

INTERLOCAL COOPERATION ACT REVISIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John L. Valentine

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to a taxed interlocal entity.

Highlighted Provisions:

This bill:

- ▶ amends the definition of taxed interlocal entity.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-13-315, as enacted by Laws of Utah 2013, Chapter 230

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **11-13-315** is amended to read:

11-13-315. Taxed interlocal entity.

(1) As used in this section:

(a) "Asset" means funds, money, an account, real or personal property, or personnel.

(b) "Public asset" means:

(i) an asset used by a public entity;



- 28 (ii) tax revenue;
- 29 (iii) state funds; or
- 30 (iv) public funds.

31 (c) (i) "Taxed interlocal entity" means a project entity that:

32 (A) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3,
33 Project Entity Provisions;

34 (B) does not receive a payment of funds from a federal agency or office, state agency or
35 office, political subdivision, or other public agency or office other than a payment that does not
36 materially exceed the greater of the fair market value and the cost of a service provided or
37 property conveyed by the project entity; and

38 (C) does not receive, expend, or have the authority to compel payment from tax
39 revenue.

40 (ii) [~~Before and on May 1, 2014, "taxed]~~ "Taxed interlocal entity" includes an
41 interlocal entity that:

42 (A) (I) was created before 1981 for the purpose of providing power supply at wholesale
43 to its members; or

44 (II) is described in Subsection 11-13-204(7);

45 (B) does not receive a payment of funds from a federal agency or office, state agency or
46 office, political subdivision, or other public agency or office other than a payment that does not
47 materially exceed the greater of the fair market value and the cost of a service provided or
48 property conveyed by the interlocal entity; [~~and]~~

49 (C) does not receive, expend, or have the authority to compel payment from tax
50 revenue[.]; and

51 (D) is substantially a wholesale electric power supplier that supplies minimal or no
52 retail electric power service.

53 (d) (i) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit,
54 administer, receive, expend, appropriate, disburse, or have custody.

55 (ii) "Use" includes, when constituting a noun, the corresponding nominal form of each
56 term in Subsection (1)(d)(i), individually.

57 (2) Notwithstanding any other provision of law, the use of an asset by a taxed interlocal
58 entity does not constitute the use of a public asset.

59 (3) Notwithstanding any other provision of law, a taxed interlocal entity's use of an
60 asset that was a public asset prior to the taxed interlocal entity's use of the asset does not
61 constitute a taxed interlocal entity's use of a public asset.

62 (4) Notwithstanding any other provision of law, an official of a project entity is not a
63 public treasurer.

64 (5) Notwithstanding any other provision of law, a taxed interlocal entity's governing
65 body, as described in Section 11-13-206, shall determine and direct the use of an asset by the
66 taxed interlocal entity.

67 (6) (a) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter
68 6a, Utah Procurement Code.

69 (b) An agent of a taxed interlocal entity is not an external procurement unit as defined
70 in Section 63G-6a-104.

71 (7) (a) A taxed interlocal entity is not a participating local entity as defined in Section
72 63A-3-401.

73 (b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall
74 provide:

75 (i) the taxed interlocal entity's financial statements for and as of the end of the fiscal
76 year and the prior fiscal year, including the taxed interlocal entity's balance sheet as of the end
77 of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses
78 and of cash flows for the fiscal year; and

79 (ii) the accompanying auditor's report and management's discussion and analysis with
80 respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal
81 year.

82 (c) The taxed interlocal entity shall provide the information described in Subsections
83 (7)(b)(i) and (b)(ii):

84 (i) in a manner described in Subsection 63A-3-405(3); and

85 (ii) within a reasonable time after the taxed interlocal entity's independent auditor
86 delivers to the taxed interlocal entity's governing body the auditor's report with respect to the
87 financial statements for and as of the end of the fiscal year.

88 (d) Notwithstanding Subsections (7)(b) and (c) or a taxed interlocal entity's compliance
89 with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

90 (i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of
91 Finance; and

92 (ii) the information described in Subsection (7)(b)(i) or (ii) does not constitute public
93 financial information as defined in Section [63A-3-401](#).

94 (8) (a) A taxed interlocal entity's governing body is not a governing board as defined in
95 Section [51-2a-102](#).

96 (b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a,
97 Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local
98 Entities Act.

Legislative Review Note
as of 1-9-14 2:24 PM

Office of Legislative Research and General Counsel