

ALASKA STATE LEGISLATURE

REPRESENTATIVE KURT OLSON

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- Vice Chair: Rules, Administrative Regulation Review
Economic Development Trade & Tourism
- Member: Energy, Legislative Budget & Audit

Session: January - April
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MEMORANDUM

TO: Representative Max Gruenberg

FROM: Anna Latham, Staff to Rep. Olson

DATE: March 27, 2012

RE: HB 347

At the State Affairs meeting on March 22, you asked for any legal research related to HB 347.

Originally our office requested that a bill was drafted prohibiting the payment of initiative petition circulators. This draft had constitutional conflicts, but I am enclosing the related memo from Legal Services because it touches on the issue of free speech and first amendment rights.

I have requested that Legal Services look into the constitutionality of HB 347, particularly regarding the free speech rights of municipalities.

Please feel free to contact our office with any additional questions regarding this bill.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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Mail Stop 3101

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Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

January 19, 2012

SUBJECT: Prohibiting payment of initiative petition circulators
(Work Order No. 27-LS1218\A)

TO: Representative Kurt Olson
Attn: Konrad Jackson

FROM: Alpheus Bullard *TLAB*
Legislative Counsel

This memorandum accompanies the draft bill described above. The bill prohibits the payment of initiative petition circulators.¹ This memorandum is to alert you to constitutional issues raised by the bill.

While the legislature may statutorily regulate the initiative process in order to keep the process open, fair, and free of corruption, the United States Supreme Court has held that a state may not prohibit the payment of initiative petition circulators.

In Meyer v. Grant, 486 U.S. 414 (1988), the Supreme Court found a Colorado statute that prohibited payment for the circulation of initiative petitions unconstitutional because the state could not demonstrate that the statute, which burdened initiative sponsors' ability to communicate their message, was necessary in order to meet the state's concerns. The Court found that initiative petition circulation is "core political speech" entitled to substantial First Amendment protection and that states may not burden the exercise of the right to petition through use of the initiative by prohibiting the payment of petition circulators.

If you have questions, would like a bill drafted that provides limitations on how initiative petition circulators may be paid, or if I can be of further assistance, please do not hesitate to contact me.

TLAB:plm:ljw
12-027.plm

Enclosure

¹ The prohibition you requested applies only to circulators soliciting signatures for initiatives. It does not apply to persons soliciting signatures for a referendum (AS 15.45.340(b) and (c)) or recall of an elected state official (AS 15.45.580(b) and (c)).