

LEGAL SERVICES

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MEMORANDUM

February 24, 2010

SUBJECT: Sectional summary of CSHB 275() relating to antitrust violations
(Work Order No. 26-LS0377\T)

TO: Representative Max Gruenberg
Attn: Gretchen Staft

FROM:  Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Allows a person to bring an action, if the person is injured, directly or indirectly, by the act of a director, officer, or trustee, to cause the director, officer or trustee occupying the position in violation of this section to terminate the prohibited interlocking relationship. Defines a "person" for the subsection to include, in addition to the statutory definition, the state, a political subdivision of the state, and other governmental entities, including the Alaska Railroad Corporation and the University of Alaska.

Section 2. Allows a person injured, directly or indirectly, by an antitrust violation (or injured by refusing to accede to a proposal for an arrangement that would be an antitrust violation) to bring a civil action for (1) damages sustained directly or indirectly, including, if successful, three times the damages, and (2) for an injunction.

Section 3. Requires a person commencing an antitrust action to mail a copy of the complaint to the attorney general at the same time. Defines a "person" (for AS 45.50.576) to include, in addition to the statutory definition, the state, a political subdivision of the state, and other governmental entities, including the Alaska Railroad Corporation and the University of Alaska.

Section 4. Allows the attorney general to bring a civil action for monetary, injunctive, and other equitable relief on behalf of the state and its agencies injured directly or indirectly by an antitrust violation.

Section 5. Allows the attorney general to bring an antitrust action for monetary, injunctive, and other equitable relief, in the name of the state, on behalf of a person doing business or residing in the state and injured directly or indirectly by an antitrust violation.

Section 6. Makes conforming changes.

Section 7. Makes conforming changes.

Section 8. Makes conforming changes.

Section 9. In addition to the statutory definition, defines a "person," for AS 45.50.577, to include the state, a political subdivision of the state, and other governmental entities, including the Alaska Railroad Corporation and the University of Alaska.

Section 10. Increases the penalty for an antitrust violation under AS 45.50.562 or 45.50.564 from a misdemeanor to a class C felony. For these antitrust violations by a natural person, increases the maximum fine from \$20,000 to \$1,000,000, and changes the maximum term of imprisonment from a maximum of one year to the imprisonment set under AS 12.55. For these antitrust violations by an offender who is not a natural person, increases the fine from \$50,000 to \$50,000,000.

Section 11. Authorizes the attorney general to bring a civil action against a person who violates AS 45.50.562 or 45.50.564 or an injunction under AS 45.50.580 for a civil penalty. Sets the civil penalty at not more than \$1,000,000 for a natural person and not more than \$50,000,000 for a person that is not a natural person.

Section 12. With regard to this section regarding proof of aggregate damages in a civil action, expands the provision to cover any action brought under AS 45.50.562 - 45.50.596. Makes conforming changes to cover the broader definition of "person" added to certain provisions by this bill.

Section 13. Provides that the court may enter an order or judgment to restore property acquired by a prohibited act and to prevent continuing or future antitrust violations. In addition to the statutory definition, defines a "person" for the subsection to include the state, a political subdivision of the state, and other governmental entities, including the Alaska Railroad Corporation and the University of Alaska.

Section 14. Specifies additional judicial remedies that a court may use if a business organization violates AS 45.50.562 - 45.50.570. Includes revocation, forfeiture, or suspension of a charter, franchise, certificate of authority, privilege, or license, dissolution of the business organization, and divestiture of any asset.

Section 15. Provides that a final order or judgment in an action under AS 45.50.562 - 45.50.596 is prima facie evidence of liability in another action under AS 45.50.562 - 45.50.596 brought by another person. Does not apply to consent judgments or decrees under AS 45.50.584. Defines a "person," for AS 45.50.586, to include the statutory definition and the state, a political subdivision of the state, and other governmental agencies, including the Alaska Railroad Corporation and the University of Alaska.

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Section 16. Repeals AS 45.50.576(b), 45.50.577(i), and 45.50.580(a).

If I may be of further assistance, please advise.

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