

SENATE FILE NO. SF0158

Industrial siting amendments-2.

Sponsored by: Senator(s) Hastert and Aullman and
 Representative(s) Dockstader, Meyer, Olsen
 and Thompson

A BILL

for

1 AN ACT relating to industrial development and siting;
 2 providing for industrial siting impact assistance payments
 3 for oil and gas impacts on local governments as specified;
 4 providing procedures; amending related provisions; and
 5 providing for an effective date.

6

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

8

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

10

11 **35-12-120. Oil and gas impact assistance.**

12

13 (a) Any city or town adequately demonstrating impact
 14 costs of not less than two hundred fifty thousand dollars
 15 (\$250,000.00) as approved by the industrial siting council
 16 which costs are in excess of its annual budget due to oil

1 or gas related production activities within its county may
2 file an application for assistance as provided in this
3 section. If approved by the council following a hearing as
4 provided by this section, the city or town may be eligible
5 for impact assistance payments as provided by W.S.
6 39-15-111(c) and 39-16-111(d).

7

8 (b) The petition shall be filed with the council in a
9 form and manner as required by rule and regulation of the
10 council. The petition shall identify the cause for the
11 impact, the probable impacted area, the nature of the
12 impact and any recommended remedy. The petition shall
13 include any of the social, economic or environmental
14 impacts as provided by W.S. 35-12-109(a)(xiii). Not later
15 than thirty (30) days from receipt of the petition, the
16 administrator shall review the petition and make a
17 preliminary determination whether the petition meets the
18 requirements of the rules and regulations of the council.
19 The administrator may seek information and recommendations
20 from the agencies listed in W.S. 35-12-110(b), and any
21 information shall be provided as required by W.S.
22 35-12-110(c).

23

1 (c) Not later than sixty (60) days following receipt
2 of an eligible petition, the council shall hold a hearing
3 on the petition. At the hearing, the administrator may
4 present an opinion, analysis and any recommendation on the
5 petition if requested by the council. Not later than ten
6 (10) days following conclusion of the hearing, the council
7 shall make a final determination. The final determination
8 shall be in writing and shall include any amount of impact
9 assistance payments awarded under W.S. 39-15-111(c) or
10 39-16-111(d). In the event impact assistance payments are
11 awarded by the council, the payments shall be paid from the
12 general fund from sales and use taxes collected and
13 computed and distributed as provided by W.S. 39-15-111(c)
14 and 39-16-111(d). In no event shall any payments awarded
15 exceed thirty-six (36) months in duration. No city or town
16 currently receiving impact assistance payments shall be
17 eligible for any payment under this section. The council
18 may require periodic reports or information from any city
19 or town receiving impact assistance payments under this
20 section.

21

22 **Section 2.** W.S. 35-12-119(c) (intro), 39-15-111(c) and
23 (d) (ii) and 39-16-111(d) and (e) (ii) are amended to read:

24

1 **35-12-119. Exemptions; information required.**

2

3 (c) Except as provided by W.S. 35-12-120, the
4 construction, operation and maintenance of the following
5 activities are exempt from this chapter:

6

7 **39-15-111. Distribution.**

8

9 (c) The following shall apply to distribution of
10 impact assistance payments:

11

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

1 county treasurer shall be equal to the excess of each
2 monthly payment made under paragraph (b)(iii) of this
3 section during the period of construction over the base
4 period amount and shall continue during the period of
5 construction except that in the case of an industrial
6 facility or a federal or state government project which is
7 expected to continue in phases for an indefinite period of
8 time, the state treasurer shall discontinue payments under
9 this section and establish a new base period when
10 construction of any phase has ceased or been substantially
11 completed for twelve (12) consecutive months. The impact
12 assistance payments shall be distributed to the county
13 treasurer and the county treasurer will distribute to the
14 county and to the cities and towns therein based on a ratio
15 established by the industrial siting council during a
16 public hearing held in accordance with W.S. 35-12-110. The
17 industrial siting council shall review the distribution
18 ratio for construction projects on a regular basis and make
19 appropriate adjustments. A governing body which is
20 primarily affected by the facility, or any person issued a
21 permit pursuant to W.S. 35-12-106, may petition the
22 industrial siting council for review and adjustment of the
23 distribution ratio upon a showing of good cause. The impact
24 assistance payment shall be in addition to all other

1 distributions under this section, but no impact assistance
2 payment shall be made for any period in which the county or
3 counties are not imposing the maximum tax authorized by
4 W.S. 39-15-204(a)(i) and 39-16-204(a)(i) as restricted by
5 W.S. 39-15-204(a)(iv) and 39-16-204(a)(iii). For purposes
6 of this subsection, the industrial facility or federal or
7 state government project will be deemed to be located in
8 the county in which a majority of the construction costs
9 will be expended, provided that upon a request from the
10 county commissioners of any adjoining county to the
11 industrial siting council, the council may determine that
12 the social and economic impacts from construction of the
13 industrial facility or federal or state government project
14 upon the adjoining county are significant and establish the
15 ratio of impacts between the counties and certify that
16 ratio to the state treasurer who will thereafter distribute
17 the impact assistance payment to the counties pursuant to
18 that ratio;.

19

20 (ii) If any city or town is awarded impact
21 assistance under W.S. 35-12-120, the state treasurer shall
22 pay to the county treasurer and the county treasurer shall
23 distribute to the designated city or town of that county
24 impact assistance payments from the monies available under

1 paragraph (b)(i) of this section. Each payment to the
2 county shall be equal to the excess of each monthly payment
3 made under paragraph (b)(iii) of this section over the base
4 period amount for a period not to exceed thirty-six (36)
5 months or until the amount of impact assistance awarded in
6 W.S. 35-12-120 has been reached, whichever occurs first.
7 If the amount of impact assistance has not been reached in
8 thirty-six (36) months the city or town may submit a
9 request to the industrial siting council for further impact
10 assistance under W.S. 35-12-120.

11

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

13

14 (ii) "Base period amount" is the average monthly
15 distribution under paragraph (b)(iii) of this section for
16 the twelve (12) month period immediately prior to the
17 commencement of construction under paragraph (c)(i) of this
18 section or the award date under W.S. 35-12-120, whichever
19 is applicable, provided that on each anniversary date of
20 commencement of construction or date of award under W.S.
21 35-12-120 the state treasurer shall establish a new base
22 period amount by multiplying the base period amount by a
23 factor representing the annual rate of inflation in this
24 state for the preceding twelve (12) month period as

1 calculated by the department of administration and
2 information.

3

4 **39-16-111. Distribution.**

5

6 (d) The following shall apply to distribution of
7 impact assistance payments:

8

9 (i) If any person commences after the effective
10 date of this act to construct an industrial facility, as
11 that term is defined in W.S. 35-12-102, under a permit
12 issued pursuant to W.S. 35-12-106, or if the federal or
13 state government commences to construct any project within
14 this state with an estimated construction cost as specified
15 in the definition of industrial facility in W.S. 35-12-102
16 the state treasurer shall thereafter pay to the county
17 treasurer and the county treasurer will distribute to the
18 county, cities and towns of that county in which the
19 industrial facility or project is located, impact
20 assistance payments from the monies available under
21 paragraph (b)(i) of this section. Each payment to the
22 county treasurer shall be equal to the excess of each
23 monthly payment made under paragraph (b)(iii) of this
24 section during the period of construction over the base

1 period amount and shall continue during the period of
2 construction except that in the case of an industrial
3 facility or a federal or state government project which is
4 expected to continue in phases for an indefinite period of
5 time, the state treasurer shall discontinue payments under
6 this section and establish a new base period when
7 construction of any phase has ceased or been substantially
8 completed for twelve (12) consecutive months. The impact
9 assistance payments shall be distributed to the county
10 treasurer and the county treasurer will distribute to the
11 county and to the cities and towns therein based on a ratio
12 established by the industrial siting council during a
13 public hearing held in accordance with W.S. 35-12-110. The
14 impact 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 the maximum tax authorized by
18 W.S. 39-15-204(a)(i) and 39-16-204(a)(i) as restricted by
19 W.S. 39-15-204(a)(iv) and 39-16-204(a)(iii). For purposes
20 of this subsection, the industrial facility or federal or
21 state government project will be deemed to be located in
22 the county in which a majority of the construction costs
23 will be expended, provided that upon a request from the
24 county commissioners of an adjoining county to the

1 industrial siting council, the council may determine that
2 the social and economic impacts from construction of the
3 industrial facility or federal or state government project
4 upon the adjoining county are significant and establish the
5 ratio of impacts between the counties and certify that
6 ratio to the state treasurer who will thereafter distribute
7 the impact assistance payment to the counties pursuant to
8 that ratio;

9
10 (ii) If any city or town is awarded impact
11 assistance under W.S. 35-12-120, the state treasurer shall
12 pay to the county treasurer and the county treasurer shall
13 distribute to the designated city or town of that county
14 impact assistance payments from the monies available under
15 paragraph (b)(i) of this section. Each payment to the
16 county shall be equal to the excess of each monthly payment
17 made under paragraph (b)(iii) of this section over the base
18 period amount for a period not to exceed thirty-six (36)
19 months or until the amount of impact assistance awarded in
20 W.S. 35-12-120 has been reached, whichever occurs first.
21 If the amount of impact assistance has not been reached in
22 thirty-six (36) months the city or town may submit a
23 request to the industrial siting council for further impact
24 assistance under W.S. 35-12-120.

1

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

3

4 (ii) "Base period amount" is the average monthly
5 distribution under paragraph (b)(iii) of this section for
6 the twelve (12) month period immediately prior to the
7 commencement of construction under paragraph (d)(i) of this
8 section or the award date under W.S. 35-12-120, whichever
9 is applicable, provided that on each anniversary date of
10 commencement of construction or date of award under W.S.
11 35-12-120 the state treasurer shall establish a new base
12 period amount by multiplying the base period amount by a
13 factor representing the annual rate of inflation in this
14 state for the preceding twelve (12) month period as
15 calculated by the department of administration and
16 information.

17

18 **Section 3.** This act is effective July 1, 2007.

19

20

(END)