurisdiction of proceedings.

13-36-104. Nomination co

13-36-201. Contents of cor

13-36-202. Reception of ill

13-36-203. Form of compl

13-36-204. Bond required

13-36-205. Recovery of cos

13-36-206. Notice of filing

13-36-207. Hearing of cont

13-36-208. Advancement of

13-36-209. Forfeiture of no

13-36-210. Punishment

13-36-211. When nominat

13-36-212. Declaration of r

Chapter Cross-References  
Salaries withheld during  
2-16-202.

Role and duties of Co  
Recorder, 7-4-2611.

Challenges to local gover  
nments, 7-7-105.

Definitions applicable  
13-1-101.

**13-36-101. Grounds for contest of nomination or election to public office.** An election or election to public office shall be contested for any of the following:

- (1) on the ground of violation of the law relating to the election, eligible to serve as elector;
- (2) whenever the person contesting the election, eligible to serve as elector, is ineligible to vote;
- (3) on account of illegal canvass of votes.

History: Ea. Sec. 45, Init. R.C.M. 1935; Sec. 94-1464, R.C.M. 1959, Ch. 365, L. 1977; R.C.M. 1979.

Cross-References  
Definition of "elector" and  
13-1-101.

**13-36-102. Time for commencing contest.** Time for commencing a contest shall be within 15 days after the date of nomination to any public office if the contestant whose nomination he intends to contest. The contestant shall

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

JKM4

## ALASKA PUBLIC OFFICES COMMISSION

### REPLY TO:

- 2221 E. Northern Lights, Room 123  
Anchorage, AK 99508  
(907) 276-4176
- Juneau Branch Office  
Box CO  
Juneau, AK 99811-0222  
(907) 465-4864

January 17, 1990

Representative H. A. "Red" Boucher  
Pouch V  
Juneau, Alaska 99811

RECEIVED

JAN 12 1990

Dear Representative Boucher:

I am writing with regard to HB 318, an act relating to the Fair Campaign Practices Code.

This measure establishes a fair campaign practices code. It requires the commission to prepare a form for candidates to sign, indicating that they will abide by the provisions of the code. The commission would be required to send a copy to each candidate who files reports under AS 15.13, and by implication would maintain copies of signed reports for public review.

As you may be aware, during the last session the commission submitted a fiscal note indicating this measure would not have a fiscal impact on the workload of the commission. At its November 30, 1989 meeting, the commission reviewed the assumptions upon which this note was based, and asked me to submit a revised fiscal note indicating that resources will be required.

With regard to the substance of the proposal, commission members support the ideals expressed in the code, but expressed concerns about the practical value of enacting this type of legislation. These concerns are exacerbated by the potential for workload increases for an already overextended staff.

This measure does not directly authorize citizens to file complaints with APOC. It is the commission's understanding that there would be first amendment problems with imposing sanctions for violations of a code of this nature. But under AS 15.13, a person who believes the chapter has been violated is entitled to file a complaint with the commission. It is reasonable to believe that the public and candidates will file complaints under AS 15.13.120(d) alleging violations of the code.

This expectation is borne out by the experience in Montana and Washington, two jurisdictions which have adopted fair campaign practice codes. I discussed this measure with Delores Colberg, Commissioner of Political Practices for Montana. Ms. Colberg

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

indicates that her office receives complaints, and investigates them informally. Although these complaints are few in number, some level of review does take place.

I also spoke with Graham Johnson, Director of the Washington State Public Disclosure Commission. He indicates that the original version of Washington's law did not include a complaint investigation provision. However, the Public Disclosure Commission soon realized that it needed to establish a procedure to handle complaints. The method devised was to send a copy of the complaint to the respondent and request a response. Once the respondent provides a response, commission staff then drafts a press release outlining the contents of the complaint and the response. In the release the commission makes clear that it has no observations or comments on the matter. Thus, the commission makes the complaint and response public, without undertaking investigation. Again, there are very few complaints of this nature, but when they are filed with the commission they receive some level of review.

APOC has much higher visibility as a complaint enforcement agency than either of these two offices. Even if the commission took the position that callers would be informed that the commission does not investigate complaints of this nature, staff time would be spent fielding the telephone calls, and explaining to citizens why there is no remedy. The commission already has more investigation work than can be handled within the time frames anticipated by law. For these reasons, given the added volume of work which the commission believes would occur as a result of this measure, the commission believes the bill would require additional resources.

The commission further believes it may be appropriate to consider placing the administration of this code elsewhere, perhaps within the Division of Elections, which is not generally perceived as an agency which investigates complaints.

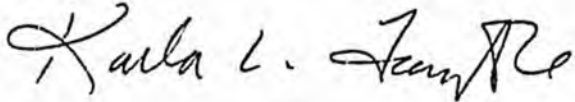
A different approach brought to my attention by Graham Johnson involves using the private sector rather than a government agency to monitor elections. I have attached materials provided to me by Mr. Johnson, which describe an organization in Chicago called CONDUCT. CONDUCT is an interfaith, inter-racial, nonpartisan civic organization dedicated to discouraging bigotry and bias in Chicago area election campaigns. CONDUCT has promulgated a code of fair campaign practices, monitors local campaigns, investigates complaints, and sends letters of censure if a campaign is found in violation of the code.

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

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

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Karla L. Forsythe  
Executive Director

Attachments

cc: Representative Finkelstein  
Representative Wallace  
Representative Davis  
Representative Gruenberg  
Representative Menard  
Representative Ellis  
Representative Donley  
Representative Ulmer  
Representative Brown  
Representative Koponen  
Bob Evans, Office of the Governor  
Sioux Plummer, Special Assistant, Dept. of Administration  
APOC Members  
APOC Senior Staff

REVISED FISCAL NOTE

HB 318 NARRATIVE

This measure establishes a fair campaign practices code. It requires the commission to prepare a form for candidates to sign indicating they will abide by the code. The commission would be required to send a copy to each candidate who files reports under AS 15.13 and by implication would maintain copies of signed forms for public review. These administrative tasks could be absorbed with existing resources.

The commission anticipates a high volume of calls from citizens complaining that candidates have engaged in behavior which is contrary to the code. Since commission resources are stretched to the limit particularly in investigatory matters, the commission will need additional staff to handle the increased workload.

It is assumed that the time required to handle complaints of this nature, given the existing workload, would warrant a half-time paralegal investigator, Range 16.

# CONDUCT

## COMMITTEE ON DECENT UNBIASED CAMPAIGN TACTICS

55 E. Jackson Blvd.-Suite 1870  
Chicago, IL 60604  
(312) 663-5500

John A. McDermott, Chairman  
Reverend Bernard Brown  
Ronald Champagne  
Charles A. Davis  
Daniel Feldman  
The Very Reverend Charles Greene  
Octavia Harriston  
Leon Jackson  
Louise Aho Nueco Kerr  
Mitchell Kobelinski  
Donald N. Langenberg  
Albert Logan  
William E. Lowry, Jr.  
Isidro Lucas  
Raymond Muck  
Edward Marciniak  
Roscoe Mitchell  
Reverend John Pollard  
Barbara Proctor  
Richard J. Rice  
Reverend John T. Richardson, C.M.  
Thomas F. Roeser  
Edmund J. Rooney  
Rabbi Herman E. Scheraga  
Weathers Sykes  
Arnold Weber  
Rolf Weil  
Maynard I. Wishner  
Nancy Isserman, Executive Director

### STATEMENT OF PURPOSE

CONDUCT is an interfaith, interracial, non-partisan civic organization dedicated to discouraging bigotry and bias in Chicago area election campaigns. Members of CONDUCT's board serve as individuals, not as representatives of any group or institution.

CONDUCT respects and affirms the value of vigorous election campaigns and sharp debate. Such campaigns benefit the community. They can clarify issues and are very much a part of the Chicago political tradition. Campaign tactics that appeal to hate or fear, however, or that denigrate the opposition based on the opponent's race, religion, ethnicity or gender, are morally wrong, undermine community peace and subvert the political process.

CONDUCT has promulgated a Code of Fair Campaign Practice as a basic guideline for ethical campaign behavior. Candidates are invited to voluntarily commit themselves and their campaigns to observe the Code.

CONDUCT's staff monitors local political campaigns for violations of the Code. CONDUCT also investigates complaints of Code violations received from candidates, the press and members of the community.

If a candidate, campaign organization or partisan is found in serious violation of the Code, a letter of censure is sent to the offender including an appeal to cease and desist the practice in question. At the same time, the letter is released to the public and the press.

CONDUCT is an interfaith, interracial, non-partisan, civic organization dedicated to discouraging bigotry and bias in Chicago area election campaigns. Members serve as individuals, not as representatives of any group or institution. CONDUCT encourages ethical campaign practices, but endorses no candidate or party.

## I. HISTORY OF THE PROJECT

CONDUCT, the Committee on Decent Unbiased Campaign Tactics, an independent, non-partisan, interracial and interfaith group of Chicago leaders, was launched in June 1984 with the help of the American Jewish Committee to discourage appeals to bias and bigotry in Chicago's election campaigns. It was formed in response to the bitter racial polarization, use of smear tactics and racist and anti-Semitic literature which marred Chicago's 1983 mayoral election. The Joyce Foundation provided seed money for Chicago's CONDUCT to organize the board and develop a working program. In its 18 months of operation CONDUCT committee members developed an action program to combat appeals to bigotry in political campaigns. Education, monitoring, and public exposure emerged as the main elements of CONDUCT's program.

The 1986 special aldermanic elections in the seven remapped wards presented a special learning opportunity for CONDUCT, a chance to test its model on a small scale. The lessons from this experience could become the basis for a major program in the 1987 mayoral and aldermanic races. For this 1986 "trial run", CONDUCT developed a limited plan of action based on the key elements identified earlier; education, monitoring and public exposure.

To monitor the seven races, CONDUCT sent three observers into the seven wards to observe the aldermanic campaigns. The three attended political rallies and forums, and visited campaign offices. They interviewed the candidates, their staffs and local community people. In addition they read the neighborhood newspapers and reviewed campaign literature. The observers found a few examples of racial and religious bigotry. More importantly, it became clear that their presence deterred some campaigns from playing on the fears and prejudices of the voters.

An educational program was undertaken aimed at the over 150 candidates running in the primary elections. Letters explaining CONDUCT'S support and willingness to investigate complaints were sent to all candidates for alderman and to candidates in contested state legislature or congressional races in the Chicago area. The public learned of CONDUCT through press conferences and the media coverage.

The CONDUCT board evaluated all the complaints it received and issued four letters of censure to the candidates involved. Copies were sent to the media.

## II. THE PROGRAM

Based on the experience in 1986, a modified three part program was developed for the 1987 aldermanic and mayoral elections. CONDUCT drafted and publicized a Code of Fair Campaign Practice, a statement of ethical principles including six specific guidelines designed to prevent overt or covert appeals to bias. All candidates were asked to sign the code. CONDUCT also hired and trained a staff of 12 observers. Finally, CONDUCT invited complaints based on the standards of the code. It received and investigated 64 complaints.

A subcommittee of the CONDUCT board drafted The Code of Fair Campaign Practice which was revised and approved by the entire CONDUCT board. The final version of the Code was released to the public in mid December, 1986. At the same time, it was sent by certified mail to all the aldermanic and city-wide candidates and sent by messenger to all the mayoral candidates. A record of signed and returned copies was kept.

For the primary, 12 observers worked as monitors. The observers were politically sophisticated people with an extensive knowledge of the city and its politics. They were assigned to monitor campaigns in selected wards. Most worked in the wards with which they were familiar. The number of wards assigned to an observer varied depending on the sensitivity of the campaigns.

For the general election, which had fewer contests than the primary, nine observers were retained. Two, one white and one black, covered the 18th ward race where a white candidate opposed a black candidate. One observer covered all the South Side aldermanic run-off elections. Another observer covered the one West Side run-off. Two observers monitored the run-offs along the north lakefront. In addition, all the observers but one covered the mayoral candidates' appearances in their respective areas of the city. In both elections, observers attended political rallies and forums and visited campaign offices. They interviewed candidates, their staffs, and local community people. They also reviewed and collected campaign literature and monitored the neighborhood newspapers.

Complaints were received by letter, over the phone, from the observers and from the CONDUCT board. Upon receiving a complaint, staff made a thorough investigation. Reports to the board contain following information.

- Nature of the complaint
- Results of the staff investigation including documentation.
- Information on the accused person or group.
- Information on the complainant.
- Where appropriate, response from the accused to the complaint.
- Recommendations to the board on action by CONDUCT.

When a complaint was confirmed by the board, the basic response was to: send a letter of censure via messenger to the accused with a copy to the complainant and a copy and a release to the press. When the complaint was not confirmed by the board or could not be documented, a note of explanation was sent to the complainant.

All complaints, investigative reports, and relevant materials were presented to the board at weekly, Wednesday morning board meetings. Letters and press releases, for the most part, were sent out a day or two after the meeting.

# THE CODE OF FAIR CAMPAIGN PRACTICE

The right to seek public office in Chicago is a precious right which belongs to all qualified citizens of the city. Vigorous election campaigns and sharp debate are normal and healthy and very much a part of the Chicago political tradition. At its best, this process can help to clarify the issues and inform the voters. In their election campaigns, however, candidates have a solemn obligation to be truthful and fair and to respect the rights and dignity of their opponents and of all the individuals and groups who make up the community. Campaigns which appeal to fear or hate or which denigrate the opposition based on the opponent's race, religion, ethnicity or gender are morally wrong, undermine community peace and subvert the political process.

To help establish decent, unbiased, political campaigns in Chicago, CONDUCT, the Committee on Decent Unbiased Campaign Tactics, urges candidates for public office in Chicago to commit themselves to observe the following Code of Fair Campaign Practice:

## CANDIDATES:

- should not suggest directly or indirectly through speeches or campaign literature, that their opponents ought to be defeated because of their race, religion, national origin or gender.
- should campaign among *all* the voters in the community they seek to represent or serve, being careful not to systematically exclude neighborhoods or groups other than their own.
- should not appeal to negative stereotypes or hostilities based on race, religion, ethnicity, gender or other irrelevant group identification.
- should not seek to gain support by arousing or exploiting the fears of one group toward other, different groups.
- should not use pamphlets, flyers, code words or advertising which appeal to bigotry or fear.
- should publicly condemn bigoted literature, statements or actions in support of their candidacy or in opposition to their opponent.
- should be accountable for the actions of their campaign staffs relative to this code.

## CANDIDATE'S COMMITMENT

I pledge myself and my campaign to abide by the Code of Fair Campaign Practice.

Name \_\_\_\_\_

Date \_\_\_\_\_

CONDUCT

55 E. Jackson Blvd.-Suite 1370  
Chicago, IL 60604  
(312) 663-5500

COMMITTEE ON DECENT UNBIASED CAMPAIGN TACTICS



b. Example / Checklist Contact Sheet

LEGISLATIVE

SPONSOR: House State Affairs

TC DATE/DAY: Tues, Jan 16

Pub. Hear Work Ses. Inv. Hear

TIME: 8:30-10:00

LEGISLATIVE REFERENCE: HB318 HB218

JUNEAU ROOM: C-102

SUBJECT: Code of Fair Campaign Practices

BRIDGE: \_\_\_\_\_

AHFC Loans to Sr. Hsg.

# OF PORTS: \_\_\_\_\_

CONTACT: Ann PH: 4931

DATE TAKEN/BY: Jeanne Y 1/16/00

\*\*\*\*\*

TELECONFERENCE SITES:

LIO'S

LTC'S

VTS'S

- Anchorage
- Barrow \*
- Bethel
- Delta Junction \*
- Dillingham \*
- Fairbanks
- Glennallen \*
- Juneau
- Ketchikan
- Kodiak
- Kotzebue
- Mat-Su
- Nome
- Petersburg \*
- Sitka
- Soldotna
- Valdez \*

- Homer
- Wrangell

See List on Reverse Side

ALL LIO'S

OTHER SITES WELCOME WITH PRIOR NOTIFICATION

CHAIRING SITE: Juneau

CHAIRPERSON: Boucher

[ ] CONFORMS TO LEGISLATIVE COUNCIL POLICY 4/85

HB318 OFFNETS: Karla Forsythe  
276-4176

HB218 Mayor Williams/leg  
283-7530

HB216 Glenda Straubie  
563-3325

\_\_\_\_\_  
SIGNATURE OF SPONSOR/CONTACT PERSON

\_\_\_\_\_  
DATE

\*\*\*\*\*

SPECIAL INSTRUCTIONS

bridge # 562-2877

276-4176

KARLA FORSYTHE

telecom HB 318

TUESDAY, JAN 16

HCR OFFICE

8:30 AM meet

283-7530

Mayor Williams/Kenai

wants to teleconf.

the 1/16 H Sta

Com in Mtg re

At FC (conts/cong hse  
(per Zawack's Office)

**H B**

**323**

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: Authorizing a Big Lake Ice  
           Classic  
 Sponsor: Menard, et al.  
 Requestor: House State Affairs

Agency Affected: Commerce & Economic Dev.  
 BRU: Occupational Licensing  
 Components: \_\_\_\_\_

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

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

**FUNDING:** (Thousands of Dollars)

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

**POSITIONS:**

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

**ANALYSIS :** (Attach a separate page if necessary) No fiscal impact in FY 90.

Prepared by: Randall P. Burns, Director Phone: 465-2535  
 Division: Occupational Licensing Date: \_\_\_\_\_  
 Approved by Commissioner: Larry Marshall Date: 23/1/90  
 Agency: Department of Commerce & Economic Development

**Distribution (by preparer):**

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

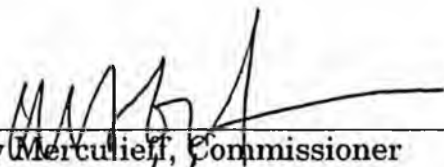
HB 323: "An Act authorizing a Big Lake Ice Classic."

The Big Lake Ice Classic will have a nominal effect on the Games of Chance and Skill program currently in place. The ice classic would be operated and administered by the Houston Junior-Senior High School Booster Club and the Big Lake Chamber of Commerce jointly, or by either the Houston Junior-Senior High School Booster Club or the Big Lake Chamber of Commerce. The department would not be involved other than receiving and processing an annual application and annual report and collecting the permit fees. This ice classic is not predicted to have any major impact on the enforcement and audit function carried out by the department under the Games of Chance and Skill program. The organizations must meet the requirements of a "Qualified Organization" as defined in AS 05.15.210(28) and 15 AAC 105.010.

The department believes that the Big Lake Ice Classic will provide an additional opportunity for the Houston Junior-Senior High School and the Big Lake Chamber of Commerce to raise needed funds.

We assume the Big Lake Ice Classic will be operated in the same manner as the original Nenana Ice Pool was conducted in 1959 and prior years. This means, as per AS 15.12.210(18), a game of chance where a prize of money is awarded for the closest guess of the time the ice moves. In the Nenana Ice Pool, a person actually guesses the time the ice will move by writing out on a ticket the date and time of the person's guess.

Provided the Big Lake Ice Classic is conducted in this usual manner, the department supports the legislation.

  
\_\_\_\_\_  
Larry Mercurieff, Commissioner  
Date: 23/1/90

LM/JH/dgl6132D  
12390d

## TABLE OF CONTENTS

### HB 323: Big Lake Ice Classic

- Item 1: HB 323 by Menard, Larson, and Foster
- Item 2: Fiscal Notes and Analyses from Department of Revenue and Department of Commerce and Economic Development
- Item 3: Memorandum from Rep. Menard  
May 2, 1989

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF  
HB 323

Big Lake Ice Classic

Received April 29, 1989  
by Reps. Menard, Larson and Foster

Heard May 3, 1989

Passed Out of Committee May 3, 1989  
4 Do Pass  
3 No Recommendation

# HOUSE COMMITTEE REPORT

(7)  
Date Referred: April 29, 1989

FURTHER REFERRALS:

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

The STATE AFFAIRS Committee considered:

HB 323

HOUSE BILL NO. 323 [BIG LAKE ICE CLASSIC]

"An Act authorizing a Big Lake Ice Classic."

**RECOMMENDATIONS:**

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

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

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS: (Date/Dept)

- [ ] fiscal impact \_\_\_\_\_
- [ ] zero fiscal note \_\_\_\_\_
- 2[X] zero with analysis DOR/CEI
- [ ] fiscal note(s) \_\_\_\_\_
- [ ] zero fiscal note(s) \_\_\_\_\_
- [ ] zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS:**

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

**SIGNING:**

(Check approp. column)

	Do Not Pass	No Rec	Amend
<i>[Signature]</i>	X		
<i>[Signature]</i>	X		
<i>[Signature]</i>	✓		

*[Signature]*  
Chairman's Signature

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: HB 323  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Authorizing a Big Lake Ice  
Classic  
Sponsor: Menard, et al.  
Requester: House State Affairs

Agency Affected: Commerce & Economic Dev.  
BRU: Occupational Licensing  
Components: \_\_\_\_\_

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of dollars)

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

POSITIONS:

FULLTIME	0	0	0	0	0	0
PARTTIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

SEE ATTACHED PAGE

Prepared by: Randall P. Burns, Director  
Division: Occupational Licensing  
Approved by Commissioner: Larry Mercurieff  
Agency: Department of Commerce & Economic Development

Phone: 465-2535  
Date: 5-2-89  
Phone: 465-2500  
Date: 7/2/89

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

## FISCAL NOTE

HB 323

### Analysis:

The Big Lake Ice Classic will have no effect on the Games of Chance and Skill program currently in place. The ice classic would be operated and administered by the Houston Junior-Senior High School Booster Club and the Big Lake Chamber of Commerce jointly, or by either the Houston Junior-Senior High School Booster Club or the Big Lake Chamber of Commerce, and the department would not be involved other than receiving and processing an annual application and annual report. This ice classic is not predicted to have any impact on the enforcement and audit function carried out by the department under the Games of Chance and Skill program.

STATE OF ALASKA  
1989 LEGISLATIVE SESSION

BILL VERSION: HB 323  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: Big Lake Ice Classic

Agency Affected: Revenue  
BRU: Income & Excise Audit

Sponsor: Menard, et al.  
Requestor: State Affairs

Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
<b>OPERATING</b>						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	U	U	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: See attached.

Prepared By: Steven E. Kettel *Steven E. Kettel*  
Division: Income and Excise Audit

Phone: (907) 465-2320  
Date: May 2, 1989

Approved by Commissioner: Hugh Malone *Hugh Malone*  
Agency: Department of Revenue

Date: May 2, 1989

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

HB 323  
Bill Analysis  
Prepared by:  
Steven E. Kettel, Director  
Income and Excise Audit Division  
May 2, 1989

Bill Analysis

The Big Lake Ice Classic will have no effect on the Games of Chance and Skill program currently in place. Houston Junior-Senior High School Booster Club and the Big Lake Chamber of Commerce would operate this ice classic, and the department would not be involved other than receiving and processing an annual application and annual report. This ice classic is not predicted to have any impact on the enforcement and audit function carried out by the department under the Games of Chance and Skill program.



# ALASKA STATE LEGISLATURE

## REPRESENTATIVE CURT MENARD

165 E. Parks Hwy.  
Wasilla, Alaska 99687  
(907) 373-2878

P.O. Box V  
Juneau, Alaska 99811  
(907) 465-2679



### MEMORANDUM

TO: Representative Boucher, Chairman  
House State Affairs Committee

FROM: Rep. Curt Menard

DATE: May 2, 1989

RE: HB 323 - Authorizing a Big Lake Ice Classic

---

HB 323 would establish a Big Lake Ice Classic to be operated as a fund raising event for the Houston Junior Senior High School Booster Club and the Big Lake Chamber of Commerce.

Houston Junior Senior High opened its doors in 1986 and had to establish their academic organizations and sports programs just as the district changed from full funding for extra-curricular activities to paying for just coaches salaries and transportation. Other schools already had established fund raisers, adequate sports equipment and funds from prior years to help them buffer the cuts.

The parents and students at Houston have had to raise \$82,000 to cover the costs of their academic and sports programs for one year. Even if they are successful in their efforts through the many small events they hold, the school still has no football, school newspaper, swimming, soccer, cross country running or skiing programs. Uniforms for a Houston Hawks hockey team have been in storage for three years waiting for money to pay for ice time.

This legislation will allow the Houston Junior Senior High School in conjunction with the Big Lake Chamber of Commerce to sell guesses on when a device will fall through the ice on Big Lake. One half of all the funds collected would be paid to the winning guess. The remaining funds would be split equally between the organizations to fund student activities and community projects.

Representing the  
Matanuska-Susitna Borough



Co-Chair  
House Resources Committee  
Member  
State Affairs Committee

COMMUNITY PROFILE  
HOUSTON JR /SR. HIGH SCHOOL  
P.O. BOX 521060  
BIG LAKE, ALASKA  
99652

Houston Jr./Sr. High School is located twelve miles north of Wasilla in the Matanuska-Susitna Borough School District. The school was opened in the new facility in the fall of 1986. The attendance area for Houston Jr./Sr. High School reflects an area the size of the state of Rhode Island. The business community primarily consists of the Big Lake, Houston and Willow recreational areas, construction and related business. Community service organizations include the Big Lake Chamber of Commerce, the Lion and Lionesses, Boy Scouts, Girl Scouts, Big Lake Hockey Association, VFW Auxiliary, and volunteer safety services.

Approximately 500 students in grades 7-12 attend this comprehensive Jr./Sr. high school. There are 2 administrators, 1 counselor, 1 librarian, 24 certified classroom teachers, 2.5 special education teachers, 1 and 1/2 special education aides, 1/2 library aide, 3 clerical staff, 5 custodians, and 2 kitchen staff. The school is also served by an itinerant special education staff which includes a physical therapist, a speech therapist, a work study coordinator, and a school psychologist.

The school has the responsibility to provide an extra-curricular program but due to the fiscal crisis in the Matanuska-Susitna Borough School District monies are not provided to fund the programs with the exception of the sponsor stipends and minimal transportation costs.

The school administration, staff, students, and parents have tried to educate the school board and the borough assembly as to the disadvantage placed upon Houston Jr./Sr. High School which is a direct result of funding cut-backs. There appears to be sympathy for our needs but no funds have been forthcoming to rectify our monetary problems.

Meetings have been held with the parent booster club to determine needs and how to develop a plan to raise funds for our students. The following plan was developed for the 1988-89 school year and we welcome support for any of the programs listed below.

# Houston Junior Senior High Booster Club

## CONSTITUTION

Preamble,

We, the members of the Houston Junior Senior High School Booster Club, do hereby ratify the following Constitution:

### Article I - Name and Purpose

1. The name of this club shall be Houston Junior Senior High School Booster Club.
2. The purposes of the Club are:
  - A. To raise funds for the school's programs - both curricular and extra-curricular as the Club may deem necessary.
  - B. To increase school participation and awareness.
  - C. To serve as a support group for students, faculty and administration in their endeavors and goals.

### Article II - Membership Qualifications

1. Requirements:
  - A. Each member must be a parent, faculty member, student, or interested community member who is concerned about the well-being of Houston Junior Senior High School programs.
  - B. Each member must be willing to contribute an adequate amount of time to the Club.

### Article III - Officers and Duties

1. President
  - A. Shall conduct business and officiate at all meetings.
  - B. Shall be in charge of all activities.
  - C. Shall create an agenda for each meeting.
  - D. Shall, in cooperation with the Vice-President, seek chair-persons for committees.
2. Vice-President
  - A. Substitute in the absence of the President.
  - B. Shall aid the President in heading activities.

Houston Junior Senior High School Booster Club  
Constitution, Page Two

- C. Shall, in cooperation with the President, seek chair-persons for all committees.

3. Secretary

- A. Shall keep the minutes of the meetings.
- B. Shall handle all correspondence as deemed necessary, such as thank-you notes or requests for donations.
- C. Shall keep the attendance records.

4. Treasurer

- A. Shall keep accurate record of the Club's financial status.
- B. Shall report the current financial state of the Club at each meeting.
- C. Shall pay all bills and dispense funds as requested.

5. Executive Committee -

- A. The Executive Committee shall consist of the President, Vice-President, Secretary, Treasurer, and Committee Chair-persons.

Article IV - Elections and Voting

- 1. Elections for the offices of President, Vice-President, Secretary, and Treasurer shall be held in the late spring of each school year in an effort to pre-plan activities for the forthcoming year. In the event that said officers would move during the summer, replacements would be nominated by the remaining Executive Committee and be voted upon at the first general meeting of the Club.

2. Voting

- A. Open discussion and debate shall be allowed before every vote.
- B. A simple majority vote shall be required for any proposed plan or expenditure.

Article V - Meetings

- A. Meetings shall be held once a month as necessary.
- B. Said meetings shall be called by the President with approval of the Executive Committee.

Houston Junior Senior High School Booster Club  
Constitution, Page Three

Article VI - Allocation of Funds

1. Allocation of funds raised by the Houston Junior Senior High School Booster Club shall be recommended by the Executive Committee. Any disbursement greater than \$200.00 shall require majority approval of the Executive Board.
2. An annual audit of Booster Club financial records shall take place during the summer months.
3. Two signature shall be required for each check.

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: Authorizing a Big Lake Ice  
Classic  
Sponsor: Menard, et al.  
Requestor: House State Affairs

Agency Affected: Commerce & Economic Dev.  
BRU: Occupational Licensing  
Components: \_\_\_\_\_

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

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>	0	0	0	0	0	0

**FUNDING:** (Thousands of Dollars)

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

**POSITIONS:**

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

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

SEE ATTACHED PAGE

Prepared by: Jennifer Strickler, Administrative Officer Phone: 465-2144  
Division: Occupational Licensing Date: 1-11-90

Approved by Commissioner: Larry Mercurieff Date: 1/11/90  
Agency: Department of Commerce & Economic Development

Distribution (by preparer):

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

## FISCAL NOTE

HB 323

### Analysis:

The Big Lake Ice Classic will have no effect on the Games of Chance and Skill program currently in place. The ice classic would be operated and administered by the Houston Junior-Senior High School Booster Club and the Big Lake Chamber of Commerce jointly, or by either the Houston Junior-Senior High School Booster Club or the Big Lake Chamber of Commerce, and the department would not be involved other than receiving and processing an annual application and annual report. This ice classic is not predicted to have any impact on the enforcement and audit function carried out by the department under the Games of Chance and Skill program.

**H B**

**327**

HOUSE COMMITTEE ON STATE AFFAIRS

RECAP OF  
HB 327

Campaign Contributions

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

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

Adopted CSHB 327 (SA) February 13, 1990

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

## TABLE OF CONTENTS

### HB 327: Campaign Contributions

- Item 1: HB 327 by Reps. Finkelstein, Ulmer, Brown, and Koponen  
CSHB 327 (SA)
- Item 2: Fiscal Note and Analysis by Alaska Public Offices Commission
- Item 3: Letter from APOC, January 17, 1990
- Item 4: Sectional Analysis from Rep. Finkelstein, February 7, 1990
- Item 5: Washington Law
- Item 6: Letter from APOC, February 12, 1990

# HOUSE COMMITTEE REPORT

(7)

Date Referred: May 2, 1989

FURTHER REFERRALS: JUDICIARY

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

The STATE AFFAIRS Committee considered:

HB 327

HOUSE BILL NO. 327 [CAMPAIGN CONTRIBUTIONS]

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

**RECOMMENDATIONS:**

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

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

ATTACHES NEW FISCAL NOTE(s):  
(Dept)

APPROVES PREVIOUS: (Date/Dept)

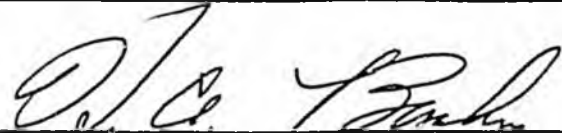
- fiscal impact APOC  fiscal note(s) \_\_\_\_\_
- zero fiscal note \_\_\_\_\_  zero fiscal note(s) \_\_\_\_\_
- zero with analysis \_\_\_\_\_  zero fn/analysis \_\_\_\_\_

**SIGNING DO PASS?**

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

**SIGNING:**  
(Check approp. column)

	Do Not Pass	No Rec	Amend
<i>Deane Henley</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Jim Swadlow</i> <small>You are making it harder for any individual to run for office or council.</small>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Eileen P. Meehan</i>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

  
 \_\_\_\_\_  
 Chairman's Signature

Item 2

**FISCAL NOTE**

**REQUEST:**

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

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

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

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

**FUNDING: (Thousands of Dollars)**

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

**POSITIONS:**

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

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

SEE ATTACHED NARRATIVE

Prepared by: Karla L. Forsythe, Executive Director  
Division: Alaska Public Offices Commission  
Approved by Commissioner: Burke Riley, Chair  
Agency: Alaska Public Offices Commission

Phone: 276-4176  
Date: 1/4/90  
Date: 1-12-90

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

## HB 327 NARRATIVE

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

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

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

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

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

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

Item 3

## ALASKA PUBLIC OFFICES COMMISSION

### REPLY TO:

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

January 17, 1990

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

Dear Representative Boucher:

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

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

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

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

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

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

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

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

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

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

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

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

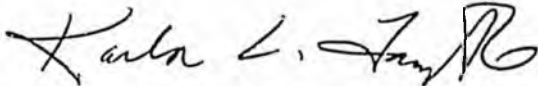
With regard to fiscal impact, the commission believes that changing the law to establish a \$500 contribution limit would have a modest but measurable impact on its workload, justifying a modest fiscal note. A fiscal note outlining the possible impact is attached.

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

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

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Karla L. Forsythe  
Executive Director

Attachments

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

Item 4



# Alaska State Legislature

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

Official Business

February 7, 1990

To: House State Affairs Committee members

Fr: Rep. David Finkelstein

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

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

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

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

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

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

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

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

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

Section 5. Same as Section 3.

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

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

WA. PDC  
Items

PUBLIC DISCLOSURE LAW RELATING TO USE OF FACILITIES IN CAMPAIGNS

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

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

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

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

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

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

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

*Louise Champagne*

A Presentation By  
Graham E. Johnson, Executive Director  
Washington State Public Disclosure Commission  
To The  
Washington State Association of Municipal Attorneys  
Regarding The  
Prohibition On Using Public Facilities To Assist Election Campaigns  
Chelan, Washington October 28, 1988

Without question, RCW 42.17.130, the provision of the Public Disclosure Law that prohibits the use of public facilities to assist in election campaigns, has generated more work for the Public Disclosure Commission and its staff than all of the rest of the Law combined. Almost from the day of its inception (January 1, 1973), the Commission has been confronted with interpretive and enforcement issues regarding this section. Responding to the questions and issues has required extensive research into legal roots of the section. What I will do in the next few minutes is review with you what our research has shown so that you can have a clear understanding of why the Commission takes the position it does on the various matters that come before it.

One thing we learned early in our studies is that Washington's statutory provision is unique. No other state seems to have a provision quite like it. But we found quite a bit of case law on the subject, suggesting there are deeper, underlying principles involved.

As we reviewed the case law we saw that most litigation was based on constitutional provisions guaranteeing citizens free elections or prohibiting use of public resources for private purposes. In this state's Constitution we have Article 1, Section 19 saying:

"All Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage."

The statutory provision in Washington law is simply an elaboration on this constitutional expression.

The case law, though not extensive, consistently -- and firmly -- says campaigning with public resources is prohibited. Notable among the cases are State Ex Rel. Port of Seattle v. Superior Court (1916) 93 Wash. 267, 160 P.755; Mines v. Del Valle, (1927) 201 Cal. 273, 257 P. 530; and Citizens to Protect Pub. Funds v. Board of Education (1953) 13 N.J. 172, 98 A.2d 673. The expressions of all of these decisions are culminated in Stanson v. Mott (1976) 551 P.2d 1. This decision has had the greatest influence on our thinking.

The message in the case law is that government will not interfere in elections. Interference occurs when government officials use resources in their care and custody, resources which belong to all the people, to favor one side or the other of any ballot question. We do not believe, however, that the prohibition was ever intended to muzzle public officials. Citizens must hear of problems and proposed solutions from the people they've elected to hold positions of public trust and responsibility. It would be inconsistent with the principles of open government to suggest otherwise.

The Stanson case, while discussing, with approval, the constitutional protections, is decided primarily on another principle of law: A public agency can only spend its funds in accordance with clear and explicit legislative authorization. You can do only what you're legally authorized to do. Drafters of the Disclosure Law provision spoke to this in another way. The statute does not prohibit "...Activities which are part of the normal and regular conduct of the office or agency."

"Normal and regular conduct." An interesting phrase. Virtually every matter that has come before the Commission has required an examination of that caveat.

Legal opinions from our assistant attorneys general tell us that "normal and regular" means "lawful and usual." The activity must be authorized by statute, resolution or other appropriate enactment, and it must be part of the conduct usual for the official or agency, not a one time occurrence. The authorization, it must be noted, has to come from another (higher) source. You cannot give yourself powers not granted you by some other body. The legal opinions were the basis for WAC 390-05-273, the rule the Commission adopted in 1979 defining "normal and regular conduct."

Occasionally have we dealt with a situation involving a candidacy, but the vast majority have involved ballot propositions. Most of them have been school levies or bond issues. Schools, typically, will send a periodic newsletter to every household in the district. Many send them out several times during the year. One will usually appear just before a levy or bond issue vote. A disgruntled citizen will file a complaint with us, causing us to investigate the matter and ask that inevitable question: "Was this mailing part of the 'normal and regular' conduct?"

School districts have clear statutory authorization for disseminating information to citizens. RCW 28A.58.610 says:

"The board of directors of any school district shall have authority to authorize the expenditure of funds for the

purpose of preparing and distributing information to the general public to explain the instructional program, operation and maintenance of the schools of the district: Provided, That nothing contained herein shall be construed to authorize preparation and distribution of information to the general public for the purpose of influencing the outcome of a school district election."

Other units of government don't have anything similar to this language to rely on or guide them, but the Commission has operated with the belief that they have a responsibility and an inherent authority to communicate with the electorate about the maintenance and operation of the agency or jurisdiction.

Even with clear statutory authorization there is still more analytic work to do. For help we can again look to the Stanson case. At page 12 see the following:

"[14] Frequently, however, the line between unauthorized campaign expenditures and authorized informational activities is not so clear. Thus, while past cases indicate that public agencies may generally publish a 'fair presentation of facts' relevant to an election matter, in a number of instances publicly financed brochures or newspaper advertisements which have purported to contain only relevant factual information, and which have refrained from exhorting voters to 'Vote Yes,' have nevertheless been found to constitute improper campaign literature....In such cases, the determination of the propriety of the expenditure depends upon a careful consideration of such factors as the style, tenor and timing of the publication; no hard and fast rule governs every case."

"Fair presentation of facts"; "style, tenor and timing." These and other similar words and phrases, such as "balanced presentation", "equal access" and "non-discriminatory", formed the basis for WAC 390-05-271, a Commission rule regarding the general application of RCW 42.17.130, and is the criteria the Commission uses in working through real or hypothetical situations coming before it. A discussion of these terms can be found in PDC Declaratory Ruling No.1 (11/15/1977).

It is said that in politics timing is everything. The timing of a particular activity is a significant element in the "normal and regular" criteria. An activity that may pass the test at one point in time may flunk the test at another time. The Legislature has established a June 30 cut-off date for mass mailings by members to constituents. This was done several years ago in response to criticism that such mailings made closer to the Fall elections are intended to assist in the re-election of incumbents. The Commission believes the cut-off is realistic and has honored it.

In PDC Declaratory Ruling No.2 (10/23/1979), the Commission considered the late-September mailing of a budget questionnaire by a county council member up for re-election that Fall. While the central issue was the style and tenor of the cover page, the Commission said the timing of this particular piece was a concern, too. The Commission did say, however, "We do not believe that RCW 42.17.130 was intended to prohibit any communications during an election campaign; however, communications during that period must be subjected to close scrutiny. Such a communication must be directly and necessarily related to the performance of the official's duties and responsibilities. It must not draw undue attention to the candidate."

There are provisions of Washington law that authorize advocacy at public expense. Chapters 29.80 and 29.81 RCW direct the Secretary of State to publish the state Candidate's and Voter's Pamphlets. The sections of these chapters assure opportunity for equal access and balanced presentations.

Added to the RCW's in 1984 is Chapter 29.81A, authorizing publication of Local Voters' Pamphlets. I call this new chapter to your attention and urge your consideration of it as a way by which municipalities can legally spend public money to convey information about candidates and ballot measures plus arguments advocating approval and disapproval of such measures. The citizens of this state have high regard for the state-level voter's pamphlet. I'm confident they will see publication of a Local Voter's Pamphlet as a welcome and responsible use of their tax dollars.

We've been talking about the dissemination of information. Let's shift our focus. The statute prohibits the use of "facilities" to assist campaigns. "Facilities" are defined to include, but not be limited to:

"...use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency...."

This doesn't mean that campaign committees or political party organizations can't meet in city hall or the library. Chambers and meeting rooms are often used for meetings by citizen groups. They're usually built for that purpose. The Commission has not taken exception to campaign groups and party organizations meeting in the facilities so long as use is made available on a non-discriminatory, equal access basis. If you allow the proponents of the city swimming pool bond issue to meet in city hall you must allow the opponents to meet there, too. And if you

charge one group rent, you must charge the other group at the same rate.

The use of machines, postage, vehicles, etc. is a different story. We know of no general authority for public agencies to rent their equipment for non-public endeavors. A postage permit is usually granted to an entity for its own use. Reimbursing an agency for copies made on duplicating equipment or work done by the graphics department is out of line. Agencies aren't in the commercial printing business, unless they can point to some specific statutory authority that says they are.

The Commission has said that the internal mail system of an agency is a "facility". In PDC Declaratory Ruling No. 4 (5/27/1980) the Commission reaffirmed a decision it made in an enforcement matter a few months earlier. The Ruling concludes that using the internal mail system of a school district to distribute a newsletter published by a local education association, which contains endorsements of candidates for public office, would violate RCW 42.17.130. This same reasoning was followed recently when the Commission found the law was violated when a city official authorized insertion of material paid for by a political committee opposed to a pending local ballot issue in an employee newsletter.

The restriction on "clientele lists" isn't quite as complete as it might seem. Such lists are public records. Their release is governed by the public records provisions of RCW 42.17.250 et seq. If the list is generally available to the public, it can't be denied to someone who says they will, or who it is thought might, use it in a campaign. If it's made available to the swimming pool supporters, it must be made available to the opponents, if they ask. It's been argued that RCW 42.17.260(5) should control because it prohibits use of an agency's lists of individuals for commercial purposes. We've rejected that contention. Political purposes aren't commercial purposes. I don't know of any campaign that was ever a "profit expecting" enterprise. Companies that develop and sell mailing or door belling lists might be the exception. If that restriction could apply, it would only pertain to lists of individuals, not to lists of businesses or associations that might be an agency's clientele.

If we have one great lingering frustration, it's with those officials who seem to want to crowd the line rather than avoid it. I recall listening to a local official testify in a legislative hearing that a very eye-catching brochure his jurisdiction put out which seemed to be factual was intended to "neutralize the opposition" to a pending ballot proposition. We see a growing number of slick pieces being put out by public entities. They may be factual, but they look very much like sales pieces. The public perception is that they are campaign

pieces. This perception may result in public ridicule and a "NO" vote. Such pieces do as much, or more, damage to public goodwill and confidence than a finding of a violation of law by the Commission would do.

I appeal to you today for help in making your clients more aware of the principles underlying the prohibition and to do everything you possibly can to help them avoid the appearance of impropriety as well as a violation of law.

STATE OF ALASKA

9072767016

STEVE COWPER, GOVERNOR

REPLY TO:

Item 6

ALASKA PUBLIC OFFICES COMMISSION

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

February 12, 1990

Representative David Finkelstein  
Pouch V  
Juneau, Alaska 99811

DEC 31  
CUT OUT  
DEC 31

FEB 15  
Report  
Campaign Disclosure

Dear Representative Finkelstein:

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

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

Section 1

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

Section 2

The commission supports language contained in this section which provides that contributions may not be received by state candidates after December 31 of an election year (although the commission continues to prefer an end to contributions as of election day). The commission also supports the language which requires campaign account closure on January 12, and a report to the commission on January 31. Feb. 15

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

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

BY-ASFCX 3 000007 021 1 12 1990 3012787016-  
Representative David Finkelstein  
February 12, 1990  
Page 2

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

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

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

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

### Section 3

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

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

Representative David Finkelstein  
February 12, 1990  
Page 3

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

#### Section 4

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

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

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

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

30121010107  
4552100.0 4

Representative David Finkelstein  
February 12, 1990  
Page 4

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

#### Section 5

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

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

#### Section 6

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

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

Representative David Finkelstein  
February 12, 1990  
Page 5

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

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

#### Section 7

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

#### Section 8

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

#### Fiscal Impact

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

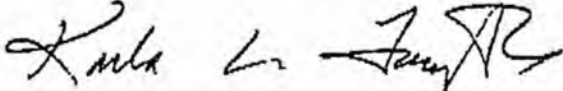
Although the commission does not agree with all of the proposed provisions in this bill, the commission commends the legislature, the State Affairs Committee, and the subcommittee for giving serious consideration to these issues. The commission will be glad to work with the full committee or the subcommittee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

Representative David Finkelstein  
February 12, 1990  
Page 6

Thank you for the opportunity to submit comments.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Karla L. Forsythe  
Executive Director

Attachments:

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

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

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

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

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

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

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

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

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

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

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

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

Authority: AS 15.13.010  
AS 15.13.030(10)  
AS 15.13.125

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

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

Authority: AS 15.13.030(10)

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

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

Register 97, April 1986

ADMINISTRATION

2 AAC 50.400

2 AAC 50.401

(1) give the money to charity:

(2) repay his contributors:

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

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

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

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

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

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

(1) give the money to charity; or

(2) repay its contributors; or

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

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

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

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

Authority: AS 15.13.030(10)

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

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

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

(d) A debt arising from a prior campaign includes

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

(2) campaign debts to whom that were reported on a 30-day post-election campaign disclosure statement.

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

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

WASHINGTON STATE STATUTE

USE OF PUBLIC FUNDS IN CAMPAIGNS

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) two or more persons who jointly make a contribution in the name of another as described in 2 AAC 50.357.

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

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

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

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

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

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

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

2 AAC  
50.313  
(1)(4)

301278181

Proposed Addition to SB 384

Sec. 15.13.090 Repeal and rewrite to read:

Sec. 15.13.090. Identification of advertising.

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

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

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

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

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

Sec. 15.13.090. Identification of communication.

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

**HB**

**338**

*Item 2*

**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: Relating to deregulation of cable television  
Sponsor: Representative Taylor  
Requestor: House State Affairs Comm.

Agency Affected: Commerce & Economic Dev.  
BRU: APUC  
Components: \_\_\_\_\_

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

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	(18.8)	(18.8)	(18.8)	(18.8)	(18.8)	(18.8)
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(18.8)</b>	<b>(18.8)</b>	<b>(18.8)</b>	<b>(18.8)</b>	<b>(18.8)</b>	<b>(18.8)</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	(18.8)	(18.8)	(18.8)	(18.8)	(18.8)	(18.8)
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME	(.25)	(.25)	(.25)	(.25)	(.25)	(.25)
PART-TIME						
TEMPORARY						

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

The Personal Services amount was computed using .25 FTE position. This is a conservative estimate and the impact could be less in any given year. Given the minimal impact of the enactment of this bill, the APUC would anticipate reallocating the capacity to other agency priorities.

Prepared by: T.S. Moninski II, Executive Director Phone: 276-6222  
Division: Alaska Public Utilities Commission Date: 2/13/90

Approved by Commissioner: Larry Mercurieff Date: 15 Feb 90  
Agency: Department of Commerce & Economic Development

**Distribution (by preparer):**

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agencies

Item 3

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

ALASKA PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

420 "L" STREET  
SUITE 100  
ANCHORAGE, ALASKA 99501  
(907) 276-6222

ALASKA PUBLIC UTILITIES COMMISSION

COMMENTS ON HB 338

DEREGULATING CABLE TV

February 14, 1990

The Commission remains in general support of amending AS 42.05 to cease certification of cable television (CATV) service.

The Commission's most recent position on this matter is the attached response to the Preliminary Sunset Audit Report, dated March 7, 1989. In addition, the Commission's previous position on HB 97 of February 9, 1989, is provided.

Both statements address specific concerns associated with CATV deregulation which remain valid.

Response to Preliminary Sunset Audit Report  
March 7, 1989

Recommendation No. 1C

Alaska Statute 42.03 should be amended to cease certification of cable television.

The Commission concurs with this recommendation with some qualifications, as it did with the same recommendation in the 1985 Sunset Audit. The recommendation appropriately eliminates the anomaly in the current regulatory scheme for cable television (CATV) service whereby CATV providers hold monopoly certificates but are economically deregulated. However, the Commission would encourage the Legislature to use its legal and research staffs to examine the implications of the following on full CATV deregulation: (1) the Cable Communications Policy Act of 1984, (2) the Federal Communications Commission's recent initiatives to eliminate the existing ban on cross-ownership of CATV and telephone companies, (3) the availability and status of local government oversight, (4) shared use of rights-of-way, (5) community access and institutional network use of CATV systems, and (6) disposition of certificates held by existing CATV providers. In any event, as noted in response to the 1985 Sunset Audit recommendation, CATV certification is not a large element of the Commission's workload.

ALASKA PUBLIC UTILITIES COMMISSIONCOMMENTS ON HB97

February 9, 1988

In the performance reviews of the Commission in 1979 and 1985, the Division of Legislative Audit recommended that the Commission's statute be amended to cease certification of CATV service. The exemption proposed in HB97 would effect this long-standing recommendation.

The Commission supports HB97 primarily because it is undesirable as a matter of policy to certificate entities as de facto monopolies which are not subsequently economically regulated. In addition, the Commission has identified CATV certification as an area where its workload can be reduced to more closely match its current resources with minimal adverse impact on the public.

In endorsing this legislation, the Commission offers the following suggestions. First, it would be desirable to add a definition of cable television service to the Commission's statute to make it clear what precisely is being deregulated. At present, the statute includes only one general definition for telecommunications service. There is more and more integration and sophistication in telecommunications functions and services. It is assumed that the intent of HB97 is to exempt CATV service only insofar as it is an entertainment medium and not to the extent it may become an integral part of local or long distance telephone service. Including a definition in the statute would eliminate any confusion about the scope of the exemption for CATV service.

Second, there are currently 22 CATV companies operating in Alaska. It would be desirable to have the Legislature address what its intentions are with respect to disposition of certificates held by existing providers. In addition, in a number of cases certificates have been awarded to CATV companies with express conditions attached, and the status of those conditions could be unclear absent legislative intent. For example, under the exemption, would existing public access and institutional network requirements still apply, and if so, who would be responsible for enforcing compliance with those requirements?



## Representative H.A. "Red" Boucher

Chairman House Committee on State Affairs • Special Committee on Telecommunications  
Member Labor & Commerce Committee • Chairman Commission on the Future of the Permanent Fund

### FAX TRANSMISSION

**Date:** March 26 **Time:** 11:00 am

**To:** David Wagenhausen

**From:** Dennis J. Burns

**Subject:** Cable TV  
Proposed Legislation

**Number of pages following this cover letter:** 4

If you do not receive the total number of pages following this cover page, please telephone our office within 15 minutes; otherwise we will assume you have received this transmission satisfactorily.

**Telephone Number (907) 465-4931**

**FAX Number (907) 465-2186**

**Comments:**

As you can see, the bill is straight forward - the newspaper

articles give you a feeling for the issue. The questions pertain to what or how this bill fits into what is happening in the lower 48 - is this the course being taken in other states; what is the impact of this type of policy change? If you feel you could provide some insight to the committee on this issue it would be appreciated. If you felt comfortable testifying before the committee via teleconference, please advise - it would be not cost to you.

DAVID WAGENHAUSEN

202 - 462 - 2520

202 - 408 - 1134

202 - 371 - 6279

# GOVERNMENT & LAW



REMOVES STATES REGULATORY AUTHORITY

## Alaska Sub Aims To Strip Cable of Utility Status

By LINDA HAUGSTED

**J**UNEAU, AK — A consumer here is vowing to drum up support for a state Senate bill to be heard in the next session that would strip authority for cable regulation from the state's Public Utilities Commission.

Larry Buzzell, an independent manufacturer by trade and a home-dish owner who subscribes to cable "because my wife insists on it," said the utilities commission has shown no interest in responding to consumer complaints about cable. Under current rules, more than 25 percent of the subscribers in a given franchise must sign petitions before the PUC will hear complaints on rates or other issues, he said. He added that the only office of the government agency is in Anchorage, hundreds of miles away, so personal visits to complain to commissioners are financially unfeasible. Consumers are stymied in calls to the PUC, he alleges, because the agency refuses to return calls, citing high interstate phone rates.

A bill entered before the part-time Legislature recessed for the year, Senate Bill 338, is a three-line proposal that would remove the requirement that cable franchisees get operating certificates from the PUC, which would remove the industry from quasi-utility status, Buzzell said. The result would be to let existing federal law govern cable operations, and effective-competition rules would have to be observed, he said. Cable could then be regulated by local agencies, which it is hoped would be more responsive to consumer complaints. Buzzell said that in Juneau, only two viable broadcasters exist: an NBC affiliate, which actually "shows a mishmash of programming from several different sources," and a public station. The other television options are home satellite dishes and cable. Cooke Cablevision serves Buzzell's hometown and charges \$40.46 for basic cable. It is that basic rate that got Buzzell involved in a fight to reregulate cable. He said he feels state cable rates will only get higher because Jack Kent Cooke is

trying to sell his cable systems (Cooke Cablevision has the Juneau franchise), and Sonic Communications Inc.'s system in Anchorage has already been sold for a reported \$3,414 per sub.

Cable regulation has been brought to the Legislature's

Telecommunications Committee before, but it was allowed to die. Buzzell said the Legislature should have several telecommunications issues before it during the next session, including competition in telephone services and deciding whether to con-

tinue a state-funded network of earth stations. He added that he will try to stir up consumers between now and the January resumption of the Legislature in order to generate enough public pressure to get the officials to pass the bill. ■

## OPEN LETTER TO THE PEOPLE OF JUNEAU

Dear Cable Subscriber:

You may have noticed Cooke Cablevision was sold as reported on the front page of the Juneau Empire on Tuesday, January 10th. It was reported the price was \$2100.00 per subscriber. Now you know why you have seen so many ads recently to sign up for cable at very low cost. Your signing up was worth \$2100 to Cooke's owners bottom line. Estimating 6,000 subscribers in Juneau, this means your business was worth over 12 million dollars to them.

How do you think the buyers can justify such a cost? It is because they have no competition, that's why. If they have any signs of a loss, because they are a monopoly, all they have to do is raise your rates! For several years now, the cable industry has been doing just that, using the extra money to buy another cable company like they have just done in Juneau. Now they have all of Cooke's 700,000 subscribers. All they have to do is add one dollar to the monthly bill and they get 700,000 dollars to buy with. Next, they buy another company and the whole process starts over again.

Since this concentration of ownership has been happening right under your nose nationwide, why do you suppose you don't know about it? It's because they are controlling the information you are allowed to get through that cable wire. They don't want you to know about the problem because they ARE the problem. They are so large now, if they want something, they just buy it. They have all the money they need. They got it from

you, and they will continue to get it from you because they have no competition. As a cable subscriber, your checkbook has been held hostage for access to news, information, sports, and entertainment with no alternative but disconnecting from them.

What can you do? There is a nationwide movement in this country to "Take A Bite Out Of Cable". There is a petition circulating asking Congress to re-visit the Cable Deregulation act of 1984 to put competition and consumer rights into the law. Find one locally and sign it.

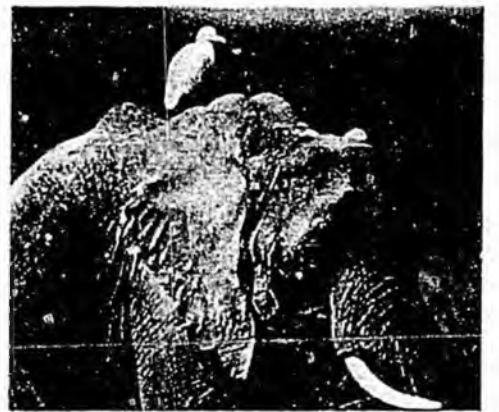
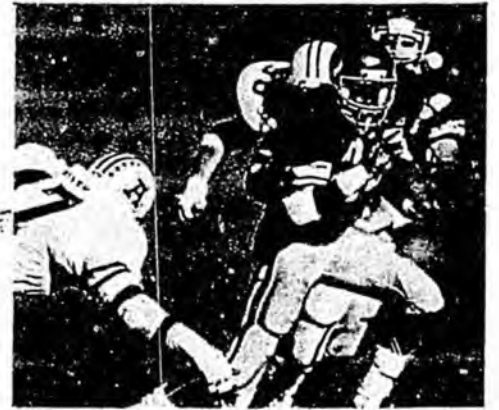
Another thing you can do is celebrate "National Cable Month" coming up in April, by not paying the premium until 30 days later. In other words, pay your April bill in May. Thousands of consumers are going to do this all at once in April to really "take a bite out of cable". This is your own personal way to fight back and send a clear message to them that you think their prices are a crime. Sure, they might threaten you with cut-off or even charge you a late charge (I don't see why because you are paying in advance anyway). Help make National Cable Month into National Cable *Consumer* month!

For more information about this battle about cable control of the flow of information, contact C.A.U.C.U.S. (Consumers Against Unregulated Cable Utility Services), PO Box 18055, San Jose, CA 95158 (408) 993-8218, or myself.

Larry Buzzell  
Juneau

THE FOLLOWING DOCUMENT HAS  
NOT BEEN FILMED BUT IS  
AVAILABLE IN THE ORIGINAL  
FILE

# PRIME CABLE



More of What You're Watching For

Cable Television Handbook  
An Easy Reference Guide for Customers

# PRIME CABLE

201 E. 56th AVENUE  
SUITE 100  
ANCHORAGE, AK 99518  
(907) 562-2400

RECEIVED

MAR 12 1990

TSCH  
MADSON  
WACI ST. JOURNAL  
MARKET RESEARCH  
RATES (SERVICE  
REGULATION)

March 2, 1990

Rep. Red Boucher  
P. O. Box V  
Juneau, AK 99811

REGISTRATION  
[ATW]

HSTG  
L&C

Dear Rep. Boucher:

I would like to thank you for allowing me to serve on the sub-committee on behalf of the Alaska cable industry to address the concerns relating to House Bill 338 and other cable issues.

However, it has come to my attention that a sub-committee meeting was held without my knowledge. This is very discouraging, given the purpose of my appointment was to allow for fair and equal representation from the cable industry of the facts regarding this bill, while at the same time giving Rep. Robin Taylor and myself the opportunity to meet for joint discussions. I would still like the opportunity for this discussion and am available to the sub-committee regarding any issues surrounding HB338.

If you or Rep. Hanley would like to discuss this with me, please feel free to call my office at 786-9256. I look forward to any expedient resolution to this problem and I thank you in advance for your time and efforts.

Respectfully,

*Marty Robinson*

Marty Robinson  
General Manager  
Prime Cable of Alaska

MR/tj

APUC  
DRAFT

561-4396

THE FOLLOWING DOCUMENT HAS  
NOT BEEN FILMED BUT IS  
AVAILABLE IN THE ORIGINAL  
FILE

**PRIME  
CABLE**

MEDIA SERVICES

\*

1/24  
Paul Minnet  
2220

Ted  
Meninski  
PDC  
263-2117

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT  
ALASKA PUBLIC UTILITIES COMMISSION

February 14, 1989

Audit Control Number

08-1354-89-R

Commissioner, Department of Commerce and Economic Development	Larry Mercurieff
Deputy Commissioner, Department of Commerce and Economic Development	Jeffrey W. Bush

Members of the  
Alaska Public Utilities Commission

Chairperson	Susan M. Knowles
Member	Carolyn S. Guess
Member	Peter Sokolov
Member	Louis E. Agi
Member	Kathleen L. Whiteaker

# STATE OF ALASKA

AUDIT DIVISION  
P.O. BOX W  
JUNEAU, ALASKA 99811-3300

THE LEGISLATURE  
BUDGET AND AUDIT COMMITTEE

February 21, 1989

Members of the Legislative Budget  
and Audit Committee:

In accordance with the provisions of Titles 24 and 44 of the Alaska Statutes, the attached report is submitted for your review.

A PERFORMANCE REPORT ON THE  
DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT  
ALASKA PUBLIC UTILITIES COMMISSION

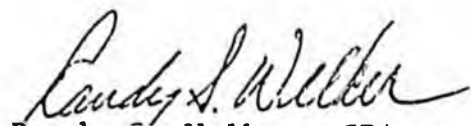
February 14, 1989

Audit Control Number

08-1354-89-R

The objectives of this audit were to examine the activities of the Alaska Public Utilities Commission to determine if there is a demonstrated public need for its continued existence and if the commission has been operating in an efficient and effective manner.

The audit was conducted in accordance with generally accepted governmental performance auditing standards. Audit scope and methodology are discussed in the Report Objectives, Scope, and Methodology section of this report. Audit results may be found in the Report Conclusions, Findings and Recommendations, and in the Analysis of Public Need sections of this report.



Randy S. Welker, CPA  
Legislative Auditor  
Division of Legislative Audit

## REPORT CONCLUSIONS

### Policy Issues

This review contains policy issues raised as a result of our evaluation of various commission practices. The final policy decisions affecting those practices are not within the scope of this review but require legislative consideration. In debating these decisions the legislative oversight committees should take into consideration the findings and recommendations presented in this report to assist them in evaluating the potential impact of any policy changes.

### Report Conclusions

In our opinion, the Alaska Public Utilities Commission is operating in an efficient and effective manner and should continue to regulate public utilities and pipelines. We believe that the public interest is being served by requiring public utilities and pipelines to be certificated by APUC. This process stabilizes demand for the utility service by eliminating competition and thereby allowing economies of scale to operate. Economic regulation by the commission, in place of that competition, ensures that the utilities provide adequate service at the lowest reasonable rates.

Although this economic justification is valid for the majority of utilities regulated by APUC, we evaluated their jurisdiction for potential areas of deregulation for several major reasons: (1) to comply with the intent of sunset legislation which attributed public disenchantment with state government to a proliferation of that government; (2) in recognition of the fact that the cost of regulation may exceed its benefits; (3) the increased demands being placed on commission resources; and (4) the State's ability to provide those resources.

Our analyses revealed several industries where regulation could be eliminated with minimum negative public impact. Our initial criteria was whether the service was essential for modern living to the average Alaskan and, if so, whether the industry operated as a natural monopoly. Although it is uncertain whether rates under deregulation would be higher or lower, deregulation should provide benefits such as competitive alternatives to existing services and more innovative services and rate designs. Additionally, services may be provided in areas not previously served as a result of eliminating the barrier to entry into the marketplace that has been erected by certification and the cost of regulation. While refuse collection services may be considered essential by many, this industry is not a natural

monopoly and should not be regulated (See Recommendation No. 1A). Radio communication carriers do not provide an essential service and also should not be regulated (See Recommendation No. 1B). Cable television may be considered essential by many and may also be a natural monopoly in the small and medium size towns. However, the statutes have created state sanctioned monopolies without the companion public protection against unreasonable and discriminatory rates and services. Further, federal law prohibits full economic regulation. The State should cease cable certification (See Recommendation No. 1C).

We are also convinced that small utilities should be exempted from economic regulation on the basis that the cost of regulation likely exceeds its benefits to consumers. We further recommend that the consumers of these exempted utilities be allowed a reasonable opportunity to elect economic regulation (See Recommendation No. 1D).

We recommend that the utilities owned by the Municipality of Anchorage be exempted from economic regulation. This exemption and the companion opportunity to elect economic regulation should be available to Anchorage as it is to all other municipal governments in the State (See Recommendation No. 1E).

We believe that the commission's costs should be fully allocated to consumers, but only to those consumers of utilities who continue to be regulated. We consider this regulatory funding approach to be most equitable to all the State's citizens. It should also encourage the elimination of any unwarranted economic regulation when combined with consumer regulatory elections (See Recommendation No. 2).

We recommend that APUC develop a topical reference system for commission orders and court decisions (See Recommendation No. 3).

A review of commissioner appointments showed that appointment terms expire on the same date for the two consumer members. As this situation could cause a significant disruption of commission activity, we recommend that the statute be changed to require the staggering of these appointments (See Recommendation No. 4).

Alaska Statute 42.05.711(d) reads as follows: "The commission, on a finding that no legitimate public interest will be served, may exempt a utility from all or any portion of this chapter." [Emphasis added.] As the 1982 decision categorically deregulated an entire industry, not an individual utility, this order may be illegal. We are not recommending that this statute be amended to allow categorical deregulation, as this power should be retained by the Legislature. Rather, we are recommending that the statute be amended to specifically deregulate RCC services; this would incidentally resolve the question.

C. Alaska Statute 42.05 should be amended to cease certification of cable television.

*LSR*  
*Regulate*

We do not consider cable television an essential service, particularly in view of the large number of Alaskans who receive off-the-air network television or broadcasts from the Rural Alaska Television Network. The premise of "essential" is also defeated by a review of the cable television service in Anchorage in which large sections of the service area are not yet cabled 9 years after the certification was awarded. The 1988 service expansion added only 1 mile of cable for 83 homes and businesses. While we acknowledge that it takes years for a new utility to cover a service area, we submit that this standstill, even in consideration of the economic decline, indicates that this service has a higher elasticity of demand than would an "essential" service.

As it is not an essential service, it should not be regulated as a public utility. Although the statutes do not allow economic regulation, they do require certification of the companies. APUC has responded by issuing certifications for exclusive service areas. This has created state-sanctioned monopolies with legally protected service areas, yet the statutes do not provide the companion public protection against unreasonable and discriminatory rates and services. The statute should, therefore, be amended to remove the certification requirement.

However, there are many who believe that cable television is essential to modern living or that it is essential so that we may fully realize our First Amendment right of freedom of speech. If it is first decided that cable television is essential, then the natural monopoly issue must also be considered in the regulatory determination.

We believe that cable television may be a natural monopoly in the small and medium-sized towns. As such, these may be candidates for economic regulation. However, the cost of regulation may outweigh the benefits for these small markets. The economic regulation that is available is also limited to basic services, as the federal Cable Communications Policy Act of 1984 prohibits price regulation of the premium packages. In the largest cities, the competitive environment indicates that there is not a natural monopoly present for cable television, thus certification and economic regulation is inappropriate.

The federal Cable Act was designed to promote the expansion of cable television systems by promoting local franchising and limiting rate regulation. This law would not allow any rate regulation in Anchorage or Fairbanks but would allow basic service rates to be regulated in other areas such as Juneau or Homer. It does, however, appear to allow us control over the possible competitive side effect of duplicate cabling. By statute we could require the segregation of cable distribution companies and these could be fully regulated. The cable programming could then be opened to competition.

In summary, regardless as to whether or not cable television is viewed as essential, we recommended that the present certification requirement be deleted from the statute. To the extent that this service is deemed essential, municipal franchising or certification and regulation of distribution-only companies should be considered.

We also must point out a potential liability to the State under the Cable Act if this recommendation is implemented. The Cable Act outlines specific criteria which must be shown to deny a franchise and the proposed statute amendment would categorically retract the certificates (franchise) without this showing. However, the Attorney General's Office indicated to us that the State would prevail in court. We recommend that a formal opinion on this potential liability be obtained from the Attorney General before this statute is amended.

- D. Alaska Statute 42.05 should be amended to exempt the smaller utilities from economic regulation.

Electric, telephone, gas, water, and sewer utilities have traditionally been considered essential services and are often natural monopolies. Nevertheless, we should refrain from economic regulation if its cost

proportionate to the decrease in the number of utilities. While there certainly should be some relationship, the commission has no time sheet data available to correlate these factors.

In concert with an amendment to exempt these smaller utilities, the following areas should also be addressed:

1. The petition provision which allows customers to request economic regulation of exempted utilities should be amended. Alaska Statute 42.05.711 presently requires 25% of an exempted utility's subscribers to sign the petition. We believe that this is much too great an obstacle to overcome and recommend that an election be called if APUC receives a petition demonstrating significant consumer interest. For example, the petition requirement could be set at the lesser of 5% or 500 customers.
2. This proposed gross revenue exemption statute should not take effect for 6 months to allow utility customers who wish to retain regulation to do so without interruption.
3. The results of past deregulation elections should be honored, thus not requiring a new vote on failed deregulation elections.
4. The customers who continue the benefits of APUC's economic regulatory oversight should be expected to pay for this service (See Recommendation No. 2).

E. Alaska Statute 42.05 should be amended to cease mandatory economic regulation of certain utilities owned by political subdivisions.

Alaska Statute 42.05.711(b) generally exempts utilities owned by political subdivisions from economic regulation, unless they so elect. However, it also provides that if any of a subdivision's utilities directly competes with any other certificated utility then all the subdivision's utilities shall be economically regulated. We presume the intent of this provision was to eliminate the wasting of resources from facility duplication resulting from the then ongoing electric service area dispute as well as preventing the cross-subsidization of rates which might accompany such a dispute. The only utilities falling under this provision, at present, are owned by the Municipality of Anchorage.

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## ALASKA PUBLIC UTILITIES COMMISSION DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

420 "L" STREET  
SUITE 100  
ANCHORAGE, ALASKA 99501  
(907) 276-6222

MAR - 9 1989

March 7, 1989

Mr. Randy Welker  
Legislative Auditor  
Division of Legislative Audit  
State of Alaska  
P. O. Box W  
Juneau, Alaska 99811-3300

Re. Response to Preliminary Audit Report

Dear Mr. Welker:

The following is the response of the Commission to the preliminary audit report and recommendations submitted by the Division of Legislative Audit on February 14, 1989, as a result of its performance review of the Commission.

The Commission concurs with the fundamental conclusion of the report that the

Alaska Public Utilities Commission is operating in an efficient and effective manner and should continue to regulate public utilities and pipelines. (Page 5.)

The Commission does not agree with all of the statements of regulatory theory and philosophy in the preliminary audit report but has focused its comments on the actual recommendations.

Recommendation No. 1C

Alaska Statute 42.05 should be amended to cease certification of cable television.

The Commission concurs with this recommendation with some qualifications, as it did with the same recommendation in the 1985 Sunset Audit. The recommendation appropriately eliminates the anomaly in the current regulatory scheme for cable television (CATV) service whereby CATV providers hold monopoly certificates but are economically deregulated. However, the Commission would encourage the Legislature to use its legal and research staffs to examine the implications of the following on full CATV deregulation: (1) the Cable Communications Policy Act of 1984, (2) the Federal Communications Commission's recent initiatives to eliminate the existing ban on cross-ownership of CATV and telephone companies, (3) the availability and status of local government oversight, (4) shared use of rights-of-way, (5) community access and institutional network use of CATV systems, and (6) disposition of certificates held by existing CATV providers. In any event, as noted in response to the 1985 Sunset Audit recommendation, CATV certification is not a large element of the Commission's workload.

Recommendation No. 1D

Alaska Statute 42.05 should be amended to exempt smaller utilities from economic regulation.

The Commission opposes this recommendation because it disagrees with the auditor's unsupported presumption that the cost of economic regulation presently exceeds its benefits for smaller utilities. Rather, the Commission concludes from its experience

**H B**

**353**