

CS FOR HOUSE BILL NO. 383()

IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES GRENN, Gara, Tuck, Millett

A BILL**FOR AN ACT ENTITLED**

1 "An Act providing for a credit against the vehicle rental tax; establishing the Travel
2 Alaska Board; relating to a tourism marketing assessment; and establishing a tourism
3 marketing fund."

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

5 * **Section 1.** AS 43.52 is amended by adding a new section to read:

6 **Sec. 43.52.095. Credit.** (a) A taxpayer is allowed a credit against the tax due
7 under AS 43.52.010 - 43.52.099 equal to a cash contribution to the Alaska tourism
8 marketing fund established in AS 44.25.295.

9 (b) The credit under this section may not reduce a person's tax liability under
10 AS 43.52.010 - 43.52.099 to below zero for any tax year. An unused credit or portion
11 of a credit not used under this section for a tax year may not be sold, traded,
12 transferred, or applied in a subsequent tax year.

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

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

(d) In addition to the voting members of the board, the board may elect or remove ex officio nonvoting members. A nonvoting member need not be a member of the leading statewide nonprofit tourism marketing association and may not be counted for the purposes of establishing a quorum, taking an action, electing a chair or vice-chair under (e) of this section, or adopting a motion or resolution under AS 44.25.220.

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

(f) If all assessments are terminated under AS 44.25.265, the board shall continue in existence until June 30 of the year following the year in which the last assessment is terminated for the purpose of concluding its affairs. During this period, the board may continue to perform its duties under this chapter and may propose additional assessments. If a new assessment has not been levied under AS 44.25.255 during this period, the board shall cease all activities.

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

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

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

(b) The board may meet and transact business by electronic media. Actions 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. 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

1 accomplish the purposes of AS 44.25.200 - 44.25.300.

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

4 (1) prescribe, adopt, amend, and repeal policies related to the board;

5 (2) cooperate with a public or private board, organization, or agency
6 engaged in work or activities similar to the work or activities of the board for
7 destination marketing programs, including market research;

8 (3) establish offices in the state and otherwise incur expenses
9 incidental to the performance of its duties;

10 (4) appear on behalf of the board before boards, commissions,
11 departments, or other agencies of municipal, state, or federal government;

12 (5) acquire, hold, lease, sell, or otherwise dispose of property, but the
13 property is limited to that which is necessary to the administrative functioning of the
14 board;

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

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

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

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

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

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

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

29 (A) describe the activities of the board;

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

31 (C) provide the balance of the fund; and

(D) summarize and report on the marketing plan prepared under (6) of this section;

(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 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 segment must be defined with sufficient clarity to allow for the cost-effective identification of tourism businesses within that 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 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 segment at a rate provided under (c) of this section if an

1 election is held under AS 44.25.270 at which the rate under (c) of this section is
2 approved, as determined under AS 44.25.275. Each segment may be assessed at a
3 different rate. Only those rates stated in (c) of this section may be considered for an
4 assessment on a segment of the tourism industry.

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

- 7 (1) zero percent of the gross revenue related to the assessed segment;
- 8 (2) 0.25 percent of the gross revenue related to the assessed segment;
- 9 (3) 0.5 percent of the gross revenue related to the assessed segment;
- 10 (4) 0.75 percent of the gross revenue related to the assessed segment;
- 11 (5) one percent of the gross revenue related to the assessed segment;
- 12 (6) 1.25 percent of the gross revenue related to the assessed segment;
- 13 (7) 1.5 percent of the gross revenue related to the assessed segment;
- 14 (8) 1.75 percent of the gross revenue related to the assessed segment;
- 15 (9) two percent of the gross revenue related to the assessed segment.

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

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

31 (b) A return or other information furnished to the board or the department by

1 an assessed tourism business under AS 44.25.200 - 44.25.300 is confidential and may
2 not be disclosed except

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

5 (2) to comply with a court order;

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

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

9 (c) Information obtained by the board or the department to determine the
10 assessment for an assessed tourism business is not a public record for purposes of
11 AS 40.25.100 - 40.25.295.

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

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

15 (2) furnish any requested information; and

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

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

20 (a) An assessment terminates on the earlier of

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

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

25 (3) 30 days after the levy or amendment of any assessment fails under
26 AS 44.25.270(d).

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

30 **Sec. 44.25.270. Election procedures.** (a) The board may conduct an election
31 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 for an assessment under this section,

(1) the board shall adopt a proposed levy, amendment, or termination of an assessment on a 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) the board shall 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 tourism business proposed to be assessed; 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) the director of elections shall mail ballots to each tourism business proposed to pay an assessment 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 segment, and describe all existing assessments;

(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

(i) be levied or amended, in which case all assessments

that would otherwise apply continue; or

(ii) terminate;

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

(c) In conducting an election for the nomination of board members, the

(1) board shall provide notice of the election by mailing or providing electronic notice to each

(A) currently assessed tourism business if the ballot does not also contain a proposed levy, amendment, or termination of an assessment; or

(B) tourism business proposed to be assessed if the ballot also contains a proposed levy, amendment, or termination of an assessment;

(2) director of elections shall mail ballots to each business specified in (1) of this subsection not more than 45 days before the date specified as the date ballots must be postmarked; the ballot must

(A) state the name of each proposed nominee;

(B) 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;

(C) ask whether each proposed nominee shall be nominated;

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

(d) In an election for an assessment under this section, assessments for all segments, both existing and proposed, must be described on the ballot and approved or rejected, in total, by voters in a single vote. If the election proposes levying or amending an assessment and voters reject the levy or amendment, all existing assessments terminate. If the election proposes terminating an assessment and voters reject the termination, no existing assessments terminate.

(e) The director of elections, in consultation with the department, shall certify the results of an election under this section if the director determines that the applicable requirements of (a) - (d) of this section and AS 44.25.275 have been satisfied.

(f) 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 more than 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 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. The weight of a vote of a tourism business is confidential.

Sec. 44.25.280. Determination of value. Upon request of the director of elections, the department 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. The department may require a tourism business to provide information that is necessary to determine an estimated assessment under this section. The department shall keep information collected for purposes of this section confidential under AS 44.25.260.

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

1 assessment.

2 **Sec. 44.25.295. Assessment proceeds; Alaska tourism marketing fund.** (a)

3 The Alaska tourism marketing fund is established in the general fund. The department
4 shall separately account for the revenue collected from the assessment and deposit the
5 amount into the fund. The department may also receive donations to the fund and shall
6 deposit the donations into the fund.

7 (b) The legislature may appropriate money in the fund to the

8 (1) department for the costs of administering the assessment; and

9 (2) board for the purpose of executing a marketing plan prepared under

10 AS 44.25.245(6).

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

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

13 (1) "assessment" means an assessment levied under AS 44.25.200 -
14 44.25.300;

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

16 (3) "department" means the Department of Revenue;

17 (4) "fund" means the Alaska tourism marketing fund established under
18 AS 44.25.295;

19 (5) "gross revenue" means the total fees and costs charged for the sale
20 of goods or services;

21 (6) "segment" means a segment of the tourism industry as determined
22 under regulations adopted by the department;

23 (7) "traveler" means a person who travels for business, recreation, or
24 pleasure.

25 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 TRANSITION. (a) The board of directors of the leading statewide nonprofit tourism
28 marketing association shall provide to the governor a list of nominees to serve on a transition
29 board. The governor shall appoint the initial members of the transition board from the list
30 provided under this subsection. The governor may reject all or a portion of the list provided
31 under this subsection.

(b) The transition board shall consist of 24 members. The transition board shall establish procedures for elections and propose to the governor the initial number of members to serve on the Travel Alaska Board.

(c) The transition board shall adopt definitions for "tourism industry," "segment," and "tourism business" and provide them to the department. The department shall adopt definitions for "tourism industry," "segment," and "tourism business" for the purposes of administering the assessment under AS 44.25.200 - 44.25.300 after receiving the definitions adopted by the board under this subsection. The department may, for the purpose of adopting regulations defining "tourism industry," "segment," and "tourism business," accept the board's definitions or reject the board's definitions and request alternate definitions from the board. A definition adopted under this subsection must comply with, or contain the necessary exceptions to comply with, the United States Constitution and the Constitution of the State of Alaska.

(d) The transition board shall hold an election in compliance with the requirements in AS 44.25.205, 44.25.270, and 44.25.275, added by sec. 2 of this Act, for the purpose of determining nominees for the Travel Alaska Board and for proposing assessment rates that comply with AS 44.25.255, added by sec. 2 of this Act, to the Travel Alaska Board after the board is established. Following the election, the transition board shall provide the governor a list of nominees for the Travel Alaska Board and, after the Travel Alaska Board is established, submit to the Travel Alaska Board the proposed assessment rates approved in the election. The transition board exists only until it submits the proposed assessment rates to the Travel Alaska Board.

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

(f) Notwithstanding AS 44.25.255, added by sec. 2 of this Act, the Travel Alaska Board may ratify an assessment or assessments proposed by the transition board. If the Travel Alaska Board ratifies the assessment, the assessment shall be imposed as if it had been approved in accordance with AS 44.25.255.

(g) In this section,

(1) "assessment" has the meaning given in AS 44.25.300, added by sec. 2 of

1 this Act;

2 (2) "department" means the Department of Revenue.