

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 828

Session of
2021

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GUENST AND WARREN, MARCH 8, 2021

REFERRED TO COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT,
MARCH 8, 2021

AN ACT

1 Establishing the Pennsylvania Tourism Commission and the
2 Pennsylvania Tourism Board; providing for powers and duties
3 of the Pennsylvania Tourism Commission; establishing the
4 Tourism Promotion Trust Fund; and making related repeals.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Pennsylvania
9 Tourism Commission Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Board." The Pennsylvania Tourism Board established under
15 section 4.

16 "Commission." The Pennsylvania Tourism Commission
17 established under section 3.

18 "Destination marketing organization." A nonprofit

1 corporation, organization, association or agency that is engaged
2 in tourism marketing or promotion on a regional or Statewide
3 basis to attract leisure or business travelers to this
4 Commonwealth.

5 "Tourism promotion agency." A recognized nonprofit
6 corporation, organization, association or agency that is engaged
7 in planning and promoting programs designed to stimulate and
8 increase the volume of tourist, visitor and vacation business
9 within counties served by the agency as that term is defined in
10 the act of July 4, 2008 (P.L.621, No.50), known as the Tourism
11 Promotion Act.

12 Section 3. Pennsylvania Tourism Commission.

13 The Pennsylvania Tourism Commission is established as an
14 independent agency. The purposes, powers and duties of the
15 commission shall be vested in and exercised by the Pennsylvania
16 Tourism Board established under section 4.

17 Section 4. Pennsylvania Tourism Board.

18 (a) Establishment and membership.--The Pennsylvania Tourism
19 Board is established and shall consist of the following members
20 appointed by the Governor:

21 (1) The Secretary of Community and Economic Development.
22 (2) Four members representing tourism promotion agencies
23 and destination marketing organizations to be selected from a
24 list of at least eight nominees submitted by the major
25 Statewide industry association representing tourism promotion
26 agencies, destination marketing organizations and convention
27 and visitors bureaus, as follows:

28 (i) one member from a county of the first class;
29 (ii) one member from a county of the second class or
30 second class A;

(iii) one member from a county of the third class or fourth class; and

(iv) one member from a county of the fifth class, sixth class, seventh class or eighth class.

(3) One member from the hotel and travel lodging sector.

(4) One member representing restaurants, taverns or
in establishments.

(5) One at-large member with at least 10 years of professional experience in marketing or advertising.

(6) One member from the retail shopping sector.

(7) One member from the recreation and entertainment sector.

(8) One member from the transportation sector.

(b) Ex officio members.--The following, or a designee, shall serve as nonvoting ex officio members of the board:

(1) The Secretary of Agriculture.

(2) The Secretary of Conservation and Natural Resources.

(3) The executive director of the Pennsylvania Historical and Museum Commission.

(4) The executive director of the Commonwealth of Pennsylvania Council on the Arts.

(5) The chairperson and minority chairperson of the Community, Economic and Recreational Development Committee of the Senate.

(6) The chairperson and minority chairperson of the Tourism and Recreational Development Committee of the House of Representatives.

(c) Term of office.--Members under subsection (a) shall continue in office for terms of two or four years from the date the members' initial appointment, the term of each appointed

1 member to be designated by the Governor at the time of the
2 appointment. Successor members shall be appointed for a term of
3 four years. An appointment to fill a vacancy shall be for the
4 remainder of the unexpired term. No member shall serve more than
5 two full consecutive terms.

6 (d) Chairperson.--The board shall select the chairperson of
7 the board from among the members by a majority vote with a
8 quorum present.

9 (e) Qualifications of members.--Members under subsection (a)
10 shall be qualified by reason of experience or employment and
11 must be a resident of this Commonwealth for a period of at least
12 one year immediately preceding appointment. Each member shall
13 continue to remain a resident of this Commonwealth during the
14 term of membership on the board.

15 (f) Quorum.--

16 (1) Except as otherwise provided in paragraph (2), a
17 majority of the voting members of the board shall constitute
18 a quorum for the transaction of business at a meeting or the
19 exercise of a power or function of the commission.

20 (2) For the purposes of voting to approve grants to
21 recognized tourism promotion agencies and destination
22 marketing organizations under section 5(b)(17) and (18) or
23 any other grants to recognized tourism promotion agencies and
24 destination marketing organizations that may be established
25 by statute or by the board, a majority of the voting members
26 of the board under subsection (a)(1), (3), (4), (5), (6), (7)
27 and (8) shall constitute a quorum. No member of the board
28 under subsection (a)(2) shall count toward a quorum or vote
29 on motions to approve the grants.

30 (g) Meetings.--The board shall meet at least quarterly and

1 from time to time as it determines.

2 (h) Compensation.--Members shall serve without compensation
3 but shall receive reimbursement for all reasonable and necessary
4 expenses incurred in connection with the performance of their
5 duties as members of the board.

6 (i) Liability.--No member shall be personally liable for
7 obligations of the commission or actions which were within the
8 scope of the member's office and made in good faith.

9 (j) Applicable laws.--

10 (1) The following acts shall apply to the commission:

11 (i) The act of July 19, 1957 (P.L.1017, No.451),
12 known as the State Adverse Interest Act.

13 (ii) The act of February 14, 2008 (P.L.6, No.3),
14 known as the Right-to-Know Law.

15 (iii) The provisions of 65 Pa.C.S. Chs. 7 (relating
16 to open meetings) and 11 (relating to ethics standards
17 and financial disclosure).

18 (2) The commission shall be considered an independent
19 agency for the purposes of 62 Pa.C.S. Pt. I (relating to
20 Commonwealth Procurement Code), excluding expenditures under
21 section 5(a)(5) and (b)(10), (11), (12), (13), (14) and (15).

22 Section 5. Powers and duties.

23 (a) General powers.--

24 (1) The commission shall serve as the official tourism
25 promotion and marketing agency of the Commonwealth.

26 (2) The board shall appoint a chief executive officer
27 who shall be qualified by education and experience and who
28 shall be the chief executive officer of the commission and
29 attend to administrative work of the commission. The chief
30 executive officer shall serve at the pleasure of the board,

1 which shall fix the officer's compensation subject to the
2 approval of the Governor. At the discretion of the board, the
3 chief executive officer may be considered a State employee
4 for purposes of 71 Pa.C.S. Pt. XXV (relating to retirement
5 for State employees and officers).

6 (3) The commission shall employ individuals as necessary
7 to carry out the powers and duties of the commission, who
8 shall serve at the board's pleasure. Notwithstanding
9 paragraph (4), an employee of the commission may not be
10 considered a State employee for purposes of 71 Pa.C.S. Pt.
11 XXV.

12 (4) The commission may employ individuals who at the
13 time of hiring are State employees as defined in 71 Pa.C.S.
14 Pt. XXV and who shall continue in that status until the
15 individual leaves employment with the commission.

16 (5) The commission may hire independent contractors as
17 required to achieve the tourism marketing, promotion and
18 development under this act.

19 (b) Specific powers.--The commission shall have the
20 following specific powers and duties:

21 (1) To pay or satisfy obligations of the commission.
22 (2) To sue or be sued, implead and be impleaded or
23 interplead.

24 (3) To contract and execute instruments as necessary to
25 carry out the powers and duties of the commission.

26 (4) To sell, transfer, convey and dispose of tangible or
27 intangible property owned by the commission.

28 (5) To adopt a budget.

29 (6) To lease, furnish and equip buildings, rooms and
30 other accommodations as shall be required for the operation

1 of the commission.

2 (7) To conduct all acts necessary or convenient to carry
3 out the powers granted to the commission by this act or any
4 other act. The commission shall have no power to pledge the
5 credit or taxing power of the Commonwealth.

6 (8) To purchase insurance against a loss related to the
7 commission's property or assets.

8 (9) To retain attorneys, accountants, auditors and
9 financial and other experts to render services as necessary.
10 For the purposes of this paragraph, the commission shall be
11 considered an independent agency for purposes of the act of
12 October 15, 1980 (P.L.950, No.164), known as the Commonwealth
13 Attorneys Act.

14 (10) To develop, implement and update an annual travel
15 and tourism marketing plan for the Commonwealth.

16 (11) To develop the Commonwealth's official tourism
17 slogan and official tourism logos.

18 (12) To solicit and approve all requests for proposals
19 which pertain to tourism marketing, promotion and
20 development.

21 (13) To make and execute contracts for tourism
22 marketing, promotion and development.

23 (14) To publish and distribute tourism marketing and
24 promotion materials and maintain tourism sites, social media
25 and mobile applications on publicly accessible Internet
26 websites.

27 (15) To engage in any other tourism marketing, promotion
28 and development activities to attract leisure and business
29 travelers to this Commonwealth.

30 (16) To develop policies necessary for the

1 administration and enforcement of this act, including minimum
2 standards for recognized tourism promotion agencies. The
3 commission shall adopt and administer the grant contract,
4 auditing and closeout requirements established by the
5 Department of Community and Economic Development.

6 (17) To review and approve applications for grants to
7 recognized tourism promotion agencies under the act of July
8 4, 2008 (P.L.621, No.50), known as the Tourism Promotion Act.

9 (18) To review and approve applications for regional
10 marketing partnership grants to recognized tourism promotion
11 agencies and destination marketing organizations under the
12 Tourism Promotion Act.

13 (19) To collect and publish visitor statistics and
14 tourism research.

15 (20) To expend any revenue under the Tourism Promotion
16 Trust Fund established under section 9.

17 (c) Nonprofit entity.--

18 (1) The board shall have the power to incorporate a
19 nonprofit entity that is exempt from Federal taxation under
20 section 501(c) (3) of the Internal Revenue Code of 1986
21 (Public Law 99-514, 26 U.S.C. § 1 et seq.) for the purposes
22 of soliciting and receiving monetary and in-kind
23 contributions.

24 (2) The members of the board shall serve as the members
25 of the governing board of the nonprofit entity.

26 (3) The board may use existing commission staff for the
27 administration and operation of the nonprofit entity.

28 (4) Monetary contributions received by the nonprofit
29 entity shall be deposited into a fund created by the
30 governing board of the nonprofit entity.

(5) At least 90% of the monetary contributions received by the nonprofit entity and deposited in the fund under paragraph (4) shall be distributed to the board to be used to effectuate the powers and duties of the commission under this act.

(d) Use of in-kind contributions.--The board shall use in-kind contributions to effectuate the powers and duties of the commission under this act.

Section 6. Annual report.

The commission shall submit a report to the Governor and the General Assembly by December 31 of the second year following the effective date of this section and every December 31 thereafter. The report shall include, at a minimum, a financial statement of commission revenue and expenditures, the tourism programs and projects undertaken by the commission and tourism statistics.

Section 7. Transfer of department power.

The powers and duties of the Department of Community and Economic Development imposed under the act of July 4, 2008 (L.621, No.50), known as the Tourism Promotion Act, are transferred to and shall be exercised by the commission.

Section 8. State agencies.

(a) Cooperation.--The commission may request and receive, from any department, division, board, bureau, commission or any other agency of the State or any political subdivision or authority, cooperation, assistance, information and data necessary to properly carry out powers and duties of the commission.

(b) Review.--State departments, divisions, boards, bureaus, commissions and other State agencies shall submit tourism

1 programs, plans or printed materials to the commission for
2 review prior to implementation, renewal or publishing of the
3 programs, plans or printed materials to ensure the coordination
4 of the tourism marketing, promotion and development efforts of
5 the Commonwealth.

6 Section 9. Tourism Promotion Trust Fund.

7 (a) Establishment.--A special fund is established within the
8 State Treasury to be known as the Tourism Promotion Trust Fund.

9 (b) Deposits.--The following shall be deposited into the
10 fund:

11 (1) The tax collected by a booking agent on
12 accommodation fees under section 210(a)(1) of the act of
13 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
14 1971.

15 (2) The balance of any unexpended, uncommitted or
16 unencumbered money in the Tourism Promotion Fund established
17 under section 212 of the Tax Reform Code of 1971 at the
18 effective date of this section.

19 (3) The amounts made available to the commission as
20 executive authorizations and appropriations from the General
21 Fund.

22 (4) All money received by the commission from
23 cooperative advertising, grants, donations, fees, interest
24 and dividends.

25 (5) Any other tax revenues and fees established by
26 policy, rule or statute.

27 (c) Use of revenues.--

28 (1) Money in the fund shall be used by the commission to
29 effectuate the commission's powers and duties under this act,
30 including tourism marketing and promotion, grants,

1 fulfillment and the administrative costs of the commission.

2 (2) Money in the fund is appropriated on a continuing
3 basis to the commission and may not lapse. As often as may be
4 necessary, payments from the fund shall be made upon warrant
5 of the State Treasurer after receipt of a requisition from
6 the commission.

7 (d) Audit.--The accounts and books of the commission shall
8 be examined and audited annually by the Auditor General as
9 provided in the act of April 9, 1929 (P.L.343, No.176), known as
10 The Fiscal Code.

11 Section 10. Repeals.

12 (a) Legislative intent.--The General Assembly finds and
13 declares that the repeal under subsection (b) is necessary to
14 effectuate the act.

15 (b) Specific.--The following acts or parts of acts are
16 repealed:

17 (1) The act of December 9, 2002 (P.L.1491, No.189),
18 known as the Travel and Tourism Act.

19 (2) Section 210(b)(1) of the act of March 4, 1971
20 (P.L.6, No.2), known as the Tax Reform Code of 1971.

21 (3) Section 212 of the Tax Reform Code of 1971.

22 Section 11. Effective date.

23 This act shall take effect as follows:

24 (1) Section 9 of this act shall take effect immediately.
25 (2) The remainder of this act shall take effect in 90
26 days.