

SENATE FILE NO. SF0082

Local impact assistance payments.

Sponsored by: Joint Appropriations Committee

A BILL

for

1 AN ACT relating to impact assistance payments; amending
2 requirements related to impact assistance payments as
3 specified; providing definitions; specifying applicability;
4 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(c) and (d) by creating a
9 new paragraph (iii) and 39-16-111(d) and (e) by creating a
10 new paragraph (iii) are amended to read:

11

12 **39-15-111. Distribution.**

13

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

1 pursuant to W.S. 35-12-106, or if the federal or state
2 government commences to construct any project within this
3 state with an estimated construction cost as specified in
4 the definition of industrial facility in W.S. 35-12-102 the
5 department of revenue shall thereafter pay to the county
6 treasurer and the county treasurer will distribute to the
7 county, cities and towns of that county in which the
8 industrial facility or project is located, impact
9 assistance payments from the monies available under
10 paragraph (b)(i) of this section. Each payment to the
11 county treasurer shall be equal to an amount determined by
12 the industrial siting council under this subsection and
13 shall continue during the period of construction except
14 that in the case of an industrial facility or a federal or
15 state government project which is expected to continue in
16 phases for an indefinite period of time, the department of
17 revenue shall discontinue payments under this section when
18 construction of any phase has ceased or been substantially
19 completed for twelve (12) consecutive months. The person
20 constructing the industrial facility and the counties
21 affected by the construction of the industrial facility
22 shall provide evidence at the public hearing held pursuant
23 to W.S. 35-12-110(f)(i) of the mitigated and unmitigated

1 impacts that the construction will have on the counties,
2 cities and towns determined by the industrial siting
3 council to be affected by the construction of the
4 industrial facility. The industrial siting council shall
5 review the evidence of the impacts and determine, applying
6 a preponderance of evidence standard, the dollar amount of
7 the unmitigated impacts. The council shall state, in the
8 order issued under W.S. 35-12-113(a), the total dollar
9 amount of the impact assistance payment and ~~the reasons for~~
10 ~~determining that amount~~ include specific findings of fact
11 detailing the basis for the total dollar amount
12 determination. The impact assistance payment shall be
13 distributed by the department of revenue in an amount and
14 on a schedule determined by the council, based on evidence
15 presented at the hearing. Under no circumstances shall the
16 total dollar amount of the impact assistance payment exceed
17 ~~two and seventy-six hundredths percent (2.76%)~~ two and
18 twenty-five hundredths percent (2.25%) of the total
19 estimated material costs of the facility, as those costs
20 are determined by the council. The impact assistance
21 payments shall be distributed to the county treasurer and
22 the county treasurer will distribute to the county and to
23 the cities and towns therein based on a ratio established

1 by the industrial siting council during a public hearing
2 held in accordance with W.S. 35-12-110(f)(i). In
3 determining the distribution ratio, the industrial siting
4 council may consider the extent and location of the
5 unmitigated impacts, the populations of the affected
6 counties, cities and towns, including any disproportionate
7 impacts on smaller communities, and any other equitable
8 factor. The industrial siting council shall review the
9 distribution ratio for construction projects on a regular
10 basis and make appropriate adjustments. A governing body
11 which is primarily affected by the facility, or any person
12 issued a permit pursuant to W.S. 35-12-106, may petition
13 the industrial siting council for review and adjustment of
14 the distribution ratio or the amount of the impact
15 assistance payment upon a showing of good cause. The impact
16 assistance payment shall be in addition to all other
17 distributions under this section, but no impact assistance
18 payment shall be made for any period in which the county or
19 counties are not imposing at least a one percent (1%) tax
20 authorized by W.S. 39-15-204(a)(i) and 39-16-204(a)(i) or
21 at least a total of a two percent (2%) sales tax authorized
22 under W.S. 39-15-204(a)(i), (iii) and (vi) and at least a
23 total of a two percent (2%) use tax authorized under W.S.

1 39-16-204(a)(i), (ii) and (v). For purposes of this
2 subsection, the industrial facility or federal or state
3 government project will be deemed to be located in the
4 county in which a majority of the construction costs will
5 be expended, provided that upon a request from the county
6 commissioners of any adjoining county to the industrial
7 siting council, the council may determine that the social
8 and economic impacts from construction of the industrial
9 facility or federal or state government project upon the
10 adjoining county are significant and establish the ratio of
11 impacts between the counties and certify that ratio to the
12 department of revenue who will thereafter distribute the
13 impact assistance payment to the counties pursuant to that
14 ratio. The industrial siting council shall adopt rules as
15 necessary to implement this subsection.

16

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

18

19 (iii) "Unmitigated impact" means an expense:

20

21 (A) Incurred by a county, city or town

22 directly or indirectly attributable to the construction of

23 an industrial facility;

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

(B) That is not otherwise mitigated by any other entity;

(C) For medical services, fire and law enforcement services, roads and public utilities. Expenses shall be supported by an analysis prepared by the county, city or town of the current excess capacity in each of these areas. Expenses in these areas may include the employment of additional employees or officers only if the county, city or town has determined overtime compensation or contract labor would not be appropriate; and

(D) Excluding expenses for which a county, city or town previously received an impact assistance payment unless the county, city or town can demonstrate the expenses are new or ongoing.

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

1 pursuant to W.S. 35-12-106, or if the federal or state
2 government commences to construct any project within this
3 state with an estimated construction cost as specified in
4 the definition of industrial facility in W.S. 35-12-102 the
5 department of revenue shall thereafter pay to the county
6 treasurer and the county treasurer will distribute to the
7 county, cities and towns of that county in which the
8 industrial facility or project is located, impact
9 assistance payments from the monies available under
10 paragraph (b)(i) of this section. Each payment to the
11 county treasurer shall be equal to an amount determined by
12 the industrial siting council under this subsection and
13 shall continue during the period of construction except
14 that in the case of an industrial facility or a federal or
15 state government project which is expected to continue in
16 phases for an indefinite period of time, the department of
17 revenue shall discontinue payments under this section when
18 construction of any phase has ceased or been substantially
19 completed for twelve (12) consecutive months. The person
20 constructing the industrial facility and the counties
21 affected by the construction of the industrial facility
22 shall provide evidence at the public hearing held pursuant
23 to W.S. 35-12-110(f)(i) of the mitigated and unmitigated

1 impacts that the construction will have on the counties,
2 cities and towns determined by the industrial siting
3 council to be affected by the construction of the
4 industrial facility. The industrial siting council shall
5 review the evidence of the impacts and determine, applying
6 a preponderance of evidence standard, the dollar amount of
7 the unmitigated impacts. The council shall state, in the
8 order issued under W.S. 35-12-113(a), the total dollar
9 amount of the impact assistance payment and ~~the reasons for~~
10 ~~determining that~~ include specific findings of fact
11 detailing the basis for the total dollar amount
12 determination. The impact assistance payment shall be
13 distributed by the department of revenue in an amount and
14 on a schedule determined by the council, based on evidence
15 presented at the hearing. Under no circumstances shall the
16 total dollar amount of the impact assistance payment exceed
17 ~~two and seventy-six hundredths percent (2.76%)~~ two and
18 twenty-five hundredths percent (2.25%) of the total
19 estimated material costs of the facility, as those costs
20 are determined by the council. The impact assistance
21 payments shall be distributed to the county treasurer and
22 the county treasurer will distribute to the county and to
23 the cities and towns therein based on a ratio established

1 by the industrial siting council during a public hearing
2 held in accordance with W.S. 35-12-110(f)(i). In
3 determining the distribution ratio, the industrial siting
4 council may consider the extent and location of the
5 unmitigated impacts, the populations of the affected
6 counties, cities and towns, including any disproportionate
7 impacts on smaller communities, and any other equitable
8 factor. The industrial siting council shall review the
9 distribution ratio for construction projects on a regular
10 basis and make appropriate adjustments. A governing body
11 which is primarily affected by the facility, or any person
12 issued a permit pursuant to W.S. 35-12-106, may petition
13 the industrial siting council for review and adjustment of
14 the distribution ratio or the amount of the impact
15 assistance payment upon a showing of good cause. The
16 impact assistance payment shall be in addition to all other
17 distributions under this section, but no impact assistance
18 payment shall be made for any period in which the county or
19 counties are not imposing at least a one percent (1%) tax
20 authorized by W.S. 39-15-204(a)(i) and 39-16-204(a)(i) or
21 at least a total of a two percent (2%) sales tax authorized
22 under W.S. 39-15-204(a)(i), (iii) and (vi) and at least a
23 total of a two percent (2%) use tax authorized under W.S.

1 39-16-204(a)(i), (ii) and (v). For purposes of this
2 subsection, the industrial facility or federal or state
3 government project will be deemed to be located in the
4 county in which a majority of the construction costs will
5 be expended, provided that upon a request from the county
6 commissioners of an adjoining county to the industrial
7 siting council, the council may determine that the social
8 and economic impacts from construction of the industrial
9 facility or federal or state government project upon the
10 adjoining county are significant and establish the ratio of
11 impacts between the counties and certify that ratio to the
12 department of revenue who will thereafter distribute the
13 impact assistance payment to the counties pursuant to that
14 ratio. The industrial siting council shall adopt rules as
15 necessary to implement this subsection.

16

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

18

19 (iii) "Unmitigated impact" means as defined by
20 W.S. 39-15-111(d)(iii).

21

22 **Section 2.** This act shall only apply to impact
23 assistance payments for industrial facilities approved on

1 or after the effective date of this act. The impact
2 assistance payments for industrial facilities that are not
3 subject to this act shall be determined on the basis of the
4 law as it existed at the time the request for the impact
5 assistance payment was submitted to the industrial siting
6 council.

7

8 **Section 3.** This act is effective July 1, 2021.

9

10

(END)