

# ALASKA STATE LEGISLATURE

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## MEMORANDUM

To: Other Legislators

From: Reprs. Liz Vazquez and Max Gruenberg, bill sponsors of HB 147

Cc: Megan Wallace

Date: January 21, 2016

Re: Response to Megan Wallace's December 24, 2015 memo on the "Single Subject Issue" (the "memo")

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Issue: Does section 11 violate the single subject rule in Article II Section 13<sup>1</sup> and, if so, should it be stricken?

Discussion: While section 11 of the "M" proposed Judiciary Committee Substitute<sup>2</sup> [version 29-LSO302\M] could be construed to violate the single subject rule, we do not believe it does and, if a court were to hold that it does, such a decision would not affect the bill in any substantive way, only section 11 would be stricken.

First, section 11 merely classifies and grammatically simplifies the language in AS 11.56.740(a) by changing "a provision" to "one or more provisions"<sup>3</sup> and adding "a person"<sup>4</sup>. A court would certainly construe "a person" to mean "one or more persons" in the first change and conclude that the added re-statement of "the person" in the second change just clarifies the

<sup>1</sup> Article II Section 13 of the Alaska Constitution provides in relevant part, "Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging ongoing laws."

<sup>2</sup> Subsequent CS's have not changed subsection 11.

<sup>3</sup> page 5, lines 4 and 5 of the "M" version

<sup>4</sup> page 5 line 6 of the "M" version

grammatical subject of that portion of the subsection. We believe that, should the issue ever be raised (an unlikely possibility), a court would hold that section 11 does not add a new subject, but just clarifies an existing statute, AS 11.56.740(a), and therefore does not violate the “purpose and intent” of the single subject rule to prohibit more than one subject in the bill. See the discussion of the “new more stringent single subject standard” of Croft v. Parnell, 236 P.3d 369 (Alaska 2010), discussed in the memo at 2, n. 11. Therefore, it would be “unlikely” that a court would conclude that section 11 violates the single subject rule.

Second, even if a violation of the rule were found, the only result would be to strike section 11 from the bill, leaving the remainder of the bill intact. The general severability statute, AS 01.10.030, holds that, if one section of a bill is found unconstitutional, the court should sever it from the remainder of the bill, if it can do so without damaging the rest of the bill. AS 01.10.030 implements a fundamental principle of statutory construction which says that courts should try to give effect to legislative enactments to the greatest extent constitutionally permissible. Thus the only result of such a challenge would be to delete section 11 and leave AS 11.56.740(a) unchanged, just not drafted as well as it could be. The remainder of HB 147 would not be affected.

Conclusion: For the above reasons, we request that section 11 be retained.