

HOUSE BILL NO. HB0159

Industrial siting amendments.

Sponsored by: Representative(s) Meyer, Craft, Davison,
Jaggi, Mercer and Throne and Senator(s)
Cooper and Hastert

A BILL

for

1 AN ACT relating to industrial development and siting;
2 providing for industrial siting impact assistance payments
3 for oil and gas impacts on local governments as specified;
4 providing procedures; amending related provisions; and
5 providing for an effective date.

6

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

8

9 **Section 1.** W.S. 35-12-120 is created to read:

10

11 **35-12-120. Oil and gas impact assistance.**

12

13 (a) Any city or town adequately demonstrating impact
14 costs of not less than two hundred fifty thousand dollars
15 (\$250,000.00) as approved by the industrial siting council
16 which costs are in excess of its annual budget due to oil

1 or gas related production activities within its county may
2 file an application for assistance as provided in this
3 section. If approved by the council following a hearing as
4 provided by this section, the city or town may be eligible
5 for impact assistance payments as provided by W.S.
6 39-15-111(c) and 39-16-111(d).

7
8 (b) The petition shall be filed with the council in a
9 form and manner as required by rule and regulation of the
10 council. The petition shall identify the cause for the
11 impact, the probable impacted area, the nature of the
12 impact and any recommended remedy. The petition shall
13 include any of the social, economic or environmental
14 impacts as provided by W.S. 35-12-109(a)(xiii). Not later
15 than thirty (30) days from receipt of the petition, the
16 administrator shall review the petition and make a
17 preliminary determination whether the petition meets the
18 requirements of the rules and regulations of the council.
19 The administrator may seek information and recommendations
20 from the agencies listed in W.S. 35-12-110(b), and any
21 information shall be provided as required by W.S.
22 35-12-110(c).

23

1 (c) Not later than sixty (60) days following receipt
2 of an eligible petition, the council shall hold a hearing
3 on the petition. At the hearing, the administrator may
4 present an opinion, analysis and any recommendation on the
5 petition if requested by the council. Not later than ten
6 (10) days following conclusion of the hearing, the council
7 shall make a final determination. The final determination
8 shall be in writing and shall include any amount of impact
9 assistance payments awarded under W.S. 39-15-111(c) or
10 39-16-111(d). In the event impact assistance payments are
11 awarded by the council, the payments shall be paid from the
12 general fund computed and distributed as provided by W.S.
13 39-15-111(c) and 39-16-111(d). In no event shall any
14 payments awarded exceed thirty-six (36) months in duration.
15 The council may require periodic reports or information
16 from any city or town receiving impact assistance payments
17 under this section.

18

19 **Section 2.** W.S. 35-12-119(c)(intro), 39-15-111(c) and
20 (d)(ii) and 39-16-111(d) and (e)(ii) are amended to read:

21

22 **35-12-119. Exemptions; information required.**

23

1 (c) Except as provided by W.S. 35-12-120, the
2 construction, operation and maintenance of the following
3 activities are exempt from this chapter:

4

5 **39-15-111. Distribution.**

6

7 (c) The following shall apply to distribution of
8 impact assistance payments:

9

10 (i) If any person commences after the effective
11 date of this act to construct an industrial facility, as
12 that term is defined in W.S. 35-12-102, under a permit
13 issued pursuant to W.S. 35-12-106, or if the federal or
14 state government commences to construct any project within
15 this state with an estimated construction cost as specified
16 in the definition of industrial facility in W.S. 35-12-102
17 the state treasurer shall thereafter pay to the county
18 treasurer and the county treasurer will distribute to the
19 county, cities and towns of that county in which the
20 industrial facility or project is located, impact
21 assistance payments from the monies available under
22 paragraph (b)(i) of this section. Each payment to the
23 county treasurer shall be equal to the excess of each
24 monthly payment made under paragraph (b)(iii) of this

1 section during the period of construction over the base
2 period amount and shall continue during the period of
3 construction except that in the case of an industrial
4 facility or a federal or state government project which is
5 expected to continue in phases for an indefinite period of
6 time, the state treasurer shall discontinue payments under
7 this section and establish a new base period when
8 construction of any phase has ceased or been substantially
9 completed for twelve (12) consecutive months. The impact
10 assistance payments shall be distributed to the county
11 treasurer and the county treasurer will distribute to the
12 county and to the cities and towns therein based on a ratio
13 established by the industrial siting council during a
14 public hearing held in accordance with W.S. 35-12-110. The
15 industrial siting council shall review the distribution
16 ratio for construction projects on a regular basis and make
17 appropriate adjustments. A governing body which is
18 primarily affected by the facility, or any person issued a
19 permit pursuant to W.S. 35-12-106, may petition the
20 industrial siting council for review and adjustment of the
21 distribution ratio upon a showing of good cause. The impact
22 assistance payment shall be in addition to all other
23 distributions under this section, but no impact assistance
24 payment shall be made for any period in which the county or

1 counties are not imposing the maximum tax authorized by
2 W.S. 39-15-204(a)(i) and 39-16-204(a)(i) as restricted by
3 W.S. 39-15-204(a)(iv) and 39-16-204(a)(iii). For purposes
4 of this subsection, the industrial facility or federal or
5 state government project will be deemed to be located in
6 the county in which a majority of the construction costs
7 will be expended, provided that upon a request from the
8 county commissioners of any adjoining county to the
9 industrial siting council, the council may determine that
10 the social and economic impacts from construction of the
11 industrial facility or federal or state government project
12 upon the adjoining county are significant and establish the
13 ratio of impacts between the counties and certify that
14 ratio to the state treasurer who will thereafter distribute
15 the impact assistance payment to the counties pursuant to
16 that ratio;:-

17

18 (ii) If any city or town is awarded impact
19 assistance under W.S. 35-12-120, the state treasurer shall
20 pay to the county treasurer and the county treasurer shall
21 distribute to the designated city or town of that county
22 impact assistance payments from the monies available under
23 paragraph (b)(i) of this section. Each payment to the
24 county shall be equal to the excess of each monthly payment

1 made under paragraph (b)(iii) of this section over the base
2 period amount for a period not to exceed thirty-six (36)
3 months or until the amount of impact assistance awarded in
4 W.S. 35-12-120 has been reached, whichever occurs first.
5 If the amount of impact assistance has not been reached in
6 thirty-six (36) months the city or town may submit a
7 request to the industrial siting council for further impact
8 assistance under W.S. 35-12-120. The impact assistance
9 payment shall be in addition to all other distributions
10 under this section, but no impact assistance payment shall
11 be made for any period in which the county or counties are
12 not imposing the maximum tax authorized by W.S.
13 39-15-204(a)(i) and 39-16-204(a)(i) as restricted by W.S.
14 39-15-204(a)(iv) and 39-16-204(a)(iii).

15
16 (d) As used in subsection (c) of this section:

17
18 (ii) "Base period amount" is the average monthly
19 distribution under paragraph (b)(iii) of this section for
20 the twelve (12) month period immediately prior to the
21 commencement of construction under paragraph (c)(i) of this
22 section or the award date under W.S. 35-12-120, whichever
23 is applicable, provided that on each anniversary date of
24 commencement of construction or date of award under W.S.

1 35-12-120 the state treasurer shall establish a new base
2 period amount by multiplying the base period amount by a
3 factor representing the annual rate of inflation in this
4 state for the preceding twelve (12) month period as
5 calculated by the department of administration and
6 information.

7
8 **39-16-111. Distribution.**

9
10 (d) The following shall apply to distribution of
11 impact assistance payments:

12
13 (i) If any person commences after the effective
14 date of this act to construct an industrial facility, as
15 that term is defined in W.S. 35-12-102, under a permit
16 issued pursuant to W.S. 35-12-106, or if the federal or
17 state government commences to construct any project within
18 this state with an estimated construction cost as specified
19 in the definition of industrial facility in W.S. 35-12-102
20 the state treasurer shall thereafter pay to the county
21 treasurer and the county treasurer will distribute to the
22 county, cities and towns of that county in which the
23 industrial facility or project is located, impact
24 assistance payments from the monies available under

1 paragraph (b)(i) of this section. Each payment to the
2 county treasurer shall be equal to the excess of each
3 monthly payment made under paragraph (b)(iii) of this
4 section during the period of construction over the base
5 period amount and shall continue during the period of
6 construction except that in the case of an industrial
7 facility or a federal or state government project which is
8 expected to continue in phases for an indefinite period of
9 time, the state treasurer shall discontinue payments under
10 this section and establish a new base period when
11 construction of any phase has ceased or been substantially
12 completed for twelve (12) consecutive months. The impact
13 assistance payments shall be distributed to the county
14 treasurer and the county treasurer will distribute to the
15 county and to the cities and towns therein based on a ratio
16 established by the industrial siting council during a
17 public hearing held in accordance with W.S. 35-12-110. The
18 impact assistance payment shall be in addition to all other
19 distributions under this section, but no impact assistance
20 payment shall be made for any period in which the county or
21 counties are not imposing the maximum tax authorized by
22 W.S. 39-15-204(a)(i) and 39-16-204(a)(i) as restricted by
23 W.S. 39-15-204(a)(iv) and 39-16-204(a)(iii). For purposes
24 of this subsection, the industrial facility or federal or

1 state government project will be deemed to be located in
2 the county in which a majority of the construction costs
3 will be expended, provided that upon a request from the
4 county commissioners of an adjoining county to the
5 industrial siting council, the council may determine that
6 the social and economic impacts from construction of the
7 industrial facility or federal or state government project
8 upon the adjoining county are significant and establish the
9 ratio of impacts between the counties and certify that
10 ratio to the state treasurer who will thereafter distribute
11 the impact assistance payment to the counties pursuant to
12 that ratio;:-

13

14 (ii) If any city or town is awarded impact
15 assistance under W.S. 35-12-120, the state treasurer shall
16 pay to the county treasurer and the county treasurer shall
17 distribute to the designated city or town of that county
18 impact assistance payments from the monies available under
19 paragraph (b)(i) of this section. Each payment to the
20 county shall be equal to the excess of each monthly payment
21 made under paragraph (b)(iii) of this section over the base
22 period amount for a period not to exceed thirty-six (36)
23 months or until the amount of impact assistance awarded in
24 W.S. 35-12-120 has been reached, whichever occurs first.

1 If the amount of impact assistance has not been reached in
2 thirty-six (36) months the city or town may submit a
3 request to the industrial siting council for further impact
4 assistance under W.S. 35-12-120. The impact assistance
5 payment shall be in addition to all other distributions
6 under this section, but no impact assistance payment shall
7 be made for any period in which the county or counties are
8 not imposing the maximum tax authorized by W.S.
9 39-15-204(a)(i) and 39-16-204(a)(i) as restricted by W.S.
10 39-15-204(a)(iv) and 39-16-204(a)(iii).

11
12 (e) As used in subsection (d) of this section:

13
14 (ii) "Base period amount" is the average monthly
15 distribution under paragraph (b)(iii) of this section for
16 the twelve (12) month period immediately prior to the
17 commencement of construction under paragraph (d)(i) of this
18 section or the award date under W.S. 35-12-120, whichever
19 is applicable, provided that on each anniversary date of
20 commencement of construction or date of award under W.S.
21 35-12-120 the state treasurer shall establish a new base
22 period amount by multiplying the base period amount by a
23 factor representing the annual rate of inflation in this
24 state for the preceding twelve (12) month period as

1 calculated by the department of administration and
2 information.

3

4 **Section 3.** This act is effective July 1, 2008.

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(END)