

HOUSE BILL NO. 383

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES GRENN, Gara, Tuck, Millett, Tarr

Introduced: 2/21/18

Referred: House Special Committee on Arctic Policy, Economic Development, and Tourism, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Travel Alaska Board; relating to a tourism marketing
2 assessment; and establishing a tourism marketing fund."

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

4 * **Section 1.** AS 43.52.050(a) is amended to read:

5 (a) Except as provided in (c) of this section, the [THE] taxes imposed by
6 AS 43.52.010 - 43.52.099 shall be collected and paid to the department

7 (1) by the person who provides the leased or rented vehicle; and

8 (2) in the manner and at the times required by the department by
9 regulation.

10 * **Sec. 2.** AS 43.52.050 is amended by adding a new subsection to read:

11 (c) A person collecting and remitting the tax imposed by AS 43.52.010 -
12 43.52.099 may request, at the time the tax is remitted to the department, to have all or
13 a portion of the tax revenue deposited into the Alaska tourism marketing fund
14 established under AS 44.25.295.

1 * **Sec. 3.** AS 43.52.080(b) is amended to read:

2 (b) The proceeds of the vehicle rental taxes imposed by AS 43.52.010 -
3 43.52.099 shall be deposited into the general fund and accounted for under
4 AS 37.05.142. In addition, the department shall separately account for those
5 proceeds that persons have requested be appropriated to the Alaska tourism
6 marketing fund established under AS 44.25.295 [A SPECIAL VEHICLE RENTAL
7 TAX ACCOUNT IN THE GENERAL FUND].

8 * **Sec. 4.** AS 43.52.080(c) is amended to read:

9 (c) The legislature may appropriate to the Alaska tourism marketing fund
10 established under AS 44.25.295 the tax proceeds that persons have, under
11 AS 43.52.050(c), requested be appropriated to the Alaska tourism marketing
12 fund [ACTUAL BALANCE OF THE VEHICLE RENTAL TAX ACCOUNT FOR
13 TOURISM DEVELOPMENT AND MARKETING]. This section is not intended to
14 create a dedicated fund.

15 * **Sec. 5.** AS 44.25 is amended by adding new sections to read:

16 **Article 4. Travel Alaska Board.**

17 **Sec. 44.25.200. Travel Alaska Board established.** The Travel Alaska Board
18 is established in the Department of Revenue. Exercise by the board of the powers
19 conferred by AS 44.25.200 - 44.25.300 is an essential governmental function of the
20 state.

21 **Sec. 44.25.205. Board members.** (a) The board consists of between 21 and 25
22 voting board members appointed by the governor. The board must have an odd
23 number of members.

24 (b) The governor shall fill a vacancy in the voting membership of the board
25 from a list of nominees submitted by the board. The governor may reject a list or a
26 portion of a list submitted under this subsection and request that the board submit
27 another list. A list submitted to the governor by the board under this subsection for a
28 vacancy

29 (1) caused by the expiration of a term shall be composed of the
30 nominees that received the highest percentages of votes in an election of assessed
31 tourism businesses, based on weighted votes, as described in AS 44.25.275;

1 (2) not caused by the expiration of a term shall be composed of
 2 nominees approved by the board; a nominee approved by the board under this
 3 paragraph is not required to have previously been the subject of an election under
 4 AS 44.25.275.

5 (c) Board members shall represent tourism segments, business sizes, and
 6 regions in the state listed in AS 44.33.136(b)(1). A voting member of the board shall
 7 be both a representative of an assessed business and a member of the leading statewide
 8 nonprofit tourism marketing association. Notwithstanding AS 39.05.100, a board
 9 member is not required to be a registered voter or a resident of the state.

10 (d) In addition to the voting members of the board, the board may elect ex
 11 officio nonvoting members. A nonvoting member need not be a member of the leading
 12 statewide nonprofit tourism marketing association and may not be counted for the
 13 purposes of establishing a quorum, taking an action, or adopting a motion or resolution
 14 under AS 44.25.220.

15 (e) The board members shall annually elect a chair and vice-chair from among
 16 the board's voting members.

17 **Sec. 44.25.210. Term of office.** Board members appointed under
 18 AS 44.25.205(a) serve staggered three-year terms and may be reappointed. An
 19 individual appointed to fill a vacancy shall hold office for the balance of the term for
 20 which the board member's predecessor on the board was appointed.

21 **Sec. 44.25.215. Removal.** Board members may be removed from the board by
 22 the governor for cause. The board may suggest to the governor the removal of a board
 23 member.

24 **Sec. 44.25.220. Quorum.** (a) A majority of the voting members of the board
 25 constitutes a quorum for the transaction of business and the exercise of the powers and
 26 duties of the board. The board may approve an election for the levy, amendment, or
 27 termination of an assessment only by an affirmative vote of a majority of the full
 28 voting membership of the board. All other actions may be taken and motions and
 29 resolutions may be adopted upon an affirmative vote of a majority of the voting
 30 members present.

31 (b) The board may meet and transact business by electronic media. Actions

1 taken at a meeting held by electronic media under this subsection have the same legal
2 effect as actions taken at a meeting held in person.

3 **Sec. 44.25.225. Compensation of board members.** Board members receive
4 no salary and are not entitled to per diem or travel expenses.

5 **Sec. 44.25.230. Meetings.** The board shall meet at least twice a year. A
6 meeting of the board shall occur at the call of the chair or upon the written request of
7 five members of the board.

8 **Sec. 44.25.235. Administration and regulations.** (a) The board may request
9 administrative support from the leading statewide nonprofit tourism marketing
10 association. The board shall work with the leading statewide nonprofit tourism
11 marketing association to accomplish the purposes of AS 44.25.200 - 44.25.300.

12 (b) The board shall adopt definitions for "tourism industry," "tourism
13 segment," and "tourism business" and provide them to the Department of Revenue.
14 The Department of Revenue shall adopt definitions for "tourism industry," "tourism
15 segment," and "tourism business" for the purposes of administering the tax under
16 AS 44.25.200 - 44.25.300 after receiving the definitions adopted by the board under
17 this section. The department may, for the purpose of adopting regulations defining
18 "tourism industry," "tourism segment," and "tourism business," accept the board's
19 definitions or reject the board's definitions and request alternate definitions from the
20 board.

21 **Sec. 44.25.240. Powers of the board.** In carrying out the powers of the board,
22 the board may

- 23 (1) prescribe, adopt, amend, and repeal policies related to the board;
24 (2) cooperate with a public or private board, organization, or agency
25 engaged in work or activities similar to the work or activities of the board for
26 destination marketing programs, including market research;
27 (3) establish offices in the state and otherwise incur expenses
28 incidental to the performance of its duties;
29 (4) appear on behalf of the board before boards, commissions,
30 departments, or other agencies of municipal, state, or federal government;
31 (5) acquire, hold, lease, sell, or otherwise dispose of property, but the

1 property is limited to that which is necessary to the administrative functioning of the
2 board;

3 (6) approve and enter into agreements related to the expenditure of
4 funds appropriated by the legislature to the board;

5 (7) designate or remove ex officio, nonvoting members of the board.

6 **Sec. 44.25.245. Duties of the board.** The board shall

7 (1) conduct programs of destination marketing, research, advertising,
8 or sales promotion designed to retain and expand the tourism industry in the state;

9 (2) promote all assessed segments of the tourism industry;

10 (3) prepare market research and marketing plans for the promotion of
11 assessed segments of the tourism industry;

12 (4) consider the return on investment for all nonadministrative
13 expenditures of assessment funds;

14 (5) submit an annual report to the governor, assessed tourism
15 businesses, and the senate secretary and chief clerk of the house of representatives on
16 or before the first day of each regular session of the legislature and notify the
17 legislature that the report is available; the report must

18 (A) describe the activities of the board;

19 (B) summarize the income and expenses of the board;

20 (C) provide the balance of the Alaska tourism marketing fund
21 established under AS 44.25.295; and

22 (D) summarize and report on the tourism marketing plan;

23 (6) annually prepare a written marketing plan; the plan must promote
24 travel and tourism in the state and must include

25 (A) an evaluation of the previous year's budget and activities;

26 (B) a review of state tourism trends, conditions, and
27 opportunities;

28 (C) an identification of target audiences for tourism marketing
29 expenditures;

30 (D) marketing strategies, objectives, and targets;

31 (E) the current assessment rate applicable to assessed tourism

1 segments; and

2 (F) the budget for the current year;

3 (7) promote travel and tourism to increase the number of persons
4 traveling to and within the state; and

5 (8) determine the segments of the tourism industry that provide similar
6 goods and services to travelers; a business segment must be defined with sufficient
7 clarity to allow for the cost-effective identification of tourism businesses within that
8 business segment.

9 **Sec. 44.25.250. Expenditures.** An expenditure of the board

10 (1) must be consistent with the marketing plan prepared under
11 AS 44.25.245(6); and

12 (2) may not be spent on capital or infrastructure improvement projects;
13 for purposes of this paragraph, capital or infrastructure improvement projects do not
14 include information technology improvements, website development and maintenance,
15 or office equipment.

16 **Sec. 44.25.255. Levy or amendment of the Alaska tourism marketing**
17 **assessment.** (a) An election under AS 44.25.270 shall be held if the proposed election
18 for levying or amending the rate of an assessment under (c) of this section is approved
19 by the board.

20 (b) An assessment shall be levied on the gross revenue of a tourism business
21 that is related to an assessed business segment at a rate provided under (c) of this
22 section if an election is held under AS 44.25.270 at which the rate under (c) of this
23 section is approved, as determined under AS 44.25.275. Each business segment may
24 be assessed at a different rate. Only those rates stated in (c) of this section may be
25 considered for an assessment on a segment of the tourism industry.

26 (c) An assessment under this section may require a tourism business engaging
27 in a segment of the tourism industry to pay an assessment of

28 (1) zero percent of the gross revenue related to the assessed segment;

29 (2) 0.25 percent of the gross revenue related to the assessed segment;

30 (3) 0.5 percent of the gross revenue related to the assessed segment;

31 (4) 0.75 percent of the gross revenue related to the assessed segment;

- 1 (5) one percent of the gross revenue related to the assessed segment;
- 2 (6) 1.25 percent of the gross revenue related to the assessed segment;
- 3 (7) 1.5 percent of the gross revenue related to the assessed segment;
- 4 (8) 1.75 percent of the gross revenue related to the assessed segment;
- 5 (9) two percent of the gross revenue related to the assessed segment.

6 (d) The board shall advertise an election held for the purpose of levying or
 7 amending an assessment under AS 44.25.270 and, before an election is held under
 8 AS 44.25.270, shall schedule public meetings for potential assessed tourism
 9 businesses to provide input to the board.

10 **Sec. 44.25.260. Collection of and information related to the Alaska tourism**
 11 **marketing assessment.** (a) A tourism business shall pay the assessment levied under
 12 AS 44.25.200 - 44.25.300. Each assessed tourism business may pass the cost of the
 13 assessment on to its customers at the time a transaction is consummated. If the cost is
 14 passed on to a customer, the assessed tourism business shall disclose the amount in
 15 advance and separately state the amount from the amount charged and any other
 16 applicable taxes, and shall give each customer a receipt of payment. The assessment
 17 shall be disclosed as the "Alaska tourism marketing assessment." The assessment is
 18 imposed solely on, and is the sole obligation of, the assessed tourism business, even if
 19 it is passed on to customers. The assessment may not be considered revenue for any
 20 purpose, including calculation of taxes.

21 (b) A return or other information furnished to the board or the Department of
 22 Revenue by an assessed tourism business under AS 44.25.200 - 44.25.300 is
 23 confidential and may not be disclosed except

- 24 (1) by a person during the performance of an official duty under
 25 AS 44.25.200 - 44.25.300;
- 26 (2) to comply with a court order;
- 27 (3) in the course of a proceeding, a hearing, or litigation involving an
 28 assessment; or
- 29 (4) upon written consent of the assessed tourism business.

30 (c) Information obtained by the board or the Department of Revenue to
 31 determine the assessment for an assessed tourism business is not a public record for

1 purposes of AS 40.25.100 - 40.25.130.

2 (d) The Department of Revenue may require an assessed tourism business to

3 (1) maintain books and records that verify the gross revenue of the
4 business for purposes of the assessment;

5 (2) furnish any requested information; and

6 (3) permit the inspection by the Department of Revenue of portions of
7 books and records that relate to the gross revenue of the business or the amount of the
8 assessment.

9 **Sec. 44.25.265. Termination of the Alaska tourism marketing assessment.**

10 (a) An assessment shall be terminated on the earlier of

11 (1) six years after the date of the first assessment; or

12 (2) the effective date stated on a ballot approved under the procedures
13 described in AS 44.25.270 in which the termination is approved, as determined under
14 AS 44.25.275.

15 (b) An election under AS 44.25.270 for the termination of an assessment shall
16 be held if the proposed election for the termination of the assessment is approved by
17 the board.

18 **Sec. 44.25.270. Election procedures.** (a) The board may conduct an election
19 under this section after the director of elections approves the

20 (1) notice to be published by the board;

21 (2) ballot to be used in the election; and

22 (3) registration and voting procedures.

23 (b) In conducting an election under this section, the board shall

24 (1) adopt a proposed levy, amendment, or termination of an assessment
25 on a business segment at a meeting of the board held not less than 60 days before the
26 date on which the ballots must be postmarked to be counted;

27 (2) hold at least one meeting not less than 30 days before the date on
28 which ballots must be postmarked to be counted to explain the reason for the proposed
29 levy, amendment, or termination of the assessment and to explain the voting procedure
30 to be used in the election; the board shall provide notice of the meeting by

31 (A) mailing a notice to each assessed tourism business; and

1 (B) publishing the notice in at least one newspaper of general
2 circulation in each region of the state at least two weeks before the meeting;

3 (3) mail ballots to each tourism business in the applicable business
4 segment not more than 45 days before the date specified as the date ballots must be
5 postmarked; the ballot must

6 (A) state that an assessment is to be levied, amended, or
7 terminated, as applicable;

8 (B) state the assessment rate to be levied, amended, or
9 terminated, as applicable, for the business segment;

10 (C) state that each vote will be weighted in proportion to the
11 projected assessment each voting tourism business is estimated to pay for the
12 following calendar year;

13 (D) state the effective date of the levy, amendment, or
14 termination of the assessment;

15 (E) ask whether the assessment shall be levied, amended, or
16 terminated, as applicable;

17 (F) be returned by mail to the director of elections; the director
18 of elections or a representative shall count the ballots.

19 (c) The director of elections shall certify the results of an election under this
20 section if the director determines that the requirements of (a) and (b) of this section
21 and AS 44.25.275 have been satisfied.

22 (d) For purposes of this section, a ballot submitted by a tourism business is
23 presumed valid if the ballot is signed by an individual who is indicated to be an officer
24 of the tourism business or an authorized representative.

25 **Sec. 44.25.275. Weighted votes.** For a levy, amendment, or termination of an
26 assessment to be approved under AS 44.25.270, or for the selection of board nominees
27 to fill a vacancy caused by the expiration of a term to be submitted to the governor
28 under AS 44.25.205(b), the action must be approved by tourism businesses that, in
29 total, represent at least 50 percent of the weighted votes received. Votes shall be
30 weighted in proportion to the assessment that each voting tourism business is
31 estimated to pay for the calendar year immediately following the election, as

1 determined under AS 44.25.260. In a vote related to an assessment on a business
 2 segment for which an assessment is currently levied, only the votes of tourism
 3 businesses that pay an assessment at the time of the election shall be counted,
 4 weighted as described in this section.

5 **Sec. 44.25.280. Determination of value.** Upon request of the director of
 6 elections, the commissioner of revenue shall determine the estimated assessment for
 7 each assessed tourism business for any calendar year, including a future calendar year
 8 for purposes of weighting votes under AS 44.25.275.

9 **Sec. 44.25.285. Remitting assessments.** Each assessed tourism business shall
 10 remit to the Department of Revenue within 30 days after the end of each calendar
 11 quarter the total amount of the assessment owed on the value of assessed gross
 12 revenue in the previous calendar quarter. The Department of Revenue shall inform the
 13 board within 60 days after the end of each calendar quarter of the total amount of
 14 assessment collections as of the 30 days following the preceding calendar quarter
 15 available to be apportioned by the board. An assessed tourism business that fails to
 16 remit an assessment is subject to penalties as provided in AS 43.05 and AS 43.10.

17 **Sec. 44.25.290. Enforcement of assessments.** The provisions of AS 43.05 and
 18 AS 43.10 apply to the enforcement and collection of the Alaska tourism marketing
 19 assessment.

20 **Sec. 44.25.295. Assessment proceeds; Alaska tourism marketing fund.** (a)
 21 The Alaska tourism marketing fund is established in the general fund. The fund
 22 consists of money appropriated to the fund. The legislature may appropriate from the
 23 fund for purposes consistent with AS 44.25.200 - 44.25.300.

24 (b) The legislature may appropriate the proceeds of the assessment to the
 25 Alaska tourism marketing fund.

26 (c) Nothing in this section creates a dedicated fund.

27 **Sec. 44.25.300. Definitions.** In AS 44.25.200 - 44.25.300,

- 28 (1) "assessment" means an assessment levied under AS 44.25.200 -
 29 44.25.300;
- 30 (2) "board" means the Travel Alaska Board;
- 31 (3) "business segment" means a business segment determined under

1 AS 44.25.245(8);

2 (4) "traveler" means a person who travels for business, recreation, or
3 pleasure.

4 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 TRANSITION. (a) Notwithstanding AS 44.25.200 - 44.25.300, added by sec. 5 of this
7 Act, the board of directors of the leading statewide nonprofit tourism marketing association
8 shall act as a transition board. The transition board shall establish procedures for elections and
9 propose to the governor the initial number of members on the Travel Alaska Board. The
10 transition board shall hold an election in compliance with the requirements in AS 44.25.205,
11 44.25.270, and 44.25.275, added by sec. 5 of this Act, for the purpose of determining
12 nominees for the Travel Alaska Board and for proposing assessment rates that comply with
13 AS 44.25.255, added by sec. 5 of this Act, to the Travel Alaska Board after the board is
14 established. Following the election, the transition board shall provide the governor a list of
15 nominees for the Travel Alaska Board and, after the Travel Alaska Board is established,
16 submit to the Travel Alaska Board the proposed assessment rates approved in the election.
17 The transition board exists only until it submits the proposed assessment rates to the Travel
18 Alaska Board.

19 (b) The governor shall appoint the initial members of the Travel Alaska Board from a
20 list provided under (a) of this section. The governor may reject all or a portion of a list
21 provided under (a) of this section and request another list.

22 (c) Notwithstanding AS 44.25.255, added by sec. 5 of this Act, the Travel Alaska
23 Board may ratify an assessment or assessments proposed by the transition board. If the Travel
24 Alaska Board ratifies the assessment, it shall be imposed as if it had been approved in
25 accordance with AS 44.25.255.

26 (d) In this section, "assessment" has the meaning given in AS 44.25.300, added by
27 sec. 5 of this Act.