

LEGAL SERVICES

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MEMORANDUM

April 28, 2015

SUBJECT: Scope of bills for special session
SCS CSHB 44(); Work Order No. 29-LS0258\I)

TO: Senator Mike Dunleavy
Attn: Sheila Peterson

FROM: Kate S. Glover
Legislative Counsel

You have requested a committee substitute for CSHB 44(FIN) that would add provisions from several other bills related to public education, staff, and school district authority. During a regular session, the subjects of each of the bills added to CSHB 44(FIN) would likely be considered to relate to a single subject, because they all appear to relate to public education, but it is not clear whether they are sufficiently germane to the subject in the Governor's proclamation to be permissible during a special session.

Under art. II, sec. 9 of the Constitution of the State of Alaska, when a special session is called by the governor, the special session:

shall be limited to subjects designated in his proclamation calling the session, to subjects presented by him, and the reconsideration of bills vetoed by him after adjournment of the last regular session.

In the Governor's proclamation declaring a special session, the subject is limited to consideration of:

[T]he passage of bills on the following subjects:

1. House Bill 44 - Sexual Abuse/Sexual Assault Prevention Programs, previously under consideration by the Senate and the House of Representatives during the first regular session^[1]

The subject, as stated in the proclamation, is bills on the subject of "House Bill 44 - Sexual Abuse/Sexual Assault Prevention Programs previously under consideration. . ." If the subject is construed narrowly, many of the provisions of the committee substitute you requested would fall outside of the subject, as they are not related to sexual abuse or

¹ April 27, 2015, Proclamation.

sexual assault prevention programs. Provisions related to training for mandatory reporters of child abuse or neglect might be relevant to that subject, but other sections of the committee substitute may not be relevant to sexual abuse or assault prevention.²

If, on the other hand, the scope of the subject is interpreted in accordance with legislative rules regarding germaneness and the constitutional single subject rule, it is likely permissible to include at least some of the provisions you have asked to add to CSHB 44(FIN) through the committee substitute.

Germaneness is addressed by Rule 35 of the Uniform Rules of the Alaska State Legislature which provides in relevant part: "A motion or proposition on a subject may not be admitted under color of amendment if the subject matter is different from that under consideration."³ The question of germaneness is not just a matter of interpretation by the body, for there is a constitutional aspect. There exists the possibility that a non-germane amendment will contain material which, if added to the bill under consideration, will violate the single subject requirement or the requirement that the subject of the bill be expressed in the title. Art. II, sec. 13, Constitution of the State of Alaska.

CSHB 44(FIN) relates to public education, as do all or most of the subjects added in the committee substitute. Therefore, they are likely germane, and would probably be appropriate subjects for an amendment during a regular session.

² The enclosed CS encompasses many specific topics, including student assessments, teacher employment and retirement, rulemaking, fiscal notes, contract restrictions on school districts, school data collection, minimum spending on instruction, and child care licensing.

³ The provision of the Uniform Rules regarding germaneness is supplemented by *Mason's Manual of Legislative Procedure* which provides in Sec. 402:

Sec. 402. Amendments Must Be Germane

1. Every amendment proposed must be germane to the subject of the proposition or to the section or paragraph to be amended.

2. To determine whether an amendment is germane, the question to be answered is whether the question is relevant, appropriate, and in a natural and logical sequence to the subject matter of the original proposal.

3. To be germane, the amendment is required only to relate to the same subject. It may entirely change the effect of or be in conflict with the spirit of the original motion or measure and still be germane to the subject.

4. An entirely new proposal may be substituted by amendment so long as it is germane to the main purpose of the original proposal.

5. An amendment to an amendment must be germane to the subject of the amendment as well as to the main question.

Senator Mike Dunleavy

April 28, 2015

Page 3

The constitutional limitations on the subject of a special session called by the governor complicate this analysis. It is not clear whether, if the committee substitute is adopted, becomes law, and is later challenged, a court would adopt a broad reading of the subjects appropriate for consideration during the special session, similar to the broad scope considered "germane," or whether a court would adopt a narrower reading of the subject.

If I may be of further assistance, please advise.

KSG:lnd
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Enclosure