

SB290 INTRODUCED



1 SB290
2 NQAZ8JJ-1
3 By Senator Waggoner
4 RFD: Tourism
5 First Read: 04-Apr-24



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SYNOPSIS:

Under existing law, municipalities may establish self-help business improvement districts.

This bill would authorize counties and municipalities to establish tourism improvement districts and provide for the renewal and dissolution of tourism improvement districts.

The bill would provide for the creation of tourism improvement district plans.

This bill would also provide for the assessments a tourism improvement district may collect from businesses and the activities and improvements a tourism improvement district may carry out.

A BILL
TO BE ENTITLED
AN ACT

Relating to tourism improvement districts; to provide for the establishment, renewal, and dissolution of tourism improvement districts; to provide for the operation and activities of tourism improvement districts; and to provide



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29 for the assessments collected by a tourism improvement
30 district.

31 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

32 Section 1. This act shall be known and may be cited as
33 the Alabama Tourism Improvement Act of 2024.

34 Section 2. For the purposes of this act, the following
35 terms have the following meanings:

36 (1) ACTIVITY. Includes, but is not limited to, all of
37 the following that benefit businesses in a district:

38 a. Promotion of public events.

39 b. Promotion of tourism within the district.

40 c. Promotion of business activity of businesses subject
41 to assessment.

42 d. Marketing, sales, and economic development.

43 e. Other services that confer benefits upon businesses
44 located in the district that are subject to assessment.

45 (2) ASSESSMENT. A levy for activities and improvements
46 that will provide benefits to businesses located within the
47 district that may be based on a percent of gross business
48 revenue, a fixed dollar amount per transaction, or any other
49 reasonable method approved by the authorizing county or
50 municipality.

51 (3) ASSOCIATION. A new or existing nonprofit
52 corporation, entity, agency, or public corporation that: (i)
53 is under contract with the authorizing entity to administer a
54 district and implement the activities and improvements
55 specified in the district's plan; and (ii) has as its primary
56 purpose the promotion of tourism or is under contract with



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57 another nonprofit corporation, entity, agency, or public
58 corporation whose primary purpose is the promotion of tourism.

59 (4) AUTHORIZING ENTITY. Any county or municipality in
60 the state which has authorized, by resolution, the creation of
61 a district.

62 (5) AUTHORIZING RESOLUTION. A resolution, adopted by
63 the governing body of an authorizing entity in accordance with
64 Section 3, that authorizes the formation or renewal of a
65 district and the levying of assessments.

66 (6) BUSINESS. Any business establishment of the type or
67 class that is described in the plan and the authorizing
68 resolution.

69 (7) DISTRICT. A tourism improvement district
70 established pursuant to this act.

71 (8) IMPROVEMENT. An acquisition, construction,
72 installation, or maintenance project relating to tangible
73 property with an estimated useful life of at least five years
74 that is designed to provide benefits to assessed businesses.

75 (9) MAJORITY CONSORTIUM. A group of owners
76 representing: (i) at least 60 percent of the assessments
77 proposed to be levied by the district; and (ii) at least 55
78 percent of the number of each class of businesses proposed to
79 be assessed. For the purposes of determining the percent of
80 assessments proposed to be levied by the district, a single
81 owner may not account for more than 40 percent of the required
82 60 percent, regardless of the actual percentage of proposed
83 assessments to be levied against the owner's combined
84 businesses.



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85 (10) OWNER. A person recognized by the authorizing
86 county or municipality as the owner of a business.

87 (11) PLAN. A tourism improvement district plan as
88 described in Section 4.

89 Section 3. (a) The governing body of a county or
90 municipality, by resolution, may create a district.

91 (b) A municipality may create a district that includes
92 areas outside of the corporate limits of the municipality.

93 (c) A county may create a district that assesses any
94 business located withing the county, including businesses
95 located within a municipality.

96 (d) (1) The governing bodies of more than one
97 authorizing entity may coordinate and consent to create a
98 single district.

99 (2) If a district is created pursuant to subdivision
100 (1), the lead authorizing entity shall conduct the notice and
101 hearing process provided for in Section 7.

102 Section 4. A plan shall include, but not be limited to,
103 all of the following:

104 (1) A map that identifies the district boundaries in
105 sufficient detail to allow an individual to reasonably
106 determine whether a business is located within the district's
107 boundaries. The boundaries of a district may overlap with the
108 boundaries of another district, but each business may only be
109 subject to one assessment.

110 (2) The name of the proposed district.

111 (3) The name of the association.

112 (4) The activities and improvements proposed for each



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113 year of operation of the district and the estimated cost of
114 the activities and improvements. If the activities and
115 improvements proposed for each year of operation are the same,
116 a description of the first year's proposed activities and
117 improvements and a statement that the same activities and
118 improvements are proposed for subsequent years shall satisfy
119 the requirements of this subdivision.

120 (5) The proposed source of financing, including the
121 proposed method and basis of levying the assessments in
122 sufficient detail to allow an owner to calculate the amount to
123 be levied against his or her business. The plan may include
124 any planned changes in the method or rate of assessment for
125 future years.

126 (6) Whether the district may incur debt.

127 (7) The time and manner of collecting the assessments
128 and any interest or penalties for nonpayment or late payments.
129 Any new business subject to the assessment of the district
130 shall be subject to assessment upon commencement of the
131 business's operations.

132 (8) The specific number of years in which assessments
133 will be levied. In a new district, the maximum number of years
134 shall be 10. In a renewed district, the maximum number of
135 years shall be 20. Notwithstanding these limitations, a
136 district authorized to incur debt may levy assessments until
137 the maximum maturity of the debt.

138 (9) Any proposed rules applicable to the district.

139 (10) A definition describing the type or class of
140 businesses to be included in the district and subject to



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141 assessment.

142 (11) Any other item or matter required to be
143 incorporated into the plan by the authorizing entity.

144 Section 5. (a) (1) The board of a new association shall
145 be elected by the owners of the businesses that are subject to
146 assessment by the district, or their designees, in accordance
147 with a procedure outlined by the association's governing rules
148 or bylaws.

149 (2) The voting directors of a new association's
150 governing board shall be solely composed of owners of
151 businesses that are subject to assessment by the district, or
152 their designees.

153 (3) The board may include additional nonvoting members.

154 (b) (1) An existing association shall create a
155 committee, solely composed of individuals who are owners of
156 businesses that are subject to assessment by the district, or
157 their designees, who are elected by the owners of the
158 businesses that are subject to assessment by the district, or
159 their designees, in accordance with a procedure outlined by
160 the association's governing rules or bylaws.

161 (2) The committee shall manage the funds raised by the
162 district and fulfill the obligations of the district plan.

163 (c) An association shall have full discretion to select
164 the specific activities and improvements to be funded with
165 district assessment revenue, within the authorized parameters
166 of the plan.

167 Section 6. (a) Upon submission of a written petition
168 from a majority consortium, the governing body of an



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169 authorizing entity may initiate proceedings to form a district
170 by the adoption of a resolution expressing its intent to form
171 a district.

172 (b) The petition required under subsection (a) shall
173 include a summary of the plan. The summary shall include all
174 of the following:

175 (1) A map that identifies the district boundaries.

176 (2) A definition describing the type or class of
177 businesses to be included in the district and subject to
178 assessment.

179 (3) The proposed method and basis of levying
180 assessments in sufficient detail to allow an owner to
181 calculate the amount to be levied against his or her business.

182 (4) Information specifying where the complete district
183 plan may be obtained.

184 (5) Information specifying that the complete plan shall
185 be furnished upon request.

186 (c) The resolution drafted pursuant to subsection (a)
187 shall contain all of the following:

188 (1) A brief description of the district's proposed
189 activities and improvements.

190 (2) The estimated amount of the district's proposed
191 assessments.

192 (3) A brief description of the types of businesses that
193 will be subject to assessment.

194 (4) A brief statement on whether debt may be incurred.

195 (5) A brief description of the boundaries of the
196 district, which may make reference to a map on file with the



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197 governing body.

198 (6) The time and place of a public hearing on the
199 establishment of the district and the levy of assessments
200 consistent with the requirements in Section 7.

201 Section 7. (a) After adopting a resolution of intention
202 to establish or renew a district, the governing body of an
203 authorizing entity shall hold a public hearing on the
204 establishment or renewal of the district prior to the adoption
205 of an authorizing resolution. The governing body shall mail
206 notice of the hearing to the owner of each business
207 potentially subject to assessment by the district at least 30
208 days before the date of the hearing.

209 (b) (1) An owner may file a written protest with the
210 governing body up to the start of the public hearing.

211 (2) Any protest may be withdrawn in writing up until
212 the conclusion of the public hearing.

213 (c) If at the conclusion of the public hearing, the
214 governing body has received valid, non-withdrawn written
215 protests from a majority consortium, the governing body shall
216 not adopt an authorizing resolution.

217 Section 8. (a) At the conclusion of a public hearing to
218 establish or renew a district, the governing body may only
219 revise the plan in the following ways:

220 (1) By reducing the proposed assessments.

221 (2) By excluding territory from the district that would
222 not benefit from the proposed activities of the district.

223 (3) By excluding type or class of business that would
224 not benefit from the proposed activities of the district.



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225 (b) Any revisions made pursuant to subsection (a) must
226 be reflected in an updated district plan before the governing
227 body may adopt an authorizing resolution.

228 Section 9. (a) If, following a public hearing, the
229 governing body of an authorizing entity decides to establish
230 or renew a district, the governing body shall adopt an
231 authorizing resolution that includes, but is not limited to,
232 all of the following:

233 (1) A brief description of the district's proposed
234 activities and improvements.

235 (2) The estimated amount of the district's proposed
236 assessments.

237 (3) A brief description of the types of businesses that
238 will be subject to assessment.

239 (4) A brief statement on whether debt may be incurred.

240 (5) A brief description of the boundaries of the
241 district, which may make reference to a map on file with the
242 governing body.

243 (6) The number, date of adoption, and title of the
244 authorizing resolution.

245 (7) The time and place where the public hearing
246 regarding the resolution of intent to create or renew a
247 district was held.

248 (8) The governing body's determination regarding any
249 valid protest.

250 (9) A statement that all activities and improvements of
251 the district shall be funded from the proceeds of assessments.

252 (10) A finding that the businesses within the district



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253 will benefit from the activities and improvements of the
254 district.

255 (b) The adoption of an authorizing resolution shall
256 constitute the levy of assessments in each of the years
257 referred to in the plan.

258 Section 10. The collection of assessments levied
259 pursuant to this act shall be made at the time and in the
260 manner set forth by the governing body in the authorizing
261 resolution. All delinquent assessment payments may be charged
262 interest and penalties.

263 Section 11. (a) An assessment levied under this act may
264 only be contested within 30 days of the adoption of the
265 authorizing resolution.

266 (b) An appeal from a final judgment in an action or
267 proceeding pursuant to subsection (a) must be perfected within
268 30 days of the final judgment.

269 Section 12. Prior to the establishment of a district,
270 the governing body of an authorizing entity shall certify the
271 baseline levels of services and funding that will continue
272 after a district has been formed. A district is intended to
273 provided supplemental funding and services and not to supplant
274 existing funding or services.

275 Section 13. (a) Upon written request from the
276 association, the governing body of the authorizing entity may
277 modify the plan by adopting a resolution of intention to
278 modify.

279 (b) A resolution of intention to modify may only modify
280 the plan in the manner requested by the association.



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281 (c) If the proposed modification includes the levy of a
282 new or increased assessment or the expansion of the district's
283 boundaries, the governing body shall comply with the
284 procedures required by Section 7.

285 (d) (1) For any other proposed modification, the
286 governing body shall hold a public hearing within 90 days of
287 the adoption of the resolution of intention to modify.

288 (2) Notice of a public hearing held pursuant to this
289 subsection shall comply with both of the following:

290 a. The resolution shall be published in a newspaper of
291 general circulation in the authorizing entity at least seven
292 days before the public hearing.

293 b. A complete copy of the resolution shall be sent by
294 first class mail to each owner affected by the proposed
295 modification at least 30 days before the public hearing.

296 Section 14. (a) If an authorizing resolution provides
297 for the district to incur debt, the governing body of an
298 authorizing entity, by resolution, may declare that a district
299 has the power to incur debt to finance the estimated costs of
300 some or all of the proposed improvements described in the
301 authorizing resolution.

302 (b) A resolution adopted pursuant to this section shall
303 generally describe the proposed improvements to be financed,
304 provide an estimated cost of the improvements, and specify the
305 number of installments and the fiscal years during which the
306 debt may be incurred. The amount of debt incurred shall not
307 exceed the amount of revenue estimated to be from assessments
308 over 30 years.



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309 (c) Notwithstanding any other provisions of this act,
310 assessments levied to pay principal or interest on any debt
311 shall not be reduced or terminated if doing so would interfere
312 with the timely retirement of the debt.

313 Section 15. (a) Within 90 days of the end of a
314 district's first year of operation, the association shall
315 prepare a report detailing all assessments levied and all
316 payments for improvements or activities. Thereafter, the
317 association shall prepare an equivalent report at the end of
318 each fiscal year.

319 (b) An association shall file each report with the
320 governing body of the authorizing entity.

321 (c) Each report shall include all of the following:

- 322 (1) The name of the district and the association.
323 (2) The fiscal year to which the report applies.
324 (3) The activities and improvements provided that year.
325 (4) The activities and improvements to be provided in
326 the coming year.

327 (5) An estimate of the cost of the activities and
328 improvements to be provided in the coming year.

329 (6) An estimate of the amount of surplus or deficit to
330 be carried over from the previous fiscal year.

331 (7) All levies collected that year.

332 (8) The method and basis of levying assessments for the
333 coming year in sufficient detail to allow an owner to estimate
334 the levy to be assessed against his or her business in the
335 coming year.

336 (d) The governing body of the authorizing entity may



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337 approve the report or make recommendations to amend the
338 report. The report shall be considered final 90 days after
339 submission.

340 Section 16. (a) A previously established district that
341 has expired, or a district that will soon expire, may be
342 renewed through the procedures of this act.

343 (b) Upon renewal, any assets remaining from the
344 previous district shall be transferred to the renewed
345 district.

346 (c) A renewed district may have a term of up to 20
347 years, or, if the district is authorized to incur debts, up to
348 the maximum maturity of any debt.

349 (d) During the renewal process, the boundaries,
350 assessments, activities, or improvements may be altered from
351 the boundaries, assessments, activities, or improvements of
352 the previous district, as provided by this act.

353 Section 17. (a) A district created or renewed pursuant
354 to this act may be dissolved pursuant to this section.

355 (b) The governing body of the authorizing entity, by
356 adoption of a resolution of intention to dissolve the
357 district, may only initiate a dissolution when both of the
358 following conditions have been met:

359 (1) The district has no indebtedness.

360 (2) Either: (i) the governing body finds that there has
361 been misappropriation of funds or other malfeasance related to
362 the district; or (ii) the governing body finds there has been
363 a violation of law related to the management of the district.

364 (c) (1) There shall be an owner dissolution period



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365 beginning two years from a district's date of establishment
366 and continuing for 30 days thereafter.

367 (2) Each successive year of operation, commencing on
368 the anniversary of the district's date of establishment, shall
369 require an additional corresponding 30-day owner dissolution
370 period.

371 (d) During any owner dissolution period, an owner
372 consortium may deliver a written petition to the governing
373 body of the authorizing entity requesting dissolution of the
374 district.

375 (e) Upon receipt of a valid petition delivered during a
376 valid dissolution period pursuant to this section, the
377 governing body of the authorizing entity shall: (i) adopt a
378 resolution of intention to dissolve the district; (ii)
379 schedule a public hearing on the dissolution of the district;
380 and (iii) provide written notice to all owners subject to
381 assessment by the district at least 30 days before the public
382 hearing.

383 (f) A resolution of intention to dissolve a district
384 adopted pursuant to this section shall include all of the
385 following:

386 (1) The reason for the potential dissolution.

387 (2) The time and place of the public hearing.

388 (3) A proposal for the disposition of any district
389 assets.

390 (g) The governing body shall hold the public hearing
391 within 60 days of receipt of a valid petition.

392 (h) At the conclusion of the public hearing, the



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393 governing body may adopt a resolution dissolving the district.

394 Section 18. Upon the dissolution or expiration without
395 renewal of a district, any remaining district assets shall be
396 dispensed in accordance with the district's plan or shall be
397 refunded to the owners subject to assessment by the district
398 at the time of the dissolution or expiration of the district
399 according to the same method used to calculate the district's
400 most recent assessments.

401 Section 19. Nothing in this act shall affect the
402 authority of a municipality to create a self-help business
403 improvement district for the improvement of tourism as
404 provided in Chapter 54B of Subtitle 2 of Title 11 of the Code
405 of Alabama 1975.

406 Section 20. This act shall become effective on October
407 1, 2024.