DRAFT ONLY
NOT APPROVED FOR INTRODUCTION

HOUSE BILL NO.

Tourism improvement districts.

Sponsored by: Joint Corporations, Elections & Political Subdivisions Interim Committee

A BILL

for

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

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

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

CHAPTER 13

TOURISM IMPROVEMENT DISTRICTS

16-13-101. Definitions.

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

(i) "Activities" or "tourism activities" mean any of the following that benefit businesses in the district:

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

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

(C) Destination product developments designed to improve the visitor experience in the district;

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

(ii) "Assessment" means a levy for the purpose of providing activities to benefit businesses in the district, subject to W.S. 16-13-108(c);

(iii) "Business owner" means any person recognized by the governing body as the owner of a business subject to an assessment under W.S. 16-13-108;

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

(v) "District plan" means the plan described in W.S. 16-13-104, including any amendments to the plan;

(vi) "Governing body" means the board of county commissioners of a county or the council or commission constituting the elected legislative body of a city or town including the mayor as the presiding officer;

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

16-13-102. Establishment of tourism improvement districts.

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

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

(a) Formation of a district shall commence by the filing of a petition with the governing body. A petition to form a district shall be signed by business owners, or their authorized agents, in the proposed district who combined will pay more than fifty percent (50%) of the assessments proposed to be levied for operation of the district. The petition shall be accompanied by a filing fee of two hundred dollars ($200.00). The petition shall at a minimum include a proposed district plan as provided for in W.S. 16-13-104 and:

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

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

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

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

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

(c) After adoption of a resolution of intent pursuant to this section, the governing body shall hold a hearing on the establishment of the district. The governing body shall provide written notice of the hearing to all business owners proposed to be assessed by the district. The notice shall at a minimum include:

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

(ii) Any proposed increases to the assessment rate during the term of the district;

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

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

(v) The telephone number and address of the person, office or organization that interested persons may contact to receive additional information about the district;

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

(d) The clerk of the governing body shall file all written objections that were submitted to the governing body. A written objection may be withdrawn in writing at any time before the conclusion of the hearing. A governing body shall not establish the district or levy the proposed assessment if written objections are received from business owners in the proposed district who combined will pay fifty percent (50%) or more of the assessments proposed to be levied and no objections are withdrawn to reduce the objections to less than fifty percent (50%) of the relevant owners. If a governing body does not establish a district due to objections under this subsection, the governing body shall not consider proceedings to form a district for a period of one (1) year thereafter.

(e) Except as otherwise provided in this subsection, before the hearing required by this section, the petition or district plan, required under W.S. 16-13-104, may be amended without notice by a petitioner or any person designated to act on the petitioners behalf pursuant to paragraph (a)(viii) of this section. The governing body shall adopt a new resolution of intent and provide new notice in accordance with this section if any amendment to the petition or district plan would:

(i) Enlarge the boundaries of the proposed district;

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

(iii) Increase the number of assessments or increase the assessment rate to be levied against businesses in the proposed district.

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

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

(i) The name of the district;

(ii) A map of the district in sufficient detail to locate each business in the district and to allow a business owner to reasonably determine whether a business is located within the boundaries of the district. The map shall show all benefit zones as authorized by subsection (b) of this section;

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

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

(v) The proposed source of financing, including the proposed method and basis of levying the assessment in sufficient detail to allow each business owner to calculate the amount of the assessment to be levied against their business;

(vi) The time and manner of collecting assessments;

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

(viii) The name of the owners' association for the district, if applicable;

(ix) The specific number of years that assessments will be levied by the district;

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

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

(b) A district plan may provide for one (1) or more separate benefit zones within the district based on the degree of benefit derived from the activities to be provided in the benefit zone compared to benefits derived in other parts of the district. The district plan may also define categories of businesses based on the degree of benefit each business will derive from the activities to be provided in the district. The district plan may impose a different assessment rate in each benefit zone or on each category of business or may impose a different assessment rate on different categories of businesses in different benefit zones.

(c) A governing body may at any time amend the district plan in accordance with this subsection upon the written request of an owners' association, if designated, or the written request of business owners who combined pay more than fifty percent (50%) of the assessments levied in the district. The governing body shall:

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

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

(d) After the hearing required by this section, a governing body may adopt a resolution making the amendments to the district plan unless written objections were received from business owners in the district who combined will pay fifty percent (50%) or more of the amended assessments.

16-13-105. Resolution of formation; limitations of actions.

(a) After the hearing required by W.S. 16-13-103(c), a governing body deciding to establish a district shall adopt a resolution of formation. A new district shall have a maximum term of five (5) years. Upon renewal, a district shall have a term not to exceed ten (10) years. The resolution under this subsection shall at a minimum include:

(i) A general description of the activities to be provided in the district, the assessment rates and a map that generally identifies the location of the district and any benefit zones;

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

(iii) A summary and determination regarding any written objection to the formation of the district that was received by the governing body;

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

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

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

(vii) The time and manner for collecting the assessments against businesses and remitting collected assessments to the governing body or owners' association if applicable.

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

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

16-13-106. 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) Enter into contracts for the purpose of providing any authorized activities or otherwise to carry out the purposes of the district;

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

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

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

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

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

(b) The governing body, or the owners' association if applicable, shall prepare or cause to be prepared a report for each fiscal year of the district's term for which assessments are to be levied. The first report for the district shall be due ninety (90) days after the first year of operation of the district and each fiscal year thereafter. The report shall be filed with the clerk of the governing body and shall include:

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

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

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

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

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

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

16-13-108. Assessments; collection; delinquent payments.

(a) Assessments levied against businesses pursuant to this chapter shall be levied on the basis of the estimated benefit to the businesses in the district on a percentage of gross revenue basis, on a fixed rate per transaction basis or using another method specified by the district plan or set forth by the governing body in the resolution of formation.

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

(c) An assessment shall only be levied under this chapter on a business that derives ten percent (10%) or more of its gross revenue from lodging, restaurants, attractions or resorts.

(d) The governing body or the state may retain up to three percent (3%) of the amount of collections to cover all administrative expenses and costs attributable to performing its duties under this section.

16-13-109. Expiration of district; renewal; termination.

(a) If a district expires or is set to expire due to the time period set pursuant to W.S. 16-13-104(a)(ix), a new district plan may be created and the district may be renewed by following the procedures for establishment as provided in this chapter.

(b) Upon renewal, any previously earned revenue derived from the levy of assessments, or any revenue derived from the sale of assets acquired with those revenues, shall belong to the renewed district. If the renewed district includes additional businesses not included in the expired district, the previously earned revenues shall be expended to benefit only the businesses in the expired district. If the renewed district does not include businesses included in the expired district, the previously earned revenues attributable to those businesses shall be used in accordance with the expired district plan or shall be refunded to the expired district's business owners by applying the same method and basis that was used to calculate the assessments.

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

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

(ii) Upon petition by the business owners as provided in this paragraph. During the district term, there shall be a thirty (30) day period each year beginning on the same date that the district was initially formed in which business owners who combined pay fifty percent (50%) or more of the assessments levied may petition the governing body to terminate the district.

(d) Before terminating a district, the governing body shall adopt a resolution of termination and then hold a hearing on the termination. The resolution under this subsection shall state the reason for the proposed termination, the date, time and location of the hearing and contain a proposal to dispose of any district assets. The governing body shall provide written notice of the hearing to each assessed business owner within the district at least ten (10) days before the hearing. The notice shall be accompanied with the proposed resolution of termination.

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

16-13-110. Provisions cumulative.

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

Section 2. This act is effective July 1, 2022.

(END)