

CS FOR HOUSE BILL NO. 36(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 4/12/01
Referred: Finance

Sponsor(s): REPRESENTATIVES HAYES, Guess, Halcro, Kerttula, Stevens

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 4A. Enterprise Zones.**

5 **Sec. 44.33.311. Designation and duration of enterprise zones.** The
6 governor may designate up to four enterprise zones each year from the prioritized list
7 of applications provided to the governor by the department under AS 44.33.321(c). A
8 designation under this section lasts for 20 years.

9 **Sec. 44.33.313. Eligibility for designation.** In order for a geographical area
10 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. 44.33.315. Application for designation.** (a) A borough, a unified
 8 municipality, or a city, if the city is not within a borough, may apply to the department
 9 to have a geographical area that is located within the boundaries of the applicant
 10 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 44.33.313;

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; if
 21 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. 44.33.317. Limit on number of zones located within qualifying**
 28 **municipality.** There may not be at the same time more than three enterprise zones
 29 designated within a qualifying municipality.

30 **Sec. 44.33.319. Local incentives.** A qualifying municipality may identify as
 31 incentives under AS 44.33.315

- 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. 2.** AS 44.33 is amended by adding new sections to read:

11 **Sec. 44.33.321. Department action.** (a) The department shall verify the

12 information and eligibility of an area proposed in an application submitted to the

13 department under AS 44.33.315. The department shall prioritize the applications

14 received by the department each year according to the degree of economic distress of

15 the areas demonstrated by the application, the potential of the area for economic

16 development and neighborhood stabilization and revitalization, and the feasibility of

17 the incentives and strategies that the applicant proposes to use to promote the

18 economic development and neighborhood stabilization and revitalization of the area.

19 (b) When determining the degree of economic distress of an area under (a) of

20 this section, the department shall use the income, employment, and other economic

21 and social data in the latest completed United States census.

22 (c) Each year the department shall transmit the prioritized list developed under

23 (a) of this section to the governor.

24 (d) If legislative action is needed to enable a particular incentive to be used in

25 an enterprise zone, the department shall recommend to the governor that the governor

26 introduce legislation to enable the incentive to be used or shall recommend to the

27 legislature that the legislature take the necessary legislative action to enable the

28 incentive to be used. An incentive under this subsection may include

- 29 (1) a reduction of state permit or user fees;
- 30 (2) credits on state income taxes or exemptions from the taxes; or
- 31 (3) the proposed lease or sale to private persons of the state's real

1 property that is not designated or otherwise targeted for public use.

2 **Sec. 44.33.323. Review and appeal of department action.** (a) A qualifying
3 municipality that submits an application under AS 44.33.315 may appeal to the
4 commissioner

5 (1) a determination by the department that the area proposed in the
6 application is not eligible under AS 44.33.313 for designation as an enterprise zone;

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

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

10 (b) The determination of the commissioner under (a) of this section may be
11 appealed to the superior court by a qualifying municipality within 30 days after the
12 qualifying municipality receives written notice of the commissioner's determination.

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

15 **Sec. 44.33.325. Deadlines.** The department shall establish by regulation
16 deadlines for the submittal, review, and other administrative handling of applications
17 for designation as an enterprise zone. The deadlines must be compatible with the
18 deadlines for applying for grants under 42 U.S.C. 5318a.

19 **Sec. 44.33.327. Regulations.** In addition to the regulations required under
20 AS 44.33.311 - 44.33.329, the department may adopt regulations to implement
21 AS 44.33.311 - 44.33.329. The regulations required or authorized under AS 44.33.311
22 - 44.33.329 shall be adopted under AS 44.62 (Administrative Procedure Act).

23 **Sec. 44.33.329. Definitions.** In AS 44.33.311 - 44.33.329

24 (1) "borough," "city," and "unified municipality" have the meanings
25 given in AS 29.71.800;

26 (2) "commissioner" means the commissioner of community and
27 economic development;

28 (3) "department" means the Department of Community and Economic
29 Development;

30 (4) "economic development and neighborhood stabilization and
31 revitalization" includes the development of new or existing businesses, the creation of

1 employment opportunities, and the development of affordable and sound housing;

2 (5) "enterprise zone" means a geographical area designated as an
3 enterprise zone under AS 44.33.311;

4 (6) "qualifying municipality" means a borough, a unified municipality,
5 or a city, except a city that is located in a borough.

6 * **Sec. 3.** AS 29.45.050 is amended by adding a new subsection to read:

7 (q) A borough, a unified municipality, and a city, except a city located in a
8 borough, may by ordinance partially or totally exempt from taxation property in an
9 enterprise zone designated under AS 44.33.311 or may provide a credit on taxes due to
10 the municipality on property in an enterprise zone designated under AS 44.33.311.

11 * **Sec. 4.** AS 43.20.021(d) is amended to read:

12 (d) Where a credit allowed under the Internal Revenue Code is also allowed in
13 computing Alaska income tax, it is limited to 18 percent for corporations of the
14 amount of credit determined for federal income tax purposes **that** [WHICH] is
15 attributable to Alaska. This limitation does not apply to a special industrial incentive
16 tax credit under AS 43.20.042 **or to tax credits under AS 43.20.046 - 43.20.048.**

17 * **Sec. 5.** AS 43.20 is amended by adding new sections to article 1 to read:

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

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

29 (c) If the new business facility replaces another facility, the credit determined
30 under (a) - (b) of this section is reduced by the average annual investment of the
31 taxpayer, or a related taxpayer, in the former facility for the three tax years that

1 preceded the tax year for which the credit is claimed.

2 (d) In this section,

3 (1) "investment" means the value of the real and tangible personal
4 property, except inventory or property held for sale to customers in the ordinary
5 course of the taxpayer's business, constituting a facility or used in the operation of a
6 facility; in this paragraph,

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

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

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

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

16 (i) corporation, 80 percent of the total combined voting
17 power of all classes of stock entitled to vote and 80 percent of all other
18 classes of stock of the corporation;

19 (ii) limited liability company, 80 percent of the limited
20 liability company interests issued by the company; in this sub-
21 subparagraph, "limited liability company interest" has the meaning
22 given in AS 10.50.990;

23 (iii) partnership or an association, an 80 percent interest
24 in the capital or profits of the partnership or association;

25 (iv) trust, 80 percent of the beneficial interest in the
26 principal or income of the trust;

27 (B) "person" includes, in addition to the entities identified in
28 AS 43.20.340, a limited liability company, and an organization that is not a
29 corporation, a limited liability company, a partnership, or a trust.

30 **Sec. 43.20.047. Credit for new business facility employees.** (a) Subject to
31 the limitation in (b) of this section, a taxpayer who establishes a new business facility

1 for at least one year in an enterprise zone may apply, as a credit against the taxpayer's
 2 tax liability under this chapter for the first full income tax year of the new business
 3 facility, \$500 for each new business facility employee who works in the zone.

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

6 (1) totaling the number of new business facility employees employed
 7 on the last business day of each operating month of the facility during the tax year;
 8 and

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

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

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

14 (2) works on

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

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

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

20 **Sec. 43.20.048. Definitions for AS 43.20.046 - 43.20.048.** In AS 43.20.046 -
 21 43.20.048,

22 (1) "enterprise zone" means an area designated as an enterprise zone
 23 under AS 44.33.311;

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

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

1 * **Sec. 6.** AS 44.33.020 is amended by adding a new paragraph to read:

2 (44) implement AS 44.33.311 - 44.33.329.

3 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 TRANSITIONAL PROVISION. AS 43.20.021(d), as amended by sec. 4 of this Act,
6 and AS 43.20.046 - 43.20.048, enacted by sec. 5 of this Act, apply to tax years beginning on
7 or after January 1, 2002.