

SENATE FILE NO. SF0103

Community development districts.

Sponsored by: Senator(s) Nethercott, Baldwin, Gierau, Kost,
Pappas and Rothfuss and Representative(s)
Brown, Burlingame, Duncan, MacGuire and
Olsen

A BILL

for

1 AN ACT relating to cities, towns and counties; authorizing
2 municipalities and counties to create community
3 developments districts as specified; specifying
4 requirements; providing definitions; specifying duties and
5 powers of community development districts and district
6 boards of directors; authorizing assessments; specifying
7 duties of municipalities and counties; amending
8 definitions; and providing for an effective date.

9

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

11

12 **Section 1.** W.S. 15-12-101 through 15-12-113 are
13 created to read:

14

1

CHAPTER 12

2

COMMUNITY DEVELOPMENT DISTRICTS

3

4

15-12-101. Community Development District Act; short title.

5

6

7

This article shall be known and may be cited as the "Community Development District Act."

8

9

10

15-12-102. Definitions.

11

12

(a) As used in this act:

13

14

15

16

17

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

18

19

20

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

21

22

23

(iii) "District" means a community development district as organized under the terms of this act;

1

2 (iv) "Elector" or "voter" means a person who is
3 a qualified elector or an owner of land in the proposed or
4 established district, including any corporation,
5 partnership or association owning land in the district
6 provided the individual who casts the vote for a
7 corporation, partnership or association presents the
8 election judge with a written authorization to vote for the
9 corporation, partnership or association. No person is a
10 qualified elector who is under eighteen (18) years of age,
11 a mentally incompetent person, or who has been convicted of
12 a felony and his civil or voting rights have not been
13 restored. In applying provisions of the Special District
14 Elections Act of 1994 to this act, the terms "elector" or
15 "voter" shall include qualified electors and landowners;

16

17 (v) "Enhanced transportation services" means an
18 additional system for the provision of, or additionally
19 provided or funded, transportation services that transport
20 the general public by bus, rail or any other means of
21 conveyance or any combination thereof, within, to or from
22 the district, in addition to any existing city, town or
23 county services;

1

2 (vi) "General plan" means the plan described in
3 W.S. 15-12-106, and as the plan may be amended;

4

5 (vii) "Governing body" means, for any district
6 formed wholly within a municipality, a "governing body" as
7 defined in W.S. 15-1-101(a)(vi), and for any district
8 formed within both a municipality and an unincorporated
9 county, the "governing body," as defined in W.S.
10 15-1-101(a)(vi), and the "board" as described in W.S.
11 18-3-501, acting in parallel proceedings;

12

13 (viii) "Improvement" means and includes
14 buildings, structures and all facilities of a public nature
15 intended for public use, including but not limited to
16 streets, sidewalks, curbs, gutters, bridges, alleys and
17 other public ways, parks, recreational facilities, water,
18 sewage, solid waste disposal and other sanitary systems and
19 facilities, broadband and public utility upgrades, and with
20 respect to the foregoing, such additional facilities or
21 improvements that are necessary for the maintenance and
22 functioning of improvements or providing services;

23

1 (ix) "Landowner" or "owner of land" means the
2 person or persons holding a majority interest in the record
3 fee title to one (1) or more parcels of real property or a
4 person or the persons who are obligated to pay general
5 property taxes under a contract to purchase real property;

6

7 (x) "Municipality" means any incorporated or
8 chartered city or town as established under Wyoming law;

9

10 (xi) "Service" means any of the following:

11

12 (A) The operation, repair, maintenance and
13 replacement of improvements and any other service
14 authorized by this act;

15

16 (B) Snow removal and the purchase,
17 operation, repair, maintenance and replacement of personal
18 property in relation to snow removal;

19

20 (C) The provision of enhanced
21 transportation services and the purchase, operation,
22 repair, maintenance and replacement of personal property in
23 relation to such services;

1

2 (D) Contracting for broadband services;

3

4 (E) The provision of recreation services,
5 and the purchase, operation, repair, maintenance and
6 replacement of personal property in relation to such
7 recreation services.

8

9 (xii) "This act" means W.S. 15-12-101 through
10 15-12-113.

11

12 **15-12-103. Districts authorized; general function.**

13

14 (a) Any area exclusively within the boundaries of a
15 municipality, or, with the approval of a county governing
16 body, including all or a portion of an unincorporated area
17 of a county, may be formed into a community development
18 district to perform any of the following functions:

19

20 (i) Acquire, construct, operate and maintain
21 improvements of local or regional necessity and
22 convenience, whether located within or without the
23 boundaries of the district;

1

2 (ii) Obtain and provide improvements and
3 services of local or regional necessity and convenience,
4 including by contracting for the same with any city, town,
5 county or other entity;

6

7 (iii) Furnish or perform any service that
8 enhances the use or enjoyment of any improvement or service
9 to or within the district, regardless of whether such
10 improvement or service is located or provided wholly within
11 or without the boundaries of the district;

12

13 (iv) Funds assessed under this act shall not be
14 used to contract for broadband services unless the district
15 is unserved as defined by the federal communications
16 commission. The district shall not acquire ownership in any
17 broadband facility funded pursuant to this act. For
18 purposes of this subsection, "broadband facility" shall not
19 include conduit. The district shall not utilize any funds
20 procured pursuant to this act to provide its own broadband
21 services in competition with private providers.

22

1 (b) A district shall not be formed to provide
2 improvements and services that are basic and customarily
3 available to residents of a municipality except that:

4

5 (i) A district may be formed to provide an
6 improvement or service if the improvement or service is not
7 in fact available to residents of the proposed district at
8 the time of formation;

9

10 (ii) A district may be formed to provide for
11 enhanced transportation services even if provided by a
12 governing body.

13

14 (c) If a municipality subsequently provides an
15 improvement or service that a district was created to
16 provide, the district shall either:

17

18 (i) Dissolve pursuant to W.S. 22-29-401 through
19 22-29-408; or

20

21 (ii) Amend its general plan pursuant to W.S.
22 15-12-106(b) to provide other improvements or services in
23 accordance with this act.

1

2 (d) A district formed pursuant to this act is a
3 separate entity and a political subdivision of the state.

4

5 **15-12-104. Jurisdiction.**

6

7 The governing body, or bodies if applicable, shall hear
8 proceedings for the creation of community development
9 districts. Except as otherwise provided district formation
10 shall be governed by the Special District Elections Act of
11 1994.

12

13 **15-12-105. Creation of district; commencement by**
14 **petition; hearing and election procedures.**

15

16 (a) Proceedings for the formation of a district shall
17 commence by filing a petition addressed to the governing
18 body in which the land proposed to be included in the
19 district is situated. A petition to form a district shall
20 be signed by not less than twenty-five percent (25%) of the
21 persons owning land within the territory proposed to be
22 included in the district, whose land in the proposed
23 district has an assessed value of twenty-five percent (25%)

1 or more of the assessed value of all of the land within the
2 proposed district. The petition shall be accompanied by a
3 general plan as described in W.S. 15-12-106 and a filing
4 fee of two hundred dollars (\$200.00).

5

6 (b) Upon receipt of a valid petition, the governing
7 body, or bodies if applicable, shall review the petition
8 and hold a hearing on the formation of the district. Upon
9 request of a governing body, the petitioners may submit an
10 amended petition that modifies the boundaries of the
11 district. Upon approval of the governing body, or bodies if
12 applicable, there shall be an election for the formation of
13 the district and for the members of the board. The election
14 shall be at the expense of the district.

15

16 (c) A hearing and election under subsection (b) of
17 this section shall be deemed waived if one hundred percent
18 (100%) of the landowners within the proposed district sign
19 the petition as originally prepared and agree on all of the
20 members of the board.

21

22 (d) The boundaries of the district shall be certified
23 to the county assessor of the county in which the district

1 is located within sixty (60) days after formation of the
2 district.

3

4 **15-12-106. District general plan.**

5

6 (a) A petition for the formation of a district under
7 W.S. 15-12-105 shall be accompanied by a general plan. The
8 general plan at a minimum shall include:

9

10 (i) A description of the purposes of the
11 district and how the purposes will be realized through the
12 creation of the district;

13

14 (ii) A description of any improvements
15 anticipated by the general plan and how those improvements
16 will be constructed, operated, maintained and financed and
17 when the improvements are expected to be completed;

18

19 (iii) A description of any services anticipated
20 by the general plan and when the services are expected to
21 be available;

22

1 (iv) A description of the general duties and
2 responsibilities of the district to be paid for from the
3 mill levy assessed pursuant to this act;

4
5 (v) A statement that assessments will exist only
6 for the period of time required to complete improvements
7 and complete the duties and responsibilities of the
8 district or so long as is necessary or desirable for the
9 district to provide services, at which time the district
10 shall recommend to the governing body that the levy be
11 discontinued. Upon receipt of a recommendation to
12 discontinue the levy, the governing body shall submit the
13 proposal to the voters of the district pursuant to W.S.
14 15-12-112(b);

15
16 (vi) Any other information the district or the
17 governing body deems appropriate for disclosure within the
18 general plan.

19
20 (b) The general plan may be amended under the
21 following procedure:

22

1 (i) A proposed amendment to the general plan
2 shall be submitted by the board to the governing body, or
3 bodies as applicable, for consideration. If the governing
4 body, or bodies, approves the amendment by resolution, the
5 proposed amendment shall be delivered to the clerk of the
6 governing body, or bodies. The proposed amendment shall be
7 mailed to every landowner in the district;

8

9 (ii) Within thirty (30) days of the date of
10 mailing the proposed amendment, any landowner in the
11 district may object in writing to the proposed amendment
12 and request a hearing before the governing body to offer
13 objections to the proposed amendment;

14

15 (iii) If no objection is filed or if the
16 governing body approves the proposed amendment after a
17 hearing on objections, the general plan as amended shall
18 become the general plan of the district.

19

20 (c) The board shall implement the general plan and
21 unless otherwise specified in this act shall have all
22 powers necessary to implement the general plan.

23

1 (d) The district clerk and the clerk of the governing
2 body shall maintain the general plan and make the general
3 plan available for inspection at their respective offices.
4 Upon direction from the governing body, the governing plan
5 may also be recorded in the offices of the county clerk of
6 the county where the district is located.

7

8 **15-12-107. Powers of district.**

9

10 (a) Each district may:

11

12 (i) Have and use a corporate seal;

13

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

16

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

21

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

4

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

8

9 (vi) Assess the costs of improvements within the
10 district against the real property specially benefited upon
11 a frontage, zone or other equitable basis, in accordance
12 with benefits;

13

14 (vii) Adopt rules and regulations consistent
15 with law;

16

17 (viii) Establish and collect charges for the use
18 of improvements and services provided by the district,
19 including authority to change the amount or rate thereof,
20 and to pledge the revenues therefrom for the payment of
21 district indebtedness;

22

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

4

5 (x) Contract with other districts for common use
6 of improvements and services for the benefit of the
7 inhabitants of all contracting districts;

8

9 (xi) Provide or supplement, as appropriate,
10 services not customarily available, or not available in
11 sufficient quantity or quality, within the municipality or
12 county which are necessary to protect the health and
13 welfare of residents in the district and the value of real
14 property therein, and to enter into agreements with any
15 public or private agency, institution or person for the
16 furnishing of the services;

17

18 (xii) Provide for recreation by means of parks,
19 playgrounds, golf courses, swimming pools, recreation
20 buildings or other recreation facilities;

21

22 (xiii) Provide for street lighting;

23

1 (xiv) Provide for the opening, widening,
2 extending, straightening and surfacing in whole or in part
3 of any street as well as the maintenance, reconstruction,
4 snow removal and clearance for roads and streets;

5

6 (xv) Provide for the construction, maintenance,
7 reconstruction and improvement of bridges, culverts, curbs,
8 gutters, drains and works incidental to any street
9 improvement;

10

11 (xvi) Provide enforcement of covenants,
12 reservations and restrictions of record;

13

14 (xvii) Establish and collect charges for the use
15 of any improvement to cover the cost of operating and
16 maintaining the improvement;

17

18 (xviii) Contract for broadband services in
19 unserved areas as defined by the federal communications
20 commission;

21

1 (xix) Form, join or provide funding for a joint
2 powers board for the purchase and provision of improvements
3 or services;

4

5 (xx) Take other action as necessary to carry out
6 the purposes of the district.

7

8 **15-12-108. District board of directors; compensation.**

9

10 (a) The district shall be managed and controlled by a
11 board of directors consisting of either three (3) or five
12 (5) voting members. The initial board members shall be
13 elected at the organizational election or by petition
14 approved by one hundred percent (100%) of the landowners
15 within the district. A simple majority of members shall
16 serve an initial term of two (2) years and the remaining
17 members shall serve an initial term of four (4) years after
18 formation of the district and until their successors are
19 elected and qualified at the regular scheduled subsequent
20 director election as provided in W.S. 22-29-112.
21 Thereafter, members shall be elected for terms of four (4)
22 years. A vacancy occurring on the board during the term of

1 an original director or his successor shall be filled as
2 provided in the Special District Elections Act of 1994.

3

4 (b) A member of each governing body where the
5 district is located shall serve as a nonvoting member on
6 the board. Each such nonvoting member shall be selected by
7 a vote of the governing body. The nonvoting member shall
8 serve a term of four (4) years or until the member is no
9 longer on the governing body of the municipality, whichever
10 occurs first. Vacancies under this subsection shall be
11 filled by the relevant governing body, which shall select a
12 new member by majority vote.

13

14 (c) The members of the board shall serve without
15 compensation but shall receive reimbursement for actual and
16 necessary expenses incurred in connection with the
17 performance of their duties.

18

19 **15-12-109. Intent to provide for special assessment.**

20

21 (a) The board may by written, recorded declaration
22 order improvements or services to be paid for by

1 assessment. The declaration shall specify all of the
2 following:

3

4 (i) The nature of the improvement or service
5 proposed;

6

7 (ii) The property within the district to be
8 improved or served;

9

10 (iii) The probable cost as shown by estimates of
11 a qualified person;

12

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

14

15 (v) The time when a declaration authorizing the
16 improvements or services will be considered.

17

18 **15-12-110. Notice of declaration; hearing;**
19 **objections.**

20

21 (a) At the request of the board the governing body
22 shall, by advertisement once in a newspaper of general
23 circulation where the district is located, provide notice

1 to the owners of the property to be assessed that specifies
2 all of the following:

3

4 (i) The nature of the improvement or service
5 proposed;

6

7 (ii) The property within the district to be
8 improved or served;

9

10 (iii) The probable scope of included expenses
11 for the improvement or service;

12

13 (iv) The time when a declaration authorizing the
14 improvements or services will be considered by the board;

15

16 (v) That maps, estimates and schedules showing
17 the approximate amounts to be assessed and all
18 declarations, resolutions and proceedings are on file and
19 may be examined at the office of the governing body or
20 other designated place;

21

22 (vi) That all complaints and objections
23 concerning the proposed improvement or service by owners of

1 real property subject to assessment will be heard and
2 considered by the board before final action, under the
3 provisions of the Wyoming Administrative Procedure Act.

4

5 (b) If objections to the improvement or service are
6 made by owners or agents representing owners of land
7 subject to fifty percent (50%) or more of the projected
8 dollar assessments, the improvement or service shall not be
9 authorized and a new declaration for the same or a similar
10 purpose encompassing lands subject to objections shall not
11 be considered within one (1) year thereafter.

12

13 **15-12-111. Notice of apportionment; assessment roll.**

14

15 (a) A copy of the declaration as finally adopted
16 shall be recorded by the clerk of the governing body. The
17 clerk of the governing body shall within sixty (60) days
18 after the adoption of the declaration by written notice,
19 mailed or otherwise delivered, notify each owner of land to
20 be assessed of the amount of assessment, the purpose for
21 which the levy is made, the assessment against each lot or
22 parcel of land, and the date it becomes delinquent.

23

1 (b) The clerk of the governing body shall prepare an
2 assessment roll as specified in W.S. 15-6-401 et seq.

3

4 **15-12-112. Duty of officials to levy and collect**
5 **assessments; administrative deduction.**

6

7 (a) The treasurer or clerk of the governing body
8 where the district is located shall levy and collect
9 assessments in the manner provided for assessments in W.S.
10 15-6-401 et seq., except that the payment of the
11 collections shall be made monthly to the treasurer of the
12 district and paid into its depository to the credit of the
13 district.

14

15 (b) Assessments levied and collected to provide
16 services pursuant to this act shall remain in effect until
17 a petition to discontinue the assessment, signed by not
18 less than fifty percent (50%) of the voters of the
19 district, is received by the governing body where the
20 district is located, at which time the proposal to
21 discontinue the assessment shall be submitted to the voters
22 of the district at the expense of the district at the next
23 general election. If the proposition to discontinue the

1 assessment is defeated, the proposition shall not again be
2 submitted to the electors for at least twenty-three (23)
3 months.

4

5 (c) The governing body may deduct up to one percent
6 (1%) of the amount of collections to cover all
7 administrative expenses and costs attributable to
8 performing its duties under this section.

9

10 **15-12-113. Rules and regulations; enforcement.**

11

12 The board may adopt reasonable rules and regulations not
13 inconsistent with law for the government and control of the
14 district organization and to facilitate the collection of
15 taxes, assessments or charges. All rules and regulations
16 adopted pursuant to this section shall be promulgated in
17 accordance with the Wyoming Administrative Procedure Act
18 and filed with the clerk of the governing body for the
19 municipality in which the district is located.

20

21 **Section 2.** W.S. 15-1-101(a)(intro) and (xv) and
22 18-3-504 by creating a new subsection (f) are amended to
23 read:

1

2 **15-1-101. Definitions.**

3

4 (a) As used in W.S. 15-1-101 through ~~15-11-302~~
5 15-12-113:

6

7 (xv) "This act", unless otherwise specified,
8 means W.S. 15-1-101 through ~~15-11-302~~ 15-12-113.

9

10 **18-3-504. Powers and duties generally.**

11

12 (f) Each board of county commissioners shall review
13 and approve or disapprove of the formation of a community
14 development district and perform other duties as specified
15 in W.S. 15-12-101 et seq.

16

17 **Section 3.** This act is effective immediately upon
18 completion of all acts necessary for a bill to become law
19 as provided by Article 4, Section 8 of the Wyoming
20 Constitution.

21

22

(END)