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REPRESENTATIVE STEVE THOMPSON

DISTRICT 10

MEMORANDUM

To: Representative Kurt Olson, Chair
House Labor & Commerce Committee

From: Representative Steve Thompson

Date: March 1, 2012

Re: Legal memo on HB292 re: Single Subject Challenge

The Alaska Constitution Art II, Section 13. Form of Bills reads:

Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws. Bills for appropriations shall be confined to appropriations. The subject of each bill shall be expressed in the title. The enacting clause shall be: "Be it enacted by the Legislature of the State of Alaska."

Alaska's Constitution, A Citizen's Guide by Gordon S. Harrison further reads:

"The Alaska Supreme Court has consistently construed the single-subject rule broadly, in deference to the judgment of the legislature on how best to structure individual pieces of legislation."

Eight cases have come before the Alaska Supreme Court concerning the single subject rule. In the first seven cases, the court upheld the challenged bill or initiative by determining that all provisions related to a single general subject, theme, or purpose.

In (*Short v. State*, 600 P.2d 20, 1979), The court said that complying with the one-subject rule required that matters treated in legislation fall under one general idea and be so connected with or related to each other, either logically or in popular understanding, as parts of, or germane to, one general subject. In (*State v. First National Bank of Anchorage*, 660 P.2d 406, 1982) the Court upheld the constitutionality of a bill dealing with the general subject of "lands"

although several sections were otherwise unrelated. In (*Van Brunt v. State*, 646 P.2d 872, Alaska App. 1982), the court found an amendment that changed a driving-while-intoxicated statute to be sufficiently germane to a bill changing liquor laws, since both dealt with “intoxicating liquor”. Bonds that financed both flood control and small boat harbor projects were upheld by the Court in (*Gellart v. State*, 522 P.2d 1120, 1974).

The most recent Supreme Court ruling in (*Croft v. Parnell*, 236 P.3d 369, 2010), the Court affirmed the superior court’s summary judgment ruling on a single subject challenge that the initiative violated the single-subject rule, because the “soft dedication” of funds connecting the two aspects of the initiative was an insufficient link, and because it found no other sufficient connection between the initiative’s proposed new “oil production tax” and the initiative’s proposed new “clean election” program. The Supreme Court affirmed the superior court’s order of summary judgment, finding that,

“In ruling on single-subject challenges, we must balance the rule's purpose against the need for efficiency in the legislative process. If the rule were applied too narrowly, “statutes might be restricted unduly in scope and permissible subject matter, thereby multiplying and complicating the number of necessary enactment[s] and their interrelationships.” Our solution has been to construe the single-subject “provision with considerable breadth.” We have consistently articulated the substance of the test to reflect this approach:

All that is necessary is that [the] act should embrace some one general subject; and by this is meant, merely, that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject.

In applying this test, we disregard mere verbal inaccuracies, resolve doubts in favor of validity,” and strike down challenged proposals only when the violation is “substantial and plain.

Pursuant to the Courts previous rulings on single subject challenges, it is possible but unlikely that the Court would rule that HB292 is outside of the single subject rule.