

## HOUSE BILL NO. HB0047

Local impact assistance payments.

Sponsored by: Joint Minerals, Business & Economic  
Development Interim Committee

A BILL

for

1 AN ACT relating to impact assistance payments; amending  
2 requirements related to impact assistance payments;  
3 providing definitions; requiring reporting; specifying  
4 applicability; 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

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

1 to W.S. 35-12-110(f)(i) of the mitigated and unmitigated  
2 impacts that the construction will have on the counties,  
3 cities and towns determined by the industrial siting  
4 council to be affected by the construction of the  
5 industrial facility. The industrial siting council shall  
6 review the evidence of the impacts and determine, applying  
7 a preponderance of evidence standard, the dollar amount of  
8 the unmitigated impacts. The council shall state, in the  
9 order issued under W.S. 35-12-113(a), the total dollar  
10 amount of the impact assistance payment and ~~the reasons for~~  
11 ~~determining that~~ include specific findings of fact  
12 detailing the basis for the total dollar amount  
13 determination and if requested by the applicant, its  
14 justification for rejecting, in whole or in part, an  
15 application for an impact assistance payment. The impact  
16 assistance payment shall be distributed by the department  
17 of revenue in an amount and on a schedule determined by the  
18 council, based on evidence presented at the hearing. Under  
19 no circumstances shall the total dollar amount of the  
20 impact assistance payment exceed ~~two and seventy six~~  
21 ~~hundredths percent (2.76%)~~ the maximum allowable percentage  
22 specified in this subsection of the total estimated  
23 material costs of the facility, as those costs are

1 determined by the council. The maximum allowable percentage  
2 shall be two and twenty-five hundredths percent (2.25%) for  
3 facilities with total estimated materials costs of three  
4 hundred fifty million dollars (\$350,000,000.00) or less  
5 except as otherwise provided in this subsection, two  
6 percent (2%) for facilities with total estimated materials  
7 costs in excess of three hundred fifty million dollars  
8 (\$350,000,000.00) but less than eight hundred fifty million  
9 dollars (\$850,000,000.00) and one and one-half percent  
10 (1.50%) for facilities with total estimated materials costs  
11 of eight hundred fifty million dollars (\$850,000,000.00) or  
12 more. For facilities with total estimated materials costs  
13 of three hundred fifty million dollars (\$350,000,000.00) or  
14 less, the council may increase the maximum allowable  
15 percentage to not more than two and fifty-five hundredths  
16 percent (2.55%) if the council includes in the specific  
17 findings required under this subsection that the maximum  
18 allowable percentage of two and twenty-five hundredths  
19 percent (2.25%) is insufficient to mitigate the identified  
20 impacts. The council shall submit a report to the joint  
21 appropriations committee and the joint minerals, business  
22 and economic development interim committee not later than  
23 ten (10) business days after increasing the maximum

1 allowable percentage as specified in this subsection,  
2 including data to support the increase. 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, the  
9 industrial siting council may consider the extent and  
10 location of the unmitigated impacts, the populations of the  
11 affected counties, cities and towns, including any  
12 disproportionate impacts on smaller communities, and any  
13 other equitable factor. The industrial siting council shall  
14 review the distribution ratio for construction projects on  
15 a regular basis and make appropriate adjustments. A  
16 governing body which is primarily affected by the facility,  
17 or any person issued a permit pursuant to W.S. 35-12-106,  
18 may petition the industrial siting council for review and  
19 adjustment of the distribution ratio or the amount of the  
20 impact assistance payment upon a showing of good cause. The  
21 impact assistance payment shall be in addition to all other  
22 distributions under this section, but no impact assistance  
23 payment shall be made for any period in which the county or

1 counties are not imposing at least a one percent (1%) tax  
2 authorized by W.S. 39-15-204(a)(i) and 39-16-204(a)(i) or  
3 at least a total of a two percent (2%) sales tax authorized  
4 under W.S. 39-15-204(a)(i), (iii) and (vi) and at least a  
5 total of a two percent (2%) use tax authorized under W.S.  
6 39-16-204(a)(i), (ii) and (v). For purposes of this  
7 subsection, the industrial facility or federal or state  
8 government project will be deemed to be located in the  
9 county in which a majority of the construction costs will  
10 be expended, provided that upon a request from the county  
11 commissioners of any adjoining county to the industrial  
12 siting council, the council may determine that the social  
13 and economic impacts from construction of the industrial  
14 facility or federal or state government project upon the  
15 adjoining county are significant and establish the ratio of  
16 impacts between the counties and certify that ratio to the  
17 department of revenue who will thereafter distribute the  
18 impact assistance payment to the counties pursuant to that  
19 ratio. Each county, city and town that receives a  
20 distribution under this subsection shall provide an annual  
21 report to the industrial siting council describing how the  
22 impact assistance payment was expended. The report shall  
23 first be submitted not later than one (1) year after the

1 impact assistance payment is approved and annually each  
2 year thereafter for the duration in which distributions are  
3 made and until all distributions are expended. The  
4 industrial siting council shall adopt rules as necessary to  
5 implement this subsection.

6

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

8

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

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11 (A) Incurred by a county, city or town  
12 directly or indirectly attributable to the construction of  
13 an industrial facility;

14

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

17

18 (C) For medical services, fire and law  
19 enforcement services, roads and public utilities. Expenses  
20 shall be supported by an analysis prepared by the county,  
21 city or town of the current excess capacity in each of  
22 these areas. Expenses in these areas may include the  
23 employment of additional employees or officers only if the

1 county, city or town has determined overtime compensation  
2 or contract labor would not be appropriate; and

3

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

8

9 **39-16-111. Distribution.**

10

11 (d) If any person commences after the effective date  
12 of this act to construct an industrial facility, as that  
13 term is defined in W.S. 35-12-102, under a permit issued  
14 pursuant to W.S. 35-12-106, or if the federal or state  
15 government commences to construct any project within this  
16 state with an estimated construction cost as specified in  
17 the definition of industrial facility in W.S. 35-12-102 the  
18 department of revenue shall thereafter pay to the county  
19 treasurer and the county treasurer will distribute to the  
20 county, cities and towns of that county in which the  
21 industrial facility or project is located, impact  
22 assistance payments from the monies available under  
23 paragraph (b)(i) of this section. Each payment to the



1 county treasurer shall be equal to an amount determined by  
2 the industrial siting council under this subsection and  
3 shall continue during the period of construction except  
4 that in the case of an industrial facility or a federal or  
5 state government project which is expected to continue in  
6 phases for an indefinite period of time, the department of  
7 revenue shall discontinue payments under this section when  
8 construction of any phase has ceased or been substantially  
9 completed for twelve (12) consecutive months. The person  
10 constructing the industrial facility and the counties  
11 affected by the construction of the industrial facility  
12 shall provide evidence at the public hearing held pursuant  
13 to W.S. 35-12-110(f)(i) of the mitigated and unmitigated  
14 impacts that the construction will have on the counties,  
15 cities and towns determined by the industrial siting  
16 council to be affected by the construction of the  
17 industrial facility. The industrial siting council shall  
18 review the evidence of the impacts and determine, applying  
19 a preponderance of evidence standard, the dollar amount of  
20 the unmitigated impacts. The council shall state, in the  
21 order issued under W.S. 35-12-113(a), the total dollar  
22 amount of the impact assistance payment and ~~the reasons for~~  
23 ~~determining that~~ include specific findings of fact

1 detailing the basis for the total dollar amount  
2 determination and if requested by the applicant, its  
3 justification for rejecting, in whole or in part, an  
4 application for an impact assistance payment. The impact  
5 assistance payment shall be distributed by the department  
6 of revenue in an amount and on a schedule determined by the  
7 council, based on evidence presented at the hearing. Under  
8 no circumstances shall the total dollar amount of the  
9 impact assistance payment exceed ~~two and seventy six~~  
10 ~~hundredths percent (2.76%)~~ the maximum allowable percentage  
11 specified in this subsection of the total estimated  
12 material costs of the facility, as those costs are  
13 determined by the council. The maximum allowable percentage  
14 shall be two and twenty-five hundredths percent (2.25%) for  
15 facilities with total estimated materials costs of three  
16 hundred fifty million dollars (\$350,000,000.00) or less  
17 except as otherwise provided in this subsection, two  
18 percent (2%) for facilities with total estimated materials  
19 costs in excess of three hundred fifty million dollars  
20 (\$350,000,000.00) but less than eight hundred fifty million  
21 dollars (\$850,000,000.00) and one and one-half percent  
22 (1.50%) for facilities with total estimated materials costs  
23 of eight hundred fifty million dollars (\$850,000,000.00) or

1 more. For facilities with total estimated materials costs  
2 of three hundred fifty million dollars (\$350,000,000.00) or  
3 less, the council may increase the maximum allowable  
4 percentage to not more than two and fifty-five hundredths  
5 percent (2.55%) if the council includes in the specific  
6 findings required under this subsection that the maximum  
7 allowable percentage of two and twenty-five hundredths  
8 percent (2.25%) is insufficient to mitigate the identified  
9 impacts. The council shall submit a report to the joint  
10 appropriations committee and the joint minerals, business  
11 and economic development interim committee not later than  
12 ten (10) business days after increasing the maximum  
13 allowable percentage as specified in this subsection,  
14 including data to support the increase. 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.  
20 35-12-110(f)(i). In determining the distribution ratio, the  
21 industrial siting council may consider the extent and  
22 location of the unmitigated impacts, the populations of the  
23 affected counties, cities and towns, including any

1 disproportionate impacts on smaller communities, and any  
2 other equitable factor. The industrial siting council shall  
3 review the distribution ratio for construction projects on  
4 a regular basis and make appropriate adjustments. A  
5 governing body which is primarily affected by the facility,  
6 or any person issued a permit pursuant to W.S. 35-12-106,  
7 may petition the industrial siting council for review and  
8 adjustment of the distribution ratio or the amount of the  
9 impact assistance payment upon a showing of good cause.  
10 The impact assistance payment shall be in addition to all  
11 other distributions under this section, but no impact  
12 assistance payment shall be made for any period in which  
13 the county or counties are not imposing at least a one  
14 percent (1%) tax authorized by W.S. 39-15-204(a)(i) and  
15 39-16-204(a)(i) or at least a total of a two percent (2%)  
16 sales tax authorized under W.S. 39-15-204(a)(i), (iii) and  
17 (vi) and at least a total of a two percent (2%) use tax  
18 authorized under W.S. 39-16-204(a)(i), (ii) and (v). For  
19 purposes of this subsection, the industrial facility or  
20 federal or state government project will be deemed to be  
21 located in the county in which a majority of the  
22 construction costs will be expended, provided that upon a  
23 request from the county commissioners of an adjoining

1 county to the industrial siting council, the council may  
2 determine that the social and economic impacts from  
3 construction of the industrial facility or federal or state  
4 government project upon the adjoining county are  
5 significant and establish the ratio of impacts between the  
6 counties and certify that ratio to the department of  
7 revenue who will thereafter distribute the impact  
8 assistance payment to the counties pursuant to that ratio.  
9 Each county, city and town that receives a distribution  
10 under this subsection shall provide an annual report to the  
11 industrial siting council describing how the impact  
12 assistance payment was expended. The report shall first be  
13 submitted not later than one (1) year after the impact  
14 assistance payment is approved and annually each year  
15 thereafter for the duration in which distributions are made  
16 and until all distributions are expended. The industrial  
17 siting council shall adopt rules as necessary to implement  
18 this subsection.

19

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

21

22 (iii) "Unmitigated impact" means as defined by

23 W.S. 39-15-111(d)(iii).

1

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

10

11           **Section 3.** This act is effective July 1, 2022.

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(END)