

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672  
6341 SENATE JUDICIARY

745

## Allow Obligor To Request Support Order Modifications

---

### RECOMMENDATION 43:

#### THE LEGISLATURE SHOULD AMEND ALASKA STATUTE 47.23.045 TO READ:

The agency may appear in an action seeking an award of support on behalf of a child owed a duty of support, or to enforce a spousal support order if a spousal support obligation has been established and if a support obligation, established with respect to a child of that spouse, is also being administered, and may also appear in an action seeking modification of a support order, decree or judgment already entered. Action under this section may be undertaken upon application of an obligee or obligor, or at the agency's own discretion if the obligor is liable to the state under AS 47.23.120(a) or (b).

---

#### Issue

What do we need to change so that obligors can obtain State assistance in requesting child support order modifications?

#### FSA Requirement

Section 103(c) of the Family Support Act requires states to review and adjust child support orders upon request of either parent beginning in November, 1990.

#### Rationale

Alaska law currently allows CSE to assist obligees requesting modifications to support orders, but provides no State assistance in obtaining changes in ways for obligors to request changes. One of the most common criticisms of the existing child support system we heard during our public process was this lack of a mechanism for State assistance to obligors seeking child support order adjustments. Prior federal law contained no requirement for these services, and Alaska statutes do not currently provide clear authority for CSED to offer them.

#### Cost

There will be staff costs required to provide adequate services.

#### Benefits

This is part of a larger requirement for periodic reviews of support orders, which as a whole, should increase support collections in Alaska. The specific provision for State assistance to obligors requesting modification should alleviate concerns about unfair procedures, and facilitate greater cooperation by all parents.

Family Support Task Force  
Subcommittee on Child Support

REVISED REPORT TO THE TASK FORCE

September 20, 1989

Subcommittee Co-Chairs:

Rep. Max F. Gruenberg, Jr.

Linda Langston, Director, Child Support Enforcement Division

## INTRODUCTION

The Subcommittee on Child Support met seven times, beginning with an organizational meeting at the Task Force's June 12 meeting. It heard testimony from thirty witnesses, and developed an issue agenda covering more than two dozen topics. The issues included matters directly related to implementation of the Family Support Act, as well as a variety of policy questions arising out of a consideration of the broader context of the child support system in the State and the family-oriented goals of the Family Support Act.

The subcommittee decided to address issues directly related to implementation of the Family Support Act before turning to the implications of the Act for other elements of the child support system. In this report, the subcommittee presents thirteen specific recommendations for action it views as appropriate for implementation of the mandatory provisions of the Family Support Act in Alaska. In addition, Recommendation #1 relates to interstate issues raised by the Act.

In the coming weeks, we plan to develop specific legislative proposals to implement these recommendations, and to develop additional recommendations addressing other issues identified by the subcommittee. In particular, the subcommittee will be considering in depth issues related to the State's current child support guideline, embodied in Civil Rule 90.3.

## Immediate Wage Withholding

### ISSUE:

Should the State institute a policy of across-the-board imposition of immediate wage withholding of amounts due as child support, without regard to payment history or arrearages?

### FSA PROVISIONS:

Section 101 of the Family Support Act requires by November, 1990, all states begin immediate wage withholding (i.e., mandatory wage withholding without any prior arrearages) for all new and modified child support orders enforced by the state child support enforcement agency, unless both parties agree to the contrary or the state finds "good cause" not to require it in individual cases.

Section 101 also requires all states to begin immediate wage withholding for all new and modified orders not being enforced by the child support enforcement agency, by January, 1994.

Finally, Section 101 calls for the federal government to study and within three years to report on the administrative feasibility, cost implications, and other effects of making immediate wage withholding mandatory in all cases.

### SUBCOMMITTEE RECOMMENDATIONS:

SB 372

#11

The subcommittee recommends that the Child Support Enforcement Division limit wage withholding to cases in which:

(1) new and modified orders are issued on or after November 1, 1990, by the Superior Court or administratively by the Division; or

(2) the absent parent requests that immediate withholding begin; or

(3) the custodial parent requests that immediate withholding begin, if the State determines in accordance with such procedures and standards as it may establish that the request should be approved; or

(4) payments are in arrears in an amount at least equal to support payable for one month.

#12

~~The subcommittee recommends that the Child Support Enforcement Division actively seek the assistance of the business community in evaluating existing mechanisms for wage withholding and in developing mechanisms that will provide accurate, up to date information for the Division without imposing unnecessary or unreasonable burdens on the business community.~~

The subcommittee recommends that the Division of Child Support Enforcement develop and initiate a program to inform the business community and the public at large about the immediate wage withholding provisions of the Family Support Act. The program should have two basic goals: (1) to remove any stigma associated with wage withholding as a means of enforcing child support; and (2) to underscore the importance of wage withholding as a means of ensuring that children receive child support benefits on a timely basis.

**EXPLANATION:**

These provisions of the Family Support Act elicited a significant amount of comment and discussion. Current state and federal law limit mandatory wage withholding to cases in which the obligor is at least thirty days in arrears in payments. The new federal requirement is that beginning in 1990, wage withholding also be used on new and modified orders enforced by the Child Support Enforcement Division where there is no arrearage, and in all cases within the agency's caseload in which the recipient requests that immediate wage withholding be implemented, unless the State finds "good cause" not to do so. Beginning in 1994, similar requirements apply for cases outside the agency's caseload (i.e., in cases enforced through the Alaska Court System).

The subcommittee heard testimony that immediate wage withholding is perceived by many obligors who regularly fulfill their support obligations as an affront, because under existing law wage withholding is typically used in cases involving obligors who have defaulted on their obligations. In addition, the subcommittee was told that the compliance of employers with current wage withholding law is often unsatisfactory, and can be harmful to both the employee-obligor, and the family entitled to the payments.

At the same time, other testimony indicated that immediate wage withholding is an important safeguard for the protection of families in cases where the obligor is unable or unwilling to make timely payments. In addition, the subcommittee was informed that the Child Support Enforcement Division supports a cautious approach to implementation of immediate wage withholding, in view of the administrative and other problems such a program would raise.

Although some members of the subcommittee opposed the policy of immediate wage withholding in any case, the subcommittee agreed that the significant financial penalties that would attach if the federal mandate were rejected are too severe, particularly in their impact on lower income families, to justify such an approach. However, in view of the substantial opposition expressed to the policy, the administrative

difficulties, and the fact that a federal study will be forthcoming on this topic, subcommittee agreed that for the time being the State should limit application of the policy of immediate wage withholding to cases in which federal law requires that policy to begin by November, 1990.

The subcommittee felt that the question of extension of the policy of immediate wage withholding to cases in which it will be required by federal law beginning in 1994 should be reviewed at a later date, in light of Alaska's experience in the limited number of cases in which immediate wage withholding will be required prior to that time, and in light of the forthcoming federal study.

At the same time, the subcommittee recognized that successful implementation of any program of immediate wage withholding rests in large degree on the willing cooperation of employers and of employees subject to such withholding. The subcommittee therefore recommended a public education program aimed at destigmatizing immediate wage withholding as a means of enforcing child support, and underscoring its value to families receiving child support payments.

Periodic Review of Child Support Orders

ISSUE:

What provision should be made for processing requests by obligors for modification of child support orders?

FSA PROVISION:

Section 103(c) of the Family Support Act requires states to review and adjust child support orders upon request of either parent beginning in November, 1990.

SUBCOMMITTEE RECOMMENDATION:

SB 375

#14

The subcommittee recommends that AS 47.23.045 be amended to read:

The agency may appear in an action seeking an award of support on behalf of a child owed a duty of support, or to enforce a spousal support order if a spousal support obligation has been established and if a support obligation, established with respect to a child of that spouse, is also being administered, and may also appear in an action seeking modification of a support order, decree or judgment already entered. Action under this section may be undertaken upon application of an obligee or obligor, or at the agency's own discretion if the obligor is liable to the state under AS 47.23.120(a) or (b).

This amendment is necessary to fulfill the requirements of Section 103(c) of the Family Support Act.

EXPLANATION:

One of the most common criticisms of the existing child support system that the subcommittee heard was its lack of a mechanism for State assistance to obligors who seek an adjustment in the level of the child support they are required to pay. Under prior federal law, there was no requirement that such services be offered to obligors, and Alaska statutes do not provide clear authority for the Child Support Enforcement Division to offer them.

The Family Support Act now requires states to provide modification services to obligors. In order to meet this requirement, and to alleviate the concerns expressed regarding the lack of availability of those services to obligors, the subcommittee has recommended that the legislature amend Alaska law to provide modification services to obligors through the Child Support Enforcement Division.

major  
3 req:  
need  
CS support

Welf Ref

impl immed wage withholding

" pgm standards

(time frames all agencies must  
adhere to)

so need operational technical  
DS which more housekeeping

Sec 2

periodic review + modification

**S B**

**374**

Original sponsor(s): Rules/Governor

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 374 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending the definition of 'alcoholic beverage'  
7 'age'; and providing for an effective date."

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

9 \* Section 1. AS 04.21.080(b)(1) is amended to read:

10 (1) "alcoholic beverage" means spirituous, vinous, malt or  
11 other fermented or distilled liquids, whatever the origin, that are  
12 intended for human consumption as a beverage and that contain one-half  
13 of one percent or more of alcohol by volume, whether produced commer-  
14 cially or privately; however, in an area that has adopted a local-  
15 option prohibition under AS 04.11.490 - 04.11.500, "alcoholic beverage"  
16 means spirituous, vinous, malt, or other fermented or distilled  
17 liquids, whatever the origin, that are intended for human consumption  
18 as a beverage and that contain alcohol in any amount, if the liquids  
19 are produced privately or that contain one-half of one percent or more  
20 of alcohol by volume, if the liquids are produced commercially;

21 \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).  
22  
23  
24  
25  
26  
27  
28  
29

MIKE FORD

BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

1 IN THE SENATE

SENATE BILL NO. 374

3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending the definition of 'alcoholic beverage;' and providing for an effective date."

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

9 \* Section 1. AS 04.21.080(b)(1) is amended to read:

10 (1) "alcoholic beverage" means spirituous, vinous, malt or  
11 other fermented or distilled liquids, whatever the origin, that are  
12 intended for human consumption as a beverage and that contain one-half  
13 of one percent or more of alcohol by volume, whether produced commer-  
14 cially or privately; however, in an area that has adopted a  
15 local-option prohibition under AS 04.11.490 - 04.11.500, "alcoholic  
16 beverage" means <sup>privately produced</sup> spirituous, vinous, malt, or other fermented or  
17 distilled liquids, whatever the origin, that are intended for human  
18 consumption as a beverage <sup>and</sup> that contain alcohol in any amount,  
19 ~~and whether produced commercially or privately;~~

20 \* Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

3-14

January 8, 1990

The Honorable Tim Kelly  
President of the Senate  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that amends the definition of "alcoholic beverage" in AS 04. The bill will resolve a difficulty that has arisen in connection with prosecuting certain local-option law violations.

In 1986, the legislature amended the definition of "alcoholic beverage" to mean fermented or distilled beverages that contained any amount of alcohol. Section 10, ch. 80, SLA 1986. This created an inconvenience with respect to the distribution of so-called "non-alcoholic" beverages which, in reality, contain some trace amounts of alcohol. The 1986 definition had the practical effect of limiting the distribution of "non-alcoholic" beverages to establishments that had liquor licenses issued under AS 04. This difficulty was resolved by CSHB 181(Jud), enacted in 1989, which changed the definition of "alcoholic beverage" to mean fermented or distilled beverages that contain one-half of one percent or more of alcohol by volume, whether produced commercially or privately. Section 2, ch. 88, SLA 1989.

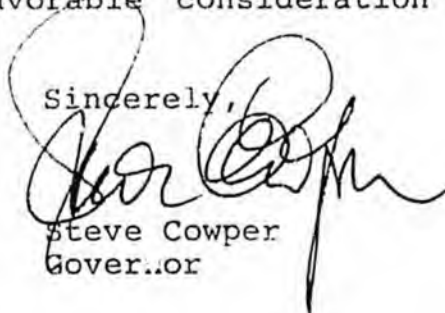
An unintended difficulty was created in that definition amendment. In areas that have voted, under AS 04.11.498, for example, to completely ban the possession of alcoholic beverages, the criminal division of the Department of Law has recognized that practical problems arise in prosecuting individuals who violate the law by producing "homebrew" alcoholic beverages. For example, if law enforcement officers seize a vat of homebrew as evidence and ship a sample to the state crime laboratory for analysis to determine the percentage of alcohol, fermentation of the

beverage would continue during the shipment and until the time of analysis. The rate of fermentation is not constant and varies for each vat of homebrew, and it would be very difficult to determine the percentage of alcohol at the time of seizure. As a result, prosecution of offenders for possession of homebrew in such a local-option area is difficult if the "threshold" level of alcohol in an "alcoholic beverage" is anything other than zero percent. If an "alcoholic beverage" is one that contains any amount of alcohol, "homebrew" prosecutions in such local option areas would be relatively simple because additional fermentation occurring between the time of seizure and the time of laboratory analysis would be irrelevant. It would be sufficient to prove that the homebrew contained alcohol in any amount.

For local-option areas, the attached bill creates an exception to the "general" definition of "alcoholic beverage." In such areas, any fermented or distilled beverage containing alcohol in any amount, whether produced commercially or privately, constitutes an "alcoholic beverage." To be consistent with the apparent intent of AS 04.21.015, relating to private manufacture of alcoholic beverages, this definition will apply in areas that have adopted any of the local-option prohibitions under AS 04.11.490 -- 04.11.500.

I urge your prompt and favorable consideration of this bill.

Sincerely,



Steve Cowper  
Governor

## ALASKA STATUTES

(j) If the person cited fails to pay the bail amount established under (g) of this section or appear in court as required, the citation is considered a summons for a misdemeanor.

(k) The board or any affected party may institute an action in the superior court to enjoin repeated violations of this section.

(l) Notwithstanding AS 04.11.370, the board is not required to suspend or revoke a license or permit for a violation of this section; however, the board may consider a violation of this section when determining under AS 04.11.370(2) whether continuation of activities authorized under a license or permit would be in the best interests of the public.

**Sec. 04.21.070. Enforcement.** Peace officers shall investigate and report to the board violations of this title.

**Sec. 04.21.080. Definitions.** (a) In this title

(1) a person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation;

(2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the person's conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had the person not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had the person not been intoxicated acts recklessly with respect to that risk.

(b) In this title

(1) "alcoholic beverage" means spirituous, vinous, malt or other fermented or distilled liquids, whatever the origin, that are intended for human consumption as a beverage and that contain one-half of one percent or more of alcohol by volume, whether produced commercially or privately;

(2) "board" means the Alcoholic Beverage Control Board;

## ALCOHOLIC BEVERAGES

(3) "bottling" means to put into a bottle, can, or other container;

(4) "community work" means and is limited to work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve public land, forests, parks, roads, highways, facilities, or education; community work may not confer a private benefit on a person except as may be incidental to the public benefit;

(5) "designated premises" means any or all designated portions of a building or structure, rooms or enclosures in the building or structure, or real estate leased, used, controlled, or operated by a licensee for the purpose for which the permit is issued by the board at the location of the site for which the permit is issued;

(6) "director" means the director of the Alcoholic Beverage Control Board;

(7) "distributing point" means a location where alcoholic beverages are distributed from a warehouse;

(8) "drunken person" means a person whose physical or mental conduct is substantially impaired as a result of the introduction of an alcoholic beverage into the person's body and who exhibits those plain and easily observed or discovered outward manifestations of behavior commonly known to be produced by the overconsumption of alcoholic beverages;

(9) "established village" means

(A) an unincorporated community that is in the unorganized borough and that has 25 or more permanent residents; or

(B) an unincorporated community that is in an organized borough, has 25 or more permanent residents, and

(i) is on a road system and is located more than 50 miles outside the boundary limits of a unified municipality, or

(ii) is not on a road system and is located more than 15 miles outside the boundary limits of a unified municipality;

(10) "licensed premises" means any or all designated portions of a building or structure, rooms or enclosures in the building or structure, or real estate leased, used, controlled, or operated by a licensee in the conduct of business for which the licensee is licensed by the board at the specific address for which the license is issued;

(11) "local governing body" means, as appropriate, a city council, a borough assembly, or a traditional village council, but does not include a corporation established under the Alaska Native Claims Settlement Act.

## ALCOHOLIC BEVERAGES

protest within 30 days of receipt from the board of notice of filing of the application. The board shall consider a protest and testimony received at a hearing conducted under AS 04.11.510(b)(2) or (b)(4) when it considers the application, and the protest and the record of the hearing conducted under AS 04.11.510(b)(2) or (b)(4) shall be retained as part of the board's permanent record of its review of the application. If an application is protested, the board may not approve the application unless the board finds that the protest is arbitrary, capricious, and unreasonable.

(b) If the permanent residents residing outside of but within two miles of an incorporated city or an established village wish to protest the issuance, renewal, or transfer of a license within the city or village, they shall file with the board a petition meeting the requirements of AS 04.11.510(b)(3) requesting a public hearing within 30 days of the posting of notice required under AS 04.11.310, or by December 31 of the year application is made for renewal of a license. The board shall consider testimony received at a hearing conducted under AS 04.11.510(b)(3) when it considers the application, and the record of a hearing conducted under AS 04.11.510(b)(3) shall be retained as part of the board's permanent record of its review of the application.

**Sec. 04.11.490. Prohibition of the sale of alcoholic beverages.** (a) The following question, appearing alone, may be placed before the voters of a municipality or an established village in accordance with AS 04.11.502: "Shall the sale of alcoholic beverages in .....(name of municipality or village) be prohibited? (yes or no)."

(b) If a majority of the voters vote "yes" on the question set out in (a) of this section, the board shall be notified immediately after certification of the results of the election and thereafter the board may not issue, renew, or transfer between holders or locations a license for licensed premises located within the boundaries of a municipality and in unincorporated areas within five miles of the boundaries of the municipality or within the perimeter of an established village. Licenses that may not be renewed because of a local option election held under this section are void 90 days after the results of the election are certified. A license that will expire during the 90 days after the results of a local option election under this section are certified may be extended, until it is void under this subsection, by payment of a prorated portion of the annual license fee.

(c) If a majority of the voters vote "no" on the question set out in (a) of this section or vote "yes" on a question set out in AS 04.11.492 or 04.11.500 in an election conducted in accordance with AS 04.11.502 after an election in which the voters voted "yes" on the question set out in (a) of this section, the board shall be notified immediately after certification of the results of the election. Thereafter, the prohibitions imposed under (b) of this section on the issuance, renewal, or transfer of licenses between holders and location as a result of the earlier election are removed except insofar as those prohibitions are imposed in accordance with the results of the subsequent election.

## ALASKA STATUTES

**Sec. 04.11.492. Community liquor license; complete prohibition on sales.** (a) The following question, appearing alone, may be placed before the voters of a municipality in accordance with AS 04.11.502: "Shall the sale of alcoholic beverages be prohibited in .....(name of municipality) unless sold by a ... (either a beverage dispensary or package store, or both, operated under a community liquor license)? (yes or no)."

(b) If a majority of the voters vote "yes" on the question set out in (a) of this section, the board shall be notified immediately after certification of the results of the election and thereafter may not issue, renew, or transfer between holders or locations a license for licensed premises located within the boundaries of a municipality and in unincorporated areas within five miles of the boundaries of the municipality, with the exception of a beverage dispensary or package store operated under a community liquor license held by the municipality. Licenses in effect are void 90 days after the results of the election are certified. A license that will expire during the 90 days after the results of a local option election under this section are certified may be extended, until it is void under this subsection, by payment of a prorated portion of the annual license fee.

(c) If a majority of the voters vote "no" on the question set out in (a) of this section or vote "yes" on a question set out in AS 04.11.490, 04.11.496, or 04.11.500 in an election conducted in accordance with AS 04.11.502 after an election in which the voters voted "yes" on the question set out in (a) of this section, the board shall be notified immediately after a certification of the results of the election. The prohibitions imposed under (b) of this section on the issuance, renewal, or transfer of licenses between holders and locations as a result of the earlier election are removed 90 days after the results of the election are certified except insofar as those prohibitions are imposed in accordance with the results of the subsequent election.

**Sec. 04.11.496. Prohibition of sale and importation of alcoholic beverages.** (a) The following question, appearing alone, may be placed before the voters of a municipality or an established village in accordance with AS 04.11.502: "Shall the sale and importation of alcoholic beverages be prohibited in .....(name of municipality or village)? (yes or no)."

(b) If a majority of the voters vote "yes" on the question set out in (a) of this section, a person, beginning on the first day of the month following certification of the results of the election, may not knowingly send, transport, or bring an alcoholic beverage into the municipality or established village, unless the alcoholic beverage is sacramental wine to be used for bona fide religious purposes based on tenets or teachings of a church or religious body, is limited in quantity to the amount necessary for religious purposes, and is dispensed only for religious purposes by a person authorized by the church or religious body to dispense the sacramental wine. The board shall be notified immediately after certification of the results of the election and thereafter may not issue, renew, or transfer between holders or locations a license for licensed premises located within the boundaries of the municipality and within unincorporated areas within five miles of the

## ALCOHOLIC BEVERAGES

boundaries of the municipality or within the perimeter of the established village. Licenses that may not be renewed because of a local option election held under this section are void 90 days after the results of the election are certified. A license that will expire during the 90 days after the results of a local option election under this section are certified may be extended, until it is void under this subsection, by payment of a prorated portion of the annual license fee.

(c) If a majority of the voters vote "no" on the question set out in (a) of this section or vote "yes" on the questions set out in AS 04.11.492 or 04.11.500 in an election conducted in accordance with AS 04.11.502 after an election in which the voters voted "yes" on the question set out in (a) of this section, the prohibition on the importation of alcoholic beverages and the prohibition on the issuance, renewal, or transfers of licenses between holders and locations, imposed as a result of the earlier election in which the voters voted "yes" on the question set out in (a) of this section are removed effective on the first day of the month following certification of the results of the election except as those prohibitions continue to be imposed in accordance with the results of the subsequent election.

**Sec. 04.11.498. Prohibition of possession of alcoholic beverages.** (a) The following question, appearing alone, may be placed before the voters of a municipality or an established village in accordance with AS 04.11.502: "Shall the possession of alcoholic beverages be prohibited in .....(name of municipality or village)? (yes or no)."

(b) If a majority of the voters of an established village vote "yes" on the question set out in (a) of this section, and the sale of alcoholic beverages, or the sale and importation of alcoholic beverages, has been previously prohibited in the established village in accordance with AS 04.11.490 or 04.11.496, a person, beginning on the first day of the month following certification of the results of the election, may not knowingly possess an alcoholic beverage in the established village, unless the alcoholic beverage is wine to be used for bona fide religious purposes based on tenets or teachings of a church or religious body, is limited in quantity to the amount necessary for religious purposes, and is dispensed only for religious purposes, by a person recognized by the church or religious body as authorized to dispense the wine. The board shall be notified immediately after certification of the results of the election and thereafter may not issue, renew, or transfer between holders or locations a license for licensed premises located within the perimeter of the established village as defined in AS 04.21.080(b)(8).

(c) If a majority of the voters of an established village vote "yes" on the question set out in (a) of this section and the sale of alcoholic beverages, or the sale and importation of alcoholic beverages, has not been previously prohibited in the established village in accordance with AS 04.11.490 or 04.11.496, a person, beginning 90 days after certification of the results of the election, may not knowingly possess an alcoholic beverage in the established village, unless the person is licensed by the board or the alcoholic beverage is wine to be used for bona fide religious purposes based on tenets or teaching, of a church or religious body, is limited in quantity to the amount necessary for religious purposes, and is

## ALASKA STATUTES

dispensed only for religious purposes by a person recognized by the church or religious body as authorized to dispense the wine. The board shall be notified immediately after certification of the results of the election and thereafter may not issue, renew, or transfer between holders or locations a license for licensed premises located within the perimeter of the established village as defined in AS 04.21.080(b)(8). Licenses that may not be renewed because of a local option election held under this section are void 90 days after the results of the election are certified. A license that will expire during the 90 days after the results of a local option election under this section are certified may be extended until it is void under the section, by payment of a prorated portion of the annual license fee.

(d) If a majority of the voters of a municipality vote "yes" on the question set out in (a) of this section, and the sale of alcoholic beverages, or the sale and importation of alcoholic beverages, has been previously prohibited in the municipality in accordance with AS 04.11.490 or 04.11.496, an ordinance is adopted that becomes effective beginning on the first day of the month following certification of the results of the election, and a person may not knowingly possess an alcoholic beverage in the municipality, unless the alcoholic beverage is wine to be used for bona fide religious purposes based on tenets or teachings of a church or religious body, is limited in quantity to the amount necessary for religious purposes, and is dispensed only for religious purposes, by a person recognized by the church or religious body as authorized to dispense the wine. The board shall be notified immediately after certification of the results of the election and thereafter may not issue, renew, or transfer between holders or locations a license for licensed premises located within the boundaries of the municipality and within unincorporated areas within five miles of the boundaries of the municipality.

(e) If the majority of the voters of a municipality vote "yes" on the question set out in (a) of this section and the sale of alcoholic beverages, or the sale and importation of alcoholic beverages, has not been previously prohibited in the municipality in accordance with AS 04.11.490 or 04.11.496, an ordinance is adopted that becomes effective beginning 90 days after certification of the results of the election, and a person may not knowingly possess an alcoholic beverage in the municipality, unless the alcoholic beverage is wine to be used for bona fide religious purposes based on tenets or teachings of a church or religious body, is limited in quantity to the amount necessary for religious purposes, and is dispensed only for religious purposes by a person recognized by the church or religious body as authorized to dispense the wine. The board shall be notified immediately after the adoption of the ordinance and thereafter may not issue, renew, or transfer between holders or locations a license for licensed premises located within the boundaries of the municipality and within unincorporated areas within five miles of the boundaries of the municipality. Licenses that may not be renewed because of a local option election held under this section are void 90 days after the results of the election are certified. A license that will expire during the 90 days after the results of a local option election under this section are certified may be extended, until it is void under this section, by payment of a prorated portion of the annual fee.

## ALCOHOLIC BEVERAGES

(f) If a majority of the voters vote "no" on the question set out in (a) of this section or vote "yes" on the questions set out in AS 04.11.492 or 04.11.500 in an election conducted in accordance with AS 04.11.502 after an election in which the voters voted "yes" on the question set out in (a) of this section, the prohibition on the possession of alcoholic beverages is removed effective 90 days after the results of the election are certified except as those prohibitions continue to be imposed in accordance with the results of the subsequent election.

(g) For the purposes of this section, "possession" means having physical possession of or exercising dominion or control over alcoholic beverages, but does not include having alcoholic beverages within the digestive system of a person.

**Sec. 04.11.500. Prohibition of the sale of alcoholic beverages except by selected licenses.** (a) The following question, appearing alone, may be placed before the voters of a municipality or an established village in accordance with AS 04.11.502: "Shall the sale of alcoholic beverages be prohibited in ....(name of municipality or village) except by ....(listing of the types of licenses which premises would be exempted from the prohibition on the sale of alcoholic beverages if the measure passes)? (yes or no)."

(b) If a majority of the voters vote "yes" on the question set out in (a) of this section, the board shall be notified immediately after certification of the results of the election and thereafter may not issue, renew, or transfer between holders or locations a license for licensed premises located within the boundaries of the municipality and in unincorporated areas within five miles of the boundaries of the municipality or within the perimeter of the established village, except those types of licenses listed on the ballot. Licenses in effect within the boundaries of the municipality or perimeter of the established village, and in an unincorporated area outside of but within five miles of the boundaries of the municipality, except those types of licenses listed on the ballot, are void 90 days after the results of the election are certified. A license that will expire during the 90 days after the results of a local option election under this section are certified may be extended, until it is void under this subsection, by payment of a prorated portion of the annual license fee.

(c) If the majority of the voters vote "no" on the question set out in (a) of this section or vote "yes" on the questions set out in AS 04.11.490, 04.11.492, 04.11.496, or this section if different types of licenses are listed on the ballot in an election conducted in accordance with AS 04.11.502 after an election in which the voters voted "yes" on the question set out in (a) of this section, the board shall be notified immediately after certification of the results of the election. Licenses in effect in the municipality, in the unincorporated area outside of but within five miles of the boundaries of the municipality or established village that were excepted from the prohibition on sale in accordance with the results of the earlier election are void 90 days after the results of the election are certified. Thereafter the board may not issue, renew, or transfer between holders or locations a license for licensed premises located within the boundaries of the municipality or within the perimeter of an established village, or in an unincorporated area within five

## ALASKA STATUTES

miles of the boundaries of the municipality, except a license that may be issued to a municipality or to one of the types of licenses listed on the ballot as a result of a majority of the voters voting "yes" on the question set out in AS 04.11.492 or this section, respectively. A license that will expire during the 90 days after the results of a local option election under this section are certified may be extended, until it is void under this subsection, by payment of a prorated portion of the annual license fee.

**Sec. 04.11.502. Procedure for local option elections.** (a) The local governing body of a municipality, whenever a number of registered voters equal to at least 35 percent of the number of votes cast at the last regular municipal election petition the local governing body to do so, shall place upon a separate ballot at the next regular election or at a special election whichever question or combination of questions set out in AS 04.11.490 - 04.11.500 constitutes the subject of the petition. The local governing body shall conduct the election in accordance with the election ordinance of the municipality.

(b) The lieutenant governor, whenever 35 percent of the registered voters residing within an established village petition the lieutenant governor to do so, shall place upon a separate ballot at a special election that question or combination of questions set out in AS 04.11.490 - 04.11.500 that constitutes the subject of the petition. The lieutenant governor shall conduct the election in the general manner prescribed by the Alaska Election Code (AS 15).

(c) A petition filed with the local governing body of a municipality in accordance with (a) of this section, which places on the ballot the question set out in AS 04.11.498, shall constitute a proposed ordinance of the municipality.

(d) Notwithstanding any other provisions of law, an election under (a) or (b) of this section to remove a restriction on the sale, importation, or possession of alcoholic beverages previously imposed under AS 04.11.490 - 04.11.500 may not be conducted more than once every 12 months.

**Sec. 04.11.504. Reinstatement of licenses.** (a) If a prohibition imposed on the issuance, renewal, transfer, or relocation of licenses between holders and locations under AS 04.11.490 - 04.11.500 is removed by a vote of "no" on a question for which the majority of the people voted "yes" in an earlier election, the board shall, upon application, issue the same number and type of licenses that were in effect in the municipality or established village on the date of certification of the earlier election. If the prohibition imposed on issuance, renewal, transfer, or relocation of licenses between holders and locations is removed by a "yes" vote on a question set out in AS 04.11.492 and 04.11.500, the board may issue the types of licenses specified in the question presented to the voters in the subsequent election. Licenses may be issued for the same or other premises within the municipality or established village that were licensed on the date of certification of the earlier election. However, if the local governing body requests that fewer licenses of a particular type be issued than would otherwise be issued if the provisions prescribing the ratio of population to licensed premises in AS 04.11.400(a)

**S B**

**378**

STATE OF ALASKA  
THE LEGISLATURE

OFFICE OF THE CLERK  
LEGISLATIVE COUNSEL  
1000 EAST BROADWAY  
ANCHORAGE, ALASKA 99514  
(907) 465-3000


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 27, 1990

SUBJECT: Voter qualification and registration for state elections, etc. (CSSB 378 (State Affairs))

TO: Senator Pat Pourchot  
Chair, Senate State Affairs Committee

FROM: Richard A. Bradley  
Legislative Counsel 

You have requested that we provide your committee with a CS for the governor's bill on the above subject. We have done so; in the process we also made some technical changes to the bill.

We also had some reservations about other sections of law that seem implicated by the bill but that were not amended in the bill. Because your request did not ask that these matters be dealt with and because the need for the suggested amendments was not clear, we have not addressed these matters. But we believe that subsequent committees of reference may wish to review these questions.

AS 15.20.015 is implicated by the amendment to AS 15.05.-010(4) in Section 1 of the bill.

AS 15.07.030(b), AS 15.07.040, and 15.07.160 are also implicated by the changes made in the bill.

If the division of elections is satisfied with the bill and the committees of reference concur, then we have no difficulties.

But we believe that a subsequent committee of reference may wish to review this matter.

If I may be of further assistance, please advise.

RAB:pl  
WKP2/100  
Enclosure

SENATE COMMITTEE REPORT  
FIRST COMMITTEE OF REFERRAL

DATE: January 8, 1990

FURTHER: Judiciary

Date of 5-Day Notice: 2.22.90  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: \_\_\_\_\_

State Affairs Committee considered

SENATE BILL NO. 378

"An Act relating to voter qualification and registration for state elections; and relating to computation of time for purposes of AS 15."

and recommended:

- replace with \_\_\_\_\_ CS SB 378  same title
- attached amendment(s)  new title
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

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

ATTACHES NEW FISCAL NOTE(S):

Department(s)/Date:

Department(s)/Date:

fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

zero fiscal note(s) office of the auditor 1.8.90  
\_\_\_\_\_  
\_\_\_\_\_

appropriation-no fiscal note

Governor's bill w/fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Al Adams  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

John Uel (No Rec)  
Tom Kelly (No Rec)  
\_\_\_\_\_  
\_\_\_\_\_

[Signature]  
do pass

Chair: Signature and Recommendation

CS — Added effective date  
1.1.91.

# Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman  
Sen. Al Adams  
Sen. Tim Kelly  
Sen. Rick Uehling



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

907-465-3712

## Senate State Affairs Committee

### MEMORANDUM

TO: Senate State Affairs Committee Members  
FROM: Senator Pat Pourchot  
RE: Monday, February 26 Committee Hearing  
DATE: February 24, 1990

On Monday, February 26 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SB 378. An Act relating to voter qualification and registration for state elections; and relating to computation of time for purposes of AS 15.

This bill, introduced at the request of the Governor, would allow qualified individuals voting in person before an election official, who have been residents of the state for at least 30 days, but who have failed to register in time for election, to register on election day and to vote in statewide elections for statewide candidates and measures. SB 378 also clarifies that absentee ballots are subject to the same review process and are counted in the same manner as questioned ballots. A clarification of the "computation of time rule" is added to provide that if a deadline for an election activity or requirement falls on a weekend or holiday, the deadline is extended to the first weekday after the weekend/holiday.

SB 370. An Act expanding the Public Employees Retirement Board and the Teachers' Retirement Board to include two physician members to hear disability appeals; dissolving the Public Employees' and Teachers' Disability Review Board; and providing for an effective date.

This bill, introduced at the request of the Governor, repeals AS 39.36, which was enacted in 1982 to establish the Disability Review Board (DRB) as an advisory board to the Public Employees Retirement Board (PERB), the Teachers' Retirement Board (TRB) and the administrator of the state retirement systems on disability claims. A high percentage of appeals to PERB have been contrary to DRB's advice. This bill would dissolve the DRB and provide for the appointment of physician members to serve on PERB and TRB only for the purpose of hearing appeals involving medical issues.

Proposed CS for SS SB 150. An Act establishing a senior housing office and loan program in the Department of Community and Regional Affairs; and authorizing the issuance of bonds for senior housing.

Senator Duncan has revised the previous proposed CS, to include the following: clarification of AHFC's and the Department of Community and Regional Affairs roles in setting regulations, approving loans and administering loans. This bill sets a \$30 million bond cap, specifies the interest rates on construction loans and permanent loans and clarifies how the Senior Housing Revolving Fund works.

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: An Act relating to elections & computation of time.  
 Sponsor: Rules Committee  
 Requestor: Governor

Agency Affected: Office of the Governor  
 BRU: Elections

Components: I - Elections. II Primary & Gene.

**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>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

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

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

**FUNDING:** (Thousands of Dollars)

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Linda Edgeworth, Information Officer Phone: 465-4611  
 Division: Division of Election Date: 12/22/89

Approved by Commissioner: *[Signature]* (Acting) Date: 12.22.89  
 Agency: Dave Koevuniemi

Office of the Governor  
 Distribution (by preparer):

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

# STATE OF ALASKA

## OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS  
P.O. BOX AF  
JUNEAU, ALASKA 99811-0105  
PHONE (907) 465-4611

### COMMENTS IN SUPPORT OF SB 378

Prepared By  
Division of Elections  
January 18, 1990

#### What the Bill Does:

The intent of this bill is to increase voter participation and to expand Alaska's registration opportunities. The bill would allow qualified individuals who have been residents of the State for at least 30 days, but who have failed to register in time for the election, to register on election day, and to vote in statewide elections for statewide candidates and measures. The bill imposes certain restrictions and guidelines to ensure the integrity of the process, and provide administrative guidelines:

1. The voter would still have to meet all basic voter qualifications established in AS 15.05.
2. The voter would have to have resided in the state for at least 30 days;
3. To be eligible, the voter would have to vote in person before an election official at a polling place, or before an absentee official at a designated absentee voting site; and,
4. The voter registering on election day would only be eligible to vote and have his or her ballot counted for statewide candidates and measures.

#### What the Bill Does Not Do:

The bill does not affect the 30 day prior registration requirement for voting in districtwide, regional, municipal or areawide elections. To be eligible to vote in these elections and races the voter would still have to have registered in the jurisdiction at least 30 days prior to the election.

Continuation of the 30 day prior registration requirement for subjurisdictions of the state safeguards the integrity of elections where the specific residence of the voter dictates his or her eligibility to vote in specific district or regional races and on

local issues. For statewide candidates and measure residency anywhere in the state qualifies the voter. The 30 day prior registration requirement for districtwide, regional and local elections, also inhibits the potential for fraudulent cross-district voting which might occur on election day if the prior registration requirement already mandated by law were not maintained.

#### General Comments:

Limited and controlled election day registration is not a new concept in Alaska. Similar procedures are already in place for presidential elections when these same voters are allowed to register on election day and have their ballot counted for presidential candidates. House Bill 378 merely extends the program to provide similar service in all statewide elections, rather than only those held in presidential years. The fundamental systems and procedures are already in place, have already proved themselves in actual use, and are fully accountable.

The bill is also offered in response to growing congressional support and active pursuit of federal legislation which would require such measures for any federal race. Many of the federal bills gaining momentum contain provisions which would be detrimental to Alaska's existing election procedures. Often in federal legislation, however, exemptions are introduced and included for states who already have similar provisions in place. In anticipation of eventual federal intervention, enactment of legislation like that proposed in SB 378 could allow Alaska to continue to maintain control over its own election process.

#### Additional Technical Amendments:

While much of the bill is dedicated to conforming amendments related to the primary subject matter of the bill, two other issues are addressed.

1. The bill adds clarification to the statutes that absentee ballots are treated in the same manner as questioned ballots with regard to their review and counting. As a matter of practice and in the interests of guaranteeing equal protection, the counting rules specified for questioned ballots have been applied to votes cast by in person absentee ballot. This bill merely codifies the traditional practice.
2. A clarification of the "computation of time rule" is added to provide that, for the purposes in Title 15, if a deadline for an election activity, voter or candidate requirement falls on a weekend or holiday, the deadline is extended to the first weekday after the weekend or holiday.

# STATE OF ALASKA

## OFFICE OF THE GOVERNOR

DIVISION OF ELECTIONS  
P.O. BOX AF  
JUNEAU, ALASKA 99811-0105  
PHONE (907) 465-4611

### SECTIONAL ANALYSIS SENATE BILL 378

Prepared by  
Division of Elections  
January 19, 1990

Most sections of this bill provide technical amendments and conforming language related to the general issue of election day registration for statewide elections.

#### Related Sections:

#### Section 1      Voter Qualifications - General

The only change in this section of the statute is the splitting of the 30 day residency requirement in the state from the 30 day residency requirement in the district. By treating these eligibility criteria as separate requirements, the bill clarifies the basis on which a voter is eligible to vote in the different types of elections covered by this bill.

#### Section 2      Voter Qualifications - Presidential Elections

The current statute refers to voters who have not resided in "an election district" for 30 days being eligible to vote for president and vice president. The amendment adds reference to 30 day residency in the state. Any citizen of the United States should be eligible to vote for President even if they have only just recently moved.

#### Section 3      Election Day Registration - Statewide Races

This section contains the substance of the proposal. It provides that an individual who has been a resident of the state for at least 30 days, but who has failed to register at least 30 days prior to the election may register on election day and vote in statewide races if:

1. the voter registers by voting a questioned ballot before an election official on election day; or,

2. the voter votes in person before an absentee official at a designated absentee voting site.

#### Section 4

##### Registration

This section maintains the existing 30 day prior registration requirement but adds a reference to the exceptions involving voting for president, or statewide candidates and measures.

Maintaining the 30 day prior registration requirement is critically important for the purposes of preparing precinct registers. Under existing law, any voter who is not registered by the 30 day cut-off will not appear on the precinct register, forcing the person to vote a questioned ballot. The questioned ballot is, in fact, a registration form subject to full review by the District Review Board. It is during this review that the eligibility of the voter is evaluated, and it is determined exactly how much of the voter's ballot may be counted.

#### Section 5

##### Re-registration by Voters Who have been Purged

This section makes conforming amendments to the statute covering voters whose prior registration has been cancelled for failure to vote. The 30 day prior registration with exceptions for presidential and statewide races is clarified in conformity with the election day registration provisions.

#### Section 6

##### Transfer of Registration

This amendment clarifies the stipulation that to vote in a district's election, the voter must be registered or transfer his or her registration to the district at least 30 days prior to the election.

#### Section 7

##### Questioned Ballots

Any voter whose name does not appear on a precinct register shall be allowed to vote a "questioned ballot" under the law. The current statute is misleading and confusing in that it indicates the voter "shall vote a questioned ballot in the precinct in which the voter resides." In reality, and as indicated in the beginning of the text in the same section, the voter is allowed to vote a questioned ballot in any precinct. The language within this section of the statute seems to contain conflicting language which is corrected by the amendment.

Unrelated Sections:

Section 8      Computation of Time

AS 01.10.080 states how the time in which an act is to be done is to be computed, extends a "deadline" date that falls on a weekend or holiday to the first working day after the weekend or holiday. Unfortunately, that rule only covers the typical situation of counting forward from a particular triggering event or date. However, since a number of election deadlines are determined by counting backwards from a given date, such as election day, the computation of time under Title 1 can have the effect of requiring voters and candidates to perform acts earlier than intended. The amendment clarifies that for Title 15, the computation of time rule always extends the deadline until the first weekday following the weekend or holiday.

Section 9      Treating Absentee In Person Ballot in the Same Manner as Questioned Ballots

This language is almost identical to that found in AS 15.07.090 (d), (Section 7 of the bill), and clearly provides that the handling of absentee ballots will be the same as that stipulated for questioned ballots. This new provision only serves to codify existing practice.

**S B**

**384**

# ALASKA STATE LEGISLATURE

SENATE STATE AFFAIRS,  
CHAIR

ETHICS COMMITTEE,  
CHAIR



ANCHORAGE  
P.O. BOX 104836  
ANCHORAGE, AK 99510  
(W) (907) 581-7623  
(H) (907) 338-2425

JUNEAU  
P.O. BOX V  
STATE CAPITOL  
JUNEAU, AK 99811  
(907) 465-3712

Senator Pat Pourchot

## MEMORANDUM

TO: Senate Judiciary Committee  
Senator Jan Faiks, Chair  
Senator Mike Szymanski, Vice-Chair  
Senator Rick Halford  
Senator Drue Pearce  
Senator Pat Rodey

DATE: 2/23/90

FROM: Senator Pat Pourchot 

RE: SB 384, an Act relating to election campaigns.

In response to concerns raised by the Alaska Public Offices Commission (APOC), I have introduced SB 384 which addresses important policy questions relating to election campaigns. The bill, unanimously passed by the Senate State Affairs Committee, accomplishes the following:

- 1) Prohibits state or local government (including school districts) from using public funds to a) support a candidate or b) on behalf of a ballot initiative except for informational neutral purposes only.
- 2) Prohibits post-election contributions after December 31 following November election or 45 days after local election.
- 3) Prohibits use of campaign funds as personal income.
- 4) Mandates closure of campaign account and disposal of surplus campaign funds by January 12 of year following election.
- 5) Limits use of surplus campaign funds to the following:
  - a) Transfer to a legislative office account; expenditures must qualify as a business expense under IRS Code.
  - b) Donate to a charitable organization that qualifies as a charity under the IRS Code.
  - c) Transfer up to \$10,000 to an account for a future election campaign.
  - d) Return to contributors.
  - e) Donate to state general fund or to a municipality.

- 6) Places a \$10,000 cap on contributions to a political party.
- 7) Mandates a January 31 deadline for submission of year-end reports for campaign expenditures and contributions - including disposition of campaign surpluses and amount transferred to an account for a future campaign.
- 8) Prohibits a person who has registered as a lobbyist within the last 12 months from serving as a campaign treasurer or deputy treasurer or from collecting, or handling, campaign contributions for a candidate. Does not include representational lobbyists or volunteer lobbyists and would not specifically bar "solicitation" of funds.
- 9) Closes the current preelection reporting gap for contributions received on days 8 and 9 prior to the election.
- 10) Codifies existing APOC procedures by exempting municipal candidates from campaign disclosure reporting if financial activity is \$1,000 or less.
- 11) Revises APOC penalties to establish civil penalty for late filing of required reports and establishes a maximum civil penalty of \$250 for failure to properly identify who paid for a political advertisement.

BILL HISTORY

BILL: SB 384

TITLE: "AN ACT RELATING TO ELECTION CAMPAIGNS."

PRIME SPONSOR: POURCHOT  
CO-SPONSOR: KELLY

CURRENT STATUS: (S) JUD STATUS DATE: 02/26/90

01/10/90	02040	(S)	READ THE FIRST TIME - REFERRAL(S)
01/10/90	02040	(S)	STA, THEN JUD
02/26/90	02586	(S)	STA RPT CS 5DP NEW TITLE
02/26/90	02587	(S)	ZERO FN TO SB & CS (APOC)
02/26/90	02587	(2)	REFERRED TO JUDICIARY

Senator Pourchot  
February 25, 1990

SUMMARY OF CSSB 384 (STA)  
"ELECTION CAMPAIGNS"

- 1) Prohibits post-election contributions after December 31 following November election or 45 days after local election. (Section 2)
- 2) Prohibits any use of campaign funds as personal income. (Section 4)
- 3) Mandates closure of campaign account and disposal of surplus campaign funds by January 12 of year following election. (Section 2)
- 4) Limits use of surplus campaign funds to the following: (Section 2)
  - a) Transfer to a legislative office account; expenditures must qualify as a business expense under the IRS Code.
  - b) Donate to a charitable organization that qualifies as a charity under the IRS Code.
  - c) Transfer up to \$10,000 to an account for a future election campaign.
  - d) Return to contributors.
  - e) Donate to state general fund or to a municipality.
- 5) Mandates a January 31 deadline for submission of year-end reports for campaign expenditures and contributions - including disposition of campaign surpluses and amount transferred to an account for a future campaign. (Section 6)
- 6) Prohibits a person who has registered as a lobbyist within the last 12 months from serving as a campaign treasurer or deputy treasurer or from collecting, or handling, campaign contributions for a candidate. Would not include representational lobbyists or volunteer lobbyists and would not specifically bar "solicitation" of funds. (Section 5)
- 7) Closes the current preelection reporting gap for contributions received on days 8 and 9 before the election. Immediate effective date. (Section 7)
- 8) Codifies existing APOC procedures by exempting municipal candidates from campaign disclosure reporting if financial activity is \$1,000 or less. Immediate effective date. (Section 1)
- 9) Revises APOC penalties to establish civil penalty for late filing of required reports and a maximum civil penalty of \$250 for failure to properly identify who paid for a political advertisement. Immediate effective date. (Section 8)

- 10) Prohibits state or local government (including school districts) from using public funds to a) support a candidate or b) on behalf of a ballot initiative except for informational neutral purposes only; expenditures subject to APOC reporting requirements; immediate effective date.  
(Section 3)
- 11) Places a \$10,000 cap on contributions to a political party.  
(Section 3)
- 12) Sections 1, 3, 5, 7 and 8 have immediate effective dates.  
Sections 2, 4 and 6 become effective February 1, 1991.

CSSB 384 (STA) - ELECTION CAMPAIGNS

<u>CSSB 384 (STA)</u>	<u>Existing Law</u>
Prohibits acceptance of post-election campaign contributions after Dec. 31 following Nov. election or 45 days after local election; immediate effective date.	Not addressed in statute.
Prohibits use of campaign funds as personal income.	No restrictions.
Limits use of surplus campaign funds.	No real restrictions because surplus can be taken as personal income.
Prohibits transfer of more than \$10,000 to an account for a future election campaign.	No restriction.
Places a cap of \$10,000 on contributions to a political party.	No cap.
Closure of campaign account by Jan. 12.	No deadline.
Disposal of surplus campaign funds by Jan. 12.	No restrictions.
Establishes Jan. 31 deadline for submission of year-end report, including disposition of campaign surpluses and amount transferred to account for future campaign.	January 16 deadline for submission of year-end report.
Prohibits lobbyist from collecting or handling campaign contributions or serving as campaign treasurer or deputy treasurer; immediate effective date.	No restrictions other than registering as campaign treasurer or deputy treasurer.
Contributions or expenditures exceeding \$250 made within 9 days of election must be reported to commission within 24 hours (Closes reporting gap for days 8 and 9.); immediate effective date.	Current statute specifies money received within 7 days of election must be reported to commission with 24 hours.

Exempts municipal candidates from campaign disclosure reporting if financial activity is \$1,000 or less; immediate effective date.

Not addressed in statute. Codifies existing APOC procedures.

Allows APOC to assess up to \$250 in civil penalties for failure to properly identify a political communication; immediate effective date.

Currently a criminal violation.

Prohibits local or state use of public funds on behalf of a candidate or ballot initiative except for informational neutral purposes; subject to APOC reporting requirements; immediate effective date.

Restriction on local or state government contributions to candidates unclear - no limit on ballot measures. Local government must report to APOC; reporting requirement for state government unclear.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 28, 1990

SUBJECT: Election campaigns; sectional analysis  
(CSSB 384 (State Affairs))

TO: Senator Pat Pourchot

FROM: Richard A. Bradley  
Legislative Counsel 

Jeanne Larson has requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 of the bill amends AS 15.13.010(a) (applicability). The amendment provides for an exemption from the application of the chapter for candidates who accept contributions of \$1,000 or less or who make expenditures of \$1,000 or less.

Section 2 of the bill amends AS 15.13 by adding a new Sec. 15.13.041 (closure of campaign accounts).

Sec. 15.13.041(a) provides that a candidate "in a state election may not accept a contribution after December 31 of the year in which the candidate sought election." A candidate in a local election [see AS 15.60.010(13)] "may not accept a contribution more than 45 days after the local election."

Sec. 15.13.041(b) specifies those various dispositions that are authorized for the funds from accounts closed under (c) of the section.

Sec. 15.13.041(c) provides that "A candidate shall close each campaign account by January 12 of the year after the year in which the candidate sought election." It applies to both the state and local election candidates.

Sec. 15.13.041(d) requires annual reports from candidates who establish "an account for a future election campaign under (b)(1)" of the section. The section further makes it clear that funds deposited into such an account may be used only for that purpose or, subsequently, for a purpose specified in "(b)(2) - (5)" of the section.

Section 3 of the bill amends AS 15.13.070(a) (contributions and expenditures). The amendments deal with two separate subjects.

The first amendment limits to \$10,000 the contributions that may be given to a "political party and its subdivisions" in the aggregate during the year.

The second amendment, found both at page 2, line 29 through page 3, line 6 and page 3 lines 16 - 21, deals with the issue of the use of public funding for the support of the candidacy of a candidate and a ballot proposition or question. It addresses both the question of state funds and municipal funds as well as the issue of "neutral information" in connection with a ballot proposition or question.

Section 4 of the bill amends AS 15.13.070 by adding a new subsection (i). It prevents a candidate from converting contributions into personal funds.

Section 5 of the bill adds a new Sec. 15.13.075, campaign activities by lobbyists.

Sec. 15.13.075(a) provides that a lobbyist may contribute the lobbyist's "own money, goods, and services" to a candidate subject to the usual limitations.

Sec. 15.13.075(b) prohibits a lobbyist from certain specified campaign activities related to specified campaigns.

Sec. 15.13.075(c) defines a lobbyist as one who has been registered under AS 24.45.041 within the last 12 months and

is described under AS 24.45.171(8)(A); that paragraph provides:

(8) "lobbyist" means

(A) a person who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, to communicate directly or through the person's agents with any public official for the purpose of influencing legislative or administrative action if a substantial or regular portion of the activities for which the person receives consideration is for the purpose of influencing legislative or administrative action;

Excluded from the definition of lobbyist is the "volunteer lobbyist described in AS 24.45.161(a)(1) or a "representational lobbyist" described in the commission's regulations. AS 24.45.161(a)(1) provides:

(a) This chapter does not apply to

(1) an individual

(A) who lobbies without payment of compensation or other consideration and makes no disbursement or expenditure for or on behalf of a public official to influence legislative or administrative action other than to pay the individual's reasonable personal travel and living expenses; and

(B) who limits lobbying activities to appearances before public sessions of the legislature, or its committees or subcommittees, or to public hearings or other public proceedings of state agencies;

A "representational lobbyist" is defined under regulations of the commission at 2 AAC 50.511(a).

Section 6 of the bill amends AS 15.13.110(a) (filing of reports). It changes the date for the so-called "year-end" report to January 31 and requires disclosure on that report of "disposals of campaign funds under AS 15.13.041(b) that

Senator Pat Pourchot  
Page 4  
February 28, 1990

were not spent or obligated during the election campaign" as well as campaign funds transferred to an account for a future campaign.

Section 7 amends AS 15.13.110(b). The former report due "one week" before the election becomes due nine days before the election.

Section 8 of the bill amends AS 15.13.125 (civil penalty). The material within the section is reorganized and broken into subsections. The new material is found within Section 15.13.125(d); failure to identify communications under AS 15.13.090 is subject to a civil penalty of not more than \$250.

Sections 9 and 10 of the bill establish effective dates. Sections 1, 3, 5, 7, and 8 take effect immediately. Sections 2, 4, and 6 take effect February 1, 1991.

If I may be of further assistance, please advise.

RAB:pl  
WKP2/103

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JURFALU ALASKA 99811  
907 465 1800


LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 15, 1990

SUBJECT: Election campaigns  
(SB 384)

TO: Senator Pat Pourchot

FROM: Richard A. Bradley   
Legislative Counsel

Jeanne Larson has requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 of the bill amends AS 15.13.010(a), "Applicability." The amendment provides an exemption for candidates for municipal office from the application of AS 15.13 if they do not accept contributions in excess of \$1,000 or do not make expenditures in excess of \$1,000.

Section 2 of the bill amends AS 15.13 by adding a new Sec. 15.13.041, "closure of campaign accounts."

Sec. 15.13.041(a) provides that a candidate "in a state election may not accept a contribution after December 31 of the year in which the candidate sought election." A candidate in a local election [see AS 15.60.010(13)] "may not accept a contribution more than 45 days after the local election."

Sec. 15.13.041(b) provides that "A candidate shall close each campaign account by January 1 of the year after the year in which the candidate sought election." It applies to both the state and local election candidates.

Sec. 15.13.041(c) specifies those various dispositions that are authorized for the funds from accounts closed under (b) of the section.

Senator Pat Pourchot  
Page 2  
January 15, 1990

Sec. 15.13.041(d) requires annual reports from candidates who establish "an account for a future election campaign under (c)(1)" of the section. The section further makes it clear that funds deposited into such an account may be used only for that purpose or, subsequently, for a purpose specified in "(c)(2) - (6)" of the section.

Section 3 of the bill amends AS 15.13.110(a), "filing of reports". The amendment provides that the year end report will be filed on January 15 "for expenditures made and contributions received that were not reported during the previous year;" this change is made necessary by the requirement that accounts be closed by January 1 [Sec. 15.-13.041(b)]. The section does not authorize the omission of information from earlier reports and it seems that information disclosed on that report that should have been filed on an earlier report will subject the reporter to civil penalties. Sec. 15.13.110(a) also specifies two new aspects of the year end report resulting from new Sec. 15.13.041.

Section 4 of the bill amends AS 15.13.110(b). The "one week" report on contributions and expenditures exceeding \$250 is moved back to nine days before the election.

Section 5 of the bill amends AS 15.13.125, "civil penalty." The section is divided into subsections and some new material is included.

Sec. 15.13.125(c) provides for a civil penalty of not more than \$10 a day for failure to file AS 15.13.060(c) reports: designation of campaign treasurer. I note that as AS 15.-13.060(c) is written, I am not certain that there is in fact any deadline for the designation of campaign treasurer; the last sentence of AS 15.13.060(c) provides that if the candidate fails to designate a campaign treasurer, then the candidate becomes the campaign treasurer.

Sec. 15.13.125(d) provides for a civil penalty of not more than \$10 a day for failure to file AS 15.13.090 reports: failure to identify communications.

If I may be of further assistance, please advise.

RAB:lmb  
L9/049

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## 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

February 14, 1990

RECEIVED FEB 20 1990

Senator Pat Pourchot  
Pouch V  
Juneau, Alaska 99811

Dear Senator Pourchot:

It is my understanding that the Senate State Affairs Committee will be considering a proposed committee substitute for SI 384 at a work session on Wednesday, February 14, 1990.

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

### Section 1

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

### Sections 2 and 8

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 the language in section 8 which requires a report to the commission on January 31.

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 that municipal campaign accounts must be closed 60 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.

Senator Pourchot  
February 14, 1990  
Page 2

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 has suggested that Section 2 clearly indicate the legislature's intent on this issue.

It is my understanding that the committee will discuss a proposed amendment limiting transfers to future campaign accounts to \$10,000. Although the commission opposes transfer of funds in any amount, the commission appreciates the committee's effort to provide clear legislative intent.

#### Section 3

This section clarifies that groups would be required to report independent expenditures. The commission has no comment on this section.

#### Section 4

The proposed committee substitute prohibits group contributions, but allows union or corporate contributions to candidates. The commission continues to favor a complete ban on contributions by unions, corporations and political action committees.

Additionally, the commission does not favor a proposed amendment which would limit cap contributions to political parties

Senator Pourchot  
February 14, 1990  
Page 3

at \$10,000. The commission believes that political parties should not be limited in the amount of contributions they can receive.

This section also provides that state or municipal government may not contribute to a candidate.

A majority of commission members suggest the legislature adopt broader, more specific language which would include ballot propositions (copy attached). This is the approach taken by the State of Washington.

The commission further suggests that the subcommittee consider adopting a specific penalty for violations of this ban on public funds to support a candidate. 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 is aware that administration of a provision similar to the Washington statute, could create substantial new responsibilities for the commission. The executive director of the Washington State Disclosure Commission has indicated that a large 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 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 would be critical to effective administration of such a provision in Alaska law.

#### Section 5

The commission supports this section, which prohibits use of contributions as personal income.

Section 6

This section restricts lobbyist participation in fundraising. The commission believes this section has been adequately narrowed.

Section 7

This section amends AS 15.13.080 to eliminate the reference to groups.

Section 9

The commission supports the language in section 9, which would close the two day pre-election reporting gap.

Section 10

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. However, the commission also 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 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 consideration of these concerns.

\* \* \*

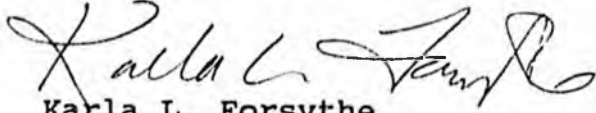
Although the commission does not agree with all of the proposed provisions in this bill, the commission commends the legislature, and the Senate State Affairs Committee for giving serious consideration to these issues. The commission will be glad to work with the committee to suggest alternative wording,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

Senator Pourchot  
February 14, 1990  
Page 5

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

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.

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

- (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 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 others that were reported on a 10-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)

# STATE OF ALASKA

STEVE COWPER, GOVERNOR

## 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 18, 1990

Senator Pat Pourchot  
Pouch V  
Juneau, Alaska 99811

Dear Senator Pourchot:

I am writing with regard to SB 384, an act relating to election campaigns.

Although the Alaska Public Offices Commission has not had an opportunity to meet between the time this measure was introduced and the time set for its initial hearing, at previous meetings the commission has discussed most of the concepts expressed in the bill.

The commission concurs with many provisions of SB 384. The commission believes that small municipal campaigns should be exempt from campaign disclosure requirements (Section 1), that closing dates should be established for receipt of contributions and for campaign accounts (Section 2), that the two day pre-election reporting gap should be closed (Section 4), and that civil penalties should be assessed for delays in filing registrations and for inadvertent failures to properly identify political communications (Section 5).

The commission takes a different view with regard to the provisions in Section 2 relating to disposition of surplus campaign funds. The commission strongly believes that disposition of surplus campaign funds should be limited to donation to charitable institutions and to pro rata return to contributors.

With regard to civil penalties for failure to properly identify a political communication, it appears the language in section 5 was drafted based on language proposed by the commission to the Governor in September, 1989. Since that time, the commission has refined its approach to this issue.

The commission spends a substantial portion of its time dealing with inadvertent, technical violations of AS 15.13.090. The commission believes the statute as written is too rigid in prescribing how a communication must be identified. The commission proposes that it be given authority to promulgate regulations describing how communications should be identified, so that

Senator Pat Pouchot  
January 18, 1990  
Page 2

meaningful information can be provided to the public without undue burden to campaigns.

This change could be accomplished by amending AS 15.13.090 to read:

"[ALL] The source of payment for advertisements, billboards, handbills, paid for by television and radio announcements and other communications intended to influence the election of a candidate or outcome of a ballot proposition or question shall be clearly identified [BY THE WORDS "PAID FOR BY" FOLLOWED BY THE NAME AND ADDRESS OF THE CANDIDATE, GROUP OR INDIVIDUAL PAYING FOR THE ADVERTISING. IN ADDITION, CANDIDATES AND GROUPS MUST IDENTIFY THE NAME OF THEIR CAMPAIGN CHAIRMAN.] the name of their campaign chairman.] as provided by the commission in regulations promulgated under AS 15.13.030(10).

The commission has also reviewed its position regarding penalties for violations of this section. At present, violations of AS 15.13.090 are subject to criminal prosecution only. The commission believes a misdemeanor penalty is appropriate only for the most serious violations. Upon further review, rather than the \$10 daily penalty accrual for minor violations originally proposed, the commission believes a better approach would be to set a maximum civil fine amount. This change could be accomplished by amending AS 15.13.090, adding a new paragraph to read:

(b) A person or group whom the commission determines has inadvertently failed to properly identify a political communication is subject to a civil penalty of not more than \$250, subject to right of appeal to the Superior Court. An affidavit stating facts in mitigation may be submitted to the commission by a person or group against whom the civil penalty is assessed. However, the imposition of the penalties prescribed in this section or in AS 15.13.120 does not excuse that person from providing the required identification.

A final concern relates to section 2, which prohibits state candidates from receiving contributions after December 31, requires closure of campaign accounts by January 1, and further requires disposition of surplus funds and a final report to the commission by January 15 (section 3). Commission staff believes a campaign account closure date of January 12 would be more workable for all concerned, because it would give candidates time to deposit year-end contributions before closing campaign accounts, as well as the

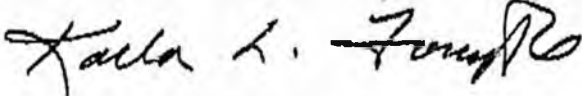
Senator Pat Pourchot  
January 18, 1990  
Page 3

customary three days to prepare and file their reports to the commission.

I hope this information is helpful. Your efforts to provide a forum for discussion of commission concerns are greatly appreciated. If you have any questions or comments, please let me know.

Sincerely,

ALASKA PUBLIC OFFICES COMMISSION



Karla L. Forsythe  
Executive Director

cc: Senator Tim Kelly  
Bob Evans, Office of the Governor  
Sioux Plummer, Special Assistant, Department of Administration  
Nancy Gordon, Assistant Attorney General  
APOC Members  
APOC Senior Staff

# FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: An Act relating to election  
campaigns  
Sponsor: Senator Pat Pourchot  
Requestor: \_\_\_\_\_

Agency Affected: AK Pub. Offices Commis  
BRU: \_\_\_\_\_

Components: \_\_\_\_\_

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

OPERATING	FY91	FY 92	FY 93	FY 94	FY 95	FY 96
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
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>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	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>	<b>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	0	0	0	0	0	0

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

Changes in CS SB 384 (SA)  
have no fiscal impact.  
This fiscal note is SB  
appropriate.

Prepared by: Karla L. Forsythe, Executive Director

Phone: 276-4176

Division: Alaska Public Offices Commission

Date: 1/11/90

Approved by Commissioner: Burke Riley, Chair

Date: 1-15-90

Agency: Alaska Public Offices Commission

**Distribution (by preparer) :**

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

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: An Act relating to election  
campaigns  
 Sponsor: Senator Pat Pourchot  
 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	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>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<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>	<b>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	0	0	0	0	0	0

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

Prepared by: Karla L. Forsythe, Executive Director  
 Division: Alaska Public Offices Commission

Phone: 276-4176  
 Date: 1/11/90

Approved by Commissioner: Burke Riley, Chair  
 Agency: Alaska Public Offices Commission

Date: 1-15-90

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

## FISCAL NOTE NARRATIVE

The commission believes this measure would have no overall fiscal impact on the operations of the commission. Provisions exempting small municipal campaigns from campaign disclosure requirements would codify existing commission practices. Closing campaigns shortly after the election would eliminate reports of contributions during an off-year in a state election. However, since municipal elections will still occur, the commission's workload will not decrease measurably. Closing the two day reporting gap will require commission offices to stay open for a few hours one extra week-end day, and may require review of a few additional reports, activities which can be absorbed with existing resources. Finally, assessing civil penalties for inadvertent "paid for by" violations will be a new activity for staff, but will require far less staff and commission time than the current practice, which requires handling these matters as complaint investigations.

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
Title: An Act relating to election  
campaigns  
Sponsor: Senator Pat Pournot  
Requestor: \_\_\_\_\_

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

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

OPERATING	FY91	FY 92	FY 93	FY 94	FY 95	FY 96
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
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>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE	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>	<b>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	0	0	0	0	0	0

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

Changes in CS SB 384 (SA)  
have no fiscal impact.  
This fiscal note is SB  
appropriate.

Prepared by: Karla L. Forsythe, Executive Director Phone: 276-4176  
Division: Alaska Public Offices Commission Date: 1/11/90  
Approved by Commissioner: Burke Riley, Chair Date: 1-15-90  
Agency: Alaska Public Offices Commission

**Distribution (by preparer) :**

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

## FISCAL NOTE NARRATIVE

The commission believes this measure would have no overall fiscal impact on the operations of the commission. Provisions exempting small municipal campaigns from campaign disclosure requirements would codify existing commission practices. Closing campaigns shortly after the election would eliminate reports of contributions during an off-year in a state election. However, since municipal elections will still occur, the commission's workload will not decrease measurably. Closing the two day reporting gap will require commission offices to stay open for a few hours one extra week-end day, and may require review of a few additional reports, activities which can be absorbed with existing resources. Finally, assessing civil penalties for inadvertent "paid for by" violations will be a new activity for staff, but will require far less staff and commission time than the current practice, which requires handling these matters as complaint investigations.

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: An Act relating to election  
campaigns  
 Sponsor: Senator Pat Pourchot  
 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	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>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	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>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	0	0	0	0	0	0

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

Prepared by: Karla L. Forsythe, Executive Director Phone: 276-4176  
 Division: Alaska Public Offices Commission Date: 1/11/90  
 Approved by Commissioner: Burke Riley, Chair Date: 1-15-90  
 Agency: Alaska Public Offices Commission

**Distribution (by preparer) :**

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

## FISCAL NOTE NARRATIVE

The commission believes this measure would have no overall fiscal impact on the operations of the commission. Provisions exempting small municipal campaigns from campaign disclosure requirements would codify existing commission practices. Closing campaigns shortly after the election would eliminate reports of contributions during an off-year in a state election. However, since municipal elections will still occur, the commission's workload will not decrease measurably. Closing the two day reporting gap will require commission offices to stay open for a few hours one extra week-end day, and may require review of a few additional reports, activities which can be absorbed with existing resources. Finally, assessing civil penalties for inadvertent "paid for by" violations will be a new activity for staff, but will require far less staff and commission time than the current practice, which requires handling these matters as complaint investigations.

# Campaign Finance

§ 15.13.010

ELECTIONS

§ 15.13.010

## Chapter 13. State Election Campaigns.

Section	Section
10. Applicability	80. Statement by contributor
20. Alaska Public Offices Commission	90. Identification of communication
30. Duties of the commission	100. Expenditures before filing
40. Contributions, expenditures and supplying of services to be reported	110. Filing of reports
45. Investigations, hearings	120. Penalty; limitations on actions
50. Groups	122. Legal counsel
60. Campaign treasurers	125. Civil penalty: late filing of required reports
70. Contributions and expenditures; amount and form of payment	130. Definitions

Collateral references. — 25 Am. Jur. 2d, Elections, §§ 4-7, 10, 280-290.

29 C.J.S., Elections, §§ 2-4, 6, 118(7), 216(1)-216(5).

**Sec. 15.13.010. Applicability.** (a) This chapter applies in every election for governor, lieutenant governor, a member of the state legislature, a delegate to a constitutional convention, or judge seeking electoral confirmation. It also applies to every candidate for election to a municipal office in a municipality with a population of more than 1,000 inhabitants according to the latest United States census figures or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs. A municipality may exempt its elected municipal officers from the requirements of this chapter if a majority of the voters voting on the question at a regular election, as defined by AS 29.71.800(20), or a special municipality-wide election called for that purpose, vote to exempt its elected municipal officers from the requirements of this chapter. The question of exemption from the requirements of this chapter may be submitted by the governing body by ordinance or by initiative election. This chapter does not prohibit a municipality from regulating by ordinance campaign contributions and expenditures.

(b) Except as otherwise provided, this chapter applies to contributions, expenditures and communications made by a candidate, group, municipality or individual for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate. (§ 1 ch 76 SLA 1974; am §§ 1, 2 ch 189 SLA 1975; am § 32 ch 74 SLA 1985)

**Effect of amendments.** — The 1985 amendment in subsection (a) substituted "municipality" for "city or borough" in the second sentence, "a" for "any" preceding "regular election" and "AS 29.71.800(20)"

for "AS 29.78.010(14)" in the third sentence, and "governing body" for "city council or borough assembly" and "election" for "ordinance" in the next-to-last sentence.

*applicability*

NOTES TO DECISIONS

Constitutionality. — In the case of First Nat'l Bank v. Bellotti, 435 U.S. 765, 98 S. Ct. 1407, 56 L. Ed. 2d 707, rehearing denied, 438 U.S. 907, 98 S. Ct. 3126, 57 L. Ed. 2d 1160 (1978), the supreme court of the United States has indicated in unmistakable terms that state disclosure laws pertaining to ballot issues are constitutional. Messerli v. State, Sup. Ct. Op. No. 2236 (File No. 4328), 626 P.2d 81 (1980).

When there is no showing that an individual must remain anonymous with respect to advertising as to ballot propositions because of the possibility of being subject to reprisals, economic or otherwise, the state campaign disclosure laws are not unconstitutional as applied to a contributor hoping to influence the outcome of a ballot issue, because the objective of an informed electorate is sufficiently compelling to overcome an interest in anonymous political expression.

Messerli v. State, Sup. Ct. Op. No. 2236 (File No. 4328), 626 P.2d 81 (1980).

Initiative substantially similar to ch. 76, SLA 1974, correctly withheld from ballot. — Substantial similarity existed between ch. 76, SLA 1974, which enacted this chapter, relating to election campaigns, and an initiative relating to campaign contributions and expenditures, which was filed with the lieutenant governor prior to the regular 1974 session of the legislature. The act effectively displaced the initiative, and the lieutenant governor was correct in withholding the initiative from the ballot. Warren v. Boucher, Sup. Ct. Op. No. 1205 (File No. 2315), 543 P.2d 731 (1975).

For comparison of ch. 76, SLA 1974, and the initiative, see Warren v. Boucher, Sup. Ct. Op. No. 1205 (File No. 2315), 543 P.2d 731 (1975).

*Sec. 15.13.011. Inapplicability to presidential primary. (Repealed, § 1 ch 2 SLA 1984.)*

**Sec. 15.13.020. Alaska Public Offices Commission.** (a) There is created in the Department of Administration the Alaska Public Offices Commission consisting of five members.

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

(c) The four members selected under (b) of this section shall, by a majority vote, appoint the remaining fifth member of the commission.

(d) Members of the commission serve staggered terms of five years, or until a successor is appointed and qualifies. The terms of no two members who are members of the same political party may expire in consecutive years. A member may not serve more than one term. However, a person appointed to fill the unexpired term of a predecessor may be appointed to a successive full five-year term.

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

(1) hold or campaign for elective office;

(2) be an officer of a political party, political committee or group;

(3) permit the member's name to be used, or make any contributions whatsoever, in support of or in opposition to a candidate or proposition or question that appears on any ballot in the state including

but not limited to that of a municipality; however, contributions may be made to a candidate for the office of President of the United States;

(4) participate in any way in an election campaign or participate in or contribute to any political party; or

(5) lobby, employ or assist a lobbyist.

(f) Members of the commission shall receive compensation of \$60 a day while attending commission meetings and shall be entitled to travel expenses and per diem authorized by law for members of other boards and commissions.

(g) The members shall elect a chairman. Three members of the commission constitute a quorum. A vacancy does not impair the powers of the remaining members to exercise all of the powers of the commission.

(h) A vacancy on the commission shall be filled by the appropriate appointing authority within 30 days of the occurrence of the vacancy. The appointee shall serve for the remaining term of the appointee's predecessor.

(i) The commission may employ an executive director and other employees it considers necessary. Neither the executive director nor an employee may have a vote.

(j) The commission shall establish an office, which may be called a regional office, in each senate district in the state to keep on file for public inspection copies of all reports filed with the commission by candidates for statewide office and by candidates for legislative office in that district; however, where one municipality contains more than one election district, only one commission office shall be established in that municipality. The regional office shall make all forms and pertinent material available to candidates. All reports shall be filed by candidates, groups and individuals directly with the commission's central district office. The commission shall insure that copies of all reports by statewide and legislative candidates in each senate district are forwarded promptly to that district or regional office.

(k) The commission shall insure that copies of reports filed by candidates for municipal office are made available for public inspection in the appropriate municipality. (§ 1 ch 76 SLA 1974; am § 23 ch 25 SLA 1975; am §§ 3 — 10 ch 189 SLA 1975; am E.O. No. 41 § 2 (1980); am § 24 ch 85 SLA 1988)

Effect of amendments. — The 1988 amendment, in subsection (d), deleted obsolete references to terms of initial members and rewrote the subsection for clarity.

NOTES TO DECISIONS

Subsection (j) requires forms to be made available in a regional office in each senate district. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 659 P.2d 80 (1977).  
Furnishing forms to Nome regional

ADOC  
make up

office constituted compliance with law. — Nome is designated center for forms pursuant to both subsection (j) and AS 15.10.110, and since Nome is the central office for Senate District P, which encompasses House District 21 and therefore Kotzebue, the lieutenant governor

complied with the law by virtue of furnishing forms to the Nome regional office, even though such forms were not available in Kotzebue. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (FY's Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

**Sec. 15.13.030. Duties of the commission.** The commission shall

(1) develop and provide all forms for the reports and statements required to be made under this chapter, AS 24.45 and AS 39.50;

(2) prepare and publish a manual setting out uniform methods of bookkeeping and reporting for use by persons required to make reports and statements under this chapter and otherwise assist candidates, groups, and individuals in complying with the requirements of this chapter;

(3) receive and hold open for public inspection reports and statements required to be made under this chapter and, upon request, furnish copies at cost to interested persons;

(4) compile and maintain a current list of all filed reports and statements;

(5) prepare a summary of each report filed under AS 15.13.110 and make copies of this summary available to interested persons at their actual cost;

(6) notify, by registered or certified mail, all persons who are delinquent in filing reports and statements required to be made under this chapter;

(7) report within 60 days after the election the names of all persons and groups who have failed to comply with any of the provisions of this chapter to the office of the attorney general;

(8) examine, investigate and compare all reports, statements and actions required by this chapter, AS 24.45 and AS 39.50 and to report to the attorney general the names of all persons or groups which the commission has substantial reason to believe have violated this chapter, AS 24.45 or AS 39.50;

(9) prepare and publish an annual report to the legislature concerning the activities of the commission, the effectiveness of this chapter, its enforcement by the attorney general's office, and recommendations and proposals for change;

(10) adopt regulations necessary to implement and clarify the provisions of AS 24.45, AS 39.50 and this chapter, subject to the provisions of the Administrative Procedure Act (AS 44.62). (§ 1 ch 76 SLA 1974; am § 24 ch 25 SLA 1975; am §§ 11, 12 ch 189 SLA 1975; am §§ 3 — 5 ch 167 SLA 1976)

- I. General Consideration.
- II. Regulations.

**I. GENERAL CONSIDERATION.**

Duty-to-notify requirement only applies to groups which have registered with commission pursuant to AS 15.13.050. *Veco Int'l, Inc. v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 3295 (File No. S-1598), 753 P.2d 703 (1988).  
Applied in *Messerli v. State*, Sup. Ct. Op. No. 2238 (File No. 4326), 626 P.2d 81 (1980).

**II. REGULATIONS.**

No regulations were necessary to implement the mandatory provisions for filing an appointment of campaign treasurer established by AS 15.13.060(c). *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

**Sec. 15.13.040. Contributions, expenditures and supplying of services to be reported.** (a) Each candidate shall make a full report, upon a form prescribed by the commission, listing the date and amount of all expenditures made by the candidate, the total amount of all contributions, including all funds contributed by the candidate, and for all contributions in excess of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor and the date and amount contributed by each contributor. The report shall be filed in accordance with AS 15.13.110 and shall be certified correct by the candidate or campaign treasurer.

(b) Each group shall make a full report upon a form prescribed by the commission, listing

(1) the name and address of each officer and director;

(2) the aggregate amount of all contributions made to it; and, for all contributions in excess of \$100 in the aggregate a year, the name, address, principal occupation, and employer of the contributor, and the date and amount contributed by each contributor; and

(3) the date and amount of all contributions made by it and all expenditures made, incurred or authorized by it.

(c) The report required under (b) of this section shall be filed in accordance with AS 15.13.110 and shall be certified as correct by the group's treasurer.

(d) Every individual, person or group making a contribution or expenditure shall make a full report, upon a form prescribed by the commission, of the following contributions or expenditures:

(1) any contribution of cash, goods or services valued at more than \$100 a year to any group or candidate; or

(2) any expenditure whatsoever for advertising in newspapers, on radio or on television; or, for the publication, distribution or circulation of brochure, flyers, or other campaign material for any candidate or ballot proposition or question.

(e) The report required under (d) of this section shall contain the name, address, principal occupation and employer of the individual

report  
\$100+

filing the report, and an itemized list of expenditures. The report shall be filed with the commission by the contributor no later than 10 days after the contribution or expenditure is made. A copy of the report shall be furnished to the candidate, campaign treasurer or deputy campaign treasurer at the time the contribution is made.

(f) During each year in which an election occurs, all businesses, persons, or groups which furnish any of the following services, facilities, or supplies to a candidate or group shall maintain a record of each transaction: newspapers, radio, television, advertising, advertising agency services, accounting, billboards, printing, secretarial, public opinion polls, or research and professional campaign consultation or management, media production or preparation, or computer services. The records shall be maintained on the forms provided and in the manner required by the commission. The supplier shall file a report of the complete record of each transaction with all candidates or groups to whom the supplier provides services, facilities or supplies in excess of \$250 in the aggregate in accordance with AS 15.13.110. All records shall be available for public inspection. (§ 1 ch 76 SLA 1974; am § 13 ch 189 SLA 1975)

#### NOTES TO DECISIONS

**Constitutionality.** — In the case of *First Nat'l Bank v. Bellotti*, 436 U.S. 765, 98 S. Ct. 1407, 56 L. Ed. 2d 707, rehearing denied, 438 U.S. 907, 98 S. Ct. 3126, 57 L. Ed. 2d 1150 (1978), the supreme court of the United States has indicated in unmistakable terms that state disclosure laws pertaining to ballot issues are constitutional. *Messerli v. State*, Sup. Ct. Op. No. 223E (File No. 4326), 626 P.2d 81 (1980).

When there is no showing that an individual must remain anonymous with respect to advertising as to ballot propositions because of the possibility of being subject to reprisals, economic or otherwise, the state campaign disclosure laws

are not unconstitutional as applied to a contributor hoping to influence the outcome of a ballot issue, because the objective of an informed electorate is sufficiently compelling to overcome an interest in anonymous political expression. *Messerli v. State*, Sup. Ct. Op. No. 223E (File No. 4326), 626 P.2d 81 (1980).

The disclosure requirements of this chapter are not unconstitutionally vague or overbroad, nor do they violate the constitutional right of the people to privacy. *Veco Int'l, Inc. v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 3295 (File No. S-1598), 753 P.2d 703 (1988).

**Collateral references.** — Construction and application of statute regarding statement by candidate as to his expenses, or his interest in, or the financial value of

publicity through, newspapers or other publicity sources. 103 ALR 1424.

Statement by candidate regarding salary or fees of office as violation of Corrupt Practice Acts or bribery. 106 ALR 493.

**Sec. 15.13.045. Investigations, hearings.** (a) The commission may issue subpoenas, administer oaths, hold hearings and conduct investigations.

(b) In conjunction with (a) of this section, the commission may compel the attendance of witnesses and production of papers, books,

records, accounts, documents, and testimony, and may have the deposition of witnesses taken in a manner prescribed by court rule or law for the taking of depositions in civil actions when consistent with the powers and duties assigned to the commission by this chapter.

(c) The commission may examine the papers, books, records, accounts and documents of any person subject to this chapter to ascertain the correctness of a report filed with the commission, or in conjunction with an investigation or inspection conducted under (a) of this section.

(d) Subpoenas may be issued and shall be served in the manner prescribed by AS 44.62.430 and court rule. The failure, refusal or neglect to obey a subpoena is punishable as contempt in the manner prescribed by law or court rule. The superior court may compel obedience to the commission's subpoena in the same manner as prescribed for obedience to a subpoena issued by the court. (§ 14 ch 189 SLA 1975)

#### NOTES TO DECISIONS

Cited in *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

**Sec. 15.13.050. Groups.** Each group, before making an expenditure on behalf of, or in opposition to, a candidate or a contribution to a candidate, shall register, on forms provided by the commission, with the commission. If the group intends to support or oppose only one candidate, or to contribute to or expend on behalf of, or in opposition to, one candidate 50 per cent or more of its funds, the name of the candidate shall be a part of the name of the group. Promptly upon receiving the registration, the commission shall notify the candidate of the group's organization and intent. (§ 1 ch 76 SLA 1974; am § 15 ch 189 SLA 1975)

#### NOTES TO DECISIONS

**Disclosure requirements constitutional.** — The disclosure requirements of this chapter are not unconstitutionally vague or overbroad, nor do they violate the constitutional right of the people to privacy. *Veco Int'l, Inc. v. Alaska Pub. Offices Comm'n*, Sup. Ct. Op. No. 3295 (File No. S-1598), 753 P.2d 703 (1988).

**Sec. 15.13.060. Campaign treasurers.** (a) Each candidate and group shall appoint a campaign treasurer who is responsible for receiving, holding, and disbursing all contributions and expenditures, and for filing all reports and statements required by law. A candidate may be a campaign treasurer.

(b) Each group shall file the name and address of its campaign treasurer with the commission at the time it registers with the commission under AS 15.13.050.

(c) Each candidate for state office shall file the name and address of the campaign treasurer with the commission, or submit, in writing, the name and address of the campaign treasurer to the director for filing with the commission, no later than 15 days after the date of filing the declaration of candidacy or the nominating petition. Each candidate for municipal office shall file the name and address of the campaign treasurer with the commission no later than seven days after the date of filing the declaration of candidacy or the nominating petition. If the candidate does not designate a campaign treasurer, the candidate is the campaign treasurer.

(d) In the case of the death, resignation or removal of a campaign treasurer, the candidate shall appoint a successor as soon as practicable and file the successor's name and address with the commission within 48 hours of the appointment. The candidate is disqualified if found to have been in wilful violation of this subsection.

(e) A campaign treasurer may appoint as many deputy campaign treasurers as necessary. The candidate shall file the names and addresses of the deputy campaign treasurers with the commission.

(f) The candidate is responsible for the performance of the campaign treasurer, and any default or violation by the treasurer also shall be considered a default or violation by the candidate if the candidate knew or had reason to know of the default or violation. (§ 1 ch 76 SLA 1974; am § 10 — 19 ch 189 SLA 1975; am § 1 ch 133 SLA 1977; am § 35 ch 59 SLA 1982)

NOTES TO DECISIONS

- I. General Consideration
- II. Subsection (c).

I. GENERAL CONSIDERATION.

Cited in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 5614), 133 P.2d 227 (1981).

II. SUBSECTION (C).

Editor's notes. — *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977), cited in the notes below, was decided under subsection (c) as it existed before the 1977 amendment. Prior to that amendment, subsection (c) read: "Each candidate shall file the name and address of the campaign treasurer with the commission no later than seven days after the date of filing his declaration of candidacy or his nominat-

ing petition. The name of the candidate may be placed on the ballot by the lieutenant governor or municipal clerk only if the candidate has complied with this subsection."

This section is not unconstitutional in that it sets up "invalid class legislation." *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

The two groups classified by virtue of this section are those candidates who have complied with the law and those who have not; the failure to adhere to this section is the dividing line. Therefore, under any possible equal protection test this section passes constitutional muster. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Statutory requirement that a candidate's designation of treasurer be filed by a specified due date is not constitutionally unreasonable. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Subsection (c) should be strictly enforced. — *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Effect of unequal enforcement of AS 39.50.020 on enforcement of subsection (c). — Unequal enforcement of AS 39.50.020, which requires candidates to file a financial disclosure statement did not require the conclusion that a candidate had in fact substantially complied with the filing requirements of subsection (c) where the record did not show any intentional or purposeful discrimination against the candidate *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Subsection (c) requires candidates to "file" campaign treasurer statements within a specified time limit. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

The definition of "file" is well established in the law. It has been consistently held that a document is filed only when the proper officer has received it, and that it is not considered filed when it is deposited in the mails. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Telephone conversation not appropriate filing. — Given the text of subsection (c), the legal meaning of the term "file" and the supreme court's adoption of the doctrine that statutory election deadlines are to be strictly enforced, a telephone conversation between the candidate's treasurer and the Alaska Public Offices Commission seven days after the declaration of candidacy was filed cannot be deemed an appropriate filing within the intent of subsection (c). *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

No regulations were necessary to implement the mandatory provisions for filing an appointment of campaign treasurer established by subsection (c) of this section. *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Sec. 15.13.070. Contributions and expenditures; amount and form of payment. (a) A person or group, including but not limited to all political committees, businesses, corporations, and labor unions, may not contribute to or expend more than \$1,000 a year on behalf of or in opposition to the competing candidates for each elective office. Political parties and their subdivisions are not subject to the limitation prescribed in this subsection, but they are subject to the reporting requirements prescribed by AS 15.13.040(b) and 15.13.110. This chapter does not prohibit

- (1) a candidate from contributing more than \$1,000 of the candidate's own money to the candidate's own campaign; or
- (2) individuals or groups, including but not limited to all political committees, businesses, corporations, and labor unions, from contributing to or expending on behalf of a ballot proposition or question more than \$1,000 a year; however, these contributions and expenditures shall be reported in accordance with AS 15.13.040 and 15.13.110.

(b) A contribution over \$100 may not be made in cash or by cash payment and it may not be accepted by or on behalf of a candidate.

(c) An expenditure over \$100 may not be made in cash or by cash payment unless a written receipt is obtained and filed with the commission.

*\$1,000 max. contribution own #*  
*\$100 max. cash contribution*

(d) A contribution may not be made, and an expenditure may not be made or incurred, directly or indirectly, anonymously, in a fictitious name, or by one person or group in the name of another, to influence the election of a candidate in an election. A contribution made by a person wishing to remain anonymous, and received by a candidate, campaign treasurer or deputy campaign treasurer, may not be used or expended, but shall be returned to the donor, if the donor's identity is known, and if no donor is found, the contribution escheats to the state if not donated by the candidate to the charity of the candidate's choice.

(e) Contributions to a candidate or a political committee may be received by, and expenditures of a candidate or political committee may be made by, only the candidate, campaign treasurer, or deputy campaign treasurer.

(f) (Repealed, § 45 ch 85 SLA 1986.)

(g) (Repealed, § 45 ch 85 SLA 1986.)

(h) No campaign expenditure of any type whatsoever shall be made by any candidate, treasurer, or group unless the source is disclosed as required by the provisions of this chapter whether or not those funds were received before May 10, 1974. (§ 1 ch 76 SLA 1974; am §§ 20, 21 ch 189 SLA 1975; am § 46 ch 85 SLA 1986)

Effect of amendments. -- The 1986 amendment repealed subsections (f) and (g), concerning campaign expenditure limits and cost-of-living adjustment of campaign expenditure limitations, respectively.

Editor's notes. -- In Buckley v. Valeo, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976), the supreme court held that the 1st amendment of the federal constitution required the invalidation of certain provisions of the Federal Election Campaign Act of 1971, as amended in 1974: its independent expenditure ceiling, former 18 U.S.C. § 608(a)(1), its limitation on a candidate's expenditures from his own personal funds, former 18 U.S.C. § 608(a), and its ceiling on overall campaign expenditures, former 18 U.S.C. § 608(c), since these provisions placed substantial and direct restrictions on the ability of candidates, citizens, and associations to engage in protected political expression. This holding was accepted as law in Alaska and the expenditure limits in this chapter were not enforced. See notes from the

opinion of the attorney general dated May 13, 1976, cited below.

Opinions of attorney general. -- There seems to be no difference between § 608(c) of the Federal Elections Campaign Act of 1971, former 18 U.S.C. § 608(c), and subsection (f) of this section; accordingly, based on the reasons stated in Buckley v. Valeo, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 659 (1976), for finding unconstitutional § 608(c) of the federal act, subsection (f) of this section is invalid as a violation of the rights and privileges protected by the 1st amendment. May 13, 1976 Op. Att'y Gen. (decided prior to the 1986 repeal of subsection (f).)

The Public Offices Commission should not undertake investigations of violations of subsection (f) of this section, and candidates or others may be advised that no implementation or enforcement of subsection (f) of this section is planned by the office of the attorney general. May 13, 1976 Op. Att'y Gen. (decided prior to the 1986 repeal of subsection (f).)

*Buckley v. Valeo re expenditure limits*

NOTES TO DECISIONS

Applied in Vogler v. Miller, Sup. Ct. Op. No. 2839 (File No. 6959), 660 P.2d 1192 (1983).

Cited in State, Pub. Offices Comm. v. Marshall, Sup. Ct. Op. No. 2406 (File No. 6614), 633 P.2d 227 (1981).

Collateral references. -- Construction and application of provisions of corrupt practices act regarding contributions by corporations 125 ALR 1029.  
Power of corporation to make political

contribution or expenditure under state law 79 ALR3d 491.  
State regulation of the giving or making of political contributions or expenditures by private individuals 94 ALR3d 944.

*disclosure statement from contrib if \$250+*

Sec. 15.13.080. Statement by contributor. A person or group contributing to a candidate over \$250 or contributing goods or services to a candidate with a value of more than \$250 to influence the election of a candidate shall furnish the commission a signed statement, on a form made available by the commission. The statement shall itemize the contributions and goods and state that the contributor is not a person or group prohibited by law from contributing and that the contribution consists of funds or property belonging to the contributor and has not been given or furnished by another person or group. The contributor's statement shall be filed with the commission by the contributor no later than 10 days after the contribution is made. A copy of the statement shall be furnished the candidate, campaign treasurer, or deputy campaign treasurer at the time the contribution is made. (§ 1 ch 76 SLA 1974; am § 29 ch 189 SLA 1975)

Sec. 15.13.090. Identification of communication. All advertisements, billboards, handbills, paid-for television and radio announcements and other communications intended to influence the election of a candidate or outcome of a ballot proposition or question shall be clearly identified by the words "paid for by" followed by the name and address of the candidate, group or individual paying for the advertising. In addition, candidates and groups must identify the name of their campaign chairman. (§ 1 ch 76 SLA 1974; am § 22 ch 189 SLA 1975; am § 36 ch 100 SLA 1980)

Collateral references. -- Validity and construction of state statute prohibiting anonymous political advertising 4 ALR4th 741.

*can't spend until file*

Sec. 15.13.100. Expenditures before filing. A political campaign expenditure may not be made or incurred by a person in an election or by a person or group with the person's knowledge and on the person's behalf before the date upon which the person files for nomination for the office which the person seeks, except for personal travel expenses or for opinion surveys or polls. These expenditures must be included in

the first report required under this chapter after filing for office. (§ 1 ch 76 SLA 1974; am § 23 ch 189 SLA 1975; am § 25 ch 14 SLA 1987)

**Effect of amendments.** — The 1987 amendment in the first sentence substituted "A" for "No" at the beginning of the section, inserted "not" following "expenditure may," and substituted "the person's" for "his" in two places and "the person" for

"he or she" and in the last sentence substituted "must" for "shall be charged against the spending limitation that applies to the office for which he subsequently files, and shall "

**Sec. 15.13.110. Filing of reports.** (a) Each candidate and group shall make a full report in accordance with AS 15.13.040 during the period ending three days before the due date of the report and beginning on the last day covered by the most recent previous report, or, if a first report, all contributions received and expenditures made before three days before the due date of the report. The report shall be filed at the following times:

(1) 30 days before the election; however, this report is not required if the deadline for filing a nominating petition or declaration of candidacy is within 30 days of the election;

(2) one week before the election;

(3) ten days after the election; and

(4) December 31 of each year for expenditures and contributions received which were not reported that year.

(b) Each contribution or expenditure which exceeds \$250 and which is made within one week of the election shall be reported to the commission by date, amount, and contributor or recipient within 24 hours of receipt or expenditure by the candidate or campaign treasurer.

(c) The reports of candidates shall be filed with the commission's central office. All reports required by this chapter shall be kept open to public inspection. Within 30 days after each election, the commission shall prepare a summary of each report which shall be made available to the public at cost upon request. Each summary shall use uniform categories of reporting.

(d) Within 30 days after each election, each supplier shall make a full report to the commission in accordance with AS 15.13.040. Within 60 days after each election, the commission shall prepare a summary by candidate or group of the transactions and make the summaries public.

(e) A group formed to sponsor an initiative, a referendum or a recall shall report 30 days after its first filing with the lieutenant governor. Thereafter each group shall report within 10 days after the end of each calendar quarter on the contributions received and expenditures made during the preceding calendar quarter until reports are due under (a) of this section. (§ 1 ch 76 SLA 1974; am § 24 ch 189 SLA 1975; am § 2 ch 133 SLA 1977)

NOTES TO DECISIONS

**Disclosure requirements constitutional.** — The disclosure requirements of this chapter are not unconstitutionally vague or overbroad, nor do they violate the constitutional right of the people to privacy. *Veco Int'l, Inc. v. Alaska Pub. Of-*

*fices Comm'n, Sup. Ct. Op. No. 3295 (File No. S-1598), 753 P.2d 703 (1988). Stated in State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 5614), 633 P.2d 227 (1981).*

**Sec. 15.13.120. Penalty; limitations on actions.** (a) A person who violates a provision of this chapter is guilty of a misdemeanor and, upon conviction, is punishable by imprisonment for not more than one year or by a fine of not more than \$5,000. A violation includes but is not limited to any of the following acts or omissions:

(1) failing to make a statement or report required to be made under this chapter, or failing to make a statement or report at the time the statement or report is required to be made under this chapter;

(2) making a campaign contribution that exceeds the limitations of AS 15.13.070;

(3) making a false statement or report under this chapter;

(4) giving or furnishing money to another person or group for the purpose of making a contribution or expenditure anonymously, in a fictitious name, or in the name of another, or contributing in violation of AS 15.13.090;

(5) making a communication to support or defeat a candidate without identification of sponsorship, in violation of AS 15.13.090;

(6) knowingly accepting a contribution in violation of AS 15.13.070.

(b) [Repealed, § 6 ch 134 SLA 1982.]

(c) Promptly after the final date for filing statements and reports, the commission shall notify all persons who have become delinquent in filing them, including contributors who failed to file a statement in accordance with AS 15.13.040, and shall make available a list of these delinquents for public inspection. The commission shall also report to the attorney general the names of all candidates in an election whose campaign treasurers have failed to file the reports required by this chapter.

(d) A person who believes a violation of this chapter has occurred may file a complaint with the commission. If the commission determines there is substantial reason to believe that a violation has occurred, it shall expeditiously make an investigation, which may also include an investigation of reports and statements filed by the complainant if the complainant is a candidate, of the matter complained of. When, in the judgment of the commission, after affording due notice and an opportunity for a hearing, a person has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of a provision of this chapter, or a regulation or order issued under it, it shall promptly report the information to the attorney general for appropriate action. The commission shall report its determi-

*Misdemeanor*

*(for civil penalty - see AS 15.13.120)*

*complaints hearing*

*Filing reports AS*

ation and recommendation to the person who filed the complaint with the commission within 60 days of receiving the complaint unless circumstances require additional time to make an adequate investigation. The finding of the commission may be appealed to the superior court.

(e) Prosecution for violation of a provision of this chapter may not be commenced ~~after four years~~ after four years have elapsed from the date of the alleged violation.

(f) If, after being sworn into office, a person who was a successful candidate or the campaign treasurer or deputy campaign treasurer of a person who was a successful candidate is convicted of a violation of this chapter, proceedings shall be held and appropriate action taken in accordance with

(1) art. II, § 12 of the state constitution, if the candidate is a candidate for the state legislature;

(2) art. II, § 20 of the state constitution, if the candidate is a candidate for governor or lieutenant governor;

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

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

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

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

(7) the provisions of the call for the constitutional convention, if the candidate is a candidate for constitutional convention delegate;

(8) art. IV, § 10 of the state constitution, if the candidate is a candidate for judicial retention.

(g) Information developed by the commission under (d) of this section shall be considered during a proceeding under (f) of this section.

(h) When, after being sworn into office, a successful candidate or the campaign treasurer or deputy campaign treasurer of a person who was a successful candidate is charged with a violation of this chapter, the case shall be promptly tried and accorded a preferred position for purposes of argument and decision, so as to assure a speedy disposition of the matter. (§ 1 ch 76 SLA 1974; am § 25 ch 189 SLA 1975; am §§ 1, 6 ch 134 SLA 1982; am §§ 33 — 36 ch 74 SLA 1985; am § 26 ch 14 SLA 1987)

*Effect of amendments.* — The 1985 amendment in subsection (f) in paragraph (3) substituted "AS 29.20.170" for "AS 29.23.060(c)," in paragraph (4) substituted "AS 29.20.280" for "AS 29.23.130(f)," in paragraph (6) substituted "AS 29.20.170" for "AS 29.23.210(b)," and in paragraph (8) substituted "AS 29.20.280" for "AS 29.23.265."

The 1987 amendment in subsection (a)(2) substituted "that exceeds the limitations of AS 15.13.070" for "or expenditure

which exceeds the limitations of AS 15.13.070(f)."

*Editor's notes.* — In Buckley v. Valeo, 424 U.S. 1, 96 S. Ct. 612, 46 L. Ed. 2d 669 (1976), the supreme court held that the 1st amendment of the federal constitution required the invalidation of certain provisions of the Federal Election Campaign Act of 1971, as amended in 1974: its independent expenditure ceiling, former 18 U.S.C. § 608(e)(1), its limitation on a candidate's expenditures from his own per-

sonal funds, former 18 U.S.C. § 608(a), and its ceiling on overall campaign expenditures, former 18 U.S.C. § 608(c), since these provisions placed substantial and direct restrictions on the ability of candi-

dates, citizens, and associations to engage in protected political expression. This holding was accepted as law in Alaska and the expenditure limits in this chapter were not enforced.

#### NOTES TO DECISIONS

- I. General Consideration.
- II. Forfeiture Sanction.

#### I. GENERAL CONSIDERATION.

This section contains no scienter requirement and the court would not impose one. State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 6614), 633 P.2d 227 (1981).

Quoted in Messerli v. State, Sup. Ct. Op. No. 2236 (File No. 4326), 626 P.2d 81 (1980).

#### II. FORFEITURE SANCTION.

*Editor's notes.* — Subsection (b), which contained a forfeiture sanction for violation of AS 15.13, was repealed in 1982.

*Constitutionality of forfeiture sanction.* — The forfeiture sanction of subsection (b) (now repealed) does not conflict with any constitutional provision delimiting the qualifications of assembly or council members or with any provision reserving exclusive authority to determine a member's election to those local entities. State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 6614), 633 P.2d 227 (1981).

Even if the forfeiture sanction of subsection (b) (now repealed) may conflict with Alaska Const., art. II, § 12, insofar as

state legislative elections are concerned, it can nonetheless constitutionally apply to local elections. State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 6614), 633 P.2d 227 (1981).

The forfeiture sanction is valid. State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 6614), 633 P.2d 227 (1981).

The deadlines for filing are mandatory, and the plain meaning of this section makes the forfeiture sanction applicable. State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 6614), 633 P.2d 227 (1981).

The statutory forfeiture of office provision applied to the election of a city councilman and borough assemblyman whose 1980 seven-day pre-election report was not filed until well after the election. State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 6614), 633 P.2d 227 (1981).

The absence of regulations is not fatal to enforcement of the forfeiture sanction because they are not necessary to implement the sanction or to protect a constitutional right. State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2406 (File No. 6614), 633 P.2d 227 (1981).

**Sec. 15.13.122. Legal counsel.** (a) The attorney general is legal counsel for the commission. The attorney general shall advise the commission in legal matters arising in the discharge of its duties and represent the commission in actions to which it is a party. If, in the opinion of the commission, the public interest warrants, the commission may request the chief justice of the supreme court to appoint a special proecutor to represent the commission in a proceeding involving an alleged violation of this chapter and to prosecute that violation.

(b) When the public interest warrants, the commission may employ temporary legal counsel from time to time in matters in which the commission is involved. (§ 26 ch 189 SLA 1975)

Sec. 15.13.125. Civil penalty: late filing of required reports. A person who fails to file a properly completed and certified report within the time required by AS 15.13.110(a)(1), (3), (4) or 15.13.110(d) is subject to a civil penalty of not more than \$10 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. A person who fails to file a properly completed and certified report within the time required by AS 15.13.110(a)(2) or 15.13.110(b) is subject to a civil penalty of not more than \$50 a day for each day the delinquency continues as determined by the commission subject to right of appeal to the superior court. An affidavit stating facts in mitigation may be submitted to the commission by a person against whom a civil penalty is assessed. However, the imposition of the penalties prescribed in this section or in AS 15.13.120 does not excuse that person from filing reports required by this chapter. (§ 6 ch 167 SLA 1976)

or  
AS 15.13.120  
MISDEMEANORS  
See

1 wk.  
before  
election

30 days before election  
10 days after

30 days after election

\$250+  
w/in 1 wk. of  
election

NOTES TO DECISIONS

Penalty cannot be obviously unreasonable. — The penalty cannot be so severe and oppressive as to be wholly disproportionate to the offense and obviously unreasonable. The standard is one of obvious unreasonableness. *Veco Int'l, Inc. v. Alaska Pub. Offices Comm'n, Sup. Ct. Op. No. 3295 (File No. S-1598), 763 P.2d 703 (1988).*

Statement of reasons for maximum

penalties. — A statement of reasons should be given by the commission when it imposes the maximum civil penalties under this section. *Veco Int'l, Inc. v. Alaska Pub. Offices Comm'n, Sup. Ct. Op. No. 3295 (File No. S-1598), 763 P.2d 703 (1988).*

Stated in *State, Pub. Offices Comm'n v. Marshall, Sup. Ct. Op. No. 2400 (File No. 5614), 833 P.2d 227 (1981).*

Sec. 15.13.130. Definitions. In this chapter

(1) "candidate" means a person who files for election to the state legislature, for governor, for lieutenant governor, for municipal office, for retention in judicial office, or for constitutional convention delegate, or who campaigns as a write-in candidate for any of these offices;

(2) "contribution" means purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods or services for which charge is ordinarily made and which is made for the purpose of influencing the nomination or election of a candidate, and in AS 15.13.010(b) for the purpose of influencing a ballot proposition or question, including the payment by a person other than a candidate or political party, or compensation of the personal services of another person which are rendered to the candidate or political party; however, "contribution" does not include

(A) services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or ballot proposition or question, but it does include professional services volunteered by individuals for which they ordinarily would be paid a fee or wage;

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

(C) ordinary hospitality in a home;

(3) "expenditure" means a purchase or a transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, incurred or made for the purpose of (A) influencing the nomination or election of a candidate or of any individual who files for nomination at a later date and becomes a candidate; (B) use by a political party; (C) the payment by a person other than a candidate or political party of compensation for the personal services of another person which are rendered to a candidate or political party; or (D) influencing the outcome of a ballot proposition or question; however, "expenditure" does not include a candidate's filing fee or the cost of preparing reports and statements required by this chapter;

(4) "group" means every state and regional executive committee of a political party and, in addition, means any combination of two or more persons or individuals acting jointly who take action the major purpose of which is to influence the outcome of an election; a group that makes expenditures or receives contributions with the authorization or consent, express or implied, or under the control, direct or indirect, of a candidate shall be considered to be controlled by that candidate; a group whose major purpose is to further the nomination, election, or candidacy of only one person, or intends to expend more than 50 per cent of its money on a single candidate, shall be considered to be controlled by that candidate and its actions done with the candidate's knowledge and consent unless, within 10 days from the date the candidate learns of the existence of the group the candidate files with the commission, on a form provided by the commission, an affidavit that the group is operating without the candidate's control; a group organized for more than one year preceding an election and endorsing candidates for more than one office or more than one political party is presumed not to be controlled by a candidate; however, a group that contributes more than 50 per cent of its money to or on behalf of one candidate shall be considered to support only one candidate for purposes of AS 15.13.070, whether or not control of the group has been disclaimed by the candidate;

(5) "individual" means a natural person;

(6) [Repealed, § 88 ch 74 SLA 1985.]

(7) "person", in addition to the terms set out in AS 01.10.060, includes a labor union. (§ 1 ch 76 SLA 1974; am § 28 ch 189 SLA 1975; am § 88 ch 74 SLA 1985)

Revisor's notes. — Reorganized in amendment repealed paragraph (6), 1985 to alphabetize the defined terms. which defined "municipality."  
Effect of amendments. — The 1985

**CHAPTER 50.  
ALASKA PUBLIC OFFICES COMMISSION:  
CONFLICT OF INTEREST, CAMPAIGN  
DISCLOSURE AND REGULATION  
OF LOBBYING**

Editor's Note: As of Register 78, the Alaska Public Offices Commission regulations which were formerly located in 6 AAC 29 are now located in 2 AAC 50, in light of Executive Order No. 41 (1980). The history notes under the sections in their new location carry forward the history of those provisions from their old location.

**Article**

1. **Conflict of Interest**  
(2 AAC 50.010—2 AAC 50.200)
2. **Campaign Disclosure**  
(2 AAC 50.310—2 AAC 50.405)
3. **Campaign Disclosure and Regulation of Lobbying Complaints and Investigations**  
(2 AAC 50.450—2 AAC 50.470)
4. **Regulation of Lobbying**  
(2 AAC 50.505—2 AAC 50.545)
5. **General Provisions**  
(2 AAC 50.905—2 AAC 50.920)

**ARTICLE 1.  
CONFLICT OF INTEREST**

**Section**

10. **Reporting sources of income for retail businesses**
15. **Reporting sources of income and indebtedness from political campaigns, political groups, and gifts for office expenses**
20. **Reporting interests in real property**
30. **Reporting financial data of family members**
40. **Loans and indebtedness**
50. **Retail charge accounts**
60. **Write-in candidates**
70. **Income**
80. **Controlling interest in a corporation**
90. **Municipalities as instrumentalities of the state**
100. **Claiming constitutional or statutory exemption**
105. **Filing by a state public official**
110. **Civil penalty assessments for late filing of a report by a state official**

115. **Procedures followed upon a refusal or failure by the ombudsman, or a hired or appointed official in the executive branch, or a board member, to file the conflict-of-interest statement when due**
120. **Procedures followed upon a refusal or failure by a judicial officer to file the conflict-of-interest statement when due (Repealed)**
125. **Procedures for failure or refusal of an incumbent state elected official to file the annual conflict-of-interest statement by the April 15 due date**
126. **Procedures for failure or refusal to file, or filing an incomplete statement, by a candidate for elective state office**
127. **Filing by a municipal officer**
130. **Civil penalty assessments for late filing by municipal officers**
135. **Procedures followed upon a refusal or failure by a municipal officer to file the conflict-of-interest statement when due**
140. **Substantial or continuing noncompliance**
145. **Definitions.**
- 200.

**2 AAC 50.010. REPORTING SOURCES OF INCOME FOR RETAIL BUSINESSES.** Retail businesses are characterized by high volume sales of fixed-maximum-price-goods or services available to the general public. For purposes of reporting sources of income over \$100 in accordance with AS 39.50.030(b)(1), a reporting official is not required to list individual customers of a retail business that is conducted on a cash or cash equivalent basis. However, customers who represent ongoing business through an established line of credit not payable in a single billing cycle; a contract to purchase multiple goods or services; or a discount not available to the general public on volume sales, are required to be disclosed. The business itself must also be reported as a source of income. (Eff. 8/20/75, Reg. 55; am 5/16/76, Reg. 58; am 1/26/86, Reg. 97)

Authority: AS 15.30.030(10)  
AS 39.50.030  
AS 39.50.050(b)

**2 AAC 50.015. REPORTING SOURCES OF INCOME AND INDEBTEDNESS, FROM POLITICAL CAMPAIGNS, POLITICAL GROUPS, AND GIFTS FOR OFFICE EXPENSES.** For purposes of reporting sources of income over \$100 and indebtedness over \$500 in accordance with AS 39.50.030(b)(1) and (6) the following must be included:

(1) a transfer of funds from a political campaign, which must be reported either as a source of personal income or as a loan from the campaign account:

(2) funds, goods, or services donated or loaned to a public official for personal or professional use, including donations or loans for office expenses connected with holding public office. (Eff. 1/26/86, Reg. 97)

Authority: AS 15.13.030(10)  
AS 39.50.030  
AS 39.50.050(b)

**2 AAC 50.020. REPORTING INTERESTS IN REAL PROPERTY.** The reporting of interests in real property shall include a description of the nature of interest held in the property, the location of the property, and the current use of the property. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)  
AS 39.50.030(b)(4)

**2 AAC 50.030. REPORTING FINANCIAL DATA OF FAMILY MEMBERS.** For purposes of AS 39.50.030(a), reporting of information for members of the official's family "to the extent that it is ascertainable" means an affirmative good faith effort to obtain the information and also requires reporting of all required information actually known. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)  
AS 39.05.030(a)

**2 AAC 50.040. LOANS AND INDEBTEDNESS.** AS 39.50.030(b)(6) includes all loans or indebtedness of \$500 or more made or still outstanding during the preceding calendar year, including all personal and business loans that have been cosigned by the official or the official's spouse. (Eff. 5/16/76, Reg. 58; am

5/14/80, Reg. 74; am 1/26/86, Reg. 97)

Authority: AS 15.13.030(10)  
AS 39.50.030(b)(6)  
AS 35.50.050(b)

**2 AAC 50.050. RETAIL CHARGE ACCOUNTS.** For purposes of reporting liabilities under AS 39.50.030(a) and 39.50.030(b)(6), the reporting official is not required to report retail charge accounts, revolving charge accounts or credit card obligations. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)  
AS 39.50.030(a)  
AS 39.50.030(b)(6)

**2 AAC 50.060. WRITE-IN CANDIDATES.** A public statement by an individual not appearing on the ballot that he will seek elective office constitutes a declaration of candidacy under AS 39.50.020. (Eff. 5/16/76, Reg. 58; am 5/14/80, Reg. 74)

Authority: AS 15.13.030(10)  
AS 39.50.020

**2 AAC 50.070. INCOME.** In this chapter and in AS 39.50, "income" includes gross income under Section 61 of the Internal Revenue Code (26 USC § 61) in effect on May 16, 1976. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)  
AS 39.50.030(b)(1)

**2 AAC 50.080. CONTROLLING INTEREST IN A CORPORATION.** In AS 39.50.200(8), "controlling interest" in a corporation means ownership of more than 50 percent of the outstanding shares of a corporation at any time during the year for which a report is being filed. In this section, the rules of constructive ownership in Section 318 of the Internal Revenue Code (26 USC § 318) in effect on May 16, 1976, will be used to determine ownership of a corporation's shares. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)  
AS 39.50.200

**2 AAC 50.090. MUNICIPALITIES AS INSTRUMENTALITIES OF THE STATE.** In AS 39.50.200(5), "instrumentality of the state" includes municipalities. (Eff. 5/16/76, Reg. 58)

Authority: AS 15.13.030(10)  
AS 39.50.200(5)

**2 AAC 50.100. CLAIMING CONSTITUTIONAL OR STATUTORY EXEMPTION FROM THE REPORTING REQUIREMENTS OF AS 39.50.030(b)(1).** (a) Disclosure of another person's name in a report is not required and should not be made where that disclosure alone would likely result in disclosing sensitive information which the person would want to keep private and which, if made public, would tend to cause substantial concern, anxiety, or embarrassment to a reasonable person. The names of the following persons should not be disclosed:

(1) a patient of a physician whose primary practice is generally known to be in contraception or abortion;

(2) a patient of a psychiatrist;

(3) a patient of a psychologist;

(4) a patient of a physician whose primary practice is generally known to be in treating sexual problems or venereal disease;

(5) a married client who seeks legal or medical assistance without the spouse's knowledge, if disclosure would likely cause substantial embarrassment or opprobrium;

(6) a minor who seeks medical treatment without parental knowledge, if disclosure would likely cause substantial embarrassment or opprobrium;

(7) a client whose identity is prohibited by law or ordinance from disclosure.

(b) A physician, pursuant to (g) of this section, may request an exemption on behalf of any other patient similarly situated where the disclosure of that patient's name would likely result in disclosing information which he would want to keep private and which, if made public, would tend to cause substantial concern, anxiety, or embarrassment to a reasonable person, to be determined on a case-by-case basis as set forth in (g) of this section.

(c) A patient of a physician not exempted by (a) of this section may request, under (g) of this section, that the physician apply for an

exemption on the patient's behalf if the disclosure of the patient's name would likely result in disclosing information which the patient would want to keep private and which, if made public, would tend to cause substantial concern, anxiety, or embarrassment to a reasonable person. A determination will be made as set out in (g) of this section.

(d) The commission recommends that a self-employed individual who becomes subject to the requirements of AS 39.50, and whose business or profession is such that disclosure of the names of his or her clients or customers may significantly infringe on their constitutional guarantees to right of privacy, apprise those clients or customers not exempted by (a) of this section of the individual's reporting requirements under law and the options available as set out in (b), (c), and (g) of this section.

(e) An individual who must submit a statement under AS 39.50, and who is required to list the names of clients or customers, but who claims an exemption for some or all of the clients or customers under (a) of this section, shall file a sworn, written request. The request, which must be attached to and filed with the individual's conflict-of-interest statement, and signed under oath and on penalty of perjury. It must include the following information:

(1) if the individual is claiming total exemption from the requirement, as in (a)(1), (2), (3), or (4) of this section, then he or she must

(A) state that the primary focus of the practice is the treatment of patients seeking psychiatric or psychological therapy, or seeking treatment related to sexual problems, venereal disease, contraception, or abortion, and that the physician is generally known as specializing in that practice; and

(B) state that all income resulting from patients which was not derived as described in (A) of this paragraph was received in the practice of his or her profession, and that all nonprofession-related income is reported separately in Part 3 of the report, and is followed by the letters "NE" (not exempt) to so identify it; or

(2) if the individual is claiming an exemption for some, but not all, of his or her clients or customers, then the individual must state the number of exemptions being claimed in each of the applicable exempted categories listed on the form.

(f) An individual who must submit a report pursuant to AS 39.50, and who is required to list the names of his clients or customers, but who has been granted an exemption pursuant to (b), (c), or (g) of this section, will be furnished a completed copy of APOC Form 39-0, entitled "Claimed Exemption Report," from the commission within 10 days of the favorable decision granting the exemption. The original of the form will be placed in the individual's file.

(g) A person not exempted by (a) of this section may claim an exemption either under the Alaska Constitution, art. I, sec. 22 (right of privacy) or under AS 39.50.035 (legally privileged professional relationship that may preclude complete compliance) by proceeding as follows:

(1) As soon as practicable, but not later than the time for filing the initial Conflict of Interest Statement, or, in the case of the annual filing, by April 15 of each following year, advise the commission of the claimed exemption and the reason for it, and request a staff ruling on the matter. If, in doing so, the person claiming the exemption finds that it may be necessary to reveal to the staff information which he or she believes is confidential, the person shall so indicate, and that information must be kept confidential until an unappealed staff or commission ruling is made or the release is authorized by a court of competent jurisdiction.

(2) The staff will rule on a request within 30 days after its receipt. If the ruling of the staff is favorable to the person claiming the exemption, the exempted information need not be disclosed, and that ruling is final and closed with respect to the report for that year. If a claim for an exemption is made in a future year on the same grounds, it will be granted unless a relevant change of facts or law, or the general understanding of either, has intervened.

(3) If the ruling of the staff is adverse to the person claiming the exemption, the person may

appeal to the commission by filing a written notice of appeal, and stating reasons for it, with the commission's staff no later than 30 days after receiving notice of the staff's ruling. Unless the notice and statement of reasons for it are filed within the 30-day period, the staff's ruling is final.

(4) A timely appeal will be heard by the commission at its next regular meeting held more than 30 days after the appeal is filed, unless the appellant and the commission agree upon another time for a hearing.

(5) The hearing will be recorded. At the hearing, appellant may be represented by counsel and may request that the hearing be held in executive session under AS 44.62.310(c). The appellant's case will be presented first, followed by the staff's case. Strict rules of evidence do not apply. Witnesses are sworn and testify under oath and on penalty of perjury. Legal arguments may be supported by a written memorandum. Either the appellant or the commission staff may, upon request to the commission — and shall upon the request of the commission — made no later than at the close of the hearing, file a post-hearing memorandum in support of its position within 15 days after the close of the hearing.

(6) Within 30 days after the close of the hearing the commission will make its decision and immediately after that notify the appellant of the result.

(7) If the commission's decision is favorable to the appellant, the appellant need not disclose, and that decision is final and closed with respect to the report for that year. If a claim for an exemption is made in a future year, based on the same grounds, it will be granted unless a relevant change of facts or law, or general understanding or either, has intervened.

(8) If the commission's decision is adverse, the appellant has 30 days in which to appeal on the record to the superior court under Rule 601 of the Appellate Rules of the Alaska Court System. If a timely appeal is not made and the appellant continues not to disclose, the matter will be referred to the attorney general for appropriate action.

(9) Tapes of the hearing must be made available upon request to the appellant or the appellant's attorney or agent, for listening within the offices of the commission. Transcripts of the hearing must be prepared by the commission staff upon request, with costs to be borne by the appellant.

(h) In considering the request for a ruling on the claimed exemption, the commission staff may seek an opinion from the attorney general as to whether it may reasonably be said that the state courts have determined that the constitutional right of privacy or legally privileged professional relationships preclude complete compliance with respect to the exemption claimed. If the attorney general finds that state courts have so determined, the staff ruling must be in favor of the person claiming the exemption, unless the facts adduced fail to show that the person falls within the scope of the exemption. If, in the attorney general's opinion, the courts have not determined that there is a bar to complete compliance with respect to the exemption claimed, the staff shall rule adversely.

(i) Until the matter has been finally decided administratively or judicially against the person, a person claiming an exemption from disclosure requirements is not considered to be in wilful violation of the law for failure to disclose or file a report with respect to the subject of the claimed exemption, unless after that the person continues to refuse or fails, to disclose, or unless it is judicially determined that the claim of exemption was not made in good faith but rather was made without any reasonable prospect for success.

(j) Nothing in this section precludes the commission or its staff from determining on its own initiative that information disclosed to it is either protected by the constitutional right of privacy or legally privileged, even if neither is claimed. Upon that determination, the information must be placed in a secure, confidential place, and, if it is also determined that there cannot reasonably be a good reason for retaining the information, it must be destroyed. (Eff.

9/9/78, Reg. 67; am 5/14/80, Reg. 74; am 1/26/86, Reg. 97)

Authority: AS 15.13.030(10)  
AS 39.50.035  
AS 39.50.050(b)

**2 AAC 50.105. FILING BY A STATE PUBLIC OFFICIAL OR A CANDIDATE FOR STATE ELECTIVE OFFICE.** (a) All reports required to be filed under the provisions of AS 39.50 and this chapter must be received by the commission on or before the due date. "Received" means either

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

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

(b) A person hired or appointed as an ombudsman, or hired or appointed within the executive branch as a department head, deputy department head, or division head, or as an assistant to the governor, shall file a conflict-of-interest statement

(1) within 30 days after appointment; and

(2) no later than April 15 in each following year.

(c) A person hired or appointed as a commission chairman, or member of a state commission or board specified in AS 39.50.200(9) must file a conflict-of-interest statement

(1) within 30 days of the date the board member signs his oath of office; and

(2) no later than April 15 in each following year.

(d) A judicial officer must file a conflict-of-interest statement

(1) within 30 days of the date the judicial officer is sworn into office; and

(2) no later than April 15 in each following year.

(e) A legislator, the governor, and the lieutenant governor must file a conflict-of-interest statement no later than April 15 of each year.

(f) An incumbent state public official who campaigns for state public office need not file a conflict-of-interest statement at the time of filing a declaration of candidacy, nor within 30 days after filing a petition, nor within 30 days after becoming a candidate by any other means, if a statement covering the preceding year is currently on file with the commission. However, an incumbent state public official filing for elective municipal office shall file a separate statement with the clerk of the municipality in which the official seeks public office.

(g) An incumbent municipal official who becomes a candidate for state elective office shall file a state conflict-of-interest statement with the commission, or as provided in (h) of this section. A photocopy of the municipal statement for the current reporting period, with an original signature, may be submitted instead.

(h) It is preferable that a candidate for state elective office file the required statement directly with the commission. However, a state candidate may initially submit a statement to the division of elections at the time of filing a declaration of candidacy, or within 30 days after becoming a candidate by any other means, and request that it be forwarded to the commission. (Eff. 9/9/78, Reg. 67; am 5/14/80, Reg. 74; am 1/26/86, Reg. 97)

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

**2 AAC 50.110. CIVIL PENALTY ASSESSMENTS FOR LATE FILING OF A REPORT BY A STATE PUBLIC OFFICIAL.** (a) The conflict-of-interest statement of a state public official is delinquent, if not received by the commission on or before the due date. The due dates are: within 30 days after appointment, and April 15 in each following year.

(b) The statement continues to be delinquent and subject to a civil penalty until received by the commission, or until the state public official resigns or is removed from office for refusal or

failure to file. Resignation or removal from office, however, does not relieve the official from the requirement that he or she file the conflict-of-interest statement.

(c) Commission staff will send notice to the state public official that the official's statement is delinquent, and that the official is subject to a civil penalty.

(d) Upon receipt of a delinquent conflict-of-interest statement, commission staff will

(1) determine the appropriate civil penalty as follows:

(A) \$5 a day through the first 15 days of delinquency; and

(B) \$10 a day for the 16th day and subsequent days of delinquency;

(2) within five days of receipt of a delinquent statement, send a notice of the civil penalty assessed against the state public official, and include

(A) a statement of the amount of his assessment; and

(B) an affidavit appeal form.

(e) A state public official subject to a civil penalty shall either

(1) submit, within 30 days after receipt of the assessment notice described in (d)(2) of this section, an affidavit stating reasons for late filing to show why a civil penalty should not be assessed; an affidavit

(A) is a statement in writing made under oath and upon penalty of perjury; and

(B) must be sworn to before a notary public, municipal clerk, court clerk, postmaster, or any other person authorized to administer oaths or, if none of the preceding alternatives is available, may be signed by the official without benefit of the oath so long as the official states, in writing, that the affidavit is signed under penalty of perjury; or

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

(f) If a state public official subject to a civil penalty assessment for the late filing of a conflict-of-interest statement 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 state public official's appeal is

(1) denied by the commission, commission staff will notify the official of the decision within 15 days, and require that he or she pay the civil penalty originally assessed 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 official of the decision within 15 days, 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 official of the decision within 15 days, and require that he or she pay the reduced civil penalty assessment within 30 days after the date of the letter containing notification of the commission's decision.

(h) Under Rule 601 of the Appellate Rules of the Alaska Court System, a state public official may appeal the commission's decision to deny or partially accept the reasons for lateness to the superior court within 30 days after receipt of the notice. If no appeal is made within 30 days and no payment is made, the matter will be referred to the attorney general for appropriate action. (Eff. 9/9/78, Reg. 67; am 5/14/80, Reg. 74; am 1/26/86, Reg. 97)

Authority: AS 15.13.030(10) AS 39.50.110  
AS 39.50.020 AS 39.50.120  
AS 39.50.050(b) AS 39.50.130  
AS 39.50.070 AS 39.50.135  
AS 39.50.080

2 AAC 50.115. PROCEDURES FOLLOWED UPON A REFUSAL OR FAILURE BY THE OMBUDSMAN, OR A HIRED OR APPOINTED OFFICIAL IN THE EXECUTIVE BRANCH, OR A BOARD MEMBER, TO FILE THE CONFLICT-OF-INTEREST STATEMENT WHEN DUE. (a) If an initial conflict-of-interest statement is not filed within the 30-day time period required by 2 AAC 50.105(b)(1) or (c)(1), the commission will simultaneously

(1) notify the official by certified mail, return receipt requested, that 30 days have passed since the applicable due date, that the initial conflict-of-interest statement is delinquent, and that the official is subject to civil penalties described in 2 AAC 50.110, in addition to criminal penalties;

(2) inform the Department of Administration that the official has not filed an initial statement, and request that all salary, per diem, travel expenses, and any other emoluments be forfeited until the department is notified by the commission of the official's compliance; and

(3) inform the attorney general that the official has not filed an initial statement.

(b) If the annual statement is not filed by April 15, pursuant to 2 AAC 50.105(b)(2) and (c)(2), the commission will

(1) not later than the eighth day of delinquency, notify the public official by certified mail, return receipt requested, that his or her statement has not been received, that he or she is now subject to civil penalties and that failure to file by the 30th day of delinquency will subject the official to removal from office and criminal penalties;

(2) on the 22nd day of delinquency, notify the public official by telegram that failure to file by the 30th day of delinquency will result in a request that the governor remove the official from office and a request that misdemeanor proceedings be initiated by the attorney general.

(c) If the annual statement is not filed by the 30th day of delinquency, on the 31st day of delinquency, commission staff will notify the commission, and under commission direction will

(1) inform the governor of the public official's failure to file his or her conflict-of-interest statement and request that the governor remove the official from office; and

(2) inform the attorney general that the public official has not complied, that the governor has been notified and is being requested to remove the public official from office, and request that the attorney general initiate misdemeanor proceedings. (Eff. 9/9/78, Reg. 67; am 10/18/81, Reg. 80; am 1/26/86, Reg. 97)

Authority: AS 15.13.030(10) AS 39.05.060  
AS 39.50.020 AS 39.50.070  
AS 39.50.050(b)

**2 AAC 50.120. PROCEDURES FOLLOWED UPON A REFUSAL OR FAILURE BY A JUDICIAL OFFICER TO FILE THE CONFLICT-OF-INTEREST STATEMENT WHEN DUE.** (a) If a judicial officer's initial conflict-of-interest statement is not filed within 30 days after being sworn in, as required by 2 AAC 50.105(d)(1), the commission will simultaneously

(1) notify the judicial officer by certified mail, return receipt requested, that 30 days have passed since the applicable due date, that the initial conflict-of-interest statement is delinquent, and that the judicial officer is subject to civil penalties described in 2 AAC 50.110, in addition to criminal penalties:

(2) inform the administrator of courts that the judicial officer has not filed an initial statement, and request that all salary, per diem, travel expenses, and any other emoluments be forfeited until notified by the commission of the officer's compliance; and

(3) inform the attorney general that the judicial officer has not filed an initial statement.

(b) If the annual statement is not filed by April 15, pursuant to 2 AAC 50.105(d)(2), the commission will

(1) on or before the eighth day of delinquency, notify the judicial official by certified mail, return receipt requested, that his or her statement has not been received, that he or she

is now subject to civil penalties and that failure to file by the 30th day of delinquency will subject the official to loss of pay, removal from office and criminal penalties;

(2) on the 22nd day of delinquency, notify the judicial official by telegram that failure to file by the 30th day of delinquency will result in a loss of pay, a request that the official be removed from office, and a request that misdemeanor proceedings be initiated by the attorney general.

(c) If the annual statement is not filed by the 30th day of delinquency, on the 31st day of delinquency, staff will notify the commission, and under commission direction will

(1) inform the administrator of courts that the judicial officer has failed to file his or her conflict-of-interest statement and that he or she is now subject to loss of pay and recommend the administrator take the appropriate action:

(2) inform the Commission on Judicial Qualifications and the senate of the judicial officer's failure to file his or her statement, that he or she is now subject to removal from office, and request that the appropriate action be taken; and

(3) inform the attorney general that the judicial officer has not complied, that the Commission on Judicial Qualifications, the senate, and the administrator of courts have been notified and are being asked to take appropriate action, and request that the attorney general initiate misdemeanor proceedings. (Eff. 9/9/78, Reg. 67; am 10/18/81, Reg. 80; am 1/26/86, Reg. 97)

Authority: AS 15.13.030(10) AS 39.50.060  
AS 39.50.020 AS 39.50.110  
AS 39.50.050(b)

**2 AAC 50.125. PROCEDURES FOLLOWED UPON A REFUSAL OR FAILURE BY A STATE ELECTED OFFICIAL TO FILE THE CONFLICT-OF-INTEREST STATEMENT WHEN DUE.** Repealed 10/18/81.