HOUSE BILL NO. HB0051

Industrial siting impact payments.

Sponsored by: Representative(s) Madden and Throne and Senator(s) Schiffer

A BILL

for

AN ACT relating to impact assistance payments; revising how impact assistance payment amounts are calculated; providing rulemaking authority; repealing conflicting provisions; and providing for an effective date.

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

Section 1. W.S. 39-15-111(c) and (d)(i) and 39-16-111(d) and (e)(i) are amended to read:

39-15-111. Distribution.

(c) If any person commences after the effective date of this act to construct an industrial facility, as that term is defined in W.S. 35-12-102, under a permit issued pursuant to W.S. 35-12-106, or if the federal or state government commences to construct any project within this state with an estimated construction cost as specified in the definition of industrial facility in W.S. 35-12-102 the state treasurer shall thereafter pay to the county treasurer and the county treasurer will distribute to the county, cities and towns of that county in which the industrial facility or project is located, impact assistance payments from the monies available under paragraph (b)(i) of this section. Each payment to the county treasurer shall be equal to ~~the excess of each monthly payment made under paragraph (b)(iii) of this section during the period of construction over the base period amount~~ an amount determined by the industrial siting council under this subsection and shall continue during the period of construction except that in the case of an industrial facility or a federal or state government project which is expected to continue in phases for an indefinite period of time, the state treasurer shall discontinue payments under this section ~~and establish a new base period~~ when construction of any phase has ceased or been substantially completed for twelve (12) consecutive months. The person constructing the industrial facility and the counties affected by the construction of the industrial facility shall provide estimates of the impact that the construction will have on the county and political subdivisions within the county. The industrial siting council shall review the estimates of the impacts and other evidence it deems appropriate and determine the amount of impact assistance payments under this section. These impact assistance payments shall be distributed at a rate proportionate to the rate of completion of the industrial facility. The total amount of excise taxes distributed shall be equal to the lesser of the amount determined by the council under this subsection or the amount of excise taxes accruing to the state and paid by the industrial facility. The impact assistance payments shall be distributed to the county treasurer and the county treasurer will distribute to the county and to the cities and towns therein based on a ratio established by the industrial siting council during a public hearing held in accordance with W.S. 35-12-110. The industrial siting council shall review the distribution ratio for construction projects on a regular basis and make appropriate adjustments. A governing body which is primarily affected by the facility, or any person issued a permit pursuant to W.S. 35-12-106, may petition the industrial siting council for review and adjustment of the distribution ratio or the amount of the impact assistance payment upon a showing of good cause. The impact assistance payment shall be in addition to all other distributions under this section, but no impact assistance payment shall be made for any period in which the county or counties are not imposing at least a one percent (1%) tax authorized by W.S. 39-15-204(a)(i) and 39-16-204(a)(i) or at least a total of a two percent (2%) sales tax authorized under W.S. 39-15-204(a)(i), (iii) and (vi) and at least a total of a two percent (2%) use tax authorized under W.S. 39-16-204(a)(i), (ii) and (v). For purposes of this subsection, the industrial facility or federal or state government project will be deemed to be located in the county in which a majority of the construction costs will be expended, provided that upon a request from the county commissioners of any adjoining county to the industrial siting council, the council may determine that the social and economic impacts from construction of the industrial facility or federal or state government project upon the adjoining county are significant and establish the ratio of impacts between the counties and certify that ratio to the state treasurer who will thereafter distribute the impact assistance payment to the counties pursuant to that ratio. The industrial siting council shall adopt rules as necessary to implement this subsection.

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

(i) "Period of construction" begins at the commencement of construction and ends when the physical components of the industrial facility or federal or state government project are ninety percent (90%) complete, provided, if payments are already being made under this act, commencement of construction of another industrial facility or federal or state government project will not be considered for purposes of establishing a new ~~base period~~ impact assistance payment amount or determining when payments will commence under this act, but will only be considered for determining when the period of construction ends.~~;~~

39-16-111. Distribution.

(d) If any person commences after the effective date of this act to construct an industrial facility, as that term is defined in W.S. 35-12-102, under a permit issued pursuant to W.S. 35-12-106, or if the federal or state government commences to construct any project within this state with an estimated construction cost as specified in the definition of industrial facility in W.S. 35-12-102 the state treasurer shall thereafter pay to the county treasurer and the county treasurer will distribute to the county, cities and towns of that county in which the industrial facility or project is located, impact assistance payments from the monies available under paragraph (b)(i) of this section. Each payment to the county treasurer shall be equal to ~~the excess of each monthly payment made under paragraph (b)(iii) of this section during the period of construction over the base period amount~~ an amount determined by the industrial siting council under this subsection and shall continue during the period of construction except that in the case of an industrial facility or a federal or state government project which is expected to continue in phases for an indefinite period of time, the state treasurer shall discontinue payments under this section ~~and establish a new base period~~ when construction of any phase has ceased or been substantially completed for twelve (12) consecutive months. The person constructing the industrial facility and the counties affected by the construction of the industrial facility shall provide estimates of the impact that the construction will have on the county and the political subdivisions within the county. The industrial siting council shall review the estimates of the impacts and other evidence it deems appropriate and determine the amount of impact assistance payments under this section. These impact assistance payments shall be distributed at a rate proportionate to the rate of completion of the industrial facility. The total amount of excise taxes distributed shall be equal to the lesser of the amount determined by the council under this subsection or the amount of excise taxes accruing to the state and paid by the industrial facility. The impact assistance payments shall be distributed to the county treasurer and the county treasurer will distribute to the county and to the cities and towns therein based on a ratio established by the industrial siting council during a public hearing held in accordance with W.S. 35-12-110. The impact assistance payment shall be in addition to all other distributions under this section, but no impact assistance payment shall be made for any period in which the county or counties are not imposing at least a one percent (1%) tax authorized by W.S. 39-15-204(a)(i) and 39-16-204(a)(i) or at least a total of a two percent (2%) sales tax authorized under W.S. 39-15-204(a)(i), (iii) and (vi) and at least a total of a two percent (2%) use tax authorized under W.S. 39-16-204(a)(i), (ii) and (v). For purposes of this subsection, the industrial facility or federal or state government project will be deemed to be located in the county in which a majority of the construction costs will be expended, provided that upon a request from the county commissioners of an adjoining county to the industrial siting council, the council may determine that the social and economic impacts from construction of the industrial facility or federal or state government project upon the adjoining county are significant and establish the ratio of impacts between the counties and certify that ratio to the state treasurer who will thereafter distribute the impact assistance payment to the counties pursuant to that ratio. <u>The industrial siting council shall adopt rules as necessary to implement this subsection.</u>

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

(i) "Period of construction" begins at the commencement of construction and ends when the physical components of the industrial facility or federal or state government project are ninety percent (90%) complete, and provided, if payments are already being made under this act, commencement of construction of another industrial facility or federal or state government project will not be considered for purposes of establishing a new ~~base period~~ impact assistance payment amount or determining when payments will commence under this act, but will only be considered for determining when the period of construction ends.~~;~~

Section 2. W.S. 39-15-111(d)(ii) and 39-16-111(e)(ii) are repealed.

Section 3. This act is effective July 1, 2012.

(END)