

HOUSE BILL NO. HB0237

Local impact assistance payments-2.

Sponsored by: House 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 applicability; and providing for an
4 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:

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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 its dollar amount determination.
12 The impact assistance payment shall be distributed by the
13 department of revenue in an amount and on a schedule
14 determined by the council, based on evidence presented at
15 the hearing. Under no circumstances shall the total dollar
16 amount of the impact assistance payment exceed ~~two and~~
17 ~~seventy-six hundredths percent (2.76%)~~ two percent (2%) of
18 the total estimated material costs of the facility, as
19 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 factors. 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 incurred by a county, city or town directly attributable to
19 the construction of an industrial facility and which:

20

21 (A) Is not otherwise mitigated by the
22 person constructing the industrial facility;

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1 (B) Is limited to expenses for medical
2 services, fire and law enforcement services, roads and
3 public utilities and is supported by an analysis of the
4 current excess capacity in each of these areas;

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6 (C) May include the expenses of employing
7 additional employees or officers only if the county, city
8 or town has determined overtime compensation or contract
9 labor would not be appropriate; and

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11 (D) Excludes the following:

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13 (I) Improvements to existing
14 structures beyond that necessary to return the structure to
15 the condition in which the structure existed before the
16 construction of the industrial facility;

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

22
23 **39-16-111. Distribution.**

1

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

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

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

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

18

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

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21 (iii) "Unmitigated impact" means an expense
22 incurred by a county, city or town directly attributable to
23 the construction of an industrial facility and which:

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(A) Is not otherwise mitigated by the person constructing the industrial facility;

(B) Is limited to expenses for medical services, fire and law enforcement services, roads and public utilities and is supported by an analysis of the current excess capacity in each of these areas;

(C) May include the expenses of employing additional employees or officers only if the county, city or town has determined overtime compensation or contract labor would not be appropriate; and

(D) Excludes the following:

(I) Improvements to existing structures beyond that necessary to return the structure to the condition in which the structure existed before the construction of the industrial facility;

(II) Expenses for which a county, city or town previously received an impact assistance payment

1 unless the county, city or town can demonstrate the
2 expenses are ongoing.

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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.

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13 **Section 3.** This act is effective July 1, 2020.

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(END)