

AMENDMENT # 3

OFFERED IN THE SENATE

BY SENATOR THERRIAULT

TO: SCS CSHB 171(STA)

1 Page 4, lines 8 - 12:

2 Delete "A transfer under this subsection may only be made with the written approval
3 of the head of the legislative office or agency or the chair of the committee to which the
4 appropriation was originally made, and the amount transferred from that appropriation may
5 not exceed the amount indicated in the written approval."

6 Insert "A transfer under this subsection from an appropriation to a legislative office or
7 agency may only be made with the written approval of the head of the legislative office or
8 agency. A transfer from an appropriation to a legislative committee may only be made with
9 the written approval of a majority of the members of that committee. The amount transferred
10 under this subsection may not exceed the amount indicated in the written approval."

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 25, 2007

SUBJECT: Transfer between appropriations to the legislative branch
(SCS CSHB 171(STA); Work Order No. 25-LS0653\L.3)

TO: Senator Gene Therriault
Senate Minority Leader

FROM: Tamara Brandt Cook
Director

TBC

Here is the amendment you requested to SCS CSHB 171(STA) that establishes a mechanism for transfers of money between appropriations to legislative agencies or legislative committees of the legislative branch and adds the requirement of approval by the committee members for transfers between appropriations to legislative committees.

Although not created by your amendment, there is a legal issue lurking in the approach contained in sec. 7 of the bill, authorizing transfers between separate appropriations to legislative entities upon the approval of the entities themselves. It is possible to argue that this amounts to an improper delegation of the legislature's appropriation power under the reasoning of Kelly v. Hammond, Superior Court, First Judicial District, C.A. No. 77-4, Reporter's Transcript of Record, April 12, 1978 and State v. Fairbanks North Star Borough, 736 P.2d 1140 (Alaska 1987). I observe, however, that those cases involved different facts and that the legislature could reach essentially the same result by enacting a single appropriation to the legislative branch and statutorily permitting transfers between the allocations in that appropriation, as is done with the executive branch budget. Consequently, I cannot judge how significant an improper delegation challenge to sec. 7 would be.

TBC:med
07-268.med

Enclosure