

MINERAL LEASE AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Max W. Young

This act modifies the Revenue and Taxation Code and Cities, Counties, and Local Taxing Units to allow a county that receives in lieu tax payments appropriated from the Mineral Lease Account to distribute the money to school districts, and to make technical changes. The act takes effect on July 1, 2001.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

11-14-17.6, as last amended by Chapter 221, Laws of Utah 1999

59-21-2, as last amended by Chapter 299, Laws of Utah 2000

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **11-14-17.6** is amended to read:

11-14-17.6. Special service district bonds secured by federal mineral lease payments -- Use of bond proceeds -- Bond resolution -- Nonimpairment of appropriation formula -- Issuance of bonds.

(1) Special service districts may:

(a) issue bonds payable, in whole or in part, from federal mineral lease payments which are to be deposited into the Mineral Lease Account under Section 59-21-1 and ~~[appropriated]~~ distributed to special service districts under ~~[Section]~~ Subsection 59-21-2(3)(h); or

(b) pledge all or any part of the mineral lease payments referred to in Subsection (1)(a) as an additional source of payment for their general obligation bonds.

(2) The proceeds of these bonds may be used:

(a) to construct, repair, and maintain streets and roads;

(b) to fund any reserves and costs incidental to the issuance of the bonds and pay any associated administrative costs; and

(c) for capital projects of the special service district.

(3) (a) The special service district board shall enact a resolution authorizing the issuance

of bonds which, until the bonds have been paid in full:

- (i) shall be irrevocable; and
- (ii) may not be amended in any manner that would:
 - (A) impair the rights of the bond holders; or
 - (B) jeopardize the timely payment of principal or interest when due.
- (b) Notwithstanding any other provision of this chapter, the resolution may contain

covenants with the bond holder regarding:

- (i) mineral lease payments, or their disposition;
- (ii) the issuance of future bonds; or
- (iii) other pertinent matters considered necessary by the governing body to:
 - (A) assure the marketability of the bonds; or
 - (B) insure the enforcement, collection, and proper application of mineral lease payments.

(4) (a) Except as provided in Subsection ~~(4)~~(b), the state may not alter, impair, or limit the statutory appropriation formula provided in ~~[Subsections] Subsection 59-21-2[(2)(f) and 59-21-2(5)](3)(h)~~, in a manner that reduces the amounts to be distributed to the special service district until the bonds and the interest on the bonds are fully met and discharged. Each special service district may include this pledge and undertaking of the state in these bonds.

(b) Nothing in this section:

(i) may preclude the alteration, impairment, or limitation of these bonds if adequate provision is made by law for the protection of the bond holders; or

(ii) shall be construed:

(A) as a pledge guaranteeing the actual dollar amount ultimately received by individual special service districts;

(B) to require the Department of Transportation to allocate the mineral lease payments in a manner contrary to the general allocation method described in Subsection ~~59-21-2[(5)](3)(h)~~; or

(C) to limit the Department of Transportation in making rules or procedures allocating mineral lease payments pursuant to Subsection ~~59-21-2[(5)](3)(h)~~.

(5) (a) The average annual installments of principal and interest on bonds to which mineral

lease payments have been pledged as the sole source of payment may not at any one time exceed:

(i) 80% of the total mineral lease payments received by the issuing entity during the fiscal year of the issuing entity immediately preceding the fiscal year in which the resolution authorizing the issuance of bonds is adopted; or

(ii) if the bonds are issued during the first fiscal year the issuing entity is eligible to receive funds, 60% of the amount estimated by the Department of Transportation to be appropriated to the issuing entity in that fiscal year.

(b) The Department of Transportation shall not be liable for any loss or damage resulting from reliance on the estimates.

(6) The final maturity date of the bonds may not exceed 15 years from the date of their issuance.

(7) Bonds may not be issued under this section after December 31, 2010.

(8) Bonds which are payable solely from a special fund into which mineral lease payments are deposited constitute a borrowing based solely upon the credit of the mineral lease payments received or to be received by the special service district and do not constitute an indebtedness or pledge of the general credit of the special service district or the state.

Section 2. Section **59-21-2** is amended to read:

59-21-2. Definitions -- Mineral Bonus Account created -- Contents -- Use of Mineral Bonus Account money -- Mineral Lease Account created -- Contents -- Appropriation of monies from Mineral Lease Account.

(1) As used in this section:

(a) "Acquired lands" is as defined in Section 53C-3-201.

(b) "Acquired mineral interests" is as defined in Section 53C-3-201.

(2) (a) The Mineral Bonus Account is created within the General Fund.

(b) The Mineral Bonus Account consists of federal mineral lease bonus payments deposited pursuant to Subsection 59-21-1(3).

(c) The Legislature shall make appropriations from the Mineral Bonus Account in accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

(d) The state treasurer shall:

(i) invest the money in the Mineral Bonus Account by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(ii) deposit all interest or other earnings derived from the account into the Mineral Bonus Account.

(3) (a) The Mineral Lease Account is created within the General Fund.

(b) The Mineral Lease Account consists of:

(i) federal mineral lease money deposited pursuant to Subsection 59-21-1(1); and

(ii) rentals and royalties from the lease of the following deposited pursuant to Section 53C-3-202:

(A) minerals on acquired lands; or

(B) acquired mineral interests.

(c) The Legislature shall make appropriations from the Mineral Lease Account as provided in Subsection 59-21-1(1) and this Subsection (3).

(d) The Legislature shall annually appropriate 32.5% of all deposits made to the Mineral Lease Account to the Permanent Community Impact Fund established by Section 9-4-303.

(e) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the State Board of Education, to be used for education research and experimentation in the use of staff and facilities designed to improve the quality of education in Utah.

(f) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Utah Geological Survey, to be used for activities carried on by the survey having as a purpose the development and exploitation of natural resources in the state.

(g) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Water Research Laboratory at Utah State University, to be used for activities carried on by the laboratory having as a purpose the development and exploitation of water resources in the state.

(h) (i) The Legislature shall annually appropriate to the Department of Transportation 40%

of all deposits made to the Mineral Lease Account to be distributed as provided in Subsection

(3)(h)(ii) to:

- (A) counties;
- (B) special service districts established:
 - (I) by counties;
 - (II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and
 - (III) for the purpose of constructing, repairing, or maintaining roads; or
- (C) special service districts established:
 - (I) by counties;
 - (II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and
 - (III) for other purposes authorized by statute.

(ii) The Department of Transportation shall allocate the funds specified in Subsection

(3)(h)(i):

(A) in amounts proportionate to the amount of mineral lease money generated by each county; and

(B) to a county or special service district established by a county under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, as determined by the county legislative body.

(i) (i) The Legislature shall annually appropriate 5% of all deposits made to the Mineral Lease Account to the Department of Community and Economic Development to be distributed to:

- (A) special service districts established:
 - (I) by counties;
 - (II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and
 - (III) for the purpose of constructing, repairing, or maintaining roads; or
- (B) special service districts established:
 - (I) by counties;
 - (II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and
 - (III) for other purposes authorized by statute.

(ii) The Department of Community and Economic Development may distribute the amounts

described in Subsection (3)(i)(i) only to special service districts established under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, by counties:

- (A) of the third, fourth, fifth, or sixth class;
- (B) in which 4.5% or less of the mineral lease moneys within the state are generated; and
- (C) that are significantly socially or economically impacted as provided in Subsection

(3)(i)(iii) by the development of:

- (I) minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.;
- (II) minerals on acquired lands; or
- (III) acquired mineral interests.

(iii) The significant social or economic impact required under Subsection (3)(i)(ii)(C) shall be as a result of:

(A) the transportation within the county of hydrocarbons, including solid hydrocarbons as defined in Section 59-5-101;

(B) the employment of persons residing within the county in hydrocarbon extraction, including the extraction of solid hydrocarbons as defined in Section 59-5-101; or

(C) a combination of Subsections (3)(i)(iii)(A) and (B).

(iv) For purposes of distributing the appropriations under this Subsection (3)(i) to special service districts established by counties under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, the Department of Community and Economic Development shall:

(A) (I) allocate 50% of the appropriations equally among the counties meeting the requirements of Subsections (3)(i)(ii) and (iii); and

(II) allocate 50% of the appropriations based on the ratio that the population of each county meeting the requirements of Subsections (3)(i)(ii) and (iii) bears to the total population of all of the counties meeting the requirements of Subsections (3)(i)(ii) and (iii); and

(B) after making the allocations described in Subsection (3)(i)(iv)(A), distribute the allocated revenues to special service districts established by the counties under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, as determined by the executive director of the Department of Community and Economic Development after consulting with the county legislative bodies of the

counties meeting the requirements of Subsections (3)(i)(ii) and (iii).

(v) The executive director of the Department of Community and Economic Development:

(A) shall determine whether a county meets the requirements of Subsections (3)(i)(ii) and (iii);

(B) shall distribute the appropriations under Subsection (3)(i)(i) to special service districts established by counties under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, that meet the requirements of Subsections (3)(i)(ii) and (iii); and

(C) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, may make rules:

(I) providing a procedure for making the distributions under this Subsection (3)(i) to special service districts; and

(II) defining the term "population" for purposes of Subsection (3)(i)(iv).

(j) (i) The Legislature shall annually make the following appropriations from the Mineral Lease Account:

(A) an amount equal to 52 cents multiplied by the number of acres of school or institutional trust lands, lands owned by the Division of Parks and Recreation, and lands owned by the Division of Wildlife Resources that are not under an in lieu of taxes contract, to each county in which those lands are located;

(B) to each county in which school or institutional trust lands are transferred to the federal government after December 31, 1992, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between 52 cents per acre and the per acre payment made to that county in the most recent payment under the federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal payment was equal to or exceeded the 52 cents per acre, in which case a payment under this Subsection (3)(j)(i)(B) may not be made for the transferred lands;

(C) to each county in which federal lands, which are entitlement lands under the federal in lieu of taxes program, are transferred to the school or institutional trust, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference

between the most recent per acre payment made under the federal payment in lieu of taxes program and 52 cents per acre, unless the federal payment was equal to or less than 52 cents per acre, in which case a payment under this Subsection (3)(j)(i)(C) may not be made for the transferred land; and

(D) to a county of the fifth or sixth class, an amount equal to the product of:

(I) \$1,000; and

(II) the number of residences described in Subsection (3)(j)(iv) that are located within the county.

(ii) A county receiving money under Subsection (3)(j)(i) may, as determined by the county legislative body, distribute the money or a portion of the money to:

(A) special service districts established by the county under Title 17A, Chapter 2, Part 13, Utah Special Service District Act [~~as determined by the county legislative body~~]; or

(B) school districts.

(iii) (A) Beginning in fiscal year 1994-95 and in each year after fiscal year 1994-95, the Division of Finance shall increase or decrease the amounts per acre provided for in Subsections (3)(j)(i)(A) through (C) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(B) For fiscal years beginning on or after fiscal year 2001-02, the Division of Finance shall increase or decrease the amount described in Subsection (3)(j)(i)(D)(I) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(iv) Residences [~~described in~~] for purposes of Subsection (3)(j)(i)(D)(II) are residences that are:

(A) owned by:

(I) the Division of Parks and Recreation; or

(II) the Division of Wildlife Resources;

(B) located on lands that are owned by:

(I) the Division of Parks and Recreation; or

(II) the Division of Wildlife Resources; and

(C) are not subject to taxation under:

(I) Chapter 2, Property Tax Act; or

(II) Chapter 4, Privilege Tax.

(k) The Legislature shall annually appropriate to the Permanent Community Impact Fund all deposits remaining in the Mineral Lease Account after making the appropriations provided for in Subsections (3)(d) through (j).

(4) (a) Each agency, board, institution of higher education, and political subdivision receiving money under this chapter shall provide the Legislature, through the Office of the Legislative Fiscal Analyst, with a complete accounting of the use of that money on an annual basis.

(b) The accounting required under Subsection (4)(a) shall:

(i) include actual expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and planned expenditures for the following fiscal year; and

(ii) be reviewed by the Economic Development and Human Resources Appropriation Subcommittee as part of its normal budgetary process under Title 63, Chapter 38, Budgetary Procedures Act.

Section 3. Effective date.

This act takes effect on July 1, 2001.