

See AR 2010-155(S)

Submitted by: ASSEMBLY MEMBER JOHNSTON
For reading: May 25, 2010

**ANCHORAGE, ALASKA
AR NO. 2010-155**

**A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY OPPOSING THE
AUGUST 24, 2010 ALASKA PRIMARY ELECTION BALLOT INITIATIVE ENTITLED "AN
INITIATIVE CREATING AN ALASKA ANTI-CORRUPTION ACT" BECAUSE IT IS
OVERBROAD IN APPLICATION AND NOT HELPFUL TO LOCAL GOVERNMENTS.**

WHEREAS, on August 24, 2010, an initiative will be on the Alaska primary ballot that will ask voters to decide whether public funds can be used to pay dues to organizations such as the Alaska Municipal League, or to lobby the legislature on public issues important to local government; and

WHEREAS, the Anchorage Municipal Assembly believes passage of this initiative is not in the best interest of the Municipality of Anchorage, and would adversely affect local and state governments in the following ways:

- Municipalities will not be able to hire lobbyists for capital projects or for help with legislation.
- Elected municipal officials and employees will not be able to travel to Juneau to talk with the Alaska State Legislature unless they pay for their travel and lodging with their own money.
- Municipalities will not be able to have any person lobby and advocate in favor of a municipal interest unless they are specifically invited by a legislator.

WHEREAS, passage of this initiative would significantly hamper the orderly and efficient operation of public service and government statewide; and

WHEREAS, to the detriment of all Alaskans, passage of this initiative would seriously disrupt the close working relationship between the Anchorage Municipal Assembly and the Alaska State Legislature; and

WHEREAS, this initiative would unduly infringe upon the right of residents to communicate with their elected officials; and

WHEREAS, holders of state or local government contracts of over \$500 per year, and their family members, would be criminally prohibited for at least two years from making political contributions to any candidate seeking public office, if the elected body had approval authority of the purchase; and

1 WHEREAS, non-profit organizations that receive local funds, state funds or grants
2 would find that board members and their immediate family members could no longer take
3 part in government issues; and
4

5 WHEREAS, the Alaska Municipal League (AML) has taken a strong position against
6 this initiative in passage of AML Resolution No. 2010-8, copy attached; and
7

8 WHEREAS, Alaska's recent corruption issues did not involve the campaign finance
9 structure, but involved bribes; and
10

11 WHEREAS, this initiative would not have prohibited legislators from taking cash
12 bribes; and
13

14 WHEREAS, use of the term "anti-corruption" by proponents of this initiative is
15 misleading because, in application, this initiative impinges on basic Constitutional rights of
16 free speech and the ability to petition our government for redress;
17

18 NOW THEREFORE BE IT RESOLVED that the Anchorage Assembly, for the
19 reasons enumerated herein, opposes the ballot initiative entitled: "An Initiative Creating an
20 Alaska Anti-Corruption Act".
21

22 BE IT FURTHER RESOLVED that passage and approval of this resolution is not
23 intended as an authorization for the expenditure of municipal funds which must be
24 specifically appropriated by ordinance.
25

26
27 PASSED AND APPROVED by the Anchorage Assembly this _____day of
28 _____, 2010.
29
30
31

32 _____
33 Chair
34

35 ATTEST:
36
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39

40 _____
Municipal Clerk



MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM
NO. AM 299-2010

Meeting Date: May 25, 2010

1 **From:** ASSEMBLY MEMBER JOHNSTON
2 **Subject:** **AR 2010-155 — A RESOLUTION OF THE ANCHORAGE MUNICIPAL**
3 **ASSEMBLY OPPOSING THE AUGUST 24, 2010 ALASKA PRIMARY**
4 **ELECTION BALLOT INITIATIVE ENTITLED “AN INITIATIVE**
5 **CREATING AN ALASKA ANTI-CORRUPTION ACT” BECAUSE IT IS**
6 **OVERBROAD IN APPLICATION AND NOT HELPFUL TO LOCAL**
7 **GOVERNMENTS.**

8
9 Alaska Municipal League (AML) Resolution No. 2010-8, attached hereto, outlines a
10 strong position against “An Initiative Creating an Alaska Anti-Corruption Act”.

11
12 The subject initiative is scheduled to be on the August 24, 2010 primary ballot. It is
13 Ballot Measure Number 1 as assigned by the Division of Elections. In the interim, AML
14 is referencing it as the “GAG Law” because it is overbroad in wording and detrimental to
15 the administration of local and state governments in its application.

16
17 By way of example, if your sister’s husband sells office supplies in an amount greater
18 than \$500 to any local government, then it would be illegal for you and the rest of your
19 family members to contribute funds, goods or services to any campaign for anyone
20 seeking election to the public office that had ultimate award approval authority for the
21 purchase order, for a minimum period of two years following completion of the
22 purchase, whether an incumbent or a new candidate for the elected office.

23
24 This initiative will not resolve “anti-corruption” as suggested by its title. Alaska’s recent
25 corruption issues did not involve the campaign finance structure, but involved bribes.
26 This initiative would not have prohibited legislators from taking cash bribes.

27
28 A person from New York City submitted and funded this initiative and similar initiatives
29 in at least three other states, including Colorado. Only one of the three states,
30 Colorado, passed the initiative. The Colorado initiative was recently struck down as
31 unconstitutional.

32
33 In addition to opposing this initiative, the Alaska Municipal League strongly supports HB
34 36 to ensure that appropriate reporting is required to allow the voting public to know
35 who is funding initiative efforts and where they are from.

36
37
38 Respectfully submitted:

39
40 Jennifer Johnston, Assembly Member, Section 6



**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

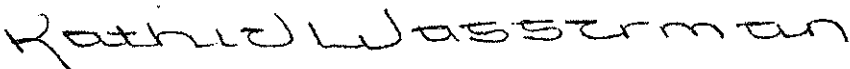
WHEREAS, this initiative also tramples on many other “First Amendment Rights,” that would
specifically target all organizations that advocate on and with government issues, by taking away
their right to lobby and/or take positions with regards to upcoming legislation that may affect
them and their ability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