

LEGAL SERVICES

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MEMORANDUM

March 21, 2018

SUBJECT: Amendment to HB 208 relating to trusts and powers of appointment
(Work Order No. 30-LS0770\A.6)

TO: Senator Bill Wielechowski
Attn: Nate Graham

FROM:  Theresa Bannister
Legislative Counsel

This memo accompanies the amendment described above. The amendment does not trigger the issues raised below, but the bill to which the amendment is made does raise the following issues.

1. Single subject issue. The bill sections do not appear to have a single subject, which is required by Article II, sec. 13, Constitution of the State of Alaska. Since powers of appointment can be created by wills as well as by trust instruments, they cannot be combined under a single subject with the other bill sections that apply only to trusts.
2. Impairment of contracts. The applicability section applies certain sections of the bill to powers of appointment and trusts that exist on the effective date of the bill, and the amendment of AS 34.27.070(c) and the bill's retroactivity section apply certain sections of the bill back to 1997. Applying these changes and new provisions to trusts and powers of appointment that pre-date the effective date of these changes and new provisions may raise constitutional impairment of contracts issues if the changes or new provisions operate as a substantial impairment of a contractual relationship involved in these trusts and powers of appointment.

If I may be of further assistance, please advise.

TLB:mlp
18-181.mlp

Attachment