

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 percent
18 (2%) of the total estimated material costs of the facility,
19 as those costs are determined by the council. The impact
20 assistance payments shall be distributed to the county
21 treasurer and the county treasurer will distribute to the
22 county and to the cities and towns therein based on a ratio
23 established by the industrial siting council during a

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

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

14

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

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

18

19 (A) Incurred by a county, city or town
20 directly attributable to the construction of an industrial
21 facility;

22

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

3
4 (C) For medical services, fire and law
5 enforcement services, roads and public utilities. Expenses
6 shall be supported by an analysis prepared by the county,
7 city or town of the current excess capacity in each of
8 these areas. Expenses in these areas may include the
9 employment of additional employees or officers only if the
10 county, city or town has determined overtime compensation
11 or contract labor would not be appropriate; and

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13 (D) Excluding:

14
15 (I) Expenses related to improvements
16 to existing structures beyond that necessary to return the
17 structure to the condition in which the structure existed
18 before the construction of the industrial facility;

19
20 (II) Expenses for which a county, city
21 or town previously received an impact assistance payment
22 unless the county, city or town can demonstrate the
23 expenses are new or ongoing.

1

2 **39-16-111. Distribution.**

3

4 (d) If any person commences after the effective date
5 of this act to construct an industrial facility, as that
6 term is defined in W.S. 35-12-102, under a permit issued
7 pursuant to W.S. 35-12-106, or if the federal or state
8 government commences to construct any project within this
9 state with an estimated construction cost as specified in
10 the definition of industrial facility in W.S. 35-12-102 the
11 department of revenue shall thereafter pay to the county
12 treasurer and the county treasurer will distribute to the
13 county, cities and towns of that county in which the
14 industrial facility or project is located, impact
15 assistance payments from the monies available under
16 paragraph (b)(i) of this section. Each payment to the
17 county treasurer shall be equal to an amount determined by
18 the industrial siting council under this subsection and
19 shall continue during the period of construction except
20 that in the case of an industrial facility or a federal or
21 state government project which is expected to continue in
22 phases for an indefinite period of time, the department of
23 revenue shall discontinue payments under this section when

1 construction of any phase has ceased or been substantially
2 completed for twelve (12) consecutive months. The person
3 constructing the industrial facility and the counties
4 affected by the construction of the industrial facility
5 shall provide evidence at the public hearing held pursuant
6 to W.S. 35-12-110(f)(i) of the mitigated and unmitigated
7 impacts that the construction will have on the counties,
8 cities and towns determined by the industrial siting
9 council to be affected by the construction of the
10 industrial facility. The industrial siting council shall
11 review the evidence of the impacts and determine, applying
12 a preponderance of evidence standard, the dollar amount of
13 the unmitigated impacts. The council shall state, in the
14 order issued under W.S. 35-12-113(a), the total dollar
15 amount of the impact assistance payment and ~~the reasons for~~
16 ~~determining that~~ include specific findings of fact
17 detailing the basis for the total dollar amount
18 determination. The impact assistance payment shall be
19 distributed by the department of revenue in an amount and
20 on a schedule determined by the council, based on evidence
21 presented at the hearing. Under no circumstances shall the
22 total dollar amount of the impact assistance payment exceed
23 ~~two and seventy-six hundredths percent (2.76%)~~ two percent

1 (2%) of the total estimated material costs of the facility,
2 as those costs are determined by the council. The impact
3 assistance payments shall be distributed to the county
4 treasurer and the county treasurer will distribute to the
5 county and to the cities and towns therein based on a ratio
6 established by the industrial siting council during a
7 public hearing held in accordance with W.S.
8 35-12-110(f)(i). In determining the distribution ratio,
9 the industrial siting council may consider the extent and
10 location of the unmitigated impacts, the populations of the
11 affected counties, cities and towns and any other equitable
12 factor. The industrial siting council shall review the
13 distribution ratio for construction projects on a regular
14 basis and make appropriate adjustments. A governing body
15 which is primarily affected by the facility, or any person
16 issued a permit pursuant to W.S. 35-12-106, may petition
17 the industrial siting council for review and adjustment of
18 the distribution ratio or the amount of the impact
19 assistance payment upon a showing of good cause. 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

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

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

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

3

4 **Section 2.** This act shall only apply to impact
 5 assistance payments for industrial facilities approved on
 6 or after the effective date of this act. The impact
 7 assistance payments for industrial facilities that are not
 8 subject to this act shall be determined on the basis of the
 9 law as it existed at the time the request for the impact
 10 assistance payment was submitted to the industrial siting
 11 council.

12

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

14

15

(END)