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Nauman  
2/28/18

**CS FOR SENATE BILL NO. 110(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:  
Referred:

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

**A BILL**

**FOR AN ACT ENTITLED**

"An Act establishing the Travel Alaska Board; relating to a tourism marketing assessment; and establishing a tourism marketing fund."

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

\* **Section 1.** AS 43.52.050(a) is amended to read:

(a) Except as provided in (c) of this section, the [THE] taxes imposed by AS 43.52.010 - 43.52.099 shall be collected and paid to the department

(1) by the person who provides the leased or rented vehicle; and

(2) in the manner and at the times required by the department by regulation.

\* **Sec. 2.** AS 43.52.050 is amended by adding a new subsection to read:

(c) A person collecting and remitting the tax imposed by AS 43.52.010 - 43.52.099 may request, at the time the tax is remitted to the department, to have all or a portion of the tax revenue deposited into the Alaska tourism marketing fund established under AS 44.25.295.

\* **Sec. 3.** AS 43.52.080(b) is amended to read:

(b) The proceeds of the vehicle rental taxes imposed by AS 43.52.010 - 43.52.099 shall be deposited into the general fund and accounted for under AS 37.05.142. In addition, the department shall separately account for those proceeds that persons have requested be appropriated to the Alaska tourism marketing fund established under AS 44.25.295 [A SPECIAL VEHICLE RENTAL TAX ACCOUNT IN THE GENERAL FUND].

\* **Sec. 4.** AS 43.52.080(c) is amended to read:

(c) The legislature may appropriate to the Alaska tourism marketing fund established under AS 44.25.295 the tax proceeds that persons have, under AS 43.52.050(c), requested be appropriated to the Alaska tourism marketing fund [ACTUAL BALANCE OF THE VEHICLE RENTAL TAX ACCOUNT FOR TOURISM DEVELOPMENT AND MARKETING]. This section is not intended to create a dedicated fund.

\* **Sec. 5.** AS 44.25 is amended by adding new sections to read:

**Article 4. Travel Alaska Board.**

**Sec. 44.25.200. Travel Alaska Board established.** The Travel Alaska Board is established in the department. Exercise by the board of the powers conferred by AS 44.25.200 - 44.25.300 is an essential governmental function of the state.

**Sec. 44.25.205. Board members.** (a) The board consists of between 21 and 25 voting board members appointed by the governor. The board must have an odd number of members.

(b) The governor shall fill a vacancy in the voting membership of the board from a list of nominees submitted by the board. The governor may reject a list or a portion of a list submitted under this subsection and request that the board submit another list. A list submitted to the governor by the board under this subsection for a vacancy

(1) caused by the expiration of a term shall be composed of the nominees that received the highest percentages of votes in an election of assessed tourism businesses, based on weighted votes, as described in AS 44.25.275;

(2) not caused by the expiration of a term shall be composed of

1 nominees approved by the board; a nominee approved by the board under this  
2 paragraph is not required to have previously been the subject of an election under  
3 AS 44.25.275.

4 (c) Board members shall represent tourism segments, business sizes, and  
5 regions in the state listed in AS 44.33.136(b)(1). A voting member of the board shall  
6 be both a representative of an assessed business and a member of the leading statewide  
7 nonprofit tourism marketing association. Notwithstanding AS 39.05.100, a board  
8 member is not required to be a registered voter or a resident of the state.

9 (d) In addition to the voting members of the board, the board may elect ex  
10 officio nonvoting members. A nonvoting member need not be a member of the leading  
11 statewide nonprofit tourism marketing association and may not be counted for the  
12 purposes of establishing a quorum, taking an action, or adopting a motion or resolution  
13 under AS 44.25.220.

14 (e) The board members shall annually elect a chair and vice-chair from among  
15 the board's voting members.

16 **Sec. 44.25.210. Term of office.** Board members appointed under  
17 AS 44.25.205(a) serve staggered three-year terms and may be reappointed. An  
18 individual appointed to fill a vacancy shall hold office for the balance of the term for  
19 which the board member's predecessor on the board was appointed.

20 **Sec. 44.25.215. Removal.** Board members may be removed from the board by  
21 the governor for cause. The board may suggest to the governor the removal of a board  
22 member.

23 **Sec. 44.25.220. Quorum.** (a) A majority of the voting members of the board  
24 constitutes a quorum for the transaction of business and the exercise of the powers and  
25 duties of the board. The board may approve an election for the levy, amendment, or  
26 termination of an assessment only by an affirmative vote of a majority of the full  
27 voting membership of the board. All other actions may be taken and motions and  
28 resolutions may be adopted upon an affirmative vote of a majority of the voting  
29 members present.

30 (b) The board may meet and transact business by electronic media. Actions  
31 taken at a meeting held by electronic media under this subsection have the same legal

effect as actions taken at a meeting held in person.

**Sec. 44.25.225. Compensation of board members.** Board members receive no salary and are not entitled to per diem or travel expenses.

**Sec. 44.25.230. Meetings.** The board shall meet at least twice a year. A meeting of the board shall occur at the call of the chair or upon the written request of five members of the board.

**Sec. 44.25.235. Administration and regulations.** (a) The board may request administrative support from the leading statewide nonprofit tourism marketing association. The board shall work with the leading statewide nonprofit tourism marketing association to accomplish the purposes of AS 44.25.200 - 44.25.300.

(b) The board shall adopt definitions for "tourism industry," "tourism segment," and "tourism business" and provide them to the department. The department shall adopt definitions for "tourism industry," "tourism segment," and "tourism business" for the purposes of administering the tax under AS 44.25.200 - 44.25.300 after receiving the definitions adopted by the board under this section. The department may, for the purpose of adopting regulations defining "tourism industry," "tourism segment," and "tourism business," accept the board's definitions or reject the board's definitions and request alternate definitions from the board.

**Sec. 44.25.240. Powers of the board.** In carrying out the powers of the board, the board may

- (1) prescribe, adopt, amend, and repeal policies related to the board;
- (2) cooperate with a public or private board, organization, or agency engaged in work or activities similar to the work or activities of the board for destination marketing programs, including market research;
- (3) establish offices in the state and otherwise incur expenses incidental to the performance of its duties;
- (4) appear on behalf of the board before boards, commissions, departments, or other agencies of municipal, state, or federal government;
- (5) acquire, hold, lease, sell, or otherwise dispose of property, but the property is limited to that which is necessary to the administrative functioning of the board;

(6) approve and enter into agreements related to the expenditure of funds appropriated by the legislature to the board;

(7) designate or remove ex officio, nonvoting members of the board.

**Sec. 44.25.245. Duties of the board.** The board shall

(1) conduct programs of destination marketing, research, advertising, or sales promotion designed to retain and expand the tourism industry in the state;

(2) promote all assessed segments of the tourism industry;

(3) prepare market research and marketing plans for the promotion of assessed segments of the tourism industry;

(4) consider the return on investment for all nonadministrative expenditures of assessment funds;

(5) submit an annual report to the governor, assessed tourism businesses, and the senate secretary and chief clerk of the house of representatives on or before the first day of each regular session of the legislature and notify the legislature that the report is available; the report must

(A) describe the activities of the board;

(B) summarize the income and expenses of the board;

(C) provide the balance of the Alaska tourism marketing fund established under AS 44.25.295; and

(D) summarize and report on the tourism marketing plan;

(6) annually prepare a written marketing plan; the plan must promote travel and tourism in the state and must include

(A) an evaluation of the previous year's budget and activities;

(B) a review of state tourism trends, conditions, and opportunities;

(C) an identification of target audiences for tourism marketing expenditures;

(D) marketing strategies, objectives, and targets;

(E) the current assessment rate applicable to assessed tourism segments; and

(F) the budget for the current year;

(7) promote travel and tourism to increase the number of persons traveling to and within the state; and

(8) determine the segments of the tourism industry that provide similar goods and services to travelers; a business segment must be defined with sufficient clarity to allow for the cost-effective identification of tourism businesses within that business segment.

**Sec. 44.25.250. Expenditures.** An expenditure of the board

(1) must be consistent with the marketing plan prepared under AS 44.25.245(6); and

(2) may not be spent on capital or infrastructure improvement projects; for purposes of this paragraph, capital or infrastructure improvement projects do not include information technology improvements, website development and maintenance, or office equipment.

**Sec. 44.25.255. Levy or amendment of the Alaska tourism marketing assessment.** (a) An election under AS 44.25.270 shall be held if the proposed election for levying or amending the rate of an assessment under (c) of this section is approved by the board.

(b) An assessment shall be levied on the gross revenue of a tourism business that is related to an assessed business segment at a rate provided under (c) of this section if an election is held under AS 44.25.270 at which the rate under (c) of this section is approved, as determined under AS 44.25.275. Each business segment may be assessed at a different rate. Only those rates stated in (c) of this section may be considered for an assessment on a segment of the tourism industry.

(c) An assessment under this section may require a tourism business engaging in a segment of the tourism industry to pay an assessment of

- (1) zero percent of the gross revenue related to the assessed segment;
- (2) 0.25 percent of the gross revenue related to the assessed segment;
- (3) 0.5 percent of the gross revenue related to the assessed segment;
- (4) 0.75 percent of the gross revenue related to the assessed segment;
- (5) one percent of the gross revenue related to the assessed segment;
- (6) 1.25 percent of the gross revenue related to the assessed segment;

- (7) 1.5 percent of the gross revenue related to the assessed segment;
- (8) 1.75 percent of the gross revenue related to the assessed segment;
- (9) two percent of the gross revenue related to the assessed segment.

(d) The board shall advertise an election held for the purpose of levying or amending an assessment under AS 44.25.270 and, before an election is held under AS 44.25.270, shall schedule public meetings for potential assessed tourism businesses to provide input to the board.

**Sec. 44.25.260. Collection of and information related to the Alaska tourism marketing assessment.** (a) A tourism business shall pay the assessment levied under AS 44.25.200 - 44.25.300. Each assessed tourism business may pass the cost of the assessment on to its customers at the time a transaction is consummated. If the cost is passed on to a customer, the assessed tourism business shall disclose the amount in advance and separately state the amount from the amount charged and any other applicable taxes, and shall give each customer a receipt of payment. The assessment shall be disclosed as the "Alaska tourism marketing assessment." The assessment is imposed solely on, and is the sole obligation of, the assessed tourism business, even if it is passed on to customers. The assessment may not be considered revenue for any purpose, including calculation of taxes.

(b) A return or other information furnished to the board or the department by an assessed tourism business under AS 44.25.200 - 44.25.300 is confidential and may not be disclosed except

(1) by a person during the performance of an official duty under AS 44.25.200 - 44.25.300;

(2) to comply with a court order;

(3) in the course of a proceeding, a hearing, or litigation involving an assessment; or

(4) upon written consent of the assessed tourism business.

(c) Information obtained by the board or the department to determine the assessment for an assessed tourism business is not a public record for purposes of AS 40.25.100 - 40.25.130.

(d) The department may require an assessed tourism business to

(1) maintain books and records that verify the gross revenue of the business for purposes of the assessment;

(2) furnish any requested information; and

(3) permit the inspection by the department of portions of books and records that relate to the gross revenue of the business or the amount of the assessment.

**Sec. 44.25.265. Termination of the Alaska tourism marketing assessment.**

(a) An assessment shall be terminated on the earlier of

(1) six years after the date of the first assessment; or

(2) the effective date stated on a ballot approved under the procedures described in AS 44.25.270 in which the termination is approved, as determined under AS 44.25.275.

(b) An election under AS 44.25.270 for the termination of an assessment shall be held if the proposed election for the termination of the assessment is approved by the board.

**Sec. 44.25.270. Election procedures.** (a) The board may conduct an election under this section after the director of elections approves the

(1) notice to be published by the board;

(2) ballot to be used in the election; and

(3) registration and voting procedures.

(b) In conducting an election under this section, the board shall

(1) adopt a proposed levy, amendment, or termination of an assessment on a business segment at a meeting of the board held not less than 60 days before the date on which the ballots must be postmarked to be counted;

(2) hold at least one meeting not less than 30 days before the date on which ballots must be postmarked to be counted to explain the reason for the proposed levy, amendment, or termination of the assessment and to explain the voting procedure to be used in the election; the board shall provide notice of the meeting by

(A) mailing a notice to each assessed tourism business; and

(B) publishing the notice in at least one newspaper of general circulation in each region of the state at least two weeks before the meeting;

(3) mail ballots to each tourism business in the applicable business segment not more than 45 days before the date specified as the date ballots must be postmarked; the ballot must

(A) state that an assessment is to be levied, amended, or terminated, as applicable;

(B) state the assessment rate to be levied, amended, or terminated, as applicable, for the business segment;

(C) state that each vote will be weighted in proportion to the projected assessment each voting tourism business is estimated to pay for the following calendar year;

(D) state the effective date of the levy, amendment, or termination of the assessment;

(E) ask whether the assessment shall be levied, amended, or terminated, as applicable;

(F) be returned by mail to the director of elections; the director of elections or a representative shall count the ballots.

(c) The director of elections shall certify the results of an election under this section if the director determines that the requirements of (a) and (b) of this section and AS 44.25.275 have been satisfied.

(d) For purposes of this section, a ballot submitted by a tourism business is presumed valid if the ballot is signed by an individual who is indicated to be an officer of the tourism business or an authorized representative.

**Sec. 44.25.275. Weighted votes.** For a levy, amendment, or termination of an assessment to be approved under AS 44.25.270, or for the selection of board nominees to fill a vacancy caused by the expiration of a term to be submitted to the governor under AS 44.25.205(b), the action must be approved by tourism businesses that, in total, represent at least 50 percent of the weighted votes received. Votes shall be weighted in proportion to the assessment that each voting tourism business is estimated to pay for the calendar year immediately following the election, as determined under AS 44.25.260. In a vote related to an assessment on a business segment for which an assessment is currently levied, only the votes of tourism

businesses that pay an assessment at the time of the election shall be counted, weighted as described in this section.

**Sec. 44.25.280. Determination of value.** Upon request of the director of elections, the commissioner of revenue shall determine the estimated assessment for each assessed tourism business for any calendar year, including a future calendar year for purposes of weighting votes under AS 44.25.275.

**Sec. 44.25.285. Remitting assessments.** Each assessed tourism business shall remit to the department within 30 days after the end of each calendar quarter the total amount of the assessment owed on the value of assessed gross revenue in the previous calendar quarter. The department shall inform the board within 60 days after the end of each calendar quarter of the total amount of assessment collections as of the 30 days following the preceding calendar quarter available to be apportioned by the board. An assessed tourism business that fails to remit an assessment is subject to penalties as provided in AS 43.05 and AS 43.10.

**Sec. 44.25.290. Enforcement of assessments.** The provisions of AS 43.05 and AS 43.10 apply to the enforcement and collection of the Alaska tourism marketing assessment.

**Sec. 44.25.295. Assessment proceeds; Alaska tourism marketing fund. (a)** The Alaska tourism marketing fund is established in the general fund. The fund consists of money appropriated to the fund. The legislature may appropriate from the fund for purposes consistent with AS 44.25.200 - 44.25.300.

(b) The legislature may appropriate the proceeds of the assessment to the Alaska tourism marketing fund.

(c) Nothing in this section creates a dedicated fund.

**Sec. 44.25.300. Definitions.** In AS 44.25.200 - 44.25.300,

(1) "assessment" means an assessment levied under AS 44.25.200 - 44.25.300;

(2) "board" means the Travel Alaska Board;

(3) "business segment" means a business segment determined under AS 44.25.245(8);

(4) "department" means the Department of Revenue;

1 (5) "traveler" means a person who travels for business, recreation, or  
2 pleasure.

3 \* **Sec. 6.** The uncoded law of the State of Alaska is amended by adding a new section to  
4 read:

5 TRANSITION. (a) Notwithstanding AS 44.25.200 - 44.25.300, added by sec. 5 of this  
6 Act, the board of directors of the leading statewide nonprofit tourism marketing association  
7 shall act as a transition board. The transition board shall establish procedures for elections and  
8 propose to the governor the initial number of members on the Travel Alaska Board. The  
9 transition board shall hold an election in compliance with the requirements in AS 44.25.205,  
10 44.25.270, and 44.25.275, added by sec. 5 of this Act, for the purpose of determining  
11 nominees for the Travel Alaska Board and for proposing assessment rates that comply with  
12 AS 44.25.255, added by sec. 5 of this Act, to the Travel Alaska Board after the board is  
13 established. Following the election, the transition board shall provide the governor a list of  
14 nominees for the Travel Alaska Board and, after the Travel Alaska Board is established,  
15 submit to the Travel Alaska Board the proposed assessment rates approved in the election.  
16 The transition board exists only until it submits the proposed assessment rates to the Travel  
17 Alaska Board.

18 (b) The governor shall appoint the initial members of the Travel Alaska Board from a  
19 list provided under (a) of this section. The governor may reject all or a portion of a list  
20 provided under (a) of this section and request another list.

21 (c) Notwithstanding AS 44.25.255, added by sec. 5 of this Act, the Travel Alaska  
22 Board may ratify an assessment or assessments proposed by the transition board without an  
23 election. If the Travel Alaska Board ratifies the assessment, it shall be imposed as if it had  
24 been approved in accordance with AS 44.25.255.

25 (d) In this section, "assessment" has the meaning given in AS 44.25.300, added by  
26 sec. 5 of this Act.