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Senate Bill 1419 (as introduced 7-21-10)

Sponsor: Senator Tony Stamas Committee: Commerce and Tourism

Date Completed: 11-4-10

CONTENT

The bill would create the "Regional Convention and Tourism Promotion Act" to do all of the following:

- -- Authorize a convention and tourism bureau in an assessment district to file a marketing program notice with the Michigan Economic Development Corporation (MEDC).
- -- Require a notice to contain a proposed assessment of up to 5% of room charges to be collected from owners of transient facilities (such as hotels and motels) in the assessment district.
- -- Require notification of owners of transient facilities at the time the marketing program notice was filed.
- -- Provide for the collection of the assessment unless it were defeated by a referendum of owners.
- -- Require an owner to pay interest for assessments that were paid late, and a delinquency charge if they were paid more than 90 days late.
- -- Specify what could be included in a bureau's marketing program.
- -- Specify that assessment revenue would not be State funds, and could be used only for marketing program expenses.
- -- Allow transient facility owners in a district to request a referendum to discontinue an assessment at any time three years or more after it took effect.

Definitions

Under the proposed Act, "bureau" would mean a nonprofit corporation incorporated under Michigan law that exists solely to promote convention business and tourism within Michigan or a portion of the State, and that complies with all of the following:

- -- It has been actively engaged in promoting convention business and tourism for at least five years.
- -- It has aboard of directors elected by its members.
- -- It has a full-time chief executive officer and at least two full-time equivalent employees.
- -- It is a member of one or more nationally recognized associations of travel and convention bureaus.

"Assessment" would mean the amount levied against an owner of a transient facility within an assessment district computed by application of the applicable percentage against aggregate room charges with respect to that transient facility during the applicable assessment period. "Assessment district" would mean a combination of two or more adjoining municipalities as described in a marketing program.

Page 1 of 4 sb1419/0910

"Municipality" would 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, at the time the marketing notice was filed, and that shares a border with a county that levies a tax on accommodations under the accommodations tax Act. (Based on this definition, it appears that the Act would apply only to Bay and Midland Counties.)

"Marketing program" would mean a program established by a bureau to develop, encourage, solicit, and promote regional convention business and tourism within Michigan or a portion of the State within which the bureau operates. This would include any service, function, or activity, whether or not performed, sponsored, or advertised by a bureau, that intends to attract transient guests to the assessment district.

"Transient facility" would mean 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. A transient facility would not include a hospital or nursing home.

Marketing Program Notice

A bureau that had its principal place of business in an assessment district could file a marketing program notice with the "director" (the MEDC chief executive officer or his or her designee). The notice would have to state that the bureau proposed to create a marketing program and cause an assessment to be collected from owners of transient facilities within the district to pay the costs of the program.

Among other things, the marketing program notice would have to specify the amount of the assessment to be levied, which could not exceed 5% of the room charges in the applicable payment period, and the municipality or municipalities comprising the assessment district.

Simultaneously with the filing of the notice, the bureau would have to mail, by registered or certified mail, a copy of the notice to each owner of a transient facility located in the assessment district, in care of the respective transient facility.

Assessment

The assessment set forth in the notice would take effect on the first day of the month following the expiration of 40 days after the date the notice was mailed, unless the director received written requests for a referendum within that 40-day period from owners of transient facilities located within the district representing at least 40% of the total number of owners or at least 40% of the total number of rooms in all of the transient facilities.

If the director received sufficient referendum requests, he or she would have to cause a written referendum to be held by mail or in person, at the director's choosing, among all owners of transient facilities in the assessment district within 20 days after the end of the 40-day period. Each owner would have one vote for each room in each of the owner's transient facilities within the district.

The marketing program notice would be approved if a majority of votes actually cast at the referendum approved the assessment. The assessment would take effect on the first day of the month following the expiration of 30 days after the director certified the referendum's results. If a majority of votes actually cast opposed the assessment, it would not take effect.

If the assessment were defeated by the referendum, the bureau could file and serve a new notice of intention if at least 60 days had elapsed from the date the referendum's results

Page 2 of 4 sb1419/0910

were certified. Not more than two referenda or notices could be held or filed in any one calendar year.

Only one assessment under the Act could exist in an assessment district, or any part of an assessment district, at any one time. An assessment could not take effect before January 1, 2010.

Upon the effective date of an assessment, each owner of a transient facility in the assessment district would be liable for payment of the assessment. Assessments would have to be paid to the bureau within 30 days after the end of each calendar month. The Act would not prohibit a transient facility from adding the assessment to room charges, as long as the facility disclosed that it had done so on any bill presented to a quest.

Within 30 days after the close of each calendar quarter, each owner within an assessment district would have to forward copies of its use tax returns for the preceding quarter to the independent certified public accountants (CPAs) who audited the bureau's financial statements. The returns could be used solely by the CPAs to verify and audit the owner's payment of the assessments and could not be disclosed to the bureau except as necessary to enforce the Act.

An owner would have to pay interest, accruing at a rate of 1.5% per month, to the bureau on any assessment not paid within the time required. Owners delinquent in paying the assessments for more than 90 days also would have to pay a delinquency charge of 10% per month or fraction of a month on the delinquent amount and would have to pay the costs of reasonable attorney fees and court costs incurred in collecting delinquent assessments. The bureau could sue in its own name to collect the assessment, interest, and delinquency charges.

The owner of a transient facility would not be liable for payment of an assessment until a notice was mailed to the transient facility or the owner.

Marketing Program

A marketing program adopted under the proposed Act could provide for any or all of the following:

- -- Establishing and paying the costs of advertising, marketing, and promotional programs to encourage convention business and tourism in the assessment district.
- -- Assisting transient facilities within the assessment district in promoting regional convention business and tourism.
- -- Acquiring personal property considered appropriate by the bureau in furtherance of the purposes of the marketing program.
- -- Hiring and paying for personnel employed by the bureau to implement the marketing program.
- -- Contracting with organizations, agencies, or people for carrying out activities in furtherance of the purposes of the marketing program.
- -- Establishing and paying the costs of research designed to encourage convention business and tourism in the assessment district.

Use of Assessment Revenue

Assessment revenue collected under the proposed Act would not be State funds. The revenue would have to be deposited in a bank or other depository in Michigan, in the name of the bureau, and could be disbursed only for the expenses the bureau properly incurred with respect to its marketing programs.

Page 3 of 4 sb1419/0910

The bureau's financial statements would have to be audited at least annually by a CPA, and a copy of the audited financial statements would have to be mailed to each owner within 150 days after the close of the bureau's fiscal year. Copies of the audited financial statements, as well as the bureau's certified report, would have to be mailed to the director.

Referendum to Discontinue Assessment

At any time three years or more after the effective date of an assessment, and upon the written request of owners of transient facilities located within the assessment district representing at least 40% of the owners or at least 40% of the total number of rooms in all the transient facilities, the bureau would have to conduct a referendum on whether the assessment would be discontinued.

If a majority of votes cast supported discontinuing the assessment, it would have to be discontinued on the first day of the month following the expiration of 90 days after the bureau certified the referendum's results. Discontinuation of the assessment would not prevent a bureau from proposing a new marketing program.

If a resolution to discontinue an assessment were not adopted, a further referendum on discontinuation could not be held for at least two years.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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