

CS FOR SENATE BILL NO. 110(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 4/2/18

Referred: Finance

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

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. Exercise by the board of the powers conferred by
19 AS 44.25.200 - 44.25.300 is an essential governmental function of the state.

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

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

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

31 (2) not caused by the expiration of a term shall be composed of

1 nominees approved by the board; a nominee approved by the board under this
 2 paragraph is not required to have previously been the subject of an election under
 3 AS 44.25.275.

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

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

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

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

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

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

30 (b) The board may meet and transact business by electronic media. Actions
 31 taken at a meeting held by electronic media under this subsection have the same legal

1 effect as actions taken at a meeting held in person.

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

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

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

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

19 **Sec. 44.25.240. Powers of the board.** In carrying out the powers of the board,
20 the board may

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

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

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

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

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

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

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

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

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

16 (A) describe the activities of the board;

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

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

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

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

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

24 (B) a review of state tourism trends, conditions, and
25 opportunities;

26 (C) an identification of target audiences for tourism marketing
27 expenditures;

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

29 (E) the current assessment rate applicable to assessed tourism
30 segments; and

31 (F) the budget for the current year;

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

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

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

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

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

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

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

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

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

27 (2) 0.25 percent of the gross revenue related to the assessed segment;

28 (3) 0.5 percent of the gross revenue related to the assessed segment;

29 (4) 0.75 percent of the gross revenue related to the assessed segment;

30 (5) one percent of the gross revenue related to the assessed segment;

31 (6) 1.25 percent of the gross revenue related to the assessed segment;

1 (7) 1.5 percent of the gross revenue related to the assessed segment;

2 (8) 1.75 percent of the gross revenue related to the assessed segment;

3 (9) two percent of the gross revenue related to the assessed segment.

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

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

19 (b) A return or other information furnished to the board or the department by
20 an assessed tourism business under AS 44.25.200 - 44.25.300 is confidential and may
21 not be disclosed except

22 (1) by a person during the performance of an official duty under
23 AS 44.25.200 - 44.25.300;

24 (2) to comply with a court order;

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

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

28 (c) Information obtained by the board or the department to determine the
29 assessment for an assessed tourism business is not a public record for purposes of
30 AS 40.25.100 - 40.25.130.

31 (d) The department may require an assessed tourism business to

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

3 (2) furnish any requested information; and

4 (3) permit the inspection by the department of portions of books and
5 records that relate to the gross revenue of the business or the amount of the
6 assessment.

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

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

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

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

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

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

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

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

20 (3) registration and voting procedures.

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

22 (1) adopt a proposed levy, amendment, or termination of an assessment
23 on a business segment at a meeting of the board held not less than 60 days before the
24 date on 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, amendment, or termination of the assessment and to explain the voting procedure
28 to be used in 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 tourism business in the applicable business
 2 segment not more than 45 days before the date specified as the date ballots must be
 3 postmarked; the ballot must

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

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

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

11 (D) state the effective date of the levy, amendment, or
 12 termination of the assessment;

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

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 and AS 44.25.275 have been satisfied.

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

23 **Sec. 44.25.275. Weighted votes.** For a levy, amendment, or termination of an
 24 assessment to be approved under AS 44.25.270, or for the selection of board nominees
 25 to fill a vacancy caused by the expiration of a term to be submitted to the governor
 26 under AS 44.25.205(b), the action must be approved by tourism businesses that, in
 27 total, represent at least 50 percent of the weighted votes received. Votes shall be
 28 weighted in proportion to the assessment that each voting tourism business is
 29 estimated to pay for the calendar year immediately following the election, as
 30 determined under AS 44.25.260. In a vote related to an assessment on a business
 31 segment for which an assessment is currently levied, only the votes of tourism

1 businesses that pay an assessment at the time of the election shall be counted,
2 weighted as described in this section.

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

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

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

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

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

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

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

26 (1) "assessment" means an assessment levied under AS 44.25.200 -
27 44.25.300;

28 (2) "board" means the Travel Alaska Board;

29 (3) "business segment" means a business segment determined under
30 AS 44.25.245(8);

31 (4) "department" means the Department of Revenue;

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

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

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

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

21 (c) Notwithstanding AS 44.25.255, added by sec. 5 of this Act, the Travel Alaska
22 Board may ratify an assessment or assessments proposed by the transition board without an
23 election. If the Travel Alaska Board ratifies the assessment, it shall be imposed as if it had
24 been approved in accordance with AS 44.25.255.

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