

HOUSE BILL NO. 50

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES BRICE, B.Davis

Introduced: 1/16/95

Referred: Community and Regional Affairs, Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to enterprise zones."

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

3 * **Section 1.** AS 44.33 is amended by adding new sections to read:

4 ARTICLE 10. ENTERPRISE ZONES.

5 Sec. 44.33.820. DESIGNATION AND DURATION OF ENTERPRISE
6 ZONES. The governor may designate up to four enterprise zones each year from the
7 prioritized list of applications provided to the governor by the department under
8 AS 44.33.830(c). A designation under this section lasts for 20 years.

9 Sec. 44.33.822. ELIGIBILITY FOR DESIGNATION. In order for a
10 geographical area to be eligible for designation as an enterprise zone,

11 (1) the area must consist of one census tract used in the latest
12 completed United States census;

13 (2) 25 percent or more of the households of the area must have annual
14 incomes that are less than 80 percent of the median annual household income within
15 the boundaries of the applicant where the area is located;

1 (3) the unemployment rate of the area must be 1.5 times the average
2 unemployment rate in the state, or 20 percent or more of the households in the area
3 must be below the poverty level; and

4 (4) an eligible neighborhood development organization must operate in
5 the area; in this paragraph, "eligible neighborhood development organization" has the
6 meaning given in 42 U.S.C. 5318a(a).

7 Sec. 44.33.824. APPLICATION FOR DESIGNATION. (a) A borough, a
8 unified municipality, or a city, if the city is not within a borough, may apply to the
9 department to have a geographical area that is located within the boundaries of the
10 applicant designated as an enterprise zone.

11 (b) The application must be in the form established by the department and
12 include

13 (1) a description of the location and boundaries of the proposed area;
14 (2) facts showing how the area satisfies the eligibility requirements of
15 AS 44.33.822;

16 (3) facts demonstrating the potential of the area for economic
17 development and neighborhood stabilization and revitalization;

18 (4) a general statement of the incentives that the applicant proposes to
19 provide to the area after designation as an enterprise zone in order to promote the
20 economic development and neighborhood stabilization and revitalization of the area;
21 if the area proposed by the applicant is designated as an enterprise zone, the applicant
22 shall provide in the enterprise zone the incentives proposed in the application;

23 (5) a description of the strategies that the applicant proposes to use to
24 promote the economic development and neighborhood stabilization and revitalization
25 of the area; and

26 (6) other information required by the department by regulation.

27 Sec. 44.33.826. LIMIT ON NUMBER OF ZONES LOCATED WITHIN
28 QUALIFYING MUNICIPALITY. There may not be at the same time more than three
29 enterprise zones designated within a qualifying municipality.

30 Sec. 44.33.828. LOCAL INCENTIVES. A qualifying municipality may
31 identify as incentives under AS 44.33.824

- 1 (1) reduction of the municipality's permit or user fees;
2 (2) credits on the municipality's property taxes or exemptions from the
3 taxes;
4 (3) flexibility in the municipality's regulation of the area, including
5 establishing special zoning districts, special processing for permits, and exemptions
6 from local ordinances;
7 (4) the proposed lease or sale of the municipality's real property to
8 private persons, except that the applicant may not propose the lease or sale of property
9 that is designated or otherwise targeted for public use.

10 Sec. 44.33.830. DEPARTMENT ACTION. (a) The department shall verify
11 the information and eligibility of an area proposed in an application submitted to the
12 department under AS 44.33.824. The department shall prioritize the applications
13 received by the department each year according to the degree of economic distress of
14 the areas demonstrated by the application, the potential of the area for economic
15 development and neighborhood stabilization and revitalization, and the feasibility of
16 the incentives and strategies that the applicant proposes to use to promote the
17 economic development and neighborhood stabilization and revitalization of the area.

18 (b) When determining the degree of economic distress of an area under (a) of
19 this section, the department shall use the income, employment, and other economic and
20 social data in the latest completed United States census.

21 (c) Each year the department shall transmit the prioritized list developed under
22 (a) of this section to the governor.

23 Sec. 44.33.832. REVIEW AND APPEAL OF DEPARTMENT ACTION. (a)
24 A qualifying municipality that submits an application under AS 44.33.824 may appeal
25 to the commissioner

26 (1) a determination by the department that the area proposed in the
27 application is not eligible under AS 44.33.822 for designation as an enterprise zone;

28 (2) a denial of the application by the department for a reason other than
29 (1) of this subsection; or

30 (3) the priority given to the application by the department.

31 (b) The determination of the commissioner under (a) of this section may be

1 appealed to the superior court by a qualifying municipality within 30 days after the
2 qualifying municipality receives written notice of the commissioner's determination.

3 (c) The department shall establish by regulation the procedure to be used for
4 the appeal under (a) of this section.

5 Sec. 44.33.834. DEADLINES. The department shall establish by regulation
6 deadlines for the submittal, review, and other administrative handling of applications
7 for designation as an enterprise zone. The deadlines must be compatible with the
8 deadlines for applying for grants under 42 U.S.C. 5318a.

9 Sec. 44.33.836. STATE INCENTIVES FOR ENTERPRISE ZONES. The state
10 is encouraged to provide to an enterprise zone incentives that include

- 11 (1) reduction of state permit or user fees;
- 12 (2) credits on state income taxes or exemptions from the taxes; and
- 13 (3) the proposed lease or sale to private persons of the state's real
14 property that is not designated or otherwise targeted for public use.

15 Sec. 44.33.838. REGULATIONS. In addition to the regulations required under
16 AS 44.33.820 - 44.33.840, the department may adopt regulations to implement
17 AS 44.33.820 - 44.33.840. The regulations required or authorized under AS 44.33.820
18 - 44.33.840 shall be adopted under AS 44.62 (Administrative Procedure Act).

19 Sec. 44.33.840. DEFINITIONS. In AS 44.33.820 - 44.33.840,

- 20 (1) "borough," "city," and "unified municipality" have the meanings
21 given in AS 29.71.800;
- 22 (2) "commissioner" means the commissioner of commerce and
23 economic development;
- 24 (3) "department" means the Department of Commerce and Economic
25 Development;
- 26 (4) "economic development and neighborhood stabilization and
27 revitalization" includes the development of new or existing businesses, the creation of
28 employment opportunities, and the development of affordable and sound housing;
- 29 (5) "enterprise zone" means a geographical area designated as an
30 enterprise zone under AS 44.33.820;
- 31 (6) "qualifying municipality" means a borough, a unified municipality,

1 or a city, except a city that is located in a borough.

2 * **Sec. 2.** AS 29.45.050 is amended by adding a new subsection to read:

3 (o) A borough, a unified municipality, and a city, except a city located in a
4 borough, may by ordinance partially or totally exempt from taxation property in an
5 enterprise zone designated under AS 44.33.820 or may provide a credit on taxes due
6 to the municipality on property in an enterprise zone designated under AS 44.33.820.

7 * **Sec. 3.** AS 43.20.021(d) is amended to read:

8 (d) Where a credit allowed under the Internal Revenue Code is also allowed
9 in computing Alaska income tax, it is limited to 18 percent for corporations of the
10 amount of credit determined for federal income tax purposes which is attributable to
11 Alaska. This limitation does not apply to a special industrial incentive tax credit under
12 AS 43.20.042 or to tax credits under AS 43.20.046 - 43.20.048.

13 * **Sec. 4.** AS 43.20 is amended by adding new sections to article 1 to read:

14 Sec. 43.20.046. ENTERPRISE ZONE INVESTMENT TAX CREDITS. (a)
15 In addition to any other tax credit allowed for the investment under this chapter, and
16 to the extent that the property qualifying as an investment under this section is used
17 solely and exclusively during the tax year in an enterprise zone, a taxpayer may apply
18 as a credit against the taxpayer's tax liability under this chapter, for a tax year
19 beginning on or after January 1 of the tax year when the investment is made, 15
20 percent of the investment made by the taxpayer in a new business facility during the
21 tax year.

22 (b) If the taxpayer has not operated the new business facility for the entire tax
23 year, the credit under this section shall be calculated by dividing the investment made
24 during the tax year by 12 and multiplying the result by the number of full months that
25 the taxpayer operated the facility during the tax year.

26 (c) If the new business facility replaces another facility, the credit determined
27 under (a) - (b) of this section is reduced by the average annual investment of the
28 taxpayer, or a related taxpayer, in the former facility for the three tax years that
29 preceded the tax year for which the credit is claimed.

30 (d) In this section,

31 (1) "investment" means the value of the real and tangible personal

1 property, except inventory or property held for sale to customers in the ordinary course
2 of the taxpayer's business, constituting a facility or used in the operation of a facility;
3 in this paragraph,

4 (A) "net rental rate" means the rental rate less the rental
5 payments received by the taxpayer from subrentals;

6 (B) "value" means the total purchase price if purchased, or the
7 net rental rate if rented, paid for the property;

8 (2) "related taxpayer" means a person under the control of the taxpayer
9 or a person, except an individual, controlled by a person who is controlled by the
10 taxpayer; in this paragraph,

11 (A) "control" or "controlled" means the direct or indirect
12 ownership of at least, with regard to a

13 (i) corporation, 80 percent of the total combined voting
14 power of all classes of stock entitled to vote and 80 percent of all other
15 classes of stock of the corporation;

16 (ii) partnership or an association, an 80 percent interest
17 in the capital or profits of the partnership or association;

18 (iii) trust, 80 percent of the beneficial interest in the
19 principal or income of the trust;

20 (B) "person" includes, in addition to the entities identified in
21 AS 43.20.340, an organization that is not a corporation, a partnership, or a
22 trust.

23 Sec. 43.20.047. CREDIT FOR NEW BUSINESS FACILITY EMPLOYEES.

24 (a) Subject to the limitation in (b) of this section, a taxpayer who establishes a new
25 business facility for at least one year in an enterprise zone may apply, as a credit
26 against the taxpayer's tax liability under this chapter for the first full income tax year
27 of the new business facility, \$500 for each new business facility employee who works
28 in the zone.

29 (b) The number of new business facility employees that the taxpayer may
30 claim for credit under this section is determined by

31 (1) totaling the number of new business facility employees employed

1 on the last business day of each operating month of the facility during the tax year;
2 and

3 (2) dividing the result in (1) of this subsection by the number of
4 months the facility was in operation during the tax year.

5 (c) In this section, "new business facility employee" means an individual who

6 (1) is employed by the taxpayer in the operation of a new business
7 facility during the tax year for which the credit allowed by this section is claimed; and

8 (2) works on

9 (A) a regular, full-time basis;

10 (B) a part-time basis if the individual customarily worked at
11 least 20 hours a week throughout the taxable year; or

12 (C) a seasonal basis if the individual works for substantially all
13 of the season customary for the individual's position.

14 Sec. 43.20.048. DEFINITIONS FOR AS 43.20.046 - 43.20.048. In
15 AS 43.20.046 - 43.20.048,

16 (1) "enterprise zone" means an area designated as an enterprise zone
17 under AS 44.33.820;

18 (2) "facility" means a factory, mill, plant, refinery, feedlot, warehouse,
19 processing plant, or other building located within an enterprise zone, including the land
20 on which the facility is located and all machinery, equipment, and other real and
21 tangible personal property located at or within the facility, and used for the operation
22 of the facility;

23 (3) "new business facility" means a facility, except the portion of the
24 facility that the taxpayer leases to another person or does not use in the operation of
25 a facility.

26 * **Sec. 5.** AS 44.33.020 is amended by adding a new paragraph to read:

27 (34) implement AS 44.33.820 - 44.33.840.

28 * **Sec. 6.** TRANSITIONAL PROVISION. AS 43.20.021(d), as amended by sec. 3 of this
29 Act, and AS 43.20.046 - 43.20.048, enacted by sec. 4 of this Act, apply to tax years beginning
30 on or after January 1, 1996.