

LEGISLATIVE BILL 222

Approved by the Governor April 27, 2017

Introduced by Stinner, 48; Watermeier, 1; Kolterman, 24.

A BILL FOR AN ACT relating to tourism; to amend sections 81-3702, 81-3710, 81-3712, 81-3713, 81-3721, and 81-3724, Reissue Revised Statutes of Nebraska, and sections 81-3701, 81-3703, 81-3711, 81-3714, and 81-3725, Revised Statutes Cumulative Supplement, 2016; to restate intent; to define a term; to change membership provisions for the Nebraska Tourism Commission; to provide for districts; to provide, change, and eliminate powers and duties; to eliminate obsolete provisions; to change and eliminate provisions relating to contracts; to provide for additional grants; to harmonize provisions; to repeal the original sections; and to outright repeal section 81-3727, Revised Statutes Cumulative Supplement, 2016.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 81-3701, Revised Statutes Cumulative Supplement, 2016, is amended to read:

81-3701 Sections 81-3701 to 81-3726 and section 4 of this act shall be known and may be cited as the Nebraska Visitors Development Act.

Sec. 2. Section 81-3702, Reissue Revised Statutes of Nebraska, is amended to read:

81-3702 The purposes of the Nebraska Visitors Development Act are (1) to create the Nebraska Tourism Commission to promote Nebraska as a tourism destination and to administer programs a commission and a fund to provide general promotional activity, solicitation, and an operating program to attract an increasing number of visitors to Nebraska and further the use of travel and tourism facilities in Nebraska, (2) to provide for a lodging tax on hotels for the purpose of establishing a State Visitors Promotion Cash Fund, and (3) to authorize the governing body of any county to appoint a visitors committee and impose a lodging tax on hotels for the purpose of establishing a County Visitors Promotion Fund and a County Visitors Improvement Fund.

Sec. 3. Section 81-3703, Revised Statutes Cumulative Supplement, 2016, is amended to read:

81-3703 For purposes of the Nebraska Visitors Development Act, unless the context otherwise requires, the definitions found in sections 81-3704 to 81-3709 and section 4 of this act apply.

Sec. 4. Tourism industry includes any person or other entity, whether for-profit or not-for-profit, that promotes an activity, an event, or a site which attracts both instate and out-of-state visitors, including, but not limited to, a chamber of commerce, a convention and visitors bureau, the hospitality industry, the food and beverage industry, the hotel industry, a passenger transportation provider, any business or organization engaged in recreational, historical, cultural, artistic, or entertainment pursuits, and any person who owns or operates any such activity, event, or site.

Sec. 5. Section 81-3710, Reissue Revised Statutes of Nebraska, is amended to read:

81-3710 (1) The Nebraska Tourism Commission is created. The terms of the members serving pursuant to subsection (2) of this section terminate thirty days after the effective date of this act. The terms of the members serving pursuant to subsection (3) of this section begin thirty days after the effective date of this act. The members of the Travel and Tourism Division Advisory Committee, as such committee existed immediately prior to July 1, 2012, shall be the initial members of the commission and may be reappointed as provided in this section. The terms of initial members of the commission representing entities designated by subdivisions (2)(b), (d), (f), and (h) of this section shall be two years, beginning on July 1, 2012. The terms of initial members representing entities designated by subdivisions (2)(a), (c), (e), (g), and (i) of this section shall be four years, beginning on July 1, 2012. Each successive member shall be appointed by the Governor with the approval of a majority of the members of the Legislature for terms of four years and may be reappointed.

(2) Until thirty days after the effective date of this act, the The commission shall consist of the following members:

- (a) One representative from the Game and Parks Commission;
- (b) One representative from the Nebraska Travel Association;
- (c) One representative from the Nebraska Hotel and Motel Association;
- (d) One representative from a tourism attraction that records at least two thousand out-of-state visitors per year;
- (e) One representative from the Nebraska Association of Convention and Visitors Bureaus;
- (f) One representative from the Western Nebraska Tourism Coalition;
- (g) One representative who resides in eastern Nebraska and is employed by a business that derives a majority of its revenue from out-of-state visitors;
- (h) One representative from the Central Nebraska Tourism Partnership; and
- (i) One representative of a business that derives a majority of its

revenue from out-of-state visitors.

(3)(a) The Governor shall, within thirty days after the effective date of this act, appoint the members of the commission to begin serving at such time, prior to approval by the Legislature. The members shall consist of eleven residents of the State of Nebraska. Four of the members shall have professional, volunteer, or public service experience that contributes to the fiduciary and governance duties of the commission. Seven of the members shall be affiliated with the tourism industry. One member shall be appointed from each of the eleven districts designated in subdivision (b) of this subsection.

(b) For purposes of this section, the state is hereby divided into eleven districts. The limits and designations of the eleven districts shall be as follows:

- (i) District No. 1. Douglas County;
- (ii) District No. 2. Lancaster County;
- (iii) District No. 3. The counties of Richardson, Pawnee, Nemaha, Johnson, Otoe, Gage, Saline, and Jefferson;
- (iv) District No. 4. The counties of Cass and Sarpy;
- (v) District No. 5. The counties of Saunders, Washington, Dodge, Colfax, Stanton, Cuming, Burt, Thurston, Wayne, Cedar, Dixon, and Dakota;
- (vi) District No. 6. The counties of Butler, Polk, Platte, Merrick, Nance, Boone, Madison, Pierce, Antelope, Knox, Holt, and Boyd;
- (vii) District No. 7. The counties of Thayer, Nuckolls, Webster, Adams, Clay, Fillmore, Seward, York, Hamilton, Franklin, and Harlan;
- (viii) District No. 8. The counties of Kearney, Phelps, Hall, Howard, Greeley, Wheeler, Buffalo, Sherman, Valley, and Garfield;
- (ix) District No. 9. The counties of Lincoln, Keya Paha, Rock, Brown, Loup, Blaine, Custer, Logan, McPherson, Arthur, Grant, Hooker, Thomas, and Cherry;
- (x) District No. 10. The counties of Furnas, Red Willow, Hitchcock, Dundy, Chase, Hayes, Frontier, Gosper, Dawson, Perkins, and Keith; and
- (xi) District No. 11. The counties of Deuel, Garden, Sheridan, Cheyenne, Morrill, Box Butte, Dawes, Sioux, Scotts Bluff, Banner, and Kimball.

(c) The Governor shall appoint members representing district numbers 1, 6, 8, and 11 to serve for terms ending April 1, 2019; members representing district numbers 2, 5, 7, and 10 to serve for terms ending April 1, 2021; and members representing district numbers 3, 4, and 9 to serve for terms ending April 1, 2023. The terms of their successors shall be four years. The Governor shall appoint their successors with the approval of the majority of the members of the Legislature. A person appointed to serve pursuant to this subsection may serve only two successive terms.

Sec. 6. Section 81-3711, Revised Statutes Cumulative Supplement, 2016, is amended to read:

81-3711 The commission shall:

- (1) Administer the Nebraska Visitors Development Act;
- (2) Prepare and approve a budget;
- (3) Elect a chairperson and vice-chairperson;
- (4) Procure and evaluate data and information necessary for the proper administration of the act;
- (5) Appoint an executive director at a salary to be fixed by the commission to conduct the day-to-day operations of the commission;
- (6) Employ personnel and contract for services which are necessary for the proper operation of the commission;
- (7) Establish a means by which any interested person has the opportunity at least annually to offer his or her ideas and suggestions relative to the commission's duties for the upcoming year;
- (8) Authorize the expenditure of funds and contracting of expenditures to carry out the act;
- (9) Keep minutes of its meetings and other books and records which clearly reflect all of the actions and transactions of the commission and keep such records open to examination during normal business hours;
- (10) Prohibit any funds appropriated to the commission from being expended directly or indirectly to promote or oppose any candidate for public office or to influence state or federal legislation; ~~and~~
- (11) Have authority to mark significant tourism attractions as provided in section 81-3711.01; -
- (12) Adopt and promulgate rules and regulations to carry out the Nebraska Visitors Development Act;
- (13) Develop and administer a program to provide promotional services, technical assistance, and state aid to local governments and the tourism industry;
- (14) Establish written policies and procedures governing the executive director and the personnel of the commission in the expenditure and use of funds appropriated to the commission;
- (15) Cooperate with federal, state, and local governments and private individuals and organizations to carry out any of the functions of the commission and purposes of the Nebraska Visitors Development Act; and
- (16) Actively coordinate and develop working partnerships with other state agencies, including, but not limited to, the Commission on Indian Affairs, the Department of Economic Development, the Game and Parks Commission, the Nebraska Arts Council, the Nebraska State Historical Society, and the University of Nebraska.

Sec. 7. Section 81-3712, Reissue Revised Statutes of Nebraska, is amended to read:

81-3712 (1) For purposes of transition, employees of the Travel and Tourism Division of the Department of Economic Development shall be considered employees of the commission and shall retain their rights under the state personnel system or pertinent bargaining agreement, and their service shall be deemed continuous. This section does not grant employees any new rights or benefits not otherwise provided by law or bargaining agreement or preclude the commission from exercising any of the prerogatives of management set forth in section 81-1311 or as otherwise provided by law. This section is not an amendment to or substitute for the provisions of any existing bargaining agreements.

~~(2) All items of property, real and personal, including office furniture and fixtures, books, documents, and records of the Travel and Tourism Division of the Department of Economic Development shall become the property of the commission.~~

~~(3) Whenever the Travel and Tourism Division of the Department of Economic Development is referred to or designated by any contract or other document, such reference or designation shall apply to the commission. All contracts entered into by the division prior to July 1, 2012, are hereby recognized, with the commission succeeding to all rights and obligations under such contracts. Any cash funds, custodial funds, gifts, trusts, grants, and any appropriations of funds from prior fiscal years available to satisfy obligations incurred under such contracts shall be transferred and appropriated to the commission for the payment of such obligations. All licenses, certificates, registrations, permits, seals, or other forms of approval issued by the division shall remain valid as issued unless revoked or their effectiveness is otherwise terminated as provided by law. All documents and records transferred, or copies of such documents and records, may be authenticated or certified by the commission for all legal purposes.~~

~~(4) All rules, regulations, and orders of the Department of Economic Development adopted prior to July 1, 2012, shall continue to be effective until revised, amended, repealed, or nullified pursuant to law.~~

~~(5) No suit, action, or other proceeding, judicial or administrative, lawfully commenced prior to July 1, 2012, or which could have been commenced prior to that date, by or against the division or any employee thereof in his or her official capacity or in relation to the discharge of his or her official duties, shall abate by reason of the transfer of duties and functions from the division to the commission.~~

~~(6) On and after July 1, 2012, unless otherwise specified, whenever any provision of law refers to the division, the law shall be construed as referring to the commission.~~

Sec. 8. Section 81-3713, Reissue Revised Statutes of Nebraska, is amended to read:

81-3713 (1) The commission shall develop a program to provide promotional services and technical assistance to local governments and industry members and to ensure the protection and development of Nebraska's attraction resources.

(2) The commission shall develop a statewide strategic plan to cultivate and promote tourism in Nebraska. The commission shall review the plan annually and update as necessary. The commission shall adopt policy criteria to be used in the development of the plan. The plan shall include:

(1) (a) A review of revenue in the State Visitors Promotion Cash Fund available for tourism development at the state level the existing and potential sources of funding for tourism at the state and local levels;

(b) A comprehensive inventory of local tourism boards, the structure of such boards, and their funding;

(c) Criteria for local tourism boards in terms of appointments to such boards and for awarding grants by such boards at the local level to ensure local resources are used to achieve the greatest return;

(2) (d) An examination of best management practices for the tourism industry other states' funding models for tourism;

(3) (e) Marketing strategies for promoting tourism;

(4) Methods to expand (f) A proposal for creating new or expanding existing tourism capacity which may include encouraging regional cooperation, collaboration, or privatization; and

(5) (g) Recommended strategies to provide technical assistance, marketing services, and state aid to local governments and the tourism industry in Nebraska legislation or funding requirements.

(3) All advertising contracts awarded by the commission concerning travel and tourism shall be based on competitive bids. Contracts shall be awarded to the lowest responsible bidder, taking into consideration the best interests of the state, the quality of performance of the services rendered, the conformity with specifications, the purposes for which required, and the time of completion. In determining the lowest responsible bidder, in addition to price, the commission shall consider: (a) The ability, capacity, creativity, and skill of the bidder to perform the contract required; (b) the character, integrity, reputation, judgment, experience, and efficiency of the bidder; (c) whether the bidder can perform the contract within the time specified; (d) the quality of performance of previous contracts; (e) the previous and existing compliance by the bidder with laws relating to the contract; and (f) such other information as may be secured having a bearing on the decision to award the contract. The commission shall advertise for bids for the awarding of contracts concerning travel and tourism pursuant to sections 73-101 to 73-105. At least thirty working days shall elapse between the time formal bids are advertised for and the time of their opening. Contracts shall be awarded within sixty working days

~~after the bidding has been closed. Each person submitting a bid shall be notified by certified mail as to whom the contract was awarded.~~

Sec. 9. Section 81-3714, Revised Statutes Cumulative Supplement, 2016, is amended to read:

81-3714 The State Visitors Promotion Cash Fund is created. The fund shall be administered by the commission. The fund shall consist of revenue deposited into the fund pursuant to section 81-3715 and money donated as gifts, bequests, or other contributions from public or private entities. Funds made available by any department or agency of the United States may also be credited to the fund if so directed by such department or agency. The commission shall use the proceeds of the fund to generally promote, encourage, and attract visitors to and within the State of Nebraska, to erect and replace highway tourism markers, to enhance the use of travel and tourism facilities within the state, to provide ~~marketing assistance~~ grants to communities and organizations, and to contract with the Department of Administrative Services to provide support services to the commission, including, but not limited to, accounting and personnel functions. The proceeds of the fund shall be in addition to funds appropriated to the commission from the General Fund. Any money in the State Visitors Promotion Cash Fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 10. Section 81-3721, Reissue Revised Statutes of Nebraska, is amended to read:

~~81-3721 All contracts awarded by the commission shall be subject to sections 73-501 to 73-510. The commission shall comply with the rules, regulations, procedures, and guidelines established by the Department of Administrative Services for contracts. The commission shall cooperate with other departments and agencies of the state and may contract with other persons, including private agencies, to carry out any of the functions and purposes of the Nebraska Visitors Development Act.~~

Sec. 11. Section 81-3724, Reissue Revised Statutes of Nebraska, is amended to read:

~~81-3724 The commission and the Tax Commissioner shall adopt and promulgate rules and regulations to carry out the collection of lodging taxes under the Nebraska Visitors Development Act.~~

Sec. 12. Section 81-3725, Revised Statutes Cumulative Supplement, 2016, is amended to read:

81-3725 (1) The commission shall develop a program to provide marketing assistance grants to communities and organizations hosting national or international-caliber events held in Nebraska that have the potential to attract a significant percentage of out-of-state visitors and to generate favorable national or international press coverage for Nebraska.

(2) A community or organization applying for a marketing assistance grant shall provide a plan to the commission that includes: (a) Documentation that the event will attract out-of-state visitors; (b) details regarding the type of marketing that would be carried out with state funds; (c) methodologies used to track the impact of marketing efforts and the number of out-of-state visitors attending the event; and (d) details regarding the potential national or international press coverage that will be generated by the event.

(3) The commission shall develop a program to provide innovative tourism grants to communities or organizations that provide tourism and visitor promotion services, host events, or promote attractions which result in either (a) an increased number of nonlocal, instate visitors or (b) an increased number of both nonlocal, instate visitors and out-of-state visitors. Innovative tourism grants may include, but not be limited to, marketing assistance, planning assistance, basic support, and regional cooperation. Innovative tourism grants shall not be used for equipment or capital facility development or improvements.

~~(4) (3)~~ The executive director shall convene a technical review committee of no fewer than three individuals representing the public sector, the private sector, and citizens at large. The technical review committee and the executive director shall review and score applications for marketing assistance grants and innovative tourism grants and forward recommendations to the commission for approval by the commission or a subcommittee of the commission.

~~(5) (4)~~ Communities and organizations receiving marketing assistance grants or innovative tourism grants authorized under this section shall provide a final report to the commission within ninety days after the completion date of the event that includes event attendance, the use of funds, and marketing impact information.

(6) The commission shall adopt and promulgate rules and regulations governing the grant programs authorized under this section.

Sec. 13. Original sections 81-3702, 81-3710, 81-3712, 81-3713, 81-3721, and 81-3724, Reissue Revised Statutes of Nebraska, and sections 81-3701, 81-3703, 81-3711, 81-3714, and 81-3725, Revised Statutes Cumulative Supplement, 2016, are repealed.

Sec. 14. The following section is outright repealed: Section 81-3727, Revised Statutes Cumulative Supplement, 2016.