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BILL ANALYSIS



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Senate Bills 703 through 707 (as introduced 12-5-17)

Sponsor: Senator Wayne Schmidt

Committee: Commerce

Date Completed: 1-11-18

CONTENT

The bills would amend a number of statutes pertaining to the marketing or promotion of tourism and conventions, to do the following:

- **Require the board of directors of a local travel bureau or regional marketing organization to meet at least twice every year to review its current annual marketing plan and its proposed marketing plan for the next year.**
- **Require the vice-president of the Michigan Travel Bureau and the president or chief administrative officer of the local bureau or regional marketing organization to meet at least once annually to discuss the master plan developed by the Michigan Travel Commission and Travel Bureau and the approved annual marketing plan.**
- **Require a marketing plan to be disapproved if it were detrimental to the master plan or the Travel Bureau's promotional programs.**
- **State certain legislative findings pertaining to tourism and approaches to tourism marketing.**

Senate Bills 703 would amend the Convention and Tourism Promotion Act. Senate Bill 704 would amend the Regional Convention and Tourism Promotion Act. Senate Bill 705 would amend the Regional Tourism Marketing Act. Senate Bill 706 would amend the Convention and Tourism Marketing Act. Senate Bill 707 would amend the Community Convention or Tourism Marketing Act.

Definitions

The bills would define "travel bureau" as the Michigan Travel Bureau created under Section 2a of the Michigan Tourism Policy Act. (The Travel Bureau, among other things, must implement programs to market Michigan as a desirable travel destination and facilitate travel to and within the State to the maximum extent feasible. The Travel Bureau was renamed Travel Michigan under Executive Order 1997-1. Under Executive Order 1999-1, the authority, power, duties, functions, and responsibilities of the Travel Bureau were transferred to the Michigan Strategic Fund.)

("Master plan" would mean the comprehensive, long-range master plan developed by the Michigan Travel Commission and the Travel Bureau under Section 2c of the Michigan Tourism Policy Act. Section 2c requires the Travel Bureau and Michigan Travel Commission to develop a comprehensive master plan that identifies tourism development and management goals, and programs to be implemented over a period of at least two, but not more than five, years.)

Annual Marketing Plan & Meeting

The bills would require the board of directors of a bureau (or, under Senate Bill 705, a regional

marketing organization) at regular intervals, but at least twice annually, to convene a formal meeting at which the board would have to review its current annual marketing plan and its proposed annual marketing plan for the next one-year period. Once a year at these formal meetings, the board would have to review and approve or reject the proposed annual marketing plan. Subject to the requirements described below, an approved marketing plan would have to be instituted by the bureau or the regional marketing organization. A rejected marketing plan could not be instituted by the bureau or regional marketing organization.

("Bureau" generally means a nonprofit corporation incorporated under the laws of the State existing solely to promote convention business and tourism within the State or a portion of the State. Under the Acts that Senate Bills 703, 704, and 706 would amend, a bureau must meet other conditions pertaining to membership or composition of board of directors. Under the Regional Tourism Marketing Act, "regional marketing organization" means a nonprofit corporation that promotes tourism within a region of the State. The term includes only an organization that has been operating for 10 or more years and that operates in a region composed of 15 counties.)

Coordination of Master Plan & Annual Marketing Plan

The vice-president of the Travel Bureau and the president or chief administrative officer of the bureau or regional marketing organization would have to meet periodically, but not less than once each year, to discuss the master plan and the approved annual marketing plan. The bureau or regional marketing organization and the Travel Bureau would have to coordinate their marketing program activities and annual marketing plan activities with the master plan with a goal of maximizing the impact of tourism and convention business on the State economy.

The director would have to disapprove of the bureau's or regional marketing organization's annual marketing plan within 30 days of the meeting described above upon finding that it was detrimental to the master plan or the Travel Bureau's promotional programs. The bureau or organization could not implement an annual marketing plan that was disapproved by the Travel Bureau. If the director did not disapprove of an annual marketing plan within the 30-day period, the plan would be considered approved and could be implemented by the bureau.

As used in the Acts that Senate Bills 703 and 704 would amend, "director" refers to the chief executive officer (CEO) of the Michigan Economic Development Corporation. In the Acts that Senate Bill 705, 706, and 707 would amend, "director" refers the president of the Michigan Strategic Fund.

Legislative Findings & Construction

The bills state, "The legislature finds all of the following:

- (A) Tourism is a major source of employment, income, and tax revenues in this state, and the expansion of the tourism industry is vital to the growth of this state's economy.
- (B) The tourism industry is important to this state, not only because of the number of people it serves and the vast human, financial, and physical resources it employs, but because of the benefits tourism and related activities confer on individuals and society as a whole.
- (C) State oversight and resources are needed to implement a coordinated and effective marketing program consistent with the master plan developed by this state to promote travel to, and within, this state under the Michigan Tourism Policy Act,...and to optimize the considerable investment of time, energy, capital, and resources being made by the tourism industry.

- (D) This state can best undertake effective tourism marketing through the coordinated efforts of existing state government agencies in tourism promotion and private convention and tourism promotional bureaus who are better able than state agencies to market and promote their unique assessment districts, which will maximize the economic and employment benefits of the tourism industry to this state and its citizens.
- (E) The coordinated efforts within this act to market and promote tourism represent a broader regulator scheme that does not impinge on an individual's First Amendment rights."

Each bill also states that nothing in the Acts could be construed to do one or more of the following:

- Restrain an owner or participant from communicating its own message or marketing plan.
- Require any owner or participant to adopt any actual or symbolic speech.
- Endorse or finance any political speech or ideological view.

MCL 141.1322 et al. (S.B. 703)
141.1432 et al. (S.B. 704)
141.892 et al. (S.B. 705)
141.882 et al. S.B. 706)
141.872 et al. (S.B. 707)

BACKGROUND

Overview of the Acts

The Convention and Tourism Promotion Act, Regional Convention and Tourism Promotion Act, Regional Tourism Marketing Act, Convention and Tourism Marketing Act, and Community Convention or Tourism Marketing Act generally permit a bureau or a regional marketing organization that wishes to create a tourism marketing program to file a marketing program notice with either the CEO of the Michigan Economic Development Corporation (MEDC) or the president of the Michigan Strategic Fund (MSF), as applicable. A bureau or regional marketing organization, through the marketing program, may levy an assessment based on a percentage of the room charges charged by a transient facility within the assessment district. If the marketing program is approved, each owner of a transient facility in the assessment district must pay the assessment. The terms "assessment district" and "transient facility" are defined in each Act.

Money generated from the assessment is not considered State funds, and may be used only for expenses properly incurred by the bureau or regional marketing organization, such as advertising, marketing, and promotional programs to encourage tourism; acquisition of personal property; hiring and payment of personnel employed by the bureau or regional marketing organization; and tourism research programs.

Convention and Tourism Promotion Act

Under the Convention and Tourism Promotion Act, a bureau with its principal place of business in an assessment district may impose an assessment not to exceed 2.0% of a transient facility's room charges in the applicable payment period if either of the following conditions is met: a) the assessment district includes a municipality having a population of more than 570,000 and less than 775,000; or b) the assessment district includes a municipality in which a marketing assessment under the Community Convention or Tourism Promotion Act is levied. "Assessment district" means a municipality or a combination of municipalities as described in a marketing program.

For the Act's purposes, "transient facility" means a building that contains 35 or more rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, whether or not membership is required for the use of the rooms. A transient facility does not include a hospital or nursing home.

Regional Convention and Tourism Promotion Act

The Regional Convention and Tourism Promotion Act allows a bureau that has its principal place of business in an assessment district to file a marketing program notice with the CEO of the MEDC. The notice must describe the marketing plan to be implemented, specify the amount of the proposed assessment to be levied (which may not exceed 5.0% of a transient facility's room charges in the applicable payment period), and must specify the municipality or municipalities composing the assessment district. "Assessment district" means a combination of two or more adjoining municipalities as described in a marketing program. ("Municipality" means a county that has a population of more than 80,000 and less than 115,000 and that contains a city with a population of more than 35,000 and less than 45,000, at the time the marketing notice is filed with the director, and that shares a border with a county that levies a tax on accommodations under the accommodations tax Act.)

Under the Regional Convention and Tourism Promotion Act, "transient facility" means a building that contains two or more rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, whether or not membership is required for the use of the rooms. The term does not include a hospital or nursing home.

Regional Tourism Marketing Act

To establish a tourism marketing program within a regional assessment district, a regional marketing organization must file a tourism marketing program notice with the president of the MSF. The notice must include, among other things, a statement specifying the amount of the assessment to be levied, which may not exceed 1.0% of a transient facility's room charges in the applicable payment period. "Regional assessment district" means a region of the State composed of a number of counties in which a regional marketing organization operates. The term does not include a portion of the region that is a special charter, fourth class city.

"Transient facility" means a building or combination of buildings under common ownership, operation, or management that contains 10 or more rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, whether or not membership is required for the use of the rooms. The term includes a building or combination of buildings whose owner has elected to come under the provisions of the Act. The term does not include a college or school dormitory, hospital, nursing home, or hospice; a building or combination of buildings that is otherwise a transient facility, but that is located within one mile of a ski lift; or a facility owned and operated by an organization that qualifies for an exemption from Federal taxation under Section 501(c) of the Internal Revenue Code.

Convention and Tourism Marketing Act

The Act allows a bureau that has its principal place of business in a county with a population of more than 1.5 million to file a marketing program notice with the president of the MSF. The notice must describe the marketing plan to be implemented, specify the amount of the proposed assessment to be levied (which may not exceed 2.0% of a transient facility's room charges in the applicable payment period), and specify the county or counties composing the assessment district. A county may not be included in the notice and assessment district if the county collects a tax under the accommodations tax Act. "Assessment district" means a

county having a population of more than 1.5 million, and, if so designated by the bureau in a marketing program notice, any county or counties contiguous with it.

"Transient facility" means a building that contains 35 or more rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, whether or not membership is required for the use of the rooms. A transient facility does not include a hospital or nursing home.

Community Convention or Tourism Marketing Act

Under the Act, a bureau that intends to establish a marketing program and assessment district must file a marketing program notice with president of the MSF. The notice must describe the marketing plan to be implemented, specify the amount of the proposed assessment to be levied (which may not exceed 5.0% of a transient facility's room charges in the applicable payment period), and specify the municipalities composing the assessment district. If a part of a municipality is subject to an assessment under the Convention and Tourism Marketing Act, that part of the municipality is not subject to the assessment proposed under the Community Convention or Tourism Marketing Act. "Assessment district" means a municipality or combination of municipalities as described in a marketing program. A combination of municipalities is not required to be contiguous. ("Municipality" means a county with a population of less than 650,000 or a city, village, or township within a county with a population of less than 650,000.)

"Transient facility" means a building or combination of buildings under common ownership, operation, or management that contains 10 or more rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, whether or not membership is required for the use of the rooms. The term does not include a college or school dormitory, a hospital, a nursing home, or a facility owned and operated by an organization qualified for an exemption from Federal taxation under Section 501(c) of the Internal Revenue Code.

Legislative Analyst: Jeff Mann

FISCAL IMPACT

The bills would have a minimal or no fiscal impact on the Pure Michigan program within the Department of Talent and Economic Development and would have no fiscal impact on local units of government. If the bills clarified First Amendment rights protections, the Travel Bureau could avoid possible First Amendment lawsuits filed against the Bureau in the future. In that event, the Pure Michigan program would experience fewer legal expenses. The Travel Bureau is funded with 21st Century Jobs Trust Fund dollars in the Pure Michigan program. Any savings as a result of fewer legal expenses would be beneficial to the Travel Bureau and Pure Michigan program.

Fiscal Analyst: Cory Savino

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.