

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

SENATE FILE NO.

Industrial siting-wildlife mitigation.

Sponsored by: Senator(s) Hicks

A BILL

for

1 AN ACT relating to industrial development and siting;
2 requiring the payment of wildlife mitigation impact costs
3 for industrial siting projects as specified; amending the
4 agencies from which the industrial siting division must
5 obtain information and expertise for industrial siting
6 projects; providing definitions; making conforming
7 amendments; specifying applicability; requiring rulemaking;
8 and providing for effective dates.

9

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

11

12 **Section 1.** W.S. 35-12-120 is created to read:

13

1 **35-12-120. Industrial facilities; wildlife mitigation**
2 **and impact payments.**

3

4 (a) As used in this section, "eligible entity" means
5 the Wyoming game and fish commission and the Wyoming
6 wildlife and natural resource trust account board.

7

8 (b) Upon receiving a request for information and
9 recommendations from the division under W.S. 35-12-110(b)
10 for the siting of a proposed industrial facility, each
11 eligible entity may apply to the council for a wildlife
12 impact payment from the permit applicant, in accordance
13 with all of the following:

14

15 (i) The eligible entity seeking a wildlife
16 impact payment shall complete and submit an application in
17 a form and manner determined by the council and in
18 accordance with this section;

19

20 (ii) The eligible entity shall provide the
21 following information on its application:

22

1 (A) The specific impacts on wildlife as a
2 result of the proposed facility, and evidence supporting
3 those impacts;

4

5 (B) Efforts that the applicant of the
6 proposed industrial facility can take to mitigate or
7 otherwise reduce the impacts on wildlife as a result of the
8 proposed facility;

9

10 (C) The mitigated and unmitigated impacts
11 that the proposed facility will have on wildlife;

12

13 (D) The estimated dollar amount of the
14 unmitigated impacts on wildlife;

15

16 (E) Any other information required by rule
17 of the council.

18

19 (iii) Before submitting an application under
20 this subsection, the eligible entity may negotiate with the
21 applicant of the proposed industrial facility to determine
22 and agree upon the amount of the wildlife impact payment to
23 be made to the eligible entity. Upon entering an agreement

1 under this paragraph, the eligible entity shall submit a
2 written report to the council describing the agreement with
3 the applicant and the amount of the wildlife impact payment
4 that the applicant will make to the eligible entity.

5

6 (c) Wildlife impact payments made and required under
7 this section shall be:

8

9 (i) Made by the applicant in accordance with the
10 council's order for the wildlife impact payment included
11 within the order issued under W.S. 35-12-113(a);

12

13 (ii) Expended by the eligible entity on
14 mitigating the identified unmitigated impacts on wildlife
15 as a result of constructing the industrial facility.

16

17 (d) In awarding or approving a wildlife impact
18 payment under this section, the council shall, in the order
19 or decision approving a permit, include the terms specified
20 in this section and any other conditions or requirements
21 for the wildlife impact payment that the council deems
22 necessary.

23

1 (e) The applicant shall make all wildlife impact
2 payments as required in the council's decision or order.

3

4 (f) Each eligible entity receiving a wildlife impact
5 payment under this section shall keep records of all
6 wildlife impact payments received and all expenditures made
7 with funds received from the wildlife impact payments. Each
8 eligible entity shall, upon request, provide to the
9 council, the director or the administrator any or all
10 records kept by the eligible entity under this subsection.

11

12 (g) Wildlife impact payments made under this section
13 shall be separate from any impact assistance payment made
14 under W.S. 39-15-111(c) and (d) and 39-16-111(d) and (e).

15

16 **Section 2.** W.S. 9-15-104 by creating a new subsection
17 (m), 18-5-509(a), 18-5-511(a)(iv), 35-11-109(a)(xi),
18 35-11-110(e), 35-11-2101(e), 35-12-105(c) and 35-12-110(b)
19 by creating a new paragraph (xxiv) are amended to read:

20

21 **9-15-104. Wildlife and natural resource trust account**
22 **board established; terms; meetings; duties.**

23

1 (m) The board may seek wildlife impact payments from
2 an applicant for an industrial facility in accordance with
3 W.S. 35-12-120. The board shall expend any payments
4 received under W.S. 35-12-120 in accordance with the
5 requirements of W.S. 35-12-120 and any terms specified by
6 the industrial siting council.

7
8 **18-5-509. Referral.**

9
10 (a) Any board of county commissioners which receives
11 an application to permit a wind energy facility or solar
12 energy facility which does not meet the definition of an
13 industrial facility as defined in W.S. 35-12-102(a)(vii)(E)
14 or (G) may refer the facility to the industrial siting
15 council for additional permitting consistent with the
16 requirements of the Industrial Development Information and
17 Siting Act, W.S. 35-12-101 through ~~35-12-119~~ 35-12-120, but
18 the provisions of W.S. 39-15-111 and 39-16-111 shall not
19 apply. A referral shall be made only when a board of
20 county commissioners finds there are potentially
21 significant adverse environmental, social or economic
22 issues which the county board of commissioners does not
23 have the expertise to consider or authority to address.

1

2 **18-5-511. Revocation or suspension of permit.**

3

4 (a) A permit may be revoked or suspended for:

5

6 (iv) Failure of the proposed facility to receive
7 a required permit from the industrial siting council
8 pursuant to the Industrial Development Information and
9 Siting Act, W.S. 35-12-101 through ~~35-12-119~~ 35-12-120;

10

11 **35-11-109. Powers and duties of director.**

12

13 (a) In addition to any other powers and duties
14 imposed by law, the director of the department shall:

15

16 (xi) Designate authorized officers, employees or
17 representatives of the department to monitor the air,
18 water, and land quality, and solid waste management
19 operations of all facilities which have been granted
20 permits under W.S. 35-12-101 through ~~35-12-119~~ 35-12-120,
21 for assuring continuing compliance with conditions and
22 requirements of their permits and for discovering and

1 preventing noncompliance with the permits or violations of
2 law;

3

4 **35-11-110. Powers of administrators of the divisions.**

5

6 (e) The administrator of the industrial siting
7 division shall enforce and administer the provisions of
8 W.S. 35-12-101 through ~~35-12-119~~ 35-12-120. He shall have
9 the powers set forth in paragraph (a)(x) of this section.

10

11 **35-11-2101. Advanced nuclear reactors; requirements.**

12

13 (e) The provisions of the Industrial Development
14 Information and Siting Act, W.S. 35-12-101 through
15 ~~35-12-119~~ 35-12-120, shall apply only to the extent that
16 those provisions do not interfere with, contradict or
17 duplicate any requirements of the United States Nuclear
18 Regulatory Commission.

19

20 **35-12-105. Appointment and duties of administrator;**
21 **staff; rules and regulations.**

22

1 (c) The director, administrator and the staff of the
2 division are authorized to the extent possible: 7

3

4 (i) At the request of local governments, to
5 provide technical assistance to local governments in the
6 preparation of anticipated impacts related to a proposed
7 project consistent with W.S. 39-15-111(c) and (d) and
8 39-16-111(d) and (e) and negotiation of agreements with
9 applicants as provided for in W.S. 35-12-107;

10

11 (ii) At the request of the Wyoming game and fish
12 commission or the Wyoming wildlife and natural resource
13 trust account board, to provide technical assistance to the
14 commission or board in the preparation of anticipated
15 impacts to wildlife related to a proposed project.

16

17 **35-12-110. Service of notice of application;**
18 **information and recommendations; application deficiencies;**
19 **procedure; jurisdiction; hearing.**

20

21 (b) The division shall obtain information and
22 recommendations from the following state agencies relative

1 to the impact of the proposed facility as it applies to
2 each agency's area of expertise:

3

4 (xxiv) The Wyoming wildlife and natural resource
5 trust account board.

6

7 **Section 3.** This act shall apply to all industrial
8 facilities as defined in W.S. 35-12-102(a)(vii) for which
9 the applicant receives a determination of jurisdiction from
10 the director of the department of environmental quality or
11 the administrator of the industrial siting division of the
12 department of environmental quality on and after July 1,
13 2026.

14

15 **Section 4.** The industrial siting council shall
16 promulgate all rules necessary to implement this act.

17

18 **Section 5.**

19

20 (a) Except as provided in subsection (b) of this
21 section, this act is effective July 1, 2026.

22

(b) Sections 4 and 5 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

5

6 (END)