



Sen. Sara Feigenholtz

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LRB102 10079 AWJ 42422 a

1 AMENDMENT TO HOUSE BILL 268

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 268 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Tourism Preservation and Sustainability District Act.

6 Section 5. Definitions. As used in this Act:

7 "Benefit zone" means a zone (i) located within a district,  
8 (ii) established by the governing body of the district based  
9 upon the degree of benefit derived from the services to be  
10 provided within the zone, and (iii) in which the governing  
11 body may impose unique transaction charges based on the degree  
12 of benefit intended to be provided.

13 "Business owner" means a hotel owner or the hotel owner's  
14 representative.

15 "Clerk" means the clerk of a governing body or, if the  
16 governing body has no clerk, the individual designated as the

1 clerk by the governing body.

2 "District" means a tourism preservation and sustainability  
3 district created under this Act.

4 "Governing body" means the legislative body of a  
5 governmental unit that establishes a district by resolution of  
6 intent and ordinance under this Act.

7 "Governmental unit" means a municipality, county, or  
8 township located in whole or part within the district.

9 "Hotel" means any building or buildings in which the  
10 public may, for consideration, obtain living quarters or  
11 sleeping or housekeeping accommodations that will benefit from  
12 a district's services or improvements. "Hotel" includes, but  
13 is not limited to, inns, motels, tourist homes or courts,  
14 lodging houses, rooming houses, retreat centers, conference  
15 centers, and hunting lodges. "Hotel" does not include a  
16 short-term rental.

17 "Improvement" means the acquisition, construction,  
18 installation, or maintenance of any tangible property that has  
19 an estimated useful life of 5 years or more and that is  
20 reasonably related to the enhancement of tourism.

21 "Local tourism and convention bureau" means either a unit  
22 of local government or a nonprofit corporation (i) that has as  
23 its sole purpose the promotion of tourism; (ii) that is  
24 operating with a paid, full-time staff; (iii) that receives  
25 local hotel or motel tax receipts from one or more  
26 municipalities or counties; (iv) that represents one or more

1 municipalities or counties; and (v) that either is recognized  
2 by the Department of Commerce and Economic Opportunity as a  
3 certified local tourism and convention bureau or has been in  
4 legal existence as a nonprofit corporation for a minimum of  
5 two years before contracting with a governmental unit to  
6 implement services and improvements in a district.

7 "Services" means marketing, promotions, sales efforts,  
8 events, and other activities that are reasonably related to  
9 the enhancement of tourism.

10 "Short-term rental" means a single-family dwelling or a  
11 residential dwelling unit in a multi-unit apartment structure,  
12 condominium, cooperative, timeshare, or similar joint property  
13 ownership arrangement that is rented for a fee for less than 30  
14 consecutive days. "Short-term rental" includes a dwelling unit  
15 rented for business travel or recreation.

16 "Tourism" means travel by either State residents or  
17 out-of-state visitors traveling away from home overnight in  
18 paid accommodations or on day trips to places away from the  
19 resident's or visitor's home.

20 "Transaction charge" means a special charge that is  
21 imposed upon a hotel in a district that is either a fixed  
22 dollar or percentage rate per hotel room per night.

23 Section 10. Petition and resolution of intent to create a  
24 district.

25 (a) To initiate the process of creating a district,

1 business owners must file a written petition with the clerk of  
2 a governmental unit in which the proposed district lies. The  
3 petition must include a summary of the district plan, which  
4 shall include all of the following:

5 (1) the name of the district;

6 (2) a map showing the boundaries of the district,  
7 which need not be contiguous but shall not encompass more  
8 than 6 counties;

9 (3) the initial and maximum rates of the transaction  
10 charge for hotels within the boundaries of the district;

11 (4) the length of the proposed term of the district,  
12 not to exceed 5 years upon formation or 10 additional  
13 years upon each renewal;

14 (5) a brief description of the services and  
15 improvements proposed to be provided by the local tourism  
16 and convention bureau;

17 (6) information specifying where the complete district  
18 plan can be obtained by the governing body; and

19 (7) information specifying that the complete district  
20 plan shall be furnished to the governing body upon  
21 request.

22 The business owners that file the petition under  
23 subsection (a) must certify on the petition that they believe  
24 they will pay more than 50% of the transaction charges  
25 proposed to be levied by the district, as determined by the  
26 last 12 months of State hotel operators' occupation taxes paid

1 preceding the date of the petition, for the proposed district.

2 Petitions may be filed with a county clerk only if more  
3 than 50% of the land within the county is included in the  
4 district.

5 (b) Within 60 days after the filing of the written  
6 petition under subsection (a), the governing body may adopt a  
7 resolution that expresses the intention to create the district  
8 proposed in the written petition. The resolution of intent  
9 shall include the following information:

10 (1) the name of the district;

11 (2) a description of the boundaries of the district,  
12 which need not be contiguous but shall not encompass more  
13 than 6 counties;

14 (3) the initial and maximum rates of the transaction  
15 charge for hotels within the boundaries of the district;

16 (4) the length of the proposed term of the district,  
17 not to exceed 5 years upon formation or up to 10 additional  
18 years upon each renewal;

19 (5) a brief description of the services and  
20 improvements proposed to be provided by the district;

21 (6) the time and place of a public hearing on the  
22 formation of the proposed district; and

23 (7) a statement that any hotel proposed to be subject  
24 to a transaction charge has the opportunity to be heard at  
25 the public hearing regarding the district formation and an  
26 opportunity to file objections to the district formation

1 with the clerk at any time prior to the conclusion of the  
2 public hearing.

3 Section 15. District plan. A district plan shall be  
4 prepared by the business owners who submitted the petition  
5 under Section 10 before the public hearing on the proposed  
6 district. The district plan shall include or identify the  
7 following:

8 (1) the estimated annual budget of the district, which may  
9 include specific allocations to expedite the recovery of the  
10 tourism industry;

11 (2) the initial and maximum rates of the transaction  
12 charge for each business that will be subject to the  
13 transaction charge, in sufficient detail for each of those  
14 business owners to estimate the amount of transaction charges  
15 for which each hotel would be responsible;

16 (3) the method for calculating the transaction charge;

17 (4) a statement that, after the first imposition of a  
18 transaction charge within the district, the transaction charge  
19 may continue to be imposed until the end of the district's term  
20 without the requirement of an additional public hearing if the  
21 transaction charge rate does not exceed the rate specified in  
22 the district plan;

23 (5) the frequency and manner that the governmental unit  
24 shall collect the transaction charges;

25 (6) the frequency and manner that the governmental unit

1 shall remit the transaction charges to the local tourism and  
2 convention bureau;

3 (7) the name of the district;

4 (8) the manner by which a business owner may contest the  
5 calculation of the transaction charge;

6 (9) the amount or rate of penalties and interest  
7 applicable to delinquent payments, if any, and the method of  
8 collection of penalties and interest;

9 (10) a description of the proposed services and  
10 improvements to be provided;

11 (11) a map that depicts the district's proposed boundaries  
12 but need not depict every hotel;

13 (12) a map showing the district's benefit zones, if any;

14 (13) a statement that a hotel may pass a transaction  
15 charge onto customers and the specific title to be used when  
16 the transaction charge is passed on to the customer;

17 (14) the name and general structure of the local tourism  
18 and convention bureau proposed to receive and use the revenues  
19 of the transaction charges for the proposed services and  
20 improvements; and

21 (15) the term of the district, which shall not exceed 5  
22 years upon formation or 10 additional years upon each renewal.

23 Section 20. Territory of other governmental units in a  
24 district.

25 (a) Except as provided in subsection (b), if the proposed

1 district's boundaries include territory of a governmental unit  
2 other than the governmental unit in which the petition was  
3 filed under Section 10, the governmental unit in which the  
4 petition was filed must enter into an intergovernmental  
5 agreement with the other governmental unit authorizing, on  
6 mutually agreed terms, the governmental unit in which the  
7 petition was filed to form or renew the district and to perform  
8 any action authorized under this Act.

9 (b) If a petition under Section 10 is filed with the clerk  
10 of a municipality and the proposed district boundaries do not  
11 extend beyond the boundaries of the municipality, the  
12 municipality may form or renew the district without an  
13 intergovernmental agreement with a county or township that has  
14 territory within the municipality.

15 If a petition under Section 10 is filed with the clerk of a  
16 township and the proposed district boundaries do not extend  
17 beyond the boundaries of the township, the township may form  
18 or renew the district without an intergovernmental agreement  
19 with the county in which the township lies, but the township  
20 must enter into an intergovernmental agreement with any  
21 municipality that has territory within the township.

22 If a petition under Section 10 is filed with the clerk of a  
23 county and the proposed district boundaries are solely within  
24 the county, the county may form or renew the district without  
25 an intergovernmental agreement with any municipalities or  
26 townships with territory within the county. If a petition



1 under Section 10 is filed with the clerk of a county and the  
2 proposed district boundaries includes portions of another  
3 county, the county in which the petition was filed must only  
4 enter into an intergovernmental agreement with the county or  
5 counties in which the other territory is situated in order to  
6 form or renew a district.

7 Section 25. Public hearing.

8 (a) The governing body shall hold a public hearing on the  
9 proposed district at the day and time indicated in the  
10 resolution of intent. The governing body shall give notice of  
11 the public hearing by United States mail to each governmental  
12 unit within the district and each business owner that may be  
13 subjected to a transaction charge, based on the governmental  
14 unit's most recent records. The notice shall include the  
15 resolution of intent and the name, address, email address, and  
16 phone number of the clerk of the governing body, and it shall  
17 be mailed not less than 30 days before the public hearing.

18 (b) At the hearing, the governing body shall consider  
19 public testimony regarding the proposed district. Any business  
20 owner that may be subjected to a transaction charge may submit  
21 a written objection to the formation of the district to the  
22 clerk at any time before voting has begun on the formation  
23 ordinance. If written objections are received from hotels that  
24 would pay 50% or more of the proposed transaction charges in  
25 the proposed district, as determined by the last 12 months of

1 State hotel operators' occupation taxes paid preceding the  
2 date of the petition, the hearing shall end and no further  
3 proceedings to form a district may be undertaken by the  
4 governmental unit for a period of one year from the date of the  
5 hearing.

6 The hearing may be adjourned to another date without  
7 further notice, other than a motion to be entered upon the  
8 minutes fixing the time and place the governing body will  
9 reconvene.

10 (c) At the public hearing, the governing body may remove  
11 territory or hotels from the district that will not benefit  
12 from the district's services or improvements, reduce a  
13 transaction charge rate, or make administrative clarifications  
14 to the district plan.

15 (d) If, at the conclusion of the public hearing, the clerk  
16 determines that the written objections submitted under  
17 subsection (b) do not represent hotels that would pay 50% or  
18 more of the proposed transaction charges, as determined by the  
19 last 12 months of State hotel operators' occupation taxes paid  
20 preceding the date of the petition, then the governing body  
21 may adopt an ordinance forming the district under Section 30.

22 Section 30. Formation ordinance; management of funds.

23 (a) The formation ordinance shall contain:

24 (1) the date the district is established;

25 (2) a reference to the district plan, which shall be

1 on file and available for inspection with the clerk;

2 (3) a statement that the clerk determined that the  
3 total amount of written objections received from hotels  
4 that will be subjected to a transaction charge did not  
5 represent hotels that would pay 50% or more of the  
6 proposed transaction charges, as determined by the last 12  
7 months of State hotel operators' occupation taxes paid  
8 preceding the date of the petition;

9 (4) the name of the district;

10 (5) the effective date of the transaction charge;

11 (6) the term of the district, not to exceed 5 years  
12 upon formation or up to 10 additional years upon each  
13 renewal;

14 (7) a description of the boundaries of the district,  
15 which need not be contiguous but shall not encompass more  
16 than 6 counties;

17 (8) the name of the local tourism and convention  
18 bureau and authorization for the governmental unit to  
19 remit the collected transaction charges to the local  
20 tourism and convention bureau in exchange for the local  
21 tourism and convention bureau providing services and  
22 improvements; and

23 (9) the amount, if any, that the governmental unit  
24 will retain of the total amount of transaction charges  
25 collected to defray (in whole or in part) the governmental  
26 unit's administrative costs related to the district, in an

1 amount not more than 2% of the collected transaction  
2 charges.

3 (b) Before a tourism and convention bureau may receive  
4 transaction charges under this Act, the tourism and convention  
5 bureau must be organized as follows:

6 (1) for a local tourism and convention bureau that is  
7 a unit of local government that does not have a nonprofit  
8 corporation existing on the date the formation ordinance  
9 is adopted, the local tourism and convention bureau must  
10 create a nonprofit corporation solely for purposes of this  
11 Act and that corporation's certificate of incorporation or  
12 bylaws must provide that the Board of Directors of the  
13 nonprofit corporation must be composed of the business  
14 owners subject to the transaction charge, or their  
15 designees, and the Board of Directors shall be responsible  
16 for managing funds raised by the district for the local  
17 tourism and convention bureau, which shall fulfill the  
18 obligations of the district plan; or

19 (2) for a local tourism and convention bureau that is  
20 a nonprofit corporation, the local tourism and convention  
21 bureau must create a committee composed of the business  
22 owners subject to the transaction charge, or their  
23 designees, and the committee shall be responsible for  
24 managing funds raised by the district and fulfilling the  
25 obligations of the district plan.

1           Section 35. Baseline funding and services. The funds for  
2 services and improvements that are provided to a local tourism  
3 and convention bureau for purposes of this Act shall be  
4 considered supplemental funding and services and shall not  
5 supplant existing funding or services provided by the State or  
6 any unit of local government.

7           Section 40. Annual report.

8           (a) Each year, a local tourism and convention bureau that  
9 receives transaction charges shall submit to the governing  
10 body a report of the bureau's activities and expenditures. The  
11 report shall be submitted no later than 30 days after the  
12 anniversary of the date upon which the transaction charge is  
13 first imposed. The report shall include:

14           (1) a summary of the activities provided in the  
15 previous year through use of the transaction charges;

16           (2) a summary of the expenditures for the previous  
17 year showing the use of the transaction charges;

18           (3) the amount of any revenue from transaction charges  
19 to be carried over from prior years;

20           (4) a list of the directors and officers of the local  
21 tourism and convention bureau; and

22           (5) a list of the accomplishments, improvements, and  
23 services attributable to the district.

24           (b) The governing body shall also submit to the Department  
25 of Commerce and Economic Opportunity, no later than 60 days

1 after the anniversary of the date upon which the transaction  
2 charge is first imposed, the annual report provided by the  
3 local tourism and convention bureau and a report of the amount  
4 of total revenue received from the transaction charges and how  
5 much the governmental unit, if any, withheld for  
6 administrative costs related to the district under the  
7 district plan.

8 Section 45. Modification.

9 (a) Upon a written request from business owners whose  
10 hotels pay the majority of the transaction charges proposed to  
11 be levied by a district, as determined by the last 12 months of  
12 State and local taxes paid from the date of the written  
13 request, the governing body of the district shall, after  
14 providing notice, hold a public hearing as provided in Section  
15 25 for modifications to the district for any one or more of the  
16 following purposes:

17 (1) to increase, in any year other than the initial  
18 year, the rate of a transaction charge to an amount  
19 exceeding the maximum rate described in the district plan;

20 (2) to change the boundaries of the district; or

21 (3) for any other purpose that is agreed to by the  
22 governing body.

23 (b) Any modification shall be reflected in an updated  
24 district plan to be on file and available for inspection with  
25 the clerk.

1 (c) If the governmental unit is a county, the county may  
2 not modify the district boundaries to include less than 50% of  
3 the land within the county.

4 Section 50. Transaction charges; collection and  
5 remittance. Transaction charges paid by a hotel shall be  
6 collected by the governmental unit that passed the ordinance  
7 creating the district. The collected transaction charges shall  
8 be remitted on a prompt basis by the governmental unit that  
9 passed the ordinance creating the district to the local  
10 tourism and convention bureau in accordance with the district  
11 plan and the formation ordinance. During any period that the  
12 governmental unit that passed the ordinance creating the  
13 district may hold the collected transaction charges, the  
14 governmental unit shall at all times maintain the collected  
15 transaction charges in a specially designated fund segregated  
16 from all other funds.

17 Collected transaction charges held by the governmental  
18 unit that passed the ordinance creating the district may not  
19 be commingled with other funds of the governmental unit or  
20 units.

21 A transaction charge may not exceed 5% of the hotel room  
22 rate per occupied hotel room per night and may not be imposed  
23 upon any customer transactions at restaurants or for food,  
24 drinks, or merchandise. In addition, a transaction charge may  
25 not be charged for the rental of hotel rooms to a permanent

1 occupant of a hotel. As used in this paragraph, "permanent  
2 occupant" means a person or company that occupies or has the  
3 right to occupy a hotel room for at least 30 consecutive days.

4 Section 55. Renewal. Before a district's term expires, the  
5 district may be renewed by following the petition process  
6 outlined in Section 10, creating a new district plan under  
7 Section 15, and adopting a new formation ordinance following  
8 the procedures detailed in Sections 25, 30, and 35 on or before  
9 the date the district's term expires. The governmental unit  
10 that passed the ordinance creating the district must enter  
11 into, amend, or extend all intergovernmental agreements, if  
12 applicable, as required by Section 20 before renewing a  
13 district.

14 If the district's term expires, any funds remaining from  
15 transaction charges shall be used in accordance with the  
16 district plan or refunded to the hotels in equal proportion to  
17 the amount of transaction charges paid by each hotel.

18 Section 60. Termination.

19 (a) The governing body of a district may initiate  
20 termination of the district by either of the following  
21 methods:

22 (1) The governing body may hold a public hearing to  
23 determine if there has been a violation of law,  
24 malfeasance, or misappropriation of funds.



1           (2) If written objections are filed with the clerk  
2           from the business owners that, in the most recently  
3           completed fiscal year, paid 50% or more of the transaction  
4           charges or if, in the case of a district that has not  
5           completed a fiscal year, written objections are received  
6           from business owners that paid 50% or more of the  
7           transaction charges following the initial imposition of  
8           the transaction charges would be expected to pay, as  
9           determined by the last 12 months of State hotel operators'  
10          occupation taxes paid, then the governing body may hold a  
11          public hearing within 45 days after the anniversary of the  
12          district's formation to discuss the written objections. A  
13          written objection under this paragraph must be signed by  
14          the business owner and dated within 30 days before  
15          submission to the clerk and must contain a statement as to  
16          why the district should be terminated. Written objections  
17          under this paragraph may be submitted only during the 30  
18          days before the anniversary of the district's formation.

19          (b) After holding a hearing under paragraph (1) of  
20          subsection (a) at which the governing body finds that there  
21          has been a violation of law, malfeasance, or misappropriation  
22          of funds, the governing body shall: (i) notify the local  
23          tourism and convention bureau to remedy the violation within  
24          30 days; or (ii) either in the public meeting held under  
25          paragraph (1) of subsection (a) or a separate public meeting,  
26          approve a plan for the local tourism and convention bureau to

1 remedy violations. If the local tourism and convention bureau  
2 does not remedy the violations within 30 days after  
3 notification or the violations are not remedied according to  
4 the governing body's plan to remedy the violation, the  
5 governing body may terminate the district by ordinance or  
6 resolution.

7 In a hearing under paragraph (2) of subsection (a), the  
8 governing body shall determine if the reasons for termination  
9 in the written objections justify termination of the district  
10 and, if the governing body finds that the reasons do justify  
11 termination, may terminate the district by ordinance or  
12 resolution.

13 (c) A public hearing held under this Section shall be held  
14 only after notice has been given to the business owners and the  
15 local tourism and convention bureau not less than 30 days  
16 before the hearing.

17 (d) Upon termination, any funds remaining shall be used by  
18 the local tourism and convention bureau in accordance with the  
19 district plan or refunded to the hotels in equal proportion to  
20 the amount of transaction charges paid by each hotel, as  
21 required by the governing body in the ordinance or resolution  
22 terminating the district.

23 Section 65. Contesting validity. The validity of a  
24 district created, district plan established, or transaction  
25 charge imposed under this Act may not be contested in any

1 action or proceeding unless the action or proceeding is  
2 commenced within 30 days after the formation ordinance is  
3 adopted or, with respect to modifications to a district plan,  
4 within 30 days after a district plan has been modified. If a  
5 party appeals a final judgment, the party filing the appeal  
6 shall request discretionary acceleration under Supreme Court  
7 Rule 311(b).

8 Section 70. No limitation on home rule. The powers granted  
9 to a governmental unit in this Act are not a limitation on the  
10 powers of a home rule unit granted by Article VII of the  
11 Illinois Constitution.

12 Section 75. Special service areas and business improvement  
13 districts. Nothing in this Act prevents a tourism preservation  
14 and sustainability district from sharing area with a special  
15 service area or a business improvement district.

16 Section 80. Hotel operator's occupation tax information.  
17 Upon request of a governmental unit for information relating  
18 to the amount of State hotel operators' occupation taxes paid  
19 by hotels within a proposed or existing tourism preservation  
20 and sustainability district, the Department of Revenue shall  
21 provide information or documents to the governmental unit so  
22 that the governmental unit may determine State hotel  
23 operators' occupation taxes paid as needed under this Act. The

1 Department shall make available to the governmental unit  
2 information contained on transaction reporting returns  
3 required to be filed under Section 6 of the Hotel Operators'  
4 Occupation Tax Act that report the amount of rental receipts  
5 received within the proposed or existing tourism preservation  
6 and sustainability district. The disclosure shall be made  
7 pursuant to a written agreement between the Department and the  
8 governmental unit, which is an official purpose within the  
9 meaning of Section 11 of the Retailers' Occupation Tax Act.  
10 The written agreement between the Department and the  
11 governmental unit shall provide for reciprocity, limitations  
12 on access, disclosure, and procedures for requesting  
13 information. Information so provided shall be subject to all  
14 confidentiality provisions of Section 11 of the Retailers'  
15 Occupation Tax Act.

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law."