

CS FOR SENATE BILL NO. 107(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered: 4/22/99

Referred: Rules

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to tourism and tourism marketing; eliminating the Alaska
2 Tourism Marketing Council; and providing for an effective date."

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

4 * Section 1. FINDINGS AND INTENT. (a) The legislature finds that it is important for
5 the state to continue to work cooperatively with the private sector visitor industry to promote
6 Alaska as a tourist destination for the benefit of the citizens of the state.

7 (b) It is the intent of the legislature that all tourism marketing functions currently
8 performed by the Alaska Tourism Marketing Council and the Alaska division of tourism be
9 consolidated and performed under a contract with a single qualified trade association and that
10 the association provide a significant financial contribution to this cooperative tourism
11 marketing program, with the Alaska division of tourism performing primarily planning,
12 governmental coordination, and advocacy for tourism development.

13 * Sec. 2. AS 23.20.526(d)(8) is amended to read:

14 (8) in the employ of the state or a political subdivision of the state if

1 the service is performed by an individual in the exercise of duties

2 (A) as a judicial officer, the governor, the lieutenant governor,
3 a person hired or appointed as the head or deputy head of a department in the
4 executive branch, a person hired or appointed as the director of a division of
5 a department in the executive branch, an assistant to the governor, a chair or
6 member of a state commission or board, state investment officers and the state
7 comptroller in the Department of Revenue, [THE EXECUTIVE DIRECTOR
8 OF THE ALASKA TOURISM MARKETING COUNCIL,] an appointed or
9 elected municipal officer, any other elected official, the fiscal analyst of the
10 legislative finance division, the legislative auditor of the legislative audit
11 division, the executive director of the Legislative Affairs Agency, and the
12 directors of the divisions within the Legislative Affairs Agency;

13 (B) as a member of the Alaska Army National Guard or Alaska
14 Air National Guard or Alaska Naval Militia;

15 (C) as an employee serving on only a temporary basis in case
16 of fire, storm, snow, earthquake, flood, or similar emergency; or

17 (D) as an election official or election worker if the amount of
18 remuneration received by the individual during the calendar year for services
19 as an election official or election worker is less than \$1,000;

20 * **Sec. 3.** AS 36.30.850(b) is amended by adding a new paragraph to read:

21 (41) a tourism marketing contract awarded under AS 44.33.125.

22 * **Sec. 4.** AS 44.33.119 is amended to read:

23 **Sec. 44.33.119. Purposes.** The purposes of AS 44.33.119 - 44.33.135 [AND
24 AS 44.33.700 - 44.33.735] are to

25 (1) encourage the expansion and growth of the state's visitor industry
26 for the benefit of the citizens of the state;

27 (2) ensure that the economic benefits to be derived from tourism in the
28 state are retained in the state, to the greatest extent possible;

29 (3) ensure that a maximum number of residents of the state are
30 employed in the tourism industry;

31 (4) [PROMOTE COOPERATION BETWEEN THE STATE AND

PRIVATE SECTOR IN THE PLANNING AND EXECUTION OF A GENERIC VISITOR MARKETING CAMPAIGN IN THE PUBLIC INTEREST;

(5) PROMOTE THE DEVELOPMENT OF VISITOR INDUSTRY FACILITIES, BOTH IN THE PUBLIC SECTOR AND THE PRIVATE SECTOR, THROUGH THE USE OF STATE RESOURCES, AS APPROPRIATE;

(6) ENSURE THAT THE VISITORS' EXPERIENCE IN THE STATE IS AND CONTINUES TO BE SATISFACTORY AND LEADS TO WORD-OF-MOUTH ADVERTISING AND RETURN VISITS TO THE STATE;

(7)] ensure that consideration is given in the development and implementation of the tourism program to local community goals and objectives, to impacts on existing private enterprises, and to impacts on recreational and subsistence opportunities for the residents of the state;

(5) [(8)] promote the development of tourism opportunities **throughout the state, including** along the highway system of the state, [INCLUDING] the marine highway, and in rural areas of the state.

* **Sec. 5.** AS 44.33.120(b) is repealed and reenacted to read:

(b) The Alaska division of tourism shall

(1) cooperate with organizations in the private sector for the promotion and development of tourism into and within the state;

(2) coordinate with municipal, state, and federal agencies for the development of tourism resources in the state;

(3) promote and develop the state's tourist industry;

(4) cooperate with the private sector in the planning and execution of a destination tourism marketing campaign under AS 44.33.125 that is in the public interest;

(5) promote the development of visitor industry facilities, both in the public sector and the private sector, through the use of state resources as appropriate;

(6) plan and advocate for tourism and tourism development in coordination with the private sector, municipalities, state, and federal agencies;

(7) administer and evaluate the tourism marketing contract program under AS 44.33.125;

(8) administer a visitor information center located in Tok; and

(9) conduct research related to tourism.

* **Sec. 6.** AS 44.33.120 is amended by adding a new subsection to read:

(d) During the term of a contract with a qualified trade association under AS 44.33.125(a), the Department of Commerce and Economic Development may not execute another tourism marketing campaign except as provided under AS 44.33.125(b), (c), or (d).

* **Sec. 7.** AS 44.33 is amended by adding a new section to read:

Sec. 44.33.125. Tourism marketing contracts. (a) Subject to appropriations for the purpose, the Department of Commerce and Economic Development shall, on or before August 1 of each year, contract with a single qualified trade association for the purpose of planning and executing a destination tourism marketing campaign. The contract may be awarded only if the qualified trade association provides matching funds equal to at least 30 percent of the costs of the marketing campaign described in the contract. The marketing campaign may promote distinct segments of tourism, such as highway tourism, seasonal tourism, ecotourism, cultural tourism, regional tourism, and rural tourism. Before the contract is executed, the marketing campaign plan must be approved by the department.

(b) The tourism marketing contract awarded under (a) of this section must include essential components identified by the department and may include media advertising, establishing and operating a system for responding to visitor inquiries, publishing and distributing information regarding vacation planning, establishing and maintaining Internet sites that provide tourism information, conducting market research, and other activities related to tourism that the department may designate in the contract. If the qualified trade association refuses a contract component requested by the department, the department may award a contract to another person to perform that component but only if the terms are not materially different from those offered to the qualified trade association.

(c) A qualified trade association that has been awarded a tourism marketing contract under (a) of this section has, while the contract is in effect, the right of first refusal for every other tourism marketing contract offered by the department. The

1 qualified trade association is required to provide matching funds for a contract awarded
 2 under this subsection only if matching funds are required by the contract offer. If the
 3 qualified trade association refuses a contract offer under this subsection or fails to
 4 accept the offer within a reasonable time, the department may award the contract to
 5 another person but only under terms not materially different from those offered to the
 6 qualified trade association.

7 (d) If, during the term of a contract awarded under (a) of this section, funds
 8 from any source are appropriated to the department for tourism marketing activities in
 9 addition to the funds already committed under the contract, the contract may be
 10 amended to include the additional funds and the additional tourism marketing
 11 activities. The department may require the qualified trade association to provide
 12 matching funds in any amount for the additional funds, or the department may impose
 13 no matching requirement for the additional funds. If the qualified trade association
 14 refuses the additional funds, the department may use the additional funds to award a
 15 contract to another person but only under terms not materially different from those
 16 offered to the qualified trade association.

17 (e) The marketing campaign conducted under a tourism marketing contract
 18 awarded under (a) of this section must be directed by a group within the qualified
 19 trade association that is broadly representative of the various sectors of the visitor
 20 industry in the state and whose members are

21 (1) involved in a visitor industry business or have experience in tourism
 22 marketing; or

23 (2) officers or senior staff members of a state agency, a local
 24 government, or a nonprofit enterprise established to promote the visitor industry.

25 (f) Materials produced and marketing information and tourism related data
 26 generated by the qualified trade association under a contract awarded under (a) or (c)
 27 of this section are the joint property of the qualified trade association and the
 28 department. However, the qualified trade association may, but only for the purpose
 29 of promoting the state, use, sell, or lease the materials, information, and data. In
 30 addition, the qualified trade association may only permit the use by or sale to another
 31 person of the materials, information, or data if the use by the other person is also for

the purpose of promoting the state. The qualified trade association may impose other restrictions on the right of another person to use the materials, information, or data. If a qualified trade association provides the right to use a mailing list generated under a contract awarded under (a) or (c) of this section, the list must be made available to every person at the same price, except that a person who is not a participant in the qualified trade association's marketing program may be charged an additional amount based on the amount of the qualified trade association's participation fee attributable to a participant's right of access to mailing lists. The qualified trade association retains all revenue generated by the association under a contract awarded under (a) or (c) of this section.

(g) A qualified trade association shall provide to the department, on request, materials produced and marketing information and tourism related data generated by the qualified trade association under a contract awarded under (a) or (c) of this section. The information and tourism related data provided to the department under this subsection are not public records under AS 09.25.100 - 09.25.220.

(h) A qualified trade association may not use money from a contract awarded under (a) or (c) of this section

(1) to lobby a municipality or an agency of a municipality or to lobby the state or an agency of the state, as those terms are defined in AS 44.99.030(b);

(2) to raise funds that will be used to lobby a municipality or an agency of a municipality or to lobby the state or an agency of the state, as those terms are defined in AS 44.99.030(b); or

(3) for administrative or overhead costs that directly support any effort to lobby a municipality or an agency of a municipality or to lobby the state or an agency of the state, as those terms are defined in AS 44.99.030(b).

(i) A qualified trade association may, pursuant to the performance of a tourism marketing contract awarded under (a) or (c) of this section, award a subcontract only on a competitive basis after providing adequate notice of the availability of the subcontract and considering all responses.

(j) In this section, "qualified trade association" means a private, nonprofit organization whose primary purposes include the promotion of tourism within the state

1 and encouraging tourists to visit the state and that has a statewide membership
 2 consisting of representatives of all major sectors of the visitor industry, including
 3 hotels, airlines, cruise lines, wholesale and retail travel agencies, visitor attractions,
 4 convention and visitors bureaus, bed and breakfast enterprises, wilderness lodges and
 5 outfitters, and charter operations.

6 * **Sec. 8.** AS 44.33.125(a) is amended to read:

7 (a) Subject to appropriations for the purpose, the Department of Commerce and
 8 Economic Development shall, on or before August 1 of each year, contract with a
 9 single qualified trade association for the purpose of planning and executing a
 10 destination tourism marketing campaign. The contract may be awarded only if the
 11 qualified trade association provides matching funds equal to at least **60** [30] percent
 12 of the costs of the marketing campaign described in the contract. The marketing
 13 campaign may promote distinct segments of tourism, such as highway tourism,
 14 seasonal tourism, ecotourism, cultural tourism, regional tourism, and rural tourism.
 15 Before executing the contract, the marketing campaign plan must be approved by the
 16 department.

17 * **Sec. 9.** AS 44.33.135 is amended by adding a new subsection to read:

18 (c) A grant awarded under this section may not be used for tourism marketing.

19 * **Sec. 10.** AS 39.25.110(27); AS 39.50.200(a)(8)(G), 39.50.200(b)(49); AS 44.33.700,
 20 44.33.705, 44.33.710, 44.33.715, 44.33.720, 44.33.723, 44.33.725, 44.33.727, 44.33.730,
 21 44.33.733, 44.33.735; AS 44.66.010(a)(15); and AS 44.99.030(a)(14) are repealed.

22 * **Sec. 11.** Sections 1 - 7, 9, and 10 of this Act take effect July 1, 2000.

23 * **Sec. 12.** Section 8 of this Act takes effect July 1, 2002.