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**SECOND SUBSTITUTE SENATE BILL 5251**

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

**By** Senate Ways & Means (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 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.

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

(2) The authority is responsible for contracting for statewide tourism marketing services that promote tourism on behalf of the citizens of the state, and for managing the authority's financial resources.

(3) The department provides administrative assistance to the authority and serves as the fiscal agent of the authority for moneys appropriated for purposes of the authority.

(4) The authority must create a private local account to receive nonstate funds contributed to the authority for purposes of this chapter.

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) Two members and two alternates from the house of representatives, with one member and one alternate appointed from each of the two major caucuses of the house of representatives by the speaker of the house of representatives and the minority leader of the house of representatives;

(b) Two members and two alternates from the senate, with one member and one alternate appointed from each of the two major caucuses of the senate by the majority leader and minority leader of the senate; and

(c) Nine representatives with expertise in the tourism industry and related businesses including, but not limited to, hotel, restaurant, outdoor recreation, attractions, retail, and rental car businesses appointed by the governor.

(2) The initial membership of the authority must be appointed as follows:

(a) By August 1, 2017, each of the two largest caucuses in both the house of representatives and the senate must submit to the governor a list of five nominees who are not legislators or employees of the state or its political subdivisions, with no caucus submitting the same nominee;

(b) The nominations from the largest caucus in the house of representatives must include at least one representative from the restaurant industry and one representative from the rental car industry;

(c) The nominations from the second largest caucus in the house of representatives must include at least one representative from the retail industry;

(d) The nominations from the largest caucus in the senate must include at least one representative from the hotel industry and one representative from the attractions industry;

(e) The nominations from the second largest caucus in the senate must include at least one representative from the outdoor recreation industry; and

(f) The remaining member appointed by the governor must have a demonstrated expertise in the tourism industry.

(3) By September 1, 2017, the governor must appoint two members from each list submitted by the caucuses under subsection (2)(a) through (e) of this section and one member under subsection (2)(f) of this section. The appointments made under subsection (2)(a) through (e) of this section must include at least one representative from each of the following industries: Hotel, restaurant, outdoor recreation, attractions, retail, and rental car businesses. Appointments by the governor must reflect diversity in geography, size of business, gender, and ethnicity. No county may have more than two appointments and no city may have more than one appointment.

(4) 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.

(5) The initial appointments under subsections (1) and (2) of this section must be appointed by the governor 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.

(6) 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.

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

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

(9) 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.

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

(11) 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.

(12) The board must meet at least quarterly.

(13) 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 state treasury. Expenditures from the account may be made only after appropriation.

(2) Appropriations from the account may be made only to the department only for expenditures related to implementation of a statewide tourism marketing program and operation of the authority. Expenditures from the account may only be made when a two-to-one nonstate to state match is provided. A nonstate match may consist of nonstate cash contributions deposited in the private local account created under section 3(4) of this act, the value of an advertising equivalency contribution, or an in-kind contribution. The board must determine criteria for what qualifies as an in-kind contribution.

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

NEW SECTION. **Sec.**  USE OF FUNDS. (1) From amounts appropriated to the department for the authority and from other moneys available to it, the authority may incur expenditures 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 nonstate moneys received by the authority under section 7 of this act or otherwise provided to the authority for purposes of nonstate matching funding are held in trust for uses authorized solely by 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.

**Sec.**  RCW 43.79A.040 and 2017 c 322 s 5, 2017 c 285 s 5, and 2017 c 257 s 5 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 Gina Grant Bull memorial legislative page 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 low-income home rehabilitation revolving loan program account, the multiagency permitting team account, the northeast Washington wolf-livestock management 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 11 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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