

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

March 1, 2018

1:33 p.m.

DRAFT

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Kevin Meyer, Vice Chair
Senator Berta Gardner
Senator Peter Micciche

MEMBERS ABSENT

Senator Gary Stevens

COMMITTEE CALENDAR

SENATE BILL NO. 110

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

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 110

SHORT TITLE: TOURISM MARKETING:BOARD;ASSESSMENT;FUND

SPONSOR(S): LABOR & COMMERCE

04/07/17	(S)	READ THE FIRST TIME - REFERRALS
04/07/17	(S)	L&C, FIN
03/01/18	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

NATASHA MCCLANAHAN, Staff
Senator Mia Costello, Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for SB 110.

SARAH LEONARD, President/CEO
Alaska Travel Industry Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 110.

JOHN LAMBETH, President/CEO
Civitas, California

POSITION STATEMENT: Provided supporting testimony on SB 110.

COLLEEN STEPHENS, Chair
Tourism Marketing Board;
Government Relations representative
Alaska Travel Industry Association; and
Stan Stephens Glacier & Wildlife Cruises
Valdez, Alaska

POSITION STATEMENT: Testified in support of SB 110.

EMILY NAUMAN, Legal Counsel
Legislative Legal Services
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions related to SB 110.

KEN ALPER, Director
Tax Division
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Answered questions related to SB 110.

ACTION NARRATIVE

[1:33:04 PM](#)

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Micciche, Gardner, Meyer, and Chair Costello.

SB 110-TOURISM MARKETING:BOARD;ASSESSMENT;FUND

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CHAIR COSTELLO announced the consideration of SB 110 and solicited a motion to adopt the work draft committee substitute.

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SENATOR MEYER moved to adopt the CS for SB 110, labeled 30-LS0434\R, as the working document.

CHAIR COSTELLO found no objection and version R was adopted. She introduced SB 110 speaking to the following sponsor statement:

Senate Bill 110, the Travel Alaska Act, will establish a mechanism for the State of Alaska to partner with the private tourism industry in support of Alaskan tourism destination marketing. Tourism marketing program funding produces a substantial return on investment for the State of Alaska and many Alaskan citizens given that tourism is currently Alaska's second largest private sector employer. Research shows that every \$1 spent on tourism marketing leads to \$58 in visitor spending, \$21 in income for state residents, and \$2.84 in state and local revenue.

Alaska's tourism marketing funding has been falling in recent years while competitors' budgets have been rising, resulting in a loss of market share compared to national trends. To address this, the Alaska State Legislature included intent language in the FY'17 operating budget asking the tourism industry to create a self-sustaining program funded by tourism businesses. SB 110 would allow the Department of Revenue to assist the Travel Alaska Board, create an Alaska tourism marketing fund, and manage the capitalization and expenditures of the fund.

Funding for Alaska-specific tourism marketing is essential for a robust and thriving industry that can stay competitive with national growth trends. Tourism marketing program funding would generate significant economic impacts, amounting to billions in spending over time.

SB 110 is an innovative way for private industry to partner with the public sector to address the current lack of funding for Alaska tourism marketing and keep Alaska forefront in this fast-paced competitive market. This private-public partnership will strengthen Alaskan tourism and provide a long-term solution for sustaining this crucial Alaskan industry.

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NATASHA MCCLANAHAN, Staff, Senator Mia Costello, Alaska State Legislature, Juneau, Alaska, provided the following sectional analysis for SB 110.

Section 1: Provides for an exception to vehicle rental tax collection, as outlined in Section 2.

Section 2: Allows for entities subject to the vehicle rental tax (imposed by AS 43.52.010 - AS 43.52.099) to request all or a portion of the tax revenue they remit to the Department of Revenue be deposited into the Alaska tourism marketing fund established in Section 5.

Section 3: Clarifies that vehicle rental tax revenues will be deposited into the general fund, with the Department separately accounting for proceeds requested to be appropriated to the Alaska tourism marketing fund.

Section 4: Allows for all vehicle rental tax proceeds requested for appropriation to the Alaska tourism marketing fund, as outlined in Section 2, to be appropriated to the Alaska tourism marketing fund.

Section 5: Creates the Travel Alaska Board and mechanism for an Alaska tourism marketing assessment within the Department of Revenue.

Sec. 44.25.200 (Page 2) Establishes the Travel Alaska Board in the Department of Revenue.

Sec. 44.25.205 (Page 2-3) Creates a board structure of 21, 23, or 25 voting members appointed by the Governor.

Subsection (b) outlines that vacancies will be filled by the Governor from a list of nominees forwarded by the board. If the Governor rejects the list or a portion of the list, the board will submit another list for consideration. For vacancies based on an expiration of term, nominees forwarded to the Governor will be determined via an election process of assessed tourism businesses established in Sec. 44.25.275. Nominees for all other vacancies will be determined by board approval.

Subsection (c) ensures board representation by different regions, business sizes, and industry segments. Voting members must be both a representative

of an assessed business, or payer, and a member of the statewide nonprofit marketing association.

Subsection (d) allows the board to elect ex officio, nonvoting members.

Subsection (e) provides the board shall annually elect a chair and vice chair.

Sec. 44.25.210 (Page 3) Defines board terms. Members serve staggered three-year terms and can be reappointed.

Sec. 44.25.215 (Page 3) Provides that board members may be removed for cause.

Sec. 44.25.220 (Page 3) Defines quorum requirements. To initiate a vote among tourism businesses to levy, amend, or terminate an assessment, approval of the majority of all voting members is required. Other board actions require only the approval of a majority of voting members present. Subsection (b) permits the board to transact business electronically.

Sec. 44.25.225 (Page 4) States board members receive no salary, per diem or travel expenses.

Sec. 44.25.230 (Page 4) Asserts the board will meet at least twice a year. Meetings can also be called upon the written request of five members.

Sec. 44.25.235 (Page 4) The board may request administrative support from the statewide nonprofit tourism marketing association, and work with the association to fulfill its duties. Subsection (b) directs the board to adopt definitions for "tourism industry," "tourism segment," and "tourism business" and forward to the Department of Revenue for ratification. Should the Department reject the definitions, the board may submit alternate definitions.

Sec. 44.25.240 (Page 4-5) Describes the powers of the board in the adoption of policies related to the board, cooperation with public and private organizations, incurring expenses, appearing before government entities, acquiring and disposing of

property, entering into agreements, and designating and removing ex officio members of the board.

Sec. 44.25.245 (Page 5-6) Defines marketing duties of the board to promote travel and tourism in the state and promote segments participating in the assessment. The board must submit an annual report to the Governor, Legislature, and assessed tourism businesses. A marketing plan must also be prepared annually. Subsection (8) directs the board to identify "segments" of the tourism industry, based on similar goods and services provided.

Sec. 44.25.250 (Page 6) Provides that any expenditures by the board must be consistent with the annual marketing plan.

Sec. 44.25.255 (Page 6-7) If the board votes to initiate the process of levying an assessment or amending an existing assessment rate, a vote by assessed businesses will be held following election procedures outlined in Sec. 44.25.270.

Subsection (b) clarifies that different segments of the tourism industry can be assessed at different rates. If an election is held (per Sec. 44.25.270) and an assessment rate is approved, that assessment will then be levied on the gross revenue of tourism businesses in that particular segment.

Subsection (c) defines assessment rates available for consideration as 0, 0.25, 0.5, 0.75, 1.0, 1.25, 1.5, 1.75 or 2 percent of gross revenue.

Subsection (d) requires the board to advertise and schedule public meetings for businesses potentially subject to a proposed assessment prior to an election.

Sec. 44.25.260 (Page 7-8) Provides that a business subject to an assessment may pass the cost of the assessment on to its customers if the amount is disclosed in advance, a receipt is given, and the assessment is listed as a separate charge.

Subsection (b) states that information given to the board or Department of Revenue by an assessed tourism business is confidential with four exceptions.

Subsection (c) clarifies that information obtained by the board or Department of Revenue used to determine the assessment for a business is not public record.

Subsection (d) allows the Department of Revenue to require assessed tourism businesses to maintain records verifying gross revenue, permit inspection of those records, and provide information upon request.

Sec. 44.25.265 (Page 8) An assessment will terminate after six years, or on the sunset date stated on the approved election ballot, whichever comes first. Subsection (b) provides that if the board votes to initiate the process of terminating an assessment, a vote by assessed businesses will be held following election procedures outlined in Sec. 44.25.270.

Sec. 44.25.270 (Page 8-9) Outlines the election procedures for an assessment vote. The board can hold an election after the Director of Elections approves the notice, ballot, registration, and voting procedures.

Subsection (b) establishes meeting, notice and ballot requirements of the board for any election to levy, amend, or terminate an assessment.

Subsection (c) gives parameters for the Director of Elections to certify results.

Subsection (d) allows ballots to be considered valid if signed by an officer or authorized representative of the tourism business.

Sec. 44.25.275 (Page 9-10) Defines the weighted vote process used in elections for both assessments and board nominees. Votes will be weighted in proportion to the amount each business is estimated to pay under the proposed assessment in the next calendar year. When voting on an existing assessment, only the votes of businesses that pay under that assessment at the time of the election shall be counted. Actions must be approved by businesses representing a total of at least 50 percent of the weighted votes received.

Sec. 44.25.280 (Page 10) Upon request by the Director of Elections, the Department of Revenue will determine the amount each assessed business is estimated to pay for any calendar year, including future years for purposes of weighting votes.

Sec. 44.25.285 (Page 10) Assessed business will remit payment to the Department of Revenue within 30 days of the end of each calendar quarter. Within 60 days of the end of each calendar quarter, the Department will report to the board the total amount of assessments collected.

Sec. 44.25.290 (Page 10) Applies existing enforcement statutes for the Department of Revenue (AS 43.05) and the Attorney General (AS 43.10) to the Alaska tourism marketing assessment.

Sec. 44.25.295 (Page 10) Establishes the Alaska tourism marketing fund.

Sec. 44.25.300 (Page 10-11) Defines terms used in this chapter: "assessment," "board," "business segment," and "traveler."

Section 6: Designates the leading statewide nonprofit tourism marketing association as a transition board. The transition board will hold an initial election to determine the list of nominees for the Travel Alaska Board and proposed assessment rates. Following the election, nominees for the Travel Alaska Board will be forwarded to the Governor. Once the Travel Alaska Board is established through the appointment process, the transition board will submit any proposed assessment rates approved in the election to the Travel Alaska Board, at which point the transition board will dissolve.

Subsection (b) provides that if the Governor rejects the initial list or a portion of the initial list of nominees, the transition board will submit another list for consideration.

Subsection (c) permits the Travel Alaska Board to ratify assessments proposed by the transition board.

Subsection (d) refers to Sec. 44.25.300 for the definition of "assessment."

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CHAIR COSTELLO invited Colleen Stephens and Sarah Leonard to comment on the industry's proposal.

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SARAH LEONARD, President/CEO, Alaska Travel Industry Association (ATIA), Anchorage, Alaska, thanked the committee for the opportunity presented through SB 110 to potentially create the legislative framework for an Alaska tourism improvement district. She related that ATIA is the leading nonprofit membership trade association for Alaska's visitor industry representing over 650 tourism businesses in various sectors and regions throughout the state. ATIA is also the state's contract manager for Alaska's destination marketing program and is responsible for statewide marketing and program development.

She described tourism as a bright spot in Alaska's economy and noted that the state's investment in destination marketing declined 90 percent between 2014 and 2017. She pointed out that Alaska is falling behind as most states are increasing support for destination marketing. In 2017 Alaska accounted for just .3 percent of the national spending on state tourism promotion. That is down from 2.5 percent in 2014. She also noted that Alaska's increasing visitor numbers are concentrated in the cruise sector while independent travel is stagnant. She posited that this decline translates into reduced visitor spending, fewer jobs, and lower business revenue. She shared the results of a recent independent analysis of the state's competitiveness in terms of destination marketing investments and Alaska's tourism sector performance. It shows that Alaska lost \$189 million in visitor spending between 2012 and 2016, and \$57 million in visitor spending in 2016 alone.

MS. LEONARD said the industry was listening when the legislature said to come up with a funding solution for marketing. It was an opportunity to develop a plan to phase out reliance on unrestricted general funds for marketing and move towards a self-sustaining program funded by industry. A number of models were considered, but always with the parameters that any new funding solution should not be reliant on one industry segment or funding source, that revenue should focus primarily on visitor activity with the least impact on Alaskans, that any assessment or new revenue could be passed on to the visitor, and most importantly, that any successful plan for the industry to

assess itself would be a private/public partnership with the state that would continue to leverage the vehicle rental car tax that the state already collects.

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JOHN LAMBETH, President/CEO, Civitas, California, said his testimony would focus on providing background on destination marketing and a national perspective on tourism improvement districts. He agreed with earlier comments about the importance of the travel and tourism industry; one in nine jobs are dependent on tourism. He addressed the question about why there should be destination marketing on a coordinated basis rather than letting individual businesses do their own marketing. He explained that the primary motivator of a trip is usually the experience of the destination itself, not a single lodging establishment or attraction. Thus, the destination should be marketed as a unit. It's also a question of scale because no individual business can market Alaska on a broad scale. It takes the industry as a group to coordinate and pool its resources to do destination marketing. He described the cycle of destination marketing. He said an investment in travel and marketing promotion creates demand that in turn creates visitor spending which spurs new jobs and new tax revenues that allow investment back into travel and tourism. He pointed out that nationwide, the travel and tourism industry generates about \$160 billion a year in state and local taxes.

He explained that the model for tourism improvement districts dates back to the 1930s when the agricultural industry levied a charge on individual growers and used that money to promote their products. In the 1960s that model was expanded to downtown improvement activities. Now there are about 2,000 business improvement districts across North America. In 1990s some Californians extended the concept to tourism promotion which led to the first tourism improvement district. The assessments collected from those districts is typically returned to a destination marketing organization that markets the destination. Some of the advantages of this funding model is that there are no free riders, there is transparency in its operations, and it creates a reliable, consistent, stable source of funding for tourism marketing. He said there are now 167 districts across 14 states and 11 more states are in the process of either adopting legislation or of forming tourism improvement districts. He opined that there will be a lot more going forward.

MR. LAMBETH asked the committee to consider two important concepts as it deliberates on SB 110. First, this is not a

partisan issue. Republicans and Democrats alike understand the importance of the tourism industry and how tourism investment districts support it. Second, it's been a game-changer for destinations that have adopted TIDs and it has taken reliance off the general fund. He concluded that SB 142 will change destination promotion activities in Alaska for a long, long time.

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COLLEEN STEPHENS, Chair, Alaska Tourism Marketing Board (ATMB) and Government Relations representative for Alaska Travel Industry Association, said she also has a business-owner perspective from the family business, Stan Stevens Glacier and Wildlife Cruises. She said the board has worked with the tourism industry since SB 110 was introduced in 2017 addressing questions and concerns. The larger questions were whether ATMB would continue to advocate to partner with the state with vehicle rental car funds and the structure of the Travel Alaska Board. She said SB 110 addresses many of those questions and concerns. The industry has also created the TID Advisory Group to the ATMB that has members from all sectors. She said the goal is to make this an open dialog and transparent process.

She explained that SB 110 is the enabling legislation that outlines the process and provides the tools to enact a tourism improvement district. In phase two, the ATMB will determine which sectors may be included in the assessment, the rates the sectors will pay, how the board will be developed, and implement the program. This will create a sustainable and predictable funding model for Alaska tourism. Research shows that every dollar spent on tourism promotion in Alaska results in \$58 of visitor spending, \$21 in income for local residents, and \$2.84 in state and local taxes.

MS. STEPHENS said as a small business owner it is more unsettling to consider what happens if there isn't a well-funded marketing program. The larger corporations operating in Alaska won't be affected, but small communities, small businesses, and remote locations will feel the impact if there isn't a broad-based program that puts the image of Alaska before people and convinces them that Alaska is their preferred travel destination. She said it's time to take the step to change the tourism marketing funding for Alaska.

SB 110 establishes the framework for a partnership with the state. It asks the state to make a policy change relative to the vehicle rental tax (VRT) and the industry contributes an

assessment from individual businesses. According to the 2015 McDowell Report the visitor industry brings \$105 million in fees and taxes to the state every year. She concluded that combining the vehicle rental tax investment and the new business assessments will guide the industry into the future for tourism marketing and continue to fill the tourism pipeline

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CHAIR COSTELLO identified the individuals available to answer questions.

SENATOR GARDNER asked Ms. Stephens if ATMB's outreach included nonmember business owners and how people who should be included are identified. For example, is a driver for Uber included?

MS. STEPHENS said no segment has been identified as in or out, but taxicabs and Uber have not been part of the conversation at the board level. ATMB has done outreach to convention and visitor bureaus and chambers of commerce to identify businesses that are in a different member base. The businesses that will or will not be included will be determined in phase two.

SENATOR GARDNER asked if the legislature will know how much is collected through assessments and the number of businesses in each of the nine assessment categories that are participating.

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MR. LAMBETH said it's quite common to get summary information about the number of businesses that are assessed and the amount that is collected from each category.

SENATOR GARDNER asked if businesses are able to recover their assessments by passing those costs along to their customers.

MS. LEONARD said if this legislation passes, the Department of Revenue (DOR) would send a form to those businesses that are part of the assessment to self-report what they owe in that assessment. The state would collect the money that the business collected from its customers.

SENATOR GARDNER questioned why a business that passes the assessment along to its customers would opt to send that money to the state.

MS. STEPHENS clarified that while businesses have the option to pass the assessment along to their customers or guests,

remitting the assessment becomes compulsory for the business once the legislation becomes law.

MR. LAMBETH agreed that the business owes the assessment regardless of whether the assessment is passed along to the customer.

CHAIR COSTELLO advised that page 4 of the sectional provides an explanation.

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SENATOR MEYER asked how much the assessment might raise.

MS. LEONARD said the assessments have not been identified but one percent on broad-based accommodations and tour activities (projected on numbers from the McDowell Group) could raise about \$7 million.

SENATOR MEYER mentioned bed and breakfast and vacation rental by owner (VRBO) and commented that part of the process will be to decide which businesses will be subject to the assessment.

MS. LEONARD said in jurisdictions where there is a tourism improvement district VRBOs and Air B&Bs join the programs through individual agreements.

SENATOR MEYER asked if any proposed increases in the assessment would come before the legislature.

MS. STEPHENS explained that the legislature sets the assessment levels in .25 percent increments with a 2 percent maximum. When the board meets for the first time it will define the tourism segments, the Department of Revenue will ratify them, and then the businesses that are subject to the assessment will vote on the proposed assessment levels and the Travel Alaska Board recommendations that will move forward to the governor. The vote is weighted based on the gross revenues paid toward the assessment. The bill requires a second vote after six years. This is an opportunity for the industry to weigh in on the success of the program and to adjust the assessment. The bill also provides a termination clause.

SENATOR MEYER said he assumes the program is compulsory.

MS. LEONARD confirmed that an individual business cannot terminate its assessment.

SENATOR MEYER asked what entity oversees enforcement.

MS. LEONARD advised that the bill incorporates existing statute regarding the state enforcing the collection of fees and taxes.

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CHAIR COSTELLO asked Mr. Lambeth to comment on the bill designating the entire state as a single tourism investment district as opposed to the more common model of establishing TIDs for specific regions.

MR. LAMBETH confirmed that the program has been most commonly used in individual destinations, but it has been used very successfully for statewide marketing in California. He said several other states are looking at that model and he suspects this model will become more common for states.

CHAIR COSTELLO asked if the members will have access to the research that is conducted using revenues from the assessments.

MR. LAMBETH replied research is a critical part of destination marketing and typically it is widely available to members. "These districts tend to be very transparent in their operation," he said.

CHAIR COSTELLO asked if there was an avenue for a business that does not want to participate.

MR. LAMBETH explained that the compulsory model is preferred by most destinations because there will be free riders if paying the assessment is voluntary. The voluntary model works well if a benefit is provided to certain businesses and not others.

SENATOR MICCICHE asked if some countries have a value added tax (VAT) for this purpose. He cited Australia.

MR. LAMBETH confirmed that some countries do have that type of tax, but they tend to be used for a variety of activities, not just tourism promotion. He opined that this model where the industry is leading the effort will be a very successful for Alaska given the constitutional constraints against dedicated funding.

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SENATOR MICCICHE asked if anything in the bill eliminates the potential for a larger scale partnership. He said he believes it

would be more efficient as a unit as opposed to separating by industry or region.

MS. STEPHENS said the goal is to get the image of Alaska out and convince travelers that Alaska is a possible destination. Once the traveler has committed to Alaska the individual regions will step up and help them identify where they want to visit. It's the responsibility of businesses to work with the state and regions to convert that to customers in their doors. Businesses that are the farthest from the main stream will benefit most from the notion that a rising tide raises all boats. She noted that while cruise ship visitors are increasing, it is not at the same rate as other destinations. That is an indication that there is a market share issue even within the cruise industry.

SENATOR MEYER asked if the various community marketing programs are active participants in this discussion.

MS. LEONARD said yes; community destination marketing management organizations sit on both the Alaska Travel Industry Board and the Alaska Tourism Marketing Board. Responding to an earlier question she clarified that increasing the maximum assessment above 2 percent would require legislative approval.

SENATOR MEYER asked if the amount from the vehicle rental tax was fixed.

MS. LEONARD said the legislation does not suggest changing the existing VRT rate. She recalled that is 10 percent for cars and 3 percent for recreational vehicles.

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SENATOR GARDNER summarized that the assessment applies to everybody whether they are members or not but only members can vote.

MS. LEONARD replied the assessment would apply to any segment that is identified as a payer of the assessment and those payers would be the voters.

SENATOR GARDNER asked if membership is required to be on the board.

MS. LEONARD clarified that businesses are not required to be members of the Alaska Travel Industry Association (ATIA). It's any business that is identified as a segment in Alaska's visitor industry.

SENATOR GARDNER observed that the appropriation process in Section 2 carries a certain risk because it is subject to legislative appropriation. She asked if it would be simpler to have a grant process.

MS. LEONARD said a simpler process would be welcome. The reason for pointing to the vehicle rental tax was the history and legislative intent language. She opined that it is a reasonable reinvestment of those dollars into tourism marketing.

SENATOR GARDNER asked why the bill proposes a variable number of board members.

MS. STEPHENS said it was a range the ATIA Board was comfortable proposing. In phase 2 a guiding document would be written and clarify the exact size.

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CHAIR COSTELLO reconvened the meeting.

SENATOR GARDNER why they were proposing a new board instead of using the ATIA Board.

MS. LEONARD replied that option met with constitutional challenges because of the partnership with the state. It's also in line with the way TID boards for tourism marketing are set up in other states.

SENATOR GARDNER asked how assessments will be handled for tourism businesses that aren't headquartered in Alaska. She cited the Four Seasons hotel chain and the cruise ship industry as examples.

MS. STEPHENS explained that a direct assessment on the cost of a cruise could have problems with the interstate commerce clause. For the hotel chain, the assessment would be on just the business that is done in Alaska and the Department of Revenue (DOR) would help with the collection process.

SENATOR GARDNER asked for an explanation of Sec 44.25.280 on Page 10.

MS. STEPHENS explained that the assessment is based on a business's gross revenues and the Department of Revenue has those confidential numbers.

CHAIR COSTELLO asked the bill drafter to comment on how the bill addresses taxation authority and the powers of the legislature. She also asked if there are any structural issues related to the board that the committee should be aware of.

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EMILY NAUMAN, Legal Counsel, Legislative Legal Services, Alaska State Legislature, Juneau, Alaska, explained that any time a portion or the appearance of a portion of the authority to tax leaves the legislature, it raises a concern about a violation of the constitution's prohibition against the delegation to tax. One helpful case on the topic is State v. Alex. A private aquaculture association set an assessment and members challenged it. The Alaska Supreme Court held that was an improper delegation of the legislature's authority to tax because the entire process occurred outside of the state. In response, the state set out salmon assessment taxes on which ASMI was modeled. The assessment proposed by SB 110 is loosely the same as the ASMI model and that has not been tested by a court. She opined that SB 110 strays a little farther towards an unconstitutional tax, particularly in the transition provisions because of the authority given the transition board which is a private organization.

SENATOR MICCICHE asked if it's just the absence of the legislature acting that raises the constitutional issue and if the solution could be as simple as the board providing a recommendation to the legislature that would be appropriately approved and appropriated.

MS. NAUMAN said to raise no concern the legislature should set the rate of the tax and who should be taxed in statute. That could be done with a recommendation from industry or a private board.

SENATOR GARDNER asked for an explanation of the language on page 2, lines 18-19, regarding establishing the Travel Alaska Board.

MS. NAUMAN said she would guess it was to try to establish that the board is acting as a state function for the purpose of avoiding triggering the delegation of tax issue.

CHAIR COSTELLO asked her to talk about the structure of the board.

MS. NAUMAN said one unusual thing is that a segment of the tourism industry that is not currently assessed will not have representation on the board. That could place the board in the position of trying to determine an assessment rate or whether an assessment should be levied on an industry segment that does not have representation. It could also be tricky if assessments were terminated. There would be no one to be on the board because it is composed of assessed businesses.

She said the rental car tax structure is unusual in that the tax payor requests where the proceeds of the tax are directed. She pointed out that it's not always going to be the tourism industry that pays the tax. In some instances, it will be the tourist that pays the tax and in that case it's a third party or the tourism company that gets to decide where the tax they are paying goes. That too is unusual. She also pointed out that the bill does not specify what happens if the governor rejects the list the board submitted of potential board members.

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SENATOR MICCICHE asked if all the instate vehicle rental taxes are aggregated.

MS. NAUMAN said that was her understanding, but she would do follow up research and provide a definitive answer.

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KEN ALPER, Director, Tax Division, Department of Revenue, Juneau, Alaska, introduced himself and declared a potential conflict. Through his wife he is a member of ATIA.

CHAIR COSTELLO asked Mr. Alper to explain how SB 110 would work from the Department of Revenue's (DOR) perspective.

MR. ALPER said the department's role would be to help get the affected businesses licensed and registered in the system like any other Alaskan taxpayer. The police powers of the state would enforce payment of that tax and if someone failed to pay, the department has the power to suspend their business license, among other powers.

He noted that the bill converts the vehicle rental tax from a designated general fund appropriation to an unrestricted category that is self-directed where each individual vehicle

rental tax payer would decide whether they wanted to designate the money to this tourism entity or keep it unrestricted general funds. He noted that Ms. Nauman identified it as a little problematic to have a taxpayer directed designation of some taxes.

He advised that DOR would also collect confidential information to estimate the gross revenue of businesses in various tourism segments, establish a weighting system for the vote based on one vote per dollar in estimated gross revenue, and work with the Division of Elections to help score the election.

SENATOR MEYER asked if administering the assessment would cost the Department of Revenue.

MR. ALPER replied there are two costs. First is the one-time cost of setting up a new module within DOR's software. That is estimated to be about \$900 thousand. The second cost is for three additional staff to administer the tax. This includes one technician, one supervisory or audit-level person, and one economist to figure out how to do the weighting and estimate what the payments would be for the purposes of conducting elections.

SENATOR MEYER asked the Chair if there was a fiscal note from DOR.

CHAIR COSTELLO said the fiscal notes do not reflect the current version of the bill.

MR. ALPER advised that an updated fiscal note should be on line later today.

CHAIR COSTELLO asked him to alert her aide if the department does upload the fiscal note.

SENATOR GARDNER asked how many potential taxpayers under this bill are already corporate taxpayers.

MS. ALPER said he didn't know but his sense is it would not be many. Cruise ships are international corporations and would pay Alaska corporate income tax, but they would not be subject to this new assessment because of federal constitutional issues.

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CHAIR COSTELLO thanked the participants and held SB 110 in committee.

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There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 3:01 p.m.