

CHAPTER 301

GOVERNMENT - STATE

HOUSE BILL 14-1350

BY REPRESENTATIVE(S) Ferrandino, Becker, Buckner, Court, Exum, Fields, Ginal, Hullinghorst, Kagan, Kraft-Tharp, Labuda, Lebsock, Lee, McLachlan, Melton, Pettersen, Schafer, Duran, Foote, Hamner, Mitsch Bush, Rosenthal, Williams; also SENATOR(S) Kerr, Heath, Newell, Rivera, Steadman, Tochtrop.

AN ACT

CONCERNING MODIFICATIONS TO THE CRITERIA FOR REGIONAL TOURISM PROJECTS APPROVED BY THE COLORADO ECONOMIC DEVELOPMENT COMMISSION THROUGH THE "COLORADO REGIONAL TOURISM ACT", AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 24-46-303, **amend as it will be effective July 1, 2014**, (12); and **add** (1.5) as follows:

24-46-303. Definitions. As used in this part 3, unless the context otherwise requires:

(1.5) "BASELINE GROWTH RATE" MEANS THE FORECASTED GROWTH IN STATE SALES TAX REVENUE ABOVE THE BASE YEAR REVENUE THAT WOULD BE COLLECTED IN A PROPOSED REGIONAL TOURISM ZONE IF THE PROPOSED REGIONAL TOURISM PROJECT DID NOT OCCUR, AS DETERMINED PURSUANT TO SECTION 24-46-304 (1.5).

(12) "State sales tax increment revenue" means the portion of the revenue derived from state sales taxes, INCLUDING ANY REVENUE ATTRIBUTABLE TO THE BASELINE GROWTH RATE AND not including any sales taxes for remote sales as specified in section 39-26-104 (2), C.R.S., collected within a designated regional tourism zone in excess of the amount of base year revenue.

SECTION 2. In Colorado Revised Statutes, 24-46-303, **amend as it exists until July 1, 2014**, (12) as follows:

24-46-303. Definitions. As used in this part 3, unless the context otherwise requires:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(12) "State sales tax increment revenue" means the portion of the revenue derived from state sales taxes, INCLUDING ANY REVENUE ATTRIBUTABLE TO THE BASELINE GROWTH RATE, collected within a designated regional tourism zone in excess of the amount of base year revenue.

SECTION 3. In Colorado Revised Statutes, 24-46-304, **amend** (2) (h), (2) (i), and (3) (c); and **add** (1.5) and (4) as follows:

24-46-304. Regional tourism project - application - requirements.

(1.5) (a) BEFORE A LOCAL GOVERNMENT SUBMITS AN APPLICATION FOR A REGIONAL TOURISM PROJECT TO THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT PURSUANT TO SUBSECTION (2) OF THIS SECTION, THE LOCAL GOVERNMENT SHALL SUBMIT A MAP SHOWING THE PROPOSED BOUNDARIES OF THE PROPOSED REGIONAL TOURISM ZONE TO THE OFFICE OF STATE PLANNING AND BUDGETING. THE OFFICE OF STATE PLANNING AND BUDGETING, IN CONJUNCTION WITH THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT, SHALL DETERMINE THE BASELINE GROWTH RATE FOR THE AREA INCLUDED IN THE PROPOSED REGIONAL TOURISM ZONE. IN DETERMINING THE BASELINE GROWTH RATE, THE OFFICE OF STATE PLANNING AND BUDGETING AND THE COLORADO OFFICE OF ECONOMIC DEVELOPMENT SHALL CONSIDER THE GROWTH RATE IN THE AREA INCLUDED IN THE PROPOSED REGIONAL TOURISM ZONE DURING THE PREVIOUS FIVE CALENDAR YEARS AT A MINIMUM.

(b) THE OFFICE OF STATE PLANNING AND BUDGETING MAY CHARGE A LOCAL GOVERNMENT A SUBMISSION FEE OF UP TO THREE THOUSAND DOLLARS PER SUBMISSION FOR THE COSTS INCURRED IN DETERMINING THE BASELINE GROWTH RATE.

(c) THE LOCAL GOVERNMENT AND THE THIRD-PARTY ANALYST RETAINED PURSUANT TO PARAGRAPH (i) OF SUBSECTION (2) OF THIS SECTION SHALL USE THE BASELINE GROWTH RATE IN THEIR ASSUMPTIONS AND ECONOMIC ANALYSES FOR THE PURPOSE OF CALCULATING THE TOTAL CUMULATIVE DOLLAR AMOUNT AND PERCENTAGE OF THE STATE SALES TAX INCREMENT REVENUE THAT CAN BE DEDICATED TO THE PROPOSED REGIONAL TOURISM PROJECT AS REQUIRED BY PARAGRAPHS (h) AND (i) OF SUBSECTION (2) OF THIS SECTION.

(2) A local government shall submit an application for a regional tourism project to the Colorado office of economic development in a form and manner to be determined by the commission. The office shall provide the commission with each application received after the director's review pursuant to section 24-46-305. The application shall include, but need not be limited to, the following:

(h) The proposed financing term, THE TOTAL CUMULATIVE DOLLAR AMOUNT OF REVENUE THAT CAN BE ALLOCATED TO THE FINANCING ENTITY, the percentage of state sales tax increment revenue to be allocated to the financing entity, and the portion of the financing term during which such percentage is to be allocated to the financing entity. No single debt issuance of the financing entity shall have a maturity date in excess of thirty years; except that the financing term may exceed thirty years to the extent that the financing entity anticipates issuing a series of bonds or other forms of debt and provided that the financing entity shall have the ability to consolidate or refinance previously issued debt or bonds with a maturity

date for such consolidated or refinanced debt or bonds not to exceed thirty years.

(i) Along with the economic analysis submitted with the application, a report by a third-party analyst who is an expert in the field of economic or public financial analysis calculating the TOTAL CUMULATIVE DOLLAR AMOUNT AND percentage of the state sales tax increment revenue that ~~will~~ CAN be dedicated to the regional tourism project to be set by the commission pursuant to section 24-46-305 (3) (d). The applicant shall share its data and reasoning with the third-party analyst, and the analyst shall rely on such data and reasoning as it deems appropriate in the exercise of its independent judgment. An applicant dissatisfied with such report may revise its application and request report revisions. The reviewing third-party analyst shall be chosen through a request for proposals issued by the office of state planning and budgeting to ensure an independent and thorough analysis, and the third-party analyst shall report to that office. ~~The costs of such report shall be paid by the applicant directly to the third-party analyst.~~ THE OFFICE OF STATE PLANNING AND BUDGETING SHALL CHARGE AN APPLICATION FEE TO THE APPLICANT TO PAY THE COSTS FOR THE THIRD-PARTY ANALYST TO:

(I) ASSESS THE ASSUMPTIONS USED IN THE APPLICATION TO ESTIMATE NET NEW TOURISM REVENUES TO COLORADO;

(II) CALCULATE THE TOTAL ANTICIPATED SALES TAX INCREMENT REVENUE IN THE PROPOSED REGIONAL TOURISM ZONE;

(III) CALCULATE THE AMOUNT AND PERCENTAGE OF THE TOTAL REGIONAL TOURISM ZONE SALES TAX INCREMENT REVENUE THAT EACH COUNTY AND MUNICIPALITY THAT IS A PARTY TO A MULTI-PARTY APPLICATION IS ELIGIBLE TO RECEIVE; AND

(IV) ASSESS THE PROBABILITY OF THE PROPOSED PROJECT MOVING FORWARD WITHOUT FUNDING FROM TAX INCREMENT FINANCING.

(3) An application by a local government for designation as a regional tourism project shall be approved by the commission upon a finding by the majority of the commissioners participating in the review of the application that the application demonstrates that each of the following criteria are materially met:

(c) A significant portion of the sales tax revenue generated by the project is reasonably anticipated to be attributable to transactions with nonresidents of the ~~regional tourism zone~~ STATE. AN EXCEPTION TO THIS REQUIREMENT MAY APPLY IF A SIGNIFICANT PORTION OF THE SALES TAX REVENUE GENERATED BY THE PROJECT IS REASONABLY ANTICIPATED TO BE ATTRIBUTABLE TO RESIDENTS OF THE STATE BUT THE REVENUE WOULD OTHERWISE LEAVE THE STATE DUE TO A LACK OF A SIMILAR PROJECT OR FACILITY IN THE STATE.

(4) THE GENERAL ASSEMBLY SHALL APPROPRIATE FIFTY THOUSAND DOLLARS TO THE OFFICE OF STATE PLANNING AND BUDGETING FOR THE 2014-15 STATE FISCAL YEAR TO BE USED BY THE OFFICE FOR NECESSARY AND ADDITIONAL ANALYTICAL WORK RELATED TO THE PROPOSED REGIONAL TOURISM PROJECTS.

SECTION 4. In Colorado Revised Statutes, 24-46-305, **amend** (2) (b) and (3)

(d); and **add** (2) (c) and (4.5) as follows:

24-46-305. Regional tourism project approval - director - commission - review. (2) (b) ~~(f)~~ The commission shall not approve more than two initial projects pursuant to this subsection (2).

~~(f) In the calendar year succeeding the commission's approval of two initial projects pursuant to subparagraph (f) of this paragraph (b), the commission may approve two additional projects pursuant to this subsection (2).~~

~~(ff) In the calendar year succeeding the commission's approval of two additional projects pursuant to subparagraph (f) of this paragraph (b), the commission may approve two additional projects pursuant to this subsection (2).~~

(c) ON OR AFTER THE EFFECTIVE DATE OF THIS PARAGRAPH (c), BUT PRIOR TO JANUARY 1, 2016, THE COMMISSION MAY APPROVE TWO NEW REGIONAL TOURISM PROJECTS.

(3) The commission shall hold a public hearing, subject to the provisions of the "Colorado Sunshine Act of 1972", article 6 of this title, to review and consider the application. After the hearing has been held, the commission shall review each application and give consideration to the director's recommendations. The commission shall take action on the application within a reasonable time after submission. If the commission approves the application, it shall adopt a resolution specifying the following:

(d) The TOTAL CUMULATIVE DOLLAR AMOUNT AND percentage of the state sales tax increment revenue that will be dedicated to the regional tourism project. Such percentage shall be set at a value that in the best estimation of the commission will result in only the net new revenue likely created by the project and related development being dedicated to the financing entity and shall exclude any sales tax revenue the state would likely have received without the project and development. THE TOTAL CUMULATIVE DOLLAR AMOUNT AND PERCENTAGE OF THE SALES TAX INCREMENT REVENUE THAT CAN BE DEDICATED TO THE REGIONAL TOURISM PROJECT SHALL NOT EXCEED THE THIRD-PARTY ANALYST'S CALCULATION OF THE TOTAL CUMULATIVE DOLLAR AMOUNT AND PERCENTAGE OF SALES TAX INCREMENT REVENUE THAT CAN BE DEDICATED TO THE REGIONAL TOURISM PROJECT, AS REPORTED PURSUANT TO SECTION 24-46-304(2)(i), BY MORE THAN FIFTY PERCENT; EXCEPT THAT THE COMMISSION MAY DETERMINE A TOTAL CUMULATIVE DOLLAR AMOUNT AND PERCENTAGE OF THE SALES TAX INCREMENT REVENUE THAT CAN BE DEDICATED TO THE REGIONAL TOURISM PROJECT THAT EXCEEDS THE THIRD-PARTY ANALYST'S CALCULATIONS BY MORE THAN FIFTY PERCENT BY A UNANIMOUS VOTE OF ALL MEMBERS OF THE COMMISSION.

(4.5) THE TOTAL AMOUNT OF STATE SALES TAX INCREMENT REVENUE DEDICATED TO THE REGIONAL TOURISM PROJECT FOR THE ENTIRE DURATION OF THE PROJECT SHALL NOT EXCEED THE TOTAL CUMULATIVE DOLLAR AMOUNT SPECIFIED BY THE COMMISSION PURSUANT TO PARAGRAPH (d) OF SUBSECTION (3) OF THIS SECTION. THE DEPARTMENT OF REVENUE SHALL TRACK THE ANNUAL AND CUMULATIVE STATE SALES TAX INCREMENT REVENUE REMITTED TO THE FINANCING ENTITY FOR THE PROJECT AND SHALL NOTIFY THE COMMISSION WHEN CUMULATIVE PAYMENTS

APPROACH THE LIMITS SET BY THE COMMISSION FOR THE COMMISSION'S CONCURRENCE REGARDING THE DOLLAR LIMITS. AFTER THE DEPARTMENT OF REVENUE HAS CUMULATIVELY REMITTED SUCH TOTAL CUMULATIVE DOLLAR AMOUNT TO THE FINANCING ENTITY PURSUANT TO SUBSECTION (4) OF THIS SECTION, THE DEPARTMENT OF REVENUE SHALL NOT REMIT ANY ADDITIONAL SALES TAX INCREMENT REVENUE FROM THE STATE TO THE FINANCING ENTITY, EVEN IF THE APPROVED FINANCING TERM IS NOT COMPLETED. THE DEPARTMENT OF REVENUE SHALL NOTIFY THE COMMISSION IF IT IS NO LONGER REMITTING SALES TAX INCREMENT REVENUE TO THE FINANCING ENTITY BECAUSE THE FINANCING ENTITY HAS REACHED ITS TOTAL CUMULATIVE DOLLAR AMOUNT OF SALES TAX INCREMENT REVENUE.

SECTION 5. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys collected pursuant to sections 24-46-304 (1.5) (b) and 24-46-304 (2) (i), Colorado Revised Statutes, not otherwise appropriated, to the governor - lieutenant governor - state planning and budgeting, for the fiscal year beginning July 1, 2014, the sum of \$176,454, or so much thereof as may be necessary, to contract with a third party analyst to conduct an economic analysis of regional tourism projects.

(2) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund, not otherwise appropriated, to the governor - lieutenant governor - state planning and budgeting, for the fiscal year beginning July 1, 2014, the sum of \$50,000, or so much thereof as may be necessary, to be allocated to the office of state planning and budgeting for additional analytical work related to regional tourism projects.

(3) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund, not otherwise appropriated, to the department of revenue, for the fiscal year beginning July 1, 2014, the sum of \$43,260, or so much thereof as may be necessary, for CITA annual maintenance and support related to the implementation of this act.

SECTION 6. Applicability. This act applies to projects approved on or after the effective date of this act. In no event shall this act be applicable to the three projects and the three local governments that were awarded state sales tax increment revenue by the commission prior to the effective date of this act. Such projects shall not be considered new regional tourism projects for purposes of this act, regardless of any future action considered or undertaken by the commission relating to the project.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 31, 2014