

REGIONAL CONVENTION AND TOURISM BUREAUS

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bills 703 through 707 as reported from House committee

Sponsor: Sen. Wayne Schmidt

House Committee: Tourism and Outdoor Recreation

Senate Committee: Commerce

Complete to 11-30-18

(Enacted as Public Acts 464, 465, 466, 625, and 626 of 2018)

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

The bills would amend five different acts, each of which currently allows an assessment to be levied on hotel or motel room charges to fund the tourism promotion efforts of a local or regional tourism bureau or marketing organization (often called a convention and visitor bureau, or CVB). The bills would amend each act to require the regular review of local/regional tourism marketing plans and the coordination of local/regional plans with the state master plan. The bills also contain legislative findings asserting the importance of the tourism industry to Michigan and the need for state oversight and resources to implement a coordinated and effective tourism marketing program.

The bills would amend the following acts:

- **Senate Bill 703**: [The Convention and Tourism Promotion Act](#) (Public Act 25 of 2007; MCL 141.1321 to 141.1328), which allows an assessment of up to 2% on rooms in facilities with 35 or more guest rooms in the greater Grand Rapids area or the greater Lansing area.
- **Senate Bill 704**: [The Regional Convention and Tourism Promotion Act](#) (Public Act 254 of 2010; MCL 141.1431 to 141.1437), which allows an assessment of up to 5% on rooms in facilities with two or more guest rooms in Bay or Midland County.
- **Senate Bill 705**: [The Regional Tourism Marketing Act](#) (Public Act 244 of 1989; MCL 141.891 to 141.900), which allows an assessment of up to 1% on rooms in facilities with 10 or more guest rooms in the Upper Peninsula.
- **Senate Bill 706**: [The Convention and Tourism Marketing Act](#) (Public Act 383 of 1980; MCL 141.881 to 141.889), which allows an assessment of up to 2% on rooms in facilities with 35 or more guest rooms in the metro Detroit area—that is, in Wayne County or a county contiguous to Wayne County.
- **Senate Bill 707**: [The Community Convention or Tourism Marketing Act](#) (Public Act 395 of 1980; MCL 141.871 to 141.880), which allows an assessment of up to 5% on rooms in facilities with 10 or more guest rooms. The assessment can be levied in counties with a population below 650,000 or in cities, villages, or townships within such a county, except for some areas subject to an assessment under another act. (Wayne, Oakland, and Macomb are the only Michigan counties with a population greater than 650,000.)

Broadly speaking, each act allows a nonprofit tourism bureau or marketing organization to initiate an assessment district by filing notice of a proposed marketing program with the state for approval and also sending notice to each owner of a *transient facility* (generally, a hotel or motel meeting the applicable size threshold) in the proposed district. A referendum of facility owners (one vote per room) is held on the question of whether to establish the assessment district and implement the assessment. The assessment revenue collected under each act is not state money, but belongs to the tourism bureau or marketing organization, to be used to implement the marketing program.

[Note: The assessments described above are not necessarily mutually exclusive—the 1% allowed under the Regional Tourism Marketing Act, for example, may be levied in addition to a local assessment under the Community Convention or Tourism Marketing Act.]

Senate Bills 703 through 707 would amend the acts described above to do all of the following in each act:

- Require the board of the applicable tourism bureau or marketing organization to meet at least twice a year to review its current annual marketing plan and its proposed plan for the following year. At one of these meetings, the board would have to approve or reject its proposed annual marketing plan. A plan rejected by a board could not be implemented by the bureau.
- Require the president or chief administrative officer of the tourism bureau or marketing organization to meet at least annually with the vice president of Travel Michigan to discuss the annual marketing plan approved by the board and the *master plan*. The tourism bureau and Travel Michigan would have to coordinate their marketing plan and marketing program activities with the *master plan*, so as to maximize Michigan's tourism and convention business.

The *master plan* is a comprehensive, long-range plan developed by the Michigan Travel Commission and Travel Michigan under the [Michigan Tourism Policy Act](#). The plan covers a period of at least two years, and up to five years, and identifies tourism development and management goals for the state and the programs proposed to be implemented during the term of the plan.

- Require Travel Michigan¹ to disapprove the bureau's annual marketing plan upon finding that it is detrimental to the *master plan* or Travel Michigan's promotional programs. The disapproval would have to be made within 30 days after the meeting between representatives of Travel Michigan and the bureau. The bureau could not implement a disapproved plan. A plan not disapproved within the 30-day period would be considered approved.

¹ The bills all refer to disapproval by Travel Michigan. Technically, though, the definitions in the underlying statutes could make disapproval the responsibility of any other designee of the chief executive officer of the Michigan Economic Development Corporation.

The bills would also add to each act a statement of legislative findings to the effect that tourism is a valuable human activity, economically and otherwise, that promoting it effectively in Michigan requires state planning, resources, and oversight, as well as coordination between state government agencies and private tourism bureaus, and that those promotional efforts constitute a broader regulatory scheme that does not impinge on an individual's First Amendment rights.

Lastly, the bills would add to each act a stipulation that nothing in the act should be construed to do any of the following:

- Restrain a facility owner or program participant from communicating its own message or marketing plan.
- Require an owner or participant to adopt any actual or symbolic speech.
- Endorse or finance any political speech or ideological view.

BRIEF DISCUSSION:

At least two lawsuits have been filed in recent years challenging, on First Amendment grounds, the constitutionality of the assessments made under these acts. The plaintiffs have argued that the assessment amounts to a tax levied by a private entity in order to subsidize its tourism-related marketing efforts—so that facility owners who must pay the assessment are being compelled to pay for commercial speech they may not agree with or want. The bills, by requiring more government involvement in, and coordination with, bureaus' marketing plans, and through the inclusion of the legislative findings, would appear to be addressing issues raised by these cases.²

FISCAL IMPACT:

The bills would impose negligible, if any, administrative costs on Travel Michigan by requiring additional administrative coordination with local and regional tourism and convention bureaus. Any costs would be absorbed under current appropriation levels. To the extent that the legislative findings reduce legal costs for related First Amendment lawsuits for Travel Michigan, there would be savings to the state. The magnitude of the savings cannot be determined and would be directly related to future legal costs avoided.

POSITIONS:

The following entities indicated support for the bills (11-28-18):

- Michigan Economic Development Corporation
- Travel Michigan
- Michigan Association of Convention and Visitor Bureaus
- Michigan Restaurant and Lodging Association
- Tourism Industry Coalition of Michigan
- Detroit Metro Convention and Visitors Bureau
- Mackinac Island Convention and Visitors Bureau
- Experience Grand Rapids

² See <https://www.mackinac.org/state-forces-hotels-and-inns-to-fund-private-marketing-bureaus>

- Greater Lansing Convention and Visitors Bureau
- Sault Convention and Visitors Bureau
- Check-In Michigan

The following entities indicated opposition to the bills:

- Mackinac Center for Public Policy (9-5-18)
- Mackinaw Mill Creek Camping (11-26-18)

Legislative Analyst: Rick Yuille
Fiscal Analyst: Ben Gielczyk

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.