

**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 project entity.

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**11-13-315**, Utah Code Annotated 1953

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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 project 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) "Taxed project entity" means a project entity that:

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

40 Project Entity Provisions;

41 (ii) 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 (iii) does not receive or expend tax revenue.

46 (d) (i) "Use" means to use, own, manage, hold, keep safe, maintain, invest, deposit,

47 administer, receive, expend, appropriate, disburse, or have custody.

48 (ii) "Use" includes, when constituting a noun, the corresponding nominal form of each

49 term in Subsection (1)(d)(i), individually.

50 (2) Notwithstanding any other provision of law, the use of an asset by a taxed project

51 entity does not constitute the use of a public asset.

52 (3) Notwithstanding any other provision of law, a taxed project entity's use of an asset

53 that was a public asset prior to the taxed project entity's use of the asset does not constitute a

54 taxed project entity's use of a public asset.

55 (4) Notwithstanding any other provision of law, an official of a taxed project entity is

56 not a public treasurer.

57 (5) Notwithstanding any other provision of law, a taxed project entity's governing

58 body, as described in Section 11-13-206, shall determine and direct the use of an asset by the

59 taxed project entity.

60 (6) (a) A taxed project entity is not ~~§~~ [;

61 —— (i) a participating local entity as defined in Section 63A-3-401; or

62 —— (ii) ~~§~~ subject to the provisions of Title 63G, Chapter 6a, Utah Procurement Code.

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

65 (7) (a) ~~§~~ [A taxed project entity's governing body is not a governing board as defined in  
66 Section 51-2a-102.] A taxed project entity is not a participating local entity as defined in Section  
66a 63A-3-401.

66b (b) For each fiscal year of a taxed project entity, the taxed project entity shall provide:

66c (i) the taxed project entity's financial statements for and as of the end of the fiscal year  
66d and the prior fiscal year, including the taxed project entity's balance sheet as of the end of the  
66e fiscal year and the prior fiscal year, and the related statements of revenues and expenses and  
66f of cash flows for the fiscal year; and

66g (ii) the accompanying auditor's report and management's discussion and analysis with  
66h respect to the taxed project entity's financial statements for and as of the end of the fiscal year.

66i (c) The taxed project entity shall provide the information described in Subsections  
66j (7)(b)(i) and (b)(ii):

66k (i) in a manner described in Subsection 63A-3-405(3); and

66l (ii) within a reasonable time after the taxed project entity's independent auditor  
66m delivers to the taxed project entity's governing body the auditor's report with respect to the  
66n financial statements for and as of the end of the fiscal year.

66o (d) Notwithstanding Subsections (7)(b) and (c) or a taxed project entity's compliance  
66p with one or more of the requirements of Title 63A, Chapter 3, Division of Finance:

66q (i) the taxed project entity is not subject to Title 63A, Chapter 3, Division of Finance;  
66r and

66s (ii) the information described in Subsection (7)(b)(i) or (ii) does not constitute public  
66t financial information as defined in Section 63A-3-401.

67 ~~§~~ (8)(a) A taxed project entity's governing body is not a governing board as defined in  
67a Section 51-2a-102. ~~§~~

67b (b) A taxed project entity is not subject to the provisions of Title 51, Chapter 2a,  
68 Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local  
69 Entities Act.

**Legislative Review Note**  
**as of 1-9-13 2:42 PM**

**Office of Legislative Research and General Counsel**