

1 **INTERLOCAL COOPERATION ACT AMENDMENTS**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John L. Valentine**

5 House Sponsor: Ryan D. Wilcox

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 ENACTS:

26 **11-13-315**, Utah Code Annotated 1953

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.