

ENROLLED ACT NO. 44, HOUSE OF REPRESENTATIVES

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING  
2003 GENERAL SESSION

AN ACT relating to counties; creating a new special district, known as the "resort district"; providing for formation; providing definitions, functions and powers, including authority to impose an optional sales and use tax; providing for a board; providing procedures for bonding and assessments; providing election procedures; amending sales and use tax provisions; including resort districts in the special districts election act; and providing for an effective date.

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

**Section 1.** W.S. 18-16-101 through 18-16-119 are created to read:

CHAPTER 16  
RESORT DISTRICTS

**18-16-101. Short title.**

This act shall be cited as the "Resort District Act."

**18-16-102. Definitions.**

(a) As used in this act:

(i) "Assessed value" means the total assessed value of real property within the district, but excludes assessed values attributable to minerals. Assessed value shall be determined from the last assessment roll of the county within which the district is located;

(ii) "Board" means the board of directors of a resort district;

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(iii) "Bonds" means bonds, warrants, notes or other evidences of indebtedness of a resort district;

(iv) "Commissioners" means the board of county commissioners;

(v) "District" means a resort district as organized under the terms of this act;

(vi) "Elector" or "voter" means a person who is a qualified elector or a landowner in the district;

(vii) "Improvement" means and includes buildings, structures and all facilities of a public nature intended for public use, including but not limited to streets, sidewalks, curbs, gutters, alleys and other public ways, parks, recreational facilities, water, sewage, solid waste disposal and other sanitary systems and facilities, and with respect to the foregoing, any additional facilities or improvements as relate or contribute to the full public use and enjoyment thereof;

(viii) "Landowner" or "owner of land" means the person or persons holding a majority interest in the record fee title to one (1) or more parcels of real property within the district or proposed district or a person or the persons who are obligated to pay general property taxes under a contract to purchase real property and timeshare owners. As used in this paragraph, "person" includes an individual, corporation, partnership, limited partnership, limited liability company, association or any other entity holding a majority interest in the record fee title to one (1) or more parcels of real property within the district or proposed district provided the individual who signs a petition or casts a vote for a corporation, partnership, limited partnership, limited liability company, association

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or other entity presents the election official with a written authorization to sign for the corporation, partnership, limited partnership, limited liability company, association or other entity or is the individual named in the written authorization previously filed with the election official, as applicable;

(ix) "Qualified elector" means a natural person who:

(A) Is a citizen of the United States;

(B) Is a bona fide resident of the district or proposed district;

(C) Will be at least eighteen (18) years of age on the day of the election at which he may offer to vote;

(D) Is not currently adjudicated mentally incompetent;

(E) Has not been convicted of a felony or if convicted has had his civil rights restored; and

(F) Is registered to vote.

(x) "Resident" or "residence" means as defined in the Wyoming election code;

(xi) "Resort area" means an area that:

(A) Is an unincorporated area and is a defined contiguous geographic boundary within one (1) county;

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(B) Has a permanent population of less than five hundred (500) people according to the latest federal census as periodically updated by the bureau of the census;

(C) Derives the major portion of its economic well being from businesses catering to the recreational and personal needs of persons traveling to or through the area; and

(D) Does not include real property used for manufacturing, milling, converting, producing, processing or fabricating materials, generating electricity or the extraction or processing of minerals.

(xii) "Service" means the operation and maintenance of improvements and any other service authorized by this act;

(xiii) "Timeshare owner" means a person owning a fractionalized interest in an individual condominium unit as defined in W.S. 34-20-104(a)(iii) in a multi-unit property;

(xiv) "Written authorization" means an affidavit filed by the landowner with the election official conducting the election setting forth a general legal description of the property owned, the street or common name address for the property, the name or names of all owners of the property described, and a statement that the person signing the written authorization is the only person having authority to act on behalf of the owner or owners of the property;

(xv) "This act" means W.S. 18-16-101 through 18-16-119.

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**18-16-103. Districts authorized; general function.**

(a) Any resort area in this state may be formed into a resort district to perform any of the following functions:

(i) Acquire, construct, operate and maintain improvements of local necessity and convenience;

(ii) Obtain improvements or services hereunder by contracting for the same with any city, town, county or other entity;

(iii) Furnish or perform any special local service which enhances the use or enjoyment of the resort area.

(b) A district is a separate entity and a political subdivision of the state. A district shall be subject to and covered by the Wyoming Governmental Claims Act.

(c) A district shall not include any parcel of agricultural property. For purposes of this section, "agricultural property" means any parcel of real property greater than ten (10) acres, which was assessed as agricultural land under W.S. 39-13-103(b)(x) in the two (2) calendar years before filing of the petition for formation of a resort district, and which at the time of filing of the petition, is being used and employed for the primary purpose of obtaining a monetary profit as agricultural or horticultural use or any combination thereof.

**18-16-104. Jurisdiction.**

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Unless in conflict with a provision of this act, the Special District Elections Act of 1994 shall govern resort districts.

**18-16-105. Petition for formation; number of signatures required; filing fee.**

A petition to form a district shall be in accordance with the provisions of W.S. 22-29-105. W.S. 22-29-109(e) shall not apply to proceedings for the formation of a resort district. The petition shall be accompanied by a filing fee of two hundred dollars (\$200.00).

**18-16-106. Formation election; procedures.**

(a) In a formation election:

(i) Each landowner within the proposed district who is not a timeshare owner, shall have one (1) vote irrespective of the number of parcels of real property owned by that landowner, which shall be cast by the individual named in the written authorization, if applicable;

(ii) Each qualified elector shall have one (1) vote; and

(iii) Timeshare owners shall have one (1) collective vote for the condominium unit. The one (1) collective vote shall be determined in accordance with the association's bylaws or other governing document or agreement. The vote shall be cast by the person named in a written authorization filed with the election official conducting the election.

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(b) The formation of the district is approved if a majority of the total votes cast on the proposition vote for formation.

(c) The formation election shall be conducted pursuant to procedures set forth in W.S. 18-16-119.

**18-16-107. Powers of district.**

(a) Each district may:

(i) Have and use a corporate seal;

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

(iii) Purchase insurance;

(iv) Enter into contracts for the purpose of providing any authorized improvements and the maintenance and operation thereof, or otherwise to carry out the purposes of the district;

(v) Accept from any public or private source grants, loans, contributions and any other benefits available for use in the furtherance of its purposes;

(vi) Borrow money and incur indebtedness and other obligations and evidence the same by certificates, notes or debentures, and issue bonds;

(vii) Require any person or entity desiring to conduct business within the district to obtain a business license from the board before conducting business within the district;

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(viii) Charge interest and levy fines and penalties on unpaid assessments;

(ix) Create and enforce liens for unpaid assessments;

(x) Adopt bylaws not inconsistent with law;

(xi) Establish and collect charges for water, sanitation and related services and the use of improvements or services provided by the district, including authority to change the amount or rate thereof, and to pledge the revenues therefrom for the payment of district indebtedness;

(xii) Acquire and own or lease real or personal property, including easements and rights-of-way, within or without the district for district purposes;

(xiii) Supply the inhabitants of the district with water for domestic and any other lawful use;

(xiv) Provide for the collection, treatment or disposal of sewage, waste and storm water of the district and its inhabitants;

(xv) Provide for the collection and disposal of garbage or refuse matter;

(xvi) Provide all services necessary to protect the health and welfare of residents in the district and the value of property therein and to enter into agreements with any public or private agency, institution or person for the furnishing of such services;



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(xvii) Provide for public recreation by means of parks, including but not limited to playgrounds, golf courses, swimming pools or recreation buildings;

(xviii) Provide for street lighting;

(xix) Provide for the opening, widening, extending, straightening and surfacing in whole or in part of any street and snow removal or clearance for the same or other roads or streets;

(xx) Provide for the construction and improvement of bridges, culverts, curbs, gutters, drains and works incidental to any street improvement;

(xxi) Provide for the development and marketing of the district;

(xxii) Impose an optional one percent (1%) sales and use tax pursuant to W.S. 39-15-203 and 39-16-203;

(xxiii) With the approval of the board of county commissioners, establish and collect charges for the use of any improvement to cover the cost of operating and maintaining the improvement. Following approval of the county commissioners and upon application by a district, an assessment roll shall be created by the county assessor's office to facilitate the collection of the improvement operation and maintenance charges, whether or not the assessor has created an assessment roll for the collection of indebtedness;

(xxiv) Do any and all other things necessary to carry out the purposes of this act.

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(b) Annually, thirty (30) days prior to the commencement of the district's fiscal year, the board of directors shall submit to the board of county commissioners for its review the district's annual proposed budget for the upcoming fiscal year and the district's plan for expenditure priorities.

**18-16-108. District board of directors.**

The district shall be managed and controlled by a board of directors consisting of three (3) members. The initial board shall consist of three (3) members elected at the organizational election as provided in W.S. 18-16-106. One (1) shall serve for three (3) years, one (1) for four (4) years and one (1) for five (5) years after formation of the district and until their successors are elected and qualified at the regular scheduled subsequent director election as provided in W.S. 22-29-112(a). The subsequent directors shall be elected pursuant to W.S. 18-16-119. Each year, commencing with the third anniversary of the first director election an election shall be held to elect a director to fill the vacancy resulting from expiration of the term of the director whose term expires at that time. A vacancy occurring on the board during the term of an original director or his successor shall be filled as provided in the Special District Elections Act of 1994. The initial board of directors shall determine the qualifications of directors and adopt bylaws listing such qualifications. Directors need not be residents of the district or landowners.

**18-16-109. Compensation; officers; rules and regulations.**

(a) The members of the board shall serve without compensation but shall receive reimbursement for actual and

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necessary expenses incurred in connection with the performance of their duties.

(b) The board shall adopt rules, regulations and procedures for the district whether or not included in its bylaws, including those to govern the use and enjoyment of public improvements, facilities and services of the district.

**18-16-110. Cost assessed in accordance with benefits.**

When an improvement proposed by the board will benefit specific property in the district to a greater extent than other property the improvement may be financed with an assessment against the property specially benefited upon a frontage, zone or other equitable basis, in accordance with benefits.

**18-16-111. Resolution of intent to provide for special assessment.**

(a) The board may declare by resolution its intent to order improvements to be paid for by special assessment. The resolution shall specify:

- (i) The nature of the improvement proposed;
  - (ii) The extent of the district to be improved;
  - (iii) The probable cost per unit of measurement as shown by estimates of a qualified engineer;
  - (iv) The time in which the cost will be payable;
- and

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(v) The time when a resolution authorizing the improvements will be considered.

(b) Any resolution or directive on the premises may be modified, confirmed or rescinded at any time prior to the passage of the resolution authorizing the improvements.

**18-16-112. Notice of resolution; hearing; objections.**

(a) At the request of the board, the county clerk shall give notice, by advertisement once in a newspaper of general circulation in the county, to the owners of the property to be assessed to provide:

(i) The nature of the improvement proposed;

(ii) The extent of the district to be improved;

(iii) The probable cost of the improvement;

(iv) The time at which the cost will be payable;

(v) The time when a resolution authorizing the improvements will be considered by the board;

(vi) That maps, estimates and schedules showing the approximate amounts to be assessed and all resolutions and proceedings are on file and may be seen or examined at the office of the county clerk or other designated place; and

(vii) That all complaints and objections concerning the proposed improvement by owners of property subject to assessment will be heard and considered by the board before final action, under the provisions of the Wyoming Administrative Procedure Act.

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(b) If objections to the improvement are made by owners or agents representing property subject to thirty percent (30%) or more of the projected dollar assessments, the improvement may not be authorized and a new resolution for the same or a similar purpose encompassing property representing objections may not be considered within one (1) year thereafter.

**18-16-113. Notice of apportionment; assessment roll.**

(a) A copy of the resolution as finally adopted shall be recorded by the county clerk who shall within sixty (60) days after the adoption of the resolution by written notice, mailed or otherwise delivered, notify each owner of property to be assessed of the amount of assessment, the purpose for which the levy is made, the tax against each lot or parcel of land, and the date it becomes delinquent. The county clerk shall also notify each owner of property of the amount of any operation and maintenance charges to be assessed within sixty (60) days after the assessment is approved by the board of county commissioners under W.S. 18-16-107(a)(xxiii).

(b) The county assessor shall prepare a local assessment roll showing real property assessed, the total amount of assessment and operation and maintenance charges if approved under W.S. 18-16-107(a)(xxiii), the amount of each installment of principal and interest if the same is payable in installments, and the date when each installment will become due, and deliver the same, duly certified, to the county treasurer for collection.

**18-16-114. Annual tax levy authorized; certification and collection; treasurer designated.**

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The board of directors may annually levy, not to exceed three (3) mills on the assessed value of the taxable property within the district, and collect taxes for district purposes upon property within the limits of the district. This board shall file the resolution in the office of the county clerk who shall record the same in the county where the district lies. The board shall also certify the same to the county assessor of the counties in which the district is located, who shall extend the same upon the county tax list. The same shall be collected by the county treasurer in the same manner as state and county taxes. The county treasurer of the county in which the greater portion of the area of the district is located shall pay the same to the district ordering the assessment or levy and the collection. The payment of the collections shall be made monthly to the district treasurer. The payment shall be paid into its depository to the credit of the district.

**18-16-115. Bond elections; resolution for submission of proposition to voters.**

By resolution of its board, a district may submit to its qualified voters by mail ballot or at an election on a date authorized under W.S. 22-21-103, as determined by the board of county commissioners, the proposition of issuing bonds pursuant to this act to provide funds for the acquisition, construction, improving or financing of improvements as well as performing services for the benefit of the residents of the district, including any or all expenses incidental thereto or connected therewith.

**18-16-116. Contents of resolution; notice of election.**

(a) The resolution shall:

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(i) State the purpose for which the bonds are proposed to be issued;

(ii) State the estimated amount of money to be raised by the bond issue;

(iii) State the principal amount of the bonds;

(iv) State the maximum rate of interest on the bonds;

(v) Fix the date of the election;

(vi) Fix the manner of holding the election.

(b) The notice of bond election shall include the following information:

(i) The amount of the proposed bond issue;

(ii) The maximum maturity of the bonds;

(iii) Statement by the board of the need for the issuance of the bonds and the purposes for which the proceeds of the bonds shall be devoted;

(iv) A description of the exterior boundaries of the district;

(v) A general description of the proposed improvement, utility or local service to be provided by the district.

**18-16-117. Election procedures.**

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The bond elections shall be called and conducted, and the bonds shall be issued, by the board of county commissioners as set forth in W.S. 18-12-122 through 18-12-137.

**18-16-118. Rules and regulations; enforcement.**

The board may adopt reasonable rules and regulations not inconsistent with law for the government and control of the district organization and to facilitate the collection of assessments or charges. All rules and regulations adopted pursuant to this section shall be promulgated in accordance with the Wyoming Administrative Procedure Act and filed with the county clerk for each county in which the district is located.

**18-16-119. District election procedures.**

(a) Any petition or election that requires a general vote of district voters for approval or rejection under this act or under the Special District Elections Act including without limitation, elections relating to the election of directors, approval of the sales and use tax, approval of assessments or other taxes, bond election, enlargement, consolidation, merger, dissolution or change in boundaries of the district, shall allow:

(i) Each landowner within the district who is not a timeshare owner, shall have one (1) vote irrespective of the number of parcels or real property owned by the landowner, which shall be cast by the individual named in the written authorization, if applicable;

(ii) Each qualified elector shall have one (1) vote; and



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(iii) Timeshare owners shall have one (1) collective vote for the condominium unit. The one (1) collective vote shall be determined in accordance with the association's bylaws or other governing document or agreement. The vote shall be cast by the person named in a written authorization filed with the election official conducting the election.

(b) The matter being voted on shall be approved if a majority of the total votes cast vote "for" the proposition.

(c) In all elections a written authorization for voting purposes shall be filed with the election official conducting the district election not later than thirty (30) days prior to the election.

(d) In examining any written authorization required or permitted to be signed by landowners, the county clerk or district secretary shall accept the first written authorization filed unless prior to certification the secretary or county clerk is furnished with written evidence, satisfactory to the county clerk or district secretary, that a new representative has been appointed by the owners, signed by a majority of the persons named as owners on the previously filed written authorization or as shown on a copy of a recorded deed attached to the written authorization.

**Section 2.** W.S. 22-29-103(a)(xii) and by creating a new paragraph (xiii), 39-15-202(b) and (c), 39-15-203(a) by creating a new paragraph (iv), 39-15-204(a)(intro) and by creating a new paragraph (iv), 39-15-211(a)(intro) and by creating a new paragraph (iii), 39-16-202(b), (c), (e) and (f), 39-16-203(a) by creating a new paragraph (iii), 39-16-204(a)(intro) and by creating a new paragraph (iii)

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and 39-16-211(a) (intro) and by creating a new paragraph (ii) are amended to read:

**22-29-103. Applicability to special districts; general provisions.**

(a) This act applies to the following districts as specified in subsection (b) of this section:

(xii) ~~Other Resort districts; as specified by law.~~

(xiii) Other districts as specified by law.

**39-15-202. Administration.**

(b) In addition to the state tax imposed under article 1 of this chapter a county, city, ~~or town~~ or resort district may impose excise taxes as specified under this article.

(c) The administration of the county, city, ~~or town~~ or resort district sales taxes is vested in the department which may prescribe forms and rules and regulations for making returns and for the ascertainment, assessment and collection of the taxes. The department shall keep complete records of all monies received and disbursed by it.

**39-15-203. Imposition.**

(a) Taxable event. The following shall apply:

(iv) The following provision applies to imposition of the resort district excise tax under W.S. 39-15-204(a) (iv):

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(A) The tax shall be imposed if favorably supported by a resolution adopted by the board of the resort district and approved by a majority of the district voters under W.S. 18-16-119.

**39-15-204. Taxation rate.**

(a) In addition to the state tax imposed under W.S. 39-15-101 through 39-15-111 any county of the state may impose the following excise taxes and any city or town may impose the tax authorized by paragraph (ii) of this subsection and any resort district may impose the tax authorized by paragraph (iv) of this subsection:

(iv) An excise tax at a rate in increments of one-half of one percent (.5%) not to exceed a rate of one percent (1%) upon retail sales of tangible personal property, admissions and services made within the district by vendors physically situated within the district, the purpose of which is for general revenue for the resort district.

**39-15-211. Distribution.**

(a) All revenue collected by the department from the taxes imposed under W.S. 39-15-204(a) (i) ~~and~~ (ii) and (iv) shall be transferred to the state treasurer who shall:

(iii) For revenues collected under W.S. 39-15-204(a) (iv):

(A) Deduct one percent (1%) to defray the costs of collecting the tax and administrative expenses incident thereto which shall be deposited into the general fund;

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(B) Deposit the remainder into the trust and agency fund for monthly distribution to resort districts imposing the tax.

**39-16-202. Administration.**

(b) In addition to the state tax imposed under article 1 of this chapter a county or a resort district may impose excise taxes as specified under this article.

(c) Whenever a county or resort district imposes an excise tax on retail sales of tangible personal property, admissions and services made within the county or resort district pursuant to article 2, chapter 15 of this title, the county or resort district shall also impose an excise tax at the same rate on sales made in the county or resort district and storage, use and consumption of tangible personal property in the county or resort district. The purpose of the tax is for general revenue.

(e) A county imposing a sales tax pursuant to W.S. 39-15-203(a)(iii), or a resort district imposing a sales tax pursuant to W.S. 39-15-203(a)(iv), is authorized and required to impose a corresponding use tax at the same rate and for the same period of time as for the sales tax.

(f) The administration of the county or resort district use taxes is vested in the department which may prescribe forms and rules and regulations for making returns and for the ascertainment, assessment and collection of the taxes. The department shall keep complete records of all monies received and disbursed by it.

**39-16-203. Imposition.**

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(a) Taxable event. The following shall apply:

(iii) The following provision applies to imposition of the resort district excise tax under W.S. 39-16-204(a)(iii):

(A) The tax shall be imposed if favorably supported by a resolution adopted by the board of the resort district and approved by a majority of the district voters under W.S. 18-16-119.

**39-16-204. Taxation rate.**

(a) In addition to the state tax imposed under W.S. 39-16-101 through 39-16-111 any county of the state may impose the following excise taxes authorized by paragraph (ii) of this subsection and any resort district may impose the tax authorized by paragraph (iii) of this subsection:

(iii) An excise tax at a rate in increments of one-half of one percent (.5%) not to exceed a rate of one percent (1%) upon retail sales and storage, use and consumption of tangible personal property as provided by this article made within the resort district, the purpose of which is for general revenue for the resort district.

**39-16-211. Distribution.**

(a) All revenue collected by the department from the taxes imposed under W.S. 39-16-204(a)(i) and (iii) shall be transferred to the state treasurer who shall:

(ii) For revenues collected under W.S. 39-16-204(a)(iii):

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(A) Deduct one percent (1%) to defray the costs of collecting the tax and administrative expenses incident thereto which shall be deposited into the general fund;

(B) Deposit the remainder into the trust and agency fund for monthly distribution to resort districts imposing the tax.

**Section 3.** This act is effective July 1, 2003.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk