

Opting Out of Reporting Requirements Under Alaska Statute 39.50, Public Official Financial Disclosure

In response to numerous requests from municipalities and individuals subject to Alaska Statute 39.50, the Public Official Financial Disclosure (POFD) law, the Alaska Public Offices Commission (APOC) has prepared the following information on how a municipality may opt out of these reporting requirements.

Under the same law that requires your municipal officials to file Public Official Financial Disclosure Statements, there is an option for a municipality to exempt their officials from reporting.

The authority to opt out of the POFD reporting requirements can be found in AS 39.50.145, Alaska's Public Official Financial Disclosure Law:

Sec. 39.50.145. Participation by municipalities. A municipality may exempt its municipal officers from the requirements of this chapter if a majority of the voters voting on the question at a regular election, as defined by AS 29.71.800(20), or a special municipality-wide election, vote to exempt its municipal officers from the requirements of this chapter. The question of exemption from the requirements of this chapter may be submitted by the city council or borough assembly by ordinance or by initiative election. (§ 16 ch 25 SLA 1975; am § 1 ch 211 SLA 1975; am § 62 ch 74 SLA 1985)

Some municipalities have chosen to discontinue the reporting requirement entirely and some municipalities have chosen to opt out but to create a simpler version of the requirements and forms.

If your municipality votes to opt out of the reporting requirements, the information is no longer required by the state. If your municipality votes to opt out of the POFD law and substitute a simplified version of financial disclosure reporting requirements, there will be no further requirement for you to provide the information to the Alaska Public Offices Commission.

Of those municipalities that have opted out of the current Public Official Financial Disclosure reporting requirements under AS 39.50, some have modified previous APOC forms and now administer their own version of financial disclosure reporting.

PROCESS FOR OPTING OUT

- Step 1:** The question of exemption from AS 39.50 is submitted by your city council or borough assembly, by ordinance or by initiative election. The city council must approve the ordinance to place the question of exemption from the law on the ballot. (See attached sample language.)
- Step 2:** Educate voters on the ballot question. There are specific guidelines under state law that a municipality must follow if municipal funds are to be used to influence the outcome of a ballot proposition or question. (See AS 15.13.145 below)
- Step 3:** Voters decide at a regular or special municipality-wide election whether or not to opt out of AS 39.50.
- Step 4:** If a majority of voters decide to opt out of POFD reporting requirements, your municipal officials are no longer subject to AS 39.50.
- Step 5:** You must provide APOC with a copy of the official election results indicating that your municipality is no longer subject to the POFD law administered by APOC. Your officials and candidates will not be required to file POFD statements the following year.
- (If a majority of voters decide not to opt out of the POFD reporting requirements, your officials will continue reporting under AS 39.50.)

MUNICIPAL APPROPRIATION OF FUNDS TO INFLUENCE THE OUTCOME OF AN ELECTION

Sec. 15.13.145. Money of the state and its political subdivisions. (a) Except as provided in (b) and (c) of this section, each of the following may not use money held by the entity to influence the outcome of the election of a candidate to a state or municipal office:

- (1) the state, its agencies, and its corporations;
- (2) the University of Alaska and its Board of Regents;
- (3) municipalities, school districts, and regional educational attendance areas, or another political subdivision of the state; and
- (4) an officer or employee of an entity identified in (1) - (3) of this subsection.

(b) Money held by an entity identified in (a)(1) - (3) of this section may be used to influence the outcome of an election concerning a ballot proposition or question, but only if the funds have been specifically appropriated for that purpose by a state law or a municipal ordinance.

(c) Money held by an entity identified in (a)(1) - (3) of this section may be used

(1) to disseminate information about the time and place of an election and to hold an election;

(2) to provide the public with nonpartisan information about a ballot proposition or question or about all the candidates seeking election to a particular public office.

(d) When expenditure of money is authorized by (b) or (c) of this section and is used to influence the outcome of an election, the expenditures shall be reported to the commission in the same manner as an individual is required to report under AS 15.13.040 .(\$ 24 ch 48 SLA 1996)