
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 642 Session of
2015

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FEBRUARY 26, 2015

REFERRED TO COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT,
FEBRUARY 26, 2015

AN ACT

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

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Pennsylvania
10 Tourism Commission Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "Board." The Pennsylvania Tourism Commission Board
16 established by this act.

17 "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 established under section 4.

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) Four members representing tourism promotion agencies
25 and destination marketing organizations to be selected from a
26 list of at least eight nominees submitted by the major
27 Statewide industry association representing tourism promotion
28 agencies, destination marketing organizations and convention
29 and visitors bureaus, as follows:

30 (i) one member from a county of the first class;

- 1 (ii) one member from a county of the second class or
2 second class A;
- 3 (iii) one member from a county of the third class or
4 fourth class; and
- 5 (iv) one member from a county of the fifth class,
6 sixth class, seventh class or eighth class.
- 7 (2) One member from the hotel and travel lodging sector.
- 8 (3) One member representing restaurants, taverns or
9 eating establishments.
- 10 (4) One at-large member with at least 10 years of
11 professional experience in marketing or advertising.
- 12 (5) One member from the retail shopping sector.
- 13 (6) One member from the recreation and entertainment
14 sector.
- 15 (7) One member from the transportation sector.
- 16 (8) The Secretary of Community and Economic Development.
- 17 (b) Ex officio members.--The following, or their designees,
18 shall serve as nonvoting ex officio members of the board:
- 19 (1) The Secretary of Agriculture.
- 20 (2) The Secretary of Conservation and Natural Resources.
- 21 (3) The executive director of the Pennsylvania
22 Historical and Museum Commission.
- 23 (4) The executive director of the Commonwealth of
24 Pennsylvania Council on the Arts.
- 25 (5) The chairman and minority chairman of the Community,
26 Economic and Recreational Development Committee of the
27 Senate.
- 28 (6) The chairman and minority chairman of the Tourism
29 and Recreational Development Committee of the House of
30 Representatives.

1 (c) Term of office.--Members under subsection (a) shall
2 continue in office for terms of two or four years from the date
3 of their initial appointment, the term of each appointed member
4 to be designated by the Governor at the time of the appointment.
5 Successor members shall be appointed for a term of four years.
6 An appointment to fill a vacancy shall be for the remainder of
7 the unexpired term. No member shall serve more than two full
8 consecutive terms.

9 (d) Chairman.--The board shall select the chairman of the
10 board from among the members by a majority vote with a quorum
11 present.

12 (e) Qualifications of members.--Members under subsection (a)
13 shall be qualified by reason of experience or employment and
14 must be a resident of this Commonwealth for a period of at least
15 one year immediately preceding appointment. Each member shall
16 continue to remain a resident of this Commonwealth during the
17 term of membership on the board.

18 (f) Quorum.--

19 (1) Except as otherwise provided in paragraph (2), a
20 majority of the voting members of the board shall constitute
21 a quorum for the transaction of business at a meeting or the
22 exercise of a power or function of the commission.

23 (2) For the purposes of voting to approve grants to
24 recognized tourism promotion agencies and destination
25 marketing organizations under section 5(b)(17) and (18) or
26 any other grants to recognized tourism promotion agencies and
27 destination marketing organizations that may be established
28 by statute or by the board, a majority of the voting members
29 of the board under subsection (a)(2), (3), (4), (5), (6), (7)
30 and (8) shall constitute a quorum. No member of the board

1 under subsection (a) (1) shall count toward a quorum or vote
2 on motions to approve such grants.

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

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

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

12 (j) Applicable laws.--

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

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

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

18 (iii) The provisions of 65 Pa.C.S. Chs. 7 (relating
19 to open meetings) and 11 (relating to ethics standards
20 and financial disclosure).

21 (2) The commission shall be considered an independent
22 agency for the purposes of 62 Pa.C.S. Pt. I (relating to
23 Commonwealth Procurement Code), excluding expenditures under
24 section 5(a) (5) and (b) (10), (11), (12), (13), (14) and (15).

25 Section 5. Powers and duties.

26 (a) General powers.--

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

29 (2) The board shall appoint a chief executive officer
30 who shall be qualified by education and experience and who

1 shall be the chief executive officer of the commission and
2 attend to its administrative work. The chief executive
3 officer shall serve at the pleasure of the board, which shall
4 fix his compensation subject to the approval of the Governor.
5 At the discretion of the board, the chief executive officer
6 may be considered a State employee for purposes of 71 Pa.C.S.
7 Pt. XXV (relating to retirement for State employees and
8 officers).

9 (3) The commission shall employ individuals as necessary
10 to carry out the powers and duties of the commission, who
11 shall serve at the board's pleasure. Notwithstanding the
12 provisions of paragraph (4), an employee of the commission
13 shall not be considered a State employee for purposes of 71
14 Pa.C.S. Pt. XXV.

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

19 (5) The commission may hire independent contractors as
20 required to achieve the tourism marketing, promotion and
21 development provisions of this act.

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

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

25 (2) To sue or be sued, implead and be impleaded or
26 interplead.

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

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

1 (5) To adopt a budget.

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

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

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

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

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

19 (11) To develop the Commonwealth's official tourism
20 slogan and official tourism logos.

21 (12) To solicit and approve all requests for proposals
22 which pertain to tourism marketing, promotion and
23 development.

24 (13) To make and execute contracts for tourism
25 marketing, promotion and development.

26 (14) To publish and distribute tourism marketing and
27 promotion materials and maintain tourism sites, social media
28 and mobile applications on the Internet.

29 (15) To engage in any other tourism marketing, promotion
30 and development activities to attract leisure and business

1 travelers to this Commonwealth.

2 (16) To develop policies necessary for the
3 administration and enforcement of this act, including minimum
4 standards for recognized tourism promotion agencies. The
5 commission shall adopt and administer the grant contract,
6 auditing and closeout requirements established by the
7 Department of Community and Economic Development.

8 (17) To review and approve applications for grants to
9 recognized tourism promotion agencies under the act of July
10 4, 2008 (P.L.621, No.50), known as the Tourism Promotion Act.

11 (18) To review and approve applications for regional
12 marketing partnership grants to recognized tourism promotion
13 agencies and destination marketing organizations under the
14 Tourism Promotion Act.

15 (19) To collect and publish visitor statistics and
16 tourism research.

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

19 (c) Nonprofit entity.--

20 (1) The board shall have the power to incorporate a
21 nonprofit entity that is exempt from Federal taxation under
22 section 501(c)(3) of the Internal Revenue Code of 1986
23 (Public Law 99-514, 26 U.S.C. § 1 et seq.) for the purposes
24 of soliciting and receiving monetary and in-kind
25 contributions.

26 (2) The members of the board shall serve as the members
27 of the governing board of the nonprofit entity.

28 (3) The board may use existing commission staff for the
29 administration and operation of the nonprofit entity.

30 (4) Monetary contributions received by the nonprofit

1 entity shall be deposited into a fund created by the
2 governing board of the nonprofit entity.

3 (5) At least 90% of the monetary contributions received
4 by the nonprofit entity and deposited in the fund under
5 paragraph (4) shall be distributed to the board to be used to
6 effectuate the powers and duties of the commission under this
7 act.

8 (d) Use of in-kind contributions.--The board shall use in-
9 kind contributions to effectuate the powers and duties of the
10 commission under this act.

11 Section 6. Annual report.

12 The commission shall submit a report to the Governor and the
13 General Assembly by December 31 of the second year following the
14 effective date of this section and every December 31 thereafter.
15 The report shall include, at a minimum, a financial statement
16 with commission revenue and expenditures, the tourism programs
17 and projects undertaken by the commission and tourism
18 statistics.

19 Section 7. Transfer of department power.

20 The powers and duties of the Department of Community and
21 Economic Development imposed under the act of July 4, 2008
22 (P.L.621, No.50), known as the Tourism Promotion Act, are
23 transferred to and shall be exercised by the commission.

24 Section 8. State agencies.

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

30 (b) Review.--State departments, divisions, boards, bureaus,

1 commissions and other State agencies shall submit tourism
2 programs, plans or printed materials to the commission for
3 review prior to implementation, renewal or publishing of such
4 programs, plans or printed materials to ensure the coordination
5 of the tourism marketing, promotion and development efforts of
6 the Commonwealth.

7 Section 9. Tourist Promotion Trust Fund.

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

10 (b) Deposits.--The following shall be deposited into the
11 fund:

12 (1) The amounts made available to the commission as
13 executive authorizations and appropriations from the General
14 Fund.

15 (2) All money received by the commission from
16 cooperative advertising, grants, donations, fees, interest
17 and dividends.

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

20 (c) Use of revenues.--

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

26 (2) Money in the fund is appropriated on a continuing
27 basis to the commission and shall not lapse. As often as may
28 be necessary, payments from the fund shall be made upon
29 warrant of the State Treasurer after receipt of a requisition
30 from the commission.

1 (d) Audit.--The accounts and books of the commission shall
2 be examined and audited annually by the Auditor General as
3 provided in the act of April 9, 1929 (P.L.343, No.176), known as
4 The Fiscal Code.

5 Section 10. Repeals.

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

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

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

13 Section 11. Effective date.

14 This act shall take effect in 90 days.