

ALASKA LEGISLATURE COMMITTEE FILES 1991-1992 8672  
7237 HOUSE STATE AFFAIRS

understanding the statute chart:

Mississippi: a type (a) statute, prohibits only the uttering or publication of false statements intended to defame an opposing candidate. However, the violation must be "wilfully and knowingly" in order to subject the candidate to a criminal misdemeanor charge.

Florida: a type (b) statute prohibits only the fraudulent or false representation that a candidate is endorsed by a particular person or group. However, the violation must be "willfull" in order to subject the candidate to a civil penalty.

Michigan: a type (c) statute, prohibits only the false representation that a candidate is an incumbent when in fact he is not. Any violation of this statute is a misdemeanor. Note that there is no mental culpability element included in this statute; rather the statute simply states that any candidate who represents himself as an incumbent when in fact he is not, shall be guilty of a misdemeanor.

Oregon: a type (1) statute broadly prohibits a person from publishing any letter, advertisement, etc., which contains a false statement of material fact relating to any candidate. However, the violation must be made with "knowledge or with reckless disregard" that the publication contains a false statement, and in order for the plaintiff to prevail, he must show by "clear and convincing" evidence that the defendant

violated the statute.

Of special note with regard to the Oregon statute, is that it is the only statute which makes false political advertising a private action. In other words, the aggrieved candidate must file suit himself rather than in the other 18 states where either a prosecutor or a state election board acts as plaintiff.

Before turning to an analysis and discussion of state case law related to the false representation issue, three other significant factors regarding the statute chart should be pointed out.

First, the State of Washington, which has a comprehensive statute, is the only state which allows liability to be imposed for the "negligent" use of falsehoods.

Second, the statute table clearly reflects that only one state, Oregon, includes a burden of proof element within the statute itself. It is possible that some states which utilize Election Boards to enforce the statutes have incorporated a standard of proof within the administrative rules, etc., that the boards adhere to during violation proceedings. The following discussion on state case law (see the Nebraska District Court decision), and the later discussion in Part IV on Washington case law, discusses the necessity of actually drafting such a standard or burden of proof element into the statute itself. Third, because the existing statute provides for judicial review (see

T A B L E A

STATE	(1) MENTAL CULPABILITY	BURDEN OF PROOF	ELEMENTS/ TYPE	PENALTY PROVISION
Alaska 15.56.010(3)	"knowingly"	None	(1)	Class A Misd.
Florida 106.143(3)	"willfully"	None	(B)	Civil
Louisiana 18:1463	None	None	(B)	Max Fine \$2000 Max Prison 2yrs
Michigan 6.1944	None	None	(C)	Misdemeanor
Massachusetts 56 §92	"knowingly"	None	(1)	Max Fine \$1000 Max Jail 6 mos
Minnesota 210A.02 210A.04	"knowingly" or "intentionally"	None	(1)	
Mississippi 23-3-33	"willfully" and "knowingly"	None	(A)	Misdemeanor
Montana 13-35-234	"knowingly" or with "reckless disregard"	None	(A)	Misdemeanor
New Hampshire 69:14	"knowingly"	None	(B)	Max Fine \$1000 Max Jail 1year
North Carolina 163-274(3)	"knowingly" or with "reckless disregard"	None	(A)	Misdemeanor
North Dakota 16.1-10-04	"knowingly"	None	(1)	Class A Misd.
Nebraska 49-1474(2)	"knowingly"	None	(1)	Class III Misd.
Ohio 3599.091	"knowingly" or with "reckless disregard"	"Preponderance of evidence"-establ. by case law only	(1)	1st Degree Misd.
Oregon 260.532	"knowingly" or "reckless disregard"	"Clear and convincing" evidence	(1)	Private action
Tennessee 2-19-142	"knowingly"	None	(1)	Misdemeanor
Utah 20-17-530	"knowingly"	None	(1)	Class A Misd.
Washington 42.17.530	"knowingly or negligently"	None	(1)	Civil
West Virginia 3-8-11(e)	"knowingly"	None	(1)	Misdemeanor
Wisconsin 12.05	"knowingly"	None	(1)	Max Fine \$1000 Max Jail 3yrs

RCW 42.17.395(5)), it is unnecessary to discuss this crucial element of a constitutionally defensible statute.

### 3. State case law

As might be expected, there exists more case law at the state level than at the federal level. Therefore, the purpose of this section will be to analyze a cross-section of these cases, each of which represents a challenge to a particular type of "regulation of campaign conduct" statute. This case law discussion will be divided into subsections and basically is designed to analyze challenges to, or definitions of, specific elements or terms within a particular statute. For example, subsection (a) examines cases in which the element or term "false information" has been challenged or defined. Subsection (b) examines cases in which the element "knowingly" was challenged or defined. Subsection (c) examines cases which discuss the issue of the necessary "burden of proof." Finally, subsection (d) examines the case of Schmitt v. McLaughlin, 275 N.W.2d 587 (1979), which posits a three-part test to determine whether a statute that attempts to regulate free speech in a political campaign is constitutional.

#### (a) "False Information"

Minnesota and Oregon both have comprehensive statutes which purport to prohibit the "knowing" publication of a false statement of material fact or false information pertaining to a political candidate or any other election matter. (See M.S.A. §210A.04 and O.R.S. 260.532(1)).

In 1980 and 1983, actions in Oregon were initiated against political candidates for the alleged publication of "false statements of material fact" in the cases of Sumner v. Bennett, 45 Or. App. 275, 608 P.2d 566 (1980) and Committee of 1000 to Re-elect State Senator Walt Brown v. Eivers, 296 Or. 195, 679 P.2d 1159 (1983).

In both cases, the Oregon courts held that a statement is "not false, . . . if any reasonable inference can be drawn from the evidence that the statement is factually correct or that the statement is merely an expression of opinion." Brown, 674 P.2d at 1163. The Court in Sumner added that regardless of how "ill-founded or unreasonable" a defendant's opinions might be, they are not actionable as a "false statement of material fact" as long as a reasonable inference exists that such a statement is only an opinion. Sumner, 608 P.2d at 569.

The Minnesota Supreme Court came to a similar conclusion in Kennedy v. Voss, 304 N.W.2d 299 (1981). In interpreting "false information" as included as an element in M.S.A. §210A.04, the

Kennedy court held that an extreme and illogical inference in campaign literature, based upon an accurate statement of fact, does not constitute false information. Id. at 300.

The court also added that the statute was directed towards the making of a false statement of fact and "not against criticism of a candidate or unfavorable deductions derived from a candidate's conduct. " Id. at 300.

An example of a fact situation which highlights the problem would be: An incumbent County Council member, during the previous years budget hearings, votes against the adoption of the County budget as a whole because he disagrees with one particular budget item. During the next campaign, his opponent publishes an article claiming that the incumbent is against a "senior citizen's center, budget increases for local law enforcement, better salaries for teachers, and bike trails for children." At first glance such a publication appears to be false, misleading, and intended to injure the credibility of the incumbent and thus affect the election outcome.

However, such a statement, despite its "extreme and illogical inference" can be traced back to an accurate statement of fact; the incumbent did vote against the adoption of the budget. Moreover, the candidate could claim (and probably successfully so) that his statement represented no more than his "opinion" on the likely ramifications of the incumbent's voting

record.

The lesson to be learned is that if a questionable statement by a candidate can be either traced back to an accurate statement of fact, or be reasonably inferred as nothing more than an opinion, then no actionable claim exists under a statute which prohibits "false representations" or "false statements of material fact."

(b) "knowingly"

Two of the more important state cases dealing directly with the mental culpability element of a political advertising statute are Daugherty v. Hilary, 344 N.W.2d 826 (Minn. 1984) and Snortland v. Crawford, 306 N.W.2d 614 (N.D. 1981).

In Hilary, the defendant was charged with violating M.S.A. §210A.02 which prohibited a person from "knowingly" making any false claim, stating or implying, that a candidate has the support or endorsement of a major political party when in fact the candidate does not. The defendant candidate in Hilary mailed several thousand documents titled "Official Sample Ballot--Vote for these DFL'ers." (The DFL is the Democratic Farmer Labor Party; a political party of major influence in Minnesota). These documents were strikingly similar in wording and color to the traditional DFL sample ballot. Although the defendant

candidate was affiliated with the DFL party, the party had endorsed another candidate. Id. at 830.

At the trial, the defendant candidate asserted that she and her campaign staff did not know that the sample ballots falsely implied implied party support or endorsement. Id. at 831. However, the Supreme Court ruled that because the defendant had modeled her "Official Sample Ballot" on past "Official DFL Sample Ballots", and because she was aware of the statute and interpreting case law, but chose to interpret it in a different way, the violation of the statute was "knowingly" despite her insistence that it was not. Id. at 831.

Thus, a candidate cannot merely hide behind a cloak of "subjective good faith," or "I believed my statements were true," or "I didn't know my statements falsely implied" . . . etc. as a complete defense to an election offense charge. Rather, the Hilary court held that the test for "knowingly" is to be left to the trier of fact and shall be determined by the evidence.

The Snortland case represented an effort by the Supreme Court of North Dakota to define what "knowingly" meant in the context of Sec. 16-20-173.3 N.D.C.C. (current sec. 16.1-10-04 N.D.C.C) which states in part:

"No person shall knowingly sponsor any political advertisement containing false information. . . ."

The Court explicitly stated that the definition of

"knowingly" is not "whether a reasonably prudent person knew or should have known that the statement was false; rather, the sponsor must have had a firm belief, unaccompanied by substantial doubt, in the falsity of the statement." Snortland, 306 N.W.2d at 623. The Court went on to add that "it is clear that the false statement which is made negligently is protected speech." Id. at 623.

Because the North Dakota statute uses a strict "knowingly" standard rather than the New York Times "actual malice" standard, convictions would be more difficult to obtain. According to the Snortland court, if an actual malice standard is used, the plaintiff needs only to show that the "sponsor had a firm belief in the falsity of the statement" in order to obtain a conviction and/or finding of civil liability.

(c) "Burden of proof"

As noted above, only Oregon has statutorily included the burden of proof in its comprehensive statute. Given the fact that both New York Times and Vanasco allude to the constitutional necessity of a "clear and convincing" standard of proof, it is surprising that there are not more state statutes which include the element and more surprising yet that there have been few challenges mounted on this legal ground. However, a recent Nebraska District Court case may change this.

The existing Nebraska political advertising statute, N.R.S. §49-1474(2) states in part that:

No person shall . . . publish . . . any advertisement . . . knowing such . . . advertisement to contain any false statement of material fact. . . .

This statute was recently, and successfully, challenged in the Lancaster County District Court in the case of DeCamp v. Nebraska Accountability and Disclosure Commission, (unpublished opinion), on the grounds that the statute did not require a guilty finding by the Commission to be based on "clear and convincing" evidence. The Court ruled that because the statute contained no standard of proof requirement and because the Disclosure Commission's rules of practice and procedure also set forth no standard of proof, the statute is unconstitutional. (It should be noted that under the Nebraska scheme, the Disclosure Commission is actually vested with the authority to apply criminal sanctions against those candidates or persons it finds in violation of N.R.S. §49-1474(2)).

The Commission argued that a policy manual which was regularly used by the Commission referred to a standard based upon "reliable, probative, and substantial evidence." It appears however, that the Court held that such a standard was either not stringent enough or was too ambiguous to allow for proper judicial review. The Court also added that because First Amendment rights were at stake, the constitutionally required

standard of proof, as required by New York Times and Vanasco, is a "clear and convincing" evidence standard.

The only other state which has a comprehensive statute and which has faced a challenge on burden of proof grounds, is Ohio in the case of DeWine v. Ohio Elections Commission, 61 Ohio App. 2d 25, 399 N.E.2d 99 (1978).

Under the Ohio statute, O.R.C. §3599.091, which is the most comprehensive political advertising statute in terms of proscribing particular campaign behaviors, the Ohio Elections Commission is empowered to investigate complaints of unfair campaign practices. The Commission, upon completing its investigation, may then recommend to the county prosecutor that certain charges be filed. The statute does not require the Commission to meet any particular burden of proof.

The defendant candidate in DeWine argued that the Commission was required to utilize a proof beyond a reasonable doubt standard. The DeWine court stated, however, that because the function of the Commission is very similar to a grand jury, the "proceedings before the Commission do not constitute a criminal proceeding." Id. at 105. The Court then reasoned that a "preponderance of evidence" standard provided sufficient protection to alleged violations under this type of regulatory scheme. Id. at 104.

The major point to be taken from these cases is that if the

commission responsible for investigating unfair campaign practice complaints is also empowered to impose sanctions (criminal or civil) on violators, then the statute which authorizes such powers must include a "clear and convincing" evidence standard of proof element within the statute.

(d) Schmitt v. McLaughlin

Minnesota statute §210A.02 was challenged on constitutional grounds in Schmitt v. McLaughlin, 275 N.W.2d 587 (1979). The statute, which remains in effect today, provides:

No person or candidate shall knowingly, either by himself or by any other person, while such candidate is seeking a nomination or election, make, directly or indirectly, a false claim stating or implying that the candidate has the support or endorsement of any political party, or unit thereof, or of any organization, when in fact the candidate does not have such support or endorsement.

The court, in holding that the statute did not violate the constitutional right to freedom of speech, gave three specific reasons for its ruling. Id. at 590. First, the Court stated that the statute only regulated "false statements." Id. at 590. Second, the Court stated that the statute is directed specifically at false claims of endorsement or support and thus is narrowly drawn to serve a governmental interest in protecting the political process. Id. at 591. Third, the Court stated that because the statute is narrowly drawn, it is not so vague or ambiguous that persons of common intelligence would be unable to

determine what conduct will violate it. Id. at 591.

These three reasons given by the Court for upholding the constitutional validity of M.S.A. §210A.02 ostensibly could be translated into a three-prong test to determine the validity of any political advertising statute. The three-prongs would be:

- (1) Does the statute proscribe or regulate only constitutionally unprotected speech? (i.e., "false statements.")
- (2) Is the statute narrowly drawn so it: (a) proscribes or regulates "specific behavior", and (b) legitimately serves the compelling state interest of protecting the political process?
- (3) Is the statute so narrowly drawn that it cannot be challenged as vague or ambiguous and thereby any person of common intelligence will be able to determine what conduct will violate it?

The draft statute set out in Part V meets this three-prong test and the other specified requirements previously mentioned.

#### P A R T     I V

#### WASHINGTON CASE LAW

In Washington, there have been no appellate or supreme court decisions dealing directly with a constitutional challenge to any political advertising statute. However, there are three cases which impact the false political advertising issue.

The first case, Ford v. Hagel, 423 Wn.App. 675, 713 P.2d 736

(1986) clearly implies that Washington courts would be receptive to some form of a false political advertising statute. The Court, in ruling on a defamation action unequivocally stated that "false statements of fact . . . have no constitutional value."

The second Washington case with possible impact is In Re Donohoe, 90 Wn.2d 173, 580 P.2d 1093 (1978). In this case, the Court found that an attorney, as a judicial candidate, knowingly published false statements of fact which were damaging to her opponent, an incumbent judge. Id. at 179. The court upheld a State Bar Association reprimand based on a violation of a section of the Code of Professional Responsibility which provided that a lawyer should not knowingly make false statements of fact concerning the qualifications of a candidate for election or appointment to a judicial office. (CPR/DR 8-102(A)(B)). Id. at 180.

The court also stated that "we do not believe that the First Amendment protects one who utters a statement with knowledge of its falsity, even in the context of a judicial campaign." Id. at 181 (Emphasis supplied).

The final Washington case to be discussed is State v. Marchand, 104 Wn.2d 434, 706 P.2d 225 (1985). In Marchand the Washington Supreme Court stated that if a statute implicates constitutional rights, then all elements necessary to make the statute constitutional must be within the statute. Therefore, an

agency may not supply any missing elements when enforcing a statute which involves constitutional rights.

The inference to be drawn from this case with regard to the political advertising issue is that if the false advertising statute does not include a clear and convincing evidence burden of proof in the statute, the Commission responsible for investigating complaints and imposing sanctions cannot claim to validly supply the element by virtue of it being included in its administrative rules or procedures.

P A R T V

PROPOSED MODEL STATUTE

42.17.020 DEFINITIONS

- (29) "Actual malice" means with knowledge or with reckless disregard as to its truth or falsity.
- (30) "Sponsor" means the candidate, political committee, or other person paying for the advertisement. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

(31) "Incumbent" means a person who is in present possession of an elected office.

(23) "Political Advertising" should be changed to "Political Advertisement" to reflect the language of the modified statute. Definition to remain the same.

Note: Additional terms such as "candidate," "election," and "person," are currently defined in 42.17.020.

#### 42.17.530 FALSE INFORMATION PROHIBITED.

(1) It shall be unlawful for a person to sponsor, with actual malice:

- (a) a political advertisement which contains false statements of material fact;
- (b) a political advertisement which falsely represents that a candidate is an incumbent for the office sought when in fact the candidate is not the incumbent.

(2) It shall also be unlawful for a person or candidate, while such candidate is seeking a nomination or election, to make, either directly or indirectly, with actual malice, a false

claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.

- (3) Any violation of this statute, must be proved by clear and convincing evidence.

ATTACHMENT B

Massachusetts  
GENERAL LAWS  
ANNOTATED

M.  
C.  
I.  
A.

CHAPTERS 50 TO 57

## Cross References

Nomination of candidates, generally, see c. 53, § 1 et seq.  
Posters, cards or handbills, posting and distribution near entrance to polling place prohibited, penalty, see c. 54, § 65.

## Library References

Elections ⇐317.

C.J.S. Elections §§ 329, 356.

### § 42. False statements relating to candidates or questions submitted to voters

No person shall make or publish, or cause to be made or published, any false statement in relation to any candidate for nomination or election to public office, which is designed or tends to aid or to injure or defeat such candidate.

No person shall publish or cause to be published in any letter, circular, advertisement, poster or in any other writing any false statement in relation to any question submitted to the voters, which statement is designed to affect the vote on said question.

Whoever knowingly violates any provision of this section shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months.

Added by St.1946, c. 537, § 11. Amended by St.1964, c. 147, § 2.

## Historical Note

St.1964, c. 147, § 2, approved March 9, 1964, inserted the second paragraph.

## Prior Laws:

St.1922, c. 269, §§ 1, 3.

St.1926, c. 101.

G.L.1932 (Ter.Ed.) c. 55, § 34A; c. 56, § 64A.

## Cross References

Nomination of candidates, generally, see c. 53 § 1 et seq.

## Law Review Commentaries

Avoidance of an election or referendum when the electorate has been misled. (1957) 70 Harvard L.Rev. 1077.

Law of the land; torts of the tongue. Wm. Arch. McLean (1900) 12 Green Bag 523.

## Library References

Elections ⇐316, 332.

C.J.S. Elections §§ 331, 353.

OH10

within said statement the name and residence or business address of the chairman, treasurer, or secretary of the organization issuing the same, or the person who issues, makes, or is responsible therefor. The disclaimer "paid political advertisement" is not sufficient to meet the requirements of this division. When such publication is issued by the regularly constituted central or executive committee of a political party, organized as provided in Chapter 3517, of the Revised Code, it shall be sufficiently identified if it bears the name of the committee and its chairman or treasurer. No person, firm, or corporation shall print or reproduce any notice, placard, dodger, advertisement, sample ballot, or any other form of publication in violation of this section. This section does not apply to the transmittal of personal correspondence that is not reproduced by machine for general distribution.

The secretary of state may, by rule, exempt, from the requirements of this division, printed matter and certain other kinds of printed communications such as campaign buttons, balloons, pencils, or like items, the size or nature of which makes it unreasonable to add an identification or disclaimer. The disclaimer or identification, when paid for by a campaign committee, shall be identified by the words "paid for by" followed by the name and address of the campaign committee and the appropriate officer of the committee, identified by name and title.

(B) No person shall utter or cause to be uttered, over the broadcasting facilities of any radio or television station within this state, any communication which is designed to promote the nomination or election or defeat of a candidate, or the adoption or defeat of any issue or to influence the voters in any election, unless the speaker identifies himself with his name and residence address or unless such communication identifies the chairman, treasurer, or secretary of the organization responsible for the same with the name and residence or business address of such officer, except that communications by radio need not broadcast the residence or business address of such officer. However, a radio station shall, for a period of at least six months, keep the residence or business address on file and divulge it to any person upon request.

No person operating a broadcast station or any organ of printed media shall broadcast or print any paid political communication that does not contain the identification required by this section.

Division (B) of this section does not apply to any communications made on behalf of a radio or television station or network by any employee of such radio or television station or network while acting in the course of his employment.

No person shall use or cause to be used a false, fictitious, or fraudulent name or address in the making or issuing of a publication or communication included within the provisions of this section.

(C) No prosecution under this section shall commence until the procedures prescribed in division (C) of section 3599.091 of the Revised Code have been followed. If the commission finds a violation of division (A) or (B) of this section, it shall do only one of the following:

(1) Impose a fine not to exceed the fine specified pursuant to section 3517.991 of the Revised Code.

(2) Report its findings to the appropriate prosecuting authority, which shall institute such civil or criminal proceedings as are appropriate;

(3) Enter a finding that good cause has been shown for the commission not to impose a fine or report its findings to the appropriate prosecuting authority.

Any person adversely affected by the action of the commission under division (C)(1) of this section may appeal from such action in accordance with section 119.12 of the Revised Code.

**HISTORY:** 1986 H 555, eff. 2-26-86

1984 H 722; 1980 H 1062, S 251; 1976 H 804; 130 v H 351; 129 v 244; 127 v 203; 1953 H 1; GC 4785-198

#### PRACTICE AND STUDY AIDS

Schroeder-Katz, Ohio Criminal Law, Statutory Charges

#### CROSS REFERENCES

Secretary of state, political communications, no disclaimer needed for certain items, OAC 111.4-1-01

Equal protection of people a purpose of government, O Const Art I §2

Every citizen may freely speak, write, and publish his sentiments on all subjects; no law may restrain liberty of speech or the press, O Const Art I §11

#### LEGAL ENCYCLOPEDIAS AND ALR

OJur 3d: 37, Elections § 256, 292, 296, 297; 39, Employment Relations § 39; 70, Names § 5

Am Jur 2d: 26, Elections § 379 et seq., 387

#### NOTES ON DECISIONS AND OPINIONS

OAG 75-068, RC Ch 3517 requires a candidate's campaign committee to report all contributions and expenditures, which are in excess of twenty-five dollars, regardless of who made the contributions or expenditures.

OAG 75-068, The changes to RC Ch 3517, effected by 1974 S 46, eff. 7-23-74, have no effect upon the identification requirements contained in RC 3599.09, which apply to published campaign materials whether they are designed to defeat or to promote a candidate or an issue.

1930 OAG 2032. This section as to a notice or placard designed to promote the nomination or election of a candidate requires only that the chairman or secretary of the organization issuing same or the name and address of some voter responsible therefor appear thereon. If such notice contains the name and address of the candidate, and has been issued by him, the requirements of this section have been met.

1930 OAG 2020. The circulation of a 3" x 6" card printed on blotting paper glazed on one side to further the candidacy of a candidate is not prohibited.

#### 3599.091 Unfair political campaign activities

(A) No person, during the course of any campaign for nomination or election to public office or office of a political party, shall knowingly and with intent to affect the outcome of such campaign do any of the following:

(1) Serve, or place another person to serve, as an agent or employee in the election campaign organization of a candidate for the purpose of acting to impede the conduct of the candidate's campaign for nomination or election or of reporting information to the employee's employer or the agent's principal without the knowledge of the candidate or his organization;

(2) Promise, offer, or give any valuable thing or valuable benefit to any person who is employed by or is an agent of a candidate or his election campaign organization for the purpose of influencing the employee or agent with respect

to the improper discharge of his campaign duties or to obtain information about the candidate or his campaign organization.

(H) No person, during the course of any campaign for nomination or election to public office or office of a political party, by means of campaign materials, including sample ballots, an advertisement on radio or television or in a newspaper or periodical, a public speech, press release, or otherwise, shall knowingly and with intent to affect the outcome of such campaign do any of the following:

(1) Use the title of an office not currently held by a candidate in a manner that implies that the candidate does currently hold that office or use the term "re-elect" when the candidate has never been elected at a primary, general, or special election to the office for which he is a candidate;

(2) Make a false statement concerning the formal schooling or training completed or attempted by a candidate; a degree, diploma, certificate, scholarship, grant, award, prize, or honor received, earned, or held by a candidate; or the period of time during which a candidate attended any school, college, community technical school, or institution;

(3) Make a false statement concerning the professional, occupational, or vocational licenses held by a candidate, or concerning any position the candidate held for which he received a salary or wages;

(4) Make a false statement that a candidate or public official has been indicted or convicted of a theft offense, extortion, or other crime involving financial corruption or moral turpitude;

(5) Make a statement that a candidate has been indicted for any crime or has been the subject of a finding by the Ohio elections commission without disclosing the outcome of any legal proceedings resulting from the indictment or finding;

(6) Make a false statement that a candidate or official has a record of treatment or confinement for mental disorder;

(7) Make a false statement that a candidate or official has been subjected to military discipline for criminal misconduct or dishonorably discharged from the armed services;

(8) Falsely identify the source of a statement, issue statements under the name of another person without authorization, or falsely state the endorsement of or opposition to a candidate by a person or publication;

(9) Make a false statement concerning the voting record of a candidate or public official;

(10) Post, publish, circulate, distribute, or otherwise disseminate a false statement, either knowing the same to be false or with reckless disregard of whether it was false or not, concerning a candidate that is designed to promote the election, nomination, or defeat of the candidate.

As used in this section, "voting record" means the recorded "yes" or "no" vote on a bill, ordinance, resolution, motion, amendment, or confirmation.

(C) Before any prosecution may commence, a complaint shall be presented to the Ohio elections commission by an affidavit of any person, made on personal knowledge and subject to the penalties for perjury, setting forth any violation of division (A) or (B) of this section. The commission shall proceed to investigate the charges made in the affidavit, and shall, whenever possible, complete the investigation of all matters before an election. The commission or a member of the commission may administer oaths, and the

commission may issue and enforce subpoenas with regard to an investigation under this section in the same manner as provided in division (C) of section 3517.15 of the Revised Code. The commission shall issue copies of its findings to the committees or persons involved in its investigation.

(D)(1) If the commission finds that division (A) or (B) of this section has been violated, it shall do only one of the following:

(a) Impose a fine not to exceed one thousand dollars;

(b) Forthwith transmit a copy of its findings and the evidence to the prosecuting attorney of the appropriate county.

(2) Notwithstanding any provision of Chapters 1901., 1905., 1907., and 2931. of the Revised Code, the common pleas court has exclusive original jurisdiction over prosecutions under this section.

(3) Any person adversely affected by the action of the commission under division (D)(1)(a) of this section may appeal from such action in accordance with section 119.12 of the Revised Code.

(E) If the commission finds upon the preponderance of the evidence that the violation is a continuing one, or if it has reason to believe that recurrence of the violation is imminent, it may issue an order to cease and desist. The commission or the person who filed the affidavit, or the treasurer of the campaign committee of any candidate who filed an affidavit may bring an action for an injunction against any person violating or attempting to violate the order. Any person adversely affected by a cease and desist order of the commission may appeal as provided in section 119.12 of the Revised Code. No appeal, however, shall stay enforcement of a cease and desist order. In an action for injunction to enforce any final order of the commission brought pursuant to this section, the findings of the commission, after hearing, are prima-facie evidence of the facts found.

(F) In any action before the commission, if the allegations of the person who filed the affidavit are not proved, and the commission seeks neither civil nor criminal relief in court, the commission may find that the complaint is frivolous and order the complainant to pay costs. If so, the person filing the complaint may be required to pay such costs of the commission as would be assessed for the same service in a civil action before the court of common pleas. Such costs paid to the commission shall be deposited in the general revenue fund of the state. The commission shall provide each person under investigation, by mail or in person, prior to each meeting of the commission at which the person's presence is requested, a notice for the hearing, and shall supply to each person under investigation, prior to the person's first appearance before the commission, a statement of the legal rights and obligations of those under investigation by the commission.

(G) Whoever violates division (A) or (B) of this section is guilty of unfair campaign practices, a misdemeanor of the first degree.

HISTORY: 1986 H 555, eff. 2-26-86  
1984 H 722; 1980 S 251; 1977 H 1; 1976 H 804

#### PRACTICE AND STUDY AIDS

Schroeder-Katz, Ohio Criminal Law, Statutory Charges  
Haldwin's Ohio School Law, Text 508A)

government, and any county, city, district or other municipal corporation or public corporation organized for a public purpose, including a cooperative body formed between municipal or public corporations. [Formerly 260.231; 1973 c.53 §27a; 1979 c.190 §372; 1979 c.519 §35a; 1983 c.71 §9; 1983 c.392 §1; 1985 c.565 §39; 1985 c.808 §62; 1987 c.718 §3]

260.440 [Amended by 1971 c.644 §5; repealed by 1971 c.749 §52]

260.442 [Formerly 260.250; 1973 c.744 §28; 1979 c.190 §353; renumbered 260.625]

260.450 [Repealed by 1957 c.644 §28]

260.452 [Formerly 260.420; 1973 c.744 §29; repealed by c.190 §431]

260.460 [Repealed by 1957 c.644 §28]

260.462 [Formerly 260.270; 1973 c.744 §30; 1979 c.190 §386; renumbered 260.655]

260.470 [Amended by 1957 c.644 §9; 1971 c.749 §34; renumbered 260.365]

260.472 [Formerly 260.280; 1973 c.744 §31; 1979 c.190 §370; renumbered 260.415]

260.480 [Amended by 1957 c.644 §11; repealed by 1971 c.749 §52]

260.482 [Formerly 260.310; 1973 c.744 §32; 1977 c.678 §3; 1979 c.190 §384; renumbered 260.635]

260.490 [Amended by 1959 c.644 §12; repealed by 1971 c.749 §52]

260.492 [Formerly 260.320; 1973 c.744 §33; repealed by 1979 c.190 §431]

260.500 [Amended by 1957 c.644 §13; 1971 c.749 §56; renumbered 260.552]

260.502 [Formerly 260.335; repealed by 1973 c.744 §48]

260.510 [Amended by 1957 c.644 §14; repealed by 1971 c.749 §52]

260.512 [Formerly 260.340; 1973 c.744 §34; 1979 c.190 §380; renumbered 260.608]

260.520 [Amended by 1957 c.644 §15; 1971 c.749 §35; renumbered 260.375]

**260.522 Identification of source of political publication.** (1) Except as provided in this section, no person shall cause to be printed, posted, broadcast, mailed, circulated or otherwise published, any written matter, photograph or broadcast relating to any election or to any candidate or measure at any election, unless it states the name and address of the person responsible for the publication, including a statement that the publication was authorized by the person.

(2) A radio broadcast which complies with the requirements of the Federal Communications Act and regulations under it is not required to state the address of the person responsible for the broadcast if the person responsible for the broadcast is a candidate or political committee.

(3) The prohibition under subsection (1) of this section does not apply to:

(a) Any sign relating to a candidate if the candidate or the principal campaign committee of the candidate is responsible for the

sign and the sign displays the name of the candidate; or

(b) Any written matter relating to a measure at any election prepared under the direction of the governing body of the city, county or district that referred the measure if the written matter is impartial, neither supports nor opposes passage of the measure and contains the name and address of the city, county or district.

(4) Any written matter or broadcast which has been previously published shall have the publisher and date of publication clearly identified when it is referred to in a publication listed under subsection (1) of this section.

(5) "Address" for purposes of this section means the address of a residence, office, headquarters or similar location where the person may be conveniently located. If the person is a political committee, the address shall be the address of the political committee included in the statement of organization under ORS 260.042. [Formerly 260.360; 1973 c.483 §1; 1973 c.744 §35; 1975 c.683 §13; 1979 c.190 §373; 1981 c.234 §17; 1983 c.71 §11; 1985 c.806 §63; 1989 c.403 §28; 1989 c.1054 §13]

260.530 [Repealed by 1957 c.644 §28]

**260.532 False publication relating to candidate or measure.** (1) No person shall cause to be written, printed, published, posted, communicated or circulated, any letter, circular, bill, placard, poster, photograph or other publication, or cause any advertisement to be placed in a publication, or singly or with others pay for any advertisement, with knowledge or with reckless disregard that the letter, circular, bill, placard, poster, photograph, publication or advertisement contains a false statement of material fact relating to any candidate, political committee or measure.

(2) A candidate who knows of and consents to a publication or advertisement prohibited by this section with knowledge or with reckless disregard that it contains a false statement of material fact, violates this section regardless of whether the candidate has participated directly in the publication or advertisement.

(3) There is a rebuttable presumption that a candidate knows of and consents to any publication or advertisement prohibited by this section caused by a political committee over which the candidate exercises any direction and control.

(4) Any candidate or political committee aggrieved by a violation of this section shall have a right of action against the person alleged to have committed the violation. The aggrieved party may file the action in the circuit court for any county in this state in

which a defendant resides or can be found or, if the defendant is a nonresident of this state, in the circuit court for any county in which the publication occurred. To prevail in such an action, the plaintiff must show by clear and convincing evidence that the defendant violated subsection (1) of this section.

(5) A plaintiff who prevails in an action provided by subsection (4) of this section may recover compensatory damages for all injury suffered by the plaintiff by reason of the false statement of material fact. Proof of entitlement to compensatory damages must be by a preponderance of evidence. Any prevailing party is entitled to recover reasonable attorney fees at trial and on appeal.

(6) A political committee has standing to bring an action provided by subsection (4) of this section as plaintiff in its own name, if its purpose as evidenced by its pre-election activities, solicitations and publications has been injured by the violation and if it has fully complied with the provisions of this chapter. In an action brought by a political committee as provided by subsection (4) of this section, the plaintiff may recover compensatory damages for all injury to the purpose of the committee by reason of the false statement of material fact. A political committee may not be sued as defendant in such an action. A recovery made by a political committee which prevails in an action under this section shall be distributed pro rata among the persons making contributions to the committee.

(7) If a judgment is rendered in an action under this section against a defendant who has been nominated to public office or elected to a public office other than state Senator or state Representative, and it is established by clear and convincing evidence that the false statement was deliberately made or caused to be made by the defendant, the finder of fact shall determine whether the false statement reversed the outcome of the election. If the finder of fact finds by clear and convincing evidence that the false statement reversed the outcome of the election, the defendant shall be deprived of the nomination or election and the nomination or office shall be declared vacant.

(8) An action under this section must be filed not later than the 30th day after the election relating to which a publication or advertisement in violation of this section was made. Proceedings on a complaint filed under this section shall have precedence over all other business on the docket. The courts shall proceed in a manner which will insure that:

(a) Final judgment on a complaint which relates to a primary or nominating election

is rendered before the 30th day before the general election; and

(b) Final judgment on a complaint which relates to an election to an office is rendered before the term of that office begins.

(9) The remedy provided by this section is the exclusive remedy for a violation of this section. [Formerly 260.340; 1973 c.744 §36; 1975 c.643 §14; 1979 c.190 §374; 1979 c.667 §2; 1981 c.897 §45; 1983 c.756 §1; 1985 c.804 §63a]

260.540 [1957 c.644 §10; 1971 c.749 §27; renumbered 260.325]

**260.542 Use of term "reelect."** No person shall use the term "reelect" in any material, statement or publication supporting the election of a candidate unless the candidate:

(1) Was elected to the identical office with the same position number, if any, in the most recent election to fill that office;

(2) Was elected from the same district from which the candidate is seeking election or, if district boundaries have been changed since the previous election, if the majority of the population in the district from which the candidate is seeking election was in the district from which the candidate was previously elected; and

(3) Is serving and has served continuously in that office from the beginning of the term to which the candidate was elected. [Formerly 260.405; 1973 c.744 §37; 1979 c.190 §375]

**260.545 Use of candidate name in way implying candidate is incumbent.** No person shall use the name of a candidate in a way that implies that the candidate is the incumbent in office in any material, statement or publication supporting the election of a candidate unless the candidate is qualified to use the term "reelect" under ORS 260.542 or the candidate:

(1) Was appointed to the identical office with the same position number, if any, after the most recent election to fill that office;

(2) Was appointed from the same district from which the candidate is seeking election, or if district boundaries have changed since the previous election, if the majority of the population in the district from which the candidate is seeking election was in the district from which the candidate was appointed; and

(3) Is serving and has served continuously in that office since the date of appointment. [1957 c.826 §2]

260.552 [Formerly 260.500; 1973 c.744 §38; repealed by 1979 c.190 §431]

**260.555 Prohibitions relating to circulation, filing or certification of initiative, referendum or recall petition.** (1) No person attempting to obtain signatures on, or

20-14-18 is guilty of a class B misdemeanor. Each violation of this act is a separate offense. Where a person or persons violates this act, the violation shall be that of the person who directed the violation. 1953

20-14-20 to 20-11-23. Repealed. 1951, 1951

20-14-21. Prohibitions as to publishers, newspapers and other periodicals.

No publisher of a newspaper or other periodical circulating in this state shall insert, either in its advertising or reading columns, any paid matter which is designated or tends to aid, injure or defeat any candidate, or any political party or organization, or any measure before the people, unless it is stated therein that it is a paid advertisement and the name of the chairman or secretary or other officers of the political or other organizations inserting the same, or the name and address of some voter who is responsible therefor, shall appear in such advertisement in the nature of a signature. No person shall pay the owner, editor, publisher or agent of any newspaper or other periodical to induce him to advocate or oppose editorially any candidate for nomination or election, and no such owner, editor, publisher or agent shall accept such payment. 1953

20-14-23. Statement of ownership of publication.

No publisher of any newspaper or other periodical published within this state shall insert, either in its advertising or reading columns, any matter whatsoever of a political nature, or any political editorial relative to a candidate for any public office, unless the publisher thereof shall file in the office of the lieutenant governor, within three months before the holding of any nominating convention or primary or general election, or within 10 days after the calling of and before the holding of any special election, a sworn statement which shall contain the names of the owners of such paper, and, if such publisher is a corporation, such statement shall be executed by some responsible officer thereof who is in a position to know the facts, and shall contain the names and addresses of the owners of the shares of stock and the funds of such corporation. 1951

20-14-26. Declaration of interest in publication.

Every candidate, and every member of any personal campaign or party committee, who, either in his own name or in the name of any other person, owns any financial interest in any newspaper or other periodical circulating in this state, before such newspaper or periodical shall print any matter, otherwise than as is provided in Section 20-14-21, which is intended or tends to influence, directly or indirectly, any voting at any primary or election in this state, shall file in the office of the county clerk of the county in which he resides a verified declaration stating definitely the newspaper or periodical in which or over which he has such financial interest or control, and the exact nature and extent of such interest or control. The editor, manager or other person controlling the publication of any such newspaper or periodical who prints or causes to be printed any such matter prior to the filing of such verified declaration is guilty of a misdemeanor. 1953

20-14-27. Paid advertisements permitted.

No owner, publisher, editor, reporter, agent or employee of any newspaper or other periodical shall, directly or indirectly, solicit, receive or accept any pay-

ment, promise or compensation, nor shall any person pay or promise to pay or in any manner compensate any such owner, publisher, editor, reporter, agent or employee, directly or indirectly, for influencing or attempting to influence by means of any printed matter in such newspaper any voting at any election or primary through any means whatsoever, except through the matter inserted in such newspaper or periodical as "paid advertisement" and so designated as provided by law, and the compensation for inserting any such paid advertisement shall in no case exceed the regular rate charged by such newspaper or periodical for such service. 1953

20-14-28. False statements in relation to candidates forbidden.

No person shall knowingly make or publish, or cause to be made or published, any false statement in relation to any candidate, proposed constitutional amendment or other measure, which is intended or tends to affect any voting at any primary, convention or election. 1953

20-14-29. False impersonation - Double voting.

Every person is guilty of a felony who at any primary or election applies for a ballot in the name of some other person, whether it is that of a person living or dead, or of a fictitious person, or who, having voted once at a primary or election, applies at the same election for a ballot in his own name or any other name, and shall be punished by imprisonment in the state prison at hard labor for not less than one nor more than three years. Any person who aids, abets, counsels or procures the commission of such felony shall be subject to the same penalty. 1953

20-14-30. Wagering on elections forbidden.

Any candidate before or during any primary or election campaign makes any bet or wager of anything of pecuniary value, or in any manner becomes a party to any such bet or wager, on the result of the primary or election, or on any event or contingency relating to any pending primary or election, or who provides money or other valuable thing to be used by any other person in betting or wagering upon the results of any impending primary or election, is guilty of a felony. Any person who makes any bet or wager of anything of pecuniary value on the result of any primary or election, or on any event or contingency relating thereto, is guilty of a misdemeanor, and, in addition thereto, any such act shall be a ground of challenge against his right to vote. Any person who, directly or indirectly, makes a bet or wager with any voter, depending upon the result of any impending primary or election, with the intent to prey in procuring the challenge of such voter, or to prevent him from voting at such primary or election, is guilty of a misdemeanor. 1953

20-14-31. Inducing attendance at polls - Payment of workers.

It shall be unlawful for any person to pay another for any loss due to attendance at the polls or in registering; provided, that this shall not be construed to permit an employer to make any deduction from the usual salary or wages of any employee while in attendance at the polls for the purpose of voting. No person shall pay for personal service performed or to be performed on the day of a caucus, primary, convention or election, or for any purpose connected therewith tending in any way, directly or indirectly, to affect the result thereof, except for the hiring of persons

whose sole duty it is to act as challengers and watch the count of official ballots. 1953

20-14-32. Repealed. 1953

20-14-33. Promises of appointment to office forbidden.

No person shall, in order to aid or promote his nomination or election, directly or indirectly, appoint or promise to appoint any person, or secure or promise to secure, or aid in securing the appointment, nomination or election of any person, in any public or private position or employment, or to any position of honor, trust or emolument. Nothing herein contained, however, shall prevent a candidate from stating publicly his preference for, or support of, any other candidate for any office to be voted for at the same primary or election, or prevent a candidate for any office in which the person elected will be charged with the duty of participating in the election or nomination of any person as a candidate for any office from publicly stating or pledging his preference for, or support of, any person for such office or nomination. 1953

20-14-34. Inducements not to become candidate.

No person shall pay or reward, or promise to pay or reward, another in any manner or form for the purpose of inducing him to be, or to refrain from or cease being, a candidate, and no person shall solicit any payment, promise or reward from another for such purpose. 1953

20-14-35. Ecclesiastical institutions may not solicit candidates.

No person shall demand, solicit, ask for or invite any payment or contribution for any religious, charitable or other cause or organization supposed to be primarily or principally for the public good from a person who seeks to be or has been nominated to any office; and no candidate shall make any such payment or contribution, if it shall be demanded or asked, during the time he is a candidate for nomination or election to any office. No payment or contribution for any purpose shall be made a condition precedent to the putting of a name on any caucus or convention ballot, or nomination paper or petition, or to the performance of any duty imposed by law on a political committee. 1953

20-14-36. Repealed. 1961

20-14-37. Exchange of convention credentials and support forbidden.

No person or persons shall invite, offer or effect the trade, transfer or exchange of any convention credential, or the vote or support of any delegate to any political convention, in a thing for any money or thing of value, or in exchange for any credential, or for the support or vote of any delegate for any person or candidate for any political office or nomination. 1953

20-14-38. Abetting violation of chapter - Penally.

Any person who shall aid, abet or advise a violation of any provision of this chapter, except as otherwise provided, shall be guilty of a misdemeanor. 1953

20-14-39. Prosecutions - Venue.

Violations of the provisions of this chapter respecting the payment of money or making contributions or rendering services may be prosecuted in the county where such payment or contribution is made, or ser-

vices rendered, or in any county wherein such money has been paid or distributed. 1953

20-14-40. Proceedings by private elector.

If any elector of the state shall have within his possession information that any provision of this chapter has been violated by any candidate for whom such elector had the right to vote, or by any personal campaign committee of such candidate or any member thereof, he may, by verified petition apply to a district judge of the district in which such violation has occurred, to the attorney general or to the governor for leave to bring a special proceeding to investigate and determine whether or not there has been such violation by such candidate, or by such committee or member thereof, and for appointment of special counsel to conduct such proceeding in behalf of the state.

If it shall appear from such petition or otherwise that such candidate, or committee or member thereof, has violated any provision of this chapter and that sufficient evidence is obtainable to show that there is probable cause to believe that such proceeding may be successfully maintained, then such judge, the attorney general or the governor shall grant leave to bring such proceeding and shall appoint special counsel to conduct the same.

If such leave is granted and such counsel is appointed, such elector may, by a special proceeding brought in the district court in the name of the state upon the relation of such elector, investigate and determine whether or not such candidate, or committee or member thereof, has violated any provision of this chapter, but nothing contained herein shall be construed as in any way limiting the effect or preventing the operation of other remedies existing in such cases. 1953

20-14-41. Hearings - Procedure.

In such proceeding the complaint shall be served with the summons and shall set both the time of the person whose election is contested and the grounds of the contest in detail, and shall not thereafter be amended except by leave of the court. The summons and complaint in the proceeding shall be filed within five days after service thereof.

The answer to the complaint shall be served and filed within 10 days after the service of the summons and complaint. Any allegation of new matter in the answer shall be deemed controverted by the adverse party without reply, and thereupon the proceeding shall be at issue and stand ready for trial upon five days' notice of trial.

All such proceedings shall have precedence over any civil cause of a different nature pending. The court shall always be deemed open for the trial thereof and the same shall be tried and determined as a civil action, but the court shall, without a jury, determine all issues of fact as well as issues of law. If more than one proceeding is pending on the election of more than one person to be investigated and contested, the court may in its discretion order the proceedings consolidated and heard together, and may equitably apportion costs and disbursements.

In all such proceedings either party shall have the right of change of venue as provided by law in civil actions, but application for such change must be made within five days after service of summons and complaint, and the order for such change, if made, shall be made within three days after the making of such application and the papers shall be transmitted forthwith. Any neglect of the moving party to procure

#### Historical and Statutory Notes

Sunset Act application: See Reviser's Note following § 42.17.350.

#### 42.17.430. Certification of reports

Every report and statement required to be filed under this chapter shall identify the person preparing it, and shall be certified as complete and correct, both by the person preparing it and by the person on whose behalf it is filed.

Enacted by Laws 1973, ch. 1, § 43, eff. Jan. 1, 1973 (Initiative Measure No. 276, § 43).

#### Historical and Statutory Notes

Sunset Act application: See Reviser's Note following § 42.17.350.

#### 42.17.440. Statements and reports public records

All statements and reports filed under this chapter shall be public records of the agency where they are filed, and shall be available for public inspection and copying during normal business hours at the expense of the person requesting copies, provided that the charge for such copies shall not exceed actual cost to the agency.

Enacted by Laws 1973, ch. 1, § 44, eff. Jan. 1, 1973 (Initiative Measure No. 276, § 44).

#### Library References

Records ↔14.  
C.J.S. Records § 35 et seq.

#### 42.17.450. Duty to preserve statements and reports

Persons with whom statements or reports or copies of statements or reports are required to be filed under this chapter shall preserve them for not less than six years. The commission, however, shall preserve such statements or reports for not less than ten years.

Enacted by Laws 1973, ch. 1, § 45, eff. Jan. 1, 1973 (Initiative Measure No. 276, § 45).

#### Historical and Statutory Notes

Sunset Act application: See Reviser's Note following § 42.17.350.

#### Library References

Records ↔13.  
C.J.S. Records §§ 34, 40.

### POLITICAL ADVERTISING

#### 42.17.505. Definitions

The definitions set forth in this section apply throughout RCW 42.17.510 through 42.17.540.

(1) "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

(2) "Sponsor" means the candidate, political committee, or person paying for the advertisement. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor.

(3) "Incumbent" means a person who is in present possession of an elected office.

Enacted by Laws 1988, ch. 199, § 1.

#### 42.17.510. Identification of sponsor—Exemptions

WASHINGTON

(1) All written political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name and address. All radio and television political advertising, whether relating to candidates or ballot propositions, shall include the sponsor's name. The use of an assumed name shall be unlawful. The party with which a candidate files shall be clearly identified in political advertising for partisan office.

(2) Political yard signs are exempt from the requirement of subsection (1) of this section that the name and address of the sponsor of political advertising be listed on the advertising. In addition, the public disclosure commission shall, by rule, exempt from the identification requirements of subsection (1) of this section forms of political advertising such as campaign buttons, balloons, pens, pencils, sky-writing, inscriptions, and other forms of advertising where identification is impractical.

(3) For the purposes of this section, "yard sign" means any outdoor sign with dimensions no greater than eight feet by four feet.

Enacted by Laws 1984, ch. 216, § 1.

#### Cross References

Advertising rates for political candidates, see § 65.16.095.

ments, see *Eu v. San Francisco County Democratic Central Committee*, 1989, 109 S.Ct. 1013, 103 L.Ed.2d 271.

#### United States Supreme Court

Freedom of speech and association.  
ban on political party primary endorse-

#### 42.17.520. Picture of candidate

At least one picture of the candidate used in any political advertising shall have been taken within the last five years and shall be no smaller than the largest picture of the same candidate used in the same advertisement.

Enacted by Laws 1984, ch. 216, § 2.

#### 42.17.530. False political advertising

(1) It is a violation of this chapter for a person to sponsor with actual malice:

(a) Political advertising that contains a false statement of material fact;

(b) Political advertising that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent;

(c) Political advertising that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.

(2) Any violation of this section shall be proven by clear and convincing evidence.

Enacted by Laws 1984, ch. 216, § 3. Amended by Laws 1988, ch. 199, § 2.

#### 42.17.540. Responsibility for compliance

(1) Except as provided in subsection (2) of this section, the responsibility for compliance with RCW 42.17.510 through 42.17.530 shall rest with the sponsor of the political advertising and not with the broadcasting station or other medium.

ATTACHMENT C

HB

86

# HOUSE COMMITTEE REPORT

(7)

Date Referred: January 30, 1991

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 2-22-91

The STATE AFFAIRS Committee considered:

HB 86

HOUSE BILL NO. 86

YEAR-END CAMPAIGN FINANCE REPORTS

"An Act relating to the date for filing of year-end campaign finance reports."

### RECOMMENDATIONS:

be-replaced with CS HB 86 (State Affairs)

the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

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

zero fiscal note Admin. 2-12-91

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

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not	No Rec	need
		Pass		
<i>[Signature]</i>				
<i>[Signature]</i>				
<i>[Signature]</i>				
<i>[Signature]</i>				
<i>[Signature]</i>				

Eugene G. Kubera  
Chairman's Signature

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HB 86

Revision Date: \_\_\_\_\_ Department Affected: Dept. of Administration  
 Title: An Act relating to the date for BRU: Alaska Public Offices Commission  
 filing year-end campaign finance reports  
 Sponsor: Judiciary Committee Component: \_\_\_\_\_  
 Requestor: House State Affairs COMPONENT SERIAL NO 

		7	0
--	--	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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
TOTAL OPERATING	0	0	0	0	0	0

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

There will be no fiscal impact

Prepared By: Karen Bookman *Karen Bookman* Phone: 276-4176  
 Division: Alaska Public Offices Commission Date: 2/12/91  
 Approved by Commissioner: Annie Laurie Howard, Chair *Annie Laurie Howard*  
 Agency: Alaska Public Offices Commission Date: 2/12/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

# Alaska State Legislature



## House of Representatives House Judiciary Committee

P. O. Box V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990  
(907) 465-4712

HB 86

### SPONSOR STATEMENT

Under present law, year-end campaign finance reports are required to be submitted to the Alaska Public Offices Commission on December 31.

This requirement is impractical and works a hardship on candidates and groups, as well as on the staff of A.P.O.C., for the following reasons:

1) contributions received on December 31 have to be submitted in an amended report;

2) bank statements verifying expenditures, receipts, and interest earned for the month of December are not received until late January or early February, often requiring the submission of amended reports;

3) the filing and processing of amended reports is an unnecessary burden on candidates, groups and staff of A.P.O.C.;

4) the public's "right to know" is not well-served by the present requirement because any elections are over and certified by December 31; and

5) in recognition of the impracticality of the December 31 deadline, A.P.O.C. has for several years allowed year-end reports to be filed well after the statutory date.

I ask your support for this technical, but helpful, change in our campaign finance reporting law.

7-LS0374G

Gaguine

2/19/91

*Rep. Kukina*

CS FOR HOUSE BILL NO. 86 (STATE AFFAIRS)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act setting the date of February 15 for filing year-end campaign finance reports;  
2 requiring reporting of zero year-end reports; and closing the two-day reporting gap in  
3 preelection reports."

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

5 \* Section 1. AS 15.13.110(a) is amended to read:

6 (a) Each candidate and group shall make a full report in accordance with AS 15.13.040  
7 for [DURING] the period ending three days before the due date of the report and beginning on  
8 the last day covered by the most recent previous report. If the report is a first report, it shall  
9 cover the period from the beginning of the campaign to the date [, OR, IF A FIRST  
10 REPORT, ALL CONTRIBUTIONS RECEIVED AND EXPENDITURES MADE BEFORE] three  
11 days before the due date of the report. If the report is a report due February 15, it shall  
12 cover the period beginning on the last day covered by the most recent previous report or  
13 on the day that the campaign started, whichever is later, and ending on December 31 of the  
14 prior year. The report shall be filed [AT THE FOLLOWING TIMES:]

- 1 (1) 30 days before the election; however, this report is not required if the deadline  
2 for filing a nominating petition or declaration of candidacy is within 30 days of the election;  
3 (2) one week before the election;  
4 (3) 10 [TEN] days after the election; and  
5 (4) February 15 [DECEMBER 31 OF EACH YEAR] for expenditures made and  
6 contributions received that [WHICH] were not reported during the previous [THAT] year or  
7 when no expenditures were made or contributions received during the previous year.

8 \* Sec. 2. AS 15.13.110(b) is amended to read:

- 9 (b) Each contribution or expenditure that [WHICH] exceeds \$250 and that [WHICH]  
10 is made within nine days [ONE WEEK] of the election shall be reported to the commission by  
11 date, amount, and contributor or recipient within 24 hours of receipt or expenditure by the  
12 candidate or campaign treasurer.



# Alaska State Legislature

HOUSE OF REPRESENTATIVES

Official Business

House State Affairs Committee

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

**FAX TRANSMISSION**

February 14, 1991

3 pages including cover

TO: Karen Boorman, Director  
APOC

FROM: Representative Gene Kubina  
465-4859

Karen:

Here is a draft copy of a CS for HB 86. The bill drafter did his best to incorporate the amendments you recommended in the APOC position paper and I'd like to get your feedback. Please give Mary McBurney a call if you have any comments or suggestions.

↓  
Rep Kubina

CS FOR HOUSE BILL NO. 86 (STATE AFFAIRS)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE JUDICIARY COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act setting the date of February 15 for filing year-end campaign finance reports;  
2 requiring reporting of zero year-end reports; and closing the two-day reporting gap in  
3 preelection reports.

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

5 • Section 1. AS 15.13.110(a) is amended to read:

6 (a) Each candidate and group shall make a full report in accordance with AS 15.13.040  
7 for [DURING] the period ending three days before the due date of the report and beginning on  
8 the last day covered by the most recent previous report. If the report is a first report, it shall  
9 cover the period from the beginning of the campaign to the date [ , OR, IF A FIRST  
10 REPORT, ALL CONTRIBUTIONS RECEIVED AND EXPENDITURES MADE BEFORE] three  
11 days before the due date of the report. If the report is a report due February 15, other than  
12 a first report, it shall cover the period beginning on the last day covered by the most recent  
13 previous report and ending on December 31 of the prior year. The report shall be filed [AT  
14 THE FOLLOWING TIMES:]

*ATC  
changes*

*Wording: delete "other than last report"*  
New text underlined (old (DELETED TEXT BRACKETED)

1991 LEGISLATION  
POSITION PAPER  
DEPARTMENT OF ADMINISTRATION

Division Alaska Public Offices Commission Bill Number HB 86

Bill Title An Act relating to the date for filing of year-end campaign finance reports.

Position Statement: Explain briefly what bill does, its impacts and Department's position, i.e.  
a) support, b) do not support, c) neutral or d) oppose.

SEE ATTACHED

APPROVED:

Director Karen Boorman Division AK Public Offices Commission  
print name

Signature Karen Boorman Date 2/12/91

Commissioner Millet Keller

Signature \_\_\_\_\_ Date \_\_\_\_\_

(For more information, call Barbara Pritchett 465-2200)

Rev. 1/23/91

Annie Laurie Howard Date 2-12-91  
Annie Laurie Howard, Chair  
Alaska Public Offices Commission

POSITION PAPER

APOC

HB 86

"An Act relating to the date for filing of year-end campaign finance reports."

This bill extends the deadline for year-end campaign disclosure reports from December 31 of each year to February 15 of the following year. This will allow candidates and groups the use of January bank statements and a longer time period to prepare a year-end report.

The Alaska Public Offices Commission has reviewed HB 86. This bill impacts the campaign disclosure law, AS 15.13 which the commission administers. The commission supports this legislation. The one month delay in year-end campaign disclosure report availability to the public is offset by more complete and accurate reports. (By APOC regulation 2 AAC 50.390, fines are not assessed until after January 16.)

The commission would like to request three additional changes to the legislation.

Amendment 1

The first clarifies the scope of the February 15 (year-end) report. The year-end reporting period starts with the most recent report filed or with the beginning of the campaign, whichever is later. The reporting period ends with the previous calendar year, not on February 12. This allows six weeks to fill out and file year-end reports.

Section 1, lines 6 and 7 ". . . day covered by the most recent

previous report[,] (or 1) if it is a first report, it shall cover all contributions received and expenditures made before three days before the due date of the report. If it is a report due February 15, it shall cover the period beginning on the last day covered by the most recent previous report or the beginning of the campaign, whichever is later, and ending with December 31 of the prior year. The report shall be filed . . .".

#### Amendment 2

The second would make zero year-end reports mandatory. This would allow APOC to monitor report filing and notify filers if no report is received. Currently, reports are filed only if activity has taken place since the last report. Filing a zero activity report is optional. APOC has no way of knowing and subsequently reminding a candidate or group whether a report should be filed. Requiring zero reports will avoid the problem of discovering at a later date that a report should have been filed and a significant fine has accrued.

Section 1, lines 13 and 14 "(4) February 15 [December 31 of each year for expenditures and contributions received which were not reported that year]."

When read in conjunction with 2 AAC 50.332(a), this change makes it clear that zero year-end reports are mandatory.

#### Amendment 3

The third suggestion involves a separate issue. Currently the statute is worded such that an inadvertent two day reporting gap occurs between the seven day pre-election reports and the 24 hour reports. Contributions over \$250 that should be reported during

the week before the election are not reported until the 10 day post-election report.

Amend AS 12.13.110(b) to read:

(b) Each contribution or expenditure that [which] exceeds \$250 and that [which] is made within nine days [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 candidate or campaign treasurer.

Since this last request changes the twenty four hour report filing, the title should be amended to delete "year-end".

**2 AAC 50.330. REPORTING CAMPAIGN EXPENDITURES FOR TRANSPORTATION.**  
Repealed 1/4/86.

**2 AAC 50.332. REPORTING ZERO CONTRIBUTION OR EXPENDITURE ACTIVITY.** (a) Each candidate or group required to file a full report of all contributions received and expenditures made in accordance with AS 15.13 and this chapter shall report in accordance with the reporting schedule set out in AS 15.13.110(a), regardless of the amount of their reportable contributions or expenditures. In the absence of any contribution or expenditure activity whatsoever during a reporting period, each candidate or group not already exempt from reporting under (b) or (c) of this section shall submit by the appropriate due date the "Short Form" on Schedule A of the Campaign Disclosure Statement certifying that no contributions have been received or expenditures made.

(b) A candidate who does not intend to receive or accept contributions, or make expenditures during his campaign for municipal or state public office, including any personal campaign contributions or expenditures, may file APOC Form 15-0, the "Campaign Reporting Exemption Form." A candidate who files the exemption form is not required to submit any other reports to the commission concerning his campaign. The reporting exemption is revoked if a candidate accepts contributions or spends money to influence his election. A candidate whose exemption is revoked must immediately register his change of status on APOC Form 15-1 and, in accordance with AS 15.13.110, must disclose his campaign contribution and expenditure activity beginning with the first campaign disclosure report due following his change in status. Failure to report campaign contribution or expenditure activity after the reporting exemption is revoked subjects the candidate to both civil and criminal penalties for noncompliance with the reporting requirements of AS 15.13 and 2 AAC 50.

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

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

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

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

## REPORTING DATES

<u>REPORT TITLE</u>	<u>REPORTING PERIOD</u>	<u>DUE DATE</u>
1989 YEAR END	BEGINNING OF CAMPAIGN OR JANUARY 1 - DECEMBER 31, 1989	JANUARY 16, 1990
<u>PRIMARY ELECTION</u> <u>AUGUST 28, 1990</u>		
30 DAY PRE-PRIMARY	BEGINNING OF CAMPAIGN - JANUARY 1, 1990 - JULY 26, 1990	JULY 30, 1990
7 DAY PRE-PRIMARY two day gap	JULY 27, 1990 - AUGUST 18, 1990	AUGUST 21, 1990
24 HOUR REPORT	AUGUST 21, 1990 - AUGUST 27, 1990	WITHIN 24 HOURS OF RECEIPT OF +\$250.
10 DAY POST-PRIMARY	AUGUST 19, 1990 - SEPTEMBER 4, 1990	SEPTEMBER 7, 1990
<u>GENERAL ELECTION</u> <u>NOVEMBER 6, 1990</u>		
30 DAY PRE-GENERAL	SEPTEMBER 5, 1990 - OCTOBER 4, 1990	OCTOBER 9, 1990
7 DAY PRE-GENERAL two day gap	OCTOBER 5, 1990 - OCTOBER 27, 1990	OCTOBER 30, 1990
24 HOUR REPORT	OCTOBER 30, 1990 - NOVEMBER 5, 1990	WITHIN 24 HOURS OF RECEIPT OF +\$250.
10 DAY POST-GENERAL	OCTOBER 28, 1990 - NOVEMBER 13, 1990	NOVEMBER 16, 1990
1990 YEAR-END	NOVEMBER 14, 1990 - DECEMBER 31, 1990	JANUARY 15, 1991



# House State Affairs Committee

## Representative Gene Kubina, Chair

**DATE:** Feb. 22, 1991

**PLACE:** Capitol, Room 102

**SUBJECT OF MEETING:**  
 HB 86 - Relating to Year-End Campaign Finance Reports  
 HB 126 - Relating to Program Receipts Clean-Up

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Jay Hogan	Rep. Brown	502 Capitol			3727	Y	N	
John Lindback	Rep. Brown	513 Capital			3998	Y	N	
DAVE DIERDORFF	LAA	510 COURT PLAZA			2450	Y	N	HB 126
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	

HB

91

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 1, 1991

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 4-12-91

The STATE AFFAIRS Committee considered:

HB 91

HOUSE BILL NO. 91

JURISDICTION OF DISTRICT COURT

"An Act relating to the jurisdiction of the district court."

RECOMMENDATIONS:

be replaced with \_\_\_\_\_ [ ] the same title

[ ] have attached amendments(s) [ ] a new title

[x] do pass

[ ] do not pass

[ ] no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal impact \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

(2) [x] zero fiscal notes Alaska Court System  
Dept. of Law

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	Check appropriate column:	Do Not Pass	No Rec	Amend
<i>Gene Kubina</i>				
<i>[Signature]</i>				
<i>[Signature]</i>				
<i>[Signature]</i>				
<i>[Signature]</i>				
<i>[Signature]</i>				

*Gene Kubina*  
Chairman's Signature

**FISCAL NOTE**

**STATE OF ALASKA**  
**1991 LEGISLATIVE SESSION**

Bill No. HB 91

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act relating to the jurisdiction of BRU: Trial Courts  
the District Court Components: \_\_\_\_\_  
 Sponsor: Judiciary  
 Requestor: Judiciary Committee COMPONENT SERIAL NO. 000 | 000 | 000 | 788

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

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

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

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

**FUNDING: (Thousands of Dollars)**

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

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

Prepared by: C. S. Christensen III, Staff Counsel *C. S. Christensen III* Phone: 264-8228  
 Division: Alaska Court System Date: 02/08/91

Approved by: Arthur H. Snowden, II, Administrative Director *Stephanie Cole, for*  
 Agency: Alaska Court System Date: 02/08/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HB 91

Revision Date: \_\_\_\_\_ Department Affected: Department of Law  
 Title: "An Act relating to the jurisdiction of the district court." BRU: Legal Services  
 Component: Operations  
 Sponsor: House Judiciary by Request  
 Requestor: House State Affairs COMPONENT SERIAL NO. 

		9	3
--	--	---	---

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Please see the attached analysis.

Prepared By: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: April 11, 1991  
 Approved by Commissioner: Richard I. Pegues / FOR / Charles D. Cole, Attorney General  
 Agency: Department of Law Date: April 11, 1991

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 91

This bill amends AS 09.50.250 and AS 22.15.050, to provide that persons having claims against the state may bring an action in district court. Heretofore, actions against the state have been required to be filed in superior court. The Department of Law believes that the bill, in its present form, has the potential of encouraging unnecessary litigation, which could have a substantial fiscal impact on the department and the Division of Risk Management because it would make the relaxed small claim rules available for these claims.

The department therefore recommends that the bill be amended to deny access to small claims when the state is a defendant, by amending AS 22.15.040(a). This recommended change is shown below for your consideration.

AS 22.15.040(a) is amended to read:

(a) When a claim for relief does not exceed \$5,000 exclusive of costs, interest, and attorney fees, and request is so made, the district judge or magistrate shall hear the action as a small claim unless important or unusual points of law are involved or unless the state is a defendant. The supreme court shall prescribe the procedural rules and standard forms to assure simplicity and the expeditious handling of small claims.



Alaska Court System  
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III  
Staff Counsel

303 K Street  
Anchorage, AK 99501  
(907) 264-8228

February 8, 1991

The Honorable Gene Kubina  
Chairman, House State Affairs Committee  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Kubina:

I am writing to request that the State Affairs Committee schedule a hearing on House Bill 91, relating to the jurisdiction of the district court, at its earliest convenience. This bill was introduced at the request of the Alaska Court System.

Current law provides that the superior court has jurisdiction in civil cases exceeding \$50,000 in value; the district court has jurisdiction over claims not exceeding that amount. However, current law also requires that all actions against the state be brought in superior court, regardless of the size of the claim. This has resulted in situations like one which took place recently in Fairbanks, when the superior court was used to try a \$2000 claim against the state. Not only is \$2000 significantly less than the maximum amount of the district court's jurisdiction, it is significantly less than the maximum amount of a small claims case (\$5,000).

This restriction on district court jurisdiction was enacted at the time of statehood, when district court judges were not required to be attorneys. The prevailing view was that cases in which the state was a defendant should not be decided by a court presided over by a person who was not learned in the law. Today, however, this distinction is an anachronism, since a district court judge must be licensed to practice law in Alaska, and is subject to the same appointive and retention election processes as are judges of the superior court.

The Honorable Gene Kubina  
February 8, 1991  
Page 2

HB 91 proposes to treat the state like any other litigant, by making it subject to the jurisdiction of the district court when the matter in controversy does not exceed \$50,000.

As drafted, HB 91 would make the following changes to existing law:

Section 1. Amends AS 09.50.250, relating to sovereign immunity. The existing statute requires that a contract, quasi-contract or tort claim against the state be brought in superior court. This section deletes that requirement.

Section 2. Amends AS 22.15.050, relating to the jurisdiction of the district court. The existing statute provides that the jurisdiction of that court does not extend to cases in which the state is a defendant. This section deletes that restriction on jurisdiction.

Please feel free to contact me if you have any questions or comments.

Very truly yours,



C. S. Christensen III  
Staff Counsel

CSC:bh

Encl.



# House State Affairs Committee

## Representative Gene Kubina, Chair

DATE: April 10, 1991

PLACE: Capitol, Room 102

**SUBJECT OF MEETING:**  
 \*HB 91 - Relating to Jurisdiction of District Court  
 \*HB 234 - Relating to Assignment of Right to PF Dividends  
 SCR 20 - Relating to Kodiak Island as a Bicentennial City

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/WHICH BILL?
Tom Williams	Dept. of Revenue	P.O. Box S-0464 Juneau AK	99511		465-2323	(Y) N	HB 234
C.S. CHRISTENSEN	ALASKA COURT SYSTEM	303 K ST. ANCH	99501		463-4970 264-8228	(Y) N	HB 91
TOM PANAMAROFF	Sen Zharoff	P.O. Box V JUNEAU AK	99801		465-3473	(Y) N	SCR 20
JEFF BUSH	Dept. of Law	P.O. Box K, Juneau	99801		465-3600	(Y) N	HB 234
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

HB

92

# HOUSE COMMITTEE REPORT

(7)  
Date Referred: February 1, 1991

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 3-6-91

The STATE AFFAIRS Committee considered:

HB 92

HOUSE BILL NO. 92

JRS BENEFITS/ACCTS EXEMPT FROM LEVY

"An Act establishing an exemption for the judicial retirement system."

**RECOMMENDATIONS:**

be replaced with \_\_\_\_\_ [ ] the same title

[ ] have attached amendments(s) [ ] a new title

[  ] do pass

[ ] do not pass

[ ] no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

[ ] fiscal impact \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

[  ] zero fiscal note AK Court System 2-8-91

[ ] zero fiscal note(s) \_\_\_\_\_

**SIGNING DO PASS:**

**SIGNING OTHER RECOMMENDATIONS:**

	Check appropriate column:	Do Not Pass	No Rec	Amend
<i>Gene Kubina</i>				
<i>T. Williams</i>				
<i>E. Spender</i>				
<i>Ray W. Jan</i>				
<i>Mike Miller</i>				
<i>D. J. ...</i>				
<i>David ...</i>				

*Gene Kubina*  
Chairman's Signature

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Bill No. HB 92

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act establishing an exemption for BRU: Trial Courts  
the Judicial Retirement System Components: \_\_\_\_\_  
 Sponsor: Judiciary  
 Requester: Judiciary Committee COMPONENT SERIAL NO. 000 | 000 000 | 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)  
  
No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *C. Christensen* Phone: 264-8228  
 Division: Alaska Court System Date: 02/08/91

Approved by: Arthur H. Snowden, II, Administrative Director *Stephanie Cole*  
 Agency: Alaska Court System Date: 02/08/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).



Alaska Court System  
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III  
Staff Counsel

303 K Street  
Anchorage, AK 99501  
(907) 264-8228

February 15, 1991

The Honorable Gene Kubina  
Chairman, House State  
Affairs Committee  
P.O. Box V  
Juneau, Alaska 99811

Dear Representative Kubina:

I am writing to request that the State Affairs Committee schedule House Bill 92, relating to the Judicial Retirement System (JRS), at its earliest convenience. This bill was introduced at the request of the Alaska Court System.

HB 92 proposes amendments to AS 09.38.015(b), a provision of the Alaska Exemptions Act. As you know, that act provides debtors with certain protection from creditors. AS 09.38.015(b) specifically provides that a creditor (other than a bankruptcy creditor) may not seize amounts held in an individual debtor's Teachers' Retirement System (TRS) account or Public Employees' Retirement System (PERS) account.

Through an oversight, this statute does not provide the same protection to participants in the JRS. HB 92 merely adds the JRS to the existing exemption list, giving participants in that system the same protection currently granted to participants in the TRS and PERS.

The Conference of Alaska Judges passed a resolution in support of the judicial exemption in 1986; a copy of this resolution is attached. The bill has no fiscal impact.


CONFERENCE OF ALASKA JUDGES

Resolution No. 86 - 03

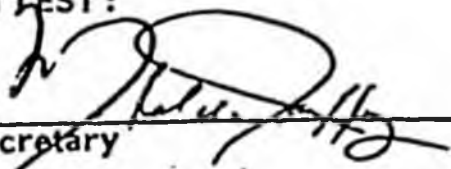
A RESOLUTION SUPPORTING EXEMPTION OF JUDICIAL RETIREMENT FUNDS FROM EXECUTION

IT IS HEREBY RESOLVED by the Conference of Alaska Judges that the Court Administration propose the amendment of Alaska Statutes Section 09.38.015 to exempt funds held in the Judicial Retirement System from execution.

PASSED this 2nd day of July, 1986, at Anchorage, Alaska, by the members of the Conference of Alaska Judges.

  
HERSCHEL "ED" CRUTCHFIELD  
President

ATTEST:

  
Acting Secretary



# House State Affairs Committee

## Representative Gene Kubina, Chair

DATE: March 6, 1991

PLACE: Capitol, Room 102

**SUBJECT OF MEETING:**

HB 92 - Relating to JRS Benefits/Acts  
Exempt from Levy  
HJR 23 - Relating to Gambell/Sister City  
Nuvoye Chaplino

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
BOB STALNAKER	RETIREMENT & BENEFIT	P.O. Box CR			4470	Y	<input checked="" type="radio"/> N	HR 92 IF NEEDED
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	

HB

95

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 1, 1991

FURTHER REFERRALS:

Finance

Date of Committee Action: 3-20-91

The STATE AFFAIRS Committee considered:

HB 95

HOUSE BILL NO. 95

AK-KLONDIKE GOLD RUSH CENTENNIAL COMM'N

"An Act establishing the Alaska-Klondike Gold Rush Centennial Commission; and providing for an effective date."

RECOMMENDATIONS:

be replaced with CS HB 95  the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: House State Affairs letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact Commission & Special Offices  fiscal note(s) \_\_\_\_\_

zero fiscal note DNR  zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

	.Check appropriate column:	Do Not	No Rec	Amend
		Pass		
<u>Tom Sawyer</u>	<u>Drino</u>		<input checked="" type="checkbox"/>	
	<u>[Signature]</u>		<input checked="" type="checkbox"/>	
	<u>[Signature]</u>		<input checked="" type="checkbox"/>	

Tom Sawyer  
Chairman's Signature



Official Business

# Alaska State Legislature

HOUSE OF REPRESENTATIVES

House State Affairs Committee

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

HOUSE STATE AFFAIRS COMMITTEE

LETTER OF INTENT

For

CSHB 95 (State Affairs)

It is the intent of the Legislature by enactment of HB 95 that the Alaska-Klondike Gold Rush Centennial Task Force shall encourage and aggressively solicit monetary contributions from private sector individuals and companies to reduce the state contribution to the the task force budget.

A handwritten signature in cursive script, appearing to read "Tom Meyer".

---

House State Affairs Committee

March 20, 1991

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HB 95

Revision Date: 19-Mar-91 Department Affected: Natural Resources  
 Title: Alaska-Klondike Gold Rush BRU: Land & Water  
Centennial Commission Components: Land & Water  
 Sponsor: Rep. Mackie  
 Requestor: House State Affairs COMPONENT SERIAL NO. 431

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of Current year impact:

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Gary Gustafson Phone: 762-2672  
 Division: Land & Water Date: 19-Mar-91

Approved by Commissioner: Harold Heinze Date: 19-Mar-91  
 Agency: Department of Natural Resources

Distribution (by preparer) : Legislative Finance, legislative Sponsor, Requestor, OMB,  
& Impacted Agency(ies).

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HB 95

Revision Date: \_\_\_\_\_ Department Affected: Office of the Governor  
 Title: "An Act establishing the Alaska-Klondike Gold Rush Commission,..." BRU: Commissions and Special Offices  
 Component: Alaska-Klondike Gold Rush Commission  
 Sponsor: Representative Mackie  
 Requestor: House State Affairs COMPONENT SERIAL NO. 

N	A		
---	---	--	--

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	56.5	58.4	60.2	62.1	64.0	66.2
TRAVEL	10.8	6.8	6.8	6.8	6.8	6.8
CONTRACTUAL	68.7	68.0	68.0	68.0	68.0	68.0
SUPPLIES	1.7	1.7	1.7	1.7	1.7	1.7
EQUIPMENT	11.2	.5	.5	.5	.5	.5
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	148.9	135.4	137.2	139.1	141.0	143.2

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	148.9	135.4	137.2	139.1	141.0	143.2
FEDERAL FUNDS						
OTHER						
TOTAL	148.9	135.4	137.2	139.1	141.0	143.2

POSITIONS:

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

Estimate of current year impact: none

ANALYSIS: (Attach a separate page if necessary.)  
See attached analysis

Prepared By: Michael A. Nizich, Director *Man* Phone: 465-3616  
 Division: Division of Administrative Services Date: 3-4-91  
 Approved by Commissioner: D. Max Hodel, Chief of Staff *[Signature]*  
 Agency: Office of the Governor Date: 3/5/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

PERSONAL SERVICES 56.5

Bill sponsor does not envision the Executive Secretary in the context of the proposed legislation as a secretarial position. A survey of boards in the Department of Commerce and Economic Development with Executive Secretaries indicates appropriate range to be 18. Request for New Position form is attached. Salary shown is step A for FY 91 and includes a one-step merit increase for subsequent years.

Fiscal note assumes administrative support needs of the Commission will be provided by the Office of the Governor.

TRAVEL 10.8

Travel assumes one face-to-face meeting annually and three teleconference meetings. The FY 92 travel estimate includes an additional face-to-face meeting for the Commission's first organization meeting.

Two face-to-face meetings (first year only)

Airfare for seven public members x 2 meetings  
includes airfare for Executive Secretary for  
one meeting 5,496

Per Diem includes average per diem rates for  
seven members for two meetings and an additional  
per diem calculation for Executive Secretary  
travel for one meeting 3,090

Teleconference meetings

Per diem for seven members attending three  
teleconferences 2,205

Total Travel: 10,791

CONTRACTUAL 68.7

Communication:

Telephone (toll costs, base/local fixed costs, centrex network costs) 500/mo x 12 months	6,000	
Telecopier charges -- 100/mo x 12 months	1,200	
Teleconference charges -- 3 @ 2400 (3 teleconferences at 10 sites for 3 hrs.)	7,200	
Postage -- 300/mo x 12	3,600	18,000

Contractual - continued

Transportation:

Freight and express charges -- 75/mo x 12 900

Advertising, Printing & Binding:

Subscriptions	75	
Advertising -- 5 meetings x 750	3,750	
Printing -- 4 newsletters x 800 each	3,200	
Annual report	7,500	
Forms, misc.	750	15,275

Minor Repair, Maintenance 1,200

Rental for Space:

150 sq. ft. x \$1.85/sf 3,330

Other Expenditures and Services:

Includes funding for secretarial services  
to take and transcribe minutes of meetings;  
newsletters and annual report preparation 30,000

Total Contractual: 68,705

**SUPPLIES AND MATERIALS 1.7**

Office and library supplies, 100/mo x 12 =	1,200	
Data processing supplies =	500	1,700

**EQUIPMENT 11.2**

Communication Equipment:

Phone	500	
FAX Machine	2,500	3,000

Data Processing Equipment:

1 PC/printer/software 6,600

Furniture/Office Equipment:

Desk, chair, etc.	=	975	
2 file cabinets	=	400	
Bookcase	=	200	1,575

Total Equipment: 11,175



REPRESENTATIVE  
JERRY MACKIE

P O BOX 73  
CRAIG, ALASKA 99821  
(907) 828 3008 OFFICE  
(907) 828 2930 HOME

CHAIRMAN,  
COMMUNITY & REGIONAL AFFAIRS COMMITTEE

VICE CHAIRMAN,  
TRANSPORTATION COMMITTEE

# Alaska State Legislature



WHILE IN JUNEAU  
P O BOX V  
JUNEAU, ALASKA 99811  
(907) 485 4925

## House of Representatives

### SPONSOR'S STATEMENT REP. JERRY MACKIE HB 95

This legislation establishes the Alaska-Klondike Gold Rush Centennial Commission for the purpose of managing and publicizing the 100th anniversary of the gold rush of 1898.

This legislation was brought to my attention by different constituents seeking to develop a celebration to commemorate the beginning of the greatest and most sustained gold rush of the 19th century.

The rush to the Yukon to seek the huge gold nuggets spawned the development of the territory of Alaska and consumed the imagination of all the world. It generated poets such as Robert Service and added to the fame of authors such as Jack London. The Gold Rush of 1898 still sparks the imagination of people throughout the world. The work of the commission can only add to the legacy of gold fever and the original flight to Alaska and the Yukon.

I urge your positive consideration of this legislation.

REPRESENTATIVE  
JERRY MACKIE

P O BOX 73  
CRAIG, ALASKA 99921  
(907) 826-3008 OFFICE  
(907) 826-2930 HOME

CHAIRMAN  
COMMUNITY & REGIONAL AFFAIRS COMMITTEE

VICE CHAIRMAN  
TRANSPORTATION COMMITTEE

# Alaska State Legislature



WHILE IN JUNEAU  
P O BOX V  
JUNEAU, ALASKA 99811  
(907) 485-4925

## House of Representatives

### PROPOSED COMMITTEE SUBSTITUTE

HB 95

STATEMENT OF

REP. JERRY MACKIE

I am submitting for the Committee's review, a proposed committee substitute for HB 95. This committee substitute addresses several concerns that were presented to me as work has continued on this piece of legislation.

The first issue of concern was that the legislative findings in Sec. 1 of the original bill does not accurately reflect the historical facts of the Gold Rush of 1898. The proposed committee substitute makes the necessary corrections.

A second issue is the size of the fiscal note attached to creating a commission and placing it in the Office of the Governor. To address the expense of a new commission, I am proposing to eliminate the position of executive secretary to the commission. This will reduce the fiscal impact and not create a new position that is hard to justify in the early days of the commission.

Third, a change is being made in the location and title of the commission. This change is being made in response to a suggestion from the Office of the Governor to create a task force rather than a commission. It was further suggested that a more appropriate location for this new constituted task force would be with the Alaska Historical Commission in the Division of Parks and Outdoor Recreation. These changes are also reflected in the proposed committee substitute.

I recommend that the changes represented be accepted by the Committee. Your positive consideration is greatly appreciated.

CS FOR HOUSE BILL NO. 95 ( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVE MACKIE

A BILL  
FOR AN ACT ENTITLED

1 "An Act establishing the Alaska-Klondike Gold Rush Centennial Task Force; and providing  
2 for an effective date."

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

4 \* Section 1. LEGISLATIVE FINDINGS. The legislature finds that

5 (1) even though the gold rush of 1898 was centered in the Klondike region of the Yukon,  
6 Alaska was also involved in the gold rush, and it significantly affected the development of Alaska as  
7 a whole;

8 (2) because of the general significance of this gold rush to Alaska and the Yukon, it is  
9 appropriate to hold a statewide celebration for its centennial.

10 \* Sec. 2. AS 44.37 is amended by adding new sections to read:

11 ARTICLE 2. ALASKA-KLONDIKE GOLD RUSH CENTENNIAL TASK FORCE.

12 Sec. 44.37.200. CREATION, COMPOSITION, AND ORGANIZATION OF TASK  
13 FORCE. (a) The Alaska-Klondike Gold Rush Centennial Task Force is established in the office  
14 of history and archaeology in the division of parks and outdoor recreation in the Department of

1 Natural Resources.

2 (b) The task force consists of the director of the division of tourism in the Department  
3 of Commerce and Economic Development, the director of the division of parks and outdoor  
4 recreation in the Department of Natural Resources, and seven members appointed by the  
5 governor. The task force members appointed by the governor shall include

6 (1) five individuals, with a sincere interest in the history of the Klondike gold  
7 rush and in the role played by the state in the gold rush;

8 (2) two individuals who are recognized for their expertise in the history of the  
9 gold rush and are not employees of a governmental agency.

10 (c) The task force shall elect a chair and a vice-chair from among its members.

11 Sec. 44.37.205. COMPENSATION; STAFF, AND OPERATING EXPENSES. (a)  
12 Members of the task force serve without compensation, but are entitled to per diem and travel  
13 expenses authorized for boards and commissions under AS 39.20.180.

14 (b) The Department of Natural Resources shall provide administrative support for the task  
15 force.

16 Sec. 44.37.210. TERM OF OFFICE AND VACANCIES; MEETINGS. (a) The term  
17 of office of a member of the task force is for the duration of the task force.

18 (b) A member may resign by submitting a written resignation to the governor.

19 (c) A vacancy on the task force shall be filled by the governor.

20 (d) A majority of the members constitutes a quorum for conducting business and  
21 exercising the powers of the task force. The task force shall meet at the call of the chair, at the  
22 request of the majority of the members, or at a regularly scheduled time as determined by a  
23 majority of the members. The task force shall hold at least one meeting each year that is not by  
24 teleconference.

25 Sec. 44.37.215. DUTIES. (a) The task force shall plan, coordinate, and oversee the  
26 events to be conducted or sponsored by the state to celebrate the centennial of the Klondike gold  
27 rush of 1898. The task force shall coordinate these events with the Klondike gold rush  
28 celebrations planned by Canada.

29 (b) During the regular session of the legislature each year the task force shall report to  
30 the governor and to the legislature on the performance of the duties of the task force under (a)  
31 of this section. The report must include a statement of the short-term and long-term goals of the

1 task force for the celebration.

2 Sec. 44.37.220. DEFINITION. In AS 44.37.200 - 44.37.220, "task force" means the  
3 Alaska-Klondike Gold Rush Centennial Task Force.

4 \* Sec. 3. AS 44.37.200, 44.37.205, 44.37.210, 44.37.215, and 44.37.220 are repealed.

5 \* Sec. 4. FIRST MEETING. The governor shall call the first meeting of the Alaska-Klondike Gold  
6 Rush Task Force, established under AS 44.37.200, as added by sec. 2 of this Act, within 60 days after  
7 all of the members of the task force have been appointed.

8 \* Sec. 5. Section 3 of this Act takes effect July 1, 1999.

9 \* Sec. 6. Sections 1, 2, and 4 of this Act take effect immediately under AS 01.10.070(c).

# STATE OF ALASKA

## DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

400 WILLOUGHBY AVENUE  
JUNEAU, ALASKA 99801-1796  
PHONE: (907) 465-2400  
FACSIMILE: (907) 586-2754

March 19, 1990

The Honorable Gene Kubina, Chair  
House State Affairs Committee  
P.O. Box V  
Juneau, AK 99811

Dear Representative Kubina:

**Subject:** HB 95, which establishes the Alaska-Klondike Gold Rush Centennial Commission.

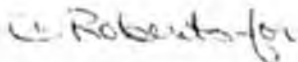
**Position:** DNR supports the intent of this bill. Alaska's gold rush history can be a significant economic asset with regards to the visitor industry as well as a vehicle for explaining the role of mining in the settlement and growth of the state.

**Background:** Last fall, the Alaska Historical Commission proposed to Governor Hickel that a task force be created to assist the state in planning and celebrating the significant anniversaries in the decade of the 1990's.

**Recommendation:** The Department recommends that the scope of the Commission be expanded to include celebrations across the state during the era 1896-1906. Celebrations should coordinate with gold rush events planned in Canada when appropriate.

The Department further recommends that the Alaska-Klondike Gold Rush Commission be a special project under the auspices of the Alaska Historical Commission to benefit from the procedures already in place through DNR.

Sincerely,



Harold C. Heinze  
Commissioner

cc: Committee Members  
Representative Mackie  
Bruce Kendall, Legislative Liaison, Office of the Governor

# Alaska State Legislature



P.O. Box Y  
Juneau, AK 99811-3100  
Phone: (907) 165-3991  
Fax: (907) 163-3351

Legislative Research Agency

March 18, 1991

## MEMORANDUM

TO: Representative Jerry Mackie

FROM: Deborah L. Davidson *DL*  
Legislative Analyst

RE: Legislative Appropriations to Commissions Established to Commemorate  
Events or People  
Research Request 91.207

You asked for information about legislative appropriations to commissions established to commemorate events or people (e.g., the Silver Anniversary Commission or the Alcan Highway 50th Anniversary). We reviewed laws identified from the following sources in an attempt to identify all such commissions established since 1981:

- STAIRS search of session laws and resolves for the terms "commission" with "appropriation" or "appropriated";
- STAIRS search of session laws and resolves for the terms "anniversary," and derivatives of the terms "celebrate" and "commemorate";
- session laws and resolves indexed under Boards/Commissions in the *Session Laws* of each year;
- session laws indexed under Appropriations in the *Session Laws* of each year; and
- bills and resolutions listed under new legislation in each year's budget.

The attached table lists commissions identified by this agency that were established to commemorate events or people since 1981.<sup>1</sup> We caution that it may not be all inclusive. We are also unsure that the total amount allocated to individual commissions is represented. Funds may have been provided through individual agency budget (particularly in the grants and contracts category). In addition, some of the appropriation amounts were stated in legislative intent rather than as line item appropriations.

I hope you find this information useful. If you have any questions, please contact us.

Attachment

---

<sup>1</sup>We asked staff at the Office of Management and Budget (OMB) to check their database for any appropriations this agency may have inadvertently missed. The OMB database is not set up to allow key word searches; however some appropriations have been categorized in a type of subject summary. No additional appropriations were found.

## LEGISLATIVE APPROPRIATIONS TO COMMITTEES ESTABLISHED TO COMMEMORATE EVENTS OR PEOPLE

### Appropriations

#### Silver Anniversary Commission

Chapter 74, SLA 81, established the commission within DCED to solicit proposals and develop a statewide plan to celebrate the 25th anniversary of statehood. 0

No appropriations were made directly to the commission. A \$200,000 contract was given to Alaska 1984 by the Division of Tourism and the commission awarded Alaska 1984 a \$3.5 million sole-source contract. For more information see the attached Legislative Audit report.

Silver Anniversary Commission TOTAL 0

#### House of Wickersham Task Force

Legislative Resolve 30, SLA 81, requested the governor to establish this task force to develop a plan for the operation and preservation of the House of Wickersham. \$17,400

House of Wickersham TOTAL \$17,400

#### Senate Special Committee on William Egan

Senate Resolve 6, SLA 84, formed a special Senate committee to make recommendations on ways to commemorate William Egan. \$100,000

William Egan TOTAL \$100,000

#### Martin Luther King, Jr. State Holiday Commission

Section 85 of Chapter 105, SLA 85, directed the Office of the Governor to establish and operate a Martin Luther King, Jr. State Holiday Commission in support of the Federal Holiday Commission. \$16,800

Section 118 of Chapter 130, SLA 85, appropriated to DCRA operating funds for the commission. \$15,000

Martin Luther King TOTAL \$31,800

#### Commission to Commemorate the Bicentenary of the U.S. Constitution

Legislative Resolve 41, SLA 86, requested the Governor to establish this commission. A zero fiscal note was submitted. \$0

## LEGISLATIVE APPROPRIATIONS TO COMMITTEES ESTABLISHED TO COMMEMORATE EVENTS OR PEOPLE

	<u>Appropriations</u>
<b>Bunnell Commemoration</b>	
Line 21, page 114 of Chapter 95, SLA 87, legislative intent language stated that this amount of the UAF appropriation was to be used for the Bunnell Commemoration.	\$25,000
<b>Bunnell TOTAL</b>	<b>\$25,000</b>
<b>Alcan Highway 50th Anniversary--Project '92</b>	
Line 18, page 50 of Chapter 154, SLA 88, legislative intent stated that the Division of Tourism was to use this appropriation to plan and develop the Alcan Highway 50th Anniversary Celebration.	\$50,000
Line 18, page 48 of Chapter 116, SLA 89, legislative intent stated that the Division of Tourism was to use this appropriation to plan and develop the Alcan Highway 50th Anniversary Celebration. INTENT LANGUAGE WAS VETOED.	(\$95,000)
Line 12, page 72 of Chapter 117, SLA 89, named this grant to the Great Alaska Highway Society for Project 92	\$30,000
Page 58, Chapter 208 SLA 90-- Delta Chamber of Commerce Project '92 Participation--VETOED Glennallen Chamber of Commerce Project '92 Participation--VETOED Tok Chamber of Commerce Project '92 Participation--VETOED Tok Umbrella Corporation 92 Visitor Facility Construction and Renovation--VETOED	(\$10,000) (\$10,000) (\$10,000) (\$10,000)
<b>Alcan Highway TOTAL APPROPRIATED</b>	<b>\$215,000</b>
<b>Alcan Highway TOTAL APPROVED</b>	<b>\$80,000</b>

### 250th Anniversary of Russian Discover of Alaska

Legislative Resolve 14, SLA 89, encouraged the governor to develop a celebration of this event. A zero fiscal note was submitted.

### NOTE

This list may not be all inclusive. Allocations contained in legislative intent may or may not have been used. There may also have been money contained in individual agency budgets which was not detailed in the session laws.

Prepared by the Legislative Research Agency, March 1991 (91.207)

## ALASKA-KLONDIKE GOLD RUSH CENTENNIAL COMMISSION

Benefits to be derived from the establishment of the commission:

Passage of HR-95, Establish the Alaska-Klondike Gold Rush Centennial Commission will benefit the State of Alaska in the following ways:

1. Oversee the organization of a significant celebration commemorating the role played by Alaska in the Klondike Gold Rush of 1897-98. The celebration will be held in 1997-98 and sufficient lead time is required for staging some of the events that are expected to take place.
2. Initiate and guide the involvement of state agencies (Department of Transportation, Department of Commerce and Economic Development, Department of Community and Regional Affairs) in order to make maximum use of existing state governmental departments with responsibilities in the areas of tourism and promotion of tourism related activities.
3. Coordinate the statewide celebration with individual communities in Alaska and with similar commissions or boards in Yukon, Territory and in British Columbia in Canada.
4. The celebration has the potential of increasing the numbers of travelers who come to Alaska and by properly publicizing and promoting the Centennial the state will derive maximum economic benefit through increased spending by tourists while in Alaska.
5. To serve as a clearing house for events leading up to and in support of the Centennial celebration in order to prevent duplication and to make the celebration more effective.
6. To serve as an official sanctioning body for Gold Rush Centennial events. To select an appropriate logo to identify Centennial activities, possibly by sponsoring a statewide design competition. Once a logo is developed the Commission will manage the use of the logo at properly sanctioned events and by officially recognized sponsors.
7. The Commission shall have no regulatory authority over any Centennial events.

**CENTENNIAL OF THE KLONDIKE GOLD RUSH**  
**1997---CELEBRATION---1998**

**OBJECTIVE:**

Plan and execute a proper celebration of the anniversary of the Klondike Gold Rush in the United States and in Canada on the occasion of the centennial of the Gold Rush in 1997-98.

**SHORT TERM GOALS:**

1. To instill in the citizens of the states of Alaska and Washington, the province of British Columbia, and the Yukon Territory an awareness of and appreciation for the significance of the events of the Klondike Gold Rush of 1898.
2. To solicit the support of local, state, provincial, and territorial government officials and to make them aware of the opportunities that are offered to promote all aspects of the "Land of the Midnight Sun" using the Gold Rush centennial theme.
3. To alert media, travel brokers, tourism directors, and other key officials to the marketability of the Gold Rush and the events surrounding the centennial celebration.
4. To identify interim themes leading up to 1997-98 which will build on the Gold Rush theme, (ie., 1890, John J. Healy opened a branch trading post at Chilkat; 1893, gold discovered in Circle City; 1896, discovery of gold on Rabbit Creek in the Yukon).
5. To coordinate the events of the centennial celebration with government agencies, communities, and individuals in order to optimize the use of available resources and prevent duplication of effort to provide a quality event.
6. To make the centennial of the Gold Rush significant, nationally and internationally, as was the 1898 rush to the Klondike.
7. To identify key people who will play a role in the planning and execution of centennial events and to organize this group into a steering committee to guide the preliminary steps on the "Trail of 1998" toward the "Centennial Rush to the Klondike".

**SUGGESTED ANNUAL THEMES:**

1991 -- Religion and Civic Organizations	1994 -- Dyea
1992 -- Roads and military	1995 -- Gardens and business
1993 -- Gold	1996 -- Discovery of Gold
	1997-98 -- <b>CENTENNIAL OF THE GOLD RUSH</b>

ALASKA-KLONDIKE GOLD RUSH CENTENNIAL COMMISSION

Total and Average Visitor In-State Expenditures by Region  
All Visitors  
Summer 1989

Region	Total Expenditures (\$ Millions)	5% Increase	Average Expenditures (Per Person/Per Trip)
Southeast	\$ 66.0	\$ 3.3	\$ 228
Southcentral	133.8		399
Interior/Northern	52.9	2.6	278
Southwest	14.5		605
Denali/McKinley	16.2		106
Ferry At-Sea	12.8	.6	304
Undistributed	7.8		152
<b>Total</b>	<b>\$ 304.1</b>	<b>6.5</b>	<b>\$ 567</b>

Top 10 Communities in Visitor Expenditures  
All Visitors  
Summer 1989

Community	Total Expenditures	5% Increase	% of State Total
1. Anchorage	\$ 87.8	\$ 4.39	19%
2. Fairbanks	37.4	1.87	12
3. Juneau	24.1	1.21	8
4. Skagway	16.2	.81	5
5. Ketchikan	14.7	.74	5
6. Kenai/Soldotna	8.7		3
7. Homer	5.7		2
8. Valdez	4.8		2
9. Sitka	4.6	.23	2
10. Seward	4.2		1
<b>Total</b>		<b>\$9.24</b>	

# JUNEAU GOLD RUSH COMMISSION, INC.

*An Alaska Non-Profit Corporation  
Organized to Celebrate Juneau's Golden  
Past and Future  
P. O. Box 20714  
Juneau, AK 99802-0714*



Roger W. Griffin, Chairman

January 22, 1991

Mr. V. Joe Poor, Executive Director  
Greater Juneau Chamber of Commerce  
124 West 5th Street  
Juneau, Alaska 99801

Dear Mr. Poor:

Enclosed is legislation that has been drafted by Mr. Clay Alderson, Superintendent of the Klondike Gold Rush National Historical Park in Skagway. The legislation proposes to establish an Alaska-Klondike Gold Rush Centennial Commission. It proposes that "the commission shall plan, coordinate, and oversee events of the celebration of the centennial of the Klondike Gold Rush in Alaska and will integrate these events with similar events planned in Canada honoring the gold rush of 1898 and other significant anniversaries culminating with the celebration of the centennial of the gold rush in 1997 and 1998."

The gold rush of 1898 was the world's last great gold rush and was an event of singular importance to Alaska's history. We believe that it should be celebrated in a manner commensurate with its importance. As this letter is written, I understand that several museums in major cities in the "lower 48" are preparing displays and events to commemorate the gold rush. I also understand that in the Yukon Territory, the organizations celebrating the 50th anniversary of the Alcan Highway plan to roll their effort into a celebration of the goldrush.

The legislation, as drafted, proposes that commissioners shall serve without compensation, but are entitled to \$150 per day while on commission business, plus per diem and travel expenses. This is probably the greatest expense the State of Alaska would incur as a consequence of this legislation. In view of Governor Hickel's efforts to reduce the cost of government, I suggest that expenses be limited to travel and per diem. It may also be appropriate to include a "sunset" provision in the legislation; that is, the commission will have a specified life span, perhaps 10 years, after which it will automatically cease to exist.

Draft Legislation, January 22, 1991, Page 2

I would like to submit the draft legislation to the Governor's Office and ask the Governor to submit it to the legislature with a recommendation for passage in this session. Before I do so, however, I would like to have a statement of your support. Please consider this legislation; I believe the significance of the gold rush deserves celebration and deserves the imprimatur of a State Commission.

I will be calling you in a few days concerning this proposal.

Sincerely,

Roger W. Griffin  
Chairman

RWG/mm

Enclosure

cc: Mr. Clay Alderson



## Chamber of Commerce

124 West 5th St., Juneau, Alaska 99801

Phone: (907) 586-6420 FAX: (907) 463-5670

Representing The Local Business Community

February 21, 1991

The Honorable Jerry Mackie  
House of Representatives  
State of Alaska Legislature  
P.O.Box "V"  
Juneau Alaska

Dear Representative Mackie:

We, the Greater Juneau Chamber of Commerce, support your efforts to introduce a bill creating an Alaska-Klondike Gold Rush Centennial Commission. As you know, without the gold rush in the Klondike in 1898, Alaska may have been entirely different than it is today. We support the efforts to invite the people of the United States and Canada to join together in celebration and remembrance of this momentous event in Alaska's history. We believe that with proper focus and media attention that this can once again create an opportunity for our State by increasing the number of visitors to our communities and thereby benefiting our local merchants.

Sincerely,



V. Joe Poor  
Executive Director



Office of the Minister  
Box 2703, Whitehorse, Yukon Y1A 2C6

MAR 14 1991

Representative Mackie  
Alaska State Legislature  
Box V  
Juneau, Alaska  
99811

Dear Mr. Mackie:

It was with considerable interest that I read the proposed Bill concerning the establishment of an Alaska-Klondike Gold Rush Centennial Commission. I would like to draw your attention to a number of related items.

As you may be aware, the Yukon has created an independent Yukon Anniversaries Commission responsible for managing a decade of anniversaries in the Yukon. The Commission is currently active with its first priority, namely, the 50th Anniversary of the construction of the Alaska Highway in 1992. Our neighbours in Alaska and British Columbia have also established corresponding organizations to manage their activities relating to the anniversary. In addition, an umbrella association, the International Joint Committee consisting of the three jurisdictions, has been established to co-ordinate the international aspects of the anniversaries and the efforts of the three partners.

The Yukon Anniversaries Commission will also be very active in the Gold Rush Anniversaries - the 100th anniversary of the discovery of gold in 1996 and the 100th anniversary of the Klondike Gold Rush in 1998. These two events will offer significant potential for tourism promotion internationally and for further co-operative action between ourselves and other jurisdictions through a similar and possibly expanded International Joint Committee.

The Yukon is quite interested in the possibility of developing an International Gold Rush Trail encompassing the Chilkoot, the 30 mile Canadian Heritage River System (a section of the Yukon River) and our Dawson City National Historic sites prior to the '98 anniversary. Your support for such a venture would be appreciated.

I would like an opportunity to discuss these issues with you in more detail. I will have my secretary call your office to arrange such a meeting for a mutually convenient time.

