



THE STATE  
of **ALASKA**  
GOVERNOR BILL WALKER

Department of Law

CIVIL DIVISION  
1031 West 4th Avenue, Suite 200  
Anchorage, Alaska 99501  
Main: 907-269-5100  
Fax: 907-276-3697

January 31, 2017

Co-Chair Neal Foster  
Alaska House of Representatives  
State Capitol, Rule 410  
Juneau, Alaska 99801

Re: HB 23 – Insurance for Dependents of Police Officers and Fire Fighters  
Who Die in the Line of Duty

Dear Co-Chair Foster, Co-Chair Seaton, and members of House Finance:

During the House Finance Committee meeting on January 26, 2017, regarding House Bill 23, a question was raised on whether the state can require municipalities to pay the health insurance premiums of dependents of municipal police officers and firefighters killed in the line of duty. The short answer is that the state may, by law, require municipalities to expend funds towards specific public purposes.

The cities and organized boroughs in Alaska are political subdivisions of the state. As such, they derive their powers and duties from the state constitution and laws enacted by the state legislature. Home-rule cities and boroughs have all powers not prohibited by law or municipal charter, while general law cities and boroughs have those powers and duties prescribed by state law, as well as “any power not otherwise prohibited by law.”<sup>1</sup>

Article X of the Alaska Constitution and Title 29 of the Alaska Statutes provide the state’s framework for municipal government. Title 29 sets out the types and classes of municipal government and defines various powers and duties. All local governments have certain fundamental duties prescribed by state law. For example, all organized boroughs and home-rule and first-class cities in the unorganized borough must operate municipal school districts and must provide planning, platting, and land use regulation.<sup>2</sup>

<sup>1</sup> AS 29.35.200(a), (c); AS 29.35.210(c), (d); AS 29.35.220(d); AS 29.35.250(a); AS 29.35.260(a).

<sup>2</sup> See AS 29.35.150-AS 29.35.180.

The state, by statute, does require municipalities to expend funds for specific purposes. The most obvious example is the required local contribution that municipal school districts must make towards the funding of local schools. State law provides that the borough assembly or city council “*shall provide the money* that must be raised from local sources to maintain and operate the district.”<sup>3</sup>


A constitutional provision that gives us pause is article II, section 19, which states in part that “[l]ocal acts necessitating appropriations by a political subdivision may not become effective unless approved by a majority of the qualified voters voting thereon in the subdivision affected.” This language in the Alaska Constitution imposes a local referendum requirement on local acts by the legislature necessitating an appropriation by a political subdivision. However, because House Bill 23, in its current form, appears to impose the premium payment requirement on *all* municipalities in the state, as opposed to certain municipalities, the courts might not consider the legislation to be a “local act” subject to the local referendum requirement. There does not appear to be any Alaska case law interpreting or applying this specific language, however, so it is unknown whether the Alaska courts would conclude that article II, section 19 of the Alaska Constitution applies to the municipal mandate in House Bill 23.

In short, we conclude that the state may require municipalities to raise, appropriate, and expend local funds towards a valid public purpose.

If you require further information or assistance, please let us know.

Sincerely,

JAHNA LINDEMUTH  
ATTORNEY GENERAL

By:   
Mary Lynn Macsalka  
Assistant Attorney General

Cc: Representative Andy Josephson  
Emily Gaffney, Deputy Legislative Director, Office of the Governor  
Cori Mills, Assistant Attorney General/Legislative Liaison

---

<sup>3</sup> AS 14.12.020(c) (emphasis added).