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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2172

02/21/2023 Authored by Hornstein, Davids, Lislegard, Hollins, Agbaje and others
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxation; property; authorizing the creation of tourism improvement
1.3 special taxing districts; proposing coding for new law as Minnesota Statutes,
1.4 chapter 428B.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. 428B.01 DEFINITIONS.

1.7 Subdivision 1. Applicability. As used in sections 428B.01 to 428B.09, the terms in this
1.8 section have the meanings given them.

1.9 Subd. 2. Activity. "Activity" means but is not limited to all of the following:

1.10 (1) promotion of tourism within the district;

1.11 (2) promotion of business activity, including but not limited to tourism, of businesses
1.12 subject to the service charge within the tourism improvement district;

1.13 (3) marketing, sales, and economic development; and

1.14 (4) other services provided for the purpose of conferring benefits upon businesses located
1.15 in the tourism improvement district that are subject to the tourism improvement district
1.16 service charge.

1.17 Subd. 3. Business. "Business" means the type or class of lodging business that is
1.18 described in the municipality's ordinance, which benefits from district activities, adopted
1.19 under section 428B.02.

1.20 Subd. 4. Business owner. "Business owner" means a person recognized by a municipality
1.21 as the owner of a business.

2.1 Subd. 5. **City.** "City" means a home rule charter or statutory city.

2.2 Subd. 6. **Clerk.** "Clerk" means the chief clerical officer of the municipality.

2.3 Subd. 7. **Governing body.** "Governing body" means, with respect to a city, a city council
 2.4 or other governing body of a city. With respect to a town, governing body means a town
 2.5 board or other governing body of a town. With respect to a county, governing body means
 2.6 a board of commissioners or other governing body of a county.

2.7 Subd. 8. **Impacted business owners.** "Impacted business owners" means a majority of
 2.8 business owners located within a tourism improvement district.

2.9 Subd. 9. **Municipality.** "Municipality" means a county, city, or town.

2.10 Subd. 10. **Tourism improvement association.** "Tourism improvement association"
 2.11 means a new or existing and tax-exempt nonprofit corporation, entity, or agency charged
 2.12 with promoting tourism within the tourism improvement district and that is under contract
 2.13 with the municipality to administer the tourism improvement district and implement the
 2.14 activities and improvements listed in the municipality's ordinance.

2.15 Subd. 11. **Tourism improvement district.** "Tourism improvement district" means a
 2.16 tourism improvement district established under this chapter.

2.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

2.18 Sec. 2. **[428B.02] ESTABLISHMENT OF TOURISM IMPROVEMENT DISTRICT.**

2.19 Subdivision 1. **Ordinance.** (a) Upon a petition by impacted business owners, a governing
 2.20 body of a municipality may adopt an ordinance establishing a tourism improvement district
 2.21 after holding a public hearing on the district. The ordinance must include:

2.22 (1) a map that identifies the tourism improvement district boundaries in sufficient detail
 2.23 to allow a business owner to determine whether a business is located within the tourism
 2.24 improvement district boundaries;

2.25 (2) the name of the tourism improvement association designated to administer the tourism
 2.26 improvement district and implement the approved activities and improvements;

2.27 (3) a list of the proposed activities and improvements in the tourism improvement district;

2.28 (4) the time and manner of collecting the service charge and any interest and penalties
 2.29 for nonpayment;

2.30 (5) a definition describing the type or class of businesses to be included in the tourism
 2.31 improvement district and subject to the service charge;

3.1 (6) the rate, method, and basis of the service charge with intent, and penalties on
3.2 delinquent payments for the district, including the portion dedicated to covering expenses
3.3 listed in subdivision 4, paragraph (b); and

3.4 (7) the number of years the service charge will be in effect.

3.5 (b) If the boundaries of a proposed tourism improvement district overlap with the
3.6 boundaries of an existing special service district, the tourism improvement district ordinance
3.7 may list measures to avoid any impediments on the ability of the special service district to
3.8 continue to provide its services to benefit its property owners.

3.9 Subd. 2. **Notice.** A municipality must provide notice of the hearing by publication in at
3.10 least two issues of the official newspaper of the municipality. The two publications must
3.11 be two weeks apart and the municipality must hold the hearing at least three days after the
3.12 last publication. Not less than ten days before the hearing, the municipality must mail, or
3.13 deliver by electronic means, notice to the business owner of each business subject to the
3.14 proposed service charge by the tourism improvement district. The notice must include:

3.15 (1) a map showing the boundaries of the proposed district;

3.16 (2) the time and place of the hearing;

3.17 (3) a statement that all interested persons will be given an opportunity to be heard at the
3.18 hearing regarding the proposed service charge; and

3.19 (4) a brief description of the proposed activities, improvements, and service charge.

3.20 Subd. 3. **Business owner determination.** A business must provide ownership information
3.21 to the municipality. A municipality has no obligation to obtain other information regarding
3.22 the ownership of businesses, and its determination of ownership shall be final for the purposes
3.23 of this chapter. If this chapter requires the signature of a business owner, the signature of
3.24 the authorized representative of a business owner is sufficient.

3.25 Subd. 4. **Service charges; relationship to services.** (a) A municipality may impose a
3.26 service charge on a business pursuant to this chapter for the purpose of providing activities
3.27 and improvements that will provide benefits to a business that is located within the tourism
3.28 improvement district and subject to the tourism improvement district service charge. Each
3.29 business paying a service charge within a district must benefit directly or indirectly from
3.30 improvements provided by a tourism improvement association, provided, however, the
3.31 business need not benefit equally. Service charges must be based on a percent of gross
3.32 business revenue, a fixed dollar amount per transaction, or any other reasonable method
3.33 based upon benefit and approved by the municipality.

4.1 (b) Service charges may be used to cover the costs of collections, as well as other
 4.2 administrative costs associated with operating, forming, or maintaining the district.

4.3 Subd. 5. **Public hearing.** At the hearing regarding the adoption of the ordinance
 4.4 establishing a tourism improvement district, business owners and persons affected by the
 4.5 proposed district may testify on issues relevant to the proposed district. The hearing may
 4.6 be adjourned from time to time. The ordinance establishing the district may be adopted at
 4.7 any time within six months after the date of the conclusion of the hearing by a vote of the
 4.8 majority of the governing body of the municipality.

4.9 Subd. 6. **Appeal to district court.** Within 45 days after the adoption of the ordinance
 4.10 establishing a tourism improvement district, a person aggrieved, who is not precluded by
 4.11 failure to object before or at the hearing, may appeal to the district court by serving a notice
 4.12 on the clerk of the municipality or governing body. The validity of the tourism improvement
 4.13 district and the service charge imposed under this chapter shall not be contested in an action
 4.14 or proceeding unless the action or proceeding is commenced within 45 days after the adoption
 4.15 of the ordinance establishing a tourism improvement district. The petitioner must file notice
 4.16 with the court administrator of the district court within ten days after its service. The clerk
 4.17 of the municipality must provide the petitioner with a certified copy of the findings and
 4.18 determination of the governing body. The court may affirm the action objected to or, if the
 4.19 petitioner's objections have merit, modify or cancel it. If the petitioner does not prevail on
 4.20 the appeal, the costs incurred shall be charged to the petitioner by the court and judgment
 4.21 entered for them. All objections shall be deemed waived unless presented on appeal.

4.22 Subd. 7. **Notice to the commissioner of revenue.** Within 30 days of adoption of the
 4.23 ordinance, the governing body must send a copy of the ordinance to the commissioner of
 4.24 revenue.

4.25 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.26 Sec. 3. **[428B.03] SERVICE CHARGE AUTHORITY; NOTICE; HEARING**
 4.27 **REQUIREMENT.**

4.28 Subdivision 1. **Authority.** A municipality may impose service charges authorized under
 4.29 section 428B.02, subdivision 4, to finance an activity or improvement in the tourism
 4.30 improvement district that is provided by the municipality if the activity or improvement is
 4.31 provided in the tourism improvement district at an increased level of service. The service
 4.32 charges may be imposed in the amount needed to pay for the increased level of service
 4.33 provided by the activity or improvement.

5.1 Subd. 2. Annual hearing requirement; notice. Beginning one year after the
 5.2 establishment of the tourism improvement district, the municipality must hold an annual
 5.3 public hearing regarding continuation of the service charges in the tourism improvement
 5.4 district. The municipality must provide notice of the hearing by publication in the official
 5.5 newspaper at least seven days before the hearing. The municipality must mail, or deliver
 5.6 by electronic means, notice of the hearing to business owners subject to the service charge
 5.7 at least seven days before the hearing. At the hearing, a person affected by the proposed
 5.8 district may testify on issues relevant to the proposed district. Within six months of the
 5.9 hearing, the municipality may adopt a resolution to continue imposing service charges within
 5.10 the district not exceeding the amount or rate expressed in the notice. For purposes of this
 5.11 section, the notice must include:

5.12 (1) a map showing the boundaries of the district;

5.13 (2) the time and place of the hearing;

5.14 (3) a statement that all interested persons will be given an opportunity to be heard at the
 5.15 hearing regarding the proposed service charge;

5.16 (4) a brief description of the proposed activities and improvements;

5.17 (5) the estimated annual amount of proposed expenditures for activities and
 5.18 improvements;

5.19 (6) the rate of the service charge for the district during the year and the nature and
 5.20 character of the proposed activities and improvements for the district during the year in
 5.21 which service charges are collected;

5.22 (7) the number of years the service charge will be in effect; and

5.23 (8) a statement that the petition requirement of section 428B.07 has either been met or
 5.24 does not apply to the proposed service charge.

5.25 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.26 Sec. 4. **[428B.04] MODIFICATION OF ORDINANCE.**

5.27 Subdivision 1. **Adoption of ordinance; request for modification.** Upon written request
 5.28 of the tourism improvement association, the governing body of a municipality may adopt
 5.29 an ordinance to modify the district after conducting a public hearing on the proposed
 5.30 modifications. If the modification includes a change to the rate, method, and basis of
 5.31 imposing the service charge or the expansion of the tourism improvement district's geographic

6.1 boundaries, a petition as described in section 428B.07 must be submitted by impacted
 6.2 business owners to initiate proceedings for modification.

6.3 Subd. 2. **Notice of modification.** A municipality must provide notice of the hearing by
 6.4 publication in at least two issues of the municipality's official newspaper. The two
 6.5 publications must be two weeks apart and the municipality must hold a hearing at least three
 6.6 days after the last publication. Not less than ten days before the hearing, the municipality
 6.7 must mail, or deliver by electronic means, notice to the business owner of each business
 6.8 subject to the service charge by the tourism improvement district. The notice must include:

6.9 (1) a map showing the boundaries of the district and any proposed changes to the
 6.10 boundaries of the district;

6.11 (2) the time and place of the hearing;

6.12 (3) a statement that all interested persons will be given an opportunity to be heard at the
 6.13 hearing regarding the proposed service charge; and

6.14 (4) a brief description of the proposed modification to the ordinance.

6.15 Subd. 3. **Hearing on modification.** At the hearing regarding modification to the
 6.16 ordinance, business owners and persons affected by the proposed modification may testify
 6.17 on issues relevant to the proposed modification. Within six months after the conclusion of
 6.18 the hearing, the municipality may adopt the ordinance modifying the district by a vote of
 6.19 the majority of the governing body in accordance with the request for modification by the
 6.20 tourism improvement association and as described in the notice.

6.21 Subd. 4. **Objection.** If the modification of the ordinance includes the expansion of the
 6.22 tourism improvement district's geographic boundaries, the ordinance modifying the district
 6.23 may be adopted after following the notice and veto requirements in section 428B.08;
 6.24 however, a successful objection will be determined based on a majority of business owners
 6.25 who will pay the service charge in the expanded area of the district. For all other
 6.26 modifications, the ordinance modifying the district may be adopted following the notice
 6.27 and veto requirements in section 428B.08.

6.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.29 Sec. 5. **[428B.05] COLLECTION OF SERVICE CHARGES; PENALTIES.**

6.30 The service charges imposed under this chapter may be collected by the municipality,
 6.31 tourism improvement association, or other designated agency or entity. Collection of the
 6.32 service charges must be made at the time and in the manner set forth in the ordinance. The

7.1 entity collecting the service charges may charge interest and penalties on delinquent payments
 7.2 for service charges imposed under this chapter as set forth in the municipality's ordinance.

7.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.4 Sec. 6. **[428B.06] TOURISM IMPROVEMENT ASSOCIATION.**

7.5 Subdivision 1. **Composition and duties.** The tourism improvement association must
 7.6 be designated in the municipality's ordinance. The tourism improvement association shall
 7.7 appoint a governing board or committee composed of a majority of business owners who
 7.8 pay the tourism improvement district service charge, or the representatives of those business
 7.9 owners. The governing board or committee must manage the funds raised by the tourism
 7.10 improvement district and fulfill the obligations of the tourism improvement district. A
 7.11 tourism improvement association has full discretion to select the specific activities and
 7.12 improvements that are funded with tourism improvement district service charges within the
 7.13 authorized activities and improvements described in the ordinance.

7.14 Subd. 2. **Annual report.** The tourism improvement association must submit to the
 7.15 municipality an annual report for each year in which a service charge is imposed. The report
 7.16 must include a financial statement of revenue raised by the district. The municipality may
 7.17 also, as part of the enabling ordinance, require the submission of other relevant information
 7.18 related to the association.

7.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.20 Sec. 7. **[428B.07] PETITION REQUIRED.**

7.21 A municipality may not establish or modify a tourism improvement district under section
 7.22 428B.02 unless impacted business owners file a petition requesting a public hearing on the
 7.23 proposed action with the clerk of the municipality.

7.24 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.25 Sec. 8. **[428B.08] VETO POWER OF OWNERS.**

7.26 Subdivision 1. **Notice of right to file objections.** The effective date of an ordinance or
 7.27 resolution adopted under this chapter must be at least 45 days after it is adopted by the
 7.28 municipality. Within five days after the municipality adopts the ordinance or resolution,
 7.29 the municipality must mail a summary of the ordinance or resolution to each business owner
 7.30 subject to the service charge within the tourism improvement district in the same manner
 7.31 that notice is mailed, or delivered by electronic means, under section 428B.02. The mailing

8.1 must include a notice that business owners subject to the service charge have the right to
 8.2 veto, by a simple majority, the ordinance or resolution by filing the required number of
 8.3 objections with the clerk of the municipality before the effective date of the ordinance or
 8.4 resolution and include notice that a copy of the ordinance or resolution is available for public
 8.5 inspection with the clerk of the municipality.

8.6 Subd. 2. **Requirements for veto.** If impacted business owners file an objection to the
 8.7 ordinance or resolution before the effective date of the ordinance or resolution, the ordinance
 8.8 or resolution does not become effective.

8.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

8.10 **Sec. 9. [428B.09] DISESTABLISHMENT.**

8.11 Subdivision 1. **Procedure for disestablishment.** An ordinance adopted under this chapter
 8.12 must provide a 30-day period each year in which business owners subject to the service
 8.13 charge may request disestablishment of the district. Beginning one year after establishment
 8.14 of the tourism improvement district, an annual 30-day period of disestablishment begins
 8.15 with the anniversary of the date of establishment. Upon submission of a petition from
 8.16 impacted business owners, the municipality may disestablish a tourism improvement district
 8.17 by adopting an ordinance after holding a public hearing on the disestablishment. Prior to
 8.18 the hearing, the municipality must publish notice of the hearing on disestablishment in at
 8.19 least two issues of the municipality's official newspaper. The two publications must be two
 8.20 weeks apart and the municipality must hold the hearing at least three days after the last
 8.21 publication. Not less than ten days before the hearing, the municipality must mail, or deliver
 8.22 by electronic means, notice to the business owner of each business subject to the service
 8.23 charge. The notice must include:

8.24 (1) the time and place of the hearing;

8.25 (2) a statement that all interested persons will be given an opportunity to be heard at the
 8.26 hearing regarding disestablishment;

8.27 (3) the reason for disestablishment; and

8.28 (4) a proposal to dispose of any assets acquired with the revenues of the service charge
 8.29 imposed under the tourism improvement district.

8.30 Subd. 2. **Objection.** An ordinance disestablishing the tourism improvement district
 8.31 becomes effective following the notice and veto requirements in section 428B.08.

9.1 Subd. 3. Refund to business owners. (a) Upon the disestablishment of a tourism
9.2 improvement district, any remaining revenues derived from the service charge, or any
9.3 revenues derived from the sale of assets acquired with the service charge revenues, shall
9.4 be refunded to business owners located and operating within the tourism improvement
9.5 district in which service charges were imposed by applying the same method and basis that
9.6 was used to calculate the service charges levied in the fiscal year in which the district is
9.7 disestablished.

9.8 (b) If the disestablishment occurs before the service charge is imposed for the fiscal
9.9 year, the method and basis that was used to calculate the service charge imposed in the
9.10 immediate prior fiscal year shall be used to calculate the amount of a refund, if any.

9.11 **EFFECTIVE DATE.** This section is effective the day following final enactment.

9.12 **Sec. 10. [428B.10] COORDINATION OF DISTRICTS.**

9.13 If a county establishes a tourism improvement district in a city or town under this chapter,
9.14 a city or town may not establish a tourism improvement district in the part of the city or
9.15 town located in the county-established district. If a city or town establishes a tourism
9.16 improvement district under this chapter, a county may not establish a tourism improvement
9.17 district in the part of the city or town located in the city- or town-established district.

9.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.