

## HOUSE BILL NO. HB0152

Industrial siting impact payments.

Sponsored by: Representative(s) Madden and Burkhart and  
Senator(s) Case and Nicholas, P.

A BILL

for

1 AN ACT relating to impact assistance payments; revising  
2 duties of the department of environmental quality and  
3 industrial siting division as specified; revising how  
4 impact assistance payment amounts are calculated; providing  
5 rulemaking authority; repealing conflicting provisions;  
6 providing applicability; providing an appropriation; and  
7 providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 35-12-105(c), 39-15-111(c) and (d)(i)  
12 and 39-16-111(d) and (e)(i) are amended to read:

13

14 **35-12-105. Appointment and duties of administrator;**  
15 **staff; rules and regulations.**

1

2 (c) The director, administrator and the staff of the  
3 division are authorized to the extent possible, at the  
4 request of local governments, to provide technical  
5 assistance to local governments in the preparation of  
6 anticipated impacts related to a proposed project  
7 consistent with W.S. 39-15-111(c) and (d) and 39-16-111(d)  
8 and (e) and negotiation of agreements with applicants as  
9 provided for in W.S. 35-12-107. ~~and 35-12-113(a)(vi).~~

10

11 **39-15-111. Distribution.**

12

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

1 impact assistance payments from the monies available under  
2 paragraph (b)(i) of this section. Each payment to the  
3 county treasurer shall be equal to ~~the excess of each~~  
4 ~~monthly payment made under paragraph (b)(iii) of this~~  
5 ~~section during the period of construction over the base~~  
6 ~~period amount~~ an amount determined by the industrial siting  
7 council under this subsection and shall continue during the  
8 period of construction except that in the case of an  
9 industrial facility or a federal or state government  
10 project which is expected to continue in phases for an  
11 indefinite period of time, the ~~state treasurer~~ department  
12 of revenue shall discontinue payments under this section  
13 ~~and establish a new base period~~ when construction of any  
14 phase has ceased or been substantially completed for twelve  
15 (12) consecutive months. The person constructing the  
16 industrial facility and the counties affected by the  
17 construction of the industrial facility shall provide  
18 evidence at the public hearing held pursuant to W.S.  
19 35-12-110(f)(i) of the mitigated and unmitigated impacts  
20 that the construction will have on the counties, cities and  
21 towns determined by the industrial siting council to be  
22 affected by the construction of the industrial facility.  
23 The industrial siting council shall review the evidence of

1 the impacts and determine, applying a preponderance of  
2 evidence standard, the dollar amount of the unmitigated  
3 impacts. The council shall state, in the order issued under  
4 W.S. 35-12-113(a), the total dollar amount of the impact  
5 assistance payment and the reasons for determining that  
6 amount. The impact assistance payment shall be distributed  
7 by the department of revenue in an amount and on a schedule  
8 determined by the council, based on evidence presented at  
9 the hearing. Under no circumstances shall the impact  
10 assistance payment exceed two and seventy-six hundredths  
11 percent (2.76%) of the total estimated material costs of  
12 the facility, as those costs are determined by the council.

13 The impact assistance payments shall be distributed to the  
14 county treasurer and the county treasurer will distribute  
15 to the county and to the cities and towns therein based on  
16 a ratio established by the industrial siting council during  
17 a public hearing held in accordance with W.S. ~~35-12-110~~  
18 35-12-110(f)(i). The industrial siting council shall review  
19 the distribution ratio for construction projects on a  
20 regular basis and make appropriate adjustments. A governing  
21 body which is primarily affected by the facility, or any  
22 person issued a permit pursuant to W.S. 35-12-106, may  
23 petition the industrial siting council for review and

1 adjustment of the distribution ratio or the amount of the  
2 impact assistance payment upon a showing of good cause. The  
3 impact assistance payment shall be in addition to all other  
4 distributions under this section, but no impact assistance  
5 payment shall be made for any period in which the county or  
6 counties are not imposing at least a one percent (1%) tax  
7 authorized by W.S. 39-15-204(a)(i) and 39-16-204(a)(i) or  
8 at least a total of a two percent (2%) sales tax authorized  
9 under W.S. 39-15-204(a)(i), (iii) and (vi) and at least a  
10 total of a two percent (2%) use tax authorized under W.S.  
11 39-16-204(a)(i), (ii) and (v). For purposes of this  
12 subsection, the industrial facility or federal or state  
13 government project will be deemed to be located in the  
14 county in which a majority of the construction costs will  
15 be expended, provided that upon a request from the county  
16 commissioners of any adjoining county to the industrial  
17 siting council, the council may determine that the social  
18 and economic impacts from construction of the industrial  
19 facility or federal or state government project upon the  
20 adjoining county are significant and establish the ratio of  
21 impacts between the counties and certify that ratio to the  
22 ~~state treasurer~~ department of revenue who will thereafter  
23 distribute the impact assistance payment to the counties

1 pursuant to that ratio. The industrial siting council shall  
2 adopt rules as necessary to implement this subsection.

3

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

5

6 (i) "Period of construction" begins at the  
7 commencement of construction and ends when the physical  
8 components of the industrial facility or federal or state  
9 government project are ninety percent (90%) complete,  
10 provided, if payments are already being made under this  
11 act, commencement of construction of another industrial  
12 facility or federal or state government project will not be  
13 considered for purposes of establishing a new ~~base period~~  
14 impact assistance payment amount or determining when  
15 payments will commence under this act, but will only be  
16 considered for determining when the period of construction  
17 ends;

18

19 **39-16-111. Distribution.**

20

21 (d) If any person commences after the effective date  
22 of this act to construct an industrial facility, as that  
23 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 ~~state treasurer~~ department of revenue shall thereafter pay  
6 to the county treasurer and the county treasurer will  
7 distribute to the county, cities and towns of that county  
8 in which the industrial facility or project is located,  
9 impact 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 ~~the excess of each~~  
12 ~~monthly payment made under paragraph (b)(iii) of this~~  
13 ~~section during the period of construction over the base~~  
14 ~~period amount~~ an amount determined by the industrial siting  
15 council under this subsection and shall continue during the  
16 period of construction except that in the case of an  
17 industrial facility or a federal or state government  
18 project which is expected to continue in phases for an  
19 indefinite period of time, the ~~state treasurer~~ department  
20 of revenue shall discontinue payments under this section  
21 ~~and establish a new base period~~ when construction of any  
22 phase has ceased or been substantially completed for twelve  
23 (12) consecutive months. The person constructing the

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



1 a ratio established by the industrial siting council during  
2 a public hearing held in accordance with W.S. ~~35-12-110~~  
3 35-12-110(f)(i). The industrial siting council shall  
4 review the distribution ratio for construction projects on  
5 a regular basis and make appropriate adjustments. A  
6 governing body which is primarily affected by the facility,  
7 or any person issued a permit pursuant to W.S. 35-12-106,  
8 may petition the industrial siting council for review and  
9 adjustment of the distribution ratio or the amount of the  
10 impact assistance payment upon a showing of good cause.

11 The impact assistance payment shall be in addition to all  
12 other distributions under this section, but no impact  
13 assistance payment shall be made for any period in which  
14 the county or counties are not imposing at least a one  
15 percent (1%) tax authorized by W.S. 39-15-204(a)(i) and  
16 39-16-204(a)(i) or at least a total of a two percent (2%)  
17 sales tax authorized under W.S. 39-15-204(a)(i), (iii) and  
18 (vi) and at least a total of a two percent (2%) use tax  
19 authorized under W.S. 39-16-204(a)(i), (ii) and (v). For  
20 purposes of this subsection, the industrial facility or  
21 federal or state government project will be deemed to be  
22 located in the county in which a majority of the  
23 construction costs will be expended, provided that upon a

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

12

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

14

15 (i) "Period of construction" begins at the  
16 commencement of construction and ends when the physical  
17 components of the industrial facility or federal or state  
18 government project are ninety percent (90%) complete, and  
19 provided, if payments are already being made under this  
20 act, commencement of construction of another industrial  
21 facility or federal or state government project will not be  
22 considered for purposes of establishing a new ~~base period~~  
23 impact assistance payment amount or determining when

1 payments will commence under this act, but will only be  
2 considered for determining when the period of construction  
3 ends;

4

5 **Section 2.** W.S. 39-15-111(d)(ii) and 39-16-111(e)(ii)  
6 are repealed.

7

8 **Section 3.** This act shall only apply to permits submitted  
9 to the council on or after the effective date of this act.  
10 The impact assistance payment for industrial facilities  
11 which are not subject to this act shall be determined on  
12 the basis of the law as it existed prior to the adoption of  
13 this act.

14

15 **Section 4.** There is appropriated forty thousand dollars  
16 (\$40,000.00) from the general fund to the department of  
17 environmental quality, industrial siting division to  
18 contract with a consultant for the purpose of assisting  
19 with the timely development of the criteria to be used by  
20 the industrial siting council in making impact assistance  
21 decisions pursuant to this act. This is a one-time  
22 appropriation and shall not be included in the department's  
23 2017-2018 standard budget request.

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**Section 5.** This act is effective July 1, 2015.

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4

(END)