

ADVISORY OPINION REQUEST

Number: AO 10-03-CD

Requested By: Representative Neal Foster

Prepared By: Vullnet Greva, Campaign Disclosure, Administrator

Date Issued: June 10, 2010

Subject: Request for an Advisory Opinion regarding the use of campaign funds to pay for an annual inspection of a personal airplane used for campaign purposes.

Commission Decision: On June 10, 2010, the Alaska Public Offices Commission heard and approved this advisory opinion request as amended by a vote of 5 to 0.

QUESTION PRESENTED

Representative Neal Foster intends to use his personal airplane for campaign purposes and requests an advisory opinion as to whether the fee for the plane's required annual inspection can be paid for with campaign funds.

SHORT ANSWER

A candidate may use campaign funds to pay for the pro-rated portion of the yearly inspection fee that is attributable to the time of the campaign period. This campaign expense must be reported under AS 15.13.040 and AS 15.13.110.

FACTS

In the advisory request Rep. Foster presented the following facts.

1. Rep. Foster owns an airplane he intends to use for campaign purposes.
2. Before the airplane can be flown, it must have an annual inspection completed.
3. The cost of the inspection does not depend on the amount of miles flown in the previous year, and the inspection is valid for one year, regardless of the number of miles flown in that year.
4. Rep. Foster did not get an annual inspection last year (2009) because he did not plan on flying during 2010.
5. Rep. Foster plans to have the inspection done around April.
6. The inspection is valid for 12 months.
7. Rep. Foster states that he only flies from June to October (5 months).
8. He has 30 villages to fly to this summer to campaign for the primary and general election this August and October of 2010.
9. Rep. Foster states that he may use the airplane for personal use but that 95% of the air miles flown will be to campaign.

10. All flights and flight times are recorded in a flight log and all flights logged should add up to the difference between the time noted by the FAA certified airplane mechanic at this year's annual versus next year's annual.
11. The flight log shows all trips that were taken (from point A to point B) and how long each trip lasted.
12. The annual inspection has to be paid for before any flying is done.

ANALYSIS

Campaign funds held by a candidate can only be used for expenses incurred by the candidate that reasonably relate to campaign activities. AS 15.13.112(a). Campaign contributions held by a candidate cannot be used to give a personal benefit to the candidate. AS 15.13.112(b)(1).

There is no prohibition on the use of a personal airplane by a candidate in a campaign, as candidates may contribute money and things of value to their campaigns. AS 15.13.078. Such a contribution must be reported under AS 15.13.040 and 15.13.110. Whether or not a candidate can use campaign funds to pay for an airplane's annual inspection depends on whether or not the inspection is an expense of the campaign, and whether the expense reasonably relates to election campaign activities. AS 15.13.112.

We believe that in this circumstance, the annual inspection of the candidate's airplane is an expense of the campaign, and that the expense reasonably relates to election campaign activities. The candidate here is campaigning in House District 39—a district which comprises the large and largely roadless area along Norton Sound from Wales to Chevak and also includes St. Lawrence Island. An airplane is the only practical means of transportation between the various communities of this district. If the candidate chooses to fly his airplane to the various communities in the district as part of the campaign, the costs of doing so are an expense that reasonably relates to the election campaign. Because the annual inspection is required if the candidate wishes to fly the airplane, at least part of the cost of the annual inspection is also an expense of the campaign.

However, the annual inspection will, as the name implies, allow the candidate to make use of the airplane for an entire year, not just during the campaign.

Additionally, any flight-related expenses for his campaign, such as fuel or oil costs and parking fees, may be paid with campaign funds but must also be accurately reported.¹

The airplane inspection leads to a certification, which is valid for one year—well beyond and outlasting the length of the campaign. A more limited or temporary certification is not available. One must therefore pay to have the plane inspected and certified for one year, or not at all. But if the candidate used campaign funds to pay for the yearly certification, that would confer a personal benefit to the candidate as he would retain the value of the certification beyond the campaign season—he would have an inspected plane available for any personal use, whether he intends to take advantage of that use or not. Such a personal benefit is precluded under AS 15.13.112(b)(1).

¹ All campaign activities (contributions and expenditures) are reported on a candidate's 30 day and 7 day Campaign Disclosure reports with APOC under AS 15.13.040 and AS 15.13.110.

Thus, the candidate may not use campaign funds to pay for the full cost of the inspection, only the portion of the year that the plane is actively used in the campaign. The candidate's campaign may reimburse the candidate for the portion of the yearly inspection fee covered by the campaign period (i.e., from the candidate's filing date to the date of the election). This calculation will be based on time, not usage. For example, if the inspection fee is \$1000, and the campaign period is 6 months, Rep. Foster may be reimbursed for 50% (6 months divided by 12 months) of the yearly cost.

Additionally, the candidate may not use campaign funds to pay the full cost of the inspection up front, and then repay the campaign. Payment by the campaign of the full cost of the inspection, even if the non-campaign portion were reimbursed by the candidate, would constitute a loan to the candidate. AS 15.13.112(b)(3) states that campaign funds may not be loaned to any person.

CONCLUSION

The portion of the inspection fee for Rep. Foster's Cessna 172 airplane (which is used for campaign purposes) pro-rated for the time period attributable to Rep. Foster's campaign (from the candidate's filing date to the date of the election) is a legitimate campaign expense.

COMMISSION DECISION

On June 10, 2010, the Alaska Public Offices Commission heard and approved this advisory opinion request as amended by a vote of 5 to 0.

APPLICABLE LAW

Sec. 15.13.040. Contributions, expenditures, and supplying of services to be reported. (a) [See delayed amendment note]. Except as provided in (g) and (l) of this section, each candidate shall make a full report, upon a form prescribed by the commission,

(1) listing

(A) the date and amount of all expenditures made by the candidate;

(B) the total amount of all contributions, including all funds contributed by the candidate;

(C) the name, address, date, and amount contributed by each contributor; and

(D) for contributions in excess of \$50 in the aggregate during a calendar year, the principal occupation and employer of the contributor; and

(2) filed in accordance with [AS 15.13.110](#) and certified correct by the candidate or campaign treasurer.

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

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

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

the date and amount contributed by each contributor; for purposes of this paragraph, "contributor" means the true source of the funds, property, or services being contributed; and

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

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

(d) Every individual, person, nongroup entity, or group making an expenditure shall make a full report of expenditures, upon a form prescribed by the commission, unless exempt from reporting.

(e) The report required under (d) of this section must contain the name, address, principal occupation, and employer of the individual filing the report, and an itemized list of expenditures. The report shall be filed with the commission no later than 10 days after the expenditure is made.

(f) During each year in which an election occurs, all businesses, persons, or groups that furnish any of the following services, facilities, or supplies to a candidate or group shall maintain a record of each transaction: newspapers, radio, television, advertising, advertising agency services, accounting, billboards, printing, secretarial, public opinion polls, or research and professional campaign consultation or management, media production or preparation, or computer services. Records of provision of services, facilities, or supplies shall be available for inspection by the commission.

(g) The provisions of (a) and (l) of this section do not apply to a delegate to a constitutional convention, a judge seeking judicial retention, or a candidate for election to a municipal office under [AS 15.13.010](#), if that delegate, judge, or candidate

(1) indicates, on a form prescribed by the commission, an intent not to raise and not to expend more than \$5,000 in seeking election to office, including both the primary and general elections;

(2) accepts contributions totaling not more than \$5,000 in seeking election to office, including both the primary and general elections; and

(3) makes expenditures totaling not more than \$5,000 in seeking election to office, including both the primary and general elections.

(h) The provisions of (d) of this section do not apply to one or more expenditures made by an individual acting independently of any group or nongroup entity and independently of any other individual if the expenditures

(1) cumulatively do not exceed \$500 during a calendar year; and

(2) are made only for billboards, signs, or printed material concerning a ballot proposition as that term is defined by AS 15.13.065(c).

(i) The permission of the owner of real or personal property to post political signs, including bumper stickers, or to use space for an event or to store campaign-related materials is not considered to be a contribution to a candidate under this chapter unless the owner customarily charges a fee or receives payment for that activity. The fact that the owner customarily charges a fee or receives payment for posting signs that are not political signs is not determinative of whether the owner customarily does so for political signs.

(j) Except as provided in (l) of this section, each nongroup entity shall make a full report in accordance with AS 15.13.110 upon a form prescribed by the commission and certified by the nongroup entity's treasurer, listing

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

(2) the aggregate amount of all contributions made to the nongroup entity for the purpose of influencing the outcome of an election;

(3) for all contributions described in (2) of this subsection, the name, address, date, and amount contributed by each contributor and, for all contributions described in (2) of this subsection in excess of \$250 in the aggregate during a calendar year, the principal occupation and employer of the contributor; and

(4) the date and amount of all contributions made by the nongroup entity, and, except as provided for certain independent expenditures in [AS 15.13.135 \(a\)](#), all expenditures made, incurred, or authorized by the nongroup entity, for the purpose of influencing the outcome of an election; a nongroup entity shall report contributions made to a different nongroup entity for the purpose of influencing the outcome of an election and expenditures made on behalf of a different nongroup entity for the purpose of influencing the outcome of an election as soon as the total contributions and expenditures to that nongroup entity for the purpose of influencing the outcome of an election reach \$500 in a year and for all subsequent contributions and expenditures to that nongroup entity in a year whenever the total contributions and expenditures to that nongroup entity for the purpose of influencing the outcome of an election that have not been reported under this paragraph reach \$500.

(k) Every individual, person, nongroup entity, or group contributing a total of \$500 or more to a group organized for the principal purpose of influencing the outcome of a proposition shall report the contribution or contributions on a form prescribed by the commission not later than 30 days after the contribution that requires the contributor to report under this subsection is made. The report must include the name, address, principal occupation, and employer of the individual filing the report and the amount of the contribution, as well as the total amount of contributions made to that group by that individual, person, nongroup entity, or group during the calendar year.

(l) Notwithstanding (a), (b), and (j) of this section, for any fund-raising activity in which contributions are in amounts or values that do not exceed \$50 a person, the candidate, group, or nongroup entity shall report contributions and expenditures and supplying of services under this subsection as follows:

(1) a report under this subsection must

(A) describe the fund-raising activity;

(B) include the number of persons making contributions and the total proceeds from the activity;

(C) report all contributions made for the fund-raising activity that do not exceed \$50 a person in amount or value; if a contribution for the fund-raising activity exceeds \$50, the contribution shall be reported under (a), (b), and (j) of this section;

(2) for purposes of this subsection,

(A) "contribution" means a cash donation, a purchase such as the purchase of a ticket, the purchase of goods or services offered for sale at a fund-raising activity, or a donation of goods or services for the fund-raising activity;

(B) "fund-raising activity" means an activity, event, or sale of goods undertaken by a candidate, group, or nongroup entity in which contributions are \$50 a person or less in amount or value.

(m) **[See delayed amendment note].** Information required under this chapter shall be submitted to the commission electronically, except that the following information may be submitted in clear and legible black typeface or hand-printed in dark ink on paper in a format approved by the commission or on forms provided by the commission:

(1) information submitted by

(A) a candidate for election to a borough or city office of mayor, membership on a borough assembly, city council, or school board, or any state office, who meets the requirements of (g)(1) - (3) of this section; or

(B) a candidate for municipal office for a municipality with a population of less than 15,000; in this subparagraph, "municipal office" means the office of an elected borough or city

(i) mayor; or

(ii) assembly, council, or school board member;

(2) any information if the commission determines that circumstances warrant an exception to the electronic submission requirement.

(n) The commission shall print the forms to be provided under this chapter so that the front and back of each page have the same orientation when the page is rotated on the vertical axis of the page.

(o) Information required by this chapter that is submitted to the commission on paper and not electronically shall be electronically scanned and published on the Internet by the commission, in a format accessible to the general public, within two working days after the commission receives the information.

(p) For purposes of (b) and (j) of this section, "contributor" means the true source of the funds, property, or services being contributed (§ 1 ch 76 SLA 1974; am § 13 ch 189 SLA 1975; am § 33 ch 50 SLA 1989; am § 4 ch 126 SLA 1994; am §§ 5-7 ch 48 SLA 1996; am §§ 6, 7 ch 6 SLA 1998; am § 1 ch 74 SLA 1998; am §§ 3-6 ch 1 SLA 2002; am §§ 1-4 ch 1 TSSLA 2002; am §§ 2-7 ch 108 SLA 2003; am § 9 ch 99 SLA 2004; am §§ 1, 2 ch 155 SLA 2004; am § 3,2006 Primary Election Ballot Measure No. 1; am §§ 6 – 9 ch 47 SLA 2007; am § 1 ch 95 SLA 2008)

Delayed amendment of subsection (a). – Until January 1, 2009, subsection (a) of this section reads as follows: "(a) Except as provided in (g) and (l) of this section, each candidate shall make a full report, upon a form prescribed by the commission,

"(1) listing

"(A) the date and amount of all expenditures made by the candidate;

"(B) the total amount of all contributions, including all funds contributed by the candidate;

"(C) the name, address, date and amount contributed by each contributor; and

"(D) for contributions in excess of \$250 in the aggregate during a calendar year, the principal occupation and employer of the contributor; and

“(2) filed in accordance with AS 15.13.110 and certified correct by the candidate or campaign treasurer.”

Delayed amendment of subsection (m). – Until January 1, 2009, (m) of this section reads as follows:

“(m) Information required under this chapter shall be submitted to the commission electronically, except that the following information may be submitted in clear and legible black typeface or hand-printed in dark ink on paper in a format approved by the commission or on forms provided by the commission:

“(1) information submitted by a candidate for municipal office; in this paragraph, “municipal office” means the office of an elected borough or city

“(A) mayor; or

“(B) assembly, council, or school board member;

“(2) any information if the commission determines that circumstances warrant an exception to the electronic submission requirement;

“(3) information submitted by a candidate for election to state office other than the legislature who meets the requirements of (g)(1) – (3) of this section;

“(4) information submitted before January 1, 2009, by a candidate for the legislature.”

Revisor’s notes. – Subsection (n) was enacted as subsection (o). Relettered in 2004, at which time former subsection (n) was relettered as subsection (o). Subsection (o) was enacted as (p) and relettered in 2007, at which time former subsection (o) was relettered as (p).

Effect of amendments. – The 1996 amendment, effective January 1, 1997, in subsection (a), added the exception at the beginning of the first sentence and made a related stylistic change; in subsection (d), in paragraph (2), added “unless exempted from reporting by (h) of this section,” and inserted “ or other periodicals” and made minor stylistic changes and added subsections (g) and (h).

The first 1998 amendment, effective June 28, 1998, rewrote paragraph (d)(1) and the second and third sentences in subsection (f).

The second 1998 amendment, effective June 4, 1998, added subsection (i).

The first 2002 amendment, effective April 16, 2002, in subsection (b) added the language beginning “for purposes of this paragraph” to the end of paragraph (2); in the introductory language of subsections (d) and (h) inserted references to nongroup entities; added subsection (j); and made a minor stylistic change.

The second 2002 amendment, effective June 26, 2002, rewrote subsection (d); in subsection (e) deleted “by the contributor” following “commission” and “contribution or” preceding “expenditure” in the second sentence and deleted the former third sentence, which read “A copy of the report shall be furnished to the candidate, campaign treasurer, or deputy campaign treasurer at the time the contribution is made”; updated an internal reference in subsection (h); and added subsection (k).

The 2003 amendment, effective September 14, 2003, rewrote subsections (a) and (b); in subsection (g) inserted “and (l)” in the introductory language and substituted “\$5,000” for “2,500” in three places; in paragraph (h)(1) substituted “\$500” for “250”; in subsection (j) added “Except as provided in (l) of this section,” at the beginning, added the paragraph (3) and (4) designations, and rewrote paragraph (3); and added subsections (l), (m), and (o) [formerly (n), now (p)].

The first 2004 amendment, effective June 26, 2004, deleted “and principal occupation of the contributor and the” following address in paragraph (j)(3), and inserted “principal occupation and” in that paragraph.

The second 2004 amendment, effective October 1, 2004, rewrote subsection (m), and added subsection (o) [now (n)].

The 2006 amendment, effective December 17, 2006, rewrote subsection (b).

The 2007 amendment, effective July 10, 2007, substituted “to a delegate to a constitutional convention, a judge seeking judicial retention, or a candidate for election to a municipal office under As 15.13.010, if that delegate, judge, or” for “if a” in the introductory language of subsection (g), repealed and reenacted subsection (m), and added subsection (p) [now(o)].

The 2008 amendment, effective January 1, 2009, substituted “\$50” for \$250” in subparagraph (a)(1)(D).

Editor's notes. – From April 16, 2002, through June 25, 2002, the reference in subsection (h) to “(d) of this section” reads “to (d)(2) of this section” and subsection (d) reads as follows: “(d) Every individual, person, nongroup entity, or group making a contribution or expenditure shall make a full report, upon a form prescribed by the commission, of

“(1) contributions made to a candidate or group and expenditures made on behalf of a candidate or group

“(A) as soon as the total contributions and expenditures to that candidate or group reaches \$500 in a year; and

“(B) for all subsequent contributions and expenditures to that candidate or group that have not been reported under this paragraph reaches \$500;

“(2) unless exempted from reporting by (h) of this section, any expenditure whatsoever for advertising in newspapers or other periodicals, on radio, or on television; or for publication, distribution, or circulation of brochures, flyers, or other campaign material for any candidate or ballot proposition or question.

NOTES TO DECISIONS

Constitutionality. – In the case of *First Nat’l Bank v. Bellotti*, 435 U.S. 765, 98 S. Ct. 1407, 55 L. Ed. 2d 707, rehearing denied, 438 U.S. 907, 98 S. Ct. 3126, 57 L. Ed. 2d 1150 (1978), the supreme court of the United States has indicated in unmistakable terms that state disclosure laws pertaining to ballot issues are constitutional. *Messerli v. State*, 626 P.2d 81 (Alaska 1980).

When there is no showing that an individual must remain anonymous with respect to advertising as to ballot propositions because of the possibility of being subject to reprisals, economic or otherwise, the state campaign disclosure laws are not unconstitutional as applied to a contributor hoping to influence the outcome of a ballot issue, because the objective of an informed electorate is sufficiently compelling to overcome an interest in anonymous political expression. *Messerli v. State*, 626 P.2d 81 (Alaska 1980).

The disclosure requirements of this chapter are not unconstitutionally vague or overbroad, nor do they violate the constitutional right of the people to privacy. *VECO Int’l, Inc. v. Alaska Pub. Offices Comm’n*, 753 P.2d 703 (Alaska 1988), appeal dismissed, 488 U.S. 919, 109 S. Ct. 298, 102 L. Ed. 2d 317 (1988).

Reporting provisions of this section and AS 15.13.074(i), 15.13.082(b), 15.13.110, and 15.13.135(a) survive strict scrutiny because the state’s interest in regulating campaign contributions and expenditures is significant and the requirements are not particularly onerous. *Alaska Right to Life Comm. v. Miles*, 441 F.3rd 773 (9th Cir. 2006).

Cited in *Libertarian Party of Alaska, Inc. v. State*, 101 P.3rd 616 (Alaska 2004).

Sec. 15.13.078. Contributions and loans from the candidate. (a) The provisions of this chapter do not prohibit the individual who is a candidate from giving any amount of the candidate's own money or other thing of value to the campaign of the candidate. Donations made by the candidate to the candidate's own campaign shall be reported as contributions in accordance with [AS 15.13.040](#) and 15.13.110.

(b) The provisions of this chapter do not prohibit the individual who is a candidate from lending any amount to the campaign of the candidate. Loans made by the candidate shall be reported as contributions in accordance with [AS 15.13.040](#) and 15.13.110. However, the candidate may not

(1) recover, under this section and [AS 15.13.116](#)(a)(4), the amount of a loan made by the candidate to the candidate's own campaign that exceeds

(A) \$25,000, if the candidate ran for governor or lieutenant governor;

(B) \$10,000, if the candidate ran for

(i) the legislature; or

(ii) delegate to a constitutional convention;

(C) \$10,000, if the candidate was a judge seeking retention;

(D) \$5,000, if the candidate ran in a municipal election; or

(2) repay a loan that the candidate has made to the candidate's own campaign unless, within five days of making the loan, the candidate notifies the commission, on a form provided by the commission, of the candidate's intention to repay the loan under [AS 15.13.116](#) (a)(4).

(c) On and after the date determined under [AS 15.13.110](#) as the last day of the period ending three days before the due date of the report required to be filed under [AS 15.13.110](#) (a)(1) and until the date of the election for which the report is filed, a candidate may not give or loan to the candidate's campaign the candidate's money or other thing of value of the candidate in an amount that exceeds \$5,000.

(d) The provisions of this section apply only to the individual who is a candidate, as that term is defined by [AS 15.13.400](#) (1)(A), and do not apply to authorize a contribution or loan under this section by an individual described in the definition of the term "candidate" under [AS 15.13.400](#) (1)(B). (§ 11 ch 48 SLA 1996; am § 9 ch 33 SLA 1999)

Effect of amendments. – The 1999 amendment, effective May 28, 1999, made section reference substitutions in paragraphs (b)(1) and (b)(2).

Sec. 15.13.080. Statement by or on behalf of contributor. [Repealed, Sec. 11 ch 1 TSSLA 2002].

Revisor's notes. – From April 16, 2002, until the repeal of this section on June 26, 2002, AS 15.13.080(a) read as follows:"(a) An individual who contributes \$500, or goods or services with a value of \$500, to a candidate shall file a contributor's statement as required by this section. A candidate who receives \$500, or goods or services of a value of \$500, may file a contributor's statement as required under this section on behalf of the contributor."

Sec. 15.13.110. Filing of reports. (a) Each candidate, group, and nongroup entity shall make a full report in accordance with [AS 15.13.040](#) for the period ending three days before the due date of the report and beginning on the last day covered by the most recent previous report. If the report is a first report, it must cover the period from the beginning of the campaign to the date three days before the due date of the report. If the report is a report due February 15, it must cover the period beginning on the last day

covered by the most recent previous report or on the day that the campaign started, whichever is later, and ending on February 1 of that year. The report shall be filed

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

(2) one week before the election;

(3) 105 days after a special election; and

(4) February 15 for expenditures made and contributions received that were not reported previously, including, if applicable, all amounts expended from a public office expense term account established under AS 15.13.116(a)(8) and all amounts expended from a municipal office account under [AS 15.13.116](#)(a)(9), or when expenditures were not made or contributions were not received during the previous year.

(b) Each contribution that exceeds \$250 and that is made within nine days of the election shall be reported to the commission by date, amount, and contributor within 24 hours of receipt by the candidate, group, campaign treasurer, or deputy campaign treasurer. Each contribution to a nongroup entity for the purpose of influencing the outcome of an election that exceeds \$250 and that is made within nine days of the election shall be reported to the commission by date, amount, and contributor within 24 hours of receipt by the nongroup entity.

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

(d) *[Repealed, Sec. 35 ch 126 SLA 1994].*

(e) A group formed to sponsor an initiative, a referendum or a recall shall report 30 days after its first filing with the lieutenant governor. Thereafter each group shall report within 10 days after the end of each calendar quarter on the contributions received and expenditures made during the preceding calendar quarter until reports are due under (a) of this section.

(f) During the year in which the election is scheduled, each of the following shall file the campaign disclosure reports in the manner and at the times required by this section:

(1) a person who, under the regulations adopted by the commission to implement [AS 15.13.100](#), indicates an intention to become a candidate for elective state executive or legislative office;

(2) a person who has filed a nominating petition under [AS 15.25.140](#) - 15.25.200 to become a candidate at the general election for elective state executive or legislative office;

(3) a person who campaigns as a write-in candidate for elective state executive or legislative office at the general election; and

(4) a group or nongroup entity that receives contributions or makes expenditures on behalf of or in opposition to a person described in (1) - (3) of this subsection, except as provided for certain independent expenditures by nongroup entities in [AS 15.13.135](#)(a). (§ 1 ch 76 SLA 1974; am § 24 ch 189 SLA 1975; am § 2 ch 133 SLA 1977; am §§ 1, 2 ch 49 SLA 1993; am §35 ch 126 SLA 1994; am § 2 ch 59 SLA 1995; am § 13

ch 30 SLA 1996; am §§ 16-18 ch 48 SLA 1996; am § 6 ch 74 SLA 1998; am § 2 ch 103 SLA 2001; am §§ 20-22 ch 1 SLA 2002; am § 14 ch 108 SLA 2003; am § 10 ch 99 SLA 2004)

Cross references. – For legislative purpose in enacting subsection (f), see § 1, ch. 59, SLA 1995 in the Temporary and Special Acts.

Effect of amendments. – The 1995 amendment, effective August 29, 1995, added subsection (f).

The second 1996 amendment, effective January 1, 1997, in subsection (a), inserted “, including, if applicable, all amounts expended from a legislative office account established under AS 15.13.116(a)(9) and all amounts expended from a municipal office account under AS 15.13.116(a)(10),” rewrote subsection (b), and, in subsection (c), deleted the former first sentence which read “the reports of candidates shall be filed with the commission’s central office” and inserted “shall be filed with the commission’s central office and.”

The 1998 amendment, effective June 4, 1998, substituted “a public office expense term account” for “a legislative office account” and made two section reference substitutions in paragraph (a)(4).

The 2001 amendment, effective July 14, 2001, substituted “general election” for “primary election” in paragraph (f)(2).

The 2002 amendment, effective April 16, 2002, in subsection (a) and paragraph (f)(4) inserted references to nongroup entities; in subsection (b) added the second sentence; in paragraph (f)(4) added the exception at the end; and made a stylistic change.

The 2003 amendment, effective September 14, 2003, in subsection (a) substituted “must” for “shall” in two places and “on February 1 of that year” for “on December 31 of the prior year” at the end of the next-to-last sentence in the introductory language, rewrote paragraph (3), which read “10 days after the election; and,” and in paragraph (4) substituted “reported previously” for “reported during the previous year.”

The 2004 amendment, effective June 26, 2004 substituted “general” for “primary” in paragraph (f)(2).

Editor’s notes. – Under § 4, ch. 59, SLA 1995, the provisions of (f)(1) of this section “are intended to apply to a person who indicates an intention to become a candidate for elective state executive or legislative office under a letter of intent authorized by 2 AAC 50.380 and who makes or incurs campaign expenditures by initiating early campaigning for the office.”

NOTES TO DECISIONS

Disclosure requirements constitutional. – The disclosure requirements of this chapter are not unconstitutionally vague or overbroad, nor do they violate the constitutional right of the people to privacy. *VECO Int’l, Inc. v. Alaska Pub. Offices Comm’n*, 753, P.2d 703 (Alaska 1988), appeal dismissed, 488 U.S. 919, 109 S. Ct. 298, 102 L. Ed. 2d 317 (1988).

Stated in *State, Alaska Pub. Offices Comm’n v. Marshall*, 633, P.2d 227 (Alaska 1981).

Sec. 15.13.112. Uses of campaign contributions held by candidate or group. (a) Except as otherwise provided, campaign contributions held by a candidate or group may be used only to pay the expenses of the candidate or group, and the campaign expenses incurred by the candidate or group, that reasonably relate to election campaign activities, and in those cases only as authorized by this chapter.

(b) Campaign contributions held by a candidate or group may not be

(1) used to give a personal benefit to the candidate or to another person;

(2) converted to personal income of the candidate;

(3) loaned to a person;

(4) knowingly used to pay more than the fair market value for goods or services purchased for the campaign;

(5) used to pay a criminal fine;

(6) used to pay civil penalties; however, campaign contributions held by a candidate or group may be used to pay a civil penalty assessed under this chapter if authorized by the commission or a court after it first determines that

(A) the candidate, campaign treasurer, and deputy campaign treasurer did not cause or participate in the violation for which the civil penalty is imposed and exercised a reasonable level of oversight over the campaign; and

(B) the candidate, campaign treasurer, and deputy campaign treasurer cooperated in the revelation of the violation and in its immediate correction; or

(7) used to make contributions to another candidate or to a group; however, it is not a violation of this paragraph if, in circumstances in which a candidate or group participates in a shared campaign activity, the candidate or group participating in the activity

(A) uses campaign contributions of the candidate or group for payment of

(i) all of the shared campaign activity expense; or

(ii) more than the candidate's or group's pro rata share of the activity expense; and

(B) receives, within seven days after payment of the expense, complete reimbursement of the amount of campaign contributions used for payments made on behalf of another candidate or group participating in the activity.

(c) A candidate may use up to a total of \$1,000 in campaign contributions in a year to pay the cost of

(1) attending, or paying the cost for guests of the candidate to attend, an event or other function sponsored by a political party or subordinate unit of a political party;

(2) membership in a political party, subordinate unit of a political party, or other entity within a political party, or subscription to a publication from a political party; and

(3) co-sponsorship of an event or other function sponsored by a political party or by a subordinate unit of a political party. (§ 19 ch 48 SLA 1996; am § 7 ch 74 SLA 1998; am § 1 ch 90 SLA 2006)

Effect of amendments. – The 1998 amendment, effective June 4, 1998, added subsection (c).

The 2006 amendment, effective October 11, 2006, added language to paragraph (b)(7) beginning “however, it is not a violation” through the end of the paragraph.

NOTES TO DECISIONS

Constitutionality. – Because the State has a compelling interest in enforcing contribution limits, and because candidates still retain the right to make contributions from personal funds, the ban on inter-candidate contributions in paragraph (b)(7) is constitutional. *State v. Alaska Civil Liberties Union*, 978 P.2d 597 (Alaska 1999), cert. denied, 528 U.S. 1153, 120 S. Ct. 1156, 145 L. Ed. 2d 1069 (2000).

REGULATIONS

2 AAC 50.905. ADVISORY OPINIONS.

(a) The commission staff shall review all requests for advisory opinions submitted under AS 15.13.374. If the commission staff determines that a request does not satisfy the requirements in AS 15.13.374, the commission staff shall reject the request and notify the person, group, or nongroup entity making the request of the deficiencies. A rejected request may be refiled.

(b) If the commission staff determines that the request satisfies the requirements in AS 15.13.374, the executive director or the executive director’s designee shall prepare a recommended advisory opinion within seven days after receipt of the opinion request for the commission to consider at its next regular meeting.

(c) The commission will approve, disapprove, or modify the recommended advisory opinion.

(d) The commission may reconsider an advisory opinion at any time upon the motion of a member who voted with the majority that originally approved the opinion, and if the commission adopts the motion to reconsider by the affirmative vote of at least four members. Adoption of a motion to reconsider vacates the advisory opinion to which it relates. Action by the requesting party in good faith reliance on the advisory opinion before the party has notice of reconsideration may not be the subject of an investigation under 2 AAC 50.460, 2 AAC 50.507, 2 AAC 50.810, or 2 AAC 50.815. (Eff. 1/4/86, Register 97; am 7/20/95, Register 135; am 1/1/2001, Register 156; am 2/20/2005, Register 173)

Authority: AS 15.13.030 AS 24.45.021 AS 39.50.050
AS 15.13.374 AS 24.60.220