

LEGAL SERVICES

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MEMORANDUM

March 26, 2014

SUBJECT: Official Languages (HB 216; Work Order No. 28-LS0905\U)

TO: Representative Jonathan Kreiss-Tomkins
Attn: Freddie Olin

FROM: Hilary Martin 
Legislative Counsel

You have asked whether HB 216, if adopted, would require changes for government communication. HB 216 adds 20 Alaska Native languages as official languages of the state.

AS 44.12.300 - 44.12.390 were enacted as an initiative on the 1998 ballot. In 2007 the Alaska Supreme Court issued an opinion in *Alaskans for a Common Language, Inc. v. Kritz* striking down part of the initiative as unconstitutional.¹

In *Kritz*, the court found that the first sentence of AS 44.12.320 was unconstitutional because it impacted the free speech rights of non-English speaking citizens and their right to petition the government, legislators and other elected officials, and public employees.² The court then determined that the sentence was not sufficiently narrowly tailored to achieve its end, and struck down the sentence.³

The court determined that the second sentence of AS 44.12.320, however, could be read in such a way so as to be constitutional. The court determined that the second sentence of AS 44.12.320 means "that multilingual *official* documents are not prohibited so long as an English version of the document is published."⁴

HB 216 amends AS 44.33.310. It does not amend AS 44.12.320, which states: "The English language shall be used in the preparation of all official public documents and records, including all documents officially compiled, published or recorded by the

¹ 170 P.3d 183 (Alaska 2007).

² *Id.* at 200 - 204.

³ *Id.* at 208.

⁴ *Id.* at 197.

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government." HB 216 does not require the government to prepare all official public documents in all 21 languages. The government could provide official documents in a language other than English, including one of the 20 languages included in HB 216, however the current statute, as interpreted by the Alaska Supreme Court, allows the government to do so already. Therefore, in my opinion HB 216 would not create an additional duty of the government to provide documents in another language.

The statement in AS 44.12.310 that English is the official language of the state, when read in combination with the rest of AS 44.12.300 - 44.12.390 as well as the *Kritz* case, can be seen as largely symbolic. While the government is required to provide official documents in English, there is nothing that prevents the government from providing copies of official documents in another language currently. In my opinion, a court would not find that the addition of 20 more languages to AS 44.33.310 imposes additional obligations on the government.

If I may be of further assistance, please advise.

HVM:ray

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