

1                                   **INTERLOCAL COOPERATION ACT REVISIONS**

2                                                           2014 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 related to a taxed interlocal entity.

10 **Highlighted Provisions:**

11           This bill:

- 12           ▶ amends the definition of taxed interlocal entity.

13 **Money Appropriated in this Bill:**

14           None

15 **Other Special Clauses:**

16           None

17 **Utah Code Sections Affected:**

18 AMENDS:

19           **11-13-315**, as enacted by Laws of Utah 2013, Chapter 230

---

---

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

22           Section 1. Section **11-13-315** is amended to read:

23           **11-13-315. Taxed interlocal entity.**

24           (1) As used in this section:

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

26           (b) "Public asset" means:

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

28           (ii) tax revenue;

29           (iii) state funds; or

30 (iv) public funds.

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

32 (A) is not exempt from a tax or fee in lieu of taxes imposed in accordance with Part 3,  
33 Project Entity Provisions;

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

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

40 (ii) [~~Before and on May 1, 2014, "taxed"~~] "Taxed interlocal entity" includes an  
41 interlocal entity that:

42 (A) [~~(F)~~] was created before 1981 for the purpose of providing power supply at  
43 wholesale to its members; [~~or~~]

44 [~~(H) is described in Subsection 11-13-204(7);~~]

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

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

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

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

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

57 (3) Notwithstanding any other provision of law, a taxed interlocal entity's use of an

58 asset that was a public asset prior to the taxed interlocal entity's use of the asset does not  
59 constitute a taxed interlocal entity's use of a public asset.

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

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

65 (6) (a) A taxed interlocal entity is not subject to the provisions of Title 63G, Chapter  
66 6a, Utah Procurement Code.

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

69 (7) (a) A taxed interlocal entity is not a participating local entity as defined in Section  
70 63A-3-401.

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

73 (i) the taxed interlocal entity's financial statements for and as of the end of the fiscal  
74 year and the prior fiscal year, including the taxed interlocal entity's balance sheet as of the end  
75 of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses  
76 and of cash flows for the fiscal year; and

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

80 (c) The taxed interlocal entity shall provide the information described in Subsections  
81 (7)(b)(i) and (b)(ii):

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

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

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

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

90 (ii) the information described in Subsection (7)(b)(i) or (ii) does not constitute public  
91 financial information as defined in Section [63A-3-401](#).

92 (8) (a) A taxed interlocal entity's governing body is not a governing board as defined in  
93 Section [51-2a-102](#).

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