



Tax Credit Bonds are Constitutional under Alaska Law

April 18, 2018 (Anchorage, AK) -- The Governor proposed legislation, SB 176 ("An Act Establishing the Alaska Tax Credit Certificate Bond Corporation"), which would authorize the issuance of bonds to pay off the state's tax credit liability in a lump sum rather than paying it down incrementally over the coming years. The State currently has an obligation to certain small oil and gas exploration companies of roughly \$800 million. Before the Governor proposed the legislation, the Department of Law in conjunction with outside bond counsel carefully reviewed the legality of the bill under Alaska law, including the constitutional limitations on state debt. In response to inquiries from Senator Wielechowski who opposes the bill, legislative counsel issued an opinion stating there is a "substantial risk" a court would find the tax credit bonds to be unconstitutional. The Department of Law disagrees with the legislative counsel's opinion published today.

"The proposed tax credit bonds in SB 176 are not general obligation bonds under the Alaska Constitution," says Attorney General Jahna Lindemuth. "We've carefully reviewed the legal issues and are confident that these bonds are lawful under Alaska law." The Department of Law has determined that tax credit bonds are a form of "subject to appropriation" debt that is permitted under Alaska law, as addressed in the Alaska Supreme Court's 1995 decision *Carr Gottstein Properties v. State*. A majority of courts outside of Alaska that have addressed the issue have also concluded that "subject to appropriation" debt is a lawful form of financing. The debt proposed in SB 176 is also consistent with long established bond issuance practice in Alaska. "The proposed financing in SB 176 will provide the basis for a successful issuance of securities," states Lindemuth, "and there are no constitutional concerns with the bill."

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