

SENATE BILL NO. 110

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Introduced: 4/7/17

Referred: Labor and Commerce, 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.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE FINDINGS. The legislature finds that

7 (1) the Twenty-Ninth Alaska State Legislature, through adoption of CCS HB
8 256, requested that the Alaska Tourism Marketing Board "develop a plan to phase out
9 reliance on unrestricted general funds for marketing, moving toward a self-sustaining program
10 funded by industry to be implemented in the FY18 budget and present the plan to the House
11 and Senate Finance Committees by November 1, 2016";

12 (2) this Act is the industry's plan to comply with the legislature's request in
13 CCS HB 256;

14 (3) tourism is among the largest industries in the state, contributing over

1 \$4,170,000,000 to the state economy and employing an estimated 47,000 residents in 2014
2 and 2015;

3 (4) to retain and expand the tourism industry in the state, it is necessary to
4 market travel to and within the state;

5 (5) state funding, while an important component of marketing, has been
6 unable to generate sufficient funds to meet the threshold levels of funding necessary to
7 reverse losses of the state's tourism market share;

8 (6) it is in the public interest of the state and vital to the welfare of the
9 economy of the state to expand the market for, and develop, tourism through a cooperative
10 partnership funded by business assessments that will allow promotion and communication
11 programs;

12 (7) the mechanisms proposed by this Act are intended to advance and expand
13 tourism in the state for the benefit of the state and the tourism industry in the state;

14 (8) programs implemented under this chapter are intended to complement the
15 marketing activities of individual competitors within the travel and tourism industry;

16 (9) while it is recognized that smaller businesses participating in the travel and
17 tourism market often lack the resources or market power to conduct those activities on their
18 own, this Act is intended to benefit businesses of all sizes;

19 (10) this Act is not intended to impede and does not impede the right or ability
20 of individual businesses to conduct activities designed to increase generally the travel and
21 tourism market or to increase their own respective shares of the travel and tourism market in
22 the state;

23 (11) nothing in this Act is intended to prevent an individual business in the
24 tourism industry from seeking to expand its market through alternative or complementary
25 means, or both;

26 (12) the advertising initiatives of an individual business are typically designed
27 to increase its share of the travel and tourism segment rather than to increase or expand the
28 overall size of that market; in contrast, promotion of the state as a travel and tourism
29 destination is intended and designed to increase the overall demand for travel and tourism in
30 the state, thus increasing the size of the market;

31 (13) the mechanisms in this Act will use promotion methods and techniques

1 that individual businesses typically are unable or have no incentive to employ;

2 (14) this Act creates a mechanism to fund promotions that further specific
3 state governmental goals, as established by the legislature, and results in a promotion program
4 that produces nonideological and commercial communication that bears the characteristics
5 and is entitled to all the privileges and protections of government speech;

6 (15) the programs implemented under this Act will be carried out in an
7 effective and coordinated manner that is designed to strengthen the travel and tourism
8 industry and the state's economy as a whole;

9 (16) an industry-approved assessment provides a private-sector financing
10 mechanism to fund the amount of marketing necessary to increase tourism marketing
11 expenditures in the state;

12 (17) the goal of the assessments is to assess the least amount for each business
13 in the least intrusive manner and spread across the greatest practical number of tourism
14 industry segments; and

15 (18) the Travel Alaska Board will design the assessment to raise the amount of
16 revenue needed to market effectively travel and tourism to and within the state.

17 * **Sec. 2.** AS 43.52.080(c) is amended to read:

18 (c) The legislature may appropriate the actual balance of the vehicle rental tax
19 account to the Alaska tourism marketing fund established under AS 45.90.181 for
20 tourism development and marketing. This section is not intended to create a dedicated
21 fund.

22 * **Sec. 3.** AS 45 is amended by adding a new chapter to read:

23 **Chapter 90. Travel Alaska Board.**

24 **Sec. 45.90.011. Travel Alaska Board established.** The Travel Alaska Board
25 is established within the Department of Commerce, Community, and Economic
26 Development. Exercise by the board of the powers conferred under this chapter is an
27 essential governmental function of the state.

28 **Sec. 45.90.021. Board members.** (a) The board consists of between 21 and 25
29 voting board members elected by representatives of assessed tourism businesses.
30 Board members shall represent tourism sectors, business sizes, and regions in the state
31 listed in AS 44.33.136(b)(1), and at least a majority of the board shall be

1 representatives of assessed businesses. In an election to elect board members, the
 2 votes by representatives of assessed businesses shall be weighted by the estimated
 3 amount of the assessment each assessed business would pay in the subsequent
 4 calendar year. The candidate who receives the greatest number of weighted votes is
 5 elected.

6 (b) All voting members of the board shall be members of the leading statewide
 7 nonprofit tourism marketing association.

8 (c) In addition to the voting members of the board, the board may include
 9 additional ex officio, nonvoting members. A nonvoting member need not be a member
 10 of a leading statewide nonprofit tourism marketing association.

11 (d) The board members shall annually elect a chair and vice-chair from among
 12 the board's members.

13 **Sec. 45.90.031. Term of office.** Board members serve staggered three-year
 14 terms and may be reelected. An individual elected by the board to fill a vacancy shall
 15 hold office for the balance of the term for which the board member's predecessor on
 16 the board was elected.

17 **Sec. 45.90.041. Removal and vacancies.** Board members may be removed
 18 from the board by a majority vote of the board following a hearing for abuse of office
 19 or moral turpitude. A vacancy on the board occurring other than by expiration of term
 20 shall be filled by a majority vote of the remaining board members, but only for the
 21 unexpired term.

22 **Sec. 45.90.051. Quorum.** A majority of the board members plus one board
 23 member constitute a quorum for the transaction of business and the exercise of the
 24 powers and duties of the board.

25 **Sec. 45.90.061. Compensation of board members.** Board members receive
 26 no salary and are not entitled to per diem or travel expenses.

27 **Sec. 45.90.071. Meetings.** The board shall meet at least twice a year. A
 28 meeting of the board shall occur at the call of the chair or upon the written request of
 29 five members of the board.

30 **Sec. 45.90.081. Administration of board.** The board may request
 31 administrative support from the leading statewide nonprofit tourism marketing

1 association. The board shall work with the leading statewide nonprofit tourism
2 marketing association to accomplish the purposes of this chapter.

3 **Sec. 45.90.091. Powers of the board.** In carrying out the powers of the board,
4 the board may

5 (1) prescribe, adopt, amend, and repeal policies related to the board;

6 (2) cooperate with a public or private board, organization, or agency
7 engaged in work or activities similar to the work or activities of the board for
8 destination marketing programs, including market research;

9 (3) establish offices in the state and otherwise incur expenses
10 incidental to the performance of its duties;

11 (4) appear on behalf of the board before boards, commissions,
12 departments, or other agencies of municipal, state, or federal government;

13 (5) acquire, hold, lease, sell, or otherwise dispose of property, but the
14 property is limited to that which is necessary to the administrative functioning of the
15 board;

16 (6) approve the expenditure of, and enter into agreements related to,
17 the expenditure of funds appropriated by the legislature to the board;

18 (7) adjust the number of board members before an upcoming election
19 within the range specified in AS 45.90.021(a);

20 (8) designate or remove ex officio, nonvoting members of the board.

21 **Sec. 45.90.101. Duties of the board.** The board shall

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

24 (2) promote all assessed tourism businesses;

25 (3) prepare market research and marketing plans for the promotion of
26 assessed tourism businesses;

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

29 (5) submit an annual report to the governor, assessed tourism
30 businesses, and the senate secretary and chief clerk of the house of representatives on
31 or before the first day of each regular session of the legislature and notify the

1 legislature that the report is available; the report must

2 (A) describe the activities of the board;

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

4 (C) provide the balance of the Alaska tourism marketing fund
5 established under AS 45.90.181; and

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

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

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

10 (B) a review of state tourism trends, conditions, and
11 opportunities;

12 (C) an identification of target audiences for tourism marketing
13 expenditures;

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

15 (E) the assessment rate applicable to assessed tourism
16 businesses; and

17 (F) the budget for the current year;

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

20 (8) consider the return on investment for all nonadministrative
21 expenditures.

22 **Sec. 45.90.111. Expenditures.** An expenditure of the board

23 (1) must be consistent with the marketing plan described in
24 AS 45.90.101(6); and

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

29 **Sec. 45.90.121. Alaska tourism marketing assessment.** (a) An election under
30 AS 45.90.141 shall be held if the proposed election for the levying of an assessment
31 under (c)(1), (2), (3), (4), (5), or (6) of this section is approved by a majority of the

1 whole membership of the board at a regularly scheduled meeting.

2 (b) An assessment shall be levied on the assessed gross revenue of the sales of
3 an assessed tourism business at a rate provided under (c)(1), (2), (3), (4), (5), or (6) of
4 this section if an election is held under AS 45.90.141 at which an assessment rate
5 under (c)(1), (2), (3), (4), (5), or (6) of this section is approved by tourism businesses
6 who together constitute more than 50 percent of the total estimated assessed gross
7 revenue of all assessed tourism businesses that voted in the election during the
8 calendar year.

9 (c) An assessment under this section may require an assessed tourism business
10 to pay an assessment of

11 (1) 0.5 percent of the total assessed gross revenue of the assessed
12 tourism businesses;

13 (2) one percent of the total assessed gross revenue of the assessed
14 tourism businesses;

15 (3) 1.25 percent of the total assessed gross revenue of the assessed
16 tourism businesses;

17 (4) 1.5 percent of the total assessed gross revenue of the assessed
18 tourism businesses;

19 (5) 1.75 percent of the total assessed gross revenue of the assessed
20 tourism businesses;

21 (6) two percent of the total assessed gross revenue of the assessed
22 tourism businesses.

23 (d) An assessed tourism business shall pay the assessment. Each assessed
24 tourism business may pass the cost of the assessment on to its customers at the time a
25 transaction is consummated. If the cost is passed on to a customer, the assessed
26 tourism business shall disclose the amount in advance and separately state the amount
27 from the amount charged and any other applicable taxes, and shall give each customer
28 a receipt of payment. The assessment shall be disclosed as the "Alaska tourism
29 marketing assessment." The assessment is imposed solely on, and is the sole
30 obligation of, the assessed tourism business, even if it is passed on to customers. The
31 assessment may not be considered revenue for any purpose, including calculation of

1 taxes.

2 (e) The board shall determine the business segments of a category that
3 provides similar goods and services to tourists that will be included in the election
4 under (b) of this section. To be assessed, a business segment must be defined with
5 sufficient clarity to allow for the cost-effective identification of assessed tourism
6 businesses within that business segment.

7 (f) The board shall widely advertise an election held under (b) of this section
8 and, before an election is held under (b) of this section, shall schedule public meetings
9 for potential assessed tourism businesses to provide input to the board.

10 (g) Before the term of an assessment is terminated under AS 45.90.131(a)(1),
11 an election must be held under (b) of this section for the assessment to continue.

12 (h) A return or other information furnished to the board or the Department of
13 Revenue by an assessed tourism business under this chapter is confidential and may
14 not be disclosed except

15 (1) by a person during the performance of an official duty under this
16 chapter;

17 (2) to comply with a court order;

18 (3) in the course of a proceeding, hearing, or litigation involving an
19 assessment; or

20 (4) upon written consent of the assessed tourism business.

21 (i) Information obtained by the board or the Department of Revenue to
22 determine the assessment for an assessed tourism business is not a public record for
23 purposes of AS 40.25.100 - 40.25.130.

24 (j) The Department of Revenue may require an assessed tourism business to

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

27 (2) furnish any requested information; and

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

31 **Sec. 45.90.131. Termination of the Alaska tourism marketing assessment.**

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

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

3 (2) the effective date stated on a ballot approved under the procedures
4 described in AS 45.90.141 in which the termination is approved by assessed tourism
5 businesses who together constitute more than 50 percent of the total assessed gross
6 revenue of all assessed tourism businesses that voted in the election during the
7 calendar year.

8 (b) An election under (a)(2) of this section shall be held if the proposed
9 election for the termination of the assessment is approved by a majority of the whole
10 membership of the board at a regularly scheduled meeting. The board shall provide
11 notice of an election in accordance with AS 45.90.141 within 60 days after the board
12 approves termination of the assessment.

13 **Sec. 45.90.141. Procedures for an election to approve or terminate the**
14 **Alaska tourism marketing assessment.** (a) The board may conduct an election under
15 this section after the director of elections approves

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

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

18 (3) the registration and voting procedures for the approval or
19 termination of the assessment.

20 (b) In conducting an election under this section, the board and the director of
21 elections shall

22 (1) propose and adopt a levy or termination of an assessment at a
23 regularly scheduled meeting of the board held not less than 60 days before the date on
24 which the ballots must be postmarked to be counted;

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

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

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

1 (3) mail ballots to each assessed tourism business not more than 45
2 days before the date specified as the date ballots must be postmarked; the ballot must

3 (A) state that an assessment is to be levied;

4 (B) state the assessment rate for each category of assessed
5 tourism businesses that provides similar goods or services to tourists or each
6 segment within a category;

7 (C) state that the ballot will be tabulated according to the
8 estimated amount each assessed tourism business will pay in annual
9 assessments;

10 (D) state the effective date of the levy of the assessment or
11 termination of the assessment;

12 (E) ask whether the assessment shall be levied or, if the
13 election is to terminate the assessment, whether the assessment shall be
14 terminated;

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

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

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

23 **Sec. 45.90.151. Determination of value.** (a) Upon request of the director of
24 elections, the commissioner of revenue shall determine

25 (1) the total value of assessed gross revenue of an assessed tourism
26 business during any calendar year; or

27 (2) whether the assessed tourism businesses approving the levy or
28 termination of the assessment together constitute more than 50 percent of the total
29 assessed gross revenue of all assessed tourism businesses that voted in the election
30 during the calendar year.

31 (b) The total assessed gross revenue of all assessed tourism businesses in a

1 calendar year is the sum of the total assessed gross sales of assessed tourism
2 businesses.

3 **Sec. 45.90.161. Collection of assessments and disposition of proceeds.** Each
4 assessed tourism business shall remit to the Department of Revenue within 30 days
5 after the end of each calendar quarter the total amount of the assessment owed on the
6 value of assessed gross revenue in the previous calendar quarter. The Department of
7 Revenue shall inform the board within 60 days after the end of each calendar quarter
8 of the total amount of assessment collections as of the 30 days following the preceding
9 calendar quarter available to be apportioned by the board. An assessed tourism
10 business that fails to remit an assessment is subject to penalties as provided in
11 AS 43.05 and AS 43.10.

12 **Sec. 45.90.171. Enforcement of assessments.** The provisions of AS 43.05 and
13 AS 43.10 apply to the enforcement and collection of the Alaska tourism marketing
14 assessment.

15 **Sec. 45.90.181. Assessment proceeds; Alaska tourism marketing fund.** (a)
16 The Alaska tourism marketing fund is established in the general fund. The fund
17 consists of money appropriated to the fund. The legislature may appropriate from the
18 fund for purposes consistent with this chapter.

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

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

22 **Sec. 45.90.201. Definitions.** In this chapter,

23 (1) "assessed tourism business" means a tourism business assessed
24 under this chapter;

25 (2) "assessment" means an assessment levied under AS 45.90.121;

26 (3) "board" means the Travel Alaska Board;

27 (4) "tourism business" means a business that provides goods or
28 services, including information, accommodation, transportation, or entertainment, to a
29 tourist;

30 (5) "tourist" means a person who travels for business, recreation, or
31 pleasure.

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

3 TRANSITION. Notwithstanding AS 45.90.011 - 45.90.111, added by sec. 3 of this
4 Act, the board of directors of the leading statewide nonprofit tourism marketing association
5 shall act as a transition committee. The transition committee shall prepare an initial written
6 marketing plan to be voted on at an initial election, establish procedures for elections,
7 determine the initial number of members on the Travel Alaska Board, and designate ex officio
8 members of the board. The initial board members shall be voted on at the initial election and
9 shall take office immediately. The transition committee exists only until the election of the
10 board members.