

HOUSE BILL NO. HB0130

Impact assistance for wind energy facilities.

Sponsored by: Representative(s) Carson, Anderson, R.,
Steward, Throne and Zwonitzer, Dn.

A BILL

for

1 AN ACT relating to taxation and revenue; providing for a
2 revenue distribution for sales and use tax generated from
3 the construction of wind energy facilities as specified;
4 providing definitions; and providing for an effective date.

5

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

7

8 **Section 1.** W.S. 39-15-111(b)(intro), (c) and by
9 creating new subsections (p) and (q) and
10 39-16-111(b)(intro), (d) and by creating new subsections
11 (p) and (q) are amended to read:

12

13 **39-15-111. Distribution.**

14

15 (b) Revenues earned under W.S. 39-15-104 during each
16 fiscal year shall be recognized as revenue during that

1 fiscal year for accounting purposes. Revenue collected by
2 the department under W.S. 39-15-104 shall, except as
3 otherwise provided in subsection (p) of this section, be
4 transferred to the state treasurer who shall:

5
6 (c) Except as otherwise provided in subsection (p) of
7 this section, if any person commences after the effective
8 date of this act to construct an industrial facility, as
9 that term is defined in W.S. 35-12-102, under a permit
10 issued pursuant to W.S. 35-12-106, or if the federal or
11 state government commences to construct any project within
12 this state with an estimated construction cost as specified
13 in the definition of industrial facility in W.S. 35-12-102
14 the state treasurer shall thereafter pay to the county
15 treasurer and the county treasurer will distribute to the
16 county, cities and towns of that county in which the
17 industrial facility or project is located, impact
18 assistance payments from the monies available under
19 paragraph (b)(i) of this section. Each payment to the
20 county treasurer shall be equal to the excess of each
21 monthly payment made under paragraph (b)(iii) of this
22 section during the period of construction over the base
23 period amount and shall continue during the period of
24 construction except that in the case of an industrial

1 facility or a federal or state government project which is
2 expected to continue in phases for an indefinite period of
3 time, the state treasurer shall discontinue payments under
4 this section and establish a new base period when
5 construction of any phase has ceased or been substantially
6 completed for twelve (12) consecutive months. The impact
7 assistance payments shall be distributed to the county
8 treasurer and the county treasurer will distribute to the
9 county and to the cities and towns therein based on a ratio
10 established by the industrial siting council during a
11 public hearing held in accordance with W.S. 35-12-110. The
12 industrial siting council shall review the distribution
13 ratio for construction projects on a regular basis and make
14 appropriate adjustments. A governing body which is
15 primarily affected by the facility, or any person issued a
16 permit pursuant to W.S. 35-12-106, may petition the
17 industrial siting council for review and adjustment of the
18 distribution ratio upon a showing of good cause. The impact
19 assistance payment shall be in addition to all other
20 distributions under this section, but no impact assistance
21 payment shall be made for any period in which the county or
22 counties are not imposing at least a one percent (1%) tax
23 authorized by W.S. 39-15-204(a)(i) and 39-16-204(a)(i) or
24 at least a total of a two percent (2%) sales tax authorized

1 under W.S. 39-15-204(a)(i), (iii) and (vi) and at least a
2 total of a two percent (2%) use tax authorized under W.S.
3 39-16-204(a)(i), (ii) and (v). For purposes of this
4 subsection, the industrial facility or federal or state
5 government project will be deemed to be located in the
6 county in which a majority of the construction costs will
7 be expended, provided that upon a request from the county
8 commissioners of any adjoining county to the industrial
9 siting council, the council may determine that the social
10 and economic impacts from construction of the industrial
11 facility or federal or state government project upon the
12 adjoining county are significant and establish the ratio of
13 impacts between the counties and certify that ratio to the
14 state treasurer who will thereafter distribute the impact
15 assistance payment to the counties pursuant to that ratio.

16

17 (p) If any person commences after the effective date
18 of this act to construct a wind energy facility under a
19 permit issued pursuant to W.S. 35-12-106, or if the federal
20 or state government commences to construct any wind energy
21 facility within this state with an estimated construction
22 cost as specified in the definition of industrial facility
23 in W.S. 35-12-102, any revenue generated under this article
24 from the construction of the wind energy facility during

1 the period of construction, shall be transferred to the
2 state treasurer who shall:

3
4 (i) Credit forty percent (40%) to the state
5 general fund; and

6
7 (ii) Distribute the remaining sixty percent
8 (60%) to the county treasurer of the county in which the
9 wind energy facility is located and the county treasurer
10 shall distribute those funds to the county, cities and
11 towns therein based on a ratio established by the
12 industrial siting council during a public hearing held in
13 accordance with W.S. 35-12-110.

14
15 (q) As used in subsection (p) of this section:

16
17 (i) "Wind energy facility" means any commercial
18 facility generating electricity from wind that:

19
20 (A) Consists of thirty (30) or more wind
21 turbines in all planned phases of the installation; or

22
23 (B) Expands an existing installation not
24 previously defined as a wind energy facility to include a

1 total number of turbines greater than or equal to the
2 number specified in subparagraph (A) of this paragraph.

3
4 **39-16-111. Distribution.**

5
6 (b) Revenues earned under this article during each
7 fiscal year shall be recognized as revenue during that
8 fiscal year for accounting purposes. Revenue collected by
9 the department from the taxes imposed by this article,
10 except as otherwise provided in subsection (p) of this
11 section, shall be transferred to the state treasurer who
12 shall:

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

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

1 at least a total of a two percent (2%) sales tax authorized
2 under W.S. 39-15-204(a)(i), (iii) and (vi) and at least a
3 total of a two percent (2%) use tax authorized under W.S.
4 39-16-204(a)(i), (ii) and (v). For purposes of this
5 subsection, the industrial facility or federal or state
6 government project will be deemed to be located in the
7 county in which a majority of the construction costs will
8 be expended, provided that upon a request from the county
9 commissioners of an adjoining county to the industrial
10 siting council, the council may determine that the social
11 and economic impacts from construction of the industrial
12 facility or federal or state government project upon the
13 adjoining county are significant and establish the ratio of
14 impacts between the counties and certify that ratio to the
15 state treasurer who will thereafter distribute the impact
16 assistance payment to the counties pursuant to that ratio.

17

18 (p) If any person commences after the effective date
19 of this act to construct a wind energy facility under a
20 permit issued pursuant to W.S. 35-12-106, or if the federal
21 or state government commences to construct any wind energy
22 facility within this state with an estimated construction
23 cost as specified in the definition of industrial facility
24 in W.S. 35-12-102, any revenue generated under this article

1 from the construction of the wind energy facility during
2 the period of construction, shall be transferred to the
3 state treasurer who shall:

4
5 (i) Credit forty percent (40%) to the state
6 general fund; and

7
8 (ii) Distribute the remaining sixty percent
9 (60%) to the county treasurer of the county in which the
10 wind energy facility is located and the county treasurer
11 shall distribute those funds to the county, cities and
12 towns therein based on a ratio established by the
13 industrial siting council during a public hearing held in
14 accordance with W.S. 35-12-110.

15
16 (q) As used in subsection (p) of this section:

17
18 (i) "Wind energy facility" means any commercial
19 facility generating electricity from wind that:

20
21 (A) Consists of thirty (30) or more wind
22 turbines in all planned phases of the installation; or

23

1 (B) Expands an existing installation not
2 previously defined as a wind energy facility to include a
3 total number of turbines greater than or equal to the
4 number specified in subparagraph (A) of this paragraph.

5

6 **Section 2.** This act is effective July 1, 2010.

7

8 (END)