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**SUBSTITUTE SENATE BILL 5251**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senate Agriculture, Water, Trade & Economic Development (originally sponsored by Senators Takko, Warnick, Rolfes, McCoy, Zeiger, and Chase)

AN ACT Relating to tourism marketing; reenacting and amending RCW 43.79A.040; adding a new section to chapter 82.08 RCW; adding a new chapter to Title 43 RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  FINDINGS AND PURPOSE. (1) The legislature finds that the tourism industry is the fourth largest economic sector in the state of Washington and provides general economic benefit to the state. Since 2011 there have been no general funds committed to statewide tourism marketing and Washington is the only state without a state-funded tourism office. Before 2011, the amount of funds appropriated to statewide tourism marketing were not significant and, in fact, Washington ranked forty-eighth in state tourism funding. Washington has significant attractions and activities for tourists, including many natural outdoor assets that draw visitors to mountains, waterways, parks, and open spaces. There should be a program to publicize these assets and activities to potential out-of-state visitors that is implemented in an expeditious manner by tourism professionals in the private sector.

(2) The purpose of this act is to establish the framework and funding for a statewide tourism marketing program. The program needs to have a structure that includes significant, stable, long-term funding, and it should be implemented and managed by the tourism industry. The source of funds should be from major sectors of the tourism industry with government assistance in collecting these funds and providing accountability for their expenditure. The dedicated sales tax authorized for contributions made in this chapter will bring direct benefits to those making contributions by bringing more tourists into the state who will patronize the participating businesses and create economic benefit for the state.

NEW SECTION. **Sec.**  DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Authority" means the Washington tourism marketing authority created in section 3 of this act.

(2) "Board" means the Washington tourism marketing authority board of directors.

(3) "Department" means the department of commerce.

(4) "Director" means the director of the department of commerce.

(5) "Statewide tourism marketing account" means the account created pursuant to section 5 of this act in the custody of the state treasurer. This account must be the depository for contributions collected pursuant to section 9 of this act and any legislative appropriation, except as otherwise provided in section 6 of this act.

NEW SECTION. **Sec.**  WASHINGTON TOURISM MARKETING AUTHORITY—ESTABLISHED. (1) The Washington tourism marketing authority is established as a public body comprised of both private industry and public members, constituting an instrumentality of the state of Washington.

(2) The authority is responsible for acting as a business management organization on behalf of the citizens of the state to manage financial resources and contract for statewide tourism marketing services.

 (3) The department must provide administrative assistance to the authority.

NEW SECTION. **Sec.**  BOARD OF DIRECTORS AND ADVISORY COMMITTEE. (1) The authority must be governed by a board of directors. The board of directors must consist of:

(a) One member from each of the two major caucuses of the house of representatives and one alternate for each member selected to be appointed by the speaker of the house of representatives and one member from each of the two major caucuses of the senate and one alternate for each member to be appointed by the president of the senate;

(b) Nine representatives from the tourism industry and related businesses including, but not limited to, hotel, restaurant, outdoor recreation, attractions, retail, and rental car businesses appointed by the director. The director must take into consideration contributions of the particular industry or business represented to tourism activities and marketing experience of the representative when making board appointments. The director must accept and consider board membership nominations from the tourism industry and related businesses.

(2) There must be a nonvoting advisory committee to the board. The advisory committee must consist of:

(a) One ex officio member from the department, department of revenue, state parks and recreation commission, and department of transportation; and

(b) One member from a federally recognized Indian tribe appointed by the director of the department.

(3) Appointments by the director of the department must reflect diversity in geography, size of businesses, gender, and ethnicity.

(4) The initial appointments under subsection (1)(a) and (b) of this section must be appointed to terms as follows: Four members for two-year terms, four members for three-year terms, and five members for four-year terms, which must include the chair. After the initial appointments, all appointments must be for four years.

(5) The board must select from its membership the chair of the board and such other officers as it deems appropriate. The chair of the board must be a member from the tourism industry or related businesses.

(6) A majority of the board constitutes a quorum.

(7) The board must create its own bylaws in accordance with the laws of the state of Washington.

(8) Any member of the board may be removed for misfeasance, malfeasance, or willful neglect of duty after notice and a public hearing, unless the notice and hearing are expressly waived in writing by the affected member.

(9) If a vacancy occurs on the board, a replacement must be appointed for the unexpired term.

(10) The members of the board serve without compensation but are entitled to reimbursement, solely from the funds of the authority, for expenses incurred in the discharge of their duties.

(11) The board must meet at least quarterly.

(12) No board member of the authority may serve on the board of an organization that could be considered for the contract authorized by RCW 43.79A.040.

NEW SECTION. **Sec.**  STATEWIDE TOURISM MARKETING ACCOUNT. (1) The statewide tourism marketing account is created in the custody of the state treasurer. All receipts from contributions under section 7 of this act and legislative appropriations must be deposited into the account.

(2) Expenditures from the account may be used only for expenses related to implementation of a statewide tourism marketing program. Expenditures from the account may only be made when a two to one nonstate to state match is provided. State dollars must be matched with nonstate cash contributions, the value of an advertising equivalency contribution, or through an in-kind contribution. The board must determine criteria for what qualifies as an in-kind contribution. The chair of the authority or the chair's designee may authorize expenditures from the account.

(3) In the event of a dispute concerning expenditure authorization, a majority of the board may authorize expenditures for the account.

(4) The account is subject to the allotment procedures under chapter 43.88 RCW.

(5) State and nonstate funds must be accounted for separately.

(6) At the end of the 2017-2019 biennium, all revenues collected pursuant to section 9 of this act that remain in the statewide tourism marketing account and are not matched by nonstate funds must revert to the general fund.

NEW SECTION. **Sec.**  USE OF FUNDS. (1) The authority must use any funds legally available to it for any purpose specifically authorized by this chapter including:

(a) Entering into a contract for a multiple-year statewide tourism marketing plan with a statewide nonprofit organization existing on the effective date of this section whose sole purpose is marketing Washington to tourists. The marketing plan must include, but is not limited to, focuses on rural tourism-dependent counties, natural wonders and outdoor recreation opportunities of the state, attraction of international tourists, identification of local offerings for tourists, and assistance for tourism areas adversely impacted by natural disasters. In the event that no such organization exists on the effective date of this section or the initial contractor ceases to exist, the authority may determine criteria for a contractor to carry out a statewide marketing program;

(b) Contracting for the evaluation of the impact of the statewide tourism marketing program; and

(c) Paying for administrative expenses of the authority, which may not exceed two percent of the state portion of funds collected in any fiscal year.

(2) All funds collected by the authority under this chapter, including interest, dividends, and other profits, are and must remain under the complete control of the authority and its board of directors, be fully available to achieve the intent of this chapter, and be used for the sole purpose of achieving the intent of this chapter.

NEW SECTION. **Sec.**  GIFTS OR GRANTS TO THE WASHINGTON TOURISM MARKETING AUTHORITY. The board may receive gifts, grants, or endowments from public or private sources that are made from time to time, in trust or otherwise, for the use and benefit of the purposes of the authority and spend gift, grants, or endowments or income from public or private sources according to their terms, unless the receipt of gifts, grants, or endowments violates RCW 42.17A.560.

NEW SECTION. **Sec.**  SHORT TITLE. This chapter may be known and cited as the statewide tourism marketing act.

NEW SECTION. **Sec.**  A new section is added to chapter 82.08 RCW to read as follows:

Beginning July 1, 2017, 0.1 percent of taxes collected pursuant to RCW 82.08.020(1) on retail sales of lodging, car rentals, and restaurants must be deposited into the statewide tourism marketing account created in section 5 of this act, up to five million dollars per biennium. The revenues collected under this section and deposited into the statewide tourism marketing account are subject to nonstate matching funds prior to expenditure as provided in section 5 of this act.

**Sec.**  RCW 43.79A.040 and 2016 c 203 s 2, 2016 c 173 s 10, 2016 c 69 s 21, and 2016 c 39 s 7 are each reenacted and amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The 24/7 sobriety account, the Washington promise scholarship account, the Washington advanced college tuition payment program account, the Washington college savings program account, the accessible communities account, the Washington achieving a better life experience program account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the multiagency permitting team account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the statewide tourism marketing account, the Washington sexual assault kit account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, and the radiation perpetual maintenance fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec.**  The joint legislative audit and review committee must conduct an evaluation of the performance of the authority created in chapter 43.--- RCW (the new chapter created in section 12 of this act) and report its findings and recommendations to the governor and the economic development committees of the senate and house of representatives by December 1, 2020. The purpose of the evaluation is to determine the extent to which the authority has contributed to the growth of the tourism industry and economic development of the state. An interim report by the authority is due to the governor and economic development committees of the house of representatives and senate by December 1, 2018. The report must provide an update on the authority's progress in implementing a statewide tourism marketing program.

NEW SECTION. **Sec.**  Sections 1 through 8 of this act constitute a new chapter in Title 43 RCW.

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