

HOUSE BILL NO. HB0093

Tourism improvement districts.

Sponsored by: Representative(s) Zwonitzer and Senator(s) Anderson

A BILL

for

1 AN ACT relating to counties, cities and towns; authorizing
2 the establishment of tourism improvement districts as
3 specified; specifying requirements; providing definitions;
4 specifying duties and powers of tourism improvement
5 districts; authorizing assessments; providing for a
6 limitation on actions; and providing for an effective date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 16-13-101 through 16-13-110 are created
11 to read:

12

13

CHAPTER 13

14

TOURISM IMPROVEMENT DISTRICTS

15

1 **16-13-101. Definitions.**

2

3 (a) As used in this chapter, unless the context
4 otherwise requires:

5

6 (i) "Activities" mean any of the following that
7 benefit businesses in the district:

8

9 (A) Marketing, sales and other promotional
10 programs designed to increase tourism in the district;

11

12 (B) Promotion of special events designed to
13 increase tourism in the district;

14

15 (C) Destination product development
16 improvements designed to improve the visitor experience in
17 the district;

18

19 (D) Any other tourism improvement activity
20 for which an assessment may be made against businesses
21 specially benefited thereby.

22

1 (ii) "Assessment" means a levy for the purpose of
2 providing activities to benefit businesses in the district;

3

4 (iii) "Business owner" means any person recognized
5 by the governing body as the owner of a business;

6

7 (iv) "District" means a tourism improvement
8 district organized under the terms of this chapter;

9

10 (v) "District plan" means the plan described in
11 W.S. 16-13-104, and as the plan may be amended;

12

13 (vi) "Governing body" means the board of county
14 commissioners of a county or the council or commission
15 constituting the elected legislative body of a city or town
16 including the mayor who is the presiding officer;

17

18 (vii) "Owners' association" means the private
19 nonprofit corporation or joint powers board designated in
20 W.S. 16-13-107 to implement and administer the activities
21 provided in the district.

22

1 **16-13-102. Establishment of tourism improvement**
2 **districts.**

3

4 A governing body may establish a tourism improvement district
5 to implement and administer the activities provided in the
6 district. A governing body shall not establish a district
7 within the territorial jurisdiction of another governing body
8 without the consent of the other governing body.

9

10 **16-13-103. Commencement by petition; resolution of**
11 **intent; objections; hearing.**

12

13 (a) Proceedings for the formation of a district shall
14 commence by filing a petition addressed to the governing body.
15 A petition to form a district shall be signed by the business
16 owners, or their authorized agents, in the proposed district
17 who combined will pay more than fifty percent (50%) of the
18 assessments proposed to be levied. The petition shall be
19 accompanied by a filing fee of two hundred dollars (\$200.00).
20 The petition shall at a minimum include:

21

1 (i) A map showing the boundaries of the proposed
2 district and any benefit zones if provided as authorized by
3 W.S. 16-13-104(b);

4

5 (ii) A description of the activities to be
6 provided in the proposed district;

7

8 (iii) The estimated annual budget for the proposed
9 district;

10

11 (iv) The assessment rates proposed to be levied
12 against businesses in the proposed district;

13

14 (v) The term of the proposed district subject to
15 any limitations imposed by this chapter;

16

17 (vi) The name of the owners' association for the
18 proposed district if designated;

19

20 (vii) Information specifying where the district
21 plan can be obtained and a statement that the district plan
22 shall be furnished upon request;

23

1 (viii) A designation of any persons authorized on
2 behalf of the petitioners to amend the petition or district
3 plan before adoption of the resolution of formation pursuant
4 to W.S. 16-13-105.

5

6 (b) Upon receipt of a valid petition, the governing
7 body shall adopt a resolution of intent to form the proposed
8 district. The resolution under this subsection shall at a
9 minimum include:

10

11 (i) A general description of the activities to be
12 provided in the proposed district, the proposed assessment
13 rate and a map that generally identifies the location of the
14 proposed district;

15

16 (ii) The date, time and location for the hearing
17 on the establishment of the district as required by subsection
18 (c) of this section.

19

20 (c) After adoption of a resolution of intent pursuant
21 to this section, the governing body shall hold a hearing on
22 the establishment of the district. The governing body shall
23 provide written notice of the hearing to all business owners

1 proposed to be assessed by the district. The notice shall at
2 a minimum include:

3

4 (i) The method and basis of levying the assessment
5 in sufficient detail to allow each business owner to calculate
6 the amount of assessment proposed to be levied against their
7 business;

8

9 (ii) Any authorized increases to the assessment
10 rate during the term of the district;

11

12 (iii) A general description of the activities that
13 the assessment will fund;

14

15 (iv) The address to which business owners may mail
16 written objections to the assessment. Each written objection
17 shall identify and contain a description of the business. If
18 the person objecting is not shown on the official records of
19 the governing body or the secretary of state as the business
20 owner, the objection shall contain or be accompanied by
21 written evidence that the person objecting is the business
22 owner or their authorized agent;

23

1 (v) The telephone number and address of an
2 individual, office or organization that interested persons
3 may contact to receive additional information about the
4 assessment;

5

6 (vi) The date, time and location of the hearing.

7

8 (d) The clerk of the governing body shall file all
9 written objections to the assessment received. A written
10 objection may be withdrawn in writing at any time before the
11 conclusion of the hearing. A governing body shall not
12 establish the district or levy the proposed assessment if
13 written objections are received from business owners in the
14 proposed district who combined will pay fifty percent (50%)
15 or more of the assessments proposed to be levied and no
16 objections are withdrawn to reduce the objections to less
17 than fifty percent (50%). The governing body shall not
18 consider proceedings to levy the proposed assessment for a
19 period of one (1) year thereafter.

20

21 (e) Except as otherwise provided in this subsection,
22 before the hearing required by this section, the petition or
23 district plan may be amended without notice by any person

1 designated to act on the petitioners behalf pursuant to
2 paragraph (a)(viii) of this section. The governing body shall
3 adopt a new resolution of intent and provide new notice in
4 accordance with this section if any amendment to the petition
5 or district plan would:

6

7 (i) Enlarge the boundaries of the proposed
8 district;

9

10 (ii) Add additional businesses to the proposed
11 district; or

12

13 (iii) Increase the assessment rate to be levied
14 against businesses in the proposed district.

15

16 **16-13-104. District plan; benefit zones; amendments.**

17

18 (a) The district plan shall at a minimum include:

19

20 (i) The name of the district;

21

22 (ii) A map of the district in sufficient detail to
23 locate each business in the district and to allow a business

1 owner to reasonably determine whether a business is located
2 within the boundaries of the district. The map shall show all
3 benefit zones as authorized by subsection (b) of this section;

4

5 (iii) The proposed activities for each year of the
6 operation of the district and the estimated maximum cost of
7 the activities. If the proposed activities for each year of
8 operation are the same, a description of the first year's
9 proposed activities and a statement that the activities are
10 proposed for subsequent years shall satisfy the requirements
11 of this paragraph;

12

13 (iv) The estimated amount, based on the assessment
14 rate, proposed to be expended for activities in each year of
15 operation of the district. If the total annual amount to be
16 expended in each year of operation of the district is not
17 significantly different, the amount proposed to be expended
18 in the initial year and a statement that a similar amount
19 applies to subsequent years shall satisfy the requirements of
20 this paragraph;

21

22 (v) The proposed source of financing, including
23 the proposed method and basis of levying the assessment in

1 sufficient detail to allow each business owner to calculate
2 the amount of the assessment to be levied against their
3 business;

4

5 (vi) The time and manner of collecting the
6 assessments;

7

8 (vii) A statement that assessed businesses may
9 pass the cost of the assessment on to customers at the time
10 of a transaction. If the cost is passed on to a customer,
11 the assessed business shall disclose the amount in advance
12 and separately state the amount of the assessment from the
13 amount charged and applicable taxes and shall offer each
14 customer a receipt of payment. The assessment is the sole
15 obligation of the assessed business even if passed on to
16 customers;

17

18 (viii) The name of the owners' association for the
19 district if designated;

20

21 (ix) The specific number of years in which
22 assessments will be levied by the district. A new district

1 shall have a maximum term of five (5) years. Upon renewal,
2 a district shall have a term not to exceed ten (10) years;

3

4 (x) Any proposed rules and regulations to be
5 applicable to the district;

6

7 (xi) A list of the businesses to be assessed in
8 the district.

9

10 (b) A district plan may provide for one (1) or more
11 separate benefit zones within the district based on the degree
12 of benefit derived from the activities to be provided in the
13 benefit zone. The district plan may also define categories
14 of businesses based on the degree of benefit each business
15 will derive from the activities to be provided in the
16 district. The district plan may impose a different assessment
17 rate in each benefit zone, on each category of businesses or
18 on each category of business in each benefit zone.

19

20 (c) A governing body may at any time amend the district
21 plan in accordance with this subsection upon the written
22 request of an owners' association if designated or the written
23 request of the business owners in the district who combined

1 pay fifty percent (50%) or more of the assessments levied in
2 the district. The governing body shall:

3

4 (i) Adopt a resolution of intent to amend the
5 district plan which shall include the proposed amendments;

6

7 (ii) Hold a hearing on the proposed amendments
8 after adoption of the resolution. If the proposed amendments
9 include the levy of a new or increased assessment, the
10 governing body shall provide written notice to each assessed
11 business owner affected by the proposed amendments in
12 accordance with W.S. 16-13-103(c). If the proposed
13 amendments do not include the levy of a new or increased
14 assessment, the governing body shall provide written notice
15 to each assessed business owner affected by the proposed
16 amendment of the date, time and location of the hearing. In
17 all cases notice required under this paragraph shall be
18 provided at least ten (10) days before the hearing and be
19 accompanied by the resolution.

20

21 (d) After the hearing required by this section, a
22 governing body may adopt a resolution making the amendments
23 to the district plan.

1

2 **16-13-105. Resolution of formation; limitations of**
3 **actions.**

4

5 (a) After the hearing required by W.S. 16-13-103(c), a
6 governing body deciding to establish a district shall adopt
7 a resolution of formation. The resolution under this
8 subsection shall at a minimum include:

9

10 (i) A general description of the activities to be
11 provided in the district, the assessment rate and a map that
12 generally identifies the location of the district;

13

14 (ii) The title of the resolution of intent adopted
15 pursuant to W.S. 16-13-103(b) and the date of adoption;

16

17 (iii) A summary and determination regarding any
18 written objection to the assessment received;

19

20 (iv) A statement that the businesses in the
21 district shall be subject to any amendments to this chapter;

22

1 (v) A statement that the activities to be provided
2 in the district shall be funded by the levy of assessments
3 against businesses in the district. The revenue from the
4 levy of assessments shall not be used for any purpose other
5 than the purposes specified in the district plan;

6

7 (vi) A finding that the businesses in the district
8 will be benefited by the activities funded by the assessments;

9

10 (vii) The time and manner for collecting the
11 assessment against businesses and remitting collected
12 assessments to the governing body or owners' association if
13 designated.

14

15 (b) The adoption of the resolution of formation shall
16 constitute the levy of assessments against businesses in the
17 district in each year of the district term.

18

19 (c) After thirty (30) days from the effective date of
20 the resolution of formation, all actions or suits challenging
21 the resolution's findings, determinations or contents or
22 challenging the validity of the district shall be barred.

23

1 **16-13-106. Powers of district.**

2

3 (a) Each district may:

4

5 (i) Have and use a corporate seal;

6

7 (ii) Sue and be sued, and be a party to suits,
8 actions and proceedings;

9

10 (iii) Enter into contracts for the purpose of
11 providing any authorized activities or otherwise to carry out
12 the purposes of the district;

13

14 (iv) Accept from any public or private source
15 grants, contributions and any other benefits available for
16 use in furtherance of its purposes;

17

18 (v) Assess the costs of activities in the district
19 against businesses specially benefited thereby;

20

21 (vi) Adopt rules and regulations not inconsistent
22 with law.

23

1 **16-13-107. Management of district; owners' association**
2 **designation; reports.**

3
4 (a) The district shall be managed by the governing body
5 or by an owners' association designated by the governing body
6 in accordance with this subsection. The governing body may
7 contract with a private nonprofit corporation or joint powers
8 board to implement and administer the activities specified in
9 the district plan. An owners' association may be an existing
10 or newly formed nonprofit corporation or joint powers board.
11 If the owners' association is a joint powers board, the
12 governing body shall create a committee composed of
13 representatives of assessed businesses to implement and
14 administer the activities specified in the district plan. A
15 private nonprofit corporation owners' association is a
16 private entity and may not be considered a public entity for
17 any purpose, nor may its members or staff be considered public
18 officials for any purpose.

19
20 (b) The governing body or the owners' association if
21 designated shall prepare, or cause to be prepared, a report
22 for each fiscal year of the district term, except the first
23 year, for which assessments are to be levied and collected to

1 pay the costs of activities provided in the district. The
2 first report shall be due ninety (90) days after the first
3 year of operation of the district. The report shall be filed
4 with the clerk of the governing body and include:

5

6 (i) The name of the district and the fiscal year
7 to which the report applies;

8

9 (ii) A summary of the activities to be provided in
10 the district for the current fiscal year;

11

12 (iii) The estimated budget of the district for the
13 current fiscal year;

14

15 (iv) A list of the activities that were provided
16 in the district in the previous fiscal year;

17

18 (v) A summary of the actual expenditures of the
19 district in the previous fiscal year;

20

21 (vi) The estimated amount of any surplus or
22 deficit revenues to be carried over from the previous fiscal
23 year.

1

2 **16-13-108. Assessments; collection; delinquent**
3 **payments.**

4

5 (a) Assessments levied against businesses pursuant to
6 this chapter shall be levied on the basis of the estimated
7 benefit to the businesses in the district such as on a
8 percentage of gross revenue or fixed rate per transaction.

9

10 (b) The collection of the assessment shall be made at
11 the time and in the manner set forth by the governing body in
12 the resolution of formation adopted pursuant to W.S.
13 16-13-105(a)(vii). All delinquent payments for assessments
14 may be charged interest and penalties. An assessment may be
15 collected by the governing body or by the state as described
16 in the district plan.

17

18 **16-13-109. Expiration of district; renewal;**
19 **termination.**

20

21 (a) If a district expires or is set to expire due to
22 the time period set pursuant to W.S. 16-13-104(a)(ix), a new
23 district plan may be created and the district may be renewed

1 by following the procedures for establishment as provided for
2 in this chapter.

3

4 (b) Upon renewal, any remaining revenue derived from
5 the levy of assessments, or any revenue derived from the sale
6 of assets acquired with the revenues, shall be transferred to
7 the renewed district. If the renewed district includes
8 additional businesses not included in the prior district, the
9 remaining revenues shall be spent to benefit only the
10 businesses in the prior district. If the renewed district
11 does not include businesses included in the prior district,
12 the remaining revenues attributable to those businesses shall
13 be used in accordance with the district plan or refunded to
14 the business owners by applying the same method and basis
15 that was used to calculate the assessments.

16

17 (c) Any district established or renewed pursuant to the
18 provisions of this chapter may be terminated by the governing
19 body in accordance with subsection (d) of this section when:

20

21 (i) The governing body finds there has been
22 misappropriation of funds, malfeasance or a violation of law
23 in connection with the management of the district; or

1

2 (ii) During the district term, there shall be a
3 thirty (30) day period each year in which business owners who
4 combined pay fifty percent (50%) or more of the assessments
5 levied may petition the governing body to terminate the
6 district. The first period shall begin on the date one (1)
7 year after the date of adoption of the resolution of formation
8 and shall continue for thirty (30) days. Each successive
9 year of the district term shall have a thirty (30) day
10 petition period.

11

12 (d) Before terminating a district, the governing body
13 shall adopt a resolution of termination and then hold a
14 hearing on the termination. The resolution under this
15 subsection shall state the reason for termination, the date,
16 time and location of the hearing and contain a proposal to
17 dispose of any assets acquired with the revenues of the
18 assessments levied against businesses in the district. The
19 governing body shall provide written notice of the hearing to
20 each assessed business owner within the district at least ten
21 (10) days before the hearing. The notice shall be accompanied
22 with the resolution of termination.

23

1 (e) Upon termination or expiration without renewal, any
2 remaining revenues derived from the levy of assessments or
3 derived from the sale of assets acquired with the revenues,
4 shall be used in accordance with the district plan or refunded
5 to the business owners by applying the same method and basis
6 that was used to calculate the assessments.

7

8 **16-13-110. Provisions cumulative.**

9

10 The provisions of this chapter are cumulative and not
11 exclusive, conferring additional power on counties, cities
12 and towns and are not limitations upon their powers conferred
13 by any other law. The provisions of this chapter shall be
14 liberally construed to effectuate the purposes of this
15 chapter.

16

17 **Section 2.** This act is effective July 1, 2019.

18

19

(END)