

HOUSE BILL No. 4261

February 13, 2007, Introduced by Reps. Sak, Hildenbrand, Meadows, Rick Jones, Steil, Bauer, Huizenga, Pearce, Opsommer, Garfield, Horn and Byrum and referred to the Committee on Commerce.

A bill relating to the promotion of convention business and tourism in this state and certain metropolitan areas of this state; to provide for tourism and convention marketing and promotion programs in certain metropolitan areas; to provide for imposition and collection of assessments on the owners of transient facilities to support tourism and convention marketing and promotion programs; to provide for the disbursement of the assessments; to establish the functions and duties of certain state departments and employees; and to prescribe penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "convention and tourism promotion act".

3 Sec. 2. As used in this act:

4 (a) "Assessment" means the amount levied against an owner of a

1 transient facility within an assessment district computed by
2 application of the applicable percentage against aggregate room
3 charges with respect to that transient facility during the
4 applicable assessment period.

5 (b) "Assessment district" means a municipality or a
6 combination of municipalities as described in a marketing program.

7 (c) "Assessment revenues" means the money derived from the
8 assessment, including any interest and penalties on the assessment,
9 imposed by this act.

10 (d) "Board" means the board of directors of a bureau.

11 (e) "Bureau" means a nonprofit corporation incorporated under
12 the laws of this state existing solely to promote convention
13 business and tourism within this state or a portion of this state
14 and that complies with all of the following:

15 (i) Has not less than 200 dues-paying members, of which not
16 fewer than 25 are owners of transient facilities.

17 (ii) Has been actively engaged in promoting convention business
18 and tourism for not less than 10 years.

19 (iii) Has a board of directors elected by its members.

20 (iv) Has a full-time chief executive officer and not fewer than
21 10 full-time employees.

22 (v) Is a member of 1 or more nationally recognized
23 associations of travel and convention bureaus.

24 (f) "Director" means the chief executive officer of the
25 Michigan economic development corporation or his or her designee.

26 (g) "Marketing program" means a program established by a
27 bureau to develop, encourage, solicit, and promote convention

1 business and tourism within this state or a portion of this state
2 within which the bureau operates. The encouragement and promotion
3 of convention business and tourism shall include any service,
4 function, or activity, whether or not performed, sponsored, or
5 advertised by a bureau, that intends to attract transient guests to
6 the assessment district.

7 (h) "Marketing program notice" means the notice described in
8 section 3.

9 (i) "Municipality" means a city, county, village, or township.

10 (j) "Owner" means the owner of a transient facility located
11 within the assessment district or, if the transient facility is
12 operated or managed by a person other than the owner, then the
13 operator or manager of that transient facility.

14 (k) "Room" means a room or other space provided for sleeping,
15 including the furnishings and other accessories in the room.

16 (l) "Room charge" means the charge imposed for the use or
17 occupancy of a room, excluding charges for food, beverages, state
18 use tax, telephone service or like services paid in connection with
19 the charge, and reimbursement of the assessment imposed by this
20 act.

21 (m) "Transient facility" means a building that contains 35 or
22 more rooms used in the business of providing dwelling, lodging, or
23 sleeping to transient guests, whether or not membership is required
24 for the use of the rooms. A transient facility shall not include a
25 hospital or nursing home.

26 (n) "Transient guest" means a person who occupies a room in a
27 transient facility for less than 30 consecutive days.

1 (o) "Use tax" means the tax imposed under the use tax act,
2 1937 PA 94, MCL 205.91 to 205.111.

3 Sec. 3. (1) A bureau that has its principal place of business
4 in an assessment district may file a marketing program notice with
5 the director. The notice shall state that the bureau proposes to
6 create a marketing program under this act and cause an assessment
7 to be collected from owners of transient facilities within the
8 assessment district to pay the costs of the program.

9 (2) The marketing program notice shall describe the structure,
10 history, membership, and activities of the bureau in sufficient
11 detail to enable the director to determine whether the bureau
12 satisfies all of the requirements of section 2(e).

13 (3) The marketing program notice shall describe the marketing
14 program to be implemented by the bureau with the assessment
15 revenues and specify the amount of the assessment proposed to be
16 levied, which shall not exceed 2% of the room charges in the
17 applicable payment period, and the municipality or municipalities
18 composing the assessment district. In an assessment district
19 composed of more than 1 municipality, the assessment may be
20 different in each of the municipalities that compose the assessment
21 district.

22 (4) A bureau may impose an assessment not to exceed 2% of the
23 room charges in the applicable payment period if either of the
24 following conditions is met:

25 (a) The assessment district includes a municipality having a
26 population of more than 570,000 and less than 775,000.

27 (b) The assessment district includes a municipality within

1 which is levied a 4% marketing assessment under 1980 PA 395, MCL
2 141.871 to 141.880.

3 (5) Simultaneously with the filing of the marketing program
4 notice with the director, the bureau shall cause a copy of the
5 notice to be mailed by registered or certified mail to each owner
6 of a transient facility located in the assessment district
7 specified in the notice in care of the respective transient
8 facility. In assembling the list of owners to whom the notices
9 shall be mailed, the bureau shall use any data that are reasonably
10 available to the bureau.

11 (6) The form of the marketing program notice, in addition to
12 the information required by subsections (1), (2), and (3), shall
13 set forth the right of referendum prescribed in subsection (7).

14 (7) Except as otherwise provided in subsection (9), the
15 assessment set forth in the notice shall become effective on the
16 first day of the month following the expiration of 40 days after
17 the date the notice is mailed, unless the director, within the 40-
18 day period, receives written requests for a referendum by owners of
19 transient facilities located within the assessment district
20 representing not less than 40% of the total number of owners or not
21 less than 40% of the total number of rooms in all of the transient
22 facilities.

23 (8) If the director receives referendum requests in the time
24 and number set forth in subsection (7), the director shall cause a
25 written referendum to be held by mail or in person, as the director
26 chooses, among all owners of transient facilities in the assessment
27 district within 20 days after the expiration of the 40-day period.

1 For the purposes of the referendum, each owner of a transient
2 facility shall have 1 vote for each room in each of the owner's
3 transient facilities within the assessment district. If a majority
4 of votes actually cast at the referendum approve the assessment, as
5 proposed by the bureau in its marketing program notice, the
6 assessment shall become effective, except as otherwise provided in
7 subsection (9), as to all owners of transient facilities located in
8 the assessment district on the first day of the month following
9 expiration of 30 days after certification of the results of the
10 referendum by the director. If a majority of votes actually cast at
11 the referendum are opposed to the assessment, the assessment shall
12 not become effective. If the assessment is defeated by the
13 referendum, the bureau may file and serve a new notice of intention
14 if at least 60 days have elapsed from the date of certification of
15 the results of the earlier referendum. Not more than 2 referenda or
16 notices may be held pursuant to this subsection or filed pursuant
17 to this section in any 1 calendar year. Only 1 assessment under
18 this act may be in existence in an assessment district, or any part
19 of an assessment district, at any 1 time.

20 (9) The assessment described in this act shall not be
21 effective before January 1, 2007.

22 Sec. 4. A marketing program may include all or any of the
23 following:

24 (a) Provisions for establishing and paying the costs of
25 advertising, marketing, and promotional programs to encourage
26 convention business and tourism in the assessment district.

27 (b) Provisions for assisting transient facilities within the

1 assessment district in promoting convention business and tourism.

2 (c) Provisions for the acquisition of personal property
3 considered appropriate by the bureau in furtherance of the purposes
4 of the marketing program.

5 (d) Provisions for the hiring of and payment for personnel
6 employed by the bureau to implement the marketing program.

7 (e) Provisions for contracting with organizations, agencies,
8 or persons for carrying out activities in furtherance of the
9 purposes of the marketing program.

10 (f) Programs for establishing and paying the costs of research
11 designed to encourage convention business and tourism in the
12 assessment district.

13 Sec. 5. (1) Upon the effective date of an assessment, each
14 owner of a transient facility in the assessment district shall be
15 liable for payment of the assessment, computed using the percentage
16 set forth in the marketing program notice. The assessment shall be
17 paid by the owner of each such transient facility to the bureau
18 within 30 days after the end of each calendar month and shall be
19 accompanied by a statement of room charges imposed with respect to
20 the transient facility for that month. This act shall not prohibit
21 a transient facility from reimbursing itself by adding the
22 assessment imposed pursuant to this act to room charges payable by
23 transient guests, provided that the transient facility discloses
24 that it has done so on any bill presented to a transient guest.

25 (2) Within 30 days after the close of each calendar quarter,
26 each owner within an assessment district shall forward to the
27 independent certified public accountants who audit the financial

1 statements of the bureau copies of its use tax returns for the
2 preceding quarter. These copies of the use tax returns shall be
3 used solely by the certified public accountants to verify and audit
4 the owner's payment of the assessments and shall not be disclosed
5 to the bureau except as necessary to enforce this act.

6 (3) Interest shall be paid by an owner to the bureau on any
7 assessments not paid within the time called for under this act. The
8 interest shall accrue at the rate of 1.5% per month. Owners
9 delinquent for more than 90 days in paying assessments, in addition
10 to the 1.5% interest, shall pay a delinquency charge of 10% per
11 month or fraction of a month on the amount of the delinquent
12 assessments. The bureau may sue in its own name to collect the
13 assessments, interest, and delinquency charges.

14 (4) The owner of a transient facility shall not be liable for
15 payment of an assessment until a notice has been mailed to the
16 transient facility of the owner pursuant to section 3(5).

17 Sec. 6. (1) The assessment revenues collected pursuant to this
18 act shall not be state funds. The money shall be deposited in a
19 bank or other depository in this state, in the name of the bureau,
20 and disbursed only for the expenses properly incurred by the bureau
21 with respect to the marketing programs developed by the bureau
22 under this act.

23 (2) The financial statements of the bureau shall be audited at
24 least annually by a certified public accountant. A copy of the
25 audited financial statements shall be mailed to each owner not more
26 than 150 days after the close of the bureau's fiscal year. The
27 financial statements shall include a statement of all assessment

1 revenues received by the bureau during the fiscal year in question
2 and shall be accompanied by a detailed report, certified as correct
3 by the chief operating officer of the bureau, describing the
4 marketing programs implemented or, to the extent then known, to be
5 implemented by the bureau.

6 (3) Copies of the audited financial statements and the
7 certified report shall simultaneously be mailed to the director.

8 Sec. 7. (1) Upon the effective date of the establishment of an
9 assessment under this act, the bureau shall cause an advisory
10 committee to be elected consisting of representatives of the owners
11 of transient facilities located within the assessment district,
12 together with the director or the director's designated
13 representative.

14 (2) The advisory committee shall consist of not fewer than 5
15 or more than 9 persons, at least 1 of whom shall not be affiliated
16 with a bureau member. The advisory committee shall include at least
17 1 member who is affiliated with a transient facility of 120 rooms
18 or fewer. Procedures for the election and terms of the office of
19 the members of the advisory committee shall be established by the
20 bureau.

21 (3) The bureau at regular intervals, but not less than
22 quarterly, shall cause a formal meeting of the advisory committee
23 to be held at which the bureau shall present its current and
24 proposed marketing programs. At these formal meetings the advisory
25 committee shall review and either approve or reject any proposed
26 marketing programs. An approved marketing program shall be
27 instituted by the bureau. A rejected marketing program shall not be

1 instituted by the bureau.

2 (4) The advisory committee may make recommendations to the
3 bureau and the board from time to time with respect to current or
4 proposed marketing programs.

5 Sec. 8. (1) At any time 2 years or more after the effective
6 date of an assessment, and upon the written request of owners of
7 transient facilities located within the assessment district
8 representing not less than 40% of the total number of owners or not
9 less than 40% of the total number of rooms in all the transient
10 facilities, the bureau shall conduct a referendum on whether the
11 assessment shall be discontinued. The bureau shall cause a written
12 referendum to be held by mail or in person, as the bureau chooses,
13 among all owners of transient facilities in the assessment district
14 within 60 days of the receipt of the requests. For the purposes of
15 the referendum, each owner shall have 1 vote for each room in each
16 of the owner's transient facilities within the assessment district.
17 If a majority of the total votes eligible to be cast at the
18 referendum supports discontinuance of the assessment, the
19 assessment shall be discontinued on the first day of the month
20 following expiration of 90 days after the certification of the
21 results of the referendum by the bureau.

22 (2) Passage of a resolution discontinuing the assessment shall
23 not prevent a bureau from proposing a new marketing program notice
24 during or after the 90-day period, in which case the procedures set
25 forth in section 3 shall be followed.

26 (3) If a referendum is conducted under subsection (1) and if a
27 resolution to discontinue the assessment is not adopted, a further

1 referendum on the discontinuation of that assessment shall not be
2 held for a period of 2 years.