

May 13, 1999

The Honorable Tony Knowles  
Governor  
State of Alaska  
P.O. Box 110001  
Juneau, Alaska 99811-0001

Re: SCS CSHB 64(RLS) -- Making and Amending Appropriations for Year 2000 Assessment, Compliance, and Remediation Projects and Modification of the Offender Base State Corrections Information System and the Offender Financial Accounting System in the Department of Corrections; Making Appropriations under Art. IX, Sec. 17(c), Constitution of the State of Alaska  
A.G. file no: 883-99-0024

Dear Governor Knowles:

At the request of your legislative director Pat Pourchot, we have reviewed SCS CSHB 64(RLS).

This bill makes several appropriations to finance the cost of inventory, assessment, remediation, testing, and implementation of measures to ensure that state computer equipment will function properly after the turn of the century. These appropriations appear to be in the correct form and for valid public purposes. We reviewed the history of the bill and found no irregularities in the enactment process.

The bill is accompanied by a letter of intent that was first adopted by the Senate Finance Committee. The letter of intent was subsequently adopted by the House of Representatives and the Senate. The letter of intent purports to attach three conditions to the appropriations made in the bill. Two of the conditions are not legally objectionable. The third purports to direct the appropriate agency to assert a claim against the builder of the M/V Kennicott for costs of "guaranteeing . . . [the ship] is Y2K compliant." The discretion to prosecute an action on behalf of the state is an exercise of executive power which is not subject to control by another branch of state

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government. *Public Defender Agency v. Superior Court*, 534 P.2d 947 (Alaska 1975). The legislature was probably aware of this when it preserved its intent in a separate letter and not in the bill itself. Using this technique makes it clear that the statement is a non-binding expression of a will, wish, or desire of the legislature. The appropriate agency is free to make a decision to prosecute a claim, if it is in the best interests of the state to do so.

There were no other legal issues identified that you should consider before taking action on this bill.

Sincerely,

Bruce M. Botelho  
Attorney General

BMB:JLB:bw