

House Study Bill 734 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON WAYS
AND MEANS BILL BY CHAIRPERSON
NORDMAN)

A BILL FOR

1 An Act authorizing cities to establish self-supported tourism
2 improvement districts.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

unofficial

1 Section 1. NEW SECTION. **358D.1 Definitions.**

2 As used in this chapter, unless the context requires
3 otherwise:

4 1. "Activities" includes but is not limited to all of the
5 following that benefit lodging businesses in the district:

6 a. Promotion of public events.

7 b. Promotion of tourism within the district.

8 c. Promotion of business activities.

9 d. Marketing and tourism-related economic development,
10 including but not limited to lodging business retention and
11 recruitment.

12 e. Workforce development.

13 f. Other services provided for the purpose of conferring
14 benefits upon assessed lodging businesses located in the
15 district.

16 2. "Assessment" means a levy for the purpose of acquiring,
17 constructing, installing, or maintaining improvements and
18 providing activities that will provide certain benefits to
19 lodging businesses located within a self-supported tourism
20 improvement district.

21 3. "Benefit zone" means a subunit of a district plan that may
22 have a different assessment.

23 4. "Clerk" means the city clerk, township clerk, or an
24 employee of a county designated by the county board of
25 supervisors.

26 5. "District" means a means a self-supported tourism
27 improvement district established pursuant to this chapter.

28 6. "District plan" or "plan" means a plan that complies with
29 section 358D.3, subsection 3.

30 7. "Hosting platform" means a person or entity who collects
31 or receives a fee, directly or indirectly, for conducting a
32 booking transaction using any medium of facilitation, including
33 an internet-based platform.

34 8. "Improvement" means the acquisition, construction,
35 installation, or maintenance of any tangible property with an

1 estimated useful life of five years or more designed to benefit
2 assessed lodging businesses.

3 9. "*Local governing body*" means the city council of a city,
4 the board of supervisors of a county, or the board of trustees of
5 a township.

6 10. "*Lodging*" means the same as defined in section 423A.2.

7 11. "*Lodging business*" means any type of business engaged in
8 lodging.

9 12. "*Lodging business owner*" or "*owner*" means any person
10 recognized by the municipality as the owner of the lodging
11 business. The local governing body has no obligation to obtain
12 other information as to the ownership of the lodging business,
13 and the municipality's determination of ownership shall be final
14 and conclusive for the purposes of this subsection. Wherever
15 this chapter requires the signature of the lodging business
16 owner, the signature of the authorized agent of the lodging
17 business owner shall be sufficient.

18 13. "*Municipality*" means a city, county, or township.

19 14. "*Ordinance*" means an ordinance adopted by a city or
20 county or a resolution adopted by a township.

21 15. "*Owners' association*" means a private nonprofit
22 corporation that is under contract with a municipality to
23 administer or implement improvements and activities specified
24 in the district plan. An owners' association may be an
25 existing nonprofit corporation or a newly formed nonprofit
26 corporation. An owners' association is a private entity and
27 shall not be considered a public entity for any purpose, nor
28 shall the owners' association's board members or staff be
29 considered to be public officials for any purpose. If an
30 existing nonprofit corporation is designated as the owners'
31 association, the existing nonprofit corporation shall establish
32 a self-supported tourism improvement district committee comprised
33 solely of lodging business owners paying the self-supported
34 tourism improvement district assessment, which shall manage the
35 expenditure of revenues derived from the levy of assessments,

1 pursuant to this chapter. If a newly formed nonprofit
2 corporation is designated as the owners' association, the board
3 of directors must be comprised entirely of lodging business
4 owners paying the self-supported tourism improvement district
5 assessment.

6 Sec. 2. NEW SECTION. **358D.2 Authorization.**

7 A local governing body which proposes to create a district,
8 to provide for its existence and operation, to provide for
9 activities or improvements for the district, to authorize and
10 issue bonds for the purposes of the district, and to levy the
11 assessments authorized by this chapter must do so in accordance
12 with the provisions of this chapter.

13 Sec. 3. NEW SECTION. **358D.3 Establishment of district.**

14 1. Districts may be created by action of the local governing
15 body in accordance with the provisions of this chapter. All of
16 the following shall apply to a district, as applicable:

17 a. A city or township shall not establish a district within
18 the unincorporated area of a county without the consent of the
19 board of supervisors of the county. A city or township shall
20 not establish a district within the jurisdiction of another city
21 or township without the consent of that city council or board
22 of township trustees. A county shall not establish a district
23 within the jurisdiction of another county without the consent
24 of that county's board of supervisors. However, a county may
25 establish a district within a city or township located within the
26 county without requiring consent from the city council or board
27 of township trustees.

28 b. The boundaries of a district created pursuant to this
29 chapter may overlap with other districts established pursuant
30 to other provisions of law, or other districts created in this
31 chapter.

32 c. The local governing body may establish one or more
33 separate benefit zones within the district based upon the degree
34 of benefit derived from the improvements or activities to be
35 provided within the benefit zone, and may impose a different

1 assessment within each benefit zone. The local governing body
2 may also define categories of lodging businesses based upon the
3 degree of benefit that each will derive from the improvements or
4 activities to be provided within the district and may impose a
5 different assessment or rate of assessment on each category of
6 lodging business, or on each category of lodging business within
7 each zone.

8 d. The local governing body may levy assessments on lodging
9 businesses pursuant to this chapter. The local governing body
10 shall structure the assessments as a fixed amount, rate per
11 transaction, fixed rate per transaction per day, percentage of
12 sales, any combination of these methods, or in whatever manner it
13 determines corresponds with the distribution of benefits from the
14 proposed improvements and activities.

15 e. The collection of the assessments levied pursuant to this
16 chapter shall be made at the time and in the manner set forth by
17 the local governing body in the ordinance levying the assessment.
18 All assessments levied pursuant to this chapter may be subject to
19 interest and penalties.

20 f. Assessments levied pursuant to this chapter shall
21 be levied on the basis of the estimated benefit to the
22 lodging businesses within the self-supported tourism improvement
23 district.

24 g. District funds allocated for the activities and
25 improvements in the plan are intended to be supplemental to
26 existing funding for tourism promotion. The municipality shall
27 not reduce any existing funding as a result of a self-supported
28 tourism improvement district.

29 2. Upon the submission of a written petition, signed by
30 the lodging business owners in the proposed district who will
31 pay more than fifty percent of the assessments proposed to be
32 levied, the local governing body shall conduct a public hearing
33 on the establishment or extension of the self-supporting tourism
34 improvement district. The petition must include a summary of the
35 district plan. That summary must include all of the following:

- 1 a. A map showing the boundaries of the district.
- 2 b. Information specifying where the complete district plan
3 may be obtained.
- 4 c. Information specifying that the complete district plan
5 shall be furnished upon request.
- 6 3. The district plan must include but is not limited to all
7 of the following:
 - 8 a. A map of the district in sufficient detail to locate each
9 lodging business within the district. The map must identify
10 the district boundaries in sufficient detail to allow a lodging
11 business owner to reasonably determine whether a lodging business
12 is located within the district boundaries.
 - 13 b. The name of the proposed district.
 - 14 c. A description of the boundaries of the district, including
15 the boundaries of benefit zones, proposed for establishment or
16 extension in a manner sufficient to identify the affected lodging
17 businesses included, which may be made by reference to any plan
18 or map that is on file with the clerk.
 - 19 d. The improvements and activities proposed for each year
20 of operation of the district and the estimated cost. If the
21 improvements and activities proposed for each year of operation
22 are the same, a description of the first year's proposed
23 improvements and activities and a statement that the same
24 improvements and activities are proposed for subsequent years
25 shall satisfy the requirements of this paragraph.
 - 26 e. The total estimated annual amount proposed to be expended
27 for improvements or activities, and debt service in each year of
28 operation of the district. The amount may be estimated based
29 upon the assessment rate. If the total annual amount proposed
30 to be expended in each year of operation of the district is
31 not significantly different, the amount proposed to be expended
32 in the initial year and a statement that a similar amount
33 applies to subsequent years shall satisfy the requirements of
34 this paragraph.
 - 35 f. The proposed source or sources of financing, including the

1 proposed method and basis of levying the assessment in sufficient
2 detail to allow each lodging business owner to estimate the
3 amount of the assessment to be levied against the lodging
4 business owner's lodging business.

5 g. A statement specifying whether bonds will be issued to
6 finance improvements.

7 h. The time and manner of collecting the assessments. The
8 plan may require hosting platforms to collect the assessment.

9 i. The specific number of years in which assessments will be
10 levied. In a new district, the maximum number of years shall be
11 ten. Upon renewal, the maximum number of years shall be twenty.
12 Notwithstanding these limitations, a district created pursuant
13 to this chapter that issues bonds to finance improvements may
14 levy assessments until the maximum maturity of the bonds. The
15 district plan may set forth specific increases in assessments for
16 each year of operation of the district.

17 j. The proposed time for implementation and completion of the
18 district plan.

19 k. Any proposed rules and regulations to be applicable to the
20 district.

21 l. A statement that an owners' association will administer
22 or implement improvements and activities specified in the
23 district plan. The municipality shall contract with the owners'
24 association to provide services and improvements.

25 m. Any other item or matter required to be incorporated
26 therein by the local governing body.

27 4. At least thirty days before the hearing pursuant to this
28 chapter, the clerk shall send a notice by mail to the lodging
29 business owners proposed to be assessed. The notice must state
30 the following:

31 a. A general description of the improvements and activities
32 of the district.

33 b. A description of the boundaries of the district, including
34 the boundaries of benefit zones, proposed for establishment or
35 extension in a manner sufficient to identify the affected lodging

1 businesses included, which may be made by reference to any plan
2 or map that is on file with the clerk.

3 c. A description of the proposed assessment rate or method of
4 determining the assessment.

5 d. The time and place when and where the local governing body
6 will hear all complaints or protests made in writing or verbally
7 to the proposed assessments.

8 e. Prominently state the place, date, and time of the local
9 governing body hearing on the establishment of the proposed
10 district.

11 5. A protest may be made orally or in writing by any
12 interested person. Every written protest shall be filed with
13 the clerk at or before the time fixed for the public hearing.
14 The clerk may waive any irregularity in the form or content
15 of any written protest. A written protest may be withdrawn
16 in writing at any time before the conclusion of the public
17 hearing. Each written protest shall contain a description of
18 the lodging business in which the person supporting the protest
19 has an interest in a manner sufficient to identify the lodging
20 business and, if a person is not shown on the official records
21 of the municipality as the owner of the lodging business, the
22 protest shall contain or be accompanied by written evidence that
23 the person supporting the protest is the owner of the lodging
24 business or the authorized agent. A written protest that does
25 not comply with this section shall not be counted in determining
26 a majority protest. If written protests are received from the
27 owners or authorized agents of lodging businesses in the proposed
28 district that will pay fifty percent or more of the assessments
29 proposed to be levied and protests are not withdrawn so as
30 to reduce the protests to less than fifty percent, no further
31 proceedings to levy the proposed assessment against such lodging
32 businesses shall be taken for a period of one year from the date
33 of the finding of a majority protest by the local governing body.

34 6. At the conclusion of the public hearing to establish the
35 district, the local governing body may adopt, revise, change,

1 reduce, or modify the proposed assessment or the type or types
2 of improvements and activities to be funded with the revenues
3 from the assessments. Proposed assessments may only be revised
4 by reducing all of the assessments. At the public hearing,
5 the local governing body may only make changes in, to, or from
6 the boundaries of the proposed self-supported tourism improvement
7 district that will exclude territory that will not benefit from
8 the proposed improvements and activities.

9 7. If the local governing body, following the public
10 hearing, decides to establish a proposed self-supported tourism
11 improvement district, the local governing body shall adopt an
12 ordinance that shall include but is not limited to all of the
13 following:

14 a. A brief description of the proposed improvements and
15 activities.

16 b. The amount of the proposed assessment.

17 c. A statement on whether bonds will be issued.

18 d. A description of the exterior boundaries of the proposed
19 district, which may be made by reference to any plan or map that
20 is on file with the clerk. The descriptions and statements need
21 not be detailed and shall be sufficient if the descriptions and
22 statements enable an owner to generally identify the nature and
23 extent of the improvements and activities and the location and
24 extent of the proposed district.

25 e. The time and place where the public hearing was held
26 concerning the establishment of the district.

27 f. A determination regarding any protests received. The
28 municipality shall not establish the district or levy assessments
29 if a majority protest was received pursuant to this chapter.

30 g. A statement that the district established by the ordinance
31 shall be subject to any amendments to this chapter.

32 h. A statement that the improvements and activities to be
33 conferred on lodging businesses in the district will be funded
34 by the levy of the assessments.

35 i. A finding that the lodging businesses within the area

1 of the self-supported tourism improvement district will benefit
2 by the improvements and activities funded by the proposed
3 assessments.

4 8. If the lodging business owners or authorized
5 representatives within the proposed district that collectively
6 represent fifty percent or more of the proposed district that
7 will pay fifty percent or more of the assessments proposed to
8 be levied file written objections to the establishment of the
9 district with the clerk of the municipality within thirty days
10 after the ordinance levying the assessment is adopted pursuant to
11 subsection 7, the municipality shall not establish the district
12 or levy assessments. The clerk may waive any irregularity
13 in the form or content of any written objection. A written
14 objection may be withdrawn in writing at any time before the
15 conclusion of the thirty-day period. Each written objection
16 shall contain a description of the lodging business in which
17 the person supporting the objection has an interest in that is
18 sufficient to identify the lodging business and, if a person
19 supporting the objection is not shown on the official records
20 of the municipality as the owner of the lodging business, the
21 objection shall contain or be accompanied by written evidence
22 that the person supporting the objection is the owner of the
23 lodging business or the authorized representative. A written
24 objection that does not comply with this subsection shall not be
25 counted in determining a majority written objection.

26 9. The validity of an assessment levied under this chapter
27 shall not be contested in an action or proceeding unless the
28 action or proceeding is commenced within thirty days after the
29 ordinance levying the assessment is adopted pursuant to this
30 chapter. An appeal from a final judgment in an action or
31 proceeding shall be perfected within thirty days after the entry
32 of judgment.

33 Sec. 4. NEW SECTION. **358D.4 Renewal.**

34 1. If a self-supported tourism improvement district expires
35 due to the time limit set pursuant to section 358D.3, subsection

1 3, a new district plan may be created and the district may be
2 renewed pursuant to this chapter.

3 2. Any district's term that has expired, or is about to
4 expire in the near future, may be renewed by following the same
5 procedures for the establishment of a district as provided in
6 this chapter.

7 3. Upon renewal, any remaining revenues derived from the levy
8 of assessments, or any revenues derived from the sale of assets
9 acquired with the revenues, shall be transferred to the renewed
10 district. If the renewed district includes additional lodging
11 businesses not included in the prior district, the remaining
12 revenues shall be spent to benefit only the lodging businesses
13 in the prior district. If the renewed district does not include
14 lodging businesses included in the prior district, the remaining
15 revenues attributable to these lodging businesses shall be spent
16 consistent with the prior district plan.

17 4. Upon renewal, a district shall have a term not to
18 exceed twenty years or, if the district is authorized to issue
19 bonds, until the maximum maturity of those bonds. There is no
20 requirement that the boundaries, assessments, improvements, or
21 activities of a renewed district be the same as the original or
22 prior district.

23 Sec. 5. NEW SECTION. **358D.5 Modification.**

24 1. The owners' association may, at any time, request that the
25 local governing body modify the district. Any modification of
26 the district shall be made pursuant to this section.

27 2. Upon the written request of the owners' association, the
28 local governing body may modify the district after conducting one
29 public hearing on the proposed modifications.

30 3. If the modification includes the levy of a new or
31 increased assessment, the local governing body shall comply with
32 section 358D.3, subsections 4 and 5.

33 4. For modifications that do not include the levy of a new or
34 increased assessment, the clerk shall send a notice of the public
35 hearing on the proposed modification by mail to the lodging

1 business owners proposed to be assessed. The notice must state:

2 a. A general description of the proposed modification.

3 b. The place, date, and time of the local governing body
4 hearing pursuant to, subsection 2, which shall be held at least
5 thirty days after the date of mailing of the notices.

6 5. Any modification shall be reflected in an updated district
7 plan to be on file and available for inspection with the clerk.

8 Sec. 6. NEW SECTION. **358D.6 Bonds.**

9 1. a. The local governing body may, by resolution, determine
10 and declare that bonds shall be issued to finance the estimated
11 cost of some or all of the proposed improvements described in the
12 ordinance adopted pursuant to section 358D.3, subsection 7.

13 b. The resolution adopted pursuant to this section shall
14 generally describe the proposed improvements specified in the
15 ordinance adopted pursuant to section 358D.3, subsection 7, set
16 forth the estimated cost of those improvements, and specify the
17 number of annual installments and the fiscal years it will take
18 to pay off the bonds.

19 2. Notwithstanding any other provision of this chapter,
20 assessments levied to pay the principal and interest on any
21 bond issued pursuant to this chapter shall not be reduced or
22 terminated if doing so would interfere with the timely retirement
23 of the debt.

24 Sec. 7. NEW SECTION. **358D.7 Annual reports.**

25 1. The owners' association shall prepare a report for each
26 fiscal year, except the first fiscal year, for which assessments
27 are to be levied and collected to pay the costs of the
28 improvements and activities described in the report. The owners'
29 association's first report shall be due three months after the
30 last day of the first year of operation of the district, and on
31 that day each year thereafter the district is in operation.

32 2. The report shall be filed with the clerk and shall refer
33 to the self-supported tourism improvement district by name,
34 specify the fiscal year to which the report applies, and, with
35 respect to that fiscal year, shall contain all of the following

1 information:

2 a. Improvements and activities that were provided in the
3 previous fiscal year.

4 b. An estimate of the cost of providing the improvements and
5 activities for the previous fiscal year.

6 c. The estimated amount of any surplus or deficit from the
7 previous fiscal year. The amount of surplus or deficit shall be
8 calculated based on subtracting the previous year's expenditures
9 from the revenues of the previous year.

10 d. Any proposed changes to the assessment or improvements or
11 activities that are authorized in accordance with the district
12 plan.

13 3. The local governing body may approve the report as filed
14 by the owners' association.

15 Sec. 8. NEW SECTION. **358D.8 Repeal.**

16 1. Any district established or extended pursuant to the
17 provisions of this chapter, where there is no indebtedness,
18 outstanding and unpaid, incurred to accomplish any of the
19 purposes of the district, may be repealed by the local governing
20 body in either of the following circumstances:

21 a. If the local 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, the local
24 governing body shall provide notice to the public about the
25 hearing on the proposed repeal.

26 b. During the operation of the district, there shall be a
27 thirty-day period each year in which assessed lodging businesses
28 may request repeal of the establishment of the district. The
29 first such period shall begin one year after the date of
30 establishment of the district and shall continue for thirty
31 days. The next such thirty-day period shall begin two years
32 after the date of the establishment of the district. Each
33 successive year of operation of the district shall have such a
34 thirty-day period. Upon the written petition of the owners or
35 authorized representatives of lodging businesses in the district

1 who pay fifty percent or more of the assessments levied during
2 the thirty-day period, the local governing body provide notice of
3 the proposed repeal, and shall hold a hearing about the proposed
4 repeal.

5 2. The local governing body shall hold a public hearing
6 to repeal the district. The notice of the hearing on repeal
7 required by this chapter shall be given by mail to the owner of
8 each lodging business subject to assessment in the district, as
9 appropriate. The municipality shall conduct the public hearing
10 not less than thirty days after mailing the notice to the lodging
11 business owners.

12 3. Upon repeal or expiration without renewal of a district,
13 any remaining revenues, after all outstanding debts are paid,
14 derived from the levy of assessments, or derived from the sale
15 of assets acquired with the revenues, or from bond reserve
16 or construction funds, shall be expended consistent with the
17 district plan.

18 Sec. 9. NEW SECTION. **358D.9 Independent provisions.**

19 1. This chapter provides an alternative method of financing
20 certain improvements and activities. The provisions of this
21 chapter shall not affect or limit any other provisions of law
22 authorizing or providing for the furnishing of improvements or
23 activities or the raising of revenue for these purposes.

24 2. Any provision of this chapter that conflicts with any
25 other provision of law shall prevail over the other provision of
26 law as to districts created under this chapter.

27 **EXPLANATION**

28 The inclusion of this explanation does not constitute agreement with
29 the explanation's substance by the members of the general assembly.

30 This bill authorizes a self-supported tourism improvement
31 district (district).

32 The bill allows a levy (assessment) upon lodging businesses
33 for the purpose of acquiring, constructing, installing, or
34 maintaining improvements and providing activities that will
35 provide certain benefits to lodging businesses located within the

1 district.

2 The bill defines "activities" to include promotion of public
3 events, promotion of tourism within the district, promotion of
4 business activities, marketing, workforce development, and other
5 related services.

6 The district is created by action of the local governing body
7 where the district is located. The bill establishes specific
8 criteria including a map of the area that would comprise the
9 district, the rate and structure of the assessment, and the
10 expiration of the district. The assessments shall be assessed on
11 the basis of the estimated benefit to the lodging business within
12 the district.

13 A protest of a district plan may be made by any interested
14 person, and the bill specifies procedures for when a protest is
15 made by a person.

16 If the lodging business owners or their authorized
17 representatives within the proposed district that collectively
18 represent more than 50 percent or more of the assessments to be
19 paid file a written objection, the bill establishes procedures
20 for when such an objection is made.

21 The bill allows a local governing body to modify the district,
22 and establishes procedures for renewal of a district set to
23 expire.

24 The bill allows a local governing body to issue bonds by
25 resolution to finance the estimated costs of the proposed
26 improvements in the district.

27 The bill requires the authorized representative of the
28 district to file an annual report with the governing body
29 establishing the district.

30 The local governing body may repeal the existence of the
31 district based upon law violations or malfeasance, if no
32 indebtedness exists, and proper notification has been provided.