

HOUSE BILL NO. HB0051

Industrial siting impact payments.

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

A BILL

for

1 AN ACT relating to impact assistance payments; revising how
2 impact assistance payment amounts are calculated; providing
3 rulemaking authority; repealing conflicting provisions; and
4 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(c) and (d)(i) and
9 39-16-111(d) and (e)(i) are amended to read:

10

11 **39-15-111. Distribution.**

12

13 (c) If any person commences after the effective date
14 of this act to construct an industrial facility, as that
15 term is defined in W.S. 35-12-102, under a permit issued
16 pursuant to W.S. 35-12-106, or if the federal or state

1 government commences to construct any project within this
2 state with an estimated construction cost as specified in
3 the definition of industrial facility in W.S. 35-12-102 the
4 state treasurer shall thereafter pay to the county
5 treasurer and the county treasurer will distribute to the
6 county, cities and towns of that county in which the
7 industrial facility or project is located, impact
8 assistance payments from the monies available under
9 paragraph (b)(i) of this section. Each payment to the
10 county treasurer shall be equal to ~~the excess of each~~
11 ~~monthly payment made under paragraph (b)(iii) of this~~
12 ~~section during the period of construction over the base~~
13 ~~period amount~~ an amount determined by the industrial siting
14 council under this subsection and shall continue during the
15 period of construction except that in the case of an
16 industrial facility or a federal or state government
17 project which is expected to continue in phases for an
18 indefinite period of time, the state treasurer shall
19 discontinue payments under this section ~~and establish a new~~
20 ~~base period~~ when construction of any phase has ceased or
21 been substantially completed for twelve (12) consecutive
22 months. The person constructing the industrial facility and
23 the counties affected by the construction of the industrial
24 facility shall provide estimates of the impact that the

1 construction will have on the county and political
2 subdivisions within the county. The industrial siting
3 council shall review the estimates of the impacts and other
4 evidence it deems appropriate and determine the amount of
5 impact assistance payments under this section. These
6 impact assistance payments shall be distributed at a rate
7 proportionate to the rate of completion of the industrial
8 facility. The total amount of excise taxes distributed
9 shall be equal to the lesser of the amount determined by
10 the council under this subsection or the amount of excise
11 taxes accruing to the state and paid by the industrial
12 facility. The impact assistance payments shall be
13 distributed to the county treasurer and the county
14 treasurer will distribute to the county and to the cities
15 and towns therein based on a ratio established by the
16 industrial siting council during a public hearing held in
17 accordance with W.S. 35-12-110. The industrial siting
18 council shall review the distribution ratio for
19 construction projects on a regular basis and make
20 appropriate adjustments. A governing body which is
21 primarily affected by the facility, or any person issued a
22 permit pursuant to W.S. 35-12-106, may petition the
23 industrial siting council for review and adjustment of the
24 distribution ratio or the amount of the impact assistance

1 payment upon a showing of good cause. The impact assistance
2 payment shall be in addition to all other distributions
3 under this section, but no impact assistance payment shall
4 be made for any period in which the county or counties are
5 not imposing at least a one percent (1%) tax authorized by
6 W.S. 39-15-204(a)(i) and 39-16-204(a)(i) or at least a
7 total of a two percent (2%) sales tax authorized under W.S.
8 39-15-204(a)(i), (iii) and (vi) and at least a total of a
9 two percent (2%) use tax authorized under W.S.
10 39-16-204(a)(i), (ii) and (v). For purposes of this
11 subsection, the industrial facility or federal or state
12 government project will be deemed to be located in the
13 county in which a majority of the construction costs will
14 be expended, provided that upon a request from the county
15 commissioners of any adjoining county to the industrial
16 siting council, the council may determine that the social
17 and economic impacts from construction of the industrial
18 facility or federal or state government project upon the
19 adjoining county are significant and establish the ratio of
20 impacts between the counties and certify that ratio to the
21 state treasurer who will thereafter distribute the impact
22 assistance payment to the counties pursuant to that ratio.
23 The industrial siting council shall adopt rules as
24 necessary to implement this subsection.

1

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

3

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

16

17 **39-16-111. Distribution.**

18

19 (d) If any person commences after the effective date
20 of this act to construct an industrial facility, as that
21 term is defined in W.S. 35-12-102, under a permit issued
22 pursuant to W.S. 35-12-106, or if the federal or state
23 government commences to construct any project within this
24 state with an estimated construction cost as specified in

1 the definition of industrial facility in W.S. 35-12-102 the
2 state treasurer shall thereafter pay to the county
3 treasurer and the county treasurer will distribute to the
4 county, cities and towns of that county in which the
5 industrial facility or project is located, impact
6 assistance payments from the monies available under
7 paragraph (b)(i) of this section. Each payment to the
8 county treasurer shall be equal to ~~the excess of each~~
9 ~~monthly payment made under paragraph (b)(iii) of this~~
10 ~~section during the period of construction over the base~~
11 ~~period amount~~ an amount determined by the industrial siting
12 council under this subsection and shall continue during the
13 period of construction except that in the case of an
14 industrial facility or a federal or state government
15 project which is expected to continue in phases for an
16 indefinite period of time, the state treasurer shall
17 discontinue payments under this section ~~and establish a new~~
18 ~~base period~~ when construction of any phase has ceased or
19 been substantially completed for twelve (12) consecutive
20 months. The person constructing the industrial facility and
21 the counties affected by the construction of the industrial
22 facility shall provide estimates of the impact that the
23 construction will have on the county and the political
24 subdivisions within the county. The industrial siting

1 council shall review the estimates of the impacts and other
2 evidence it deems appropriate and determine the amount of
3 impact assistance payments under this section. These
4 impact assistance payments shall be distributed at a rate
5 proportionate to the rate of completion of the industrial
6 facility. The total amount of excise taxes distributed
7 shall be equal to the lesser of the amount determined by
8 the council under this subsection or the amount of excise
9 taxes accruing to the state and paid by the industrial
10 facility. The impact assistance payments shall be
11 distributed to the county treasurer and the county
12 treasurer will distribute to the county and to the cities
13 and towns therein based on a ratio established by the
14 industrial siting council during a public hearing held in
15 accordance with W.S. 35-12-110. The impact assistance
16 payment shall be in addition to all other distributions
17 under this section, but no impact assistance payment shall
18 be made for any period in which the county or counties are
19 not imposing at least a one percent (1%) tax authorized by
20 W.S. 39-15-204(a)(i) and 39-16-204(a)(i) or at least a
21 total of a two percent (2%) sales tax authorized under W.S.
22 39-15-204(a)(i), (iii) and (vi) and at least a total of a
23 two percent (2%) use tax authorized under W.S.
24 39-16-204(a)(i), (ii) and (v). For purposes of this

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

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

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18 (i) "Period of construction" begins at the
19 commencement of construction and ends when the physical
20 components of the industrial facility or federal or state
21 government project are ninety percent (90%) complete, and
22 provided, if payments are already being made under this
23 act, commencement of construction of another industrial
24 facility or federal or state government project will not be

1 considered for purposes of establishing a new ~~base period~~
2 impact assistance payment amount or determining when
3 payments will commence under this act, but will only be
4 considered for determining when the period of construction
5 ends. ~~+~~

6

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

9

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

11

12 (END)