



KENAI PENINSULA BOROUGH

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MIKE NAVARRE
BOROUGH MAYOR

MEMORANDUM

TO: Blaine Gilman, Assembly President
Members, Kenai Peninsula Borough Assembly

FROM:  Colette G. Thompson, Borough Attorney

DATE: July 26, 2016

SUBJECT: Ordinance 2016-22, Moving Common Hospital Service Area Boundaries.
Opinion on Liability of Affected Properties for Bonds Approved by South Kenai
Peninsula Hospital Service Area Voters

This memorandum responds to the question raised as to whether the property that would be removed from the South Kenai Peninsula Hospital Service Area ("SKPHSA") would remain liable for bonds approved by the voters while the property was in the SKPHSA, if the voters approve ordinance 2016-22. In short, the property would remain liable to pay those bonds, including any bonds that may be approved during the October 4, 2016 election.

Per AS 29.47.440 the borough can incur debt either areawide, nonareawide, or by service area. It provides that the full faith and credit of the area voting on the indebtedness is pledged for the payment of the debt. Because the SKPHSA as it existed on the date of each election approving the debt is the area that voted on the debt, it is the area pledged to pay the bonds. Although the boundary may now change, the bonds were issued pledging the full faith and credit of the property in the service area whose residents voted to approve the debt. Further, AS 29.47.450 provides that the indebtedness of a service area remains the indebtedness of the area that incurred the debt even if it is subsequently found by a court that it was not validly formed.

While debt may be paid from sources other than property taxes, if property taxes are levied to pay the indebtedness, all of the pledged property should continue to be taxed to pay the debt. There is no provision in the law for revising the boundaries of property liable to pay the debt, and to do otherwise would impose a greater burden on the remaining properties without statutory authority.