

HOUSE BILL 620

By Hulsey

AN ACT to amend Tennessee Code Annotated, Title 7,
Chapter 40, relative to the Border Region Retail
Tourism Development District Act.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 7, Chapter 40, is amended by adding the following as a new section:

The benefits of this chapter shall apply to any cost incurred in connection with developing a project as a whole, even if:

(1) The cost includes development of portions of the district or business in the district, or both, that do not, by themselves, generate state sales and use tax revenue or sufficient state sales and use tax revenue, by themselves, to meet the standards set forth in § 7-40-103(7), including a retail store, or series of stores, or other attractions or facilities open to the public, that do not or will not, by themselves, generate state sales and use tax revenue; or

(2) The sequence of development results in development of businesses or attractions, or both, to attract or stimulate interest in the project by retail businesses or retail tourism facilities to be developed at a later time.

SECTION 2. Tennessee Code Annotated, Section 7-40-103(7), is amended by deleting the language "or other public tourism facility or facilities located within a border region retail tourism development district, and shall include retail or other public tourism facilities" and substituting instead the language "or other public tourism facility or facilities located within a border region retail tourism development district, or any combination of a single store, series of

stores, or public tourism facility or facilities, and shall include retail or other public tourism facilities, or any combination of such retail and public tourism facilities".

SECTION 3. Tennessee Code Annotated, Section 7-40-104(a)(4), is amended by deleting the language "is in the best interests of the state" and substituting instead the language "is reasonably anticipated to attain the goals set forth in § 7-40-103(7) based on applicable objective professional standards".

SECTION 4. Tennessee Code Annotated, Section 7-40-104(a)(2), is amended by adding the following language to the end of the subdivision:

No change to, or deviation from, a master development plan for a district, once the district is certified, or change in, or deviation from, a project in a district that has been certified, shall result in a district losing its certification, or disqualification of any cost, so long as the district is reasonably anticipated to attain the thresholds set forth in § 7-40-103(7) based on objective professional standards. In order to support decertification or disqualification of cost, the commissioner bears the burden of establishing that such change or deviation has caused the district to not be reasonably anticipated to attain the requisite thresholds set forth in § 7-40-103(7).

SECTION 5. Tennessee Code Annotated, Section 7-40-103(7), is amended by adding the following language at the end of the subdivision:

The thresholds set forth in this subdivision (7) shall be met based on the performance or reasonably anticipated performance of the projects in the district as a whole, and the commissioner does not have the discretion to exclude consideration of the cost to develop any business in a district.

SECTION 6. Tennessee Code Annotated, Section 7-40-104(c), is amended by deleting the language "shall" in the third sentence and substituting instead the language "may".

SECTION 7. Tennessee Code Annotated, Section 7-40-104(c), is amended by deleting the language "through the end of that fiscal year" and substituting instead the language "through the end of that fiscal year or during the investment period, or both,".

SECTION 8. Tennessee Code Annotated, Section 7-40-104(c), is amended by deleting the language "The commissioner shall review the cost certification" and substituting instead the language "If a cost certification is submitted, then the commissioner shall review the cost certification".

SECTION 9. Tennessee Code Annotated, Section 7-40-106(c), is amended by adding the following new sentence between the second and third sentences of the subsection:

If, at the end of that ninety-day period, the commissioner has not approved or disapproved the costs, with specific reasons for each disapproval, then those costs shall be deemed to be approved.

SECTION 10. Tennessee Code Annotated, Section 7-40-106(c), is amended by adding the following at the end of the subsection:

Once the commissioner has approved any cost, whether incurred by the municipality or, as a result of delegation, by an industrial development board or any developer acting by agreement with the municipality or industrial development board, such approval shall be deemed conclusive that the district is being developed for an extraordinary retail or tourism facility as described in § 7-40-103(7).

SECTION 11. Tennessee Code Annotated, Section 7-40-111, is amended by adding the following at the end of the section:

Any developer of a project within a district who has entered into an agreement with a municipality or industrial development board related to such project or any proposed project or district has standing, with respect to such project and district, to seek remedies to enforce this chapter or any rights created by this chapter, including specifically the remedy to appeal the commissioner's determination that a cost is not a qualifying cost under § 7-40-106(c).

SECTION 12. This act shall apply retroactively to any district certified prior to the effective date of this act. No such certified district shall be decertified as a result of the amendments to the Border Region Retail Tourism Development District Act, compiled in Title 7, Chapter 40, made by this act.

SECTION 13. This act shall take effect upon becoming a law, the public welfare requiring it.