

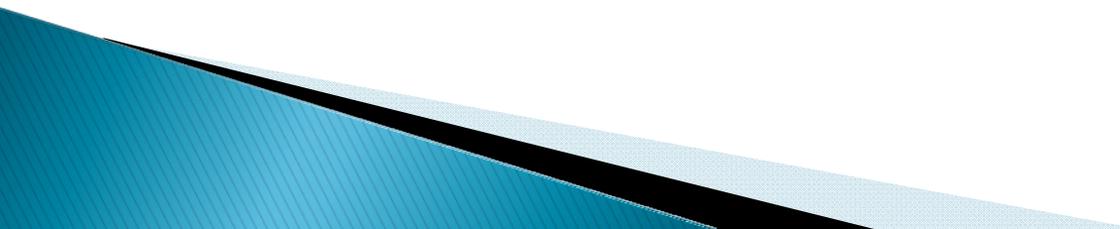
Financial Disclosure for Local Governments

Alaska **P**ublic **O**ffices **C**ommission

Patty Ware, Juneau Office
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What is APOC?

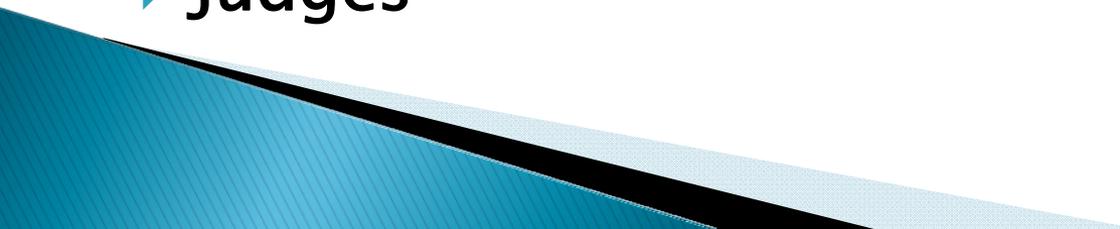
Roles and Responsibilities

- ▶ Administers financial disclosure laws (Public officials/ legislators; candidates; officeholders and groups; lobbyists/employers of lobbyists)
 - ▶ Investigates alleged violation of APOC laws
 - ▶ Issues advisory opinions upon request to determine the legality of a particular proposed action under APOC jurisdiction
 - ▶ Provides training and outreach
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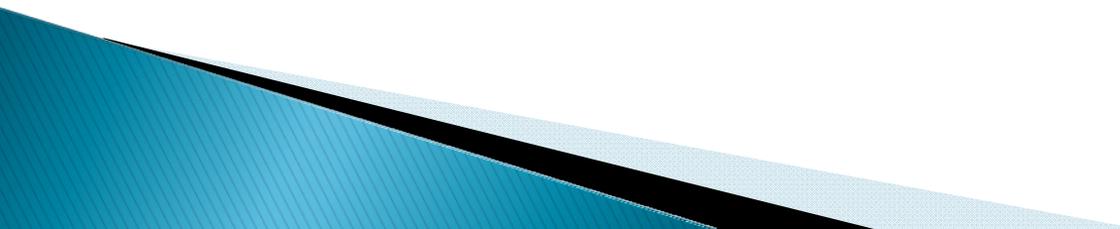
Why Financial Disclosure ?

- To discourage public officials from acting upon a private/business interest in performing a public duty
 - To develop public confidence in those seeking or holding public office
 - To enable the public to know the financial/business interests of public officials
 - To develop accountability in government
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Disclosure Basics: Who Must File?

- ▶ **State Public Officials** (Gov, Lt Gov, Commissioners, Deputy Commissioners, Directors, Deputy Directors, Special Asst)
 - ▶ **Local Public Officials** (Mayors, City Managers, Assembly/ council members, Boards)
 - ▶ **Legislators and Legislative Ethics Members: AS 24.60**
 - ▶ **Members of 41 State boards and Commissions**
 - ▶ **Judges**
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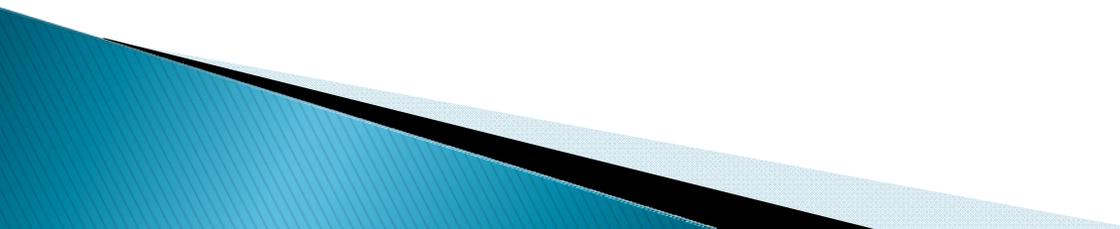
Public Official Financial Disclosure (POFD) Requires disclosure of :

- ✓ Income sources,
 - ✓ Business interests,
 - ✓ Real property interests,
 - ✓ Beneficial trust interests,
 - ✓ Loans and loan guarantees, and
 - ✓ Contracts or leases with the State of Alaska or an instrumentality of the State.
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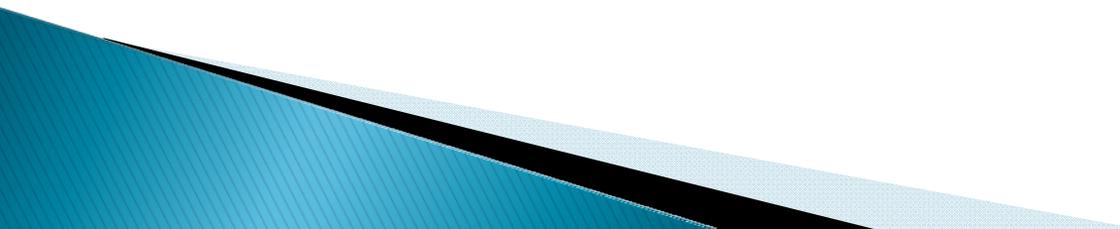
More on disclosure requirements

- ✓ Threshold is **over \$1,000** for reporting income, rental income, dividends, interest, trusts and retirement accounts, loans/loan guarantees and debts
- ✓ Report **gifts worth > \$250**, including travel, discounts, loans forgiven or paid by 3rd party
- ✓ Report business interests **even if *NOT* a source of income** (stockholder, owner, officer, partner, proprietor, employee, board member, include non-profits, trade groups, associations, businesses)

Also required on disclosure form:

- ✓ Report **real property interests**: Identify nature of ownership, include home, rental property, vacant property, recreational property, options to buy and real estate interests held.
 - ✓ Report all **government contracts or leases** and any **natural resource leases** held, bid or offered during reporting period.
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When do I file ?

- ✓ At time of filing for candidacy for State or municipal office.
 - ✓ Within 30 days of assuming position as public official: Executive branch public officials, judicial and municipal officers
 - ✓ Annually: By March 15 for all filers
 - ✓ Final: Within 90 days of leaving office
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Where do I File ?

- ▶ Local/Municipal Government: Candidates, local officials, assembly members or boards: **File with your Municipal Clerk**
 - ▶ State/Candidates, public officials, judges, legislators: **File with APOC**
 - ▶ Non-incumbent state candidates: **File with the Division of Elections** unless you already have a current POFD on file with APOC (call APOC to verify)
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Late Reports: Subject to civil penalties of **up to** \$10 per day. AS 39.50.135.

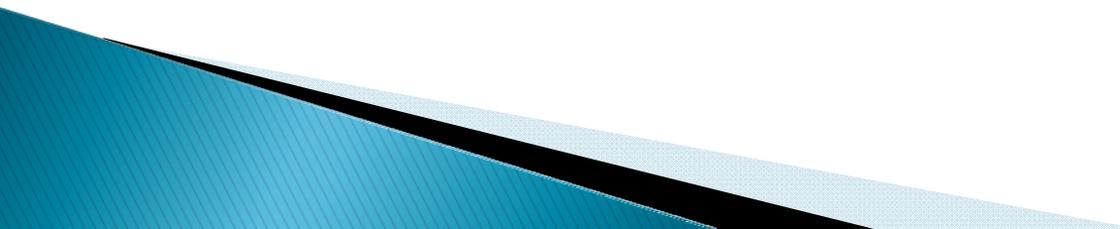
Late **Municipal** Filings: \$1 per day if 1–7 days late and \$5 per day for every late day thereafter. 2 AAC 50.135.

Late **State** Filings: \$5 per day if 1–15 days late and \$10 per day for every late day thereafter. 2AAC 50.110.

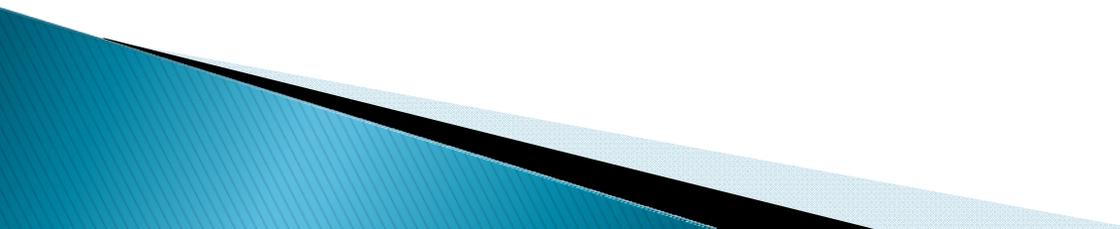
Appealing a civil penalty

- If you disagree with the civil penalty for a late report, you may appeal the fine by sending APOC an affidavit within 30 days of the late notice.
- Criteria used to determine whether there are mitigating factors that warrant a reduction are at <http://doa.alaska.gov/apoc/pdf/MitigationCriteriaNovember2009.pdf>

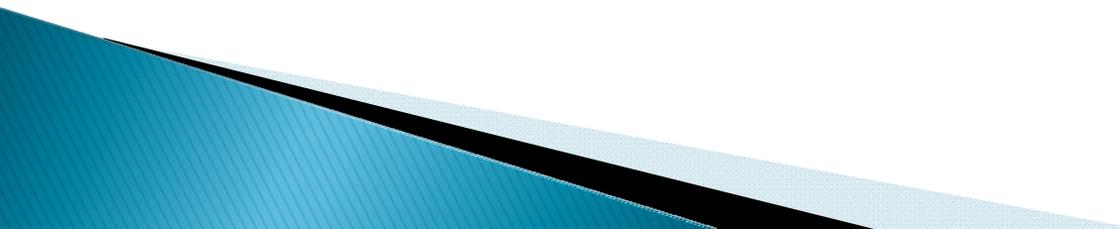
Common POFD Questions

- Why do I have to report financial information for my spouse and children when they are not public officials?
 - I am self-employed but not sure if I report it under retail or non-retail. What is the difference?
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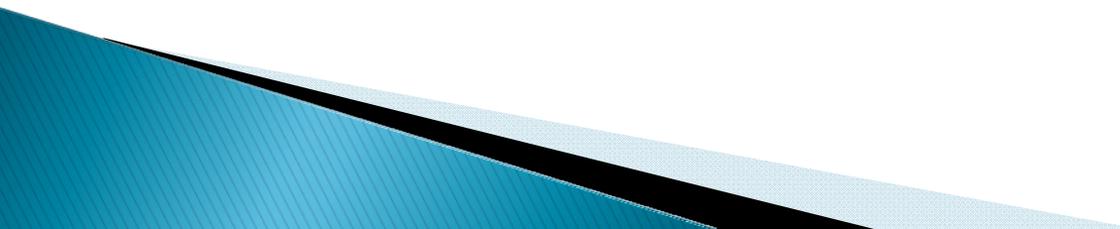
More Common Questions

- Where do I list my PFD on my disclosure form?
 - I just realized I forgot to put something on my disclosure? What do I do?
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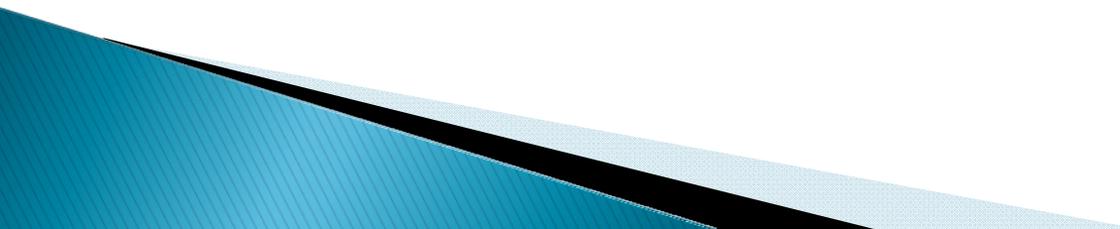
Are POFD's Public Documents ?

- ▶ Yes, all information reported in POFD statements are public information. Copies are provided to the general public upon request.
 - ▶ The public may review the statements at the Anchorage APOC office or at the municipal clerks office.
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Posting POFD's online

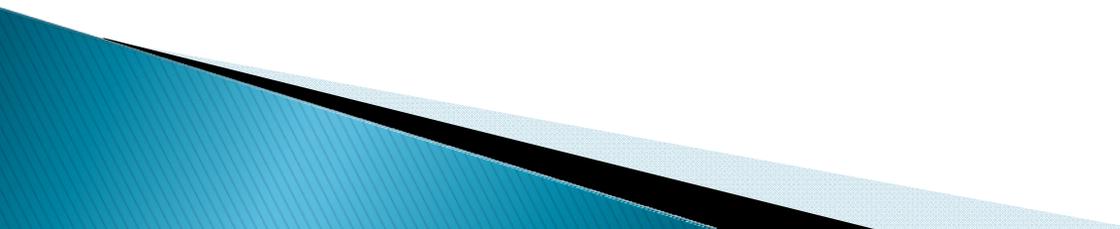
- ✓ APOC currently posts **legislative** financial disclosure statement on line and has since 2008.
 - ✓ The Commission heard public testimony at its September meeting registering strong opposition from local governments to posting public official financial disclosures electronically.
 - ✓ There is no statutory requirement for APOC to post disclosures online.
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Public Comment Process

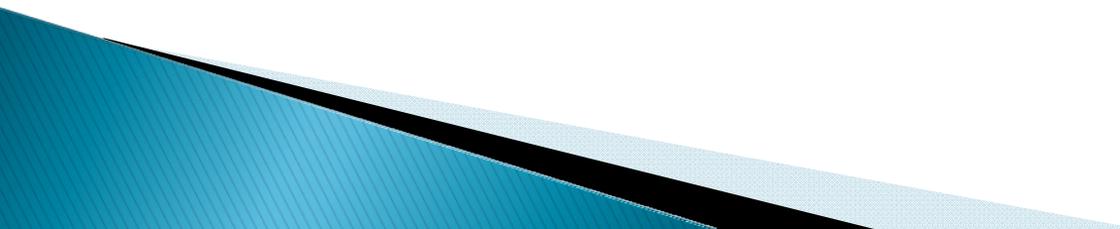
- ▶ The Commission chair stated at the September meeting that the Commission will not make a rush to judgment and will take a hard look at whether to post disclosures online.
 - ▶ Regulations Development: APOC is developing new regulations for all laws it administers and will notice the public with ample opportunity to comment on this issue and others contained in the draft regulations.
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Opting out of financial disclosure

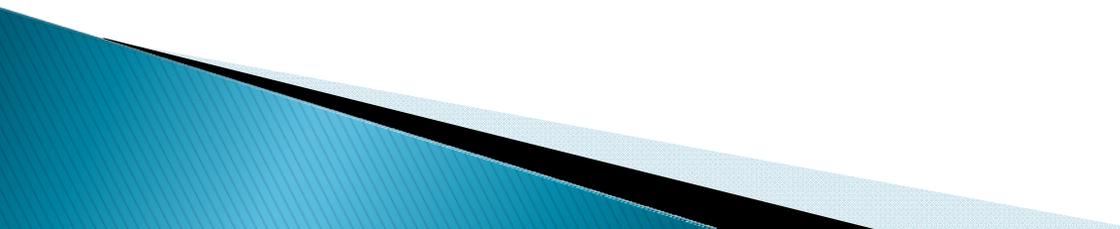
AS 39.50.145

- ✓ Municipal governments may OPT OUT of requiring local officials to file disclosures
 - ✓ The exemption question may be submitted by the City Council or Borough Assembly by ordinance or by initiative election
 - ✓ Exemption language is placed on ballot
 - ✓ If majority of voters approve, local government is no longer subject to reporting.
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More information re: opting out

- ✓ Some municipalities/boroughs adopt local disclosure requirements as an alternative to state requirements
 - ✓ You must provide APOC with a copy of official election results to be exempted from the law
 - ✓ 116 Alaskan communities have elected to be exempt from disclosure requirements*
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Electronic filing

- ✓ The Legislature changed the law effective January 1, 2009 to implement electronic filing **except for** municipalities with a population of < 15,000. AS 39.50.050
 - ✓ The only current ability to electronically file a POFD is to scan the report and email it.
 - ✓ APOC is currently working through completion of an electronic fillable form.
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POFD Fillable Forms– Demonstration

- APOC is working to finalize the form so it is available on line for easy completion and filing.
- This is still a work it in progress but here is what the fillable form looks like at this point:
<http://doaetsancw2k801.soa.alaska.gov/ApocForms/POFD.aspx>
- Comments RE: online filing for local governments ???

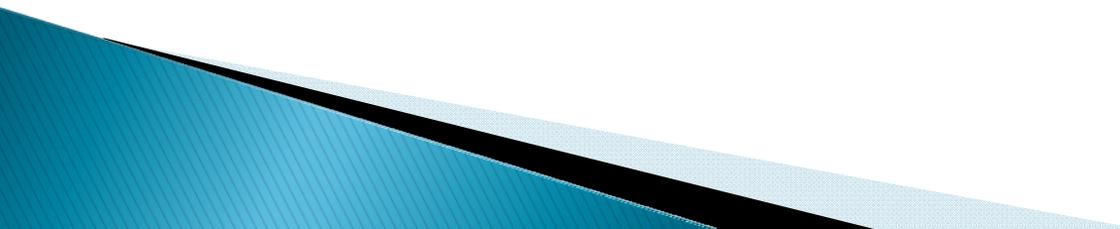
Important Legislation Passed in 2010

- ❖ SB 284: Changed Alaska's campaign disclosure law to comport with the U.S. Supreme Court decision in Citizens United. It is now legal for corporations and labor unions to make **independent expenditures** in an election.
- ❖ Corporations and labor unions are still **PROHIBITED** from making contributions to candidates.
- ❖ Click here to view the legislation
<http://doa.alaska.gov/apoc/pdf/EnrolledSB284.pdf>

Independent Expenditure: **DEFINED**

An expenditure made without the direct or indirect consultation or cooperation with, or at the suggestion or the request of, or with the prior consent of, a candidate, a candidate's campaign treasurer or deputy treasurer, or another person acting as a principal or agent of the candidate.

See AS 15.13.400(10)



More on Independent Expenditures

- ❖ May be made for/against either a candidate or ballot measure.
- ❖ There is no limit on the amount of money that can be spent on independent expenditures
- ❖ Must be reported to APOC within 10 days of the independent expenditure being **made or incurred**. If expenditure is **made or incurred** within 9 days of an election and is $>$ \$250, it must be reported within 24 hours.

Form 15-6:

<http://doa.alaska.gov/apoc/forms/Form15-6.pdf>

Highlights of SB 284

- ❖ Changed campaign disclosure law to allow entities other than a *natural* person to make independent expenditures.
- ❖ Requires creation of a political activities account to make independent expenditures unless made by an individual, candidate or nongroup entity with a budget of < \$250.
- ❖ Increases disclosure and disclaimer requirements to assist the public in knowing the source of new independent expenditures.

Changes in “paid for by” requirements for corporations, unions, groups

- ❖ Requirement to **identify the top 3 contributors** in a “paid for by” notice for all political communications, unless there are no contributors AND
- ❖ **Name/title of principal officer and statement of approval** for expenditure is required for all print/video political communications
- ❖ Any audio communications must have the “paid for by” and top 3 contributor information READ.

Resources for further review

Paid for By **Frequently Asked Questions**

<http://doa.alaska.gov/apoc/pdf/SB284PAIDFORBYFAQs.pdf>

Paid for By **Examples**

<http://doa.alaska.gov/apoc/pdf/SB284PaidForByExamples.pdf>

Form 15-6: Used to report independent expenditures

<http://doa.alaska.gov/apoc/forms/Form15-6.pdf>

HB 36: Changes in ballot initiative laws

- ❖ HB 36: Broadens financial disclosure to APOC for ballot initiatives by requiring disclosure at the signature gathering stage of the ballot proposition process rather than after an initiative is certified by the Lt. Governor's office.
- ❖ Any person or group that has filed an "initiative proposal application" or formed for that purpose is now required to register as a group with APOC.
- ❖ Requires public hearings to be held by the Lt. Governor's office in each judicial district of the state that include testimony of both a supporter and opponent of the initiative.
- ❖ Click here to view the legislation:
http://doa.alaska.gov/apoc/pdf/HB0036Z_Chapter_73_SLA_10.pdf

More Resources

- ▶ **APOC web site:**
<http://doa.alaska.gov/apoc/home.html>
- ▶ How to **Search reports on line** (Campaign disclosure, group disclosure, legislative financial disclosure):
<http://doa.alaska.gov/apoc/searchable.html>
- ▶ **Interim Reporting System** (search reports, complaints, advisory opinions, administrative orders):
<http://aws.state.ak.us/ApocInterim/ViewHome.asp>
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Questions ?

