

CS FOR HOUSE JOINT RESOLUTION NO. 41(RLS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Offered: 4/9/08

Referred: Today's Calendar

Sponsor(s): HOUSE RULES COMMITTEE

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 that will add a cost to state and local
6 governments that exceeds the threshold of P.L. 104-04 (Unfunded Mandates Reform Act of
7 1995), and sec. 511 of P.L. 109-222 (Tax Increase Prevention and Reconciliation Act of
8 2005) will therefore short circuit the public process required by P.L. 104-04 (Unfunded
9 Mandates Reform Act of 1995) and thus violate that Act; 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 23 years old and cannot accommodate
28 mandatory backup withholding;

29 (2) it would take about a year to make the necessary systemic changes and
30 require substantial additional record keeping to reconcile the amounts paid to vendors and
31 those amounts reported and remitted to the Internal Revenue Service;

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

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

5 **WHEREAS** the state government accounting system does not currently have the
6 capability to withhold vendor payments, and the state need only report payments for services
7 over \$600 a year to each unincorporated vendor; sec. 511 of P.L. 109-222 (Tax Increase
8 Prevention and Reconciliation Act of 2005) will increase the accounting burden on the state
9 by

10 (1) requiring most but not all payments, no matter how small, to be reported
11 (an extremely expensive and burdensome mandate);

12 (2) requiring payments to all corporations to be reported, significantly
13 increasing the number of vendors for which information reports would have to be submitted
14 to the Internal Revenue Service;

15 (3) requiring withholding on credit card purchases, a process of unknown
16 complexity; and

17 (4) exempting certain types of payment that will likely require manual
18 intervention, which would drive up the cost of compliance with sec. 511 of P.L. 109-222 (Tax
19 Increase Prevention and Reconciliation Act of 2005) even further; and

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

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

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

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

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

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

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

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

22 **COPIES** of this resolution shall be sent to the Honorable Ted Stevens and the
23 Honorable Lisa Murkowski, U.S. Senators, and the Honorable Don Young, U.S.
24 Representative, members of the Alaska delegation in Congress; and all other members of the
25 110th United States Congress.