

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1215 Session of 2013

INTRODUCED BY STERN, KIRKLAND, COHEN, PICKETT, HICKERNELL, DIGIROLAMO, GODSHALL, KORTZ, HARKINS, MOUL, HESS, FLECK, O'BRIEN, MACKENZIE, KAUFFMAN, HALUSKA, V. BROWN, MILLARD, R. MILLER, HAHN, D. COSTA, GINGRICH, CLYMER, DeLUCA, MURT, DENLINGER, FABRIZIO AND EVERETT, APRIL 17, 2013

AS REPORTED FROM COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 5, 2013

AN ACT

1 Establishing the Pennsylvania Tourism Commission; providing for
2 powers and duties of the Pennsylvania Tourism Commission;
3 establishing the Tourism Promotion Trust Fund; and repealing
4 the Travel and Tourism Act.

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 Commission Board
15 established by this act.

16 "Commission." The Pennsylvania Tourism Commission

1 established by this act.

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

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

14 Section 3. Pennsylvania Tourism Commission.

15 An independent agency is established, which shall be a body
16 corporate and politic to be known as the Pennsylvania Tourism
17 Commission. The purposes, powers and duties of the commission
18 shall be vested in and exercised by the Pennsylvania Tourism
19 Commission Board, which board is established.

20 Section 4. Pennsylvania Tourism Commission Board.

21 (a) Membership.--The Pennsylvania Tourism Commission Board
22 shall consist of the following members appointed by the
23 Governor:

24 ~~(1) Three members representing tourism promotion~~ <--
25 ~~agencies to be selected from a list of at least six nominees~~
26 ~~submitted by the major Statewide industry association~~
27 ~~representing tourism promotion agencies, destination~~
28 ~~marketing organizations and convention and visitors bureaus,~~
29 ~~as follows: one member from a county of the first, second or~~
30 ~~second class A; one member from a county of the third, fourth~~

1 ~~or fifth class; and one member from a county of the sixth,~~
2 ~~seventh or eighth class.~~

3 (1) FOUR MEMBERS REPRESENTING TOURISM PROMOTION AGENCIES <--
4 AND DESTINATION MARKETING ORGANIZATIONS TO BE SELECTED FROM A
5 LIST OF AT LEAST EIGHT NOMINEES SUBMITTED BY THE MAJOR
6 STATEWIDE INDUSTRY ASSOCIATION REPRESENTING TOURISM PROMOTION
7 AGENCIES, DESTINATION MARKETING ORGANIZATIONS AND CONVENTION
8 AND VISITORS BUREAUS, AS FOLLOWS: ONE MEMBER FROM A COUNTY OF
9 THE FIRST CLASS; ONE MEMBER FROM A COUNTY OF THE SECOND OR
10 SECOND CLASS A; ONE MEMBER FROM A COUNTY OF THE THIRD OR
11 FOURTH CLASS; AND ONE MEMBER FROM A COUNTY OF THE FIFTH,
12 SIXTH, SEVENTH OR EIGHTH CLASS.

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

14 (3) One member representing restaurants, taverns or
15 eating establishments.

16 (4) ~~Three~~ ONE at-large ~~members, each of whom has~~ MEMBER <--
17 WITH at least ten years of professional experience in
18 marketing or advertising.

19 (5) One member from the retail shopping sector.

20 (6) One member from the recreation and entertainment
21 sector.

22 (7) One member from the transportation sector.

23 (8) THE SECRETARY OF COMMUNITY AND ECONOMIC DEVELOPMENT. <--

24 (b) Ex officio members.--The following, or their designees,
25 shall serve as nonvoting ex officio members of the board:

26 (1) The Secretary of ~~Community and Economic Development~~ <--
27 AGRICULTURE. <--

28 (2) The Secretary of Conservation and Natural Resources.

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

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

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

6 (6) The chairman and minority chairman of the Tourism
7 and Recreational Development Committee of the House of
8 Representatives.

9 (c) Term of office.--Members under subsection (a) shall
10 continue in office for terms of two or four years from the date
11 of their initial appointment, the term of each appointed member
12 to be designated by the Governor at the time of the appointment.
13 Successor members shall be appointed for a term of four years.
14 An appointment to fill a vacancy shall be for the remainder of
15 the unexpired term. No member shall serve more than two full
16 consecutive terms.

17 (d) Chairman.--The board shall select the chairman of the
18 board from among the members by a majority vote with a quorum
19 present.

20 (e) Qualifications of members.--Members under subsection (a)
21 shall be qualified by reason of experience or employment and
22 must be a resident of this Commonwealth for a period of at least
23 one year immediately preceding appointment. Each member shall
24 continue to remain a resident of this Commonwealth during the
25 term of membership on the board.

26 ~~(f) Quorum. A majority of the voting members of the board~~ <--

27 (F) QUORUM.-- <--

28 (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2), A
29 MAJORITY OF THE VOTING MEMBERS OF THE BOARD shall constitute
30 a quorum for the transaction of business at a meeting or the

1 exercise of a power or function of the commission.

2 (2) FOR THE PURPOSES OF VOTING TO APPROVE GRANTS TO <--
3 RECOGNIZED TOURISM PROMOTION AGENCIES AND DESTINATION
4 MARKETING ORGANIZATIONS UNDER SECTION 5(B)(17) AND (18) OR
5 ANY OTHER GRANTS TO RECOGNIZED TOURISM PROMOTION AGENCIES AND
6 DESTINATION MARKETING ORGANIZATIONS THAT MAY BE ESTABLISHED
7 BY STATUTE OR BY THE BOARD, A MAJORITY OF THE VOTING MEMBERS
8 OF THE BOARD UNDER SUBSECTION (A)(2), (3), (4), (5), (6), (7)
9 AND (8) SHALL CONSTITUTE A QUORUM. NO MEMBER OF THE BOARD
10 UNDER SUBSECTION (A)(1) SHALL COUNT TOWARD A QUORUM OR VOTE
11 ON MOTIONS TO APPROVE SUCH GRANTS.

12 (g) Meetings.--The board shall meet at least quarterly and
13 from time to time as it determines.

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

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

21 (j) Applicable laws.--

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

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

25 (ii) The act of July 19, 1957 (P.L.1017, No.451),
26 known as the State Adverse Interest Act.

27 (iii) The provisions of 65 Pa.C.S. Chs. 7 (relating
28 to open meetings) and 11 (relating to ethics standards
29 and financial disclosure).

30 (2) The commission shall be considered an independent

1 agency for the purposes of 62 Pa.C.S. Pt. I (relating to
2 Commonwealth Procurement Code), excluding expenditures under
3 section 5(a)(5) and (b)(10), (11), (12), (13), (14) and (15).

4 Section 5. ~~General and specific powers~~ POWERS AND DUTIES. <--

5 (a) General powers.--

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

8 (2) The board shall appoint ~~an executive director~~ A <--

9 CHIEF EXECUTIVE OFFICER who shall be qualified by education
10 and experience and who shall be the chief executive officer
11 of the commission and attend to its administrative work. The
12 ~~executive director~~ CHIEF EXECUTIVE OFFICER shall serve at the <--
13 pleasure of the board, which shall fix his compensation
14 subject to the approval of the Governor. At the discretion of
15 the board, the ~~executive director~~ CHIEF EXECUTIVE OFFICER may <--
16 be considered a State employee for purposes of 71 Pa.C.S. Pt.
17 XXV (relating to retirement for State employees and
18 officers).

19 (3) The commission shall employ individuals as necessary
20 to carry out the powers and duties of the commission, who
21 shall serve at the board's pleasure. Notwithstanding the
22 provisions of paragraph (4), an employee of the commission
23 shall not be considered a State employee for purposes of 71
24 Pa.C.S. Pt. XXV.

25 (4) The commission may employ individuals who at the
26 time of hiring are State employees as defined in 71 Pa.C.S.
27 Pt. XXV and who shall continue in that status until they
28 leave employment with the commission.

29 (5) The commission may hire independent contractors as
30 required to achieve the tourism marketing, promotion and

1 development provisions of this act.

2 (b) Specific powers.--The commission shall have the specific
3 powers and duties:

4 (1) To pay or satisfy obligations of the commission.

5 (2) To sue or be sued, implead and be impleaded or
6 interplead.

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

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

11 (5) To adopt a budget.

12 (6) To lease, furnish and equip such buildings, rooms
13 and other accommodations as shall be required for the
14 operation of the commission.

15 (7) To do all acts and things necessary or convenient to
16 carry out the powers granted to it by this act or any other
17 act. The commission shall have no power to pledge the credit
18 or taxing power of the Commonwealth.

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

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

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

29 (11) To develop the Commonwealth's official tourism
30 slogan and official tourism logos.

1 (12) To solicit and approve all requests for proposals
2 which pertain to tourism marketing, promotion and
3 development.

4 (13) To make and execute contracts for tourism
5 marketing, promotion and development.

6 (14) To publish and distribute tourism marketing and
7 promotion materials and maintain tourism sites, social media
8 and mobile applications on the Internet.

9 (15) To engage in any other tourism marketing, promotion
10 and development activities to attract leisure and business
11 travelers to this Commonwealth.

12 (16) To develop policies necessary for the
13 administration and enforcement of this act, including minimum
14 standards for recognized tourism promotion agencies. THE <--
15 COMMISSION SHALL ADOPT AND ADMINISTER THE GRANT CONTRACT,
16 AUDITING AND CLOSEOUT REQUIREMENTS ESTABLISHED BY THE
17 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT.

18 (17) To review and approve applications for grants to
19 recognized tourism promotion agencies under the act of July
20 4, 2008 (P.L.621, No.50), known as the Tourism Promotion Act.

21 (18) To review and approve applications for regional
22 marketing partnership grants to recognized tourism promotion
23 agencies and destination marketing organizations under the
24 Tourism Promotion Act.

25 (19) To collect and publish visitor statistics and
26 tourism research.

27 (20) To expend any revenue under the Tourist Promotion
28 Trust Fund established under section 9.

29 (C) NONPROFIT ENTITY.-- <--

30 (1) THE BOARD SHALL HAVE THE POWER TO INCORPORATE A

1 NONPROFIT ENTITY THAT IS EXEMPT FROM FEDERAL TAXATION UNDER
2 SECTION 501(C) (3) OF THE INTERNAL REVENUE CODE OF 1986
3 (PUBLIC LAW 99-514, 26 U.S.C. § 1 ET SEQ.) FOR THE PURPOSES
4 OF SOLICITING AND RECEIVING MONETARY AND IN-KIND
5 CONTRIBUTIONS.

6 (2) THE MEMBERS OF THE BOARD SHALL SERVE AS THE MEMBERS
7 OF THE GOVERNING BOARD OF THE NONPROFIT ENTITY.

8 (3) THE BOARD MAY USE EXISTING COMMISSION STAFF FOR THE
9 ADMINISTRATION AND OPERATION OF THE NONPROFIT ENTITY.

10 (4) MONETARY CONTRIBUTIONS RECEIVED BY THE NONPROFIT
11 ENTITY SHALL BE DEPOSITED INTO A FUND CREATED BY THE
12 GOVERNING BOARD OF THE NONPROFIT ENTITY.

13 (5) AT LEAST 90% OF THE MONETARY CONTRIBUTIONS RECEIVED
14 BY THE NONPROFIT ENTITY AND DEPOSITED IN THE FUND UNDER
15 PARAGRAPH (4) SHALL BE DISTRIBUTED TO THE BOARD TO BE USED TO
16 EFFECTUATE THE POWERS AND DUTIES OF THE COMMISSION UNDER THIS
17 ACT.

18 (D) USE OF IN-KIND CONTRIBUTIONS.--THE BOARD SHALL USE IN-
19 KIND CONTRIBUTIONS TO EFFECTUATE THE POWERS AND DUTIES OF THE
20 COMMISSION UNDER THIS ACT.

21 Section 6. Annual report.

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

29 Section 7. Transfer of department power.

30 The powers and duties of the Department of Community and

1 Economic Development imposed under the act of July 4, 2008
2 (P.L.621, No.50), known as the Tourism Promotion Act, are
3 transferred to and shall be exercised by the commission.

4 Section 8. State agencies.

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

10 (b) Review.--State departments, divisions, boards, bureaus,
11 commissions and other State agencies shall submit tourism
12 programs, plans or printed materials to the commission for
13 review prior to implementation, renewal or publishing of such
14 programs, plans or printed materials to ensure the coordination
15 of the tourism marketing, promotion and development efforts of
16 the Commonwealth.

17 Section 9. Tourist Promotion Trust Fund.

18 (a) Establishment.--A special fund is established within the
19 State Treasury to be known as the Tourist Promotion Trust Fund.

20 (b) Deposits.--The following shall be deposited into the
21 fund:

22 (1) The amounts made available to the commission as
23 executive authorizations and appropriations from the General
24 Fund.

25 (2) All money received by the commission from
26 cooperative advertising, grants, donations, fees, interest
27 and dividends.

28 (3) Any other tax revenues and fees established by
29 policy, rule or statute.

30 (c) Use of revenues.--

1 (1) Money in the fund shall be used by the commission to
2 effectuate the commission's powers and duties under this act,
3 including, but not limited to, tourism marketing and
4 promotion, grants, fulfillment and the administrative costs
5 of the commission.

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

11 (d) Audit.--The accounts and books of the commission shall
12 be examined and audited ~~from time to time~~ ANNUALLY by the
13 Auditor General as provided in the act of April 9, 1929
14 (P.L.343, No.176), known as The Fiscal Code.

<--

15 Section 10. Repeals.

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

19 (b) Specific.--The act of December 9, 2002 (P.L.1491,
20 No.189), known as the Travel and Tourism Act, is repealed.

21 (c) General.--All other acts and parts of acts are repealed
22 insofar as they are inconsistent with this act.

23 Section 11. Effective date.

24 This act shall take effect in 90 days.