

LEGAL SERVICES

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MEMORANDUM

May 16, 2025

SUBJECT: Government Entities: Specie
(HB 1; Work Order No. 34-LS0001\A)

TO: Representative Ashley Carrick
Attn: Stuart Relay

FROM: Emily Nauman 
Director

You asked whether "person" includes a governmental entity for purposes of sec. 44.12.400(b) of HB 1. "Person" is not defined in HB 1.

AS 01.10.060(a)(8), applicable to all laws of the state, unless context requires otherwise, defines "person" to include "a corporation, company, partnership, firm, association, organization, business trust, or society, as well as a natural person." That definition of person does not include a governmental entity. One Alaska case has interpreted the term "person" to include a governmental entity. In *Mustafoski v. State*, the court held that the state was included as a "person" under AS 01.10.060(8) [now AS 01.10.060(a)(8)]:

As the State notes, the definition of "person" contained in AS 1.10.060 omits any explicit reference to the state government or its political subdivisions. The State contends that the legislature's failure to mention the State of Alaska and its political subdivisions in this definition of "person" evinces an intent to exclude these political entities from coverage.

We disagree with the State's construction of AS 1.10.060. When AS 1.10.060(8) defines "person", it declares that this term "includes" corporations, companies, partnerships, associations, etc., as well as natural persons. The legislature uses the word "includes" in a very specific way. "When the word[] 'includes' . . . [is] used in a law, [it] shall be construed as though followed by the phrase, 'but not limited to'." AS 1.10.040(b).¹

¹ 867 P.2d 824, 833 (Alaska App. 1994). *See also* 1998 Inf. Op. Att'y Gen. (May 18; 883-98-0039) ("Although AS 01.10.060(8) defines the term 'person' in state laws to include corporations, partnerships, firms, and other organizations, it allows alternative meanings of that term if the context requires.").

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Although likely, it is not certain a court would come to the same conclusion in this case. Given the uncertainty about whether the definition of a person applies to a governmental entity in sec. 44.12.400(b) of HB 1, a definition other than the general definition for "person" could be included in the bill to either include or exclude the governmental entities.²

If I may be of further assistance, please advise.

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² Also note that, where the plain meaning of a statute is not clear, a court considers legislative history. *Alaskans For Efficient Government, Inc. v. Knowles*, 91 P.3d 273, 275 (Alaska 2004). As a less preferred alternative, you could establish a legislative record on whether "person" is intended to include governmental entities for purposes of sec. 44.12.400(b).