

LEGAL SERVICES

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MEMORANDUM

March 23, 2015

SUBJECT: Retroactivity (CSSB 64 (EDC); Work Order No. 29-LS0557\H)

TO: Senator Anna MacKinnon
Attn: Laura Pierre

FROM: Kate S. Glover
Legislative Counsel

In a previous memo to your office, I explained that making SB 64 retroactive to January 1, 2015 could impair the obligation of contracts in violation of art. I, sec. 15 of the Constitution of the State of Alaska if a municipality approves bonds and enters into contracts related to those bonds between January 1 and the date when the bill goes into effect. Ms. Pierre has asked whether this issue could be avoided if the bill takes effect prior to April 7, 2015, the date when Anchorage has scheduled a bond election. The bill would need to become law by that date, as described in AS 01.10.070 in order to completely avoid a possible impairment of contracts issue. If the bill passes both houses of the legislature by a 2/3 majority vote and the governor signs the bill into law prior to the Anchorage election, the bill would take effect immediately under sec. 9 of SB 64, and there would be no impairment of existing contracts.¹ This is true as long as there are no other municipalities that have approved bonds and entered into contracts in reliance on the sections of AS 14.11.100 that are amended in SB 64 between January 1, 2015 and the date when the bill goes into law.

If I may be of further assistance, please advise.

KSG:dla
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¹ The immediate effective date requires a two-thirds majority vote of each house of the legislature. An Act having an immediate effective date becomes law at 12:01 a.m. on the day after the bill is signed by the governor under AS 01.10.070(c).