



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2324

Introduced 2/26/2021, by Sen. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

New Act

Creates the Tourism Marketing and Recovery District Law. Provides that a governmental unit (a municipality, county, township, or any combination thereof) may, by ordinance, initiate proceedings to create a tourism marketing and recovery district that would allow a transaction charge to be imposed upon customer transactions entered into by tourism businesses in the district and such charges may be based on revenue, sales, or any other business-related factor deemed appropriate by the governing body. Provides that the transaction charge collected by the governmental unit shall be remitted to a tourism and convention bureau to be used for marketing, promotions, sales efforts, events, and other activities that are reasonably related to the enhancement of tourism. Provides for the creation of a district plan, public hearing requirements, requirements of an ordinance forming a district, annual reports, modification of a district plan, expiration and renewal, termination, and challenges to the validity of the creation of the district or transaction charges. Defines terms.

LRB102 17067 AWJ 22495 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Tourism Marketing and Recovery District Law.

6 Section 5. Definitions. As used in this Law:

7 "Baseline" means to the existing level of services, or
8 funding for services, provided by the governmental unit prior
9 to creation of a district.

10 "Benefit zone" means a zone within a district established
11 by the governing body based upon the degree of benefit derived
12 from the services to be provided within the zone and in which a
13 governing body may impose different transaction charges from
14 other zones relative to the degree of benefit intended to be
15 provided.

16 "Business owner" means any person recognized by the
17 governmental unit as the owner of a tourism business subject
18 to a transaction charge and may include an owner's authorized
19 representative.

20 "Clerk" means the clerk or similar administrative
21 personnel of the governing body.

22 "District" means a tourism marketing and recovery district
23 created pursuant to this Law.

1 "Governing body" means the legislative body of the
2 governmental unit.

3 "Governmental unit" means any municipality, county, or
4 township, or any combination thereof.

5 "Improvement" means the acquisition, construction,
6 installation, or maintenance of any tangible property with an
7 estimated useful life of 5 years or more that is reasonably
8 related to the enhancement of tourism.

9 "Services" means marketing, promotions, sales efforts,
10 events, and other activities that are reasonably related to
11 the enhancement of tourism.

12 "Tourism and convention bureau" means a local tourism and
13 convention bureau that is: (i) either a unit of local
14 government or incorporated as a nonprofit organization; (ii)
15 operating with a paid, full-time staff whose sole purpose is
16 to promote tourism in the designated service area; and (iii)
17 recognized by the Department of Commerce and Economic
18 Opportunity as a certified local tourism and convention bureau
19 entitled to receive State tourism grant funds.

20 "Tourism business" means all business establishments which
21 provide tourism or tourist-related goods or services.

22 "Transaction charge" means a special charge imposed upon
23 customer transactions entered into by tourism businesses in
24 the district and may be based on revenue, sales, or any other
25 business-related factor deemed appropriate by the governing
26 body, including, but not limited to, a fixed rate per occupied

1 hotel room per night.

2 Section 10. Ordinance of intent to create a district.

3 (a) A governing body may initiate proceedings to create a
4 district by adopting an ordinance expressing its intention to
5 create the district. The ordinance shall include:

6 (1) The name of the district.

7 (2) The boundaries of the district, which need not be
8 contiguous.

9 (3) The type or types of tourism businesses that will
10 pay a transaction charge.

11 (4) The initial and maximum transaction charge rates
12 to be paid by each category of tourism business in
13 sufficient detail for each business owner to estimate the
14 amount of transaction charges each tourism business would
15 pay.

16 (5) If a specific term is proposed, the proposed term
17 of the district.

18 (6) A brief description of the services and
19 improvements proposed to be provided.

20 (7) The time and place of a public hearing on the
21 proposed district.

22 (8) A statement that any tourism business proposed to
23 be subject to a transaction charge has the opportunity to
24 be heard at the hearing regarding the district formation
25 and an opportunity to file objections to the district

1 formation with the clerk at any time prior to the
2 conclusion of the public hearing.

3 (b) A governmental unit may include territory or tourism
4 businesses within the jurisdiction of another governmental
5 unit to the extent that the governing body of the other
6 governmental unit consents.

7 Section 15. District plan.

8 (a) A district plan shall be prepared before the public
9 hearing on the proposed district and include the following:

10 (1) The estimated annual budget. The budget may
11 include specific allocations to expedite the recovery of
12 the tourism industry.

13 (2) The initial and maximum transaction charge rates
14 to be paid by each category of tourism business in
15 sufficient detail for each business owner to estimate the
16 amount of transaction charges each tourism business would
17 pay.

18 (3) A statement that, after the first imposition of a
19 transaction charge within the district, the transaction
20 charge may continue to be imposed in subsequent years
21 without the requirement of an additional public hearing if
22 the transaction charge rate does not exceed the rate
23 specified in the district plan.

24 (4) The frequency and manner of collecting the
25 transaction charges.

1 (5) The manner of contesting the calculation of any
2 specific transaction charge by a specific tourism
3 business.

4 (6) The amount or rate of penalties and interest
5 applicable to delinquent payments, if any, and the method
6 of collection of penalties and interest.

7 (7) The nature of the proposed services and
8 improvements to be provided.

9 (8) The existing baseline and the baseline the
10 governmental unit will continue to provide.

11 (9) A map of the district boundaries, which need not
12 be contiguous nor include every tourism business.

13 (10) The specific categories of tourism businesses
14 that will pay a transaction charge.

15 (11) A map showing the district boundaries and benefit
16 zones, if any.

17 (12) A list of the tourism businesses to be subject to
18 a transaction charge, including the address of each
19 business.

20 (13) A statement that a tourism business may pass a
21 transaction charge onto customers, and the specific title
22 to be used when the transaction charge is disclosed to the
23 customer.

24 (14) The name and general structure of the tourism and
25 convention bureau.

26 (b) For purposes of transaction charges in a district

1 plan, the governing body may define categories of businesses
2 based upon the degree of benefit each will derive from the
3 services and improvements and may impose a different
4 transaction charge on each category relative to the degree of
5 benefit provided as the governing body may determine.

6 (c) The district plan may also include a statement
7 authorizing the issuance of bonds or other debt instruments in
8 accordance with the provisions of general laws in the amounts
9 and for the periods necessary to finance needed improvements
10 within the proposed tourism and recovery district.

11 Section 20. Public hearing.

12 (a) The governing body shall hold a public hearing on the
13 proposed district. Notice of the public hearing shall be given
14 by the United States mails addressed to the owner of each
15 tourism business proposed to pay a transaction charge, as
16 shown on the governmental unit's most recent records, and
17 shall include the ordinance regarding the governmental unit's
18 intent to establish the district. Such notice shall be mailed
19 not less than 30 days prior to the public hearing.

20 (b) At the hearing, the governing body shall consider
21 public testimony regarding the proposed district. Any tourism
22 business proposed to be subject to a transaction charge may
23 submit a written objection to the clerk at any time prior to
24 the conclusion of the public hearing. If written objections
25 are received from tourism businesses that would pay more than

1 50% of the proposed transaction charges in the proposed
2 district, no further proceedings to form the district may be
3 undertaken by the governmental unit for a period of one year.
4 The hearing may be adjourned to another date without further
5 notice other than a motion to be entered upon the minutes
6 fixing the time and place it will reconvene.

7 (c) At the public hearing, the governing body may remove
8 territory or tourism businesses from the district, reduce a
9 transaction charge rate, or make administrative clarifications
10 to the district plan.

11 (d) If, at the conclusion of the public hearing, the clerk
12 determines that all of the written objections submitted do not
13 represent tourism businesses that would pay more than 50% of
14 the proposed transaction charges, the governing body may adopt
15 an ordinance forming the district.

16 Section 25. Formation ordinance. If written protests
17 submitted do not represent tourism businesses that would pay
18 more than 50% of the proposed transaction charges, the
19 governing body may adopt an ordinance forming the district.
20 The ordinance shall contain:

21 (1) A statement regarding the date of adoption of the
22 ordinance regarding the governmental unit's intent to
23 establish the district.

24 (2) A reference to the district plan, which shall be
25 on file and available for inspection with the clerk.

1 (3) A determination as to the total amount of any
2 written protests received from tourism businesses to be
3 subject to a transaction charge.

4 (4) The name of the district.

5 (5) The effective date of the transaction charge.

6 (6) If a specific term is intended, the term of the
7 district.

8 (7) The transaction charge rate to be paid by each
9 type of tourism business in sufficient detail for each
10 business owner to estimate the amount of transaction
11 charge their business would pay.

12 (8) If a specific term is proposed, the proposed term
13 of the district.

14 (9) The name of the tourism and convention bureau.

15 (10) Confirmation that no further appropriation action
16 by the governmental unit will be necessary for the ongoing
17 collection from tourism businesses of transaction charges
18 and the remitting of such transaction charges for the
19 benefit of the tourism and convention bureau throughout
20 the term of the district.

21 (11) Authorization for the governmental unit to remit
22 the collected transaction charges to the tourism and
23 convention bureau in exchange for the tourism and
24 convention bureau providing services.

25 Section 30. Business owners; tourism and convention

1 bureaus.

2 (a) A governmental unit may determine if an owner is a
3 business owner through use of the governmental unit's records,
4 by the business owner's authorized representative, or by any
5 other means. The governmental unit has no obligation to obtain
6 other information as to the ownership of a tourism business
7 and the governmental unit's determination of ownership shall
8 be final and conclusive for purposes of this Law.

9 (b) An tourism and convention bureau shall not be
10 considered a public agency or entity for any purpose.

11 Section 35. Annual report. Each year, the tourism and
12 convention bureau shall submit a report of activities and
13 expenditures to the governing body. The report shall be
14 submitted no later than 30 days prior to the anniversary of the
15 transaction charge start date. The report shall include:

16 (1) A summary of the activities provided in the
17 current year to date.

18 (2) A summary of the expenditures for the current year
19 to date.

20 (3) The amount of any revenue to be carried over from
21 prior years.

22 (4) A list of the directors and officers of the
23 tourism and convention bureau.

24 (5) A list of the accomplishments attributable to the
25 district.

1 Section 40. Transaction charges; collection and
2 remittance. Transaction charges paid by a tourism business
3 shall be collected by the governmental unit. On a prompt
4 basis, the collected transaction charges shall be remitted by
5 the governmental unit to the tourism and convention bureau in
6 accordance with the district plan and the formation ordinance.
7 During any period that the governmental unit may hold such
8 collected transaction charges, the governmental unit shall at
9 all times maintain the collected transaction charges in a
10 specially-designated fund segregated from other funds; except,
11 for the adoption of the formation ordinance, the governmental
12 unit may provide for the ongoing retention of an amount not to
13 exceed 2% of the total amount of transaction charges collected
14 to defray (in whole or in part) the governmental unit's
15 administrative costs related to the district.

16 Collected transaction charges held by the governmental
17 unit may not be commingled with other governmental unit funds.

18 Section 45. Modification.

19 (a) Upon the written request from the tourism and
20 convention bureau, the governmental unit may notice a public
21 hearing under Section 20 on modifications to a district for
22 any of the following modifications:

23 (1) In any year other than that initial year, a
24 transaction charge rate is proposed to exceed that

1 described in the district plan.

2 (2) The boundaries of a district are changed.

3 (3) There is a change in designation of tourism
4 businesses subject to the transaction charge and any
5 tourism business pays a new or increased transaction
6 charge.

7 (b) Upon the written request from the tourism and
8 convention bureau, the governmental unit may make any
9 modifications not described in subsection (a) after holding at
10 least one public hearing.

11 (c) Any modification shall be reflected in an updated
12 district plan to be on file and available for inspection with
13 the clerk.

14 Section 50. Renewal after expiration. If a formation
15 ordinance under Section 25 defines a term for the district and
16 the district's term expires, the district may be renewed by
17 creating a new district plan pursuant to Section 15 and
18 following the procedures detailed in Sections 20, 25, and 30.
19 Upon expiration when a district is not renewed, any funds
20 remaining shall be used in accordance with the district plan
21 or refunded to the tourism businesses in equal proportion to
22 the amount of transaction charges paid by each tourism
23 business.

24 Section 55. Termination.

1 (a) The district shall be terminated by the governing body
2 if written objections are received from tourism businesses
3 that, in the most recently completed fiscal year, paid (or in
4 the case of a district that has not completed a fiscal year
5 following the initial imposition of the transaction charges,
6 would be expected to pay) more than 50% of the transaction
7 charges. Written objections must be signed by the business
8 owner and dated within 30 days after their submission to the
9 clerk. A public hearing shall be held on the written objection
10 within 30 days after the clerk's receipt of the written
11 objection. Written objections may be submitted once per year
12 in the 30 days following the anniversary of district
13 formation.

14 (b) The district may be terminated by the governing body
15 if the governing body finds that there has been a violation of
16 law, malfeasance, or misappropriation of funds. After holding
17 a noticed hearing, the governing body shall notify the tourism
18 and convention bureau to remedy the findings of the governing
19 body within 30 days. Such public hearing shall be held and
20 notice given to the tourism businesses and the tourism and
21 convention bureau not less than 30 days prior to the hearing.

22 If the tourism and convention bureau does not remedy the
23 violations within 30 days of notification, or the governing
24 body has not approved a plan to remedy the violation, at the
25 conclusion of a hearing conducted under this Section, the
26 governing body may vote to terminate the district.

1 (c) Upon termination, any funds remaining shall be used in
2 accordance with the district plan or refunded to the tourism
3 businesses in equal proportion to the amount of transaction
4 charges paid by each tourism business.

5 Section 60. Contesting validity. The validity of a
6 transaction charge imposed or a district created under this
7 Law may not be contested in any action or proceeding unless the
8 action or proceeding is commenced within 30 days after the
9 formation ordinance is adopted. Any appeal from a final
10 judgment in an action or proceeding shall be concluded within
11 30 days after the entry of judgment.

12 Section 65. No limitation on home rule. The powers granted
13 to governmental units in this Law shall not be construed as a
14 limitation on the powers of a home rule unit granted by Article
15 VII of the Illinois Constitution.