



Testimony of Linda Freybler  
CEO of the Calhoun County Visitors Bureau  
In Support of Senate Bill 611  
Wednesday, October 23, 2013

Senate Committee on Economic Development  
Michigan Senate

Good afternoon Chairman Kowall and members of the Committee. We appreciate very much your introduction of Senate bill No. 611, and the scheduling of it for Committee deliberation.

My name is Linda Freybler, CEO of the Calhoun County Visitors Bureau, and a member of the Executive Board of the Michigan Association of Convention and Visitor Bureaus. The MACVB is a statewide organization of 46 large and small convention and visitors bureaus whose mission is to serve and advocate for our members through education and communication, while representing their legislative interests.

Today, we are here to show our support for Senate Bill 611, a bill which would provide a local CVB with additional enforcement tools if they are forced to go to court to collect their local marketing assessments from delinquent lodging properties.

Authorized by the Community Convention or Tourism Marketing Act, Public Act 395 of 1980, your local CVB exists to promote convention business and tourism in certain counties and areas throughout Michigan. The CVB marketing programs are financed through a room assessment which is voluntarily established by the owners of the lodging facilities. It is legally and constitutionally not a tax, but rather a self-imposed assessment put in place by a vote of the owners of the lodging properties within a CVB district.

Because CVB assessments are not an actual tax levy, the normal enforcement tools available for the collection of delinquent taxes are not available to the local CVBs operating under Public Act 395 of 1980. In essence, local CVB's must

commence their own independent civil court action grounded in contract law to force a lodging facility to turn over the room assessments that are due from the lodging establishment, but not remitted to the CVB.

Engaging in this type of independent court action can be of considerable expense to the CVB. Knowing that after the CVB pays for attorney fees, court costs, and the time spent pursuing legal redress (meaning not much could be left over), a handful of lodging properties will try to take advantage of the situation and keep the funds for their own purposes.

Senate Bill 611 will allow the CVB to recover reasonable attorney fees and court costs incurred to collect delinquent assessments. Based on my experience, this could go a long way toward persuading delinquent facilities to remit assessments they have already collected - but kept for themselves - before the CVB commences a court action. Or, at least if the CVB is forced to follow through with court action, it will be made whole for its efforts to collect delinquent assessments – meaning the other lodging facilities in the CVB district will be able to have their assessments used for the original purpose (destination marketing), rather than attorney fees and court costs.

Senate Bill 611 is identical to the Substitute (S-2) version of last session's legislation that was favorably reported from Senate Committee, but unable to be taken up on the Senate floor before adjournment Sine Die. The language proposed by SB 611 was also used for regional CVB's in the legislation passed by the Legislature in 2010 (Public Act 254 of 2010).

In conclusion, it is MACVB's sincere hope that you will see why Senate Bill 611 makes sense, so that the dollars lodging properties collect on behalf of your local CVB are used for the purposes for which they are intended – local promotion of convention business and tourism for their area.

Once again, thank you for the opportunity to be here. If there are any questions, I would be happy to try to answer them at this time.



The Michigan Association of Convention and Visitor Bureaus (MACVB) supports Senate Bill No. 611, legislation to provide enforcement tools to a local CVB and make them whole if they are forced to go to court to collect their local marketing assessment for tourism promotion programs.

**Summary and Rational:**

- The "Community Convention or Tourism Marketing Act", PA395 of 1980, provides a means for local promotion of convention business and tourism in certain counties and areas throughout Michigan. It provides for tourism marketing programs through a non-profit Convention and Visitor Bureau (CVB). There are 62 CVBs throughout Michigan that utilize this enabling statute.

- The local CVB marketing and tourism promotion programs are financed through a room assessment, which is voluntarily established by the owners of the transient facilities in the CVB. It is legally and constitutionally not a tax, but a self-imposed assessment put in place by a vote of the owners of the transient facilities within the local assessment district.

- Because these CVB assessments are not an actual tax levy, the normal enforcement tools available for the collection of delinquent taxes is not available to the local CVB. In essence, the local CVB must commence their own independent civil court action grounded in contract law to force a wrong doing transient facility to turn over the room assessments. These are room assessments that have already been collected by the lodging establishment, but not remitted to the CVB.

- Engaging in this type of independent court action can be a considerable expense for the CVB. Knowing that after the CVB pays for attorney fees, court costs, and the time spent pursuing legal redress, not much could be left over. It is not uncommon for a wrong doing facility to try to take advantage of this financial impediment to enforcement.

- SB 611 will allow the CVB to recover attorney fees and court costs incurred in collecting the delinquent assessments. It is identical to the Substitute (S-2) version of last session's legislation that was favorably reported from Senate Committee, but unable to be taken up on the Senate floor before adjournment Sine Die.

- Based on experience from other venues, this legislation could go a long way in persuading delinquent facilities to remit the assessments they have already collected (but kept for themselves) before the CVB commences a court action. Or, at least if the CVB is forced to follow through with the court action, it will be made whole for its efforts to collect the delinquent assessments on behalf of the local tourism industry. Too often, attorney fees otherwise eat up such a large portion of the recovery received in court that little is left over to use for what was the real purpose of the assessment – to promote tourism businesses in the local CVB district.

The language proposed by SB 611 is identical to the language used for regional CVB's and passed by the Legislature in 2010 (Public Act 254 of 2010). It would allow a local CVB faced with the same collection problem to have the same collection tools as for the regional CVB in Public Act 254 of 2010.