

**CITY OF WASILLA
RESOLUTION SERIAL NO. 10-16**

A RESOLUTION OF THE WASILLA CITY COUNCIL OPPOSING "AN INITIATIVE CREATING AN ALASKA ANTI-CORRUPTION ACT" WHICH WILL BE ON THE 2010 ALASKA PRIMARY ELECTION BALLOT.

WHEREAS, on August 24, 2010, an initiative will be on the Alaska primary ballot which will ask the voters to decide if public funds can be used for election campaigns; and

WHEREAS, the City of Wasilla believes that this law goes much deeper than is stated; and

WHEREAS, municipalities would be affected in the following way:

- Municipalities will NOT be able to hire lobbyists for capital projects or for help with legislation;
- Elected officials will not be able to travel to Juneau to talk with the Legislature unless they pay for their travel and lodging with their own money;
- Municipalities will NOT be able to have ANY person lobby unless they are specifically invited by a Legislator; and

WHEREAS, the City of Wasilla depends on a close working relationship with the state Legislature; and

WHEREAS, this initiative would seriously disrupt that relationship, to the detriment of all Alaskans; and

WHEREAS, this initiative would seriously infringe upon the citizens' right to communicate with their elected officials; and

WHEREAS, holders of state or local government contracts of over \$500 p/year would be prohibited from making political contributions, as well as would their family members; and

WHEREAS, for example, if your sister's husband sells office supplies to any local government, (a P.O. can be construed as a contract), you and the rest of your family will be prohibited from taking part in individual campaigns initiatives and ballot propositions; and

WHEREAS, non-profits that receive local or state funds or grants would find that board members and their immediate family could no longer take part in government issues; and

WHEREAS, this bill will bring government in the State of Alaska to a virtual stop; and

WHEREAS, Alaska's recent corruption issues did not involve the campaign finance structure and this initiative would NOT have prohibited legislators from taking cash bribes; and

WHEREAS, the term "anti-corruption" is a very misleading term used by the proponents of the initiative, as in reality it is a basic attack on our Constitutional rights of free speech and our right to petition our government for redress; and

WHEREAS, this initiative has been submitted and funded by a man from New York City; and

WHEREAS, he has also filed this initiative in at least three other states; and

WHEREAS, this initiative has passed in only one of those states (Colorado) three years ago and was just recently struck down as unconstitutional.

NOW, THEREFORE, BE IT RESOLVED, by the Wasilla City Council that the City of Wasilla stands opposed to the "Initiative Creating an Alaska Anti-Corruption Act."

ADOPTED by the Wasilla City Council on April 12, 2010.



VERNE E. RUPRIGHT, Mayor

ATTEST:



KRISTIE SMITHERS, MMC, City Clerk

[SEAL]

VOTE: Hall, Harris, Holler, Katkus, Larson, and Woodruff in favor.



**CITY OF WASILLA
LEGISLATION STAFF REPORT**

Resolution Serial No. 10-16: OPPOSING "AN INITIATIVE CREATING AN ALASKA ANTI-CORRUPTION ACT" WHICH WILL BE ON THE 2010 ALASKA PRIMARY ELECTION BALLOT

Agenda of: April 12, 2010
Originator: Name

Date: March 26, 2010

Route to:	Department	Signature/Date
	Chief of Police	
X	Finance Director	<i>[Signature]</i> 3/31/2010
X	Interim Deputy Administrator	<i>[Signature]</i>
X	City Clerk	

REVIEWED BY MAYOR VERNE E. RUPRIGHT: *[Signature]*

FISCAL IMPACT: yes \$ or no Funds Available yes no

Account name/number:

Attachments: Attachment 1: An Initiative Creating An Alaska Anti-Corruption Act (5 pages)

Attachment 2: Alaska Elections Petition Status (1 page)

Attachment 3: Anchorage Press Article (3 pages)

SUMMARY STATEMENT: Alaska Municipal League has informed the City of Wasilla that an initiative will be on the August 24, 2010 primary ballot which will ask the voters to decide if public funds can be used for election campaigns. This initiative, if passed, would seriously infringe upon the citizens' right to communicate with their elected officials and will bring government in the State of Alaska to a virtual stop. The City of Wasilla needs to stand opposed to the "Initiative Creating an Alaska Anti-Corruption Act."

STAFF RECOMMENDATION: Approve the adoption of Resolution Serial No. 10-16.

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.

AG's File Number: 663-08-0057

Primary Sponsors: Scott A. Kohlhaas, Tonya A. Shuravloff, Robert Clift

Contact Information - (907) 278-1094

Application was received in the Lieutenant Governor's Office on October 22, 2007. A copy of the application and signatures were sent to the Department of Law and Division of Elections on October 22, 2007. The Division of Elections determined that there were a sufficient number of sponsor signatures on November 1, 2007. The application was certified by the Lt. Governor on December 19, 2007. Petition booklets were issued to the initiative committee on December 21, 2007. The one year filing deadline for this petition is December 20, 2008. Since the 365th day falls on a Saturday, the deadline to file the petition is close of business on the next regular business day for the division, which is Monday, December 22, 2008. Petition booklets were submitted on March 20, 2008.

Lieutenant Governor Parnell determined that the petition for this initiative was properly filed on May 15, 2008. This initiative will appear on the August 24, 2010 Primary Election.

Click here for the 07ANCO proposed bill language as provided by the sponsors. In PDF

Whatâ€™s in a name? Critics say a ballot initiative in Augustâ€™s election is misleading at best, and onerous at worst.

By Brendan Joel Kelley

In late 2007 and early 2008, two petitions were circulating to get initiatives on the ballot, both with pretty sexy names, considering the Bill Allen/VECO corruption indictments were still coming down with regularity. One was known as “The Clean Elections Act,” the other “The Anti-Corruption Act.” Who wouldn’t want those? At the time, this paper and other media outlets noted that many potential signatories didn’t realize the two initiatives were different—starkly so.

The Clean Elections Act, which would’ve provided public funding for candidates, made it on to the 2008 ballot, but was shot down by voters. The Anti-Corruption Act didn’t get enough signatures in time for that election, but it did get them in time to be included on this August’s primary ballot, where it will be one of two initiatives (the other would require parental consent for abortions for minors).

Even back in 2008, the genesis of the Anti-Corruption Act was shadowy. A former state representative, Dick Randolph, told the *Anchorage Daily News* he’d been asked to head the campaign by New York billionaire Howie Rich, a libertarian known for funding pro-term-limits and “taxpayer bill of rights” initiatives in states around the country (Randolph is traveling out of state and couldn’t be reached for comment). Scott Kohlhaas, the chair of the state Libertarian Party, was involved in the signature gathering (he wrote in an email this week that he hasn’t been associated with the Anti-Corruption Act since the ballot drive), and he told the *Daily News* in January 2008 that Rich wrote him an email “telling me not to ‘eff’ this up.” (An email query to Rich went unanswered.)

Rich’s involvement in the current campaign is unknown; the group campaigning for the initiative, known as Clean Team Alaska, submitted its campaign disclosure to the Alaska Public Offices Commission Tuesday of this week, and its primary donor is a 501(c)(4) nonprofit corporation called Alaskans for Open Government, headed by local attorney Ken Jacobus. Alaskans for Open Government donated more than \$80,000 of the campaign’s \$81,135 total income for the reporting period. Alaskans for Open Government doesn’t have to report its income sources to APOC. At press time, Jacobus hadn’t responded to a request to clarify his group’s involvement with the Anti-Corruption Act.

In Alaska, in the wake of the prosecutions of state legislators involved in the Bill Allen/VECO corruption scandal, how could one not vote for an initiative called the Anti-Corruption Act?

That’s what scares opponents of this measure—a coalition that so far includes labor unions, municipal associations, and the Alaska Chamber of Commerce. They’ve formed a group called “Stop the Gag Law” to campaign against the Anti-Corruption Act.

The initiative is five pages long, and its primary intention is to keep public money out of the election process. It sounds fine on its surface, but the ramifications of the language in this initiative are exceptionally severe in limiting Alaskans’ ability to participate in the political process, according to its opponents.

The first part of the initiative stipulates that no public official, state employee, public body, school district, or candidate for office can use tax revenues or public money to lobby, campaign, or engage in partisan activity. That means, for example, that not only could Anchorage not hire a lobbyist to go to Juneau during the legislative session and advocate for state funds for the city, but the mayor couldn’t even make a phone call from his office to legislators asking for money (the telephone would constitute

use of public money and tax revenue to lobby the lawmakers). Nonprofits who receive public money would be subject to the same restrictions—no ability to lobby the legislature for their causes.

The second part of the initiative would prevent anyone who employs a former legislator or legislative staffer from receiving any government contract unless the legislator or staffer was two years removed from his or her public position.

It also says that anyone with a no-bid or sole source government contract, along with an extensive list of their family members, would be prohibited from donating to candidates; this extends to collective bargaining agreements with labor unions, whose political action committees wouldn't be able to lobby or donate to campaigns if they hold government contracts.

Heidi Verougstraete, co-president of National Ballot Access—a Georgia-based “petition drive management company,” according to SourceWatch.org—has been hired by Clean Team Alaska to campaign for the passage of the Anti-Corruption Act.

Verougstraete says the Anti-Corruption Act is “aimed at pay-to-play activity between no-bid government contractors and politicians, so it makes a voluntary restriction in their contract with the state or any subsidiary organization, like municipalities or boroughs, that if they have a no-bid or sole source contract with the state of Alaska or any borough or city, that they will refrain from making political contributions of any sort, and that includes labor agreements.”

She admits it would prevent labor union PACs from contributing to political campaigns as well, but says that with the recent Supreme Court decision allowing corporations to make unlimited independent expenditures to influence campaigns, “I’m sure everyone will probably be participating in independent expenditures anyway.”

Opponents of the Anti-Corruption Act, of which there are many, are offended at the name of the initiative, which they believe is misleading.

“The irony is that Bill Allen and the five or six legislators went to prison for a situation that, if this law passed, would increase the likelihood of that happening more,” says Vince Beltrami, president of the Alaska AFL-CIO. “It would do nothing to dissuade people from doing what happened in the VECO case. The Anti-Corruption Act does nothing to fix that situation. But when people were signing the petitions, I think that’s what they thought they were signing.”

Opposition to the Anti-Corruption Act has brought together a collection of organizations that ordinarily have disparate interests. “Strange bedfellows,” Beltrami calls it, and Wayne Stevens, president of the Alaska Chamber of Commerce, which is almost always on the opposite side of any issue with labor unions, says, “That would probably be the understatement of the day.”

“It’s such an egregious attack on people’s First Amendment rights,” says Joelle Hall, the AFL-CIO’s political director. “I don’t know how if you’re an organization that is functioning in the community and doing good work, how you could support this. It affects nonprofits, for-profits, small business owners, big business owners, it goes out to reach everybody’s family members—I can hardly conceive of anybody who’s untouched by it.”

The campaign against the Anti-Corruption Act is just now assembling its coalition of organizations. Thus far, they include the AFL-CIO, the Alaska Chamber of Commerce, the Alaska Municipal League, and the Southwest Alaska Municipal Conference.

“It’s a gag law; it has nothing to do with corruption or anti-corruption,” says Kathie Wasserman, executive director of the Alaska Municipal League. “Municipalities would have no voice in how state government runs. It just shows how on the surface something can look like one thing, but you unzip it a little bit, you see it’s pure stupidity.”

The money and Outside influence behind the Anti-Corruption Act is one reason the Alaska Chamber of Commerce has ballot initiative reform as one of its primary legislative priorities this year, according to the Chamber’s president and CEO Wayne Stevens.

“Quite frankly, it’s things like this, this anti-corruption, misnamed gag initiative, that give us reason to be talking very strongly about the need to change ballot initiative processes,” Stevens says. “Here’s an out of state group, virtually no reporting requirements, blowing into town, spending money, paying to get signatures, nobody’s ever heard of them, nobody knows how they presented the petition to people that signed it. ‘Are you against corruption?’ ‘Oh, I’m absolutely against corruption.’ ‘Well, sign the petition.’ But there’s so much language in the petition that will basically shut down the ability of most citizens to gather in groups and advocate for positions and issues.”

Stop the Gag Law is still in the process of building its coalition, and according to Hall, the AFL-CIO’s political director, “it’s one of those rare times in the political world where 99 percent of the organizations and people involved in their community are going to be on the same side of an issue.”

“Nobody wants to see people abuse the system,” Stevens says, “but when you throw a ballot initiative out like this under the guise of cleaning up corruption, and really hamstringing everyone’s ability to petition government on a daily basis, it just seems a little bit overboard.”

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