

HOUSE JOINT RESOLUTION NO. 41

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Introduced: 4/7/08
Referred: Rules

A RESOLUTION

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

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

4 **WHEREAS** sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation
5 Act of 2005) will require states, cities, counties, and boroughs that spend more than
6 \$100,000,000 each year on goods and services after December 31, 2010, to withhold three
7 percent of their payments to nearly all vendors and contractors for federal income purposes
8 and to report nonwage payments; and

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

13 **WHEREAS**, although sec. 511 of P.L. 109-222 (Tax Increase Prevention and
14 Reconciliation Act of 2005) was inserted into the legislation to save approximately
15 \$7,000,000,000 in federal taxes between 2011 and 2015, the effect of the provision is to
16 increase the burden and costs to state and local governments by making these governments

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

4 **WHEREAS** sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation
5 Act of 2005) creates another unfunded federal mandate, the cost of which was estimated to be
6 \$6,200,000 a year, adjusted for inflation, which exceeds the threshold of P.L. 104-04
7 (Unfunded Mandates Reform Act of 1995), thereby short-circuiting the public process
8 required by P.L. 104-04 (Unfunded Mandates Reform Act of 1995) and violating that Act;
9 and

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

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

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

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

27 (1) the state accounting system is 20 years old and the state has had difficulty
28 avoiding mandatory backup withholding, which would be costly and time consuming, and
29 sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005) will make
30 it even more difficult to avoid mandatory backup withholding;

31 (2) it would take about a year to make the necessary systemic changes and

1 require substantial additional record keeping to reconcile the amounts paid to vendors and
2 those amounts reported to the Internal Revenue Service;

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

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

7 **WHEREAS** the state government accounting system does not currently have the
8 capability to withhold vendor payments, and the state need only report payments over \$600 a
9 year to each vendor; sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation
10 Act of 2005) will increase the accounting burden on the state by requiring all payments, no
11 matter how small, to be reported (an extremely expensive and burdensome mandate); by
12 requiring payments to all corporations to be reported, significantly increasing the number of
13 vendors for which reports would have to be reported; by requiring withholding on credit card
14 purchases, a process of unknown complexity; by preventing the continued use by the state of
15 a procedure that does not require reporting for small, exempt, or one-time payments; and by
16 requiring accounting for some other types of payments that are so complex that manual
17 intervention would be required, which would drive up the cost of compliance with sec. 511 of
18 P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of 2005) even further; and

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

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

1 procurement-cards by the Municipality of Anchorage may have to be discontinued and the use
2 of checks, which are slower and more costly, may be reinstated; the Municipality of
3 Anchorage's online purchasing system will have to be modified and likely will no longer be
4 cost-effective; and

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

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

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

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

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

21 **COPIES** of this resolution shall be sent to the Honorable Ted Stevens and the
22 Honorable Lisa Murkowski, U.S. Senators, and the Honorable Don Young, U.S.
23 Representative, members of the Alaska delegation in Congress; and all other members of the
24 110th United States Congress.