

LEGAL SERVICES

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MEMORANDUM

March 28, 2016

SUBJECT: Electronic Filing Requirement
(HB 253; Work Order No. 29-GH2924)

TO: Representative David Talerico
Attn: Julie Morris

FROM: Emily Nauman 
Legislative Counsel

You inquired why I recommended to your office that the electronic filing requirement (secs. 1 and 2), originally in the governor's version of HB 253, be omitted from the bill. Sections 1 and 2 apply to *any tax* return or report to be submitted under AS 43 to be filed electronically, not just returns for mining taxes. However, the bill only amends filing requirements related to the mining tax. There are several other sections of tax law that should also be changed to accommodate the new electronic filing requirement. *See*, for instance, sec. 6 of HB 251¹ and sec. 5 of HB 248² (both governor's bills). In general, a specific law will govern over a general one.³ Thus, I am concerned that the provisions that remain unchanged, if the governor's other tax bills do not pass, may render the electronic filing provisions unenforceable for some of the taxes due to the state.

I would advise you to ask the Department of Law and Department of Revenue what other sections in AS 43 require amending to accommodate the new electronic filing requirement. Given the potential breadth of these changes, perhaps you would consider separating out the electronic filing requirement into its own bill? Until then, I recommend omitting the electronic filing requirement from HB 253 to prevent misunderstanding about its applicability and effectiveness.

If I may be of further assistance, please advise.

ELN:lem
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¹ Unless amended, AS 43.75.030(b) requires a return on the fisheries business tax to file a return "to the department at Juneau."

² Unless amended, AS 43.60.020 requires a person paying the alcohol tax to "send a statement by airmail, postage prepaid."

³ This could be countered with the argument that a law enacted more recently may be given more weight.