

INTERLOCAL ENTITIES AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Merrill F. Nelson

Senate Sponsor: Ralph Okerlund

LONG TITLE

General Description:

This bill amends provisions related to a taxed interlocal entity.

Highlighted Provisions:

This bill:

- ▶ defines "governmental law";
- ▶ provides that a governmental laws is not applicable to, is not binding upon, and does not have effect on a taxed interlocal entity unless the governmental law uses express words; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

11-13-315 (Effective 05/12/15), as last amended by Laws of Utah 2014, Chapters 115, 189, 196, and 264

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

Section 1. Section **11-13-315 (Effective 05/12/15)** is amended to read:



28 **11-13-315 (Effective 05/12/15). Taxed interlocal entity.**

29 (1) As used in this section:

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

31 (b) "Governmental law" means:

32 (i) Title 51, Chapter 2a, Accounting Reports from Political Subdivisions, Interlocal
33 Organizations, and Other Local Entities Act;

34 (ii) Title 63A, Chapter 3, Division of Finance;

35 (iii) Title 63G, Chapter 6a, Utah Procurement Code;

36 (iv) a law imposing an obligation on a taxed interlocal entity similar to an obligation
37 imposed by a law described in Subsection (1)(b)(i), (ii), or (iii);

38 (v) an amendment to or replacement or renumbering of a law described in Subsection
39 (1)(b)(i), (ii), (iii), or (iv); or

40 (vi) a law superseding a law described in Subsection (1)(b)(i), (ii), (iii), or (iv).

41 ~~(b)~~ (c) "Public asset" means:

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

43 (ii) tax revenue;

44 (iii) state funds; or

45 (iv) public funds.

46 ~~(c)~~ (d) (i) "Taxed interlocal entity" means a project entity that:

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

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

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

55 (ii) "Taxed interlocal entity" includes an interlocal entity that:

56 (A) was created before 1981 for the purpose of providing power supply at wholesale to
57 its members;

58 (B) does not receive a payment of funds from a federal agency or office, state agency or

59 office, political subdivision, or other public agency or office other than a payment that does not
60 materially exceed the greater of the fair market value and the cost of a service provided or
61 property conveyed by the interlocal entity; and

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

64 ~~[(d)]~~ (e) (i) "Use" means to use, own, manage, hold, keep safe, maintain, invest,
65 deposit, administer, receive, expend, appropriate, disburse, or have custody.

66 (ii) "Use" includes, when constituting a noun, the corresponding nominal form of each
67 term in Subsection (1)~~[(d)]~~(e)(i), individually.

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

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

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

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

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

80 (7) (a) A taxed interlocal entity is not a participating local entity as defined in Section
81 63A-3-401.

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

84 (i) the taxed interlocal entity's financial statements for and as of the end of the fiscal
85 year and the prior fiscal year, including the taxed interlocal entity's balance sheet as of the end
86 of the fiscal year and the prior fiscal year, and the related statements of revenues and expenses
87 and of cash flows for the fiscal year; and

88 (ii) the accompanying auditor's report and management's discussion and analysis with
89 respect to the taxed interlocal entity's financial statements for and as of the end of the fiscal

90 year.

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

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

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

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

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

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

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

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

108 (9) (a) A taxed interlocal entity is not subject to the provisions of Subsection
109 11-13-204(1)(a)(i) or (c).

110 (b) In addition to the powers provided in Subsection 11-13-204(1)(a)(ii), a taxed
111 interlocal entity may, for the regulation of the entity's affairs and conduct of its business, adopt,
112 amend, or repeal bylaws, policies, or procedures.

113 (10) A governmental law enacted after May 12, 2015, is not applicable to, is not
114 binding upon, and does not have effect on a taxed interlocal entity unless the governmental law
115 expressly states the section of governmental law to be applicable to and binding upon the taxed
116 interlocal entity with the following words: "[Applicable section or subsection number]
117 constitutes an exception to Subsection 11-13-315(10) and is applicable to and binding upon a
118 taxed interlocal entity."

Legislative Review Note
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Office of Legislative Research and General Counsel