LEGISLATIVE GENERAL COUNSEL
₵ Approved for Filing: J.L. Wilson ₵
₵ 01-15-07 11:13 AM ₵

S.B. 127

TOURISM MARKETING PERFORMANCE RESTRICTED SPECIAL REVENUE FUND

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott K. Jenkins

House Sponsor: David Clark

LONG TITLE

General Description:

This bill modifies provisions of the Governor's Office of Economic Development by replacing the Tourism Marketing Performance Account with a restricted special revenue fund known as the Tourism Marketing Performance Fund as the funding source for the state's advertising, marketing, and branding campaign and for promotion of the state as conducted by the office.

Highlighted Provisions:

This bill:

- creates a restricted special revenue fund to replace the Tourism Marketing Performance Account as the state's funding source for the statewide advertising, marketing, and branding campaign for promotion of the state by the Governor's Office of Economic Development; and
- makes certain technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

Ŝ→ [~~None~~] <u>This bill provides an immediate effective date.</u> ←Ŝ

Utah Code Sections Affected:

AMENDS:

S.B. 127

63-38f-1408, as last amended by Chapter 12, Laws of Utah 2005, First Special Session

63-38f-1411, as last amended by Chapter 46, Laws of Utah 2006

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **63-38f-1408** is amended to read:

63-38f-1408. Board duties.

(1) The board shall:

(a) have authority to approve a tourism program of out-of-state advertising, marketing, and branding, taking into account the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis, as a condition of the distribution of funds to the office from the Tourism Marketing Performance [~~Account~~] Fund under Section 63-38f-1411;

(b) review the office programs for coordination and integration of advertising and branding themes to be used whenever possible in all office programs, including recreational, scenic, historic, and tourist attractions of the state at large;

(c) encourage and assist in coordination of the activities of persons, firms, associations, corporations, civic groups, and governmental agencies engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages of the state; and

(d) (i) advise the office in establishing a Cooperative Program from the monies in the Tourism Marketing Performance [~~Account~~] Fund under Section 63-38f-1411 for use by cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of supplementing monies committed by these entities for advertising and promotion to and for out-of-state residents to attract them to visit sites advertised by and attend events sponsored by these entities;

(ii) the Cooperative Program shall be allocated 20% of the revenues [~~appropriated to the office from~~] in the Tourism Marketing Performance [~~Account~~] Fund;

(iii) the office, with approval from the board, shall establish eligibility, advertising, and timing requirements and criteria and provide for an approval process for applications;

(iv) an application from an eligible applicant to receive monies from the Cooperative Program must be submitted on or before the appropriate date established by the office; and

(v) Cooperative Program monies not used in each fiscal year shall be returned to the

Tourism Marketing Performance [~~Account~~] Fund.

(2) The board may:

(a) solicit and accept contributions of moneys, services, and facilities from any other sources, public or private and shall use these funds for promoting the general interest of the state in tourism; and

(b) establish subcommittees for the purpose of assisting the board in an advisory role only.

(3) The board may not, except as otherwise provided in Subsection (1)(a), make policy related to the management or operation of the office.

Section 2. Section **63-38f-1411** is amended to read:

63-38f-1411. Tourism Marketing Performance Fund.

(1) There is created [~~within the General Fund~~] a restricted [~~account~~] special revenue fund known as the Tourism Marketing Performance [~~Account~~] Fund.

[~~(2) The account shall be administered by the office for the purposes listed in Subsection (5).~~]

[~~(3) (a) The account shall earn interest.~~]

[~~(b) All interest earned on account monies shall be deposited into the account.~~]

[~~(c) Monies in the account are nonlapsing.~~]

[~~(4) The account shall be funded by appropriations made to the account by the Legislature in accordance with this section.~~]

[~~(5) The director may use account monies appropriated to the office to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by the office.~~]

(2) The Tourism Marketing Performance Fund shall consist of:

(a) increases in state sales and use tax revenues as detailed in Subsection (7);

(b) any monies appropriated by the Legislature pursuant to this section; and

(c) interest earned on fund monies.

(3) The office shall authorize the expenditure of fund monies to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by the office under this Part 14.

(4) Monies in the fund are nonlapsing.

[~~(6)~~] (5) (a) For the fiscal year beginning July 1, 2005, the director of the office shall allocate 7.5% of the [~~account~~] fund monies [~~appropriated to the office~~] Ŝ→ **[~~, but not to exceed $750,000,~~]** ←Ŝ to be distributed to a sports organization for advertising, marketing, branding, and promoting Utah in attracting sporting events into the state as determined by the office.

(b) For a fiscal year beginning on or after July 1, 2006, the amount distributed under Subsection [~~(6)~~] (5)(a) shall be indexed from the July 1, 2005 fiscal year to reflect a percent increase or decrease of monies [~~set aside into the account~~] in the fund as compared to the previous fiscal year.

(c) The monies distributed under Subsections [~~(6)~~] (5)(a) and (b) are nonlapsing.

(d) The office shall provide for an annual accounting to the director and the board by a sports organization of the use of monies it receives under Subsection [~~(6)~~] (5)(a) or (b).

(e) For purposes of this Subsection [~~(6)~~] (5), "sports organization" means an organization that is:

(i) exempt from federal income taxation in accordance with Section 501(c)(3), Internal Revenue Code; and

(ii) created to foster national and international amateur sports competitions to be held in the state and sports tourism throughout the state, to include advertising, marketing, branding, and promoting Utah for the purpose of attracting sporting events into the state.

[~~(7) (a)~~] (6) Monies [~~set aside into the account~~] shall be directed into the fund as follows:

[~~(i) for the fiscal year beginning July 1, 2005 only, an amount appropriated in Section 7 of this bill;~~]

[~~(ii)~~] (a) for the fiscal year beginning July 1, 2006:

[~~(A)~~] (i) the beginning nonlapsing [~~appropriation~~] balances, if any, in the Tourism Marketing Performance [~~Account~~] Fund;

[~~(B)~~] (ii) [~~any legislative appropriation from~~] the sales and use tax revenue increases identified in Subsection [~~(8)~~] (7); and

[~~(C)~~] (iii) any appropriation made by the Legislature [~~from the General Fund~~] to the [~~account~~] fund in an appropriations bill; and

[~~(iii)~~] (b) for the fiscal year beginning July 1, 2007, and for each fiscal year thereafter, a $1,000,000 reduction in the prior year's appropriation sources other than the sales and use tax

revenue increases identified in Subsection [~~(8)~~] (7), [~~plus a legislative appropriation from~~] interest on fund monies, and the cumulative sales and use tax revenue increases identified in Subsection [~~(8)~~] (7).

[~~(b) Monies in the account are nonlapsing.~~]

[~~(8)~~] (7) (a) In fiscal years 2006 through 2015, a portion of the state sales and use tax revenues determined under this Subsection [~~(8)~~] (7) shall be certified as a set-aside for the [~~account~~] fund by the State Tax Commission and reported to the Office of Legislative Fiscal Analyst.

(b) The State Tax Commission shall determine the set-aside under this Subsection [~~(8)~~] (7) in each fiscal year by applying the following formula: if the increase in the state sales and use tax revenues derived from the retail sales of tourist-oriented goods and services in the fiscal year two years prior to the fiscal year in which the set-aside is to be made for the [~~account~~] fund is at least 3% over the state sales and use tax revenues derived from the retail sales of tourist-oriented goods and services generated in the fiscal year three years prior to the fiscal year in which the set-aside is to be made, an amount equal to 1/2 of the state sales and use tax revenues generated above the 3% increase shall be calculated by the commission and [~~set aside~~] deposited by the state treasurer [~~for appropriation to the account~~] into the fund.

(c) Total monies to be [~~appropriated to the account~~] deposited in the fund in any fiscal year under Subsections [~~(8)~~] (7)(a) and (b) may not exceed the amount in the [~~account~~] fund under this section in the fiscal year immediately preceding the current fiscal year by more than $3,000,000.

(d) As used in this Subsection [~~(8)~~] (7), "sales of tourism-oriented goods and services" are those sales by businesses registered with the State Tax Commission under the following codes of the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget:

(i) NAICS Code 453 Miscellaneous Store Retailers;

(ii) NAICS Code 481 Passenger Air Transportation;

(iii) NAICS Code 487 Scenic and Sightseeing Transportation;

(iv) NAICS Code 711 Performing Arts, Spectator Sports and Related Industries;

(v) NAICS Code 712 Museums, Historical Sites and Similar Institutions;

(vi) NAICS Code 713 Amusement, Gambling and Recreation Industries;

(vii) NAICS Code 721 Accommodations;

(viii) NAICS Code 722 Food Services and Drinking Places;

(ix) NAICS Code 4483 Jewelry, Luggage, and Leather Goods Stores;

(x) NAICS Code 4853 Taxi and Limousine Service;

(xi) NAICS Code 4855 Charter Bus;

(xii) NAICS Code 5615 Travel Arrangement and Reservation Services;

(xiii) NAICS Code 44611 Pharmacies and Drug Stores;

(xiv) NAICS Code 45111 Sporting Goods Stores;

(xv) NAICS Code 45112 Hobby Toy and Game Stores;

(xvi) NAICS Code 45121 Book Stores and News Dealers;

(xvii) NAICS Code 445120 Convenience Stores without Gas Pumps;

(xviii) NAICS Code 447110 Gasoline Stations with Convenience Stores;

(xix) NAICS Code 447190 Other Gasoline Stations;

(xx) NAICS Code 532111 Passenger Car Rental; and

(xxi) NAICS Code 532292 Recreational Goods Rental.

Ŝ→ Section 2. Effective date.

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override. ←Ŝ

Legislative Review Note
as of 1-2-07 9:09 AM

Office of Legislative Research and General Counsel

S.B. 127 - Tourism Marketing Performance Restricted Special Revenue Fund

Revised Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations. However, approximately $3,000,000 of sales tax revenue currently earmarked and set aside for the Tourism Marketing Performance Account will be transferred to the new Tourism Marketing Performance Fund. This transfer does not affect FY 2007 or FY 2008 revenues, but will reduce the FY 2007 and FY 2008 spending caps by the amount of the transfer. Future growth in the fund, beyond this transfer, will not be subject to the spending caps.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

1/30/2007, 1:14:01 PM, Lead Analyst: Wilko, A.

Office of the Legislative Fiscal Analyst