

LEGAL SERVICES

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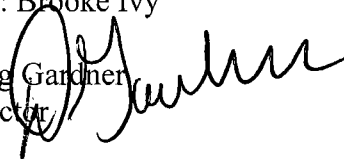
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Juneau, Alaska 99801-1182
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MEMORANDUM

May 18, 2015

SUBJECT: Floor Sessions in Anchorage during First Special Session called by the Governor

TO: Senator Bill Wielechowski
Attn: Brooke Ivy

FROM: Doug Gardner
Director 

Can the legislature meet in Anchorage during a special session called by the governor to consider a bill that is on the governor's call, and pass the bill?

The brief answer is that this question has never been answered by a court, and remains an open question, however it is my advice that a court faced with this situation, absent an agreement between the legislature and governor, would find that the legislature may not meet in floor sessions in Anchorage during a special session called by the governor in Juneau.

A court considering whether the legislature can meet in Anchorage during the current First Special Session of the 29th Alaska State Legislature, would likely start its analysis by observing that this special session was called by the governor, and the governor designated Juneau as the location for the special session, which is his prerogative under article II, section 9 and AS 24.05.100(a)(1)(D), and the court would also likely observe that the governor also has the power to convene the legislature during a special session in Juneau under article III, section 17. As the court noted in *Abood v. Gorsuch*:

The plain text of the constitution grants convening power to the executive. However, the constitution does not leave the Legislature powerless to defend its own prerogatives. While the governor may call a joint session, his call does not determine the vote. Whether a joint session has been called prematurely is a question that can be readily decided by a majority of the legislators.

Abood v. Gorsuch, 703 P.2d 1158, 1164 (Alaska 1985).

So, the legislature must meet in Juneau under the governor's current proclamation of April 27, 2015, to comply with the constitution. A court would likely conclude that if the legislature wants to meet in a special session in Anchorage, the legislature's remedy is to

Senator Bill Wielechowski

May 18, 2015

Page 2

adjourn *sine die* from the legislative session and convene its own special session in Anchorage. While it seems unlikely that a court would invalidate the action of the legislature meeting under the governor's special session proclamation in Anchorage instead of Juneau, for the sole purpose of adjourning *sine die*, there is risk in doing so as discussed above.

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