

Senate File 193 - Introduced

SENATE FILE 193

BY MATHIS

A BILL FOR

1 An Act authorizing the establishment of promotion areas and
2 authorizing the imposition of a local lodging fee.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 386.1, Code 2015, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 4A. "*Promotion area*" means an area which
4 may be created and the lessors therein subject to the lodging
5 fee in accordance with section 386.3A.

6 NEW SUBSECTION. 4B. "*Promotion services*" means any of the
7 following:

8 a. Promotion of public events that benefit businesses or
9 property in a promotion area.

10 b. Coordinating live music performances in a promotion area.

11 c. Coordinating promotion, marketing, and sales programs to
12 benefit property or businesses located in a promotion area.

13 d. Marketing and economic development services, including
14 retail retention and recruitment for the promotion area.

15 e. Providing security, sanitation, graffiti removal, street
16 and sidewalk cleaning, and other services for the promotion
17 area that are in addition to those already provided by the
18 city.

19 f. Any other services that benefit businesses and property
20 located in the promotion area.

21 Sec. 2. Section 386.2, Code 2015, is amended to read as
22 follows:

23 **386.2 Authorization.**

24 1. A city ~~which~~ that proposes to create a district, to
25 provide for its existence and operation, to provide for
26 improvements or self-liquidating improvements for the district,
27 to authorize and issue bonds for the purposes of the district,
28 and to levy the taxes authorized by this chapter must do so in
29 accordance with the provisions of this chapter.

30 2. A city that proposes to create a promotion area, to
31 provide for its existence and operation, and to undertake
32 promotion services in the promotion area must do so in
33 accordance with the provisions of this chapter. Except for the
34 local lodging fee authorized in section 386.5B, a city is not
35 authorized to levy any other taxes authorized in this chapter

1 unless the city has also established a district in accordance
2 with the provisions of this chapter that includes the property
3 comprising the promotion area.

4 Sec. 3. NEW SECTION. 386.3A **Establishment of a promotion**
5 **area.**

6 1. A promotion area may be created by action of the council
7 following approval by the county board of supervisors, if
8 applicable, in accordance with the provisions of this section.
9 An area shall:

10 a. Be comprised of contiguous property wholly within
11 the boundaries of the city. However, a promotion area may
12 include property in the unincorporated areas of the county that
13 is contiguous to the property of the proposed area located
14 within the boundaries of a city, if approved by resolution of
15 the county board of supervisors. A promotion area shall be
16 comprised only of property that is zoned for commercial or
17 industrial uses or properties within a duly designated historic
18 district.

19 b. Be given a descriptive name containing the words
20 "promotion area".

21 c. Be comprised of property related in some manner,
22 including but not limited to present or potential use, physical
23 location, condition, relationship to an area, or relationship
24 to present or potential commercial or other activity in an
25 area, so as to be benefited in any manner from the performance
26 of promotion services in the area.

27 2. The council shall initiate proceedings for establishing
28 a promotion area upon the filing with the city clerk of a
29 petition containing:

30 a. The signatures of at least twenty-five percent of all
31 owners of property within the proposed promotion area. These
32 signatures must together represent ownership of property
33 with an assessed value of twenty-five percent or more of the
34 assessed value of all of the property in the proposed promotion
35 area.

1 *b.* A description of the boundaries of the proposed promotion
2 area or a consolidated description of the property within the
3 proposed promotion area.

4 *c.* The name of the proposed promotion area.

5 *d.* A statement of the rate of the local lodging fee proposed
6 for imposition within the promotion area.

7 *e.* The purpose of the establishment of the promotion area,
8 which may be stated generally, or in terms of the relationship
9 of the property within the promotion area or the interests of
10 the owners of property within the promotion area.

11 *f.* A statement that local lodging fees shall be used for
12 promotion services in the promotion area.

13 3. *a.* The council shall notify the city planning commission
14 upon the receipt of a petition. It shall be the duty of the
15 city planning commission to make recommendations to the council
16 in regard to the proposed promotion area. The city planning
17 commission shall, with due diligence, prepare an evaluative
18 report for the council on the merit and feasibility of the
19 promotion services for the proposed promotion area. The
20 council shall not hold its public hearings or take further
21 action on the establishment of the promotion area until it
22 has received the report of the city planning commission. In
23 addition to its report, the commission may, from time to time,
24 recommend to the council amendments and changes relating to the
25 promotion area.

26 *b.* If no city planning commission exists, the council shall
27 notify the metropolitan or regional planning commission upon
28 receipt of a petition, and such commission shall have the
29 same duties set forth in this subsection as a city planning
30 commission. If no planning commission exists, the council
31 shall notify the zoning commission upon receipt of a petition,
32 and such commission shall have the same duties set forth in
33 this subsection as a city planning commission. If no planning
34 or zoning commission exists, the council shall, upon receipt of
35 a petition, conduct a public hearing on the establishment of

1 a promotion area.

2 4. Upon receipt of the commission's final report or after
3 the hearing has been conducted, as applicable, the council
4 shall set a time and place for a meeting at which the council
5 proposes to take action on the petition filed pursuant to
6 subsection 2 for establishment of the promotion area and shall
7 publish notice of the meeting as provided in section 362.3, and
8 the clerk shall send a copy of the notice by certified mail
9 not less than fifteen days before the meeting to each owner
10 of property within the proposed promotion area at the owner's
11 address as shown by the records of the county auditor. If a
12 property is shown to be in the name of more than one owner
13 at the same mailing address, a single notice may be mailed
14 addressed to all owners at that address. Failure to receive
15 a mailed notice is not grounds for objection to the council's
16 taking any action authorized in this section, section 386.4A,
17 section 386.5A, or section 386.5B.

18 5. In addition to the time and place of the meeting for
19 hearing on the petition, the notice must state:

20 a. That a petition has been filed with the council asking
21 that a promotion area be established.

22 b. The name of the promotion area.

23 c. The purpose of the promotion area.

24 d. The property proposed to be included in the promotion
25 area.

26 e. The rate of the local lodging fee proposed for imposition
27 in the promotion area.

28 6. At the time and place set in the notice, the council
29 shall hear all owners of property in the proposed promotion
30 area or residents of the city, or county, if applicable,
31 desiring to express their views. The council must wait at
32 least thirty days after the public hearing has been held before
33 it may adopt an ordinance establishing a promotion area which
34 must be comprised of all the property which the council finds
35 has the relationship described in subsection 1, paragraph

1 "c". Property included in the promotion area proposed in the
2 petition need not be included in the established promotion
3 area. However, the council may not include property in the
4 promotion area that was not included in the petition proposing
5 the area until the council has held another public hearing
6 after it has published and mailed notice in the same manner
7 as required in subsection 4 and containing the information
8 required in subsection 5, or has caused a notice of the
9 inclusion of the property to be personally served upon each
10 owner of the additional property, or has received a written
11 waiver of notice from each owner of the additional property.

12 7. Adoption of the ordinance establishing a promotion area
13 requires the affirmative vote of three-fourths of all of the
14 members of the council, or in cities having but three members
15 of the council, the affirmative vote of two members. However,
16 if a remonstrance has been filed with the clerk signed by at
17 least twenty-five percent of all owners of property within the
18 proposed promotion area representing ownership of property
19 with an assessed value of twenty-five percent or more of the
20 assessed value of all of the property in the proposed promotion
21 area, the adoption of the ordinance requires a unanimous vote
22 of the council.

23 8. The clerk shall cause a copy of the ordinance to be filed
24 in the office of the county recorder of each county in which
25 any property within the promotion area is located.

26 9. At any time prior to adoption of an ordinance
27 establishing a promotion area, the entire matter of
28 establishing such promotion area shall be withdrawn from
29 council consideration if a petition objecting to establishing
30 such area is filed with the city clerk containing the
31 signatures of at least forty percent of all owners of property
32 within the proposed promotion area or signatures which together
33 represent ownership of property with an assessed value of forty
34 percent or more of the assessed value of all property within
35 the proposed promotion area.

1 10. The adoption of an ordinance establishing a promotion
2 area is a legislative determination that the property within
3 the promotion area has the relationship required under
4 subsection 1, paragraph "c", and includes all of the property
5 within the promotion area which has that relationship in the
6 promotion area.

7 11. Any resident or property owner of the city, or of the
8 unincorporated area of the county, if applicable, may appeal
9 the action and the decisions of the council, including the
10 creation of the promotion area and the imposition of the local
11 lodging fee, to the district court of the county in which any
12 part of the promotion area is located, within thirty days after
13 the date upon which the ordinance creating the promotion area
14 becomes effective, but the action and decision of the council
15 are final and conclusive unless the court finds that the
16 council exceeded its authority. An action may not be brought
17 questioning the regularity of the proceedings pertaining to
18 the establishment of a promotion area or the validity of the
19 promotion, or the propriety of the inclusion or exclusion of
20 any property within or from the promotion area, or the ability
21 to impose a local lodging fee in accordance with the ordinance
22 establishing the promotion area, after thirty days from the
23 date on which the ordinance creating the promotion area becomes
24 effective.

25 Sec. 4. NEW SECTION. 386.4A Amendments to promotion areas.

26 1. The ordinance creating a promotion area may be amended
27 and property may be added to a promotion area and the local
28 lodging fee rate referred to in the ordinance may be changed at
29 any time in the same manner and by the same procedure as for the
30 establishment of a promotion area.

31 2. Action by the council amending the ordinance creating
32 the promotion area, including adding property to or severing
33 property from the promotion area, or changing the rate of
34 the local lodging fee, shall be by ordinance adopted by an
35 affirmative vote of three-fourths of all of the members of

1 the council, or in cities having but three members of the
2 council, the affirmative vote of two members. However, if
3 a remonstrance has been filed with the clerk signed by at
4 least twenty-five percent of all owners of property within
5 the promotion area and all property proposed to be included
6 representing ownership of property with an assessed value of
7 twenty-five percent or more of the assessed value of all the
8 property in the promotion area and all property proposed to be
9 included, the amending ordinance must be adopted by unanimous
10 vote of the council.

11 3. The clerk shall cause a copy of the amending ordinance
12 to be filed in the office of the county recorder of each county
13 in which any property within the promotion area, as amended,
14 is located.

15 4. At any time prior to council amendment of the ordinance
16 creating the promotion area, the entire matter of amending such
17 ordinance shall be withdrawn from council consideration if a
18 petition objecting to amending such ordinance is filed with
19 the city clerk containing either the signatures of at least
20 forty percent of all owners of property within the promotion
21 area and all property proposed to be included or signatures
22 which together represent ownership of property with an assessed
23 value of forty percent or more of the assessed value of all
24 property within the promotion area and all property proposed
25 to be included.

26 5. Any resident or property owner of the city may appeal
27 the action or decisions of the council amending the ordinance
28 creating the promotion area to the district court of the county
29 in which any part of the promotion area, as amended, is located
30 within fifteen days after the date upon which the amending
31 ordinance becomes effective, but the action and decision of
32 the council are final and conclusive unless the court finds
33 that the council exceeded its authority. An action may not
34 be brought questioning the regularity of the proceedings
35 pertaining to the amended ordinance or the validity of the

1 promotion area as amended, or the propriety of the inclusion
2 or exclusion of any property within or from the amended
3 promotion area, or the ability to impose the local lodging fee
4 in accordance with the ordinance establishing the promotion
5 area, as amended, after thirty days from the date upon which
6 the amending ordinance becomes effective.

7 6. All other provisions in section 386.3A shall apply to
8 an amended promotion area and to any ordinance amending the
9 ordinance creating the promotion area with the same effect as
10 they apply to the original promotion area and the ordinance
11 creating the original promotion area.

12 Sec. 5. NEW SECTION. 386.5A **Dissolution.**

13 1. A promotion area may be dissolved and terminated by
14 action of the council repealing the ordinance creating the
15 promotion area, and any subsequent ordinances amending the
16 ordinance creating the promotion area, by an affirmative vote
17 of three-fourths of all members of the council, or in cities
18 having but three members of the council, the affirmative vote
19 of two members. However, if a remonstrance has been filed with
20 the clerk signed by at least twenty-five percent of all owners
21 of property within the promotion area representing ownership
22 of property with an assessed value of twenty-five percent or
23 more of the assessed value of all the property in the promotion
24 area, the repeal of the ordinance creating the promotion area,
25 and any subsequent ordinances amending the ordinance creating
26 the promotion area, requires a unanimous vote of the council.

27 2. At any time prior to action of the council repealing
28 the ordinance creating the promotion area, and any subsequent
29 ordinances amending the ordinance creating the promotion area,
30 the entire matter of dissolving a promotion area shall be
31 withdrawn from council consideration if a petition is filed
32 with the city clerk containing the signatures of at least forty
33 percent of all owners of property within the promotion area
34 or signatures which together represent ownership of property
35 with an assessed value of forty percent or more of the assessed

1 value of all property within the promotion area.

2 Sec. 6. NEW SECTION. 386.5B Local lodging fee.

3 1. Following establishment of a promotion area in
4 accordance with this chapter, a city may impose, as part of
5 the ordinance establishing the promotion area, a local lodging
6 fee to be imposed on each night of lodging rental at a lessor
7 located in the promotion area.

8 2. The local lodging fee shall be collected by the lessor
9 of lodging from the user of that lodging. The lessor shall add
10 the fee to the sales price of the lodging, and the fee shall
11 be stated as a distinct item separate and apart from the sales
12 price of the lodging and taxes imposed, if any, under section
13 423A.3 or 423A.4.

14 3. Local lodging fees collected by a lessor shall be due and
15 payable to the city according to a schedule specified in the
16 ordinance creating the promotion area. A lessor is liable for
17 the payment of fees to the city in the same manner as liability
18 is imposed on retailers for the payment of taxes under sections
19 421.26 and 421.28.

20 4. Fees received by a city under this section shall be
21 deposited in a promotion area account within the city's general
22 fund. A separate account shall be created for each promotion
23 area established by the city. All fees collected under this
24 section are deemed to be held in trust for the city.

25 5. Moneys in a promotion area account shall be used for
26 promotion services within the applicable promotion area.

27 6. The ordinance imposing a local lodging fee under this
28 section shall designate a city officer to receive payments
29 from lessors and to prescribe any forms necessary for the
30 collection, reporting, and payment of such fees.

31 7. For the purposes of this section, unless the context
32 otherwise requires, "lessor", "lodging", "rent", and "user" mean
33 the same as defined in section 423A.2.

34 Sec. 7. Section 423A.3, Code 2015, is amended to read as
35 follows:

1 area of the county that is contiguous to the property of the
2 proposed area if the county board of supervisors approves its
3 inclusion by resolution. The bill requires that the promotion
4 area be comprised of property related in some manner, including
5 but not limited to present or potential use, physical location,
6 condition, relationship to an area, or relationship to present
7 or potential commercial or other activity in an area, so as to
8 be benefited in any manner from the performance of promotion
9 services in the area.

10 The bill requires the council to initiate proceedings
11 for establishing a promotion area upon the filing of a
12 petition containing a specified number of signatures and other
13 information specified in the bill.

14 The bill requires the council to notify the city planning
15 commission upon the receipt of a petition, and the planning
16 commission is required to make recommendations to the council
17 in regard to the proposed promotion area. The city planning
18 commission is also required to prepare an evaluative report
19 for the council on the merit and feasibility of the promotion
20 services for the proposed promotion area. The bill provides
21 alternative procedures in the event the city does not have a
22 planning commission.

23 Upon the receipt of the commission's final report, the
24 council shall set a time and place for a meeting at which the
25 council proposes to take action for the establishment of the
26 promotion area and receive comments from residents.

27 The bill establishes council voting requirements for
28 the approval of an ordinance establishing a promotion area,
29 provisions which remove the entire matter from the council's
30 consideration, appeal provisions relating to the establishment
31 of a promotion area, provisions governing amendments to the
32 ordinance creating the promotion area, and provisions governing
33 the dissolution of the promotion area. Such requirements and
34 provisions are similar to those in current Code chapter 386
35 for establishment of a self-supported municipal improvement

1 district.

2 The bill provides that except for the local lodging fee
3 authorized in the bill, a city is not authorized to levy any
4 taxes authorized in Code chapter 386 within a promotion area
5 unless the city has also established a district in accordance
6 with the provisions of Code chapter 386 that includes the
7 property comprising the promotion area.

8 Following establishment of a promotion area, as part of the
9 ordinance establishing the promotion area, a city may impose a
10 local lodging fee to be imposed on each night of lodging rental
11 at a lessor located in the promotion area. The local lodging
12 fee shall be collected by the lessor of lodging from the user
13 of that lodging. The lessor shall add the fee to the sales
14 price of the lodging, and the fee shall be stated as a distinct
15 item separate and apart from the sales price of the lodging
16 and taxes imposed. Local lodging fees collected by a lessor
17 shall be due and payable to the city according to a schedule
18 specified in the ordinance. A lessor is liable for the payment
19 of fees to the city in the same manner as liability is imposed
20 on retailers for the payment of certain state taxes.

21 The bill requires that local lodging fees received by a city
22 be deposited in a promotion area account within the city's
23 general fund. Moneys in a promotion area account shall be
24 used for promotion services within the applicable promotion
25 area. The bill defines "promotion services" to mean any
26 of the following: promotion of public events that benefit
27 businesses or property in a promotion area; coordinating live
28 music performances in a promotion area; coordinating promotion,
29 marketing, and sales programs to benefit property or businesses
30 located in a promotion area; marketing and economic development
31 services, including retail retention and recruitment for the
32 promotion area; providing security, sanitation, graffiti
33 removal, street and sidewalk cleaning, and other services
34 for the promotion area that are in addition to those already
35 provided by the city; and any other services that benefit

1 businesses and property located in the promotion area.

2 The bill provides that an ordinance imposing a local lodging
3 fee is required to designate a city officer to receive payments
4 from lessors and to prescribe any forms necessary for the
5 collection, reporting, and payment of such fees.