

LEGAL SERVICES

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MEMORANDUM

April 14, 2012

SUBJECT: HCS CSSB 104(RLS) relating to manufactured homes and municipal taxes (Work Order No. 27-LS0467\T)

TO: Representative Craig Johnson
Chair of the House Rules Committee
Attn: Debbie Higgins

FROM:  Terry Bannister
Legislative Counsel

This bill version is being transmitted to you at your request and with the permission of Representative Muñoz .

1. Single subject issue. Please be aware that, with the addition of the municipal subdivision tax section (bill sec. 22), it is possible that the bill may be considered by a court not to be confined to one subject, which would violate the constitutional requirement that a bill be confined to one subject.¹ 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."²

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,"³ "taxation,"⁴ "land,"⁵ "intoxicating liquor,"⁶ and

¹ Article II, sec. 13, Alaska State Constitution.

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

³ Gellert v. State, 522 P.2d 1120 (Alaska 1974).

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

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

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

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"criminal law"⁷ are acceptable.⁸ However, there was a strong dissent in one case against allowing broad subject matter in a single bill.⁹ And in 2010 the Alaska Supreme Court found that a proposed initiative violated the single subject requirement.¹⁰

In this situation, the bill does address municipal taxation of permanently affixed mobile homes in sec. 23 of the bill. And the new bill sec. 22 addresses municipal taxation of certain subdivided property. However, the amendment does not appear to have another logical or popularly understood connection with the rest of the bill. The subject of "property" would cover the bill and the amendment. But that is a very broad subject, and may be considered broader than the subject of "land" that the court has accepted as a single subject.

2. Use of severability clause. The bill now contains a general severability clause and not one designed to address the single subject issue discussed above. Please be aware that a general severability clause is already provided for this bill by AS 01.10.030. Because of the single subject issue, I recommend adding a severability clause that addresses that issue. It may not work if the bill is challenged, but it might help.

If I may be of further assistance, please advise.

TLB:plm
12-239.plm

Enclosure

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

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

⁹ 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."

¹⁰ Croft v. Parnell, 236 P.3d 369 (Alaska 2010).