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PAYMENT IN LIEU OF PROPERTY TAXES

ACT

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gene Davis

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the revenue and taxation title to enact the Payment in Lieu of Property Taxes Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ provides for the determination of the assessed value of a regional facility;
- ▶ provides for an application process and hearings on assessed values if set by the commission;
- ▶ requires the commission to certify the amount of a payment in lieu of property taxes;
- ▶ requires the Division of Finance to determine whether or not there is eligible surplus; and
- ▶ provides for the payment of payments in lieu of property taxes if there is eligible surplus.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on January 1, 2009.



28 **Utah Code Sections Affected:**

29 ENACTS:

30 **59-3a-101**, Utah Code Annotated 1953

31 **59-3a-102**, Utah Code Annotated 1953

32 **59-3a-201**, Utah Code Annotated 1953

33 **59-3a-202**, Utah Code Annotated 1953

34 **59-3a-203**, Utah Code Annotated 1953

35 **59-3a-204**, Utah Code Annotated 1953

36 **59-3a-301**, Utah Code Annotated 1953

37 **59-3a-302**, Utah Code Annotated 1953

38 **59-3a-303**, Utah Code Annotated 1953



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

41 Section 1. Section **59-3a-101** is enacted to read:

42 **CHAPTER 3a. PAYMENT IN LIEU OF PROPERTY TAXES ACT**

43 **Part 1. General Provisions**

44 **59-3a-101. Title.**

45 This chapter is known as the "Payment in Lieu of Property Taxes Act."

46 Section 2. Section **59-3a-102** is enacted to read:

47 **59-3a-102. Definitions.**

48 As used in this chapter:

49 (1) "Assessed value" means the assessed value:

50 (a) determined by the county assessor in accordance with Section 59-3a-201; or

51 (b) set by the commission in accordance with Section 59-3a-202.

52 (2) "Eligible municipality" means a city or town within which at least 30% of the

53 acreage of real property within the boundaries of the city or town is exempt from paying a

54 property tax under Chapter 2, Property Tax Act.

55 (3) "Eligible surplus" means the surplus calculated under Section 59-3a-301.

56 (4) "Facility" means:

57 (a) land, a structure, a building, an installation, an excavation, machinery, equipment,

58 or a device; or

59 (b) an addition to, reconstruction, replacement, or improvement of land or an existing
60 structure, building, installation, excavation, machinery, equipment, or device.

61 (5) "Payment in lieu of property taxes" means a payment determined in accordance
62 with Section 59-3a-204.

63 (6) "Real property" includes:

64 (a) the possession of, claim to, ownership of, or right to the possession of land;

65 (b) (i) all mines, minerals, and quarries in and under the land;

66 (ii) all timber growing or being on the land belonging to a person; and

67 (iii) all rights and privileges appertaining to Subsection (6)(b)(i) or (ii); and

68 (c) any improvement on the land.

69 (7) "Regional correctional facility" means a correctional facility, as defined in Section
70 76-8-311.3 in which an adult or juvenile is incarcerated pursuant to a sentence imposed by a
71 jurisdiction other than the eligible municipality in which the correctional facility is located.

72 (8) "Regional facility" means:

73 (a) a regional correctional facility;

74 (b) a regional public safety facility;

75 (c) a regional public solid waste transfer facility;

76 (d) a regional public education facility;

77 (e) a regional transportation facility; or

78 (f) a regional water reclamation facility.

79 (9) "Regional public education facility" means a facility that:

80 (a) is used for:

81 (i) administrative services to a school district;

82 (ii) services to a student eligible for special education services pursuant to Section
83 602(a)(20) of part B of the Individuals with Disabilities Act, 20 U.S.C. Section 1401(a);

84 (iii) support services;

85 (iv) maintenance; or

86 (v) storage; and

87 (b) is used for a purpose described in Subsection (9)(a) for the benefit of a student
88 residing outside the boundaries of the eligible municipality in which the facility is located.

89 (10) (a) "Regional public safety facility" means a facility:

90 (i) constructed or leased to house police, fire, or other public safety entity; and

91 (ii) from which services are provided outside the boundaries of the eligible

92 municipality in which the facility is located.

93 (b) "Regional public safety facility" includes an administrative office.

94 (c) "Regional public safety facility" does not include a regional correctional facility or

95 other place of involuntary incarceration.

96 (11) "Regional public solid waste transfer facility" means a facility owned or operated

97 by a municipality that:

98 (a) is used to collect, process, and ship solid waste, as defined in Section 19-6-102,

99 before the solid waste is disposed of in a final disposal site; and

100 (b) receives solid waste from outside the eligible municipality in which the facility is

101 located.

102 (12) (a) "Regional transportation facility" means a facility that:

103 (i) is part of:

104 (A) a public or private rail-based transportation system; or

105 (B) a bus system; and

106 (ii) is located in the part of the system described in Subsection (12)(a) that transports

107 an individual outside of the eligible municipality in which the facility is located.

108 (b) "Regional transportation facility" includes a related administrative or maintenance

109 facility.

110 (13) "Regional water reclamation facility" means a facility used in the reclamation of

111 water that, after the reclamation, is used outside the boundaries of the eligible municipality in

112 which the facility is located.

113 Section 3. Section **59-3a-201** is enacted to read:

114 **Part 2. Determination of In Lieu Payment**

115 **59-3a-201. Assessed value of a regional facility.**

116 (1) Before the May 1 immediately preceding the fiscal year in which an eligible

117 municipality applies for a payment in lieu of property taxes under this chapter, the eligible

118 municipality shall request its county assessor to determine an assessed value of each regional

119 facility for which the eligible municipality is seeking a payment in lieu of property taxes.

120 (2) If an eligible municipality requests a county assessor to determine an assessed value

121 of a regional facility, the county assessor shall:

122 (a) determine the assessed value of the real property associated with the regional
123 facility; and

124 (b) by no later than May 22, report the assessed value of the real property to the eligible
125 municipality.

126 Section 4. Section **59-3a-202** is enacted to read:

127 **59-3a-202. Application to include assessed value by municipality -- Review by**
128 **commission.**

129 (1) By no later than July 1 of the fiscal year in which an eligible municipality seeks a
130 payment in lieu of property taxes, the eligible municipality shall file an application with the
131 commission.

132 (2) In the application required by Subsection (1), the eligible municipality shall:

133 (a) document that the municipality qualifies as an eligible municipality as defined in
134 Section 59-3a-102;

135 (b) designate for which regional facilities the eligible municipality is seeking a
136 payment in lieu of property taxes;

137 (c) state the assessed valuation for each regional facility listed under Subsection (2)(b);
138 and

139 (d) provide any other information that the commission requires by rule made in
140 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

141 (3) (a) (i) If after reviewing an application filed under this section the commission
142 determines that the assessed value of a regional facility is inaccurate, the commission may set a
143 different assessed value for the regional facility.

144 (ii) If the commission sets a different assessed value for a regional facility, the
145 commission shall notify the eligible municipality in which the regional facility is located by
146 certified or registered mail within five business days of the day on which the commission sets
147 the different assessed value.

148 (b) Notwithstanding Subsection (3)(a), the commission may not impose a different
149 assessed value for a regional facility for purposes of a payment in lieu of property taxes on or
150 after August 1 of the fiscal year in which the payment of a payment in lieu of property taxes is
151 to be paid.

152 (c) A municipality may appeal an assessed value determined by the commission under
153 Subsection (3)(a) in accordance with Section 59-3a-203.

154 Section 5. Section **59-3a-203** is enacted to read:

155 **59-3a-203. Hearing on assessed valuation.**

156 (1) If the commission sets an assessed value under Subsection 59-3a-202(3), the
157 eligible municipality may seek a hearing on the assessed value by filing a request for hearing by
158 no later than ten business days after the day on which the eligible municipality receives the
159 notice of a different assessed value under Subsection 59-3a-202(3).

160 (2) The request for a hearing required by Subsection (1) shall:

161 (a) be in writing; and

162 (b) state the reason for the request for a hearing.

163 (3) (a) The commission shall either grant or deny the request for a hearing in writing by
164 no later than ten business days from the day on which the eligible municipality files a request
165 for a hearing under this section.

166 (b) If the commission denies the request for a hearing, the commission shall include in
167 the written denial the reasons for the denial.

168 (c) If the commission grants the request for a hearing, the commission shall include in
169 the written grant the date, time, and location of the hearing.

170 (d) The commission shall notify the eligible municipality of the commission's action
171 under this Subsection (3) by certified or registered mail.

172 (4) An eligible municipality may file an appeal of a decision of the commission under
173 this section within 30 days of the day on which:

174 (a) if the commission denies a request for hearing, the municipality receives the written
175 denial; or

176 (b) if a hearing is granted by the commission, the commission issues a final
177 determination of the assessed value of a regional facility.

178 Section 6. Section **59-3a-204** is enacted to read:

179 **59-3a-204. Certification of in lieu payment by commission.**

180 By no later than September 15 in a fiscal year in which the Division of Finance
181 determines that there is eligible surplus, the commission shall certify the payment in lieu of
182 property taxes for a regional facility for which an eligible municipality applies for a payment in

183 lieu of property taxes by multiplying:

184 (1) the assessed value of the regional facility; and

185 (2) the rate imposed on real property located within the eligible municipality.

186 Section 7. Section **59-3a-301** is enacted to read:

187 **Part 3. Payment of In Lieu Payment**

188 **59-3a-301. Determination of eligible surplus.**

189 (1) The Division of Finance shall calculate whether or not there is eligible surplus by
190 no later than August 15 of each fiscal year.

191 (2) There is eligible surplus in a fiscal year if for the immediately preceding fiscal year
192 there is an unrestricted, undesignated balance in the General Fund after:

193 (a) the transfers:

194 (i) to the General Fund Budget Reserve Account as provided in Section 63-38-2.5; and

195 (ii) as provided in Section 63-38-2.7; and

196 (b) the earmark to the Industrial Assistance Fund provided for in Subsection
197 63-38f-904(5).

198 (3) If in a fiscal year there is eligible surplus, the Division of Finance shall notify the
199 commission by no later than September 1:

200 (a) that there is eligible surplus; and

201 (b) of the amount of eligible surplus.

202 Section 8. Section **59-3a-302** is enacted to read:

203 **59-3a-302. Payment.**

204 (1) Subject to the other provisions in this section, if the Division of Finance notifies the
205 commission that there is eligible surplus, the commission shall pay an eligible municipality the
206 total of the payments in lieu of property taxes that the eligible municipality applied for under
207 Section 59-3a-202 by no later than October 1 of that fiscal year.

208 (2) Before the commission may make a payment required by Subsection (1), the
209 commission shall for each fiscal year:

210 (a) calculate the total of the payments in lieu of property taxes due each eligible
211 municipality that applied for a payment in lieu of property taxes;

212 (b) calculate the total of the payments in lieu of property taxes due all eligible
213 municipalities for that fiscal year; and

214 (c) determine if there is sufficient eligible surplus to pay the amount described in
215 Subsection (2)(b).
216 (3) If there is insufficient eligible surplus to pay the amount described in Subsection
217 (2)(b), the commission shall:
218 (a) reduce the amount each eligible municipality is due under Subsection (2)(a) by the
219 same percentage until the total of the payments in lieu of property taxes due all eligible
220 municipalities after the percentage reduction is equal to or less than the eligible surplus; and
221 (b) pay the amount described in Subsection (3)(a) to each eligible municipality
222 described in Subsection (2)(a) by no later than October 1 of the fiscal year.
223 Section 9. Section **59-3a-303** is enacted to read:
224 **59-3a-303. Not applicable to certified rate.**
225 A payment received under this chapter may not be considered to establish a certified tax
226 rate under Chapter 2, Part 9, Levies.
227 Section 10. **Effective date.**
228 This bill takes effect on January 1, 2009.

Legislative Review Note
as of 1-31-08 10:49 AM

Office of Legislative Research and General Counsel