

Our First Amendment rights are under attack!

STOP THE GAG LAW

OUTSIDE MONEY BUYING ACCESS TO OUR BALLOT

It seems impossible but a New York millionaire has bought his way onto the primary ballot in Alaska by tricking us into signing an 'Anti Corruption' petition. But this has nothing to do with real corruption- it just silences regular Alaskans. Just ask the folks in South Dakota and Colorado where Howie Rich also abused the initiative process and forced them into a multi million dollar campaign to protect their rights.

SILENCING ALASKANS

This initiative will silence many hard working Alaskans such as our firefighters, police, teachers, public employees, business owners, certain non-profit board members and staff.

Prohibits elected officials from soliciting funds from any one who holds government contract larger than \$500 and prevents the citizen from talking about their contract.

Outlaws municipal-funded lobbying

Board members of non profits who receive city or state funds would be prohibited from advocating for their non-profit

It will silence the Alaska Municipal League, Association of School Boards and many other groups that advocate for Alaskans

Prohibits citizens who have collective bargaining agreements (CBA) from talking to legislators about their job and contributing to candidates

UNCONSTITUTIONAL

Even the Alaska Attorney General states in his opinion on the initiative that parts of it are likely unconstitutional. BUT THAT DOES NOT PREVENT IT FROM GOING TO THE VOTERS! It is up to us to stop this at the polls.

ANTI CORRUPTION?

The sponsors have cynically called this the 'Anti Corruption Act'. But in fact, none of the provisions outlined in this initiative would have stopped Bill Allen. This will just hurt honest Alaskans, and encourage more Bill Allen-type behavior.

STOP THE GAG LAW

OUR FIRST AMENDMENT RIGHTS ARE UNDER ATTACK!

— VOTE NO —

On The Gag Law in the August 24, 2010 Primary Election!

OUTSIDE MONEY BUYING ACCESS TO OUR BALLOT

A New York millionaire has submitted and funded an initiative that will be on Alaska's August 24 primary ballot. He refers to it as the "Anti-Corruption Initiative." It has nothing to do with stopping corruption; it simply silences the voices of individual Alaskans. Alaska is the 5th state that this person has targeted.

SILENCING ALASKANS

This initiative will silence Alaskans across the State and in many career fields as to their ability to take part in "communications, lobbying activity, supporting or opposing legislation or opposing or supporting a petition drive or ballot question."

Those affected will include teachers, police, firefighters, Mayors, businesses with public contracts, leases, grants, non-profits (such as Boys & Girls Clubs, Women's Shelters, Food Banks), unions and all other public officials and employees.

THE GAG LAW

At this time, the initiative is entitled, "Anti-Corruption Initiative," and has not yet been assigned a Proposition Number. We are currently calling it the "Gag Law." Help us stop this initiative from becoming law.

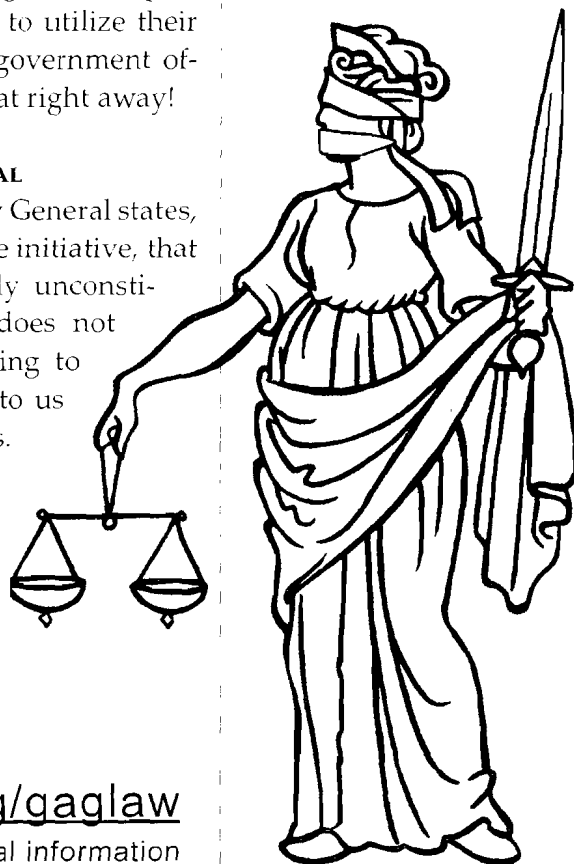
A good citizen is taught to take part in government and to utilize their "right" to address government officials. This takes that right away!

UNCONSTITUTIONAL

The Alaska Attorney General states, in his opinion on the initiative, that parts of it are likely unconstitutional. But that does not prevent it from going to the voters! It is up to us to stop it at the polls.

ANTI CORRUPTION?

The Sponsors have cynically called this the "Anti-Corruption Act." When, in fact, none of the provisions outlined in this initiative would have stopped recent corruption in Alaska. This will only hurt honest Alaskans, and encourage more of this kind of behavior.



Visit: www.akml.org/gaglaw
for documents and additional information



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January 11, 2009

TO: Alaska State Legislators
FROM: Alaska Municipal League
RE: Primary Election Initiative

Dear Legislators,

The Alaska Municipal League, along with many other organizations in Alaska, have joined together to form a coalition to fight an initiative that will be on the upcoming ballot in August 2010. We feel that it is important to bring this initiative to your attention before the beginning of session.

The initiative is funded by a wealthy gentleman from the east coast, who for some reason, has decided that inserting himself into Alaska politics is the right thing to do. He has, fortunately, seen this initiative go down in defeat in other states where he has managed to bring this initiative to a vote. However, the defeats were not a "given" and it will take much hard work on the part of Alaskans to attempt to defeat this initiative.

The initiative is called the "Alaska Anti-Corruption Act," and I have included it as an attachment to this email, along with the Resolution that the Alaska Municipal League approved during our Annual Local Government Conference in November 2009.

We believe this "Act," if passed, will completely disenfranchise local governments from all political issues in this state. After perusal by more than a few attorneys, it appears to be unconstitutional and certainly removes 1st amendment rights. As you can see, by reading this initiative, local government will not be the only party affected. It will reach throughout the state to many organizations, as well as the state, itself. **In addition, it would adversely impact the way every candidate for every elected office fundraises in Alaska.**

This initiative would have done nothing to stop the situation that Alaska faced a few years ago. A public process, done correctly, makes room for all Alaskans to speak up. We will be, with the help of a wide range of organizations, informing all Alaskans as to the danger of allowing this initiative to go through, as well as supporting the reform needed in order to make sure that our initiative process is more transparent, so that we can see who is ultimately behind each initiative.

We are in close contact with the other states that have defeated this act and have been able to find much information on the people behind this initiative and their hardly stellar past. Please contact us if you have any further questions. We are still getting up to speed, but hope to be ready to pursue our goals quickly.

Sincerely

Kathie Wasserman
Executive Director

Member of the National League of Cities and the National Association of Counties



**ALASKA MUNICIPAL LEAGUE
RESOLUTION #2010-08**

**A RESOLUTION BY THE ALASKA MUNICIPAL LEAGUE TAKING A STRONG
POSITION AGAINST “AN INITIATIVE CREATING AN ALASKA ANTI-CORRUPTION
ACT” (PROP 7), WHICH WILL BE PLACED ON THE 2010 PRIMARY ELECTION
BALLOT**

WHEREAS, there has been a move to place this initiative on ballots across the United States; and

WHEREAS, this initiative has been filed with the Lt. Governor’s Office in Alaska and will be on the August 24, 2010 primary election ballot; and

WHEREAS, the Alaska Municipal League believes that this initiative will take away the rights of Alaskan municipalities and their ability to effectively lobby their state and/or federal representatives; and

WHEREAS, this initiative would basically close down or severely hamper all organizations that rely on dues that come directly or indirectly from tax revenues, to include, but not restricted to:

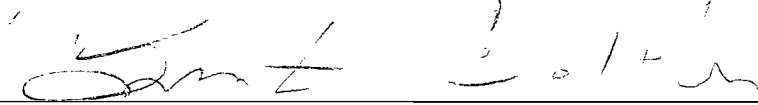
- Alaska Municipal League
- Union Organizations
- All municipalities that use contract lobbyists
- State of Alaska ARDORS (SWAMC, Southeast Conference, etc.)
- Alaska Association of School Boards
- NACo and NLC
- All AML affiliates (ACoM (Mayors), AMMA (Managers), AAMC (Clerks), AAAO (Assessors), AFCA (Fire Chiefs), AGFOA (Finance Officers), AMAA (Attorneys) and others.

WHEREAS, prohibiting local government officials (and others named in the initiative) from “directly or indirectly” from “using, directing, permitting, receiving, or facilitating” the use of tax revenues for “campaigning, lobbying, or partisan purposes” would result in local government officials being unable to weigh in on the issues that we deal with on a day-to-day basis, and

WHEREAS, this initiative also tramples on many other “First Amendment Rights,” that would specifically target all organizations that advocate on and with government issues, by taking away their right to lobby and/or take positions with regards to upcoming legislation that may affect them and their ability to operate in a manner set forth by their constituents and/or members.

THEREFORE, BE IT RESOLVED that the Alaska Municipal League takes a strong position against "An Initiative Creating an Alaska Anti-Corruption Act (Prop 7), which will be placed on the 2010 Primary Election Ballot.

PASSED AND APPROVED by the Alaska Municipal League on this 20th day of November, 2009.

Signed: 

Mayor Bert Cottle, President, Alaska Municipal League

Attest: 

Kathie Wasserman, Executive Director, Alaska Municipal League

AN INITIATIVE CREATING AN ALASKA ANTI-CORRUPTION ACT

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ALASKA:

Section (1) The laws of Alaska are amended to create a section to read as follows:

Public resources from any source not to be used or received to further any political agenda

(A) No public body, public officer, person in the employ of the state, any of its political subdivisions, any school district, or candidate for public office may, directly or indirectly, direct, permit, receive, require, or facilitate the use of tax revenues or any other public resources for campaign, lobbying, or partisan purposes, including payment of dues or membership fees of any kind to any person, league, or association which, directly or indirectly, engages in lobbying, campaigns, or partisan activity. No candidate, political committee, or political party may accept any contribution from any state, state agency, political subdivision of the state, foreign government, federal agency, or the federal government. A violation of this section is a Class A misdemeanor.

(B) Any person who knowingly spends or receives funds in violation of this section shall pay full restitution for the greater of the public cost or for the market value of any misappropriated resources. The second or subsequent violation by a public officer or employee shall render that person ineligible to hold public office or employment with the state or any of its political subdivisions for ten years.

(C) The provisions of this section do not limit public officials in the performance of their constitutional duties, and do not apply to:

- (1) Communications among and between a member and a staff member of a legislative body;
- (2) Comments by an elected official or communications from an elected official that are designated for constituents;
- (3) Appearances by a public officer or employee pursuant to a specific request to appear before a public body to provide information;
- (4) Communications between an elected or appointed public officer and a legislator or a legislative staff member;
- (5) A public employee acting in an uncompensated personal capacity, undirected in any manner by, and who does not purport to represent the interests of, a public employer; and

(6) An authorized employee of the office of the Governor, the Supreme Court, or the Alaska Department of Revenue, whose responsibilities are to assess the impact of proposals which affect the administration of government.

(D) *Definitions.* Terms as used in this section mean:

(1) "Direct, permit, receive, require, or facilitate the use of tax revenues or any other public resources for campaign, lobbying, or partisan purposes," includes (i) the use of public funds or credit, facilities, rights of access, equipment, supplies, or trademarks to influence any state, municipal, or school board election; (ii) undertaking, promoting, or distributing studies, surveys, analyses, descriptions, or other communications using public resources in a manner specifically calculated to induce support of, or opposition to, proposed legislation or ballot questions; and (iii) incurring any public administrative expenses or activities to allocate or designate portions of public employee income to entities that engage in lobbying activities, other than charitable organizations qualified as exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any other future tax code.

(2) "Campaign," includes (i) communications or expenditures related to the pursuit of a public office, either electoral or appointive; (ii) all lobbying activity; or (iii) efforts paid in whole or in part by public revenues or resources to coordinate or induce members of the general public or any segment thereof to directly influence legislative activity by communicating with members of a legislative body, supporting or opposing legislation, or supporting or opposing a petition drive or ballot question.

(3) "Lobbying," means attempts to directly influence legislative activity by communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of legislation.

(4) "Person," includes any individual, business entity, governmental entity, organization, committee, political party, campaign fund, and association.

(5) "Public officer or person in the employ of," includes any person who is elected, appointed, or employed by this state, or any political subdivision or school district in this state, including persons who are independent contractors or consultants hired by the state, a political subdivision, or school district in this state.

(E) This section applies to the State of Alaska, home rule and general law municipalities, and state, independent and municipal school districts, and State, municipal and school district officers, agents, and employees.

Section (2) The laws of Alaska are amended to create a section to read as follows:

Restrictions to reduce corruption relating to certain public contracts.

(A) No person may enter into a government contract if such person also employs, hires, or retains the services of a current or former legislator or legislative staff member who is less than two years removed from such public position. A person who knowingly violates

this prohibition is guilty of a class A misdemeanor and shall, in addition to other penalties, forfeit any contractual rights to any payment or reimbursement, and shall make restitution to the state in the amount of funds accrued during the period of violation. This subsection shall not apply to a bona fide position, trade, occupation, or profession in which a person engaged or obtained certification within one year prior to becoming a legislator or legislative staff member.

(B) Beginning on the date a government contract is awarded and extending until two years following the conclusion of that contract, no holder of the public office with ultimate responsibility for the award of the contract, no candidate for that office, and no person acting on behalf of either may knowingly solicit, accept, or direct a contribution from the holder of the government contract or an immediate family member of the holder. No candidate or other person may knowingly accept or make a contribution that is solicited or directed in violation of this subsection. A person who knowingly violates this prohibition is guilty of a class A misdemeanor and shall, in addition to other penalties, make full restitution to the donor and shall pay restitution in a like amount to the state. If the person has previously been convicted of violating this prohibition, the person shall be ineligible to hold public office or employment with the state or any of its political subdivisions for two years,

(C) Any person entering into a no-bid government contract awarded by the State or any of its subdivisions shall be considered a holder of a government contract and shall contractually agree to cease making, inducing, or soliciting contributions or independent expenditures, directly or indirectly, through any officer, employee, immediate family member of any officer or employee, vendor, or agent, to or for the benefit of any candidates for any elected office of the state or any of its political subdivisions, or to persons who intend to make such contributions within the state or any of its political subdivisions, for the duration of the contract and two years thereafter. The contractual agreement shall provide that any violation of this provision by the holder of the government contract shall, in addition to other legal consequences, result in forfeiture of any contractual rights to payment under the contract, and in payment of restitution to the state in an amount of not less than twice the amount of the contribution. Any person who knowingly violates this provision, or accepts contributions on behalf of a candidate or other entity in violation of this provision, shall pay restitution to the state in an amount not less than twice amount of the contribution. If the treasurer of any entity subject to such agreement obtains knowledge of a contribution made or accepted in violation thereof by that entity, then liability for the violation shall be also attributable to the treasurer unless the treasurer notifies the State of Alaska about the violation in writing within three business days of learning of such contribution. If a person has previously been determined responsible for violating this section, the person shall be ineligible to hold public office, any contract, or employment with the state or any of its political subdivisions for three years. The governor may temporarily suspend any debarment under this Subsection (C) during a declared state of emergency.

(D) A violation of Subsection (C) may be established and enforced by the filing of an action in the Alaska Superior Court. This action may be initiated by the State, any municipality or school district, any private group or entity, or any member of the public. If an action to establish and enforce the provisions of Subsection (C) is filed by a person

acting in a private capacity, or any other non-governmental group or entity, the claim may be prosecuted by the State or the person or entity initiating the action. Any person, government, group or entity that initiates an action pursuant to the subsection shall be immune from any claim or legal action for doing so.

(E) *Definitions.* Terms as used in this section mean:

(1) "Contribution," means a purchase, payment, promise or obligation to pay, loan or loan guarantee, deposit or gift of money, goods, or services for which a charge is ordinarily made and that is made for the purpose of influencing the nomination, election, or selection of a candidate for public office, either elective or appointive, or for the purpose of influencing an initiative, ballot proposition, or question, including payment to another person for the purpose of that person's influencing the nomination, election, or selection of a candidate for public office, either elective or appointive, or for the purpose of influencing an initiative, ballot proposition, or question. "Contribution" does not include personal services rendered without compensation by individuals volunteering all or part of their time for these purposes.

(2) "Government contract," includes any contract awarded by an agency or department of this state or any public body receiving state subsidy or authorized to levy taxes, for the purchase of goods or services for amounts greater than five hundred dollars, indexed for inflation per the Consumer Price Index after the year 2010. A contract for services includes collective bargaining agreements with a labor organization representing employees but not employment contracts with individual employees;

(3) "Holder of the government contract," includes any party to the contract, including partners, owners of five percent or more interest, officers, administrators or trustees of any person who is a party to the contract, or, in the case of collective bargaining agreements, the labor organization and any political committees created or controlled by the labor organization;

(4) "Holder of the public office with ultimate responsibility for the award of the contract," means any elected official who may award the contract or appoint an official responsible for awarding the contract, or any elected official of a public body where the contract is awarded by that public body;

(5) "Immediate family member," includes any spouse, child, spouse's child, son-daughter-in-law, parent, sibling, grandparent, grandchild, step brother-sister, step-parent, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, guardian, and domestic partner;

(6) "No-bid government contracts," includes all government contracts that do not use open, blind competitive bidding processes for procurement. Collective bargaining agreements qualify as no-bid government contracts if the contract confers an exclusive representative status to bind all employees to accept the terms and conditions of the contract;

(7) "Person," includes any individual, business entity, governmental entity, organization, committee, political party, campaign fund, and association.

(F) This section applies to the State of Alaska, home rule and general law municipalities, and state, independent and municipal school districts, and State, municipal and school district officers, agents, and employees.

(G) Nothing in this section shall affect the right of the State to suspend, debar, or otherwise sanction government contractors as authorized by Title 36 of the Alaska Statutes and implementing regulations.

(H) The State of Alaska shall promptly publish a summary of each government contract in a searchable website accessible from a conspicuous place on its official website. Any holder of a government contract shall promptly prepare and deliver to the State of Alaska a true and correct "Government Contract Summary", in digital format as prescribed by the State, which shall:

- (1) identify the names and addresses of the holders and all other parties to the government contract,
- (2) briefly describe the nature of the contract, including whether the contract was awarded based on a competitive bidding procedure or was a contract awarded with no bid, and goods involved or services performed,
- (3) disclose the estimated duration and end date of the contract,
- (4) disclose the contract's estimated amount, and apportioned sources of payment, and
- (5) disclose other relevant contract information as specifically required by the State of Alaska, including verbatim copies of all contract documents, to the extent disclosure would not violate federal or other state laws.

Section (3) Non-Applicability of Less Protective Laws

If any provisions of the Alaska Statutes or the Alaska Administrative Code conflict with this Act and are less restrictive or less protective of the public interest than this Act, then this Act shall apply.

Section (4) Severability

The provisions of this Act are independent and severable, and if any provision of this Act, or the applicability of any provision to any person or circumstance, shall be found to be invalid, the remainder of this Act shall not be affected and shall be given effect to the fullest extent practicable.

STATE OF ALASKA

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL
LABOR & STATE AFFAIRS

SARAH PALIN, GOVERNOR

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December 18, 2007

The Honorable Sean R. Parnell
Lieutenant Governor
P.O. Box 110015
Juneau, Alaska 99811-0015

Re: Review of 07ANCO Initiative Application
A.G. file no: 663-08-0057

Dear Lieutenant Governor Parnell:

I. INTRODUCTION

You have asked us to review an application for an initiative entitled "An Initiative Creating An Alaska Anti-Corruption Act." We find no legal problems with the bill that warrant denial of certification and so we recommend that you certify the application.

II. SUMMARY OF THE PROPOSED BILL

The bill is comprised of two sections with the stated objective of reducing the appearance of corruption in government. Section 1 is essentially a prohibition on use of public funds for electioneering, repeating the prohibition against the use of public funds in candidate campaigns that appears in AS 15.13.145, and adding a prohibition against the use of public funds to advocate in ballot measure campaigns. The section also supplements penalties for violating prohibitions against government spending in campaigns. Section 2 prohibits contractors on public works construction projects from making contributions to candidates. It also provides for civil and criminal penalties for violations.

Section 1 prohibits the use of tax revenues or public resources for campaign, lobbying or partisan purposes. The law now permits the use of public funds in a ballot measure campaign if the legislature or local legislative body appropriates funds for that purpose but prohibits public spending in candidate campaigns. See AS 15.13.145. Section 1 would prohibit any advocacy in a campaign without regard to legislative authorization. This section prohibits the acceptance of contributions of public funds, duplicating a similar provision in AS 15.13.072, which prohibits the solicitation or

acceptance of unlawful contributions. Section 1 also prohibits the use of public funds to lobby. Current law exempts state public officials from the definition of "lobbyist" in recognition of the need for executive and legislative branches to confer on legislation and budget issues. The prohibition probably was not intended to cover this conferral but, instead, was directed at spending for a professional lobbyist. This section provides that a violation of the section is a class A misdemeanor, duplicating AS 15.56.012, which makes a knowing violation of AS 15.13 a class A misdemeanor, and provides the additional remedy of restitution. It also provides that, if a person violates this section more than once, that person is barred from holding public office or employment with the state or any political subdivision for 10 years. There is no administrative remedy or procedure provided in the section, although current law provides an administrative procedure for conduct that already is a violation under AS 15.13. AS 15.13 380.

Subsection (C) of section 1 provides that section 1 does not apply to communications between a legislator and legislative staff or public officer, communications by an elected official with constituents, appearances by a public officer or employee before a public body to provide information, a public employee acting in a personal capacity, or certain public employees who assess the impact of proposals that affect the administration of government. Because communications are not prohibited in the section, it is unclear what subsection (C) means except to ensure that the prohibition against public spending for lobbying is not interpreted to prohibit communication by public officials with legislators and their staff.

Subsection (D) of section 1 contains definitions. The definitions are quite broad. For instance, the "use of tax revenues or any other public resources" is defined such that the prohibition against the use of such funds for campaign, lobbying or partisan purposes encompasses uses of public funds in support of or in opposition to legislation or ballot measures. It would also prohibit incurring any expense for public employee paycheck designations for donations to an organization that engages in lobbying activities, unless such organization is a qualified 501(c)(3) entity under the Internal Revenue Code. This prohibition would need to be reconciled with AS 23.40.220, which requires a public employer, including the state, to deduct from payroll the monthly dues and other fees and pay them to a union when authorized by a public employee.

The definitions section also contains an applicability section extending the applicability of the section to all state and local government in Alaska, as well as their officers, agents and employees.

Section 2 contains a number of prohibitions designed to eliminate the involvement in campaigns of persons who contract with a government entity. Subsection (A) prohibits a person from entering into a government contract if the person employs a current or

former legislator or legislative staff person who is less than two years removed from that position. Violation of this provision is a class A misdemeanor. Additionally, the contract may be forfeited and any amounts paid under the contract returned as restitution. The provision makes an exception for legislators and legislative staff that engaged or were certified in the profession or occupation "within one year" prior to becoming a legislator or legislative staff person. The section does not provide procedures for certification. Because it also fails to authorize regulations, it is unclear how the state would implement the certification provision.

Subsection (B) prohibits a legislator, candidate, or public official from soliciting or accepting a campaign contribution from a holder of a government contract. Violation of this provision is a class A misdemeanor. Amounts received in violation of this section must be returned as restitution to the contributor and an equal amount paid as restitution to the state. Repeat violators are barred from holding public office or employment with the state or any political subdivision for two years.

Subsection (C) provides that a person holding "no-bid" government contracts is a "holder of a government contract" (likely meaning that a legislator, candidate, or public official may not receive contributions from them under subsection (B)). Persons holding no-bid government contracts also are contractually bound to stop making or soliciting contributions and to stop making independent expenditures (a term used and defined in AS 15.13) to elect or defeat candidates during the term of the contract and for two years after it terminates. Because the prohibitions appear limited to holders of "no-bid" contracts, presumably, other persons who became public contractors after participation in a bidding procedure, can make contributions and independent expenditures regarding candidates for public office. The provision requires double restitution for violations. Repeat violators are barred from holding public office, entering into a contract, or employment with the state or any political subdivision for a period of three years.

Subsection (D) provides that subsection (C) may be enforced in superior court by anyone, and that such person is immune from any legal action for so doing.

Subsection (E) contains the definitions for section 2. Like the definitions for section 1, they are broad. For instance, the definition of "government contract" also includes a collective bargaining agreement with a labor organization. "Holder" of a government contract includes any person that has a five percent interest in a party to the contract.

The definitions section also contains an applicability section extending the applicability of the section to all state and local government in Alaska, as well as their officers, agents and employees.

Subsection (H) requires the State of Alaska to publish a summary of all government contracts on its website. The summary must contain details of the contract, including the parties, the term, and estimated amount to be paid.

Section 3 provides that if there is existing law that is less protective than this bill, the provisions of the bill will apply.

Section 4 is a severability provision similar to AS 01.10.030.

III. ANALYSIS

Under AS 15.45.070, the lieutenant governor is required to review an application for a proposed initiative and either “certify it or notify the initiative committee of the grounds for denial” within 60 days of receipt. The grounds for denial of an application are that (1) the proposed bill is not in the required form; (2) the application is not substantially in the required form; or (3) there is an insufficient number of qualified sponsors. AS 15.45.080. We discuss these next.

A. FORM OF THE PROPOSED BILL

The form of a proposed initiative bill is prescribed by AS 15.45.040, which requires that (1) the bill be confined to one subject; (2) the subject be expressed in the title; (3) the enacting clause state, “Be it enacted by the People of the State of Alaska”; and (4) the bill not include prohibited subjects. The prohibited subjects – dedication of revenue, appropriations, the creation of courts or the definition of their jurisdiction, rules of court, and local or special legislation – are listed in AS 15.45.010 and in article XI, section 7, of the Alaska Constitution.

The bill satisfies each of these four requirements. With respect to the requirement that the bill be confined to one subject, we note that the bill proposes restrictions on use of public funds for electioneering, as well as restrictions on participation in campaigns and lobbying by persons with interests in certain government contracts. While these are potentially different subjects, the overall objective of the bill is to reduce corruption in government, and both sets of restrictions are calculated to implement such purpose. We have recently considered the single subject rule in the initiative context, and noted the many cases in which the Alaska Supreme Court has adopted a lenient threshold for determining whether the single subject rule is satisfied. *See* 2007 Op. Att’y Gen. 10-12 (July 18; 663-07-0191). We think that the unifying theme in 07ANCO is government ethics and that all the sections in the bill fairly relate to this subject.

With respect to the remaining requirements, the subject of the bill is alluded to in the title (“creating an Alaska anti-corruption act”). The enacting clause is set out correctly. The bill does not contain any of the prohibited subjects.

While we recommend the initiative be certified, we do note some legal issues with the bill. We raise these issues here.

Subsections 2(B) and (C) of the bill impose a ban on certain political contributions by holders of government contracts. As we have previously observed, the U.S. Supreme Court is vigilant with respect to protecting First Amendment rights in the campaign finance context. 2007 Op. Att’y Gen. 1-2, (Aug. 8; 663-07-0191). Although the Alaska Supreme Court has upheld a number of contribution bans in *State v. Alaska Civil Liberties Union*, 978 P.2d 597, 607-633 (Alaska 1999), the bans proposed here (particularly with regard to the bans on campaign spending by persons holding small public contracts) are quite broad and may not pass muster. We are particularly concerned about the prohibitions on campaign expenditures (defined in AS 15.13), which the courts have been extremely careful to protect. Although the constitutionality of this bill’s ban on political contributions by holders of government contracts could be challenged at some point, courts in Alaska will not entertain such challenges until after the measure has been enacted by the people. *See Alaskans for Efficient Government, Inc. v. State*, 153 P.3d 296, 298 (Alaska 2007) (constitutional issues not identified as prohibited subjects may only be considered after initiative becomes law).

We also note that section 1 prohibits the use of public funds for on a ballot measure campaign. As a constitutional matter, the legislature may appropriate money for any public purpose. Alaska Const. art. IX, § 6. While our courts have not ruled on whether an appropriation for such purposes is for a public purpose, the courts have adopted a fairly broad test. *See DeArmond v. Alaska State Dev. Corp.*, 376 P.2d 717, 721 (Alaska 1962) (public purpose is what legislature says it is unless arbitrary and without basis in fact). Thus, it is conceivable that if this ballot measure were enacted, the legislature could, consistent with the constitution, appropriate funds in violation of this provision. We doubt that the courts would enforce against the legislature a statute that restricts the constitutional power of appropriation. Acceptance of such appropriated funds, however, could expose the recipient to criminal and civil sanctions.

We also note in this regard, that the Alaska Constitution prohibits an initiative from repealing an appropriation. Alaska Const. art. XI, § 7. This measure does not repeal an existing appropriation—it merely seeks to prevent the legislature from using its appropriation power for certain purposes in the future. Thus, we do not think that this provision violates the restriction against initiatives repealing an appropriation. And, as just noted, we doubt that such provision would be enforceable against the legislature.

B. THE FORM OF THE APPLICATION

The form of an initiative application is prescribed in AS 15.45.030, which provides:

The application must include the

- (1) proposed bill;
- (2) printed name, the signature, the address, and a numerical identifier of not fewer than 100 qualified voters who will serve as sponsors; each signature page must include a statement that the sponsors are qualified voters who signed the application with the proposed bill attached; and
- (3) designation of an initiative committee consisting of three of the sponsors who subscribed to the application and represent all sponsors and subscribers in matters relating to the initiative; the designation must include the name, mailing address, and signature of each committee member.

AS 15.45.030. The application meets the first and third requirements as well as the latter portion of the second requirement regarding the statement on the signature page. With respect to the first clause of the second requirement, the Division of Elections within your office determines whether the application contains the signatures and addresses of not less than 100 qualified voters.

C. NUMBER OF QUALIFIED SPONSORS

The Division of Elections within your office will determine whether there are a sufficient number of qualified sponsors.

IV. PROPOSED BALLOT AND PETITION SUMMARY

We have prepared the following ballot-ready petition summary and title for your consideration:

**INITIATIVE PROHIBITING PUBLIC FUNDS FOR ELECTION
CAMPAIGNS; ALSO PROHIBITING CAMPAIGN CONTRIBUTIONS BY
HOLDERS OF GOVERNMENT CONTRACTS**

This bill would ban the use of public funds for political campaigns and lobbying. Funds could not be used to support or oppose a ballot measure. The bill would limit political involvement in government contracts. It would ban political contributions by holders of government contracts. It would ban legislators and their staff from being employed by holders of government contracts for two years after leaving state service. The bill has criminal and civil penalties.

Should this initiative become law?

This summary has a Flesch test score of 57.1. We believe that the summary meets the readability standards of AS 15.60.005.

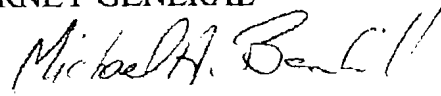
V. CONCLUSION

For the above reasons, we find that the proposed bill is in the proper form, and therefore recommend that you certify this initiative application.

Please contact me if we can be of further assistance to you on this matter.

Sincerely,

TALIS J. COLBERG
ATTORNEY GENERAL

By: 
Michael A. Barnhill
Senior Assistant Attorney General

MAB/rca

cc: Whitney Brewster
Director of Division of Elections
Office of the Lieutenant Governor