
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1221 Session of
2017

INTRODUCED BY BOBACK, MILLARD, MURT, BULLOCK, O'BRIEN, McNEILL,
D. COSTA, MACKENZIE AND READSHAW, APRIL 17, 2017

REFERRED TO COMMITTEE ON TOURISM AND RECREATIONAL DEVELOPMENT,
APRIL 17, 2017

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
18 established by this act.

19 "Destination marketing organization." A nonprofit

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

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

12 Section 3. Pennsylvania Tourism Commission.

13 An independent agency is established, which shall be a body
14 corporate and politic to be known as the Pennsylvania Tourism
15 Commission. The purposes, powers and duties of the commission
16 shall be vested in and exercised by the Pennsylvania Tourism
17 Commission Board established under section 4.

18 Section 4. Pennsylvania Tourism Commission Board.

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

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

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

29 (ii) one member from a county of the second class or
30 second class A;

1 (iii) one member from a county of the third class or
2 fourth class; and

3 (iv) one member from a county of the fifth class,
4 sixth class, seventh class or eighth class.

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

6 (3) One member representing restaurants, taverns or
7 eating establishments.

8 (4) One at-large member with at least 10 years of
9 professional experience in marketing or advertising.

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

11 (6) One member from the recreation and entertainment
12 sector.

13 (7) One member from the transportation sector.

14 (8) The Secretary of Community and Economic Development.

15 (b) Ex officio members.--The following, or a designee, shall
16 serve as nonvoting ex officio members of the board:

17 (1) The Secretary of Agriculture.

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

19 (3) The executive director of the Pennsylvania
20 Historical and Museum Commission.

21 (4) The executive director of the Commonwealth of
22 Pennsylvania Council on the Arts.

23 (5) The chairperson and minority chairperson of the
24 Community, Economic and Recreational Development Committee of
25 the Senate.

26 (6) The chairperson and minority chairperson of the
27 Tourism and Recreational Development Committee of the House
28 of Representatives.

29 (c) Term of office.--Members under subsection (a) shall
30 continue in office for terms of two or four years from the date

1 of their initial appointment, the term of each appointed member
2 to be designated by the Governor at the time of the appointment.
3 Successor members shall be appointed for a term of four years.
4 An appointment to fill a vacancy shall be for the remainder of
5 the unexpired term. No member shall serve more than two full
6 consecutive terms.

7 (d) Chairperson.--The board shall select the chairperson of
8 the board from among the members by a majority vote with a
9 quorum present.

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

16 (f) Quorum.--

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

21 (2) For the purposes of voting to approve grants to
22 recognized tourism promotion agencies and destination
23 marketing organizations under section 5(b)(17) and (18) or
24 any other grants to recognized tourism promotion agencies and
25 destination marketing organizations that may be established
26 by statute or by the board, a majority of the voting members
27 of the board under subsection (a)(2), (3), (4), (5), (6), (7)
28 and (8) shall constitute a quorum. No member of the board
29 under subsection (a)(1) shall count toward a quorum or vote
30 on motions to approve the grants.

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

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

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

10 (j) Applicable laws.--

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

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

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

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

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

23 Section 5. Powers and duties.

24 (a) General powers.--

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

27 (2) The board shall appoint a chief executive officer
28 who shall be qualified by education and experience and who
29 shall be the chief executive officer of the commission and
30 attend to administrative work of the commission. The chief

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

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

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

17 (5) The commission may hire independent contractors as
18 required to achieve the tourism marketing, promotion and
19 development under this act.

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

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

23 (2) To sue or be sued, implead and be impleaded or
24 interplead.

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

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

29 (5) To adopt a budget.

30 (6) To lease, furnish and equip buildings, rooms and

1 other accommodations as shall be required for the operation
2 of the commission.

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

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

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

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

17 (11) To develop the Commonwealth's official tourism
18 slogan and official tourism logos.

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

22 (13) To make and execute contracts for tourism
23 marketing, promotion and development.

24 (14) To publish and distribute tourism marketing and
25 promotion materials and maintain tourism sites, social media
26 and mobile applications on publicly accessible Internet
27 websites.

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

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

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

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

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

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

18 (c) Nonprofit entity.--

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

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

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

29 (4) Monetary contributions received by the nonprofit
30 entity shall be deposited into a fund created by the

1 governing board of the nonprofit entity.

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

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

10 Section 6. Annual report.

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

18 Section 7. Transfer of department power.

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

23 Section 8. State agencies.

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

29 (b) Review.--State departments, divisions, boards, bureaus,
30 commissions and other State agencies shall submit tourism

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

6 Section 9. Tourist Promotion Trust Fund.

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

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

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

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

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

19 (c) Use of revenues.--

20 (1) Money in the fund shall be used by the commission to
21 effectuate the commission's powers and duties under this act,
22 including tourism marketing and promotion, grants,
23 fulfillment and the administrative costs of the commission.

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

29 (d) Audit.--The accounts and books of the commission shall
30 be examined and audited annually by the Auditor General as

1 provided in the act of April 9, 1929 (P.L.343, No.176), known as
2 The Fiscal Code.

3 Section 10. Repeals.

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

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

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

11 Section 11. Effective date.

12 This act shall take effect in 90 days.