Legislative Analysis

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CONVENTION & TOURISM PROMOTION

Senate Bill 1419 (Substitute S-1)
Sponsor: Sen. Tony Stamas
Senate Committee: Commerce and Tourism
House Committee: New Economy and Quality of Life

Complete to 11-19-10

A SUMMARY OF SENATE BILL 1419 AS PASSED BY THE SENATE

The bill would create a new Regional Convention and Tourism Promotion Act, under which an existing nonprofit convention and tourism bureau that met certain criteria could levy an assessment of <u>up to five percent</u> on hotel and motel rooms to support marketing and promotion programs. Assessment revenues would not be state funds.

[Senate Bill 1419 contains the same provisions as House Bill 6206 (H-2), which was reported by the House Committee on Tourism and passed by the House.]

The bill would apply to an assessment district that was a combination of two or more adjoining municipalities. The term "municipality" is defined to mean a county with a population of more than 80,000 and less than 115,000 that contains a city with a population of more than 35,000 and less than 45,000 and that shares a border with a county that levies an accommodation tax under Public Act 263 of 1974, the Accommodations Tax Act. This definition appears to apply to Bay and Midland counties. Those counties share a border with Saginaw County, and reportedly the three counties together have formed the "Great Lakes Bay Regional Alliance."

<u>Assessment</u>. Under the new act, an assessment could not exceed five percent of "room charges." That term would apply to the charge imposed for the use and occupancy of a room, excluding charges for food, beverages, state use tax, telephone service or like services, and reimbursement of the assessment (i.e., adding the assessment to customers' bills). It would apply to "transient facilities," defined as a building of two or more rooms used in the business of providing dwelling, lodging, or sleeping to transient guests, whether or not membership was required for use of the room. It would not apply to hospitals or nursing homes. It would apply to guests occupying a room for less than 30 consecutive days regardless of who pays the room charge for the room. Owners of transient facilities could reimburse themselves by adding the assessment on top of room charges, but would have to notify customers that it was doing so. Assessments would be due within 30 days after the end of each calendar month and interest of 1.5 percent per month would be due on late payments.

<u>MEDC Notification & Approval</u>. A convention and tourism bureau wishing to operate under the new act would have to file a marketing program notice with the director of the Michigan Economic Development Corporation (MEDC) describing the structure, history,

membership, and activities of the bureau in sufficient detail to allow the MEDC to determine whether the bureau meets the act's eligibility requirements. The notice would also have to describe the marketing program to be implemented and specify the amount of the assessment fee.

Bureau Eligibility. Under the bill, to be eligible, a bureau would need (1) to have been actively engaged in promoting convention business and tourism for at least five years; (2) to have a board of directors elected by its members; (3) have a full-time chief executive officer and at least two full-time equivalent employees; (4) be a member of one or more nationally recognized associations of travel and convention bureaus.

Owner Notification & Initial Referendum. The bureau would also have to send the marketing program notice by registered or certified mail to each owner of a transient facility in the assessment district. Owners could force a referendum on the plan. A referendum would be held if the MEDC received written requests for a referendum within 40 days after mailing of the notice from owners representing at least 40 percent of the total number of owners or at least 40 percent of the total number of rooms. In a referendum, each owner would have one vote per room. A majority of votes actually cast would determine whether or not an assessment went into effect.

Subsequent Referendums. At any time three years or more after an assessment took effect, and upon the written request of owners as before, the bureau would have to conduct a referendum on whether the assessment should be discontinued. If a majority voted to discontinue the assessment, it would be discontinued on the first day of the month following 90 days after certification of the results. Passage of a resolution discontinuing an assessment would not prevent a bureau from proposing a new marketing program during or after the 90-day period. If the resolution to discontinue the assessment was not adopted, another referendum could not be held for two years.

Marketing Program. A marketing program could include all or any of the following: (1) advertising, marketing, and promotional programs to encourage regional convention business and tourism; (2) assisting transient facilities to promote business and tourism; (3) acquiring personal property; (4) hiring and paying personnel; (5) contracting with others to carry out program activities; and (6) undertaking research to encourage business and tourism.

Audits and Financial Statements

Financial statements of the bureau would have to be audited at least annually by a certified public accountant, and a copy of the audited statements would have to be mailed to each owner not more than 150 days after the close of the bureau's fiscal year. The financial statements would have to include a statement of all assessment revenues received during the fiscal year and be accompanied by a detailed report, certified by the chief operating officer of the bureau, describing marketing programs.

Copies of the audited financial statements and the certified report would have to be mailed simultaneously to the MEDC director, who would have to make it available to the public on the internet. If the bureau fails to submit copies of the financial statements and certified report to the director as required, the director would mail a demand letter to the bureau for the information, with a copy of the demand letter sent to the attorney general. If the information is not forthcoming within 90 days after the demand letter is sent, the bureau could not spend the portion of the assessment collected during the period of noncompliance. The attorney general could assist in enforcement. Further, if the audited financial statements and certified report are not made available within 90 days of the demand letter, the bureau would be responsible for a state civil infraction and could be ordered to pay up to $10,000. Also, the attorney general could bring action to dissolve the bureau.

FISCAL IMPACT:

Senate Bill 1419 would have no immediate fiscal impact on state and local government because the assessments authorized become the property of the private, non-profit corporation promoting convention and tourism business. Any long term fiscal impact due to an increase in marketing by the local convention and tourism bureaus would depend on the various components of the proposed marketing campaigns from the assessment of up to 5% of room charges from owners of transient facilities as well as the effectiveness of the marketing program on the local economy.

BACKGROUND INFORMATION:

There are already a number of statutes that allow for the imposition of room taxes. They include the following:

<u>Community Convention or Tourism Marketing Act</u>

- Counties with a population below 650,000, and cities, villages, and townships in those counties.
- Rate of up to 2 percent. (Rate of up to 4 percent in a township contiguous to county levying 5 percent under the Accommodations Tax Act.)
- Revenue to marketing programs on nonprofit tourism bureau.

<u>Accommodations Tax Act</u>

- Counties with a population below 600,000 if they have one city of 40,000 or more.
- Rate of up to 5 percent on rooms.
- Revenue for convention and entertainment facilities or the promotion of tourism and convention business.

<u>State Convention Facility Development Act</u>

- Counties with a population of 750,000 or more (with enactment of Public Act 609 of 2006).
- Rate of from 1.5 percent to 6 percent, based on number of rooms and location of facility.
- Revenue to Convention Facility Development Fund.

Regional Tourism Marketing Act

- A regional marketing association in a region composed of 15 counties (that had operated for 10 or more years).
- Rate of up to 1 percent.
- Revenue to regional marketing association for tourism programs.

Convention and Tourism Marketing Act

- A county with a population of 1.5 million or more, or a county or counties contiguous to that county.
- Up to two percent (on top of existing room taxes).
- Revenue to a convention and tourism marketing bureau.

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