

LEGAL SERVICES

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MEMORANDUM

February 21, 2011

SUBJECT: Notice prepared by the state bond committee under AS 37.15.015(a)(1) as amended by sec. 10 of CSHB 74() (Work Order No. 27-LS0008\O)

TO: Representative Max Gruenberg
Attn: Ted Madsen

FROM: Alpheus Bullard *29.5*
Legislative Counsel

Ted asked what debt would be reported under AS 37.15.015(a)(1), as amended by sec. 10 of CSHB 74(). Section 10 provides, in pertinent part, that before an election in which a bond issue is offered for ratification the state bond committee shall publish a notice that contains:

(1) the current general obligation and other [TOTAL] bonded indebtedness of the state and the effect of the proposed bonding on that indebtedness[.]

The current text of AS 37.15.015(a)(1) reads "current total bonded indebtedness of the state." Tamara Cook, as she wrote in an August 31, 2010 memorandum to your office, contacted Devon Mitchell, Debt Manager, Treasury Division in the Department of Revenue. Mr. Mitchell is the staff person to the state bond committee. Mr. Mitchell verified that the state bond committee has construed the statute as applying to general obligation bonded indebtedness and not to any other form of debt.

The language in sec. 10 of CSHB 74() is likely to be interpreted as including more than general obligation bonded indebtedness. A plain reading of "other bonded indebtedness" indicates that all of the state's bonded indebtedness needs to be accounted for in the notice prepared by the state bond committee, but it is not clear to me what the purpose of including this information is.

There is a legal difference in the obligation of the state with respect to repayment of general obligation bonds for which the state has pledged its taxing power and repayment of other forms of debt, such as revenue bonds which are not guaranteed by the "full faith and credit" of the state and do not obligate the state general fund. Given this difference, I cannot say how the "effect of the proposed [general obligation] bonding on that indebtedness" would be construed.

Representative Max Gruenberg
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If you would like an amendment or committee substitute drafted that clarifies what bonded indebtedness should be reported in the notice prepared by the state bond committee under AS 37.15.015(a)(1), please do not hesitate to contact me.

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