

**SUBSTITUTE FOR
HOUSE BILL NO. 4261**

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:

1 (a) "Assessment" means the amount levied against an owner of a
2 transient facility within an assessment district computed by
3 application of the applicable percentage against aggregate room
4 charges with respect to that transient facility during the
5 applicable assessment period.

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

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

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

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

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

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

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

21 (iv) Has a full-time chief executive officer and not fewer than
22 14 full-time equivalent employees.

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

25 (vi) Regularly books conventions at the community's largest
26 convention center, which generate hotel room nights throughout the
27 surrounding area.

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

3 (g) "Marketing program" means a program established by a
4 bureau to develop, encourage, solicit, and promote convention
5 business and tourism within this state or a portion of this state
6 within which the bureau operates. The encouragement and promotion
7 of convention business and tourism shall include any service,
8 function, or activity, whether or not performed, sponsored, or
9 advertised by a bureau, that intends to attract transient guests to
10 the assessment district.

11 (h) "Marketing program notice" means the notice described in
12 section 3.

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

14 (j) "Owner" means the owner of a transient facility located
15 within the assessment district or, if the transient facility is
16 operated or managed by a person other than the owner, then the
17 operator or manager of that transient facility.

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

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

25 (m) "Transient facility" means a building that contains 35 or
26 more rooms used in the business of providing dwelling, lodging, or
27 sleeping to transient guests, whether or not membership is required

1 for the use of the rooms. A transient facility shall not include a
2 hospital or nursing home.

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

5 (o) "Use tax" means the tax imposed under the use tax act,
6 1937 PA 94, MCL 205.91 to 205.111.

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

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

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

26 (4) A bureau may impose an assessment not to exceed 2% of the
27 room charges in the applicable payment period if either of the

1 following conditions is met:

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

4 (b) The assessment district includes a municipality within
5 which is levied a 4% marketing assessment under 1980 PA 395, MCL
6 141.871 to 141.880.

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

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

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

27 (8) If the director receives referendum requests in the time

1 and number set forth in subsection (7), the director shall cause a
2 written referendum to be held by mail or in person, as the director
3 chooses, among all owners of transient facilities in the assessment
4 district within 20 days after the expiration of the 40-day period.
5 For the purposes of the referendum, each owner of a transient
6 facility shall have 1 vote for each room in each of the owner's
7 transient facilities within the assessment district. If a majority
8 of votes actually cast at the referendum approve the assessment, as
9 proposed by the bureau in its marketing program notice, the
10 assessment shall become effective, except as otherwise provided in
11 subsection (9), as to all owners of transient facilities located in
12 the assessment district on the first day of the month following
13 expiration of 30 days after certification of the results of the
14 referendum by the director. If a majority of votes actually cast at
15 the referendum are opposed to the assessment, the assessment shall
16 not become effective. If the assessment is defeated by the
17 referendum, the bureau may file and serve a new notice of intention
18 if at least 60 days have elapsed from the date of certification of
19 the results of the earlier referendum. Not more than 2 referenda or
20 notices may be held pursuant to this subsection or filed pursuant
21 to this section in any 1 calendar year. Only 1 assessment under
22 this act may be in existence in an assessment district, or any part
23 of an assessment district, at any 1 time.

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

26 Sec. 4. A marketing program may include all or any of the
27 following:

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

4 (b) Provisions for assisting transient facilities within the
5 assessment district in promoting convention business and tourism.

6 (c) Provisions for the acquisition of personal property
7 considered appropriate by the bureau in furtherance of the purposes
8 of the marketing program.

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

11 (e) Provisions for contracting with organizations, agencies,
12 or persons for carrying out activities in furtherance of the
13 purposes of the marketing program.

14 (f) Programs for establishing and paying the costs of research
15 designed to encourage convention business and tourism in the
16 assessment district.

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

1 that it has done so on any bill presented to a transient guest.

2 (2) Within 30 days after the close of each calendar quarter,
3 each owner within an assessment district shall forward to the
4 independent certified public accountants who audit the financial
5 statements of the bureau copies of its use tax returns for the
6 preceding quarter. These copies of the use tax returns shall be
7 used solely by the certified public accountants to verify and audit
8 the owner's payment of the assessments and shall not be disclosed
9 to the bureau except as necessary to enforce this act.

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

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

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

27 (2) The financial statements of the bureau shall be audited at

1 least annually by a certified public accountant. A copy of the
2 audited financial statements shall be mailed to each owner not more
3 than 150 days after the close of the bureau's fiscal year. The
4 financial statements shall include a statement of all assessment
5 revenues received by the bureau during the fiscal year in question
6 and shall be accompanied by a detailed report, certified as correct
7 by the chief operating officer of the bureau, describing the
8 marketing programs implemented or, to the extent then known, to be
9 implemented by the bureau.

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

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

18 (2) The advisory committee shall consist of not fewer than 5
19 or more than 9 persons, at least 1 of whom shall not be affiliated
20 with a bureau member. The advisory committee shall include at least
21 1 member who is affiliated with a transient facility of 120 rooms
22 or fewer. Procedures for the election and terms of the office of
23 the members of the advisory committee shall be established by the
24 bureau.

25 (3) The bureau at regular intervals, but not less than
26 quarterly, shall cause a formal meeting of the advisory committee
27 to be held at which the bureau shall present its current and

1 proposed marketing programs. At these formal meetings the advisory
2 committee shall review and either approve or reject any proposed
3 marketing programs. An approved marketing program shall be
4 instituted by the bureau. A rejected marketing program shall not be
5 instituted by the bureau.

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

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

26 (2) Passage of a resolution discontinuing the assessment shall
27 not prevent a bureau from proposing a new marketing program notice

1 during or after the 90-day period, in which case the procedures set
2 forth in section 3 shall be followed.

3 (3) If a referendum is conducted under subsection (1) and if a
4 resolution to discontinue the assessment is not adopted, a further
5 referendum on the discontinuation of that assessment shall not be
6 held for a period of 2 years.