

1 HB382
2 204449-2
3 By Representative Greer
4 RFD: Economic Development and Tourism
5 First Read: 03-MAR-20

SYNOPSIS: This bill would establish a procedure for the establishment, operation, modification, renewal, and disestablishment of tourism improvement districts within the state by counties and municipalities.

 The districts, once created by the governing body of a county or municipality and once the tourism improvement district plan is approved, would be governed by a board of business owners from within the district. The governing body would levy assessments on businesses within the district, the proceeds of which would be remitted to the district board, which would use those funds to implement improvements within the district according to its district plan.

A BILL
TO BE ENTITLED
AN ACT

1 Relating to economic development; to establish a
2 procedure for the establishment, operation, modification,
3 renewal, and disestablishment of tourism improvement districts
4 within the state.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. This act shall be known and may be cited
7 as the Alabama Tourism Improvement Act of 2020.

8 Section 2. For purposes of this act, the following
9 terms shall have the following meanings:

10 (1) ACTIVITY. Includes, but is not limited to, all
11 of the following that benefit businesses in the tourism
12 improvement district:

13 a. Promotion of public events.

14 b. Furnishing of music in any public place.

15 c. Promotion of tourism within the district.

16 d. Promotion of business activity, including, but
17 not limited to tourism, of businesses subject to the tourism
18 improvement district.

19 e. Marketing, sales, and economic development.

20 f. Other services provided for the purpose of
21 conferring benefits upon businesses located in the tourism
22 improvement district that are subject to the tourism
23 improvement district assessment.

24 (2) ASSESSMENT. A levy for the purpose of providing
25 activities and improvements that will provide benefits to
26 businesses located within a tourism improvement district that
27 are subject to the tourism improvement district assessment.

1 Assessments may be based on a percent of gross business
2 revenue, a fixed dollar amount per transaction, or any other
3 reasonable method based upon benefit, and approved by the
4 authorizing county or municipality.

5 (3) AUTHORIZING RESOLUTION. A resolution, adopted by
6 the governing body of the authorizing county or municipality
7 in accordance with Section 8, that authorizes the formation or
8 renewal of a tourism improvement district and the levying of
9 assessments.

10 (4) AUTHORIZING COUNTY OR MUNICIPALITY. Any county
11 or municipality in the state which, by resolution, has
12 authorized the creation of a tourism improvement district.

13 (5) BUSINESS. Any business establishment of the type
14 or class that is described in the tourism improvement district
15 plan and the authorizing resolution.

16 (6) BUSINESS OWNER. A person recognized by the
17 authorizing county or municipality as the owner of the
18 business. The authorizing county or municipality has no
19 obligation to obtain other information as to the ownership of
20 businesses, and its determination of ownership shall be final
21 and conclusive for the purposes of this act. Wherever this act
22 requires the signature of the business owner, the signature of
23 the authorized representative of the business owner shall be
24 sufficient.

25 (7) BUSINESS OWNERS' ASSOCIATION. A new or existing
26 nonprofit corporation, entity, agency, or public corporation
27 charged with promoting tourism within the area of the tourism

1 improvement district that is under contract with the
2 authorized county or municipality to administer the tourism
3 improvement district and implement activities and improvements
4 specified in the tourism improvement district plan. Where an
5 existing nonprofit corporation, entity, agency, or public
6 corporation is designated by law as the tourism entity for the
7 region or county in which the tourism improvement district
8 shall operate, that nonprofit corporation, entity, agency, or
9 public corporation shall be designated as the Business Owners'
10 Association.

11 (8) IMPROVEMENT. An acquisition, construction,
12 installation, or maintenance relating to tangible property,
13 with an estimated useful life of five years or more, that is
14 designed to provide benefits to assessed businesses.

15 (9) MUNICIPALITY. Any incorporated municipality in
16 the state, except any Class 2 municipality as defined in
17 Section 11-40-12, Code of Alabama 1975.

18 (10) TOURISM IMPROVEMENT DISTRICT. A tourism
19 improvement district established pursuant to this act.

20 (11) TOURISM IMPROVEMENT DISTRICT PLAN. A plan as
21 prescribed in Section 4.

22 Section 3. (a) A county or municipal governing body
23 may create a tourism improvement district pursuant to this
24 act.

25 (b) A tourism improvement district may cover areas
26 outside of the corporate limits of a municipality or outside
27 of the unincorporated portions of a county.

1 (c) A county may form a tourism improvement district
2 that assesses any business located within the boundaries of
3 the county, including those businesses located in any
4 municipality, except for a Class 2 municipality, or town that
5 is within the county's borders. A municipality may not form a
6 tourism improvement district assessing any business located
7 within the unincorporated territory of a county without the
8 consent of the governing body of that county. A municipality
9 may not form a tourism improvement district assessing any
10 business located within the corporate limits of another
11 municipality without the consent of the governing body of the
12 other municipality.

13 Section 4. A tourism improvement district plan shall
14 include, but not be not limited to, all of the following:

15 (1) A map that identifies the tourism improvement
16 district boundaries in sufficient detail to allow a business
17 owner to reasonably determine whether a business is located
18 within the tourism improvement district boundaries. The
19 boundaries of a tourism improvement district may overlap with
20 other tourism improvement districts established pursuant to
21 this act.

22 (2) The name of the proposed tourism improvement
23 district.

24 (3)a. The name of the business owners' association.
25 The business owners' association's governing board shall be
26 composed of a majority of business owners, or their

1 representatives, who pay the tourism improvement district
2 assessment.

3 b. The business owners' association shall create a
4 committee composed of a majority of businesses owners, or
5 their representatives, who shall be charged with managing the
6 funds raised by the tourism improvement district and
7 fulfilling the obligations of the tourism improvement district
8 plan. A business owners' association shall have full
9 discretion to select the specific activities and improvements
10 to be funded with tourism improvement district assessment
11 revenue, within the authorized parameters of the tourism
12 improvement district plan.

13 (4) The activities and improvements proposed for
14 each year of operation of the tourism improvement district and
15 the estimated cost thereof. If the activities and improvements
16 proposed for each year of operation are the same, a
17 description of the first year's proposed activities and
18 improvements and a statement that the same activities and
19 improvements are proposed for subsequent years shall satisfy
20 the requirements of this subsection.

21 (5) The estimated annual amount proposed to be
22 expended for activities and improvements during each year of
23 operation of the tourism improvement district. This amount may
24 be estimated based upon the assessment rate. If the estimated
25 annual amount proposed to be expended in each year of
26 operation of the tourism improvement district is not
27 significantly different, the amount proposed to be expended in

1 the initial year and a statement that a similar amount applies
2 to subsequent years shall satisfy the requirements of this
3 subsection.

4 (6) The proposed source or sources of financing,
5 including the proposed method and basis of levying the
6 assessment in sufficient detail to allow each business owner
7 to calculate the amount of the assessment to be levied against
8 his or her business. The tourism improvement district plan may
9 set forth increases in assessments for any year of operation
10 of the tourism improvement district. Any new business of the
11 type or class that will be subject to the assessment that
12 commences operations during the tourism improvement district's
13 term shall be subject to the assessment.

14 (7) The time and manner of collecting the
15 assessments and any interest or penalties for non-payment.

16 (8) The specific number of years in which
17 assessments will be levied. In a new tourism improvement
18 district, the maximum number of years shall be 10. In a
19 renewed tourism improvement district, the maximum number of
20 years shall be 20.

21 (9) Any proposed rules to be applicable to the
22 tourism improvement district.

23 (10) A definition describing the type or class of
24 businesses to be included in the tourism improvement district
25 and subject to the tourism improvement district assessment.

1 (11) Any other item or matter required to be
2 incorporated in the plan by the authorizing county or
3 municipality.

4 Section 5. (a) Upon the submission of a written
5 petition, signed by business owners who will pay more than 50
6 percent of the assessments proposed to be levied, the
7 governing body of the authorizing county or municipality may
8 initiate proceedings to form a tourism improvement district by
9 the adoption of a resolution expressing its intention to form
10 a tourism improvement district.

11 (b) The petition of business owners required under
12 subsection (a) shall include a summary of the tourism
13 improvement district plan. That summary shall include all of
14 the following:

15 (1) A map showing the boundaries of the tourism
16 improvement district.

17 (2) The types or classes of businesses that will be
18 subject to the assessment.

19 (3) The assessment rate for each type or class of
20 business that will be subject to the assessment.

21 (4) Information specifying where the complete
22 tourism improvement district plan can be obtained.

23 (5) Information specifying that the complete tourism
24 improvement district plan shall be furnished upon request.

25 (c) The resolution of intention described in
26 subsection (a) shall contain all of the following:

1 (1) A brief description of the proposed activities
2 and improvements, the estimated amount of the proposed
3 assessment, a statement describing the businesses within the
4 proposed tourism improvement district that will be subject to
5 the assessment, and a description of the exterior boundaries
6 of the proposed tourism improvement district, which may be
7 made by reference to any plan or map that is on file with the
8 governing body of the authorizing county or municipality. The
9 descriptions and statements do not need to be detailed and
10 shall be sufficient if they enable a business owner to
11 generally identify the nature and extent of the activities and
12 improvements, and the location and extent of the proposed
13 tourism improvement district.

14 (2) A time and place for a public hearing on the
15 establishment of the tourism improvement district and the levy
16 of assessments, which shall be consistent with the
17 requirements of Section 6.

18 Section 6. (a) If the governing body of the
19 authorizing county or municipality has adopted a resolution of
20 intention to establish or renew a tourism improvement district
21 and levy a new or increased tourism improvement district
22 assessment, it shall hold a public hearing on the
23 establishment or renewal of the tourism improvement district
24 prior to adoption of the authorizing resolution. Notice of the
25 public hearing shall be mailed to the owners of the businesses
26 proposed to be subject to the assessment.

1 (b) The governing body of the authorizing county or
2 municipality shall provide at least 30 days' written notice of
3 the public hearing at which the governing body of the
4 authorizing county or municipality proposes to establish or
5 renew the tourism improvement district and levy the
6 assessment.

7 (c) A protest may be made by any business owner that
8 will be subject to the proposed assessment. Every protest must
9 be in writing and shall be filed with the governing body of
10 the authorizing county or municipality at or before the time
11 fixed for the public hearing. The governing body of the
12 authorizing county or municipality may waive any irregularity
13 in the form or content of any written protest. A written
14 protest may be withdrawn in writing at any time before the
15 conclusion of the public hearing. Each written protest shall
16 contain a description of the business in which the person
17 subscribing the protest is interested that shall be sufficient
18 to identify the business and, if a person subscribing is not
19 shown on the official records of the authorizing county or
20 municipality as the owner of the business, the protest shall
21 contain or be accompanied by written evidence that the person
22 subscribing is the owner of the business or the authorized
23 representative. A written protest that does not comply with
24 this section shall not be counted in determining a majority
25 protest. If written protests are received from business owners
26 who will pay more than 50 percent of the assessments proposed
27 to be levied and protests are not withdrawn so as to reduce

1 the protests to less than 50 percent, the authorizing county
2 or municipality shall not levy the assessment.

3 Section 7. At the conclusion of the public hearing
4 to establish or renew a tourism improvement district, the
5 governing body of the authorizing county or municipality may
6 adopt, revise, change, reduce, or modify the proposed
7 assessments, the boundaries of the tourism improvement
8 district, or the types or classes of businesses within the
9 tourism improvement district that would be subject to the
10 assessment. Proposed assessments may only be revised by
11 reducing any or all of them. The proposed tourism improvement
12 district boundary may only be revised to exclude territory
13 that will not benefit from the proposed activities and
14 improvements. The types or classes of businesses that will be
15 subject to the proposed assessment may only be revised to
16 exclude the business types or classes that will not benefit
17 from the proposed activities and improvements. Any
18 modifications, revisions, reductions, or changes to the
19 proposed tourism improvement district plan shall be reflected
20 in the tourism improvement district plan prior to the
21 governing body's adoption of the resolution creating or
22 renewing the tourism improvement district.

23 Section 8. (a) If the governing body of the
24 authorizing county or municipality, following the public
25 hearing, decides to establish or renew a proposed tourism
26 improvement district, the governing body shall adopt an

1 authorizing resolution that shall include, but is not limited
2 to, all of the following:

3 (1) A brief description of the proposed activities
4 and improvements, the amount of the proposed assessment, a
5 statement as to the types or classes of businesses that will
6 be subject to the assessment, and a description of the
7 exterior boundaries of the tourism improvement district, which
8 may be made by reference to any plan or map that is on file
9 with the governing body of the authorizing county or
10 municipality. The descriptions and statements need not be
11 detailed and shall be sufficient if they enable an owner to
12 generally identify the nature and extent of the activities and
13 improvements and the location and extent of the tourism
14 improvement district.

15 (2) The number, date of adoption, and title of the
16 resolution of intention.

17 (3) The time and place where the public hearing was
18 held concerning the establishment or renewal of the tourism
19 improvement district.

20 (4) A determination regarding any protests received.
21 The governing body of the authorizing county or municipality
22 shall not establish or renew the tourism improvement district
23 or levy assessments if a majority protest was received.

24 (5) A statement that the businesses in the tourism
25 improvement district established by the resolution shall be
26 subject to any amendments to this act.

1 (6) A statement that the activities and improvements
2 to be conferred on businesses in the tourism improvement
3 district will be funded by the proceeds of assessments. The
4 revenue from the assessments within a tourism improvement
5 district shall not be used for any purpose other than the
6 purposes specified in the tourism improvement district plan,
7 as authorized or modified by the governing body of the
8 authorizing county or municipality at the hearing concerning
9 establishment or renewal of the tourism improvement district.

10 (7) A finding that the businesses within the tourism
11 improvement district will benefit from the activities and
12 improvements funded by the tourism improvement district
13 assessments.

14 (b) The adoption of the authorizing resolution shall
15 constitute the levy of assessments in each of the years
16 referred to in the tourism improvement district plan.

17 Section 9. If a tourism improvement district expires
18 due to the time limit set in subdivision (7) of Section 4, a
19 new tourism improvement district plan may be created and the
20 tourism improvement district may be renewed pursuant to this
21 act.

22 Section 10. The collection of the assessments levied
23 pursuant to this act shall be made at the time and in the
24 manner set forth by the governing body of the authorizing
25 county or municipality in the authorizing resolution. All
26 delinquent payments for assessments levied pursuant to this
27 act may be charged interest and penalties.

1 Section 11. The validity of an assessment levied
2 under this act shall not be contested in any action or
3 proceeding unless the action or proceeding is commenced within
4 30 days after the authorizing resolution is adopted pursuant
5 to Section 8. Any appeal from a final judgment in an action or
6 proceeding shall be perfected within 30 days after the entry
7 of judgment.

8 Section 12. Prior to the establishment of a tourism
9 improvement district, the governing body of the authorizing
10 county or municipality may certify the baseline levels of
11 services and funding that will continue after a tourism
12 improvement district has been formed. The tourism improvement
13 district is intended to provide supplemental funding and
14 services and not to supplant existing funding or services.

15 Section 13. The validity of an assessment levied
16 under this act shall not be contested in any action or
17 proceeding unless the action or proceeding is commenced within
18 30 days after the authorizing resolution is adopted pursuant
19 to Section 8. Any appeal from a final judgment in an action or
20 proceeding shall be perfected within 30 days after the entry
21 of judgment.

22 Section 14. Prior to the establishment of a tourism
23 improvement district, the governing body of the authorizing
24 county or municipality may certify the baseline levels of
25 services and funding that will continue after a tourism
26 improvement district has been formed. The tourism improvement

1 district is intended to provide supplemental funding and
2 services, not supplant existing funding or services.

3 Section 15. The business owners' association, at any
4 time, may request that the governing body of the authorizing
5 county or municipality modify the tourism improvement district
6 plan. Any modification of the tourism improvement district
7 plan shall be made pursuant to this act. The tourism
8 improvement district plan shall not be modified, except by the
9 request of the business owners' association and only in the
10 manner requested by the business owners' association.

11 Section 16. (a) Upon the written request of the
12 business owners' association, the governing body of the
13 authorizing county or municipality may modify the tourism
14 improvement district plan by adopting a resolution determining
15 to make the modifications after conducting one public hearing
16 on the proposed modifications. If the modification includes
17 the levy of a new or increased assessment or the expansion of
18 the tourism improvement district's geographic boundaries, the
19 governing body of the authorizing county or municipality shall
20 comply with the procedures required by Section 6. Notice of
21 all other public hearings pursuant to this section shall
22 comply with both of the following:

23 (1) The resolution of intention to modify shall be
24 published in a newspaper of general circulation in the
25 authorizing county or municipality once at least seven days
26 before the public hearing.

1 (2) A complete copy of the resolution of intention
2 to modify shall be mailed by first class mail, at least 10
3 days before the public hearing, to each business owner
4 affected by the proposed modification.

5 (b) The governing body of the authorizing county or
6 municipality shall adopt a resolution of intention to modify
7 which states the proposed modification prior to the public
8 hearing required by this section. The public hearing shall be
9 held not more than 90 days after the adoption of the
10 resolution of intention to modify.

11 Section 17. (a) The business owners' association
12 shall cause to be prepared a report for each fiscal year,
13 except the first year, for which assessments are to be levied
14 and collected to pay the costs of the activities described in
15 the report. The owners' association's first report shall be
16 due 90 days after the first year of operation of the tourism
17 improvement district.

18 (b) The report shall be filed with the governing
19 body of the authorizing county or municipality and shall refer
20 to the tourism improvement district by name, specify the
21 fiscal year to which the report applies, and, with respect to
22 that fiscal year, shall contain all of the following
23 information:

24 (1) The activities and improvements to be provided
25 for that fiscal year.

26 (2) An estimate of the cost of providing the
27 activities and improvements for that fiscal year.

1 (3) The method and basis of levying the assessments
2 in sufficient detail to allow each business owner to estimate
3 the amount of the assessment to be levied against his or her
4 business for that fiscal year.

5 (4) The estimated amount of any surplus or deficit
6 revenues to be carried over from a previous fiscal year.

7 (c) The governing body of the authorizing county or
8 municipality may approve the report as filed by the business
9 owners' association or may make recommendations for approval
10 to the annual report within 45 days of receiving the annual
11 report. The annual report shall be final and approved within
12 90 days following its submission by the owners' association to
13 the governing body of the authorizing county or municipality.

14 Section 18. (a) Any tourism improvement district
15 previously established whose term has expired, or will expire,
16 may be renewed by following the procedures for establishment
17 as provided in this act.

18 (b) Upon renewal, any remaining revenues derived
19 from assessments, or any revenues derived from the sale of
20 assets acquired with the revenues, shall be transferred to the
21 renewed tourism improvement district.

22 (c) There is no requirement that the boundaries,
23 assessments, activities, or improvements of a renewed tourism
24 improvement district be the same as the original or prior
25 tourism improvement district.

26 Section 19. (a) A tourism improvement district
27 established or extended pursuant to this act may be

1 disestablished by resolution by the governing body of the
2 authorizing county or municipality pursuant to this section
3 when there is no indebtedness, outstanding and unpaid,
4 incurred to accomplish any of the purposes of the tourism
5 improvement district, and when either of the following
6 circumstances apply:

7 (1) The governing body of the authorizing county or
8 municipality finds there has been misappropriation of funds or
9 other malfeasance.

10 (2) The governing body of the authorizing county or
11 municipality finds there has been a violation of law in
12 connection with the management of the tourism improvement
13 district.

14 (b) During each year of operation of the tourism
15 improvement district, there shall be a 30-day period in which
16 businesses subject to the assessment may request
17 disestablishment of the tourism improvement district. The
18 first period shall begin two years after the date of
19 establishment of the tourism improvement district and shall
20 continue for 30 days. Each successive year of operation of the
21 tourism improvement district shall have such a 30-day period.
22 Upon the written petition of business owners who will pay more
23 than 50 percent of the assessments proposed to be levied, the
24 governing body of the authorizing county or municipality shall
25 pass a resolution of intention to disestablish the tourism
26 improvement district. The governing body of the authorizing

1 county or municipality shall give public notice of any hearing
2 on disestablishment.

3 (c) The governing body of the authorizing county or
4 municipality shall adopt a resolution of intention to
5 disestablish the tourism improvement district prior to the
6 public hearing required by this section. The resolution shall
7 state the reason for the potential disestablishment, shall
8 state the time and place of the public hearing, and shall
9 contain a proposal to dispose of any assets acquired with the
10 revenues of the assessments levied within the tourism
11 improvement district. The notice of the hearing on
12 disestablishment required by this section shall be given by
13 mail to the owner of each business subject to assessments in
14 the tourism improvement district. The governing body of the
15 authorizing county or municipality shall conduct the public
16 hearing not less than 30 days after mailing the notice to the
17 business owners. The public hearing shall be held not more
18 than 60 days after the adoption of the resolution of
19 intention. At the conclusion of the public hearing, the
20 governing body of the authorizing county or municipality shall
21 adopt a resolution disestablishing the tourism improvement
22 district.

23 Section 20. Upon the disestablishment or expiration
24 without renewal of a tourism improvement district, any
25 remaining revenues, after all outstanding debts are paid,
26 derived from the levy of assessments, or derived from the sale
27 of assets acquired with the revenues, shall be spent in

1 accordance with the tourism improvement district plan or shall
2 be refunded to the owners of the businesses then located and
3 operating within the tourism improvement district in which
4 assessments were levied by applying the same method and basis
5 that was used to calculate the assessments levied in the
6 fiscal year in which the tourism improvement district is
7 disestablished or expires.

8 Section 21. This act shall become effective on the
9 first day of the third month following its passage and
10 approval by the Governor, or its otherwise becoming law.