

LEGAL SERVICES

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MEMORANDUM

February 20, 2014

SUBJECT: Unmanned aircraft systems (CSHB 255(STA))
(Work Order No. 28-LS1068\O.2)

TO: Representative Shelley Hughes
Attn: Ginger Blaisdell

FROM: Kathleen Strasbaugh
Legislative Counsel

Please find enclosed the amendment to CSHB 255(STA) that you requested.

I understand that the state archivist is concerned about the provision of proposed AS 18.65.903 that forbids the retention of images captured by an unmanned aircraft system unless certain conditions are met. The bill does provide that retained images are public records, but the archivist is concerned that even nonretained records are public records subject to retention under AS 40.21, and testified that this could be in conflict with the public records statutes. First, not all records held by public agencies are public records; records that do not need to be preserved for their "informational value or as evidence of the organization or operation of the public agency." AS 40.25.220(3). The images in proposed AS 18.65.903 that may not be retained are not retained because they have no such use. And, if there is a conflict, it can be reconciled by adjusting the retention schedule to designate the unneeded images as not subject to retention.¹ However, it may be wise to amend the bill to address the issue, and I have included such an amendment to avoid interpretive difficulties.

If I can be of further assistance, please advise.

KJS:ray
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Enclosure

¹ The archivist, in consultation with executive branch departments and subject to approval by the attorney general, establishes standards for retaining and disposing of state records. AS 40.21.030(a)(3) and (b)(11).