

**Representative Ryan D. Wilcox** proposes the following substitute bill:

**INTERLOCAL COOPERATION ACT AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John L. Valentine**

House Sponsor: Ryan D. Wilcox

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**LONG TITLE**

**General Description:**

This bill amends provisions of the Interlocal Cooperation Act related to a taxed interlocal entity.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides that a use of an asset by a taxed interlocal entity does not constitute the use of a public asset;
- ▶ provides that an official of a project entity is not a public treasurer;
- ▶ authorizes a taxed interlocal entity's governing body to determine the use of an asset; and
- ▶ exempts a taxed interlocal entity from certain provisions.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:



26 11-13-315, Utah Code Annotated 1953



27  
28 *Be it enacted by the Legislature of the state of Utah:*

29 Section 1. Section 11-13-315 is enacted to read:

30 **11-13-315. Taxed interlocal entity.**

31 (1) As used in this section:

32 (a) "Asset" means funds, money, an account, real or personal property, or personnel.

33 (b) "Public asset" means:

34 (i) an asset used by a public entity;

35 (ii) tax revenue;

36 (iii) state funds; or

37 (iv) public funds.

38 (c) (i) "Taxed interlocal entity" means a project entity that:

39 (A) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3,

40 Project Entity Provisions;

41 (B) does not receive a payment of funds from a federal agency or office, state agency or  
42 office, political subdivision, or other public agency or office other than a payment that does not  
43 materially exceed the greater of the fair market value and the cost of a service provided or  
44 property conveyed by the project entity; and

45 (C) does not receive, expend, or have the authority to compel payment from tax  
46 revenue.

47 (ii) Before and on May 1, 2014, "taxed interlocal entity" includes an interlocal entity  
48 that:

49 (A) (I) was created before 1981 for the purpose of providing power supply at wholesale  
50 to its members; or

51 (II) is described in Subsection 11-13-204(7);

52 (B) does not receive a payment of funds from a federal agency or office, state agency or  
53 office, political subdivision, or other public agency or office other than a payment that does not  
54 materially exceed the greater of the fair market value and the cost of a service provided or  
55 property conveyed by the interlocal entity; and

56 (C) does not receive, expend, or have the authority to compel payment from tax

57 revenue.

58 (d) (i) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit,  
59 administer, receive, expend, appropriate, disburse, or have custody.

60 (ii) "Use" includes, when constituting a noun, the corresponding nominal form of each  
61 term in Subsection (1)(d)(i), individually.

62 (2) Notwithstanding any other provision of law, the use of an asset by a taxed interlocal  
63 entity does not constitute the use of a public asset.

64 (3) Notwithstanding any other provision of law, a taxed interlocal entity's use of an  
65 asset that was a public asset prior to the taxed interlocal entity's use of the asset does not  
66 constitute a taxed interlocal entity's use of a public asset.

67 (4) Notwithstanding any other provision of law, an official of a project entity is not a  
68 public treasurer.

69 (5) Notwithstanding any other provision of law, a taxed interlocal entity's governing  
70 body, as described in Section 11-13-206, shall determine and direct the use of an asset by the  
71 taxed interlocal entity.

72 (6) (a) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter  
73 6a, Utah Procurement Code.

74 (b) An agent of a taxed interlocal entity is not an external procurement unit as defined  
75 in Section 63G-6a-104.

76 (7) (a) A taxed interlocal entity is not a participating local entity as defined in Section  
77 63A-3-401.

78 (b) For each fiscal year of a taxed interlocal entity, the taxed interlocal entity shall  
79 provide:

80 (i) the taxed interlocal entity's financial statements for and as of the end of the fiscal  
81 year and the prior fiscal year, including the taxed interlocal entity's balance sheet as of the end  
82 of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses  
83 and of cash flows for the fiscal year; and

84 (ii) the accompanying auditor's report and management's discussion and analysis with  
85 respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal  
86 year.

87 (c) The taxed interlocal entity shall provide the information described in Subsections

88 (7)(b)(i) and (b)(ii):

89 (i) in a manner described in Subsection 63A-3-405(3); and

90 (ii) within a reasonable time after the taxed interlocal entity's independent auditor  
91 delivers to the taxed interlocal entity's governing body the auditor's report with respect to the  
92 financial statements for and as of the end of the fiscal year.

93 (d) Notwithstanding Subsections (7)(b) and (c) or a taxed interlocal entity's compliance  
94 with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

95 (i) the taxed interlocal entity is not subject to Title 63A, Chapter 3, Division of  
96 Finance; and

97 (ii) the information described in Subsection (7)(b)(i) or (ii) does not constitute public  
98 financial information as defined in Section 63A-3-401.

99 (8) (a) A taxed interlocal entity's governing body is not a governing board as defined in  
100 Section 51-2a-102.

101 (b) A taxed interlocal entity is not subject to the provisions of Title 51, Chapter 2a,  
102 Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local  
103 Entities Act.