

## DEPARTMENT OF REVENUE

211

Tax 13

## Chapter Tax 13

## INVESTMENT AND LOCAL IMPACT FUND

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**Note:** Chapter Tax 13 as it existed on November 30, 1982, was repealed and a new chapter Tax 13 was created effective December 1, 1982.

**Tax 13.01 Purpose.** The purpose of this chapter is to establish standards and procedures for the issuance of funds generated by a net proceeds occupation tax to municipalities for costs associated with social, educational, environmental, and economic impacts of metalliferous mineral mining incurred prior to, during, and after extraction of metalliferous minerals.

**History:** Cr. Register, November, 1982, No. 323, eff. 12-1-82.

**Tax 13.02 Scope.** Pursuant to s. 70.395 (2) (c), Stats., the provisions of this chapter shall govern the distribution and use of net proceeds occupation tax monies.

**History:** Cr. Register, November, 1982, No. 323, eff. 12-1-82.

**Tax 13.03 Definitions.** (1) "Board" means investment and local impact fund board.

(2) "Certify" or "Certification" means filing with the department of administration a written confirmation of specific transfers, payments, or investments to be made by the department of administration.

(3) "Construction" means the activities described in the approved mining plan which can only occur at the mining site with the issuance of a mine permit and written authorization to commence mining under ss. 144.85 and 144.86 (3), Stats.

(4) "Construction period payment" means an amount equal to \$100,000 for each city, village, town, or Native American community eligible to receive a payment under s. 70.395 (2) (d) 5., Stats., during the construction period.

(5) "First dollar payment" means an amount equal to \$100,000 for each county, city, village, town, or Native American community eligible to receive a payment under s. 70.395 (2) (d) 1, 2 or 2m, Stats. If the tax collected under ss. 70.38 to 70.39, Stats., in any year is less than the first dollar payment as defined in this subsection, the first dollar payment for that year means the total amount of taxes collected under ss. 70.38 to 79.39, Stats.

(6) "Impact fund" means investment and local impact fund.

(7) "Indexed" means an adjustment made to payments under s. Tax 13.06 (1), (2), and (3), to reflect the percentage change between the gross national product deflator for June of the current year and the gross national product deflator for June of the previous year, as determined by the U.S. department of commerce as of December 30 of the year for

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which the taxes under ss. 70.38 to 70.39, Stats., are due, except that no annual increase may be more than 10%. The revised amounts shall be rounded to the nearest whole number divisible by 100.

(8) "Mine" means an excavation in or at the earth's surface made to extract metalliferous minerals for which a permit has been issued under s. 144.85, Stats.

(9) "Mining" or "mined" has the meaning under s. 70.375 (1) (b), Stats.

(10) "Mining permit application" means the mine permit application form filed with the department of natural resources pursuant to s. NR 132.06 Wis. Adm. Code.

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**Note:** The mine permit application is Form 2700-4, Rev. 4-82.

(11) "Mining site" means the location of:

(a) A metalliferous mineral deposit for which a mine permit application is filed pursuant to s. 144.85, Stats.,

(b) The concentrator, and

(c) The surface area covered by the tailings disposal pond.

(12) "Municipality" means any county, city, village, town, or school district. Pursuant to s. 20.002 (13), Stats., this definition also includes any federally recognized tribal governing body.

(13) "Native American community" means a federally recognized tribal governing body.

(14) "Nonshared costs" means the amount of the school district's principal and interest payments on the long-term indebtedness and annual capital outlay for the current school year which is not shared under s. 121.07 (6) (a), Stats., or other nonshared costs, and which is attributable to enrollment increases resulting from the development of metalliferous mineral mining operations.

(15) "Permit period payment" means an amount equal to \$100,000 for each city, village, town, or Native American community eligible to receive a payment under s. 70.395 (2) (d) 5., Stats., during the mine permit period.

(16) "Person" means a sole proprietorship, partnership, association, or corporation and includes a lessee engaged in mining metalliferous minerals.

(17) "Project fiscal year" means a 12-month time period which begins on the date a city, village, town, or Native American community first receives a payment under s. Tax 13.06 (2) or (3).

(18) "Project reserve fund" means an amount equal to 10% of the net proceeds tax paid by each mine plus all accrued interest.

(19) "Tax" means the net proceeds occupation tax imposed on persons engaged in mining metalliferous minerals in this state.

**History:** Cr. Register, November, 1982, No. 323, eff. 12-1-82.

Register, November, 1982, No. 323

**Tax 13.04 Severability.** Should any section, paragraph, phrase, sentence, or clause of this chapter be declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

**History:** Cr. Register, November, 1982, No. 323, eff. 12-1-82.

**Tax 13.05 Transfer of taxes, funds, and fees.** (1) **NET PROCEEDS TAX.** Fifteen days after collection of the tax, the department of administration, upon certification of the department of revenue, shall transfer the amount collected as follows:

(a) From mines in operation on or before November 27, 1981:

1. Forty percent to the general fund.
2. Sixty percent to the impact fund.

(b) From mines which first begin operations after November 27, 1981:

1. The first dollar payment or 60% of the taxes collected, whichever is greater, to the impact fund.

2. After the distribution in subd. 1, the remainder of the taxes collected to the badger fund under s. 25.28, Stats.

3. If the balance in the impact fund is more than \$20 million on January 1 of any year, the board shall transfer the excess over \$20 million to a segregated account to be administered under s. 25.28, Stats. The interest which accrues on the amount transferred to the segregated account shall be used pursuant to s. 25.28, Stats. For the purpose of determining the amount to be transferred, any monies deposited in the project reserve fund under s. Tax 13.06 (4) shall not be included in the impact fund balance.

4. The board may transfer funds from the segregated account established under subd. 3, up to the amount previously transferred in all prior years, under 2 conditions:

a. When the impact fund does not have sufficient funds to make any of the payments authorized under s. 70.395, Stats., for any year, or

b. When the balance in the impact fund is below \$20 million on any January 1.

(2) **WASTE MANAGEMENT FUND.** Prior to the beginning of a fiscal year, the board shall certify to the department of administration for payment from the impact fund any sum necessary for the department of natural resources to make payments under s. 144.441 (3) (g) 4 and 5, Stats., for the long term care of mining waste sites, if monies in the waste management fund are insufficient to make complete payments during that fiscal year. This sum may not exceed the balance in the waste management fund at the beginning of that fiscal year or 50% of the balance in the impact fund at the beginning of that fiscal year, whichever amount is greater.

(3) **CONSTRUCTION FEE.** Each year a person who engages in construction shall pay a construction fee to the department of revenue equal to an amount sufficient to make all the construction period payments that year under s. Tax 13.06 (2). The person shall pay the construction fee on a project fiscal year basis for each year construction continues at that

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site up to 3 years after the production of concentrates begins. This fee shall be used exclusively by the board to make construction period payments.

(a) Any person intending to begin construction shall notify the board by registered mail 90 days prior to the time construction begins. This written notice of intent shall include:

1. The name and address of the person intending to begin construction.
2. A map showing the location of the metallic mineral deposit, tailings pond, concentrator, and related facilities.

(b) Within 45 days after the receipt of the written notice of intent to begin construction, the board shall notify the department of revenue and give written public notice listing the cities, villages, towns, and Native American communities to receive construction period payments.

(c) In determining the construction fee, construction is considered to begin in all cities, villages, and towns that are part of the mining site when it begins in any part of the mining site. The construction period payments shall be indexed beginning in calendar year 1983 and corresponding fiscal years. The revised amounts shall be rounded to the nearest whole number divisible by 100 and shall not be reduced below \$100,000.

(d) Within 7 days after the beginning of construction, a person shall pay the construction fee to the department of revenue for deposit in the impact fund.

(e) For each year construction continues up to 3 years after the production of concentrates begins, the construction fee shall be paid to the department of revenue within 30 days after notification of the assessment.

**History:** Cr. Register, November, 1982, No. 323, eff. 12-1-82.

**Tax 13.06 Direct payments.** (1) **FIRST DOLLAR PAYMENTS.** Certain counties, cities, villages, towns, and Native American communities shall receive a first dollar payment under s. 70.395 (2) (d), Stats. The board shall give written public notice in July listing the municipalities to receive a first dollar payment or a percentage of the tax collected, or both, and the amount of each payment. Each December, the board shall certify to the department of administration the specific payments to be made on the first Monday in January of the next year, as follows:

(a) *Counties.* 1. Each county in which the metalliferous minerals are extracted shall receive a first dollar payment.

2. Each county in which the metalliferous minerals are extracted shall also receive 20% of the tax collected from persons in that county or \$250,000, whichever is less.

(b) *Cities, villages, and towns.* Each city, village, and town in which metalliferous minerals are extracted, or which contain at least 15% of that ore body, shall receive a first dollar payment.

(c) *Native American communities.* Each Native American community located within one or more cities, villages, or towns which receive a first dollar payment shall also receive a first dollar payment.

(d) *Exceptions.* 1. Where the tax collected is in respect to a mine located in more than one county each county's first dollar payment shall be equal to the ratio of the amount of crude ore extracted from the mine in that county to the total amount of crude ore extracted from the mines that year multiplied by the amount of the payment under par. (a) 1.

2. If a first dollar payment is made within a project fiscal year in which a city, village, town, or Native American community receives a construction period payment, the first dollar payment shall be reduced proportionately to correspond to the time remaining in the project fiscal year.

3. The dollar amounts in this subsection shall be indexed beginning in calendar year 1983 and corresponding fiscal years. The revised amounts shall be rounded to the nearest whole number divisible by 100. First dollar payments shall not be reduced below \$100,000. When the \$250,000 figure under par. (a) 2 is indexed, the amount shall not be reduced below \$250,000.

(2) **CONSTRUCTION PERIOD PAYMENTS.** Certain cities, villages, towns, and Native American communities that contain a mining site for which a mine permit has been granted under s. 144.85, Stats., shall receive annual payments during the time persons are engaged in construction at that site. The board shall certify to the department of administration the specific construction period payments to be made under s. 70.395 (2) (d) 5, Stats. These payments shall be made within 30 days after construction begins. For each year construction continues at that site up to 3 years after the production of concentrates begins, these payments shall be made on the anniversary date of the first construction period payment. The following municipalities shall receive construction period payments:

(a) *Cities, villages, and towns.* Each city, village, and town that contains a mining site at which construction begins prior to January 1, 1989.

(b) *Native American communities.* Each Native American community located within one or more cities, villages, or towns which receive a construction period payment.

(3) **PERMIT PERIOD PAYMENTS.** Certain cities, villages, towns, and Native American communities that contain a mining site for which a mine permit application is submitted under s. 144.85, Stats., shall receive annual payments from the impact fund during the time persons are engaged in the mine permitting process in relation to that site. The board shall determine the cities, villages, towns, and Native American communities to receive permit period payments based on the location of the metallic mineral deposit, the concentrator, and the tailings disposal pond as proposed in the mine permit application.

(a) These payments shall be made within 30 days after the mine permit application is filed. The payment shall be paid annually on the anniversary date of the first permit period payment for each year the permitting process continues until a final administrative or judicial decision is made on the mine permit application, the person formally withdraws the mine permit application, or for 4 years, whichever is the shorter period.

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No more than 4 annual permit period payments shall be made to cities, villages, towns, and Native American communities in relation to any one metallic mineral deposit.

(b) The permit period payments shall be indexed beginning in calendar year 1983 and corresponding fiscal years. The revised amount shall be rounded to the nearest whole number divisible by 100 and shall not be reduced below \$100,000.

(c) Any person filing a mine permit application to the department of natural resources under s. 144.85, Stats., shall notify the board by registered mail within 7 days after the mine permit application has been filed. The notification shall include a map showing the location of the metallic mineral deposit, and the proposed location of the concentrator and tailings disposal pond.

(d) The board shall certify to the department of administration the specific payments to be made under s. 70.395 (2) (d) 5., Stats. The following municipalities shall receive permit period payments:

1. *Cities, villages, and towns.* Each city, village, and town that contains a mining site for which a mine permit application is submitted prior to January 1, 1986.

2. *Native American communities.* Each Native American community located within one or more cities, villages, or towns which receive a permit period payment.

(4) **PROJECT RESERVE FUND.** The board shall establish and maintain a project reserve fund within the impact fund in relation to each mine which first begins operation after November 27, 1981. Each project reserve fund shall consist of 10% of the net proceeds tax paid by each mine plus all accrued interest on that amount. For municipalities that contain a mining site and for which a project reserve fund has been established, the board shall withdraw monies from that specific fund to be used for the following purposes:

(a) To ensure an annual payment to each city, village, and town in an amount equal to the average first dollar payment to that municipality for the 3 previous years.

(b) To reimburse municipalities for costs associated with the cessation of mining operations.

(c) To indemnify municipalities for reclamation expenses not covered under s. 144.91 (2), Stats.

(5) **PAYMENT PRIORITIES.** If the appropriations under s. 20.566 (7) (e) and (v), Stats., in any one year are not sufficient to pay the full amount under subs. (1) through (4), full payments shall be made in the order listed in this subsection. If funds are not sufficient to pay the full amounts payable at a particular priority level, payments shall be prorated among the entities entitled to payments at that level. Payments shall be made in the following order pursuant to s. 70.395 (2) (e), Stats.:

(a) Construction period payments to cities, villages, towns, and Native American communities which contain a mining site and for which a mining company has paid a construction fee for that site.

(b) First dollar payments for counties, cities, villages, towns, and Native American communities.

(c) Payments to counties for an amount equal to 20% of the tax collected or \$250,000, whichever is less.

(d) Payments to the project reserve fund.

(e) Permit period payments to cities, villages, towns, and Native American communities.

History: Cr. Register, November, 1982, No. 323, eff. 12-1-82.

**Tax 13.07 Discretionary payments.** In accordance with s. 70.395 (2) (g), Stats., any municipality may apply to the board for a discretionary payment from the impact fund.

(1) **SCHOOL DISTRICT PAYMENTS.** A school district may apply to the board for payments from the fund in an amount equal to the school district's nonshared costs. If the board finds that the school district has incurred costs attributable to enrollment resulting from the development and operation of metalliferous mineral mining and if the board and the school board of the school district reach an agreement on a payment schedule, the board shall certify to the department of administration for payment to the school district an amount equal to all or part of the nonshared costs of the school district in the year in which the initial agreement was reached. The board and the school district may, by mutual consent, modify the provisions of the agreement at any time. The payment shall be considered a nondeductible receipt for the purposes of s. 121.07 (6), Stats.

(2) **DISCRETIONARY PAYMENT PROGRAM.** The annual discretionary payment program includes the following procedures:

(a) *Application process.* The application process shall include the following steps:

1. Before June 1, the board may adopt an overall funding ceiling for the discretionary payment program outlined in this subsection. The level of the ceiling shall be based on the financial status of the impact fund, the board's expectation of what municipalities will need from the impact fund in the next year, and a review of the status of mineral development projects in the state. The overall funding ceiling shall be viewed throughout the application review process as a fiscal control upon the board. The board may modify the ceiling, as it deems necessary, once it has fully determined the merits of each application.

2. Before June 1, the board shall give written public notice announcing its intent to distribute discretionary grants and the total funds available for distribution. The board shall give written notice of the grant program and grant guidelines to local governments reasonably expected to be affected by metallic mineral development.

3. All discretionary grant applications submitted to the board shall be postmarked on or before July 31 in order to receive funding consideration.

4. Each application shall include a supporting resolution from the appropriate local governing body or bodies. The supporting resolution submitted to the Board shall be postmarked on or before August 31.

5. A municipality may submit more than one application. Two or more municipalities may submit a joint application.

(b) *Application contents.* An application may take one of 2 forms:

1. Project proposal. Municipalities seeking funds for a particular public service or facility, including the design, construction, or maintenance of a public facility, the hiring of consultants to provide specific legal, planning, local development, or technical assistance shall develop a project proposal for consideration by the board. The appropriate form shall be furnished by the board upon request. Information on the following shall be provided for a project proposal:

- a. A detailed description of the project and its components parts.
- b. The facts which verify the mining impact the proposal will address.
- c. A detailed budget for the proposal including the local funding contribution the municipality plans to make or any outside funding that would be used for the project.
- d. The project timetable, including the date of commencement and the date the project is expected to be completed.
- e. A description of any alternatives to the proposed project which were considered and an explanation of why the proposed project was rated more highly than the alternatives.

f. A description of how the project will alleviate a mining impact.

2. Mining impact brief. Municipalities seeking funding for the operations of a local impact committee shall submit a mining impact brief. Mining impact briefs shall include:

- a. A description of the grant activities to be performed.
- b. A detailed budget.
- c. An explanation of how the grant will alleviate a mining impact.
- d. A description of how the project will be coordinated with other related activities undertaken by other local units of government.
- e. A listing of other resources or monies which will be used for the committee.

(c) *Application review process.* All applications shall be reviewed by the board. The following criteria shall be used to evaluate each application:

1. The extent to which the impact is caused by metallic mining and the severity of the actual or potential impact.

2. The extent to which the applicant is prepared to deal with the mining impact and is using all possible resources to address the situation. Consideration shall be given to the following factors:

a. Whether the applicant will complement the project with other community assistance programs, resources, funds, or expertise.

b. Whether the applicant has demonstrated an ability and willingness to plan for its future.



c. Whether the applicant had demonstrated a willingness to cooperate with neighboring jurisdictions.

3. The extent to which the applicant will make effective use of a mining impact grant. Consideration shall be given to the following factors:

a. Whether the proposal is likely to accomplish its purpose and addresses the impact.

b. Whether the request is well-reasoned and cost-effective.

c. Whether the project duplicates other planned activities.

4. The extent to which funding for the impact is necessary.

5. The extent to which the applicant has received any payments under s. Tax 13.06.

6. The extent to which the location of each applicant, with respect to mineral development, meets 3 distribution priorities:

a. Distribution shall first be made to those municipalities with active metalliferous mining sites or with metalliferous mining sites that were active within 3 years previous to December 31 of the year in which the grant application is made, or to those municipalities in which a permit has been issued under s. 144.86, Stats., to commence mining.

b. Distribution shall next be made to those municipalities adjacent to municipalities in which metalliferous minerals are extracted or were extracted more than 3 years, but less than 7 years previous to December 31 of the year in which the grant application is made.

c. Distribution shall next be made to those municipalities in which metalliferous minerals are not currently being extracted and to those municipalities which are not adjacent to municipalities in which metalliferous minerals are extracted. Within this category, a higher priority shall be given to municipalities where a metalliferous mine is proposed and the mining company has filed a notice of intent under s. 144.831, Stats., a prospecting permit application under s. 144.84, Stats., or a mining permit application under s. 144.85, Stats., municipalities where metalliferous mining occurred more than 3 years ago, and municipalities where metallic mineral exploration is occurring.

7. During the board review of the grant proposals, applicants may appear before the board on behalf of their applications.

(d) *Decision and notification process.* The board shall make its funding decisions on or before October 15. The board shall notify all applicants in writing of the action taken on their respective applications.

(e) *Grant agreements.* Grant decisions made by the board shall be formalized in a grant agreement between the board and the local government grant recipient. The terms of the grant agreement shall include:

1. The grant project period.

2. The purposes for which the grant shall be used.

3. The grant sum awarded.

4. Provisions for the maintenance of grant funds in a segregated account.

5. Provisions for the maintenance of records of grant expenditures and supporting documentation to substantiate the costs claimed.

6. Provisions for the return of unexpended funds to the board at the end of the project period or grant year.

7. Provisions for the submittal of an expenditure report to the board at the end of the project period or grant year to document the use of the grant award.

8. Other reasonable terms the board believes necessary to ensure the prudent use of the grant funds.

(f) *Grant disbursements.* The board shall disburse grant awards as follows:

1. Discretionary grant awards of \$2,000 or less shall be disbursed to the grant recipient at the beginning of the grant project, after the grant agreement has been signed by both parties.

2. Grant awards for more than \$2,000 shall be distributed on an as-needed basis. A grant recipient shall certify to the board project costs that have been incurred. A grant check shall be sent to the grant recipient within 3 weeks for the amount of the expenditure. To certify the expense, the grant recipient shall file a certification form with the board or submit a copy of the bill to document the expenditure.

(g) *Appeals process.* The grant appeal process shall include the following steps:

1. Any municipality which wants to appeal a funding decision by the board shall submit a written appeal to the board within 20 days after notification. The 20-day period begins on the day after the mailing of the board's decision. The written appeal shall specify in detail:

a. How the board has made a material error of law,

b. How the board has made a material error of fact, or

c. New, pertinent information which was not available to the board at the time of its decision.

2. A representative of an appealing municipality may appear before the board prior to board action on the appeal. The board shall decide whether to reconsider action on an appeal within 30 days after receipt of the written appeal. Any municipality aggrieved by a funding decision of the board may petition the circuit court for a review of the board's decision within 30 days of its original decision, or if an appeal has been sought as provided in this subdivision, within 30 days of the board's decision on that appeal. The 30-day period begins on the day after the mailing of the board's decision. The petition for review shall be served on the board and filed in the office of the clerk of circuit court as specified in s. 227.16, Stats.

(3) **EMERGENCY PAYMENTS.** A portion of the emergency reserve monies invested with the state investment board, or a portion of any other discretionary funds available to the board, may be withdrawn and distributed by the board, may be withdrawn and distributed by the board, at any time, to any municipality which demonstrates its need for financial assistance in alleviating a mining-related cost which is deemed by the

board to be sudden and unforeseeable. The policies and procedures presented in sub. (2) (c), shall apply to the distribution and use of emergency reserve monies, except for the specified deadline dates.

History: Cr. Register, November, 1982, No. 323, eff. 12-1-82; r. and recr. Register, February, 1986, No. 362, eff. 3-1-86.

**Tax 13.08 Expenditures.** (1) **PURPOSES.** Except for any first dollar payments to a city, village, town, or Native American community, all funds distributed to a municipality by the board shall be used for costs incurred to alleviate impacts caused by metalliferous mineral mining. Discretionary grants to alleviate metalliferous mining impacts may be applied towards the following purposes:

(a) Protective Services, such as police and fire services associated with the construction and operation of the mining facility.

(b) Highways, as defined in s. 990.01 (12), Stats., repaired or constructed as a consequence of the construction and operation of the mining facility.

(c) Studies and projects for local development.

(d) Monitoring the effects of the mining operations on the environment.

(e) Extraordinary community facilities and services provided as a result of mining activity.

(f) Legal counsel and technical consultants to represent and assist municipalities appearing before state agencies on matters relating to metalliferous mineral mining and for processing mining-related permits or other approvals required by the municipality.

(g) The preparation of area-wide community service plans which identify social, economic, educational, and environmental impacts associated with mining and which set forth a plan for minimizing the impacts.

(h) Local impact committee operations, under s. 144.838, Stats.

(i) Other expenses associated with the construction and operation of the mining facility.

(j) Expenses attributable to a permanent or temporary closing of a mine including the cost of providing retraining and other educational programs designed to assist displaced workers in finding new employment opportunities and the cost of operating any job placement referral programs connected with the curtailment of mining operations in any area of this state.

11. Provision of educational services in a school district.

(2) **SPECIAL COUNTY EXPENDITURES.** Payments received by counties under s. Tax 13.06 (1), may also be applied as follows:

(a) A maximum of 10% of a county's first dollar payment may be placed in a county mining investment fund for investment by the state investment board or placed in a financial institution located in the state. Funds may be withdrawn to alleviate impacts associated with the closing of the mine in the county or the curtailment of mining activity in the county. If a county deposits funds in the county mining investment

fund, withdrawals are subject to the restrictions contained in s. 25.65, Stats. If a county deposits mining impact funds with a financial institution, withdrawals made within 10 years of deposit shall be subject to review and approval of the board. The county shall notify the board of withdrawals made 10 years after deposit. The county shall report annually to the board any deposits, withdrawal, and use of funds in that year.

(b) A maximum of \$25,000 of a county's first dollar payment may be distributed to any town, city, or village in the county for alleviation of mining-related costs.

(c) For metalliferous mining related purposes as defined by the board in addition to those listed in sub. (1).

(3) **OTHER ALLOWABLE EXPENDITURES.** Discretionary grants may be applied toward a variety of uses as they relate directly to the mining impact project. In general, costs for the compensation of personal services, costs of materials and supplies, travel, and other administrative costs are allowable for a grant. All grant expenditures shall comply with state and local laws, rules, and policies. Costs which shall not be allowed include:

(a) Costs incurred prior to, and after, the effective date of the grant period.

(b) Costs of social activities, ceremonies, amusements, and other entertainment.

(c) Costs incurred for legislative activities or lobbying.

(d) Costs incurred which are not directly related to the eligible funding activities listed in sub. (1).

(4) **EXPENDITURE GUIDELINES.** Discretionary grant funds may be used as follows:

(a) *Legal fees.* Grant recipients may claim costs up to \$60 per hour for legal counsel when using a mining impact grant to cover eligible legal expenses. If an attorney is hired for a rate above \$60 per hour, the grant recipient shall be responsible for paying the additional cost. Municipalities which use a mining impact grant to pay their own attorney to represent and assist them on mining matters shall use the hourly rate which is consistent with other work the attorney does for that local government.

(b) *Professional services.* Grant recipients which receive grant awards for \$2,000 or more for professional services, other than legal services, shall solicit a minimum of 3 bids for the service. This paragraph shall apply to grants for technical, planning, engineering, or other consulting services.

(c) *Meeting rates.* Grant recipients may claim costs up to \$20 for attending a meeting when using a mining impact grant. If the grant recipient chooses to pay a meeting rate or pay a per diem higher than \$20, the local government shall be responsible for paying the additional costs. All meeting rates or per diem rates used by the local government for mining impact committees and grant projects shall be consistent with the meeting rate or per diem rate paid for other activities of that government.

(d) *Travel expenses.* When using a mining impact grant to cover reasonable and necessary travel expenses, grant recipients may not claim or

authorize more than the rates allowed by the state of Wisconsin, department of administration. If grant recipients choose to pay travel expenses which are higher than the state rates, the local government shall be responsible for paying the additional costs. All travel expense rates used by local governments for mining impact projects shall be consistent with the travel expense rates paid for the other activities of that government.

(5) **EXPENDITURE REPORTS.** (a) All municipalities which receive a payment or grant under this chapter shall file an expenditure report with the board by March 1 of the year following the year the funds are received. This expenditure report shall be on forms prepared and furnished by the board. A county's expenditure report shall include information regarding the use of any funds distributed by the county under sub. (2) (b).

(b) Any city, village, town, or Native American community which receives a first dollar payment is not required to file an expenditure report for that payment.

(c) The board's staff may make on-site visits over the course of any year and otherwise monitor the use of permit period payments, construction period payments, and discretionary payments by municipalities. Staff shall keep the board informed of its activities and findings in this regard. From the monitoring activities, the completed expenditure reports, and the auditing procedure outlined in s. Tax 13.09, the board shall determine whether municipalities have applied their funds to the purposes authorized.

History: Cr. Register, November, 1982, No. 323, eff. 12-1-82; r. and recr. Register, February, 1986, No. 362, eff. 3-1-86.

**Tax 13.09 Audits.** (1) All funds received from the board shall be placed in a segregated account. The board may require financial audits of the recipients of payments under s. 70.395 (2) (d) through (g), Stats. The financial audit may be conducted as part of a municipality's annual audit, if one is conducted. The costs of the audits shall be paid by the board from the appropriation under s. 20.566 (7) (a), Stats. The audits shall consist of 3 parts:

(a) An examination of the municipality's financial statements to assess the fairness with which they were reported;

(b) An evaluation of the expenditures to ensure that the grant funds were used for mining impact activities and complied with the grant contract and state and rules; and

(c) A review of the municipality's internal accounting system to determine whether the grant was carefully managed, and where needed, provide suggestions to improve in-house procedures.

(2) The board shall attempt to insure that all grant recipients are audited periodically. In determining whether a grant recipient is to be audited in a particular year, the board shall give priority to:

(a) Grant recipients whose expenditure reports indicate that a financial accounting, compliance, or management problem exists.

(b) Grant recipients who have received grants of \$25,000 or more for a given project or for a given year.

(c) Any other circumstances which might indicate that an audit would be in the public interest.

(3) If the board has evidence based on information from an audit that a municipality has not used all of a discretionary or emergency payment appropriately, the board shall hold a hearing on the matter. If the board determines from the hearing that funds were either unused or misused, the board may require recoupment of the unused or misused funds.

**History:** Cr. Register, November, 1982, No. 323, eff. 12-1-82; r. and recr. Register, February, 1986, No. 362, eff. 3-1-86.

**Tax 13.10 Investments.** (1) Each July the board shall also determine the amount of funds to be invested with the state investment board. The board may designate a portion of these funds as emergency reserve monies to be used by the board in the manner described in s. Tax 13.07 (3). Factors entering into these annual investment decisions shall include the following:

- (a) Record of tax revenues deposited into the fund.
- (b) Record of board payments to municipalities.
- (c) Record of board investments with the state investment board.
- (d) Mining-related costs anticipated by municipalities.

(2) By July 31 the board shall certify to the department of administration the amount of its investment. The department of administration shall thereupon make the certified investment no later than August 31.

**History:** Cr. Register, November, 1982, No. 323, eff. 12-1-82.

**Tax 13.11 Exceptions.** Section Tax 13.06 (1) through (5) applies to distributions from mines that begin operations after November 27, 1981. With respect to mines which first begin operations prior to November 28, 1981, the board shall administer the distribution from such mines pursuant to s. 70.395, 1979 Stats. Certain counties, cities, villages, and towns shall receive annual payments from the impact fund, as follows:

(1) Each county in which metalliferous minerals are extracted shall receive 20% of the tax collected under ss. 70.38 to 70.39, Stats., from persons extracting metalliferous minerals in that county. The maximum payment which may be received by a county in any one year is \$750,000.

(2) Each city, town, or village in which metalliferous minerals are extracted shall receive 10% of the tax collected under ss. 70.38 to 70.39, Stats., from persons extracting metalliferous minerals in that city, town, or village. The maximum payment which may be received by a city, town, or village in any one year is \$75,000.

(3) Where the tax under ss. 70.37 to 70.39, Stats., is in respect to a mining site which is located in more than one county or city, town, or village, the apportionment shall be as follows:

(a) Each municipality's proportion of the amount determined under sub. (2) shall be equal to the ratio of the amount of crude ore extracted from the mine in that municipality to the total amount of crude ore extracted from the mine multiplied by the amount determined under sub. (2).

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(b) Each county's proportion of the amount determined under sub. (1) shall be equal to the ratio of the amount of crude ore extracted from the mine in that county to the total amount of crude ore extracted from the mine multiplied by the amount determined under sub. (1).

(4) Payments to counties, cities, villages, and towns under this section shall have priority over the payments made in s. Tax 13.06 (5).

History: Cr. Register, November, 1982, No. 323, eff. 12-1-82.

*Emergency*

*13.12 - 13.14*

*1-1-86.*