

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Industrial siting-upfront impact assistance payments.

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

A BILL

for

1 AN ACT relating to industrial development and siting;
2 authorizing advance impact assistance payments for impacted
3 local governments as specified; specifying conditions and
4 requirements for the advance payments; providing for the
5 transfer of funds; specifying applicability; and providing
6 for an effective date.

7

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

9

10 **Section 1.** W.S. 39-15-111(c), (d)(intro) and by
11 creating a new subsection (t) is amended to read:

12

1 **39-15-111. Distribution.**

2

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

1 completed for twelve (12) consecutive months. The person
2 constructing the industrial facility and the counties
3 affected by the construction of the industrial facility
4 shall provide evidence at the public hearing held pursuant
5 to W.S. 35-12-110(f)(i) of the mitigated and unmitigated
6 impacts that the construction will have on the counties,
7 cities and towns determined by the industrial siting
8 council to be affected by the construction of the
9 industrial facility. The industrial siting council shall
10 review the evidence of the impacts and determine, applying
11 a preponderance of evidence standard, the dollar amount of
12 the unmitigated impacts. The council shall state, in the
13 order issued under W.S. 35-12-113(a), the total dollar
14 amount of the impact assistance payment and include
15 specific findings of fact detailing the basis for the total
16 dollar amount determination and if requested by the
17 affected county, city or town, its justification for
18 rejecting, in whole or in part, an application for an
19 impact assistance payment. The impact assistance payment
20 shall be distributed by the department of revenue in an
21 amount and on a schedule determined by the council, based
22 on evidence presented at the hearing. Under no
23 circumstances shall the total dollar amount of the impact

1 assistance payment exceed the maximum allowable percentage
2 specified in this subsection of the total estimated
3 material costs of the facility, as those costs are
4 determined by the council. The maximum allowable percentage
5 shall be two and twenty-five hundredths percent (2.25%) for
6 facilities with total estimated materials costs of three
7 hundred fifty million dollars (\$350,000,000.00) or less
8 except as otherwise provided in this subsection, two
9 percent (2%) for facilities with total estimated materials
10 costs in excess of three hundred fifty million dollars
11 (\$350,000,000.00) but less than eight hundred fifty million
12 dollars (\$850,000,000.00) and one and one-half percent
13 (1.50%) for facilities with total estimated materials costs
14 of eight hundred fifty million dollars (\$850,000,000.00) or
15 more. For facilities with total estimated materials costs
16 of three hundred fifty million dollars (\$350,000,000.00) or
17 less, the council may increase the maximum allowable
18 percentage to not more than two and seventy-six hundredths
19 percent (2.76%) if the council includes in the specific
20 findings required under this subsection that the maximum
21 allowable percentage of two and twenty-five hundredths
22 percent (2.25%) is insufficient to mitigate the identified
23 impacts. The council shall submit a report to the joint

1 appropriations committee and the joint minerals, business
2 and economic development interim committee not later than
3 ten (10) business days after increasing the maximum
4 allowable percentage as specified in this subsection,
5 including data to support the increase. The impact
6 assistance payments shall be distributed to the county
7 treasurer and the county treasurer will distribute to the
8 county and to the cities and towns therein based on a ratio
9 established by the industrial siting council during a
10 public hearing held in accordance with W.S. 35-12-
11 110(f)(i). In determining the distribution ratio, the
12 industrial siting council may consider the extent and
13 location of the unmitigated impacts, the populations of the
14 affected counties, cities and towns, including any
15 disproportionate impacts on smaller communities, and any
16 other equitable factor. The industrial siting council shall
17 review the distribution ratio for construction projects on
18 a regular basis and make appropriate adjustments. A
19 governing body which is primarily affected by the facility,
20 or any person issued a permit pursuant to W.S. 35-12-106,
21 may petition the industrial siting council for review and
22 adjustment of the distribution ratio or the amount of the
23 impact assistance payment upon a showing of good cause. The

1 impact assistance payment shall be in addition to all other
2 distributions under this section, but no impact assistance
3 payment shall be made for any period in which the county or
4 counties are not imposing at least a one percent (1%) tax
5 authorized by W.S. 39-15-204(a)(i) or at least a total of a
6 two percent (2%) tax authorized under W.S. 39-15-204(a)(i),
7 (iii) and (vi). A city, town or county entitled to receive
8 an impact assistance payment under this subsection may
9 apply to the industrial siting council for an advance
10 payment in accordance with subsection (t) of this section.
11 The impact assistance payments for any city, town or county
12 shall be reduced in an amount equal to any amount the city,
13 town or county received under subsection (t) of this
14 section. For purposes of this subsection, the industrial
15 facility or federal or state government project will be
16 deemed to be located in the county in which a majority of
17 the construction costs will be expended, provided that upon
18 a request from the county commissioners of any adjoining
19 county to the industrial siting council, the council may
20 determine that the social and economic impacts from
21 construction of the industrial facility or federal or state
22 government project upon the adjoining county are
23 significant and establish the ratio of impacts between the

1 counties and certify that ratio to the department of
2 revenue who will thereafter distribute the impact
3 assistance payment to the counties pursuant to that ratio.
4 Each county, city and town that receives a distribution
5 under this subsection shall provide an annual report to the
6 industrial siting council describing how the impact
7 assistance payment was expended. The report shall first be
8 submitted not later than one (1) year after the impact
9 assistance payment is approved and annually each year
10 thereafter for the duration in which distributions are made
11 and until all distributions are expended. The industrial
12 siting council shall adopt rules as necessary to implement
13 this subsection and subsection (t) of this section.

14

15 (d) As used in ~~subsection~~ subsections (c) and (t) of
16 this section:

17

18 (t) A city, town or county entitled to receive an
19 impact assistance payment under subsection (c) of this
20 section may request an advance impact assistance payment,
21 in accordance with all of the following:

22

1 (i) A city, town or county seeking an advance
2 payment shall make a request to the industrial siting
3 council for an advance payment. As part of the request, the
4 local government shall identify specific infrastructure,
5 projects and equipment necessary to address unmitigated
6 impacts for which funds from an advance payment would be
7 expended. Upon receiving a request under this paragraph,
8 the industrial siting council shall:

9
10 (A) Consider the request as part of the
11 initial permit hearing or at another time as determined by
12 the council;

13
14 (B) Approve the request if the council finds
15 that there is a necessity for an advance payment for the
16 infrastructure, project or equipment specified by the city,
17 town or county in its request;

18
19 *****
20 *****
21 **STAFF COMMENT**

22
23 **Below is an alternate version for subparagraph (B) above:**

24
25 (B) Approve the request if the council finds
26 that an advance payment for the specified infrastructure,

1 project or equipment is necessary to adequately mitigate
2 the unmitigated impact;

3
4 *****
5 *****
6

7 (C) Provide a copy of any decision or order
8 approving an advance payment and authorizing distribution
9 of the advance payment to the department not later than
10 fourteen (14) days after approving the request;

11
12 (D) In any order or decision authorizing an
13 impact assistance payment under subsection (c) of this
14 section, include in the order the amount of any advance
15 payment made under this subsection to ensure that a city,
16 town or county does not receive a duplicate impact
17 assistance payment for addressing unmitigated impacts that
18 were addressed with funds from the advance payment.

19
20 (ii) No advance payment shall be issued under
21 this subsection before the industrial siting council
22 calculates the impact assistance payment for the applicant
23 city, town or county under subsection (c) of this section;

24

1 (iii) Advance payments made to a city, town or
2 county under this subsection shall be made as authorized
3 under this subsection and distributed in accordance with
4 subsection (c) of this section;

5
6 (iv) Advance payments authorized under this
7 subsection shall not exceed fifty percent (50%) of the
8 total amount of the impact assistance payment to a city,
9 town or county authorized by the industrial siting council;

10
11 (v) Advance payments provided under this
12 subsection shall only be expended on the infrastructure,
13 projects and equipment specified by the city, town or
14 county in the request for an advance payment under this
15 subsection and that are necessary to address unmitigated
16 impacts.

17
18 **Section 2.** This act shall apply only to impact
19 assistance payments for industrial facility permit
20 applications submitted on and after the effective date of
21 this act.

22
23 **Section 3.** This act is effective July 1, 2027.

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(END)