

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 845 Session of 2023

INTRODUCED BY ROBINSON, ARGALL, GEBHARD, BREWSTER, MILLER,
CULVER AND LAUGHLIN, JUNE 30, 2023

SENATOR GEBHARD, COMMUNITY, ECONOMIC AND RECREATIONAL
DEVELOPMENT, AS AMENDED, DECEMBER 12, 2023

AN ACT

1 Establishing tourism improvement districts and tourism
2 improvement district management associations; and providing
3 for powers of counties, for powers of tourism improvement
4 district management associations, for dissolution of tourism
5 improvement district, for annual audit and report and for
6 applicability.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Tourism
11 Improvement District Act.

12 Section 2. Legislative findings and declarations.

13 The General Assembly finds and declares as follows:

14 (1) Existing tax rates in many counties are at or near
15 their statutory cap.

16 (2) The revenue derived from these taxes many times is
17 not sufficient to provide adequate tourism-enhancing
18 services.

19 (3) As a result, benefited businesses should be

1 authorized to create, where feasible and desired, assessment-
2 based tourism improvement districts and designated tourism
3 district management associations should initiate and
4 administer programs to promote and enhance tourism within the
5 district, as approved by a county.

6 (4) Counties should be given the broadest possible
7 discretion in establishing, by local ordinance, the type of
8 assessment-based programs most consistent with tourism
9 business needs, goals and objectives, as determined and
10 expressed by benefited business owners in the designated
11 tourism improvement district.

12 (5) This act is intended only to supplement and enhance
13 revenue for tourism activities and is not intended to
14 supplant or offset revenue from existing county ordinances
15 that assess hotels.

16 Section 3. Definitions.

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

20 "Authority." A body politic and corporate, created under 53
21 Pa.C.S. Ch. 56 (relating to municipal authorities).

22 "Benefited business." A hotel, as defined under section 209
23 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax
24 Reform Code of 1971, that is located within a tourism
25 improvement district and benefits from tourism improvement
26 district activities based on a rational nexus test.

27 "County." A county located within this Commonwealth.

28 "Nonprofit corporation." A legal entity that is incorporated
29 in this Commonwealth and specifies in its charter or bylaws that
30 no part of the net earnings may benefit a private shareholder or

1 individual holding an interest in the entity.

2 "Rational nexus test." The legal principle that requires
3 that there is a rational, definable benefit which accrues to a
4 business owner assessed a special assessment fee for the benefit
5 of a tourism improvement district created under this act.

6 "Service area." The area within the boundaries of a tourism
7 improvement district in which a tourism improvement district
8 management association provides tourism activities. The term
9 also includes the area outside of the tourism improvement
10 district where services are being provided by the tourism
11 improvement district management association under contract.

12 "Special assessment fee." The fee assessed on benefited
13 businesses levied by the county establishing a tourism
14 improvement district for the purposes of providing tourism
15 activities.

16 "Substantial amendment." An amendment to a preliminary plan
17 or an amendment to a final plan that does any of the following:

18 (1) Removes or adds tourism activities to be provided in
19 a tourism improvement district.

20 (2) Increases expenditures affecting more than 25% of
21 the total tourism improvement district management
22 association's budget for the fiscal year.

23 (3) Incurs increased indebtedness.

24 (4) Changes the assessment fee structure levied on
25 benefited business owners.

26 (5) Changes the tourism improvement district management
27 association that provides tourism activities within the
28 tourism improvement district.

29 (6) Changes the tourism improvement district's service
30 area boundary.

1 "Sunset provision." A provision in a tourism improvement
2 district plan establishing a tourism improvement district that
3 provides for the automatic termination of the tourism
4 improvement district on a date specified in the tourism
5 improvement district plan and in the county ordinance
6 establishing the tourism improvement district.

7 "Total room inventory." The cumulative number of rooms
8 available for occupancy across the benefited business within a
9 tourism improvement district.

10 "Tourism activities." An activity or service that provides a
11 benefit to benefited businesses, including any of the following:

12 (1) Marketing, sales, event promotion and other
13 promotional programs designed to increase tourism in a
14 tourism improvement district.

15 (2) Funding of special events designed to increase
16 tourism in a tourism improvement district.

17 (3) Destination product development activities designed
18 to improve the visitor experience in a tourism improvement
19 district.

20 (4) The personnel and administrative support necessary
21 to provide tourism activities.

22 (5) MAINTENANCE OF AND IMPROVEMENT TO A SPORTS FACILITY <--
23 OWNED BY AN ENTITY CREATED UNDER ARTICLE XXV-A OF THE ACT OF
24 JULY 28, 1953 (P.L.723, NO.230), KNOWN AS THE SECOND CLASS
25 COUNTY CODE, TO INCREASE TOURISM IN A TOURISM IMPROVEMENT
26 DISTRICT.

27 ~~(5)~~ (6) Any other activity, service or improvement that <--
28 is designed to increase tourism in a tourism improvement
29 district.

30 "Tourism improvement district" or "TID." A geographical area

1 composed of benefited businesses.

2 "Tourism improvement district management association" or
3 "TIDMA." The governing body that oversees the management of
4 tourism improvement districts in a county.

5 "Tourism improvement district plan." The strategic plan for
6 tourism activities within a tourism improvement district
7 approved by a tourism improvement district management
8 association.

9 Section 4. Establishment of tourism improvement districts.

10 (a) Establishment.--A benefited business may petition and
11 present a preliminary plan to the county to establish a TID in
12 the county.

13 (b) Specific procedures.--

14 (1) At least 30 days prior to the first public hearing
15 required under paragraph (2), the following shall be provided
16 by the county to each benefited business located in the
17 proposed TID via the United States Postal Service to the
18 address from which taxes are remitted:

19 (i) A copy of the petition.

20 (ii) A summary of the preliminary plan as presented
21 by the petitioning benefited business.

22 (iii) Objection procedures.

23 (iv) Amendment procedures.

24 (v) The date, location and time of the public
25 hearing.

26 (2) No sooner than 30 days from the mailing of the
27 information under paragraph (1), the county shall hold a
28 public hearing for the purpose of receiving public comment on
29 the preliminary plan for a proposed TID from benefited
30 businesses or their authorized representatives. Notice of the

1 hearing shall be published at least 10 days prior to the
2 hearing in at least one newspaper having a general
3 circulation in the proposed TID. The notice of the hearing
4 shall also be published at least 30 days prior to the hearing
5 on the county's publicly accessible Internet website. A
6 county may not vote on the ordinance to establish a TID until
7 a public hearing is held.

8 (3) Objections to the proposed TID may be filed by
9 benefited businesses or their authorized representatives. The
10 following apply:

11 (i) Objections shall be in writing, signed by the
12 benefited business owner or an authorized representative,
13 and identify the address of the benefited business for
14 which the objection is being made.

15 (ii) Objections must be filed in the office of the
16 chief clerk of the county in which the TID is being
17 proposed no later than three days prior to a vote by the
18 county on the ordinance establishing a TID.

19 (iii) If benefited businesses that make up 40% of
20 the total room inventory within the proposed TID file
21 objections, the county shall be prohibited from enacting
22 the ordinance establishing the TID.

23 (c) Contents of preliminary plan.--The preliminary plan
24 shall include all of the following:

25 (1) A map indicating the boundaries of the proposed TID.

26 (2) A written report containing the following
27 information relating to the proposed TID:

28 (i) The name.

29 (ii) A detailed description of the service areas.

30 (iii) A list of proposed tourism activities and

1 their estimated cost.

2 (iv) A proposed budget for the first fiscal year,
3 including:

4 (A) personnel and administration; and

5 (B) tourism activities.

6 (v) A proposed plan for the use of funds for the
7 upcoming five years.

8 (vi) The proposed revenue sources for financing all
9 proposed tourism activities.

10 (vii) The estimated time for implementation and
11 completion of all proposed tourism activities.

12 (viii) A statement identifying the TIDMA that will
13 govern and administer the TID, including:

14 (A) the number of TIDMA board members;

15 (B) board member terms;

16 (C) initial TIDMA board member term structure;

17 (D) initial TIDMA board member appointees; and

18 (E) the process for filling TIDMA board member
19 vacancies.

20 (ix) The method for determining the amount of the
21 special assessment fee to be levied, including an
22 exemption based upon the minimum number of rooms
23 maintained.

24 (3) Draft agreements between the county and TIDMA that
25 include the following:

26 (i) specifies their respective duties and
27 responsibilities of the county and the TIDMA;

28 (ii) requires the county to maintain the same level
29 of county programs and services provided within the
30 proposed TID after TID designation as before TID

1 designation;

2 (iii) permits the county to include in the agreement
3 and in the county ordinance establishing the TID a sunset
4 provision of no less than five years for renewal of the
5 agreement; and

6 (iv) requires that the county be responsible for the
7 collection of all special assessment fees levied within
8 the proposed TID. The county may collect an
9 administrative fee that shall not exceed 4% of the
10 assessment collected in any calendar year.

11 (d) Final plan.--Prior to the establishment of a TID, the
12 county shall provide the final plan to the office of the chief
13 clerk for the county. The final plan shall incorporate
14 amendments made to the preliminary plan based on comments from
15 benefited business owners or their authorized representatives
16 provided at the public hearings or at some other time. At least
17 30 days prior to the vote by the county on the ordinance
18 establishing the TID, the county shall make the final plan
19 available on the county's publicly accessible Internet website.

20 (e) Additional public hearing for substantial amendment to
21 preliminary plan.--Before voting on the ordinance establishing
22 the TID, the county shall hold at least one public hearing for
23 the purpose of receiving public comment on a substantial
24 amendment to the preliminary plan and contained in the final
25 plan. Notice of the hearing shall be advertised at least 10 days
26 prior to the hearing in at least one newspaper having a general
27 circulation in the proposed TID and shall be published at least
28 30 days prior to the hearing on the county's publicly accessible
29 Internet website. Notice of the hearing shall be provided to
30 each benefited business via the United States Postal Service to

1 the address from which taxes are remitted. At least 30 days
2 prior to the vote by the county on the ordinance establishing a
3 TID, the county shall make the final plan available on its
4 publicly accessible Internet website.

5 (f) Amendments to approved final plan.--The following shall
6 apply to amendments to an approved final plan:

7 (1) The final plan may be amended by the TIDMA after the
8 establishment of a TID upon the recommendation of a two-
9 thirds supermajority of the TIDMA board. A substantial
10 amendment to the final plan may only be proposed by a TIDMA
11 to a county upon the recommendation of a two-thirds
12 supermajority of the TIDMA board.

13 (2) A substantial amendment to the final plan shall only
14 be adopted by a county following the submission of the
15 proposed substantial amendment by a TIDMA and completion of
16 all of the following:

17 (i) At least 30 days prior to the vote on the
18 substantial amendment to the final plan, the county shall
19 hold at least one public hearing for the purpose of
20 receiving public comment on the substantial amendment to
21 the final plan. At least 10 days prior to the public
22 hearing, the county shall provide notice of the hearing
23 in at least one newspaper having a general circulation in
24 the TID. The notice shall specify the time and the place
25 of the hearing and the substantial amendments to be
26 considered. The notice shall be published on the county's
27 publicly accessible Internet website at least 30 days
28 prior to the date of the hearing. Notice of the hearing
29 shall be provided to each benefited business via the
30 United States Postal Service to the address from which

1 taxes are remitted.

2 (ii) For changes to a TID's service area boundary,
3 each benefited business proposed to be added to the TID
4 shall be notified at least 30 days prior to the public
5 hearing provided for under subparagraph (i). The notice
6 shall be provided via the United States Postal Service to
7 the address from which taxes are remitted. The notice
8 shall contain the date, time and location of the public
9 hearing and a copy of the final approved plan and
10 proposed substantial amendment.

11 (iii) Objections to the proposed substantial
12 amendment to the final plan may be filed by benefited
13 businesses or their authorized representatives located
14 within the TID and the proposed expanded TID service area
15 boundary. The following apply:

16 (A) Objections shall be in writing, signed by
17 the benefited business owner or an authorized
18 representative and identify the address of the
19 benefited business for which the objection is being
20 made.

21 (B) Objections must be filed in the office of
22 the chief clerk of the county in which the TID is
23 being proposed no later than three days prior to a
24 vote by the county on the substantial amendment to
25 the final plan.

26 (C) If benefited businesses that make up 40% of
27 the total room inventory within the proposed TID or
28 the proposed expanded TID service area boundary file
29 objections, the county shall be prohibited from
30 adopting the substantial amendment to the final plan.

1 (iv) Within 30 days from the public hearing provided
2 under subparagraph (i), the county may approve or
3 disapprove the substantial amendment to the final plan.
4 If approved, the substantial amendment to the final plan
5 shall take effect upon the date of the approval.

6 Section 5. Powers of counties.

7 Each county shall have the power to:

8 (1) Establish within the county an area or areas
9 designated as a TID. The following shall apply to the
10 establishment of a TID:

11 (i) A county may establish multiple TIDs within the
12 boundaries of the county.

13 (ii) A county may establish a TID that only includes
14 certain classifications of benefited businesses.

15 (iii) A benefited business may not be included in
16 any subsequently formed TIDs.

17 (iv) A county may levy a special assessment fee on
18 benefited businesses for the purpose of providing tourism
19 activities. The formula for determining the fee shall be
20 based on benefit to the benefited businesses and may
21 include a formula based on a percentage of gross rental
22 revenue or a fixed rate per occupied room per night. Each
23 benefited business paying a special assessment fee must
24 benefit directly or indirectly from tourism activities
25 provided by the TIDMA within the TID.

26 (2) Form a TIDMA by establishing an authority to
27 administer the TID, designating an existing nonprofit
28 corporation to administer the TID or creating a new nonprofit
29 corporation to administer the TID. The TIDMA must be
30 incorporated as a nonprofit corporation in this Commonwealth

1 or an authority.

2 (3) Appropriate and expend, in accordance with the
3 specific provisions of the county ordinance establishing the
4 TID, county funds as may be required to:

5 (i) Acquire, by purchase or lease, real or personal
6 property deemed necessary to effectuate the purposes of
7 the TID.

8 (ii) Prepare or have prepared preliminary planning
9 or feasibility studies to determine needed activities in
10 the TID, as well as the provision of additional services
11 to supplement existing municipal services provided within
12 the TID.

13 (4) Advance funds to a TIDMA as may be required by the
14 tourism improvement district plan.

15 (5) Levy a special assessment fee needed to finance
16 tourism activities to be provided or made by the TIDMA.

17 (6) Collect special assessment fees on behalf of the
18 TIDMA and to employ any legal methods to ensure collection of
19 the special assessment fees.

20 (7) Acquire, by gift, purchase or eminent domain, land,
21 real property or rights-of-way which may be needed for the
22 purposes of the TID, in accordance with the tourism
23 improvement district plan.

24 (8) Include a sunset provision of no less than five
25 years in the county ordinance establishing the TID and in the
26 contract with the TIDMA.

27 Section 6. Establishment of tourism improvement district
28 management associations.

29 (a) Association designated.--When a county establishes a TID
30 under this act, a TIDMA shall be designated by the county to

1 administer tourism activities within the TID according to the
2 tourism improvement district plan.

3 (b) Board.--Each TIDMA shall have an administrative board
4 and the following shall apply:

5 (1) Where a newly formed nonprofit corporation is
6 designated as the TIDMA, the certificate of incorporation or
7 bylaws shall provide that the governing board shall be
8 composed only of benefited business owners or their
9 authorized representatives. A representative of the county
10 may have a seat on the governing board.

11 (2) Where an existing nonprofit corporation is
12 designated as the TIDMA, the nonprofit shall create a
13 governing board composed only of benefited business owners or
14 their authorized representatives. A representative of the
15 county may have a seat on the governing board.

16 (3) Where an authority serves as the TIDMA, the
17 governing board shall be appointed under 53 Pa.C.S. Ch.
18 56. Notwithstanding 53 Pa.C.S. Ch. 56, the governing board of
19 an authority created to serve as a TIDMA shall be composed
20 only of benefited business owners or their authorized
21 representatives. A representative of the county may have a
22 seat on the governing board.

23 Section 7. Powers of tourism improvement district management
24 associations.

25 (a) General powers.--A TIDMA shall have the power to:

26 (1) Sue or be sued, implead or be impleaded, complain
27 and defend in all courts.

28 (2) Employ an executive director or administrator and
29 any necessary supporting staff or contract for the provision
30 of same.

1 (3) Prepare planning or feasibility studies or contract
2 for the preparation of planning or a feasibility study to
3 determine needed tourism activities or administrative
4 programs and services within the TID.

5 (4) Make, conduct or facilitate tourism activities or
6 provide administrative programs and services within a TID.

7 (5) Purchase, own, construct, renovate, develop,
8 operate, rehabilitate, manage, sell or dispose of real
9 property.

10 (6) Contract with existing businesses and other TIDMAs
11 or authorities within or outside of the TID.

12 (7) Appropriate and expend TID funds, including Federal,
13 State or municipal funds received by the TIDMA. The funds
14 shall be expended in accordance with specific provisions
15 contained in the county ordinance establishing the TID and in
16 accordance with the purposes of the tourism improvement
17 district plan.

18 (8) Impose liens, penalties and interest on benefited
19 businesses for the nonpayment of special assessment fees.

20 (b) Special assessment fees.--

21 (1) Revenues from the special assessment fee shall be
22 accounted for and used by the TIDMA to provide tourism
23 activities within the TID in accordance with the purposes of
24 the tourism improvement district plan. The TIDMA may exempt a
25 business category or a category based on benefit.

26 (2) A special assessment fee authorized under this
27 section shall be calculated using January 1 as the first day
28 of the fiscal year.

29 (3) A special assessment fee shall be based upon the
30 estimated cost of the tourism activities to be provided in

1 the TID, as stated in the final plan under section 5. If the
2 aggregate amount of all special assessment fees levied by the
3 county during the year exceeds the estimated cost of proposed
4 tourism activities for the year, the fees shall be carried
5 over and used for tourism activities within the TID in the
6 next fiscal year.

7 (4) The total costs of tourism activities provided by
8 the TIDMA shall be assessed to all designated benefited
9 businesses by a method that equitably apportions costs among
10 benefiting businesses.

11 (5) AN ENTITY THAT RECEIVES FUNDING UNDER PARAGRAPH (1) <--
12 SHALL, UPON REQUEST OF THE COUNTY, EXPLAIN THE ENTITY'S USE
13 OF THE FUNDING.

14 (c) Payment.--The county may, by ordinance, authorize the
15 payment of the special assessment fees in equal annual or more
16 frequent installments, over time and bearing interest at the
17 rate specified in the county ordinance.

18 Section 8. Dissolution of tourism improvement district.

19 (a) Request for termination.--A written request for the
20 termination of a TID shall be approved by the benefited
21 businesses or their authorized representatives that represent at
22 least 40% of the total room inventory within the TID. The
23 request shall be filed in the office of the clerk for the county
24 in which the TID is located. Upon receipt of an approved request
25 for termination, the county shall hold at least one public
26 hearing for the purpose of receiving public comment from
27 benefited businesses within the TID or their authorized
28 representatives before terminating the TID. Notice of the
29 hearing shall be published at least 10 days prior to the hearing
30 in at least one newspaper having a general circulation and

1 published 30 days prior to the hearing on the county's publicly
2 accessible Internet website. Notice of the hearing shall be
3 provided to all benefited businesses via the United States
4 Postal Service to the address from which taxes are remitted. If
5 the benefited businesses or their authorized representatives
6 that represent more than 40% of the total room inventory within
7 the TID do not object to the termination of the TID and there is
8 no outstanding and unpaid indebtedness incurred to accomplish a
9 purpose of the TID, the county shall pass an ordinance
10 terminating the TID. Ownership in assets of the TIDMA shall
11 transfer to the county.

12 (b) Termination by the county.--A TID that does not have
13 outstanding and unpaid indebtedness incurred to accomplish a
14 purpose of the TID may be dissolved by an ordinance of the
15 county if the county finds that there has been misappropriation
16 of funds, malfeasance or a violation of law in connection with
17 the management of the TID. Prior to the county enacting an
18 ordinance terminating a TID, the county shall hold at least one
19 public hearing to determine if there has been misappropriation
20 of funds, malfeasance or a violation of law in connection with
21 the management of the TID. The county shall publish notice of
22 the termination hearing, including the time and place of the
23 hearing, in at least one newspaper having a general circulation
24 in the TID and on the county's publicly accessible Internet
25 website. This notice shall be published at least 30 days prior
26 to the date of the hearing. Upon approval of the termination by
27 the county, the property ownership of assets of the TIDMA shall
28 transfer to the county.

29 Section 9. Annual audit and report.

30 A TIDMA shall annually:

1 (1) submit an audit of the income and expenditures to
2 the county in which the TID is located within 120 days after
3 the end of each fiscal year; and

4 (2) submit a report, including financial and
5 programmatic information and a summary of audit findings, to
6 the county in which the TID is located and to all assessed
7 benefited businesses.

8 Section 10. Applicability.

9 (a) TIDs established prior to act.--A TID established prior
10 to the effective date of this subsection shall remain in
11 existence and shall not be governed by the provisions of this
12 act.

13 (b) TIDs established subsequent to act.--A TID established
14 after the effective date of this subsection shall be governed by
15 the provisions of this act.

16 (c) Additional requirements.--A TID in existence on the
17 effective date of this subsection shall:

18 (1) be required to carry out duties and responsibilities
19 imposed on a TID under this act; and

20 (2) possess additional powers given to a TID under this
21 act without having to restructure or reorganize under this
22 act.

23 Section 11. Effective date.

24 This act shall take effect in 60 days.