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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

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

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

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

31 (i) shall be irrevocable; and

32 (ii) may not be amended in any manner that would:

33 (A) impair the rights of the bond holders; or

34 (B) jeopardize the timely payment of principal or interest when due.

35 (b) Notwithstanding any other provision of this chapter, the resolution may contain

36 covenants with the bond holder regarding:

37 (i) mineral lease payments, or their disposition;

38 (ii) the issuance of future bonds; or

39 (iii) other pertinent matters considered necessary by the governing body to:

40 (A) assure the marketability of the bonds; or

41 (B) insure the enforcement, collection, and proper application of mineral lease payments.

42 (4) (a) Except as provided in Subsection (4)(b), the state may not alter, impair, or limit the

43 statutory appropriation formula provided in [~~Subsections~~] Subsection 59-21-2(2)(f) and

44 ~~59-21-2(5)](3)(h)~~, in a manner that reduces the amounts to be distributed to the special service

45 district until the bonds and the interest on the bonds are fully met and discharged. Each special

46 service district may include this pledge and undertaking of the state in these bonds.

47 (b) Nothing in this section:

48 (i) may preclude the alteration, impairment, or limitation of these bonds if adequate

49 provision is made by law for the protection of the bond holders; or

50 (ii) shall be construed:

51 (A) as a pledge guaranteeing the actual dollar amount ultimately received by individual

52 special service districts;

53 (B) to require the Department of Transportation to allocate the mineral lease payments in

54 a manner contrary to the general allocation method described in Subsection ~~59-21-2(5)](3)(h)~~; or

55 (C) to limit the Department of Transportation in making rules or procedures allocating

56 mineral lease payments pursuant to Subsection ~~59-21-2(5)](3)(h)~~.

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

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

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

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

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

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

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

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

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

75 **59-21-2. Definitions -- Mineral Bonus Account created -- Contents -- Use of Mineral**
76 **Bonus Account money -- Mineral Lease Account created -- Contents -- Appropriation of**
77 **monies from Mineral Lease Account.**

78 (1) As used in this section:

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

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

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

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

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

86 (d) The state treasurer shall:

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

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

90 Account.

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

92 (b) The Mineral Lease Account consists of:

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

94 (ii) rentals and royalties from the lease of the following deposited pursuant to Section
95 53C-3-202:

96 (A) minerals on acquired lands; or

97 (B) acquired mineral interests.

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

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

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

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

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

113 (h) (i) The Legislature shall annually appropriate to the Department of Transportation 40%
114 of all deposits made to the Mineral Lease Account to be distributed as provided in Subsection
115 (3)(h)(ii) to:

116 (A) counties;

117 (B) special service districts established:

118 (I) by counties;

119 (II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and

120 (III) for the purpose of constructing, repairing, or maintaining roads; or

- 121 (C) special service districts established:
- 122 (I) by counties;
- 123 (II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and
- 124 (III) for other purposes authorized by statute.
- 125 (ii) The Department of Transportation shall allocate the funds specified in Subsection
- 126 (3)(h)(i):
- 127 (A) in amounts proportionate to the amount of mineral lease money generated by each
- 128 county; and
- 129 (B) to a county or special service district established by a county under Title 17A, Chapter
- 130 2, Part 13, Utah Special Service District Act, as determined by the county legislative body.
- 131 (i) (i) The Legislature shall annually appropriate 5% of all deposits made to the Mineral
- 132 Lease Account to the Department of Community and Economic Development to be distributed to:
- 133 (A) special service districts established:
- 134 (I) by counties;
- 135 (II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and
- 136 (III) for the purpose of constructing, repairing, or maintaining roads; or
- 137 (B) special service districts established:
- 138 (I) by counties;
- 139 (II) under Title 17A, Chapter 2, Part 13, Utah Special Service District Act; and
- 140 (III) for other purposes authorized by statute.
- 141 (ii) The Department of Community and Economic Development may distribute the
- 142 amounts described in Subsection (3)(i)(i) only to special service districts established under Title
- 143 17A, Chapter 2, Part 13, Utah Special Service District Act, by counties:
- 144 (A) of the third, fourth, fifth, or sixth class;
- 145 (B) in which 4.5% or less of the mineral lease moneys within the state are generated; and
- 146 (C) that are significantly socially or economically impacted as provided in Subsection
- 147 (3)(i)(iii) by the development of:
- 148 (I) minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.;
- 149 (II) minerals on acquired lands; or
- 150 (III) acquired mineral interests.
- 151 (iii) The significant social or economic impact required under Subsection (3)(i)(ii)(C) shall

152 be as a result of:

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

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

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

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

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

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

166 (B) after making the allocations described in Subsection (3)(i)(iv)(A), distribute the
167 allocated revenues to special service districts established by the counties under Title 17A, Chapter
168 2, Part 13, Utah Special Service District Act, as determined by the executive director of the
169 Department of Community and Economic Development after consulting with the county legislative
170 bodies of the counties meeting the requirements of Subsections (3)(i)(ii) and (iii).

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

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

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

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

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

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

182 (j) (i) The Legislature shall annually make the following appropriations from the Mineral

183 Lease Account:

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

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

195 (C) to each county in which federal lands, which are entitlement lands under the federal
196 in lieu of taxes program, are transferred to the school or institutional trust, an amount equal to the
197 number of transferred acres in the county multiplied by a payment per acre equal to the difference
198 between the most recent per acre payment made under the federal payment in lieu of taxes program
199 and 52 cents per acre, unless the federal payment was equal to or less than 52 cents per acre, in
200 which case a payment under this Subsection (3)(j)(i)(C) may not be made for the transferred land;
201 and

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

203 (I) \$1,000; and

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

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

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

210 (B) school districts.

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

214 consumers published by the Department of Labor.

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

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

221 (A) owned by:

222 (I) the Division of Parks and Recreation; or

223 (II) the Division of Wildlife Resources;

224 (B) located on lands that are owned by:

225 (I) the Division of Parks and Recreation; or

226 (II) the Division of Wildlife Resources; and

227 (C) are not subject to taxation under:

228 (I) Chapter 2, Property Tax Act; or

229 (II) Chapter 4, Privilege Tax.

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

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

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

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

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

242 Section 3. **Effective date.**

243 This act takes effect on July 1, 2001.

Legislative Review Note

as of 1-8-01 1:53 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel