

SENATE BILL 458

C8

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By: **Senators Astle, Forehand, Jacobs, and Middleton**

Introduced and read first time: January 31, 2008

Assigned to: Finance and Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 23, 2008

CHAPTER _____

1 AN ACT concerning

2 **Tourism Promotion Act of 2008**

3 FOR the purpose of requiring the Maryland Tourism Development Board to provide
4 certain grants to the destination marketing organizations and certain financial
5 assistance to the Office of Tourism Development; ~~for a certain fiscal year,~~
6 ~~requiring the Governor to include in the annual budget bill a certain proposed~~
7 ~~General Fund appropriation to the Maryland Tourism Development Board~~
8 ~~Fund; beginning in a certain fiscal year, requiring the Governor to include in~~
9 ~~the annual budget bill a certain proposed General Fund appropriation based on~~
10 ~~certain prior fiscal year appropriations; beginning in a certain fiscal year,~~
11 ~~requiring the Treasurer to deposit annually into the Fund a certain additional~~
12 ~~amount derived from sales tax revenues collected on certain retail sale of~~
13 ~~tourist-oriented goods and services; specifying the calculation for the additional~~
14 ~~amount to be deposited into the Fund; limiting the total annual funding that~~
15 ~~may be deposited into the Fund from certain sources; providing that any~~
16 ~~amount that may not be deposited into the Fund due to the limitation shall be~~
17 ~~deposited into the General Fund; requiring the Comptroller, on or before a~~
18 certain date each year, to make a certain calculation regarding certain annual
19 sales and use tax revenues collected on the retail sale of tourist-oriented goods
20 and services under certain codes after consultation with the Department of
21 Business and Economic Development; requiring the Comptroller to report by a
22 certain time on a certain calculation to the Governor, certain agencies, and the
23 General Assembly; requiring the Governor to consider whether to include a
24 certain appropriation to the Maryland Tourism Development Board Fund in the
25 proposed State budget under certain circumstances; providing that certain
26 funding is not required to be included in the State budget; stating the intent of

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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1 the General Assembly; encouraging certain local government to reevaluate
 2 certain policies governing the means by which revenues derived from local hotel
 3 and motel taxes are shared between local governments and the destination
 4 marketing organizations; ~~requiring that the annual operating budget of the~~
 5 ~~Office shall continue to be financed from the General Fund with additional~~
 6 ~~support consistent with this Act;~~ requiring that on or before a certain date each
 7 year, the Department of ~~Business and Economic Development~~ shall report to
 8 certain persons on a certain analysis of the effectiveness of this Act and ~~provide~~
 9 ~~a certain recommendation;~~ providing for the effective date of certain provisions
 10 of this Act; and generally relating to promoting tourism in Maryland.

11 ~~BY repealing and reenacting, without amendments,~~
 12 ~~Article 83A – Department of Business and Economic Development~~
 13 ~~Section 4–206~~
 14 ~~Annotated Code of Maryland~~
 15 ~~(2003 Replacement Volume and 2007 Supplement)~~

16 ~~BY repealing and reenacting, with amendments,~~
 17 ~~Article 83A – Department of Business and Economic Development~~
 18 ~~Section 4–207 and 4–208~~
 19 ~~Annotated Code of Maryland~~
 20 ~~(2003 Replacement Volume and 2007 Supplement)~~

21 BY repealing and reenacting, with amendments,
 22 Article – Economic Development
 23 Section 4–214 and 4–216
 24 Annotated Code of Maryland
 25 (As enacted by Ch. ____ (H.B. 1050) of the Acts of the General Assembly of 2008)

26 Preamble

27 WHEREAS, Maryland is known as “America in Miniature” with unsurpassed
 28 natural, cultural, and historical amenities waiting to be discovered; and

29 WHEREAS, Maryland’s \$11 billion travel and tourism industry represents the
 30 State’s fourth largest industry which recent reports show employs over 100,000 people
 31 and generates an estimated \$3 billion in salaries and wages and \$895 million in State
 32 tax revenues on an annual basis; and

33 WHEREAS, Studies indicate that every dollar spent marketing the State of
 34 Maryland converts into a \$28.24 return on investment to Maryland’s economy; and

35 WHEREAS, Neighboring states realize the economic value of self-promotion
 36 and are outspending Maryland in a concerted effort to capture a regional market share
 37 of visitor spending, especially by baby boomers with their disposable income who are
 38 moving into the 45 to 54 age group; and

1 WHEREAS, State funding for travel and tourism development and promotion in
 2 Maryland has fluctuated over the years largely because of shifting priorities,
 3 depressed revenue attainment, and less than a full understanding of the dollar
 4 potential associated with a well-financed, clearly understood marketing strategy; and

5 WHEREAS, Prevailing economic conditions, coupled with competition from
 6 neighboring states and the predictability of a measurable return on investment, call
 7 for a bold, innovative, and well-funded plan to strengthen Maryland’s standing as a
 8 premiere destination for travelers; and

9 WHEREAS, The General Assembly envisions the Tourism Promotion Act of
 10 2008 as a timely investment in Maryland’s future that will generate much-needed
 11 revenues for State and local governments through the promotion of a State whose
 12 credit as “America in Miniature” is well-deserved; now, therefore,

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 14 MARYLAND, That the Laws of Maryland read as follows:

15 ~~Article 83A—Department of Business and Economic Development~~

16 ~~4-206.~~

17 ~~Subject to the approval of the Secretary, the Board has the following powers and~~
 18 ~~duties:~~

19 (1) ~~To adopt reasonable regulations to effectuate the provisions of this~~
 20 ~~subtitle;~~

21 (2) ~~To enter into contracts and agreements;~~

22 (3) ~~To engage services;~~

23 (4) ~~To request and obtain from any department, division, board,~~
 24 ~~bureau, commission or other agency or unit of the State, assistance and data to enable~~
 25 ~~it to carry out its powers and duties under this subtitle;~~

26 (5) ~~To accept any federal funds granted by an act of Congress or by~~
 27 ~~executive order for any of the purposes of this subtitle;~~

28 (6) ~~To accept any gifts, donations, or bequests for any of the purposes~~
 29 ~~of this subtitle; and~~

30 (7) ~~Subject to the provisions of § 4-208 of this subtitle, to generate~~
 31 ~~revenue through sales of goods and services relating to tourism.~~

32 ~~4-207.~~

33 ~~Subject to the approval of the Secretary, the Board shall:~~

- 1 ~~(1) Draft and implement:~~
- 2 ~~(i) A 5-year strategic plan for the promotion and development~~
3 ~~of tourism in Maryland; and~~
- 4 ~~(ii) An annual marketing plan consistent with the strategic~~
5 ~~plan;~~
- 6 ~~(2) Submit to the Maryland Economic Development Commission for its~~
7 ~~review the 5-year strategic plan and annual marketing plan;~~
- 8 ~~(3) Establish an annual operating budget consistent with the~~
9 ~~marketing plan;~~
- 10 ~~(4) Protect, preserve, promote, and restore the natural, historical,~~
11 ~~scenic, and cultural resources in the State;~~
- 12 ~~(5) Encourage the development of new tourism resources, products,~~
13 ~~businesses, and attractions in the State;~~
- 14 ~~(6) Facilitate the movement and activities of tourists to, from, and~~
15 ~~within the State through signs, information aids, and other services;~~
- 16 ~~(7) Improve the safety and security of tourists in the State;~~
- 17 ~~(8) Encourage and facilitate training and education of individuals for~~
18 ~~jobs in the tourism industry, and provide a healthy environment for the development~~
19 ~~of human resources in tourism businesses;~~
- 20 ~~(9) Encourage residents to pursue careers in the tourism industry;~~
- 21 ~~(10) Produce a climate conducive to small tourism business growth and~~
22 ~~viability;~~
- 23 ~~(11) Review existing and proposed taxes, fees, licenses, regulations, and~~
24 ~~regulatory procedures affecting tourism and tourism businesses in the State and~~
25 ~~evaluate their impact on the ability of the tourism industry to create employment and~~
26 ~~generate income;~~
- 27 ~~(12) Support the conducting of research necessary to evaluate, plan,~~
28 ~~and execute effective tourism programs;~~
- 29 ~~(13) Cooperate with other public and private agencies and~~
30 ~~organizations in the development and promotion of the State's tourism and travel~~
31 ~~industries;~~

1 ~~(14) Encourage, assist, and coordinate the tourism activities of local~~
2 ~~and regional promotional organizations;~~

3 ~~(15) Publish and submit to the Commission and the Secretary an~~
4 ~~annual report and other material that the Board considers appropriate;~~

5 ~~(16) Set policies regarding the expenditures of appropriated and other~~
6 ~~funds for tourism advertising, written and graphic materials, cooperative and~~
7 ~~matching promotional programs, and other tourism and travel developmental and~~
8 ~~promotional activities for the State; [and]~~

9 ~~(17) Spend funds of the Maryland Tourism Development Board Fund~~
10 ~~for the planning, advertising, promotion, assistance, and development of tourism and~~
11 ~~travel industries in this State;~~

12 ~~(18) BEGINNING IN FISCAL YEAR 2011 AND EACH FISCAL YEAR~~
13 ~~THEREAFTER, ANNUALLY PROVIDE GRANTS TO THE DESTINATION MARKETING~~
14 ~~ORGANIZATIONS, OF NOT LESS THAN \$2.5 MILLION IN TOTAL, FOR THE PURPOSE~~
15 ~~OF ATTRACTING VISITORS TO THE STATE; AND~~

16 ~~(19) BEGINNING IN FISCAL YEAR 2011 AND EACH FISCAL YEAR~~
17 ~~THEREAFTER, PROVIDE FINANCIAL ASSISTANCE TO THE OFFICE OF TOURISM~~
18 ~~DEVELOPMENT FOR PURPOSES CONSISTENT WITH THE INTENT OF THIS TITLE.~~

19 ~~4-208.~~

20 ~~(a) There is a Maryland Tourism Development Board Fund.~~

21 ~~(b) The Fund is established to provide a continuing fund for the Board to~~
22 ~~fund programs relating to the planning, advertising, promotion, assistance, and~~
23 ~~development of the tourism industry in the State.~~

24 ~~(c) The Fund is a special, continuous, nonlapsing fund that is not subject to §~~
25 ~~7-302 of the State Finance and Procurement Article.~~

26 ~~(d) The Treasurer shall invest and reinvest the Fund in the same manner as~~
27 ~~other State funds and credit any investment earnings to the General Fund.~~

28 ~~(e) The Fund consists of:~~

29 ~~(1) Moneys appropriated in the State budget to the Fund; and~~

30 ~~(2) All funds accepted by the Board in accordance with § 4-206 of this~~
31 ~~subtitle.~~

32 ~~(f) Expenditures from the Fund may be made only by the Board in~~
33 ~~accordance with an appropriation.~~

1 ~~(g) (1) In this subsection, "Governor's proposed General Fund~~
2 ~~appropriation" means the General Fund appropriation included by the Governor in the~~
3 ~~annual budget bill as submitted to the General Assembly, including any proposed~~
4 ~~supplemental budget, before any amendment by the General Assembly.~~

5 ~~(2) The Governor shall include in the annual budget bill a proposed~~
6 ~~General Fund appropriation to the Fund in an amount not less than \$6,000,000 for~~
7 ~~fiscal year 2006 [and each fiscal year thereafter] THROUGH FISCAL YEAR 2009.~~

8 ~~(3) THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET~~
9 ~~BILL A PROPOSED GENERAL FUND APPROPRIATION TO THE FUND IN AN~~
10 ~~AMOUNT NOT LESS THAN \$10,000,000 FOR FISCAL YEAR 2010.~~

11 ~~(4) BEGINNING IN FISCAL YEAR 2011 AND EACH FISCAL YEAR~~
12 ~~THEREAFTER, THE GOVERNOR SHALL INCLUDE IN THE ANNUAL BUDGET BILL A~~
13 ~~PROPOSED GENERAL FUND APPROPRIATION TO THE FUND IN AN AMOUNT NOT~~
14 ~~LESS THAN THE PRIOR FISCAL YEAR'S GENERAL FUND APPROPRIATION MINUS~~
15 ~~5%.~~

16 ~~(H) (1) IN ADDITION TO THE PROPOSED GENERAL FUND~~
17 ~~APPROPRIATION TO THE FUND BEGINNING IN FISCAL YEAR 2011 AND EACH~~
18 ~~FISCAL YEAR THEREAFTER, THE TREASURER SHALL DEPOSIT INTO THE FUND~~
19 ~~AN AMOUNT, AS CALCULATED IN ACCORDANCE WITH PARAGRAPH (2) OF THIS~~
20 ~~SUBSECTION, THAT HAS BEEN DERIVED FROM SALES TAX REVENUES~~
21 ~~COLLECTED ON THE RETAIL SALE OF TOURIST-ORIENTED GOODS AND SERVICES~~
22 ~~UNDER THE CLASSIFICATION CODES THE COMPTROLLER DEEMS APPLICABLE~~
23 ~~AFTER CONSULTATION WITH THE DEPARTMENT OF BUDGET AND~~
24 ~~MANAGEMENT.~~

25 ~~(2) IF THE INCREASE IN THE AMOUNT OF SALES TAX REVENUES~~
26 ~~COLLECTED ON THE RETAIL SALE OF TOURIST-ORIENTED GOODS AND SERVICES~~
27 ~~IN THE FISCAL YEAR 2 YEARS PRIOR TO THE FISCAL YEAR IN WHICH EACH~~
28 ~~DEPOSIT SHALL BE MADE INTO THE FUND UNDER PARAGRAPH (1) OF THIS~~
29 ~~SUBSECTION IS AT LEAST 3% OVER THE AMOUNT OF SALES TAX REVENUES~~
30 ~~COLLECTED ON THE RETAIL SALE OF TOURIST-ORIENTED GOODS AND SERVICES~~
31 ~~IN THE FISCAL YEAR 3 YEARS PRIOR TO THE FISCAL YEAR IN WHICH EACH~~
32 ~~DEPOSIT SHALL BE MADE INTO THE FUND, THE COMPTROLLER SHALL~~
33 ~~CALCULATE THE AMOUNT THAT THE TREASURER IS TO DEPOSIT INTO THE~~
34 ~~FUND TO BE AN AMOUNT EQUAL TO ONE HALF OF THE AMOUNT OF THE SALES~~
35 ~~TAX REVENUES COLLECTED ABOVE A 3% INCREASE.~~

36 ~~(I) (1) THE TOTAL ANNUAL FUNDING DEPOSITED INTO THE FUND~~
37 ~~UNDER SUBSECTIONS (G) AND (H) OF THIS SECTION IN ANY FISCAL YEAR MAY~~
38 ~~NOT EXCEED THE AMOUNT DEPOSITED INTO THE FUND UNDER SECTIONS (G)~~

1 ~~AND (H) OF THIS SECTION IN THE FISCAL YEAR IMMEDIATELY PRECEDING THE~~
2 ~~CURRENT FISCAL YEAR BY MORE THAN \$5,000,000.~~

3 ~~(2) BASED ON THE LIMITATION OF THE AMOUNT THAT MAY BE~~
4 ~~DEPOSITED INTO THE FUND UNDER PARAGRAPH (1) OF THIS SUBSECTION, ANY~~
5 ~~AMOUNT OF SALES TAX REVENUES COLLECTED ON THE RETAIL SALE OF~~
6 ~~TOURIST-ORIENTED GOODS AND SERVICES THAT MAY NOT BE DEPOSITED INTO~~
7 ~~THE FUND SHALL BE CREDITED TO THE GENERAL FUND.~~

8 Article - Economic Development

9 4-214.

10 The Board shall:

11 (1) set policies for spending money on tourism advertising, written and
12 graphic materials, cooperative and matching promotional programs, and other tourism
13 and travel developmental and promotional activities for the State; [and]

14 (2) spend money of the Fund to plan, advertise, promote, assist, and
15 develop the tourism and travel industries in the State; AND

16 (3) BEGINNING IN FISCAL YEAR 2011, PROVIDE GRANTS OF NOT
17 LESS THAN \$2,500,000 IN TOTAL EACH FISCAL YEAR TO DESTINATION
18 MARKETING ORGANIZATIONS FOR THE PURPOSE OF ATTRACTING VISITORS TO
19 THE STATE.

20 4-216.

21 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
22 MEANINGS INDICATED.

23 (2) "TOURISM TAX INCREMENT" MEANS THE AMOUNT, IF ANY, BY
24 WHICH THE TOURISM TAX REVENUES COLLECTED IN THE FISCAL YEAR 2 YEARS
25 BEFORE A PARTICULAR FISCAL YEAR EXCEEDS THE TOURISM TAX REVENUES
26 COLLECTED IN THE FISCAL YEAR 3 YEARS BEFORE THE PARTICULAR FISCAL
27 YEAR.

28 (3) "TOURISM TAX REVENUES" MEANS SALES AND USE TAX
29 REVENUES COLLECTED ON THE RETAIL SALE OF TOURIST-ORIENTED GOODS
30 AND SERVICES, AS DETERMINED BY THE COMPTROLLER UNDER SUBSECTION
31 (C)(3) OF THIS SECTION.

1 **(B) The Governor shall include in the annual budget bill a proposed General**
2 **Fund appropriation to the Fund in an amount not less than \$6,000,000 for each fiscal**
3 **year.**

4 **(C) (1) ON OR BEFORE AUGUST 1 OF EACH YEAR, THE**
5 **COMPTROLLER SHALL CALCULATE THE AMOUNT OF THE QUALIFYING TOURISM**
6 **TAX INCREMENT FOR THE CURRENT FISCAL YEAR IN ACCORDANCE WITH**
7 **PARAGRAPH (2) OF THIS SUBSECTION.**

8 **(2) THE QUALIFYING TOURISM TAX INCREMENT IS:**

9 **(I) IF THE TOURISM TAX INCREMENT EXCEEDS 3% OF THE**
10 **TOURISM TAX REVENUES COLLECTED IN THE FISCAL YEAR 3 YEARS BEFORE**
11 **THE CURRENT FISCAL YEAR, ONE-HALF OF THE AMOUNT OF THE TOURISM TAX**
12 **INCREMENT ABOVE THE 3% INCREASE; OR**

13 **(II) IF THE TOURISM TAX INCREMENT DOES NOT EXCEED**
14 **3%, ZERO.**

15 **(3) THE COMPTROLLER SHALL:**

16 **(I) DETERMINE THE CLASSIFICATION CODES THAT SHALL**
17 **BE INCLUDED IN TOURISM TAX REVENUES UNDER THIS SUBSECTION AFTER**
18 **CONSULTING WITH THE DEPARTMENT; AND**

19 **(II) ON OR BEFORE AUGUST 1 OF EACH YEAR, REPORT THE**
20 **AMOUNT OF THE QUALIFYING TOURISM TAX INCREMENT TO THE GOVERNOR,**
21 **THE DEPARTMENT, THE DEPARTMENT OF BUDGET AND MANAGEMENT, AND, IN**
22 **ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE**
23 **GENERAL ASSEMBLY.**

24 **(4) THE GOVERNOR SHALL CONSIDER WHETHER TO INCLUDE**
25 **THE AMOUNT OF THE QUALIFYING TOURISM TAX INCREMENT IN THE**
26 **APPROPRIATION TO THE FUND IN THE PROPOSED STATE BUDGET FOR THE**
27 **NEXT FISCAL YEAR, IN ADDITION TO THE AMOUNT TO BE INCLUDED IN THE**
28 **BUDGET BILL UNDER SUBSECTION (B) OF THIS SECTION.**

29 **(5) THIS SUBSECTION MAY NOT BE CONSTRUED TO REQUIRE**
30 **FUNDING IN THE STATE BUDGET OF THE QUALIFYING TOURISM TAX**
31 **INCREMENT.**

32 **(6) IF THE PROPOSED STATE BUDGET FOR A PARTICULAR FISCAL**
33 **YEAR INCLUDES AN APPROPRIATION TO THE FUND UNDER THIS SUBSECTION, IT**
34 **IS THE INTENT OF THE GENERAL ASSEMBLY THAT THE TOTAL ANNUAL**

1 FUNDING APPROPRIATED TO THE FUND IN ANY FISCAL YEAR NOT EXCEED BY
 2 MORE THAN \$5,000,000 THE SUM OF:

3 (I) THE QUALIFYING TOURISM TAX INCREMENT FOR THE
 4 FISCAL YEAR IMMEDIATELY PRECEDING THE PARTICULAR FISCAL YEAR; AND

5 (II) THE AMOUNT STATED IN SUBSECTION (B) OF THIS
 6 SECTION.

7 (D) ON OR BEFORE OCTOBER 1 OF EACH YEAR BEGINNING IN 2012, IN
 8 COOPERATION WITH THE BOARD AND THE MARYLAND ASSOCIATION OF
 9 DESTINATION MARKETING ORGANIZATIONS, THE DEPARTMENT SHALL REPORT
 10 TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE
 11 GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY ON THE EFFECTIVENESS OF
 12 THE FUNDING PROVIDED UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION IN
 13 INCREASING VISITOR ATTENDANCE AND VISITOR SPENDING IN MARYLAND.

14 SECTION 2. AND BE IT FURTHER ENACTED, That local governments in
 15 Maryland are encouraged to reevaluate their respective policies governing the means
 16 by which revenues derived from local hotel and motel taxes are shared between local
 17 governments and the destination marketing organizations consistent with the intent
 18 and purpose of this Act in order to increase visitor attendance and visitor spending
 19 throughout Maryland.

20 ~~SECTION 3. AND BE IT FURTHER ENACTED, That:~~

21 ~~(a) The annual operating budget of the Office of Tourism Development~~
 22 ~~within the Department of Business and Economic Development shall continue to be~~
 23 ~~financed from the General Fund, subject to approval through the normal budgetary~~
 24 ~~process, with additional support consistent with this Act; and~~

25 ~~(b) On or before October 1 of each year beginning with October 1, 2013, the~~
 26 ~~Department of Business and Economic Development, in cooperation with the~~
 27 ~~Maryland Tourism Development Board and the Maryland Association of Destination~~
 28 ~~Marketing Organizations, shall report to the Governor and, in accordance with §~~
 29 ~~2-1246 of the State Government Article, to the General Assembly on:~~

30 ~~(1) The effectiveness of this Act from the standpoint of an analysis of~~
 31 ~~its impact on increasing visitor attendance and visitor spending in Maryland; and~~

32 ~~(2) Its recommendation whether the Office of Tourism Development is~~
 33 ~~able to become fiscally self-sufficient through the Maryland Tourism Development~~
 34 ~~Board Fund within a certain designated time frame.~~

35 SECTION 3. AND BE IT FURTHER ENACTED, That, on or before August 1,
 36 2008, the Comptroller shall calculate and report the amount of the qualifying tourism

1 tax increment for fiscal year 2009 as provided under § 4-216(c) of the Economic
2 Development Article, as enacted by this Act. For purposes of determining the
3 qualifying tourism tax increment under § 4-216 of the Economic Development Article,
4 as enacted by this Act, for fiscal years 2010 and 2011 only, the Comptroller shall
5 adjust the calculation of revenues based on a 5% sales and use tax rate for fiscal years
6 2008 and 2009.

7 SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall
8 take effect October 1, 2008.

9 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That, except as provided in
10 Section 4 of this Act, this Act shall take effect July 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.