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GOVERNMENT CODE - GOV

TITLE 2. GOVERNMENT OF THE STATE OF CALIFORNIA [8000 - 22980] (Title 2 enacted by Stats. 1943, Ch. 134.)

DIVISION 3. EXECUTIVE DEPARTMENT [11000 - 15990.3] (Division 3 added by Stats. 1945, Ch. 111.)

PART 4.7. BUSINESS AND TOURISM [13995 - 13998.12] (Part 4.7 added by Stats. 2003, Ch. 229, Sec. 1.5.)

CHAPTER 1. California Tourism Marketing Act [13995 - 13995.118] (Chapter 1 added by Stats. 2003, Ch. 229, Sec. 1.5.)

ARTICLE 10. Los Angeles County Tourism Marketing [13995.100 - 13995.118] (Article 10 added by Stats. 2003, Ch. 229, Sec. 1.5.)

13995.100. (a) The Legislature recognizes that, because of the size and significant economic impact of the tourism industry on the economy of the County of Los Angeles, it being the second largest economic activity within the county, and due to many independent factors that have adversely affected tourism in the county, it is necessary to empower the tourism industry within the County of Los Angeles to create a governance structure in order to foster marketing efforts directed at specifically attracting tourists to the county.

(b) Recognizing the importance of enabling the private-sector tourism industry within the County of Los Angeles to assess itself in order to fund tourism marketing efforts, this article shall authorize the formation of the Los Angeles County Tourism Selection Committee to be appointed by the Los Angeles County Board of Supervisors, and the Los Angeles County Tourism Marketing Commission, the members of which shall be elected by industry referendum and ex officio appointment, as set forth in this article.

(Added by Stats. 2003, Ch. 229, Sec. 1.5. Effective January 1, 2004.)

13995.101. For the purposes of this article, the following definitions shall apply:

(a) "County commission" means the Los Angeles County Tourism Marketing Commission.

(b) "County commissioner" means a commissioner of the county commission.

(c) "County selection committee" means the Los Angeles County Tourism Selection Committee described in Section 13995.102.

(d) "Industry category" means the classifications within the tourism industry designated by the county selection committee, or if not so designated, then as follows:

(1) Accommodations.

(2) Restaurants and retail.

(3) Attractions and recreation.

(4) Transportation and travel services.

(e) "Referendum" means any vote by mail ballot of measures recommended by the county commission in accordance with the procedure set forth in Section 13995.110.

(Added by Stats. 2003, Ch. 229, Sec. 1.5. Effective January 1, 2004.)

13995.102. (a) The Los Angeles County Board of Supervisors shall appoint the Los Angeles County Tourism Selection Committee to consist of persons, or principals of entities, from within the industry categories that are to be assessed, based upon recommendations from established industry associations and destination marketing organizations within Los Angeles County.

(b) The county selection committee shall consist of 24 representatives, with no fewer than three from each industry category. The county selection committee shall appoint a chair and any other officers it deems advisable.

(c) The county selection committee shall convene within 150 days after the effective date of this chapter. Not later than 150 days following the initial convening of the committee, the committee shall issue a report and recommendations listing the following:

(1) Industry segments that will be included in the initial referendum.

(2) Percentage of funds to be levied against each industry category and segment. To the extent possible, the percentages shall be based upon quantifiable industry data. Funds to be levied against businesses shall bear an appropriate relationship to the benefit derived from travel and tourism by those businesses.

(3) Assessment methodology and rate of assessment within each industry segment, that may include, but not be limited to, a percentage of gross revenue or a per transaction charge.

(4) Businesses, if any, within a segment to be assessed at a reduced rate, which may be set at zero, whether temporarily or permanently, because they do not sufficiently benefit from travel and tourism.

(5) Initial slate of proposed elected commissioners. The number of commissioners elected from each industry category shall be determined by the weighted percentage of assessments from that category.

(d) Nothing in this section shall preclude the selection committee from setting the assessment rate for a business within a segment at a lower rate, which may be set at zero, than a rate applicable to other businesses within that segment if the selection committee makes specific findings that the lower rate should apply due to unique geographical, financial, or other circumstances affecting the business. No business for which a zero assessment rate is set pursuant to this subdivision shall be sent a ballot or entitled to participate in the initial referendum, or in any subsequent referendum in which its rate of assessment is set at zero.

(e) The committee members for each industry category, also referred to as a subcommittee, shall prepare a recommendation for the entire committee on how the items specified in subdivision (c) should be determined for the industry segments within their industry category. The recommendations shall not include a discussion of industry category levies, which shall be determined solely by the committee. In the event that the subcommittee cannot agree on one or more of the items specified in subdivision (c), no recommendation shall be given in that category. The recommendations shall be presented to the full committee, which shall address each of the items contained in subdivision (c).

(f) In order to be assessed, an industry segment shall be defined with sufficient clarity to allow for the cost-effective identification of assessed businesses within that segment.

(g) It shall be the responsibility of the county selection committee to advertise widely the selection committee process and to schedule public meetings for potential assessed businesses to provide input to the selection committee.

(h) The selection committee process and report shall be exempt from the requirements of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

(i) The Los Angeles Convention and Visitors Bureau shall be asked to supply staff support to the county selection committee. The Governor's Office of Business and Economic Development shall not be required to supply staff support to the county selection committee.

(Amended by Stats. 2013, Ch. 352, Sec. 282. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

13995.103. (a) Based upon the criteria established by the county selection committee, the county commission shall be established by industry referenda within the county conducted in accordance with subdivision (d) and Section 13995.104, and shall include certain ex officio voting members provided for in subdivision (d).

(b) The county commission shall be a private, nonprofit corporation under the direction of a board of county commissioners. The activities and purposes of the county commission shall be to promote tourism to and within the County of Los Angeles through marketing and other promotional efforts.

(c) The board of county commissioners shall function as the board of directors for purposes of the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code).

(d) The board of county commissioners shall consist of 24 members to be elected by industry category by referendum, from among individuals who are professionally active in the tourism industry, representing diverse elements of the industry. In addition, the board of county commissioners shall include the salaried chief executive officer of each convention and visitors bureau within Los Angeles County that operates either as a part of municipal government or under contract with any municipality within the county. The elected county commissioners need not be limited to representatives of assessed businesses.

(e) In the referendum process, regardless of the number of ballots received for a referendum, the nominee for each county commissioner slot with the most weighted votes, based upon assessment levels, from businesses within that industry category shall be elected county commissioner. Assessed businesses shall vote only for county commissioners representing their industry category.

(f) All elected county commissioners shall serve three-year terms, except that one-third of the county commissioners originally elected shall serve a one-year term, one-third shall serve a two-year term, and the remainder shall serve a three-year term. Every year thereafter, one-third of the county commissioners shall be elected by industry referendum. No county commissioner may serve for more than two consecutive terms.

(g) In the event that a county commissioner resigns, dies, or is removed from office during his or her term, the county commission shall appoint a replacement from the same industry category that the previous county commissioner represented, and that county commissioner shall fill the remaining term of the previous county commissioner.

(h) The county selection committee shall determine the initial slate of candidates for elected county commissioners. Thereafter, the county commissioners, by adopted resolution, shall nominate a slate of candidates, and shall include any additional candidates who may be placed on the referendum by assessed businesses under a procedure to be adopted by the county commission.

(i) The county commissioners shall annually, within 60 days before commencement of the fiscal year of the county commission, elect from among the county commissioners a chair, vice-chair, secretary, and chief financial officer.

(j) No person shall receive compensation as a county commissioner, but each county commissioner shall receive reimbursement from county assessments for reasonable expenses incurred while on authorized county commission business.

(Added by Stats. 2003, Ch. 229, Sec. 1.5. Effective January 1, 2004.)

13995.104. (a) The county commission shall be a private, nonprofit corporation, and shall not be part of state or county government, nor be construed in any other manner as a public entity.

(b) No person employed by the county commission shall be a state or county employee.

(c) The procedures adopted by the county commission shall not be subject to the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1).

(Added by Stats. 2003, Ch. 229, Sec. 1.5. Effective January 1, 2004.)

13995.105. (a) Not later than six months following its formation, the county commission shall adopt procedures concerning the operation of the county commission in order to provide due process rights for assessed businesses.

(b) The county commission shall annually provide to all assessed businesses a report on the activities and budget of the county commission including, but not limited to, income and expenses, the fund balance, a Summary Los Angeles County Tourism Marketing Plan, and a report of progress in achieving the goals set forth in the plan.

(c) The county commission shall maintain a report on the percentage assessment allocation between industry categories and industry segments. The report shall also specify the reasons and methodology used for the allocations. This report shall be updated each time the assessment allocations are amended. The report shall be made available to any assessed business, but all confidential information provided shall remain confidential and not be released to any person or entity unless authorized by the county commission.

(d) (1) The county commission shall annually prepare, or cause to be prepared, a Los Angeles County Tourism Marketing Plan. The county commission may amend the plan at any county commission meeting. All expenditures by the county commission shall be consistent with the marketing plan.

(2) The plan shall promote travel to and within Los Angeles County, and shall include, but need not be limited to, the following:

(A) An evaluation of the previous year's budget activities.

(B) Review of state, county, and local tourism trends, conditions, and opportunities.

(C) Target audiences for tourism marketing expenditures.

(D) Marketing strategies, objectives, and targets.

(E) Budget for the current year.

(3) In developing the plan, the county commission shall, to the maximum extent feasible, do both of the following:

(A) Seek advice and recommendations from all segments of the county's travel and tourism industry and from all geographic regions of the county.

(B) Harmonize, as appropriate, the plan with the travel and tourism marketing activities and objectives of the various industry segments and geographic regions.

(e) The county commission may establish committees and may appoint noncommissioners to its committees.

(Added by Stats. 2003, Ch. 229, Sec. 1.5. Effective January 1, 2004.)

13995.106. County commissioners and employees of the county commission shall not be individually liable in any way to any person for any good faith activity of the county commission, county commissioners, or employees.

(Added by Stats. 2003, Ch. 229, Sec. 1.5. Effective January 1, 2004.)

13995.107. The county commission may be terminated at any time after the initial four years of operation by referendum of the assessed businesses. Notice of the termination shall be mailed to all assessed businesses. Upon termination, the county commission shall continue its existence as a nonprofit corporation for purposes of winding up its affairs and dissolution.

(Added by Stats. 2003, Ch. 229, Sec. 1.5. Effective January 1, 2004.)

13995.108. (a) The county may require assessed businesses to maintain books and records that reflect their income or sales as reflected in the assessment, and to furnish the county treasurer/tax collector with any information that may, from time to time, be requested by the treasurer/tax collector, and to permit the inspection by the treasurer/tax collector of portions of books and records that relate to the amount of assessment.

(b) Information pertaining to assessed businesses obtained by the county treasurer/tax collector pursuant to this chapter shall be confidential and shall not be disclosed except to a person with authority to obtain the information, any attorney hired by the county treasurer/tax collector who is employed to give legal advice upon that information, or by court order.

(c) Information obtained by the county treasurer/tax collector in order to determine the assessment level for an assessed business shall be exempt from the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1).

(Added by Stats. 2003, Ch. 229, Sec. 1.5. Effective January 1, 2004.)

13995.109. (a) The county commission shall recommend the assessments approved by the industry referendum to the board of supervisors. Upon approval by the board of supervisors, the Los Angeles County Treasurer/Tax Collector shall collect all assessments so approved. In that collection effort, the county treasurer/tax collector may utilize its police powers, and pursue actions and penalties set forth in Article 8 (commencing with Section 13995.80) in the collection of all county assessments.

(b) Direct and actual expenses associated with the collection of assessments by the county commission or the county treasurer/tax collector shall be reimbursed from the assessments collected.

(Added by Stats. 2003, Ch. 229, Sec. 1.5. Effective January 1, 2004.)

13995.110. (a) No referendum required under this article shall be undertaken until any of the following occurs, whichever is earliest:

- (1) A statewide referendum held pursuant to this chapter has obtained a passing vote in the County of Los Angeles.
- (2) Two statewide referenda have been held pursuant to this chapter.
- (3) July 1, 1998.

(b) Referenda required under this article shall be conducted in a similar manner as provided in Article 6 (commencing with Section 13995.60) as follows:

(1) The county commission shall undertake all duties, and act in all respects, in place of the California Tourism Marketing Commission, and either the county or the county treasurer/tax collector, as designated in this article, shall act in place of the Director of the Governor's Office of Business and Economic Development.

(2) The initial assessment target for the county commission shall be set by the county selection committee.

(3) The first referendum shall be initiated by industry members, with all costs of marketing and promoting of the initial referendum to be provided by the tourism industry.

(4) Each referendum may cover one or more of the following subjects:

(A) Assessment level based upon specified assessment formula.

(B) Amended industry segment allocation formulae.

(C) Percentage allocation of assessments between industry categories and segments.

(D) Election of county commissioners subject to election by referendum.

(E) Termination of the county commission.

(F) Whether to establish, continue, or reestablish an assessment.

(5) The costs of all marketing and promoting of all referenda following the initial referendum shall be paid by the county commission from assessments collected. The county commission may reimburse those who have contributed to the costs of the initial referendum from proceeds raised from assessments collected from the initial referendum.

(Amended by Stats. 2013, Ch. 352, Sec. 283. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

13995.111. Assessments shall be set by the county commission, as follows:

(a) Each industry category shall establish a committee to determine the following within its industry category: industry segments, assessment formulae for each industry segment, and any type of business exempt from assessment. The committees shall be selected by the county commission based upon recommendations from the tourism industry. Committee members need not be commission members.

(b) The committee recommendations shall be presented to the county commission. The county commission may adopt a resolution specifying one or more of the items listed in subdivision (a), plus an allocation of the proposed assessment. The county commission shall consider the recommendations of any committee.

(c) The initial industry category and industry segment allocations shall be as set in the Selection Committee Report required by subdivision (b) of Section 13995.30. Changes to the industry segment allocation formulae may be recommended to the county commission by a segment committee. At the same meeting, the county commission may amend the percentage allocations among industry categories. Any item discussed in this section that is approved by resolution of the county commission, except amendments to the percentage allocations among industry categories, shall be placed on the next referendum, and adopted if approved by the weighted majority of votes cast. All industry segment members shall be subject to any duly approved assessments.

(d) Upon approval by referendum, and recommendation to the county by the county commission, the county treasurer/tax collector shall calculate the assessments due for each assessed business and mail an assessment bill to each assessed business. The county treasurer/tax collector may stagger the assessment collection throughout the year, and charge businesses a prorated amount of assessment based on the staggered assessment period. The county treasurer/tax collector shall not divulge the amount of assessment or weighted votes of any assessed businesses, except as part of an assessment action.

(Added by Stats. 2003, Ch. 229, Sec. 1.5. Effective January 1, 2004.)

13995.112. An assessed business may appeal an assessment to the county commission upon the basis that the business does not meet the definition established for an assessed business within its industry segment, or that the level of assessment is incorrect. If the error is based upon failure of the business to provide the required information in a timely manner, the county commission may recommend to the county a fine to be collected by the county treasurer/tax collector as a condition of correcting the assessment.

(Added by Stats. 2003, Ch. 229, Sec. 1.5. Effective January 1, 2004.)

13995.113. (a) The county treasurer/tax collector shall collect the assessment from all assessed businesses, and, in collecting an assessment, may bring enforcement actions.

(b) Funds collected shall be deposited into an account or accounts for the benefit of the county commission, subject to the county treasurer/tax collector's authority under Section 13995.109 to reimburse his or her office for direct and actual expenses associated with the collection of assessments. These accounts shall not be accounts of the state or county government.

(c) The county treasurer/tax collector shall mail to each business identified pursuant to subdivision (a) of Section 13995.111 a form requesting information necessary to determine the assessment for that business. Any business failing to provide this information in a timely manner shall be assessed an amount determined by the county treasurer/tax collector to represent the upper assessment level for that segment.

(d) The assessed funds shall be audited annually.

(e) The assessed funds shall be under the control of the county commission, which shall spend the funds consistent with commission policies and the Los Angeles County Tourism Marketing Plan. Neither the state nor the county shall have any interest in the fund except the general interest that the state has in nonprofit corporations.

(f) Direct and actual expenses incurred by the county in implementing this article shall be reimbursed from the assessed funds.

(Added by Stats. 2003, Ch. 229, Sec. 1.5. Effective January 1, 2004.)

13995.114. (a) Any assessment levied as provided in this article is a debt of the business so assessed and shall be due and payable at the direction of the county treasurer/tax collector. If any assessed business fails to pay any assessment, the county treasurer/tax collector may file a complaint in a state court of competent jurisdiction for the collection of the assessment.

(b) If any assessed business that is duly assessed pursuant to this article fails to pay the assessed amount by the due date, the county treasurer/tax collector may add to the unpaid assessment an amount not to exceed 10 percent of the unpaid assessment to defray the cost of enforcing the collection of the unpaid assessment. In addition to payment for the cost of enforcing a collection, the assessed business shall pay a penalty equivalent to the lesser of either the maximum amount authorized by Section 1 of Article XV of the California Constitution or 5 percent for each 30 days the assessment is unpaid, prorated over the days unpaid, commencing 30 days after the notice has been given to the assessed business of its failure to pay the assessment on the date required, unless the county treasurer/tax collector determines that the failure to pay is due to reasonable cause beyond the control of the assessed business.

(c) (1) The county treasurer/tax collector may require assessed businesses to deposit in advance the following amounts:

(A) An amount for necessary expenses.

(B) An amount that shall not exceed 25 percent of the assessment to cover costs that are incurred prior to the receipt of sufficient funds from the assessment.

(2) The amount of any deposit that is required shall be based upon the estimated assessment for the assessed business.

(d) In lieu of requiring advance deposits, or in order generally to provide funds for defraying administrative expenses or the expenses of implementing the Los Angeles County Tourism Marketing Plan until sufficient moneys are collected for this purpose from the payment of the assessments that are established pursuant to this article, the county commission may receive and disburse for those express purposes, contributions that are made by assessed businesses. However, if collections from the payment of established assessments are sufficient, the county commission may authorize the repayment of contributions, or authorize the application of the contributions to the assessment obligations of persons who made the contributions.

(e) Upon termination of the county commission, any remaining funds that are not required to defray commission expenses shall be returned, upon a pro rata basis, to all persons from whom the assessments were collected.

(f) Any check or warrant that is drawn against the funds of the county commission that remains unclaimed or uncashed for a period of six months from the date of issuance shall be canceled and the money retained for disbursement to the original payee or claimant upon satisfactory identification for a period of one year from the time the check or warrant is canceled. The money so retained, if not claimed within the period of one year, shall be used for administration of the county commission and in furtherance of the Los Angeles County Tourism Marketing Plan.

(Added by Stats. 2003, Ch. 229, Sec. 1.5. Effective January 1, 2004.)

13995.115. The county commission shall separately contract with the Los Angeles Convention and Visitors Bureau to serve as its administrative contractor in the promotion, implementation, and administration of the Los Angeles County Marketing Plan adopted by the county commission. If the county commission believes that the administration of the county marketing plan will be promoted thereby, the commission may borrow money, with or without interest, to carry out the provisions of the county marketing plan, and may hypothecate anticipated assessment collections.

(Added by Stats. 2003, Ch. 229, Sec. 1.5. Effective January 1, 2004.)

13995.116. This article is subject to Article 8 (commencing with Section 13995.80) and Article 9 (commencing with Section 13995.90) except that, as to Article 8, either the county or the county treasurer/tax collector, as designated in this article, shall act in the place of the Director of the Governor's Office of Business and Economic Development in all respects.

(Amended by Stats. 2013, Ch. 352, Sec. 284. (AB 1317) Effective September 26, 2013. Operative July 1, 2013, by Sec. 543 of Ch. 352.)

13995.117. A business is exempt from the assessments provided for in this chapter if the business is a travel agency or tour operator that derives less than 20 percent of its gross revenue from travel and tourism occurring within the state. A travel agency or tour operator that qualifies for this exemption may pay the assessment by filing a written request with the commission indicating its desire to be categorized as an assessed business.

(Added by Stats. 2003, Ch. 229, Sec. 1.5. Effective January 1, 2004.)

13995.118. This article shall become operative only upon adoption by the Los Angeles County Board of Supervisors of a resolution by majority vote making the provisions of this article applicable in that county.

(Added by Stats. 2003, Ch. 229, Sec. 1.5. Effective January 1, 2004. Note: Operational condition applies to Article 10, commencing with Section 13995.100.)

