

1 HB461
2 216775-1
3 By Representatives Greer and Pettus (N & P)
4 RFD: Local Legislation
5 First Read: 08-MAR-22

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9 A BILL
10 TO BE ENTITLED
11 AN ACT
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13 Relating to the City of Florence; to establish a
14 procedure for the establishment, operation, modification,
15 renewal, and dissolution of tourism improvement districts.
16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

- 22 a. Promotion of public events.
23 b. Furnishing of music in any public place.
24 c. Promotion of tourism within the district.
25 d. Promotion of business activity related to tourism
26 within the tourism improvement district.
27 e. Marketing, sales, and economic development.

1 f. Other services provided for the purpose of
2 conferring benefits upon businesses located in the tourism
3 improvement district that are subject to the tourism
4 improvement district assessment.

5 (2) AUTHORIZING ORDINANCE. An ordinance adopted by
6 the Florence City Council that authorizes the formation or
7 renewal of a tourism improvement district and the levying of
8 benefit assessments.

9 (3) BENEFIT ASSESSMENT. A levy for the purpose of
10 conducting activities and improvements that will provide
11 benefits to businesses located within a tourism improvement
12 district that are subject to the tourism improvement district
13 benefit assessment.

14 (4) BUSINESS. Any business establishment of the
15 types or classes that are described in the tourism improvement
16 district plan and the authorizing ordinance.

17 (5) BUSINESS OWNER. A person recognized by the city
18 as the owner of the business. The city has no obligation to
19 obtain other information as to the ownership of businesses,
20 and its determination of ownership shall be final and
21 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 (6) BUSINESS OWNERS' ASSOCIATION. A new or existing
26 nonprofit corporation, entity, agency, or public corporation
27 that is under contract with the city to administer the tourism

1 improvement district and implement activities and improvements
2 specified in the tourism improvement district plan.

3 (7) CITY. The City of Florence.

4 (8) CITY COUNCIL. The City Council of the City of
5 Florence.

6 (9) IMPROVEMENT. An acquisition, construction,
7 installation, or maintenance relating to tangible property
8 that is designed to provide benefits to assessed businesses.

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

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

13 Section 2. The city council of the City of Florence
14 may create and maintain tourism improvement districts within
15 its corporate limits pursuant to this act.

16 Section 3. (a) Upon receipt of a written petition
17 signed by 60 percent or more of the business owners, or their
18 authorized representatives, of the businesses proposed to be
19 subject to the benefit assessment, the city council may
20 initiate proceedings to form a tourism improvement district by
21 adopting a resolution expressing its intention to form a
22 tourism improvement district.

23 (b) The petition of business owners required under
24 subsection (a) shall include a summary of a tourism
25 improvement district plan formulated pursuant to Section 4.
26 The summary shall include all of the following:

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

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

5 (3) The benefit assessment rate for each type or
6 class of business that will be subject to the benefit
7 assessment. If the assessment is based on a percent of gross
8 business revenue, then the rate may not be greater than 4
9 percent.

10 (4) Information specifying where the complete
11 tourism improvement district plan may be obtained.

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

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

16 (1) A brief description of the proposed activities
17 and improvements.

18 (2) The estimated amount of the proposed benefit
19 assessment. If the assessment is based on a percent of gross
20 business revenue, then the rate may not be greater than 4
21 percent.

22 (3) A statement describing the businesses within the
23 proposed tourism improvement district that will be subject to
24 the assessment.

25 (4) A description of the exterior boundaries of the
26 proposed tourism improvement district, which may be made by

1 reference to any plan or map that is on file with the city
2 council.

3 (5) A time and place for a public hearing on the
4 establishment of the tourism improvement district and the levy
5 of benefit assessments, which shall be consistent with the
6 requirements of Section 6.

7 (d) The descriptions and statements required by
8 subdivisions (1) through (4), inclusive, of subsection (c),
9 shall be sufficient if they enable a business owner to
10 generally identify the nature and extent of the activities and
11 improvements and the location and extent of the proposed
12 tourism improvement district.

13 Section 4. A tourism improvement district plan shall
14 include, but not be 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) The name of the business owners' association.

25 a. In the case of a newly formed nonprofit
26 corporation designated as the business owners' association,
27 the certificate of incorporation or by-laws shall provide that

1 the business owners' association's governing board shall be
2 composed of a majority of business owners, or their authorized
3 representatives, who pay the tourism improvement district
4 benefit assessment.

5 b. Where an existing nonprofit corporation is
6 designated as the business owners' association, the nonprofit
7 corporation shall create a committee composed of a majority of
8 business owners, or their authorized representatives, who
9 shall be charged with managing the funds raised by the tourism
10 improvement district and fulfilling the obligations of the
11 tourism improvement district plan.

12 c. A business owners' association shall have full
13 discretion to select the specific activities and improvements
14 within the authorized parameters of the tourism improvement
15 district plan that shall be funded with tourism improvement
16 district benefit assessment revenue.

17 (4) The activities and improvements proposed for
18 each year of operation of the tourism improvement district and
19 the estimated cost of those activities and improvements.
20 Improvements shall have an estimated useful life of five years
21 or more. If the activities and improvements proposed for each
22 year of operation are the same, the plan shall include a
23 description of the first year's proposed activities and
24 improvements and a statement that the same activities and
25 improvements are proposed for subsequent years.

26 (5) The estimated annual amount proposed to be
27 expended for activities and improvements during each year of

1 operation of the tourism improvement district. This amount may
2 be estimated based upon the assessment rate. If the estimated
3 annual amount proposed to be expended in each year of
4 operation of the tourism improvement district is not
5 significantly different from year to year, the amount proposed
6 to be expended in the initial year and a statement that a
7 similar amount applies to subsequent years shall satisfy the
8 requirements of this subdivision.

9 (6) The source or sources of financing, including
10 the proposed method and basis of levying the assessment, in
11 sufficient detail to allow each business owner to calculate
12 the amount of the assessment to be levied against his or her
13 business. The assessment may be based on a percent of gross
14 business revenue, a fixed dollar amount per transaction, or
15 any other reasonable method approved by the city. If the
16 assessment is based on a percent of gross business revenue,
17 then the rate may not be greater than 4 percent. The tourism
18 improvement district plan may set forth increases in
19 assessments for any year of operation of the tourism
20 improvement district, except that any assessment based on a
21 percent of gross business revenue may not exceed 4 percent.
22 Any business of the type or class of businesses that are
23 subject to the benefit assessment that commences operations
24 during the tourism improvement district's term shall be
25 subject to the assessment.

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

1 (8) The specific number of years, not to exceed 10,
2 during which benefit assessments will be levied.

3 (9) Any proposed rules to be applicable to the
4 tourism improvement district.

5 (10) A definition describing the type or class of
6 businesses to be included in the tourism improvement district
7 and subject to the tourism improvement district assessment.

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

10 Section 5. (a) If the city council has adopted a
11 resolution of intention to establish or renew a tourism
12 improvement district and levy a new or increased tourism
13 improvement district benefit assessment, it shall hold a
14 public hearing on the establishment or renewal of the tourism
15 improvement district prior to adoption of the authorizing
16 ordinance. Notice of the public hearing shall be mailed to the
17 owners of the businesses proposed to be subject to the benefit
18 assessment.

19 (b) The city council shall provide at least 30 days'
20 written notice of the public hearing at which the city council
21 proposes to establish or renew the tourism improvement
22 district and levy the benefit assessment.

23 (c) Any business owner that will be subject to the
24 proposed benefit assessment may make a protest of the
25 establishment or renewal of a tourism improvement district.
26 Every protest shall be in writing and shall be filed with the
27 city council at or before the time fixed for the public

1 hearing. The city council may waive any irregularity in the
2 form or content of any written protest. A written protest may
3 be withdrawn in writing at any time before the conclusion of
4 the public hearing. Each written protest shall contain a
5 description of the business in which the person subscribing
6 the protest is interested that sufficiently identifies the
7 business and, if a person subscribing is not shown on the
8 official records of the city council as the owner of the
9 business, the protest shall contain or be accompanied by
10 written evidence that the person subscribing is the owner of
11 the business or the authorized representative. A written
12 protest that does not comply with this section shall not be
13 counted in determining a majority protest. If written protests
14 are received from more than 50 percent of business owners or
15 their authorized representatives, and protests are not
16 withdrawn so as to reduce the protests to 50 percent or less,
17 the city shall not levy the assessment.

18 Section 6. At the conclusion of the public hearing
19 to establish or renew a tourism improvement district, the city
20 council may adopt, revise, change, reduce, or modify the
21 proposed benefit assessments, the boundaries of the tourism
22 improvement district, or the types or classes of businesses
23 within the tourism improvement district which would be subject
24 to the benefit assessment. Proposed benefit assessments may
25 only be revised by reducing them, either independently or
26 together in a uniform manner. The proposed tourism improvement
27 district boundary may only be revised to exclude territory

1 that will not benefit from the proposed activities and
2 improvements. The types or classes of businesses that will be
3 subject to the proposed benefit assessment may only be revised
4 to exclude the business types or classes that will not benefit
5 from the proposed activities and improvements. Any
6 modifications, revisions, reductions, or changes to the
7 proposed tourism improvement district plan shall be reflected
8 in the tourism improvement district plan prior to the city
9 council's adoption of the ordinance creating or renewing the
10 tourism improvement district.

11 Section 7. (a) If the city council, following the
12 public hearing, decides to establish or renew a proposed
13 tourism improvement district, the city council shall adopt an
14 authorizing ordinance that shall include, but not be limited
15 to, all of the following:

16 (1)a. A brief description of the proposed activities
17 and improvements.

18 b. The amount of the proposed benefit assessment. If
19 the assessment is based on a percent of gross business
20 revenue, then the rate may not be greater than 4 percent.

21 c. A statement as to the types or classes of
22 businesses that will be subject to the benefit assessment.

23 d. A description of the exterior boundaries of the
24 tourism improvement district, which may be made by reference
25 to any plan or map that is on file with the city council.

26 (2) The number, date of adoption, and title of the
27 resolution of intention.

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

4 (4) A determination regarding any protests received.
5 The city council shall not establish or renew the tourism
6 improvement district or levy assessments if protests are
7 received by a majority of the business owners in the proposed
8 district.

9 (5) A statement that the businesses in the tourism
10 improvement district established by the ordinance shall be
11 subject to any amendments to this act.

12 (6) A statement that the activities and improvements
13 to be conferred on businesses in the tourism improvement
14 district will be funded by the proceeds of benefit
15 assessments. The revenue from the benefit assessments within a
16 tourism improvement district shall not be used for any purpose
17 other than the purposes specified in the tourism improvement
18 district plan, as authorized or modified by the city council
19 at the hearing concerning establishment or renewal of the
20 tourism improvement district.

21 (b) The descriptions and statements required by
22 subdivision (a) (1) need not be detailed and shall be
23 sufficient if they enable an owner to generally identify the
24 nature and extent of the activities and improvements and the
25 location and extent of the tourism improvement district.

1 (c) The adoption of the authorizing ordinance shall
2 constitute the levy of benefit assessments in each of the
3 years referred to in the tourism improvement district plan.

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

7 Section 8. If a tourism improvement district expires
8 due to the time limit set in subdivision (8) of Section 4, a
9 new tourism improvement district plan may be created and the
10 tourism improvement district may be renewed pursuant to this
11 act.

12 Section 9. (a) The collection of the benefit
13 assessments levied pursuant to this act shall be made at the
14 time and in the manner set forth by the city council in the
15 authorizing ordinance. All delinquent payments for benefit
16 assessments levied pursuant to this act may be charged
17 interest and penalties. A percentage of the benefit
18 assessments will be retained by the city council to offset the
19 cost of collection as set forth in the authorizing ordinance.

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

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

1 Section 10. (a) The business owners' association, at
2 any time, may request that the city council modify the tourism
3 improvement district plan. Any modification of the tourism
4 improvement district plan shall be made pursuant to this act.
5 The tourism improvement district plan shall not be modified,
6 except by the request of the business owners' association.

7 (b) Upon the written request of the business owners'
8 association, the city council may modify the tourism
9 improvement district plan by adopting a resolution determining
10 to make the modifications after conducting one public hearing
11 on the proposed modifications. If the modification includes
12 the levy of a new or increased benefit assessment or the
13 expansion of the tourism improvement district's geographic
14 boundaries, the city council shall comply with the procedures
15 required by Section 5. Notice of all other public hearings
16 pursuant to this section shall comply with both of the
17 following:

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

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

25 (c) The city council shall adopt a resolution of
26 intention to modify which states the proposed modification
27 prior to the public hearing required by this section. The

1 public hearing shall be held not more than 90 days after the
2 adoption of the resolution of intention to modify.

3 Section 11. (a) The business owners' association
4 shall cause to be prepared a report for each fiscal year,
5 except the first year, for which benefit assessments are to be
6 levied and collected to pay the costs of the activities
7 described in the report. The owners' association's first
8 report shall be due 90 days after the first year of operation
9 of the tourism improvement district.

10 (b) The report shall be filed with the city council
11 and shall refer to the tourism improvement district by name,
12 specify the fiscal year to which the report applies, and, with
13 respect to that fiscal year, shall contain all of the
14 following information:

15 (1) The activities and improvements to be provided
16 for that fiscal year.

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

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

21 (c) The city council may approve the report as filed
22 by the business owners' association or may make
23 recommendations for approval to the annual report within 45
24 days of receiving the annual report. The annual report shall
25 be final and approved within 90 days following its submission
26 by the business owners' association to the city council.

1 (d) Within 90 days after the close of the business
2 owners' association's fiscal year, the business owners'
3 association shall cause an annual audit of its books,
4 accounts, and financial transactions to be made by a certified
5 public accountant. The business owners' association's annual
6 audit shall be completed and filed with the city council
7 within four months after the close of the business owners'
8 association's fiscal year.

9 Section 12. (a) Any tourism improvement district
10 previously established whose term has expired, or will expire,
11 may be renewed by following the procedures for establishment
12 as provided in this act.

13 (b) Upon renewal, any remaining revenues derived
14 from benefit assessments, or any revenues derived from the
15 sale of assets acquired with the revenues, shall be
16 transferred to the renewed tourism improvement district.

17 (c) There is no requirement that the boundaries,
18 benefit assessments, activities, or improvements of a renewed
19 tourism improvement district be the same as the original or
20 prior tourism improvement district.

21 Section 13. (a) A tourism improvement district
22 established or extended pursuant to this act may be dissolved
23 by adoption of an ordinance by the city council pursuant to
24 this section when there is no indebtedness, outstanding and
25 unpaid, incurred to accomplish any of the purposes of the
26 tourism improvement district.

1 (b) During each year of operation of the tourism
2 improvement district, there shall be a 30-day period in which
3 businesses subject to the benefit assessment may request
4 dissolution of the tourism improvement district. The first
5 period shall begin two years after the date of establishment
6 of the tourism improvement district and shall continue for 30
7 days. Each successive year of operation of the tourism
8 improvement district shall have such a 30-day period. Upon the
9 written petition of 60 percent or more of business owners or
10 their authorized representatives, the city council shall pass
11 a resolution of intention to dissolve the tourism improvement
12 district. The city council shall give public notice of any
13 hearing on dissolution.

14 (c) The city council shall adopt a resolution of
15 intention to dissolve the tourism improvement district prior
16 to the public hearing required by this section. The resolution
17 shall state the reason for the potential dissolution, shall
18 state the time and place of the public hearing, and shall
19 contain a proposal to dispose of any assets acquired with the
20 revenues of the assessments levied within the tourism
21 improvement district. The notice of the hearing on dissolution
22 required by this section shall be given by mail to the owner
23 of each business subject to benefit assessments in the tourism
24 improvement district. The city council shall conduct the
25 public hearing not less than 30 days after mailing the notice
26 to the business owners. The public hearing shall be held not
27 more than 60 days after the adoption of the resolution of

1 intention. At the conclusion of the public hearing, the city
2 council may adopt an ordinance dissolving the tourism
3 improvement district.

4 Section 14. Upon the dissolution or expiration
5 without renewal of a tourism improvement district, any
6 remaining revenues, after all outstanding debts are paid,
7 derived from the levy of benefit assessments, or derived from
8 the sale of assets acquired with the revenues, shall be spent
9 in accordance with the tourism improvement district plan or
10 shall be refunded to the owners of the businesses then located
11 and operating within the tourism improvement district in which
12 benefit assessments were levied by applying the same method
13 and basis that was used to calculate the benefit assessments
14 levied in the fiscal year in which the tourism improvement
15 district is dissolved or expires.

16 Section 15. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.