

CS FOR SENATE BILL NO. 312(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 5/6/02

Referred: State Affairs, Finance

Sponsor(s): SENATE STATE AFFAIRS COMMITTEE

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, one or more contiguous block groups used in the
13 latest completed United States census, or a compact geographical area;

14 (2) 25 percent or more of the households of the area must have annual
15 incomes that are less than 80 percent of the median annual household income within

1 the boundaries of the applicant where the area is located; and

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

5 **Sec. 44.33.315. Application for designation.** (a) A borough, a unified
6 municipality, or a city may apply to the department to have a geographical area that is
7 located within the boundaries of the applicant designated as an enterprise zone.

8 (b) The application must be in the form established by the department and
9 include

10 (1) a description of the location and boundaries of the proposed area;

11 (2) facts showing how the area satisfies the eligibility requirements of
12 AS 44.33.313;

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

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

20 (5) a description of the strategies that the applicant proposes to use to
21 promote the economic development and neighborhood stabilization and revitalization
22 of the area; and

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

24 **Sec. 44.33.317. Limit on number of zones located within qualifying**
25 **municipality.** There may not be at the same time more than three enterprise zones
26 designated within a qualifying municipality.

27 **Sec. 44.33.319. Local incentives.** A qualifying municipality may identify as
28 incentives under AS 44.33.315

29 (1) reduction of the municipality's permit or user fees;

30 (2) credits on the municipality's property taxes or exemptions from the
31 taxes;

1 (3) flexibility in the municipality's regulation of the area, including
 2 establishing special zoning districts, special processing for permits, and exemptions
 3 from local ordinances;

4 (4) the proposed lease or sale of the municipality's real property to
 5 private persons, except that the applicant may not propose the lease or sale of property
 6 that is designated or otherwise targeted for public use.

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

8 **Sec. 44.33.321. Department action.** (a) The department shall verify the
 9 information and eligibility of an area proposed in an application submitted to the
 10 department under AS 44.33.315. The department shall prioritize the applications
 11 received by the department each year according to the degree of economic distress of
 12 the areas demonstrated by the application, the potential of the area for economic
 13 development and neighborhood stabilization and revitalization, and the feasibility of
 14 the incentives and strategies that the applicant proposes to use to promote the
 15 economic development and neighborhood stabilization and revitalization of the area.

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

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

21 (d) If legislative action is needed to enable a particular incentive to be used in
 22 an enterprise zone, the department shall recommend to the governor that the governor
 23 introduce legislation to enable the incentive to be used or shall recommend to the
 24 legislature that the legislature take the necessary legislative action to enable the
 25 incentive to be used. An incentive under this subsection may include

26 (1) a reduction of state permit or user fees;

27 (2) credits on state income taxes or exemptions from the taxes; or

28 (3) the proposed lease or sale to private persons of the state's real
 29 property that is not designated or otherwise targeted for public use.

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

1 commissioner

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

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

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

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

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

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

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

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

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

23 (2) "commissioner" means the commissioner of community and
24 economic development;

25 (3) "department" means the Department of Community and Economic
26 Development;

27 (4) "economic development and neighborhood stabilization and
28 revitalization" includes the development of new or existing businesses, the creation of
29 employment opportunities, and the development of affordable and sound housing;

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

1 (6) "qualifying municipality" means a borough, a unified municipality,
2 or a city.

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

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

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

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

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

15 **Sec. 43.20.046. Enterprise zone investment tax credits.** (a) In addition to
16 any other tax credit allowed for the investment under this chapter, and to the extent
17 that the property qualifying as an investment under this section is used solely and
18 exclusively during the tax year in an enterprise zone, a taxpayer may apply as a credit
19 against the taxpayer's tax liability under this chapter, for a tax year beginning on or
20 after January 1 of the tax year when the investment is made, 15 percent of the
21 investment made by the taxpayer in a new business facility during the 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
 2 course of the taxpayer's business, constituting a facility or used in the operation of a
 3 facility; 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) limited liability company, 80 percent of the limited
 17 liability company interests issued by the company; in this sub-
 18 subparagraph, "limited liability company interest" has the meaning
 19 given in AS 10.50.990;

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

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

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

27 **Sec. 43.20.047. Credit for new business facility employees.** (a) Subject to
 28 the limitation in (b) of this section, a taxpayer who establishes a new business facility
 29 for at least one year in an enterprise zone may apply, as a credit against the taxpayer's
 30 tax liability under this chapter for the first full income tax year of the new business
 31 facility, \$500 for each new business facility employee who works in the zone.

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

3 (1) totaling the number of new business facility employees employed
4 on the last business day of each operating month of the facility during the tax year;
5 and

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

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

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

11 (2) works on

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

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

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

17 **Sec. 43.20.048. Definitions for AS 43.20.046 - 43.20.048.** In AS 43.20.046 -
18 43.20.048,

19 (1) "enterprise zone" means an area designated as an enterprise zone
20 under AS 44.33.311;

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

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

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

30 (44) implement AS 44.33.311 - 44.33.329.

31 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 TRANSITIONAL PROVISION. AS 43.20.021(d), as amended by sec. 4 of this Act,
3 and AS 43.20.046 - 43.20.048, enacted by sec. 5 of this Act, apply to tax years beginning on
4 or after January 1, 2003.