

# LEGAL SERVICES

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## MEMORANDUM

February 22, 2012

**SUBJECT:** CSHB 292( ) (Work Order No. 27-LS1232\B)

**TO:** Representative Steve Thompson  
Attn: Jane Pierson

**FROM:**  Terry Bannister  
Legislative Counsel

This memo accompanies the bill described above.

1. Single subject issue. As you are aware, it is my opinion that, by combining all of the subjects in the bill, the bill is not confined to one subject, which violates the constitutional requirement that a bill be confined to one subject.<sup>1</sup> This issue is present in HB 292 and the previous draft CS without the changes added by this draft CS, and the addition of the trust property appointment provisions do not change this.

The Alaska Supreme Court standard is that an "act should embrace some one general subject; and by this is meant, merely, that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject."<sup>2</sup>

Historically, the Alaska Supreme Court has interpreted Alaska's single subject rule to permit very broad subject matter in one bill without violating the single subject requirement. For example, the Court has held that bills relating to such broad themes as "development of water resources,"<sup>3</sup> "taxation,"<sup>4</sup> "land,"<sup>5</sup> "intoxicating liquor,"<sup>6</sup> and

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<sup>1</sup> Article 2, sec. 13, Alaska State Constitution.

<sup>2</sup> State v. First Nat'l Bank of Anchorage, 660 P.2d 406 (Alaska 1982).

<sup>3</sup> Gellert v. State, 522 P.2d 1120 (Alaska 1974).

<sup>4</sup> North Slope Borough v. Sohio Petroleum Corp., 585 P.2d 534, 545 (Alaska 1978).

<sup>5</sup> State v. First Nat'l Bank of Anchorage, 660 P.2d 406 (Alaska 1982).

<sup>6</sup> Van Brunt v. State, 646 P.2d 872 (Alaska App. 1982).

"criminal law"<sup>7</sup> are acceptable.<sup>8</sup> However, there was a strong dissent in one case against allowing broad subject matter in a single bill.<sup>9</sup> And in 2010, for the first time, the Alaska Supreme Court invalidated a piece of proposed legislation for failure to satisfy the single subject requirement.<sup>10</sup> Please be aware that failure to comply with this requirement could jeopardize this bill if it were ever challenged.

2. Applicability (bill section 39). Applying the changes in AS 09.38.017 to retirement plans that pre-date the effective date of these changes, applying the changes and new provisions contained in AS 13.36.157 - 13.36.159 and AS 13.36.215(5) to trusts that pre-date the effective date of these changes, and applying the changes to AS 13.46 to transfers that pre-date the effective date of these changes may raise constitutional impairment of contracts issues if the changes or provisions operate as a substantial impairment of the retirement plans, trusts, or any contractual relationships involved in the transfers.

If I may be of further assistance, please advise.

TLB:ljw  
12-156.ljw

Enclosure

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<sup>7</sup> Galbraith v. State, 693 P.2d 880 (Alaska App. 1985).

<sup>8</sup> Evans v. State, 56 P.3d 1046, 1070 (Alaska 2002).

<sup>9</sup> Yute Air Alaska, Inc. v. McAlpine, 698 P.2d 1173 (Alaska 1985). In his dissent, at page 1182, Justice Moore stated: "This court has mistakenly continued to give the rule such an extremely liberal interpretation that the rule has become a farce."

<sup>10</sup> Croft v. Parnell, 236 P.3d 369 (Alaska 2010).