

CS FOR HOUSE BILL NO. 383(AET)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE SPECIAL COMMITTEE ON ARCTIC POLICY, ECONOMIC DEVELOPMENT, AND TOURISM

Offered: 4/4/18

Referred: Finance

Sponsor(s): REPRESENTATIVES GRENN, Gara, Tuck, Millett, Tarr

A BILL

FOR AN ACT ENTITLED

1 **"An Act providing for a credit against the vehicle rental tax; establishing the Travel**
2 **Alaska Board; relating to a tourism marketing assessment; and establishing a tourism**
3 **marketing fund."**

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

5 * **Section 1.** AS 43.52 is amended by adding a new section to read:

6 **Sec. 43.52.095. Credit.** (a) A taxpayer is allowed a credit against the tax due
7 under AS 43.52.010 - 43.52.099 equal to a cash contribution to the Alaska tourism
8 marketing fund established in AS 44.25.295.

9 (b) The credit under this section may not reduce a person's tax liability under
10 AS 43.52.010 - 43.52.099 to below zero for any tax year. An unused credit or portion
11 of a credit not used under this section for a tax year may not be sold, traded,
12 transferred, or applied in a subsequent tax year.

13 * **Sec. 2.** AS 44.25 is amended by adding new sections to read:

14 **Article 4. Travel Alaska Board.**

1 **Sec. 44.25.200. Travel Alaska Board established.** The Travel Alaska Board
2 is established in the department. Exercise by the board of the powers conferred by
3 AS 44.25.200 - 44.25.300 is an essential governmental function of the state.

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

7 (b) The governor shall fill a vacancy in the voting membership of the board
8 from a list of nominees submitted by the board. The governor may reject a list or a
9 portion of a list submitted under this subsection and request that the board submit
10 another list. A list submitted to the governor by the board under this subsection for a
11 vacancy

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

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

19 (c) Board members shall represent segments, business sizes, and regions in the
20 state listed in AS 44.33.136(b)(1). Except as provided in (f) of this section, a voting
21 member of the board shall be both a representative of an assessed business and a
22 member of the leading statewide nonprofit tourism marketing association.
23 Notwithstanding AS 39.05.100, a board member is not required to be a registered
24 voter or a resident of the state.

25 (d) In addition to the voting members of the board, the board may elect or
26 remove ex officio nonvoting members. A nonvoting member need not be a member of
27 the leading statewide nonprofit tourism marketing association and may not be counted
28 for the purposes of establishing a quorum, taking an action, electing a chair or vice-
29 chair under (e) of this section, or adopting a motion or resolution under AS 44.25.220.

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

1 (f) If all assessments are terminated under AS 44.25.265, the board shall
 2 continue in existence until June 30 of the year following the year in which the last
 3 assessment is terminated for the purpose of concluding its affairs. During this period,
 4 the board may continue to perform its duties under this chapter and may propose
 5 additional assessments. If a new assessment has not been levied under AS 44.25.255
 6 during this period, the board shall cease all activities.

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

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

14 **Sec. 44.25.220. Quorum.** (a) A majority of the voting members of the board
 15 constitutes a quorum for the transaction of business and the exercise of the powers and
 16 duties of the board. The board may approve an election for the levy, amendment, or
 17 termination of an assessment only by an affirmative vote of a majority of the full
 18 voting membership of the board. All other actions may be taken and motions and
 19 resolutions may be adopted upon an affirmative vote of a majority of the voting
 20 members present.

21 (b) The board may meet and transact business by electronic media. Actions
 22 taken at a meeting held by electronic media under this subsection have the same legal
 23 effect as actions taken at a meeting held in person.

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

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

29 **Sec. 44.25.235. Administration and regulations.** (a) The board may request
 30 administrative support from the leading statewide nonprofit tourism marketing
 31 association. The board shall work with the leading statewide nonprofit tourism

1 marketing association to accomplish the purposes of AS 44.25.200 - 44.25.300.

2 (b) The board may adopt or amend definitions for "tourism industry,"
 3 "segment," and "tourism business" and provide those amended or adopted definitions
 4 to the department. The department may adopt or amend the definitions for "tourism
 5 industry," "segment," and "tourism business" for the purposes of administering the tax
 6 under AS 44.25.200 - 44.25.300 after receiving the definitions adopted or amended by
 7 the board under this subsection. The department may, for the purpose of adopting or
 8 amending regulations defining "tourism industry," "segment," and "tourism business,"
 9 accept the board's definitions or reject the board's definitions and request alternate
 10 definitions from the board. A definition adopted under this subsection must comply
 11 with, or contain the necessary exceptions to comply with, the Constitution of the
 12 United States and the Constitution of the State of Alaska.

13 **Sec. 44.25.240. Powers of the board.** In carrying out the powers of the board,
 14 the board may

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

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

- 29 (1) conduct programs of destination marketing, research, advertising,
 30 or sales promotion designed to retain and expand the tourism industry in the state;
- 31 (2) promote all assessed segments of the tourism industry;

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

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

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

9 (A) describe the activities of the board;

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

11 (C) provide the balance of the fund; and

12 (D) summarize and report on the marketing plan prepared
13 under (6) of this section;

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

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

17 (B) a review of state tourism trends, conditions, and
18 opportunities;

19 (C) an identification of target audiences for tourism marketing
20 expenditures;

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

22 (E) the current assessment rate applicable to assessed segments;

23 and

24 (F) the budget for the current year;

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

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

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

31 (1) must be consistent with the marketing plan prepared under

1 AS 44.25.245(6); and

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

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

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

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

- 18 (1) zero percent of the gross revenue related to the assessed segment;
- 19 (2) 0.25 percent of the gross revenue related to the assessed segment;
- 20 (3) 0.5 percent of the gross revenue related to the assessed segment;
- 21 (4) 0.75 percent of the gross revenue related to the assessed segment;
- 22 (5) one percent of the gross revenue related to the assessed segment;
- 23 (6) 1.25 percent of the gross revenue related to the assessed segment;
- 24 (7) 1.5 percent of the gross revenue related to the assessed segment;
- 25 (8) 1.75 percent of the gross revenue related to the assessed segment;
- 26 (9) two percent of the gross revenue related to the assessed segment.

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

31 **Sec. 44.25.260. Collection of and information related to the Alaska tourism**

1 **marketing assessment.** (a) A tourism business shall pay the assessment levied under
 2 AS 44.25.200 - 44.25.300. Each assessed tourism business may pass the cost of the
 3 assessment on to its customers at the time a transaction is consummated. If the cost is
 4 passed on to a customer, the assessed tourism business shall disclose the amount in
 5 advance and separately state the amount from the amount charged and any other
 6 applicable taxes, and shall give each customer a receipt of payment. The assessment
 7 shall be disclosed as the "Alaska tourism marketing assessment." The assessment is
 8 imposed solely on, and is the sole obligation of, the assessed tourism business, even if
 9 it is passed on to customers. The assessment may not be considered revenue for any
 10 purpose, including calculation of taxes.

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

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

16 (2) to comply with a court order;

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

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

20 (c) Information obtained by the board or the department to determine the
 21 assessment for an assessed tourism business is not a public record for purposes of
 22 AS 40.25.100 - 40.25.295.

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

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

26 (2) furnish any requested information; and

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

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

31 (a) An assessment terminates on the earlier of

1 (1) six years after the date of the first assessment; or
 2 (2) the effective date stated on a ballot approved under the procedures
 3 described in AS 44.25.270 in which the termination is approved, as determined under
 4 AS 44.25.275.

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

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

- 10 (1) notice to be published by the board;
 11 (2) ballot to be used in the election; and
 12 (3) registration and voting procedures.

13 (b) In conducting an election for an assessment under this section,

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

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

22 (A) mailing a notice to each tourism business proposed to be
 23 assessed; and

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

26 (3) the director of elections shall mail ballots to each tourism business
 27 proposed to pay an assessment not more than 45 days before the date specified as the
 28 date ballots must be postmarked; the ballot must

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

31 (B) state the assessment rate to be levied, amended, or

1 terminated, as applicable, for the segment, and describe all existing
2 assessments;

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

6 (D) state the effective date of the levy, amendment, or
7 termination of the assessment;

8 (E) ask whether the assessment shall

9 (i) be levied or amended, in which case all assessments
10 that would otherwise apply continue; or

11 (ii) terminate;

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

14 (c) In conducting an election for the nomination of board members, the

15 (1) board shall provide notice of the election by mailing or providing
16 electronic notice to each

17 (A) currently assessed tourism business if the ballot does not
18 also contain a proposed levy, amendment, or termination of an assessment; or

19 (B) tourism business proposed to be assessed if the ballot also
20 contains a proposed levy, amendment, or termination of an assessment;

21 (2) director of elections shall mail ballots to each business specified in
22 (1) of this subsection not more than 45 days before the date specified as the date
23 ballots must be postmarked; the ballot must

24 (A) state the name of each proposed nominee;

25 (B) state that each vote will be weighted in proportion to the
26 projected assessment each voting tourism business is estimated to pay for the
27 following calendar year;

28 (C) ask whether each proposed nominee shall be nominated;

29 (D) be returned by mail to the director of elections; the director
30 of elections or a representative shall count the ballots.

31 (d) In an election for an assessment under this section, assessments for all

1 segments, both existing and proposed, must be described on the ballot and approved or
 2 rejected, in total, by voters in a single vote. If the election proposes levying or
 3 amending an assessment and voters reject the levy or amendment, all existing
 4 assessments will continue until terminated as provided under AS 44.25.265. If the
 5 election proposes terminating an assessment and voters reject the termination, no
 6 existing assessments terminate.

7 (e) The director of elections, in consultation with the department, shall certify
 8 the results of an election under this section if the director determines that the
 9 applicable requirements of (a) - (d) of this section and AS 44.25.275 have been
 10 satisfied.

11 (f) For purposes of this section, a ballot submitted by a tourism business is
 12 presumed valid if the ballot is signed by an individual who is indicated to be an officer
 13 of the tourism business or an authorized representative.

14 **Sec. 44.25.275. Weighted votes.** (a) For a levy, amendment, or termination of
 15 an assessment to be approved under AS 44.25.270, or for the selection of board
 16 nominees to fill a vacancy caused by the expiration of a term to be submitted to the
 17 governor under AS 44.25.205(b), the action must be approved by tourism businesses
 18 that, in total, represent more than 50 percent of the weighted votes received. Votes
 19 shall be weighted in proportion to the assessment that each voting tourism business is
 20 estimated to pay for the calendar year immediately following the election, as
 21 determined under AS 44.25.260. In a vote related to an assessment on a segment for
 22 which an assessment is currently levied, only the votes of tourism businesses that pay
 23 an assessment at the time of the election shall be counted, weighted as described in
 24 this section. The weight of a vote of a tourism business is confidential.

25 (b) The department shall adopt regulations to establish the method for
 26 determining weighted votes of a tourism business for which the department has
 27 insufficient information to determine the assessment that business is estimated to pay
 28 for the calendar year immediately following the election.

29 **Sec. 44.25.280. Determination of value.** Upon request of the director of
 30 elections, the department shall determine the estimated assessment for each assessed
 31 tourism business for any calendar year, including a future calendar year for purposes

1 of weighting votes under AS 44.25.275. The department may require a tourism
 2 business to provide information that is necessary to determine an estimated assessment
 3 under this section. The department shall keep information collected for purposes of
 4 this section confidential under AS 44.25.260.

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

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

16 **Sec. 44.25.295. Assessment proceeds; Alaska tourism marketing fund. (a)**
 17 The Alaska tourism marketing fund is established in the general fund. The department
 18 shall separately account for the revenue collected from the assessment and deposit the
 19 amount into the fund. The department may also receive donations to the fund and shall
 20 deposit the donations into the fund.

21 (b) The legislature may appropriate money in the fund to the

22 (1) department for the costs of administering the assessment; and

23 (2) board for the purpose of executing a marketing plan prepared under
 24 AS 44.25.245(6).

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

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

27 (1) "assessment" means an assessment levied under AS 44.25.200 -
 28 44.25.300;

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

30 (3) "department" means the Department of Revenue;

31 (4) "fund" means the Alaska tourism marketing fund established under

1 AS 44.25.295;

2 (5) "gross revenue" means the total fees and costs charged for the sale
3 of goods or services;

4 (6) "segment" means a segment of the tourism industry as determined
5 under regulations adopted by the department;

6 (7) "traveler" means a person who travels for business, recreation, or
7 pleasure.

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

10 TRANSITION. (a) The board of directors of the leading statewide nonprofit tourism
11 marketing association shall provide to the governor a list of nominees to serve on a transition
12 board. The governor shall appoint the initial members of the transition board from the list
13 provided under this subsection. The governor may reject all or a portion of the list provided
14 under this subsection and request another list.

15 (b) The transition board shall consist of 24 members. The transition board shall
16 establish procedures for elections and propose to the governor the initial number of members
17 to serve on the Travel Alaska Board.

18 (c) The transition board shall adopt definitions for "tourism industry," "segment," and
19 "tourism business" and provide them to the department. The department shall adopt
20 definitions for "tourism industry," "segment," and "tourism business" for the purposes of
21 administering the assessment under AS 44.25.200 - 44.25.300 after receiving the definitions
22 adopted by the board under this subsection. The department may, for the purpose of adopting
23 regulations defining "tourism industry," "segment," and "tourism business," accept the board's
24 definitions or reject the board's definitions and request alternate definitions from the board. A
25 definition adopted under this subsection must comply with, or contain the necessary
26 exceptions to comply with, the United States Constitution and the Constitution of the State of
27 Alaska.

28 (d) The transition board, the director of elections, and the department shall hold an
29 election in compliance with the requirements in AS 44.25.205, 44.25.270, 44.25.275, and
30 44.25.280, added by sec. 2 of this Act, for the purposes of determining nominees for the
31 Travel Alaska Board and for levying an assessment that complies with AS 44.25.255, added

1 by sec. 2 of this Act. Following the election, the transition board shall provide the governor a
2 list of nominees for the Travel Alaska Board. The transition board exists only until the Travel
3 Alaska Board is appointed.

4 (e) The governor shall appoint the initial members of the Travel Alaska Board from a
5 list provided under (d) of this section. The governor may reject all or a portion of a list
6 provided under (d) of this section and request another list.

7 (f) In this section,

8 (1) "assessment" has the meaning given in AS 44.25.300, added by sec. 2 of
9 this Act;

10 (2) "department" means the Department of Revenue.