

STATE OF ALASKA THE LEGISLATURE

2008

Source
CSHJR 41(RLS)

**Legislative
Resolve No.**
71



Urging the United States Congress to repeal sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005).

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005) will require states, cities, counties, and boroughs that spend more than \$100,000,000 each year on goods and services after December 31, 2010, to withhold three percent of their payments to nearly all vendors and contractors for federal income purposes and to report nonwage payments; and

WHEREAS sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005) was added by a congressional conference committee without benefit of any public hearings in either the United States House of Representatives or the United States Senate; and

WHEREAS, although sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005) was inserted into the legislation to save approximately \$7,000,000,000 in federal taxes between 2011 and 2015, the effect of the provision is to increase the burden and costs to state and local governments by making these governments

uncompensated and involuntary federal tax collectors because no federal funding is provided to cover the costs of implementing sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005); and

WHEREAS sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005) creates another unfunded federal mandate that will add a cost to state and local governments that exceeds the threshold of P.L. 104-04 (Unfunded Mandates Reform Act of 1995), and sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005) will therefore short-circuit the public process required by P.L. 104-04 (Unfunded Mandates Reform Act of 1995) and thus violate that Act; and

WHEREAS the Department of Administration, the University of Alaska, the Municipality of Anchorage, the Fairbanks North Star Borough, and the Anchorage School District, all governmental entities in Alaska that are affected by sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005), have expressed serious concerns about it and have urged its repeal; and

WHEREAS local governmental officials have stated that sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005) will be extremely difficult and expensive to implement, requiring major programming changes to financial and accounting systems and the hiring of additional staff; and

WHEREAS, because of the three percent withholding requirement, local businesses will be discouraged from bidding on state and local governmental contracts for products and services, thereby dampening competitive bidding and driving up the prices to offset the three percent withholding, and this, in turn, is likely to increase the cost of procurement by state and local governments; and

WHEREAS sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005) will pose significant difficulties for the State of Alaska in its efforts to procure goods and services for the state, because

(1) the state accounting system is 23 years old and cannot accommodate mandatory backup withholding;

(2) it would take about a year to make the necessary systemic changes and require substantial additional record keeping to reconcile the amounts paid to vendors and those amounts reported and remitted to the Internal Revenue Service;

(3) obtaining exemptions to sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005) would be difficult and costly; and

(4) vendors might inflate their bids to compensate for the tax withheld, resulting in higher prices to the state; and

WHEREAS the state government accounting system does not currently have the capability to withhold vendor payments, and the state need only report payments for services over \$600 a year to each unincorporated vendor; sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005) will increase the accounting burden on the state by

(1) requiring most but not all payments, no matter how small, to be reported, an extremely expensive and burdensome mandate;

(2) requiring payments to all corporations to be reported, significantly increasing the number of vendors for which information reports would have to be submitted to the Internal Revenue Service;

(3) requiring withholding on credit card purchases, a process of unknown complexity; and

(4) exempting certain types of payments that will likely require manual intervention, which would drive up the cost of compliance with sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005) even further; and

WHEREAS government agencies will have to obtain employee identification numbers or social security numbers for numerous individual vendors to allow reporting to the Internal Revenue Service, thereby invading those citizens' rights of privacy and exposing them to the dangers of identity theft; and

WHEREAS complying with sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005) will have serious adverse effects on the procurement practices of larger local governments in Alaska; for example, the Municipality of Anchorage, the state's largest city, with a population of about 261,446, which is 42 percent of the state's total population, will incur costs of approximately \$250,000 a year to reprogram municipal computers and financial systems, plus an estimated \$100,000 to \$200,000 a year of additional costs for ongoing operating expenses; the Municipality of Anchorage's financial computer system is not set up for this procedure and will require extensive modifications at a significant

cost, including the hiring of at least one full-time municipal employee; the use of procurement cards by the Municipality of Anchorage may have to be discontinued, and the use of checks, which are slower and more costly, may be reinstituted; the Municipality of Anchorage's online purchasing system will have to be modified and likely will no longer be cost-effective; and

WHEREAS the additional costs of complying with sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005) will place the State of Alaska and Alaska local governments at a competitive disadvantage in the procurement of goods and services; and

WHEREAS, as a result of these burdens and difficulties, the state and affected local governments believe that sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005) will not accomplish its stated goal of closing the budget gap; and

WHEREAS these concerns were previously expressed by the state to the United States Congress through the National Association of State Auditors, Comptrollers and Treasurers; and

WHEREAS S. 777 and H.R. 1023 have been introduced in the 110th United States Congress to repeal sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005);

BE IT RESOLVED that the Alaska State Legislature urges the United States Congress to repeal sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005).

COPIES of this resolution shall be sent to the Honorable Ted Stevens and the Honorable Lisa Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress; and all other members of the 110th United States Congress.