

HB501 INTRODUCED



1 HB501
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3 By Representative Bracy (N & P)
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A BILL
TO BE ENTITLED
AN ACT

Relating to the City of Prichard; to establish a procedure for the establishment, operation, modification, renewal, and dissolution of self-help business improvement districts.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. For purposes of this act, the following terms have the following meanings:

(1) AUTHORIZING ORDINANCE. An ordinance adopted by the Prichard City Council that authorizes the formation or renewal of a district and the levying of benefit assessments.

(2) BENEFIT ASSESSMENT. A levy for the purpose of funding activities and improvements that will provide benefits to businesses located within a district.

(3) BUSINESS. Any business establishment of the types or classes that are described in the district plan and the authorizing ordinance.

(4) BUSINESS OWNER. A person recognized by the city as the owner of the business.

(5) BUSINESS OWNERS' ASSOCIATION. A new or existing nonprofit corporation, entity, agency, or public corporation



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29 that is under contract with the city to administer the
30 district and implement activities and improvements specified
31 in the district plan.

32 (6) CITY. The City of Prichard.

33 (7) CITY COUNCIL. The City Council of the City of
34 Prichard.

35 (8) DISTRICT. A self-help business improvement district
36 established pursuant to this act.

37 (9) DISTRICT PLAN. A plan as prescribed in Section 4.

38 (10) IMPROVEMENT. An acquisition, construction,
39 installation, or maintenance relating to tangible property
40 that is designed to provide benefits to assessed businesses.

41 Section 2. The city council may create and maintain
42 districts within its corporate limits pursuant to this act.

43 Section 3. (a) Upon receipt of a written petition
44 signed by 60 percent or more of the business owners or
45 authorized representatives of the businesses proposed to be
46 subject to the benefit assessment, the city council may
47 initiate proceedings to form a district by adopting a
48 resolution expressing its intention to form a district.

49 (1) Wherever this act requires the signature of the
50 business owner, the signature of the authorized representative
51 of the business shall suffice.

52 (2) The city has no obligation to obtain other
53 information as to the ownership of a business, and its
54 determination of ownership as reflected in its records shall
55 be conclusive for the purposes of this act in the absence of
56 contrary documentation provided by the owner or authorized



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57 representative of the business.

58 (b) The petition of business owners required under
59 subsection (a) shall include a summary of a district plan
60 formulated pursuant to Section 4. The summary shall include
61 all of the following:

62 (1) A map showing the boundaries of the district.

63 (2) The types or classes of businesses that will be
64 subject to the benefit assessment.

65 (3) The benefit assessment rate for each type or class
66 of business that will be subject to the benefit assessment. If
67 the assessment is based on a percentage of gross business
68 revenue, the rate may not be greater than four percent.

69 (4) Information specifying where the complete district
70 plan may be obtained.

71 (5) Information specifying that the complete district
72 plan shall be furnished upon request.

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

75 (1) A brief description of the proposed activities and
76 improvements.

77 (2) The estimated amount of the proposed benefit
78 assessment. If the assessment is based on a percentage of
79 gross business revenue, the rate may not be greater than four
80 percent.

81 (3) A statement describing the businesses within the
82 proposed district which will be subject to the benefit
83 assessment.

84 (4) A description of the boundaries of the proposed



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85 district, which may be made by reference to any plan or map
86 that is on file with the city council.

87 (5) A time and place for a public hearing on the
88 establishment of the district and the levy of the benefit
89 assessment.

90 (d) The descriptions and statements required by
91 subdivisions (c)(1) through (4) shall be sufficient if they
92 enable a business owner to generally identify the nature and
93 extent of the activities and improvements and the location and
94 extent of the proposed district.

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

97 (1) A map that identifies the district boundaries in
98 sufficient detail to allow a business owner to reasonably
99 determine whether a business is located within the district
100 boundaries. The boundaries of a district may overlap with
101 other districts established pursuant to this act.

102 (2) The name of the proposed district.

103 (3)a. The name of the business owners' association.

104 b. In the case of a newly formed nonprofit corporation
105 designated as the business owners' association, the
106 certificate of incorporation or by-laws shall provide that a
107 majority of the business owners' association's governing board
108 shall be business owners, or their authorized representatives,
109 who pay the district benefit assessment.

110 c. Where an existing nonprofit corporation is
111 designated as the business owners' association, the nonprofit
112 corporation shall create a committee, with a majority of



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113 members being business owners, or their authorized
114 representatives, who pay the district benefit assessment, and
115 who shall be charged with managing the funds raised by the
116 district and fulfilling the obligations of the district plan.

117 d. A business owners' association shall have full
118 discretion to select the specific activities and improvements
119 within the authorized parameters of the district plan which
120 shall be funded with district benefit assessment revenue,
121 provided that there is a rational relationship between the
122 benefit of the activities and improvements to each business
123 and the assessment amount levied on the business.

124 (4) The activities and improvements proposed for each
125 year of operation of the district and the estimated cost of
126 those activities and improvements. Improvements shall have an
127 estimated useful life of five years or more. If the activities
128 and improvements proposed for each year of operation are the
129 same, the plan shall include a description of the first year's
130 proposed activities and improvements and a statement that the
131 same activities and improvements are proposed for subsequent
132 years.

133 (5) The estimated annual amount proposed to be expended
134 for activities and improvements during each year of operation
135 of the district. This amount may be estimated based upon the
136 assessment rate. If the estimated annual amount proposed to be
137 expended in each year of operation of the district is not
138 significantly different from year to year, the amount proposed
139 to be expended in the initial year and a statement that a
140 similar amount applies to subsequent years shall satisfy the



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141 requirements of this subdivision.

142 (6) The source or sources of financing, including the
143 proposed method and basis of levying the assessment, in
144 sufficient detail to allow each business owner to calculate
145 the amount of the assessment to be levied against his or her
146 business. The assessment may be based on a percent of gross
147 business revenue, a fixed dollar amount per transaction, or
148 any other reasonable method approved by the city. If the
149 assessment is based on a percent of gross business revenue,
150 then the rate may not be greater than four percent. The
151 district plan may set forth increases in assessments for any
152 year of operation of the district, except that any assessment
153 based on a percent of gross business revenue may not exceed
154 four percent.

155 (7) The time and manner of collecting the benefit
156 assessments and any interest or penalties for nonpayment.

157 (8) The specific number of years, not to exceed 10,
158 during which benefit assessments will be levied, except that a
159 district that finances improvements with bonds may levy
160 assessments during the time to maturity of the bonds if that
161 period exceeds 10 years.

162 (9) Any proposed rules to be applicable to the
163 district.

164 (10) A definition describing the type or class of
165 businesses to be included in the district and subject to the
166 district benefit assessment.

167 (11) Any other item or matter required to be
168 incorporated in the plan by the city council.



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169 Section 5. (a) If the city council has adopted a
170 resolution of intention to establish or renew a district and
171 levy a new or increased district benefit assessment, the city
172 council shall hold a public hearing on the establishment or
173 renewal of the district prior to adoption of the authorizing
174 ordinance. Notice of the public hearing shall be mailed to the
175 owners of the businesses proposed to be subject to the benefit
176 assessment.

177 (b) The city council shall provide at least 30 days'
178 written notice of the public hearing at which the city council
179 proposes to establish or renew the district and levy the
180 benefit assessment.

181 Section 6. At the conclusion of the public hearing to
182 establish or renew a district, the city council may adopt,
183 revise, change, reduce, or modify the proposed district
184 benefit assessment, the boundaries of the district, or the
185 types or classes of businesses within the district which would
186 be subject to the benefit assessment. Proposed benefit
187 assessments may only be revised by reducing them, either
188 independently or together in a uniform manner. The proposed
189 district boundary may only be revised to exclude territory
190 that will not benefit from the proposed activities and
191 improvements. The types or classes of businesses that will be
192 subject to the proposed benefit assessment may only be revised
193 to exclude the business types or classes that will not benefit
194 from the proposed activities and improvements. Any
195 modifications, revisions, reductions, or changes to the
196 proposed district plan shall be reflected in the district plan



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197 prior to the city council's adoption of the ordinance creating
198 or renewing the district.

199 Section 7. (a) If the city council, following the
200 public hearing, decides to establish or renew a proposed
201 district, the city council shall adopt an authorizing
202 ordinance that shall include, but not be limited to, all of
203 the following:

204 (1) A brief description of the proposed activities and
205 improvements.

206 (2) The amount of the proposed benefit assessment. If
207 the assessment is based on a percent of gross business
208 revenue, the rate may not be greater than four percent.

209 (3) A statement as to the types or classes of
210 businesses that will be subject to the benefit assessment,
211 with the time and manner of the collection of the annual
212 assessment by the city council.

213 (4) A description of the boundaries of the district,
214 which may be made by reference to any plan or map that is on
215 file with the city council.

216 (5) The number, date of adoption, and title of the
217 resolution of intention.

218 (6) The time and place where the public hearing was
219 held concerning the establishment or renewal of the district.

220 (7) The number of protests that were received.

221 (8) A statement that the businesses in the district
222 established by the ordinance shall be subject to any
223 amendments to this act.

224 (9) A statement that the activities and improvements to



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225 be conferred on businesses in the district will be funded by
226 the proceeds of the benefit assessment.

227 (10) A statement that the revenue from the benefit
228 assessment collected in the district shall not be used for any
229 purpose other than the purposes specified in the district
230 plan.

231 (b) The descriptions and statements required by
232 subdivisions (a) (1) through (4) need not be detailed and shall
233 be considered sufficient if they enable an owner to generally
234 identify the nature and extent of the activities and
235 improvements and the location and extent of the district.

236 (c) The adoption of the authorizing ordinance shall
237 authorize the levy of benefit assessments in each of the years
238 referred to in the district plan.

239 (d) The city council shall enter into a contract with a
240 business owners' association to carry out the purposes of the
241 district.

242 (e) (1) The authorizing ordinance shall take effect 30
243 days after passage unless written protests are received from
244 more than 50 percent of business owners or their authorized
245 representatives.

246 (2) Any business owner that will be subject to the
247 proposed benefit assessment may make a protest of the
248 establishment or renewal of a district during the 30-day
249 period after the ordinance is passed and before the ordinance
250 is effective. Every protest shall be in writing and shall be
251 filed with the city council.

252 (3) The protest shall be in writing, shall be filed



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253 with the city council, shall clearly identify the business
254 owned by the individual who filed the protest, and if the
255 individual is not shown in the city records as the owner of
256 the business, shall include documentation that the individual
257 is the owner of the business or the authorized representative.

258 (4) A written protest that does not comply with this
259 subsection shall not be counted in determining a majority
260 protest, but the city council may waive any irregularity in
261 the form or content of any written protest.

262 (5) A written protest may be withdrawn in writing at
263 any time before the ordinance's effective date.

264 (6) If written protests are received from more than 50
265 percent of business owners or their authorized
266 representatives, and protests are not withdrawn so as to
267 reduce the protests to 50 percent or less before the
268 ordinance's effective date, the ordinance establishing or
269 renewing the district will not go into effect and the city
270 shall not levy the assessment.

271 Section 8. If a district expires due to the time limit
272 set pursuant to Section 4(8), a new district plan may be
273 established or the expiring district may be renewed pursuant
274 to this act.

275 Section 9. (a) The collection of the benefit
276 assessments levied pursuant to this act shall be made at the
277 time and in the manner set forth by the city council in the
278 authorizing ordinance. All delinquent payments for benefit
279 assessments levied pursuant to this act may be charged
280 interest and penalties. A percentage of the benefit



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281 assessments will be retained by the city council to offset the
282 cost of collection as set forth in the authorizing ordinance.

283 (b) Any delinquent payments for benefit assessments,
284 along with any interest or penalties, shall constitute a debt
285 owed to the city council and may be collectable by the city
286 council as a debt under law.

287 (c) Any delinquent payments for benefit assessments,
288 interest, or penalties recovered under this section shall be
289 expended in the same manner as provided in the authorizing
290 ordinance for proceeds of the benefit assessment.

291 Section 10. Bonds may be issued by the city or the
292 business owners' association to pay for improvements in the
293 district, provided that any bond issue is not included in the
294 city's indebtedness for the purpose of Section 225 of the
295 Constitution of Alabama of 2022, and otherwise complies with
296 any applicable provision imposed by law. Benefit assessments
297 levied in two or more districts may be pledged to secure a
298 single bond issue to finance district improvements.

299 Section 11. (a) The business owners' association, at
300 any time, may request that the city council modify the
301 district plan. Any modification of the district plan shall be
302 made pursuant to this act. The district plan shall not be
303 modified, including the levy of a new or increased benefit
304 assessment, the expansion of the district boundaries, or
305 expansion of the types or classes of business subject to the
306 benefit assessment, except by the request of the business
307 owners' association.

308 (b) Upon the written request of the business owners'



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309 association, the city council may modify the district plan by
310 adopting a resolution determining to make the modifications
311 after conducting one public hearing on the proposed
312 modifications. If the modification includes the levy of a new
313 or increased benefit assessment, expansion of the district's
314 boundaries, or expansion of the types or classes of business
315 subject to the benefit assessment, the city council shall
316 comply with the procedures required by Sections 5 and 6 and
317 the majority protest procedure provided by Section 7(e).
318 Notice of all other public hearings pursuant to this section
319 shall comply with both of the following:

320 (1) The resolution of intention to modify shall be
321 published once at least seven days before the public hearing
322 in a newspaper of general circulation in the city.

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

327 (c) The city council, prior to the public hearing
328 required by this section, shall adopt a resolution of
329 intention to modify. The resolution shall state the proposed
330 modification. The public hearing shall be held not more than
331 45 days after the adoption of the resolution of intention to
332 modify.

333 Section 12. (a) The business owners' association shall
334 prepare a prospective report for each fiscal year, except the
335 first year, for which benefit assessments are to be levied and
336 collected to pay the costs of the activities described in the



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337 report. The owners' association's first report shall be due 90
338 days after the first year of operation of the district.

339 (b) The report shall be filed with the city council and
340 shall refer to the district by name, specify the fiscal year
341 to which the report applies, and, with respect to that fiscal
342 year, shall contain all of the following information:

343 (1) The activities and improvements to be provided for
344 that fiscal year.

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

347 (3) The estimated amount of any surplus or deficit
348 revenues to be carried over from a previous fiscal year.

349 (c) The city council may approve the report as filed by
350 the business owners' association or may make recommendations
351 for approval to the annual report within 45 days of receiving
352 the annual report. The annual report shall be final and
353 approved within 90 days following its submission by the
354 business owners' association to the city council.

355 (d) Within 90 days after the close of the business
356 owners' association's fiscal year, the business owners'
357 association shall have an annual audit of its books, accounts,
358 and financial transactions made by a certified public
359 accountant. The business owners' association's annual audit
360 shall be completed and filed with the city council within 120
361 days after the close of the business owners' association's
362 fiscal year.

363 Section 13. (a) Any district previously established
364 whose term has expired, or shall expire, may be renewed by



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365 following the procedures for establishment as provided in this
366 act.

367 (b) Upon renewal, any remaining revenues derived from
368 the benefit assessment, or any revenues derived from the sale
369 of assets acquired with the revenues, shall be transferred to
370 the renewed district.

371 (c) There is no requirement that the boundaries,
372 benefit assessment, activities, or improvements of a renewed
373 district be the same as the original or prior district.

374 Section 14. (a) A district established or renewed
375 pursuant to this act may be dissolved by adoption of an
376 ordinance by the city council after public notice and hearing
377 required by this section when there is no indebtedness,
378 outstanding and unpaid, incurred to accomplish any of the
379 purposes of the district.

380 (b) During each year of operation of the district,
381 there shall be a 30-day period in which businesses subject to
382 the benefit assessment may request dissolution of the
383 district. The first period shall begin two years after the
384 date of establishment of the district and shall continue for
385 30 days. Each successive year of operation of the district
386 shall have such a 30-day period. Upon the written petition of
387 60 percent or more of business owners or their authorized
388 representatives, the city council shall pass a resolution of
389 intention to dissolve the district. The city council shall
390 give public notice of any hearing on dissolution.

391 (c) The city council, prior to the public hearing
392 required by this section, shall adopt a resolution of



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393 intention to dissolve the district. The resolution shall state
394 the reason for the potential dissolution, shall state the time
395 and place of the public hearing, and shall contain a proposal
396 to dispose of any assets acquired with the revenues of the
397 assessments levied within the district. The notice of the
398 hearing on dissolution required by this section shall be given
399 by mail to the owner of each business subject to benefit
400 assessments in the district. The city council shall conduct
401 the public hearing not less than 30 days after mailing the
402 notice to the business owners. The public hearing shall be
403 held not more than 60 days after the adoption of the
404 resolution of intention. At the conclusion of the public
405 hearing, the city council may adopt an ordinance dissolving
406 the district.

407 Section 15. Upon the dissolution or expiration without
408 renewal of a district, any remaining revenues, after all
409 outstanding debts are paid, derived from the levy of benefit
410 assessments or derived from the sale of assets acquired with
411 the revenues, shall be spent in accordance with the district
412 plan or shall be refunded to the owners of the businesses then
413 located and operating within the district in which benefit
414 assessments were levied by applying the same method and basis
415 that was used to calculate the benefit assessments levied in
416 the fiscal year in which the district is dissolved or expires.

417 Section 16. This act shall become effective
418 immediately.