

CR 86-44

CERTIFICATE

STATE OF WISCONSIN )  
MINING INVESTMENT AND LOCAL IMPACT FUND BOARD) ss

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Paul Knuth, Chairperson of the Mining Investment and Local Impact Fund Board and custodian of the official records of said board, do hereby certify that the annexed rules relating to the distribution of funds generated by the net proceeds tax to municipalities for mining impacts, was duly approved and adopted by this board on May 30, 1986.

I further certify that said copy has been compared by me with the original on file with this board and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the City of Madison, this 11 day of August A.D. 1986.

*Paul Knuth*

(Officer)

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AUG 13 1986

2:45 pm  
Revisor of Statutes  
Bureau

10-1-86

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Revisor of Statutes  
Bureau

ORDER OF THE State of Wisconsin Investment and Local Impact Fund Board adopting, amending, and repealing rules. To repeal Tax 13.08(4) and (5), and Tax 13.09(3); to renumber Tax 13.07(2)(c)6. and 7. to 8. and 9., respectively; to renumber and amend Tax 13.08(2) and (3) to (8) and (9), respectively; to amend Tax 13.03(4), and Tax 13.05(3)(a), (b) and (c), and Tax 13.06(5)(a), and Tax 13.07(2)(a)4., and Tax 13.07(2)(b)2.(Intro.), a., b., c. and d., and Tax 13.07(3), and Tax 13.08(1)(Intro.); to repeal and recreate Tax 13.03(11), and Tax 13.06(2)(Intro.)(a) and (b), and Tax 13.07(2)(b)2.e., and Tax 13.10, and Tax 13.11; to create Tax 13.03(10m), and Tax 13.07(2)(a)4.a., b. and c., and Tax 13.07(2)(b)2.f., and Tax 13.07(2)(c)6. and 7., and Tax 13.075, and Tax 13.08(2), (3), (4), (5) and (6), and Tax 13.12 relating to rules concerning 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 mining incurred prior to, during, and after extraction of metalliferous minerals, contained in Chapter Tax 13, Wisconsin Administrative Code.

Analysis prepared by the Mining Investment and Local Impact Fund Board

These proposed rule revisions make a variety of changes mandated by and as a result of Act 29, Laws of 1985 (the biennial budget). The proposed rules also create provisions regarding the structure of local and joint impact committees and amend the grant program provisions which apply to these committees. A list of activities which municipalities may fund with certain payments made

by the board during various stages of mine development and operation is added. Several existing sections of the rules are reorganized to incorporate new material. Two existing sections of the rules which have become outdated are to be repealed.

The majority of the changes that are being proposed were adopted by the board as emergency rules which went into effect on January 1, 1986. The board is now proposing to incorporate the provisions contained in the emergency rules into the existing rules.

This analysis will be organized into three sections:

- I. Changes required as a result of Act 29, Laws of 1985;
- II. Other changes; and
- III. Repeal of outdated sections.

I. Changes required as a result of Act 29, Laws of 1985.

- A. Two definitions are affected by provisions in Act 29. Section 1214rk, created sec. 70.375(1)(av), Stats., designating a definition of "mine site." This definition differs from the one currently in existence under Tax 13.02(11), so the definition in the rule is changed to reflect the statutory definition.

Section 1214rm of Act 29 created sec. 70.375(bm), Stats., defining "mining-related purposes." This definition is recognized in newly created Tax 13.02(10m).

- B. Section 1214tn of Act 29 created sec. 70.395(2)(d)5.b., Stats. This provision relates to the payment of an amount of up to \$300,000 to counties containing a mining site during mine construction. This "construction period payment" is different from the construction period payment paid to other municipalities under sec. 70.395(2)(d)5.a., Stats (as renumbered by Section 1214tm, Act 29). First, it is to be paid at the end of the project fiscal year, rather than at the beginning. Secondly, the \$300,000 maximum payment is to be reduced by the amount of property taxes paid to the county on mine improvements and by certain other payments made to the county by the board. Thirdly, payments are to end when the extraction of ore begins.

Several changes in the rules were required to effect this statutory change:

1. The definition of "Construction period payment" in Tax 13.03(4) was expanded to include the county payment.
  2. Tax 13.06(2) Construction Period Payments is repealed and recreated to recognize the differences in the statutory provisions regarding payments to counties and other municipalities.
  3. Tax 13.05(3)(b) is amended to include counties in the listing of municipalities to which the Board must give written public notice regarding their eligibility to receive construction period payments.
  4. Tax 13.05(3)(c) is amended to recognize that construction period payments for cities, villages, towns, and Native American communities are indexed and payments to counties are not.
  5. Tax 13.06(5)(a) was amended to add counties to the priority listing of other municipalities which receive construction period payments.
- C. Section 1214w of Act 29 created sec. 70.395(2)(hg), Stats. This provision mandates the board to establish fiscal guidelines and accounting procedures for all funds disbursed by the board to municipalities. The current rules contain expenditure guidelines under Tax 13.08(4). This subsection is proposed to be repealed and replaced with a more definitive set of guidelines in a single section, Tax 13.10 Fiscal Guidelines.

Another new section, Tax 13.11 Accounting Procedures, has also been created as a result of this statutory provision. The accounting guidelines are of a general nature rather than specific and detailed. They require municipalities to maintain accurate and complete records and financial statements and to maintain effective internal control over all funds.

- D. Section 1214x of Act 29 mandates the board to establish procedures to recoup and withhold funds for noncompliance with statutory provisions or related administrative rules. Tax 13.12 has been created to effect such a procedure. In order to reduce duplication, Tax 13.09(3) has been repealed.
- E. Section 1214y of Act 29 created sec. 70.395(2)(hw), Stats., relating to restrictions on the payment of attorney fees from funds which are limited to mining related purposes. This provision is covered in sub. (7) of the newly created Tax 13.10 Fiscal Guidelines.

## II. Other Changes

- A. Section 144.838, Stats., authorizes municipalities to establish local impact committees and joint impact committees. A new section of the rules, Tax 13.075 has been created to define the purposes of local and joint impact committees and to regulate their membership.

- B. Several changes have been made in the contents of the application with which local and joint impact committees apply to the board for funding. Tax 13.07(2)(a)4. has been expanded to more specifically outline the various supporting resolutions that must accompany an application by a local or joint impact committee.

Tax 13.07(2)(a)2. has been amended to more specifically define the contents of the funding application for a local or joint impact committee.

- C. Tax 13.07(2)(c)6. and 7. (as renumbered) have been created to add additional criteria which the board will use in reviewing the funding applications of local and joint impact committees.

- D. Tax 13.07(2)(a)6. has been created to formalize the board's policy regarding local matching funds in the discretionary grant program.

Tax 13.07(2)(c)8. has been created to list the criteria which the board will use when making decisions regarding partial funding and local matching funds.

- E. Tax 13.07(3)(Intro.) has been renumbered (3)(a) and amended slightly for grammar. Par. (b) has been created to effect a policy of the board that it will not consider requests for emergency funding for the operational expenses of local or joint impact committees.

- F. Tax 13.08(1) PURPOSES has been amended slightly in order to use the term "mining related purposes," which is defined by statute and rule.

- G. Except for any "first dollar payments" to a city, village, town or Native American community, all payments made by the board must be used for "mining related purposes." In order to clarify this definition further, several subsections have been added to the existing rule which list various activities which fall within the meaning of "mining related purposes" during the different phases of mine development, construction, operation and closure. These activities are listed in Tax 13.08(2), (3), (4), (5) and (6) (as renumbered).

- H. Tax 13.08(7) and (8) (as renumbered) have been amended slightly for grammar and content.

Sub. (7) interprets sec. 70.396, Stats. The introduction has been amended to make it clear that it refers to "first dollar payments." Par. (b) has been amended to make it more closely follow the statutory provision of s. 70.396(3), Stats.

Sub. (8)(Intro.) has been amended to clarify that it applies to other funds disbursed by the board, not just to discretionary payments. Par. (d) has been amended to make it inclusive of the entire chapter.

- J. Tax 13.05(3)(a)2. has been amended by changing "map" to "mining plan" and by using the term "mining site," which is defined by rule.

### III. Repeal of Outdated Sections

- A. Tax 13.10 Investments allows the board to invest a portion of the Impact Fund with the State Investment Board. Inasmuch as the Department of Administration currently invests the Fund balance in an interest-earning account, this section is no longer needed in the rule.
- B. Tax 13.11 Exceptions applies to distributions from the Impact Fund from mines that were in operation prior to November 28, 1981. Since there are no longer any active metalliferous mines in the state, this section is outdated and should be repealed.

#### STATUTORY AUTHORITY

Pursuant to the authority vested in the State of Wisconsin Investment and Local Impact Fund Board by secs. 70.395(2)(c) and 227.014(2)(a), Stats., the Board hereby proposes to repeal, renumber, renumber and amend, amend, repeal and recreate, and create the following divisions of Chapter Tax 13 of the Wisconsin Administrative Code interpreting secs. 70.395 and 70.396, Stats.

SECTION 1. Tax 13.03(4) is amended to read:

(4) "Construction period payment" means:

(a) an 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)a, Stats., during the construction period.

(b) An amount equal to \$300,000 for each county eligible to receive a payment under s. 70.395(2)(d)5b., Stats., during the construction period, less the amount of property taxes paid to the county during the current project year on improvements made by the person engaged in metalliferous mining and any payments received by the county under s. 70.395(2)(d)1 and 1m, Stats.

SECTION 2. Tax 13.03(10m) is created to read:

(10m) "Mining related purposes" has the meaning designated in s. 70.375(1)(bm), Stats.

SECTION 3. Tax 13.03(11) is repealed and recreated to read:

(11) "Mining site" means the location:

(a) Of a metalliferous ore deposit for which a mine permit application has been filed pursuant to s. 144.85, Stats.

(b) Designated by s. 70.375(1)(av), Stats., limited to the proposed location of the defined areas, structures, and equipment as shown in a mining plan:

1. Filed as part of a mine permit application under s. 144.85, Stats., or
2. Filed with the board as part of the written notice by a person intending to begin construction under s. 13.05.

SECTION 4. Tax 13.05(3)(a), (b), and (c) are amended to read:

(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 mining plan showing the location of the ~~metallie-mineral deposit, tailings pond, concentrator, and related facilities.~~ mining site.

(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 counties, 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 for cities, villages, towns, and Native American communities 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.

SECTION 5. Tax 13.06(2)(Intro.)(a) and (b) are repealed and recreated to read:

(2) CONSTRUCTION PERIOD PAYMENTS. Certain counties, 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., at which construction begins prior to January 1, 1989, and for which a construction fee has been paid, 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.a. and b., Stats. The funds paid under this subsection shall be used only for mining-related purposes. The following municipalities shall receive construction period payments:

(a) Cities, villages, towns, and Native American communities. Each city, village, and town that contains a mining site and each Native American community located within one or more cities, villages, or towns that contains a mining site.

1. The first payment shall be made within 30 days after construction begins. Subsequent annual payments shall be made on the anniversary date of the first payment.

2. The payment amounts in this paragraph 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.

3. Payments will be made for each year that construction continues at that site for up to three years after the production of concentrates begins.

(b) Counties. Each county that contains a mining site. The first payment shall be made within 30 days after the date which is one year after the commencement of construction.

1. Counties may receive payments under s. 70.395(2)(d)5b only for mining-related purposes. The county shall submit to the board at least 60 days before the anniversary of the commencement of construction a request for payment, with an explanation of the mining-related purpose of each element of the county's request. The county may seek board approval for mining-related expenditures at any time during the year. The board may hold a hearing on the county's request. The board shall certify to the department of administration for payment to the county either the maximum payment allowable under s. 70.395(2)(d)5b, or the amount of the county's request which the board determines is for mining-related purposes, whichever is less. The county shall be eligible for a payment for each year that construction continues at that site until the production of concentrates begins.

2.a. It is a mining-related purpose for the county to use a portion of the construction period payment to fund projects or activities of a city, village, town, or Native American community located within the county, if such a project or activity is for a mining-related purpose.

b. A city, village, town, or Native American community may submit a request to the county to receive a portion of the county's construction period payment. The request shall include an explanation of the mining-related purpose of each element of the request. One or more cities, villages, towns, or Native American communities may submit a joint request. The county shall evaluate its own request together with the requests of any city, village, town, or Native American community and may include such a request as part of the county's request to the board.

SECTION 6. Tax 13.06(5)(a) is amended to read:

(a) Construction period payments to counties, 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.

SECTION 7. Tax 13.07(2)(a)4. is amended to read:

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

SECTION 8. Tax 13.07(2)(a)4a., b., and c. are created to read:

a. Each local or joint impact committee application shall be accompanied by a supporting resolution from the committee.

b. Each joint impact committee application shall be accompanied by a supporting resolution from each local committee within the area served by the joint committee and from each municipality which appoints the joint committee.

c. Each local impact committee application shall be accompanied by a supporting resolution from its appointing authority.

SECTION 9. Tax 13.07(2)(a)6. is created to read:

6. The board may provide partial funding to a municipality for a mining-related project. The board may also require municipalities to provide matching funds toward project costs as a condition for receiving a discretionary grant.

SECTION 10. Tax 13.07(2)(b)2(Intro.), a., b., c., and d. are amended to read:

2. 'Mining impact brief.' Municipalities seeking funding for the operations of a local impact committee or a joint impact committee shall submit

a mining impact brief. The appropriate form shall be furnished by the board upon request. Mining impact briefs shall include:

a. A description of the ~~grant~~ proposed committee activities to be performed.

b. A detailed budget including a description of the amount and sources of other funds and resources that will be applied toward committee activities during the proposed project.

c. An explanation of how the ~~grant~~ proposed committee activities will alleviate a mining related impact or impacts.

d. A description of how the project will be coordinated with other related activities undertaken by other local units of government and other local and joint impact committees.

SECTION 11. Tax 13.07(2)(b)2.e. is repealed and recreated to read:

e. A comprehensive description of the committee's long-term plans and goals, including a description of the committee activities for which it anticipates that funding will be sought from the board and from other sources in the year subsequent to the proposed project and during the long-term planning period.

SECTION 12. Tax 13.07(2)(b)2.f. is created to read:

f. A description of how the proposed activities to be funded relate to the long-term plans of the committee.

SECTION 13. Tax 13.07(2)(c)6. and 7. are renumbered 9. and 10., respectively.

SECTION 14. Tax 13.07(2)(c)6., 7., and 8. are created to read:

6. The board shall consider the following additional criteria in evaluating a funding application submitted by a local impact committee:

a. The extent to which the funding proposal conforms with the statutory purposes of a local impact committee in s. 144.838(1), Stats., and meets the requirements of s. 144.838(4), Stats.

b. The adequacy of the local impact committee's long-term plan and the appropriateness of the funding proposal in relation to the long-term plan.

c. The degree of support provided to the local impact committee by its appointing authority, including staff support, direct financial support, and approval by the appointing authority of the local impact committee's activities, as evidenced by supporting resolutions.

d. The efforts of the local impact committee to obtain additional funding from other sources.

e. The past success of the local impact committee in accomplishing its statutory purposes.

f. The performance of the local impact committee in financial audits and the steps taken by the local impact committee to correct inadequacies noted in audits.

7. The board shall consider the following additional criteria in evaluating a funding application submitted by a joint impact committee:

a. The extent to which the funding proposal conforms with the purposes of the joint committee specified in this chapter.

b. The adequacy of the joint impact committee's long-term plan and the appropriateness of the funding proposal in relation to the long-term plan.

c. The degree of local support for activities of the joint committee, including staff services donated by municipalities within the area served by

the joint committee, direct financial support received or anticipated to be received from local impact committees and municipalities within the area served by the joint committee and approval of the activities of the joint committee as evidenced by supporting resolutions from local committees, municipalities, and tribal governing bodies within the area served by the joint committee.

d. The efforts of the joint impact committee to obtain additional funding from other sources.

e. Past successes of the joint committee in implementing the purposes specified for the joint committee in this chapter.

f. Performance of the joint committee on financial audits and steps taken by the joint committee to correct inadequacies noted in any financial audit.

g. The adequacy of communications between the joint impact committee and the local impact committees, municipalities, and tribal governing bodies within the area served by the joint impact committee.

8. When providing partial funding or requiring local matching funds for a grant project, the board shall consider:

a. The extent to which the project is mining related.

b. The extent to which the project is necessary for alleviating a mining-related impact.

c. The extent to which outside funding is necessary.

d. The extent to which a municipality receives other revenues associated with a proposed or operating mine.

e. The amount of funds available in the investment and local impact fund and the short term and long term needs of mining communities throughout the state.

SECTION 15. Tax 13.07(3) is amended to read:

(3) EMERGENCY PAYMENTS. ~~(a) A portion of the emergency reserve monies invested with the state investment board, or a portion of any other~~ Any discretionary funds available to 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~~ impact 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.

(b) The board shall not consider requests for emergency payments from local or joint impact committees for administrative or operational expenses.

SECTION 16. Tax 13.075 is created to read:

Tax 13.075 LOCAL AND JOINT IMPACT COMMITTEES.

(1) STATUTORY AUTHORITY. Under s. 144.838, Stats., a local impact committee or a joint impact committee may apply to the board for a discretionary payment from the impact fund.

(2) PURPOSES OF LOCAL AND JOINT IMPACT COMMITTEES. (a) Local impact committees. Local impact committees may be established for the purposes specified in s. 144.838(1), Stats.

NOTE: 144.838 LOCAL IMPACT COMMITTEE. (1) A county, town, village, city or tribal government likely to be substantially affected by potential or proposed mining may designate an existing committee, or establish a committee, for purposes of:

- (a) Facilitating communications between operators and itself.
- (b) Analyzing implications of mining.
- (c) Reviewing and commenting on reclamation plans.
- (d) Developing solutions to mining-induced growth problems.

(e) Recommending priorities for local action.

(f) Formulating recommendations to the investment and local impact fund board regarding distribution of funds under s. 70.385(2)(g), Stats.

(b) Joint impact committees. A joint impact committee may be established for the purposes of:

1. Providing communications and coordination between local committees.
2. Providing services to local committees.
3. Eliminating duplication of effort by local committees.
4. Providing the services listed in s. 144.838(1), Stats., in any

municipality which appoints a member to the joint impact committee but does not have a local impact committee.

5. Providing any of the services listed in s. 144.838(1), Stats., upon request of a local impact committee.

(3) MEMBERSHIP OF LOCAL AND JOINT COMMITTEES. (a) Committee membership. Under s. 144.838(2), Stats., a local or joint impact committee may include as members representatives of affected units of government, business and industry, manpower, health, protective or service agencies, school districts or environmental and other groups or other interested parties.

(b) Joint impact committees. Each local committee in the area served by the joint impact committee shall appoint one local committee member to serve as a member of the joint impact committee. Each municipality or Native American community which appoints the joint impact committee, but not a local impact committee, shall appoint one person to serve as a member of the joint impact committee.

SECTION 17. Tax 13.08(1)(Intro.) is amended to read:

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 related purposes. Discretionary grants to alleviate metalliferous mining impacts may be applied towards the following purposes:

SECTION 18. Tax 13.08(2) and (3) are renumbered (7) and (8), respectively, and amended to read:

(7) SPECIAL COUNTY EXPENDITURES. ~~Payments~~ First dollar 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~~ where the extraction of metalliferous minerals is occurring.

(c) For metalliferous mining related purposes as defined by the board, in addition to those listed in ~~s. Tax 13.08(1)~~ s. Tax 13.08.

(8) OTHER ALLOWABLE EXPENDITURES. Discretionary grants and other funds disbursed by the board may be applied toward a variety of uses as they relate directly to ~~the~~ a 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 dates of a discretionary grant period.

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

(c) Costs incurred for lobbying members of the legislature or other legislative activities.

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

SECTION 19. Tax 13.08(4) and (5) are repealed.

SECTION 20. Tax 13.08(2), (3), (4), (5) and (6) are created to read:

(2) PERMIT PERIOD PAYMENTS. Once a mining permit application is filed pursuant to s. 144.85, Stats., and prior to mine construction, funds disbursed in accordance with s. 70.395(2)(d)5a, Stats., may be spent for purposes directly in response to the filing of the mining permit application, limited to:

(a) Facilitating communications with the mining company and state agencies.

- (b) Analyzing the implications of the proposed mine.
  - (c) Reviewing and commenting on the mining reclamation plans, permit applications or the environmental impact statement.
  - (d) Developing written solutions to potential mining-induced growth problems.
  - (e) Developing and recommending priorities for local action.
  - (f) Legal counsel and technical consultants in accordance with ss. 70.395(2)(g)6 and 70.395(2)(hw), Stats.
  - (g) Public participation activities directly related to the review of the proposed mining project by state agencies.
  - (h) Planning consultants.
  - (i) Preparation of areawide community service plans which identify social, economic, educational, and environmental impacts associated with mining and set forth a plan for minimizing the impacts.
  - (k) Necessary supplies and materials pertaining to the activities listed in this subsection.
- (3) CONSTRUCTION PERIOD PAYMENTS. Once mine construction begins, funds disbursed in accordance with s. 70.395(2)(d)5, Stats., may be spent for purposes directly in response to mine construction, limited to:
- (a) Activities listed in sub. (2).
  - (b) Protective services, such as police and fire services.
  - (c) Repair and construction of highways, as defined in s. 990.01(12), Stats.
  - (d) Studies for local development.
  - (e) Monitoring the effects of the mine.
  - (f) Extraordinary services and facilities needed.

- (g) Provision of educational services in a school district.
- (h) Public service expansion and maintenance.
- (i) Capital equipment and improvements.
- (j) Other expenses incurred as a direct result of mine construction.

(4) OPERATION PERIOD PAYMENTS. Once mining begins, discretionary payments made in accordance with s. 70.395(2)(g), Stats., and payments paid to counties in accordance with s. 70.395(2)(d)1 and 1m, Stats., may be spent for mining related purposes, limited to:

- (a) Activities listed in subs. (1), (2) and (3).
- (b) Other expenses resulting directly from the mine.

(5) CURTAILMENT AND CESSATION PERIOD PAYMENTS. In preparation for either the permanent or temporary cessation of mining, discretionary payments made in accordance with s. 70.395(2)(g), Stats., and first dollar payments paid to counties in accordance with s. 70.395(2)(d)1 and 1m, Stats., may be spent for mining related purposes limited to:

- (a) Economic development activities.
- (b) Planning consultants and projects.
- (c) Monitoring the effects of the mine.

(d) Legal counsel and technical consultants pursuant to ss. 70.395(2)(g)6 and 70.395(2)(hw), Stats.

(e) Analysis and implementation of plans to address economic, social, educational, and environmental impacts of the mine closing.

(f) Services needed in direct response to mine closing.

(g) Expenses attributable directly to the temporary or permanent closing of a mine.

(6) OTHER MINING-RELATED COSTS. Municipalities may seek approval from the board for other mining-related projects not outlined in this section. Applications seeking expenditure approval shall contain:

(a) Documentation of a metallic mining impact.

(b) Documentation of need.

(c) Documentation that the proposal is well reasoned, cost effective, and will accomplish its purpose.

SECTION 21. Tax 13.09(3) is repealed.

SECTION 22. Tax 13.10 is repealed and recreated to read:

Tax 13.10 FISCAL GUIDELINES. All funds disbursed under this chapter shall be governed by the following provisions:

(1) SEGREGATED ACCOUNTS. All funds disbursed by the Board shall be placed by the recipient government in a separate account and the use of funds clearly and directly identified by the accounting procedures listed in s. Tax 13.11.

(2) INVESTMENTS. Funds may be invested by recipient governments where the investment of revenue is permitted under state and local law. Interest earned on investments shall be credited to the recipient's segregated mining impact account and is subject to the same limitations which govern the accounting and expenditure of funds in this chapter. Funds may be invested separately or, for investment purposes, pooled with other cash of the of the jurisdiction. Where a governmental unit operates a pooled-cash investment program, it shall have an equitable procedure for allocating the interest earned on the total portfolio among all funds from which the cash was pooled.

(3) LOANS. The recipient municipality may not loan funds to other activities, programs, or projects.

(4) INDIRECT OR ADMINISTRATIVE COSTS. All administrative costs shall be accounted for in sufficient detail to document the expenditures. No flat percentage rates or indirect cost rates shall be used.

(5) TRAVEL EXPENSES. Funds may be used to cover reasonable and necessary travel expenses pertaining to mining-related activities. Fund recipients may not claim or authorize rates which exceed the rates allowed by the State of Wisconsin, department of administration. All travel expense rates used by a fund recipient shall be consistent with travel expense rates paid for other activities of the recipient government. If the recipient chooses to pay travel expenses which are higher than state rates, that municipality shall pay the additional cost. Only reasonable and necessary travel expenses shall be claimed.

NOTE: Travel rates allowed by the State of Wisconsin, department of administration under s. 230.12(1), Stats., are available upon request from the board.

(6) MEETING RATES. Fund recipients may claim or authorize costs up to \$20 per person for attending mining-related meetings. All meeting rates claimed by the fund recipient shall be consistent with the meeting rate paid for other activities of that municipality. If the recipient chooses to pay a meeting rate higher than \$20 per person, that municipality shall pay the additional cost.

(7) LEGAL FEES. Fund recipients may claim up to \$60 per hour for legal counsel for mining-related purposes, pursuant to s. 70.395(2)(hw), Stats. Recipients which use funds to pay their own attorney shall use the hourly rate which is consistent with other work the attorney does for that municipality. Recipients which choose to pay an attorney a rate above \$60 per hour shall pay the additional cost.

(8) SUPPLIES AND MATERIALS. Supplies and materials purchased with mining impact funds shall be purchased at costs which are consistent with costs paid by that municipality for its own supplies and services.

(9) PROCUREMENT OF SERVICES. Fund recipients shall solicit a minimum of three proposals when purchasing services for \$2,000 or more. This subsection shall apply to technical, planning, engineering, and other consulting and professional services. Public works projects paid with mining impact funds are subject to provisions outlined in s. 59.08, 60.47, 61.55, 62.15, and 120.55, Stats. Procurement procedures shall:

(a) Ensure equal treatment to all prospective bidders.

(b) Maximize open and free competition for services needed.

(c) Ensure the buyer-seller relationship is free from conflicts of interest or the appearance of conflicts of interest.

(d) Ensure the reasons a particular consultant or contractor was chosen are clearly documented.

(e) Ensure sufficient records are available to document the significant history of the procurement.

(f) Ensure services are obtained efficiently and economically.

(10) CONTRACTS. All services for \$2,000 or more, procured with mining impact funds, shall be clearly described in a written contract. The contract shall delineate the terms, conditions, and specification of the services.

(11) HIRING. Hiring of personnel for mining-related purposes shall be done in an open and fair manner.

(12) OTHER EXPENDITURES. Fund recipients shall also ensure all expenditures are:

(a) Necessary and reasonable.

(b) Solely related to the mining impact activity or project.

(c) Consistent with local policies and practices.

(13) EXPENDITURES NOT ALLOWED. Fund recipients may not claim expenditures for:

(a) Retainer fees for attorneys and other consultants.

(b) Overdrawn account charges of a financial institution.

(c) Loan interest.

(d) Independent financial or compliance audits.

(e) Social activities, ceremonies, amusements, and entertainments.

(f) Lobbying members of the legislature or other legislative activity.

(g) Building space, lights, heat and janitorial services, except when these costs are incurred and needed as a result of meetings held exclusively for mining related purposes.

(h) Salaries for elected governing body officials for legislative, administrative, and executive purposes.

SECTION 23. Tax 13.11 is repealed and recreated to read:

Tax 13.11 ACCOUNTING PROCEDURES. All recipients of funds under this chapter shall maintain accounting procedures which adequately provide for the following:

(1) Accurate, current, and complete financial statements on the use of funds disbursed to them by the board.

(2) Accurate, current, and complete financial statements on funds contributed from other sources toward mining impact projects or activities.

(3) Records which identify adequately the source and application of all funds disbursed to them by the board, including:

(a) Records of transactions pertaining to the grant funds which are inclusive, timely, verifiable, and supported by source documentation.

(b) Records of in-kind services and cost-sharing when required by the board for certain discretionary payments under s. Tax 13.07.

(c) Records which adequately establish the compliance of funds for mining-related purposes.

(d) Records which are sufficiently detailed.

(4) Effective internal control over all funds, ensuring that:

(a) The use of funds is for purposes authorized by the board and consistent with applicable laws, regulations and policies.

(b) The use of funds is safeguarded against waste, loss and misuse.

(c) The use of funds is supported with reliable data.

(5)(a) All municipalities which receive a payment or grant under this chapter shall file an expenditure report by March 1 of the year following the year the funds are received. The 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 s. Tax 13.08(7)(a).

(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.

SECTION 24. Tax 13.12 is created to read:

13.12 RECOUPMENT AND WITHHOLDING OF PAYMENTS.

(1) The board may, at any time, recoup direct, discretionary and emergency payments made and withhold direct, discretionary, and emergency payments to be made, for noncompliance with ss. 70.395 and 70.396, Stats., or any rule pursuant thereto.

(2) Whenever the board has reason to believe that noncompliance has occurred, it shall hold a hearing on the matter upon written notice to the municipality. If after the hearing the board determines that noncompliance has occurred, it shall recoup such payments to be made and withhold such payments to be made to the municipality as may be appropriate.

EFFECTIVE DATE

The rules, amendments, and repeals contained in this proposed order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register in accordance with sec. 227.026(1)(Intro.), Stats.

Dated:

For the Mining Investment and Local  
Impact Fund Board

By: John E. Feit  
Executive Secretary

9931606



State of Wisconsin \ MINING INVESTMENT AND LOCAL IMPACT FUND BOARD

Anthony S. Earl  
Governor

Paul Knuth  
Chairman

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AUG 13 1986

Revisor of Statutes  
Bureau

August 12, 1986

OFFICE LOCATED AT  
125 SOUTH WEBSTER STREET  
(608) 266-7235

MAILING ADDRESS  
POST OFFICE BOX 8933  
MADISON, WISCONSIN 53708

Mr. Gary Poulson  
Office of Revisor of Statutes  
Suite 904  
30 West Mifflin Street  
Madison, WI 53702

Dear Mr. Poulson:

Pursuant to s. 227.023 (1), Stats., the Mining Investment and Local Impact Fund Board hereby files the enclosed administrative rules with the Office of Revisor of Statutes. An additional copy of the rules is being filed with your office to be used for printer's copy.

Please feel free to contact me if questions arise regarding the rules or their publication.

Sincerely,

Paul Knuth  
Chairperson

PK:lj  
Enclosures

NOTE: The rules submitted herein were officially designated as 86-44 by the Legislative Council.