

MEMO TO BOARD OF COUNTY COMMISSIONERS

re: Tourism Board

A question has been raised about the current membership of the Custer County Tourism Board. I have done some research on this issue and want to share some information with you for your guidance as you address this matter.

In 2007 the Board of County Commissioners presented the following ballot question to the registered voters of Custer County:

COUNTY REFERENDUM

CREATING LODGING TAX AND TOURISM BOARD

"SHALL CUSTER COUNTY TAXES BE INCREASED BY A PROJECTED AMOUNT OF \$25,000 ANNUALLY THROUGH THE IMPLEMENTATION OF A TWO PERCENT (2%) TOURISM LODGING TAX ASSESSED ON ROOMS OR ACCOMMODATIONS BY ANY PERSON OR ENTITY RENTING A MOTEL, CAMPGROUND, OR HOTEL OR SIMILAR ENTERPRISE LOCATED IN THE COUNTY OF CUSTER FOR LESS THAN 30 CONSECUTIVE DAYS, PURSUANT TO C.R.S., 30-11-107.5 BEGINNING JANUARY 1, 2008, AND BY WHATEVER AMOUNT FUTURE COLLECTIONS OF SUCH LODGING TAX TOTAL, THE REVENUES FROM SUCH TAX TO BE USED EXCLUSIVELY FOR ADVERTISING AND MARKETING OF LOCAL TOURISM, TO BE ADMINISTERED BY A BOARD OF AT LEAST THREE PERSONS FROM THE TOURISM INDUSTRY WITHIN THE COUNTY OF CUSTER APPOINTED BY THE COMMISSIONERS OF CUSTER COUNTY, WHICH SHALL BE TO THE EXTENT FEASIBLE, TO ADVERTISE AND MARKET TOURISM FOR THE BENEFIT OF CUSTER COUNTY."

As you are aware, this ballot question was approved, and a Tourism Board was established for Custer County. On April 1, 2008, the initial Bylaws for the Custer County Tourism Board were approved by the BOCC. The following provision regarding membership appears in these Bylaws:

MEMBERSHIP AND TERMS

- A. The CCTB shall be comprised of five (5) members. All members must be residents of Custer County, and one shall be a Custer County Commissioner.
- B. The CCTB Members shall serve for a term of three (3) years except for the County Commissioner, who shall serve for one (1) year. There are no term limits for Board members, but they must be re-appointed by the County Commissioners at the end of each term.
- C. In addition to the single County Commissioner, effort will be made to secure participation of CCTB members from the following industry categories: Hotels/Motels, Campgrounds, Attractions, Recreation and Restaurants, but others will be considered based upon experience.

The language in the ballot question tracks the statutory language with respect to three members of the Tourism Board being selected from “the tourism industry”.

Section 30-11-107.5 (4)(b) says: "Upon approval of a lodging tax by the electors pursuant to this section, the county commissioners shall select a panel of no less than three citizens to administer the tourism fund. Members of the panel *shall* be appointed from the tourism industry within the municipalities or unincorporated areas from which the lodging tax is collected." [emphasis supplied]

The language in the Bylaws is somewhat different; there it says “[E]ffort will be made to secure participation of CCTB members from the following industry categories . . .]” The implication to be drawn from this phraseology is that there was recognition that it might be difficult to find a sufficient numbers of individuals from the specific industry categories listed: Hotels/Motels, Campgrounds, Attractions, Recreation and Restaurants. Consequently, the Bylaws hedged a little bit by finishing with the following escape clause: “. . . *but others will be considered based on experience.*” The statutory mandate and the language of Resolution No. 07-07 trumps the Bylaws, of course.

Interestingly, there is no statutory definition of “tourism industry”. The closest we can come to deducing the intent of the Colorado Legislature is found in Article 49.7 of Title 24 of the Colorado Revised Statutes—the provision creating the Colorado Tourism Office. Section 103 of Article 49.7 establishes a 15-member board of directors for the Tourism Office and specifies the required representation on this board. The governor was authorized to appoint the initial board

members, and that portion of Section 103 giving him this authority says "Of the members appointed by the governor, two shall be appointed at large from tourism-based industries and one member shall be appointed from each of the following industries and groups from lists submitted from such industries and groups:

- (I) The hotel, motel, and lodging industry;
- (II) The food, beverage, and restaurant industry;
- (III) The ski industry;
- (IV) Private travel attractions and casinos;
- (V) Other outdoor recreation industries;
- (VI) Tourism-related transportation industries;
- (VII) The tourism-related retail industry;
- (VIII) The destination marketing industry; and
- (IX) Cultural events and facility groups."

I am presenting all this information so you are fully apprised of the status of tourism in Colorado from a legislative perspective. I think the above list gives you a pretty good idea of what the term "tourism industry" encompasses. My only observation at the moment is that, as is often the case, the Legislature probably did not give much thought to the sparsely populated rural counties and the problems they might encounter trying to find volunteers willing to devote the time and energy to serve on the various county boards.

Clint Smith