

HOUSE BILL NO. 579

INTRODUCED BY J. FITZPATRICK, M. VINTON, S. ROSENZWEIG, J. KASSMIER, E. BOLDMAN, J. ESP, P.

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM AND THE MONTANA COAL ENDOWMENT PROGRAM; REQUIRING A LOCAL GOVERNMENT TO ESTABLISH AND FUND A CAPITAL RESERVE ACCOUNT BEFORE FUNDING MAY BE RELEASED FROM THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM OR THE MONTANA COAL ENDOWMENT PROGRAM; PROVIDING A PRIORITY SYSTEM FOR AWARDING FINANCIAL ASSISTANCE; PROVIDING A DEFINITION; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 85-1-605, 90-6-703, AND 90-6-710, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Local government requirements before funds are released. (1) To be eligible to receive funding under the renewable resource grant and loan program, a local government must establish and continually fund a capital reserve account meeting the requirements of subsection (3) for necessary infrastructure improvements, including but not limited to improvements to water supply systems, wastewater systems, irrigation systems, and water storage dams that are not part of a public water system and that have a water storage capacity in excess of 3,000 acre-feet.

(2) The capital reserve account must be established by September 30 of the odd-numbered year preceding the next regularly scheduled legislative session when the local government intends to receive potential funding.

(3) The local government shall deposit into the capital reserve account:

(a) except as provided in subsection (4), an amount equal to 10% of the revenues received by the local government from water supply fees, wastewater system usage fees, or water delivery fees assessed by the local government; or

(b) for the owners of water storage dams described in subsection (1), an amount equal to \$5 per

1 acre-foot of water storage capacity. Revenues or royalties from the production and sale of electricity, general
2 fund revenues used for the maintenance of water storage dams and other structures owned by the local
3 government, and fees levied on all members of a conservation district as the conservation district existed on
4 January 1, 2025, where the dam is located may be used to meet the requirement of this subsection (3)(b).

5 (c) A local government may not create any form of special district or improvement district to fund
6 the capital reserve account provided for in this section.

7 (4) For the first 5 years after [the effective date of this act], the required deposit amount is 5% of
8 the revenues received from water supply fees, wastewater system usage fees, or water delivery fees.

9 ~~(3)(5)~~ A local government may expend funds from the capital reserve account only to fund projects
10 with a total estimated cost of at least \$50,000.

11 ~~(4)(6)~~ As used in this section, "local government" means a county, city, town, consolidated city-
12 county, irrigation district, drainage district, or conservation district or a water users' association or ditch
13 company organized and incorporated pursuant to Title 35, chapter 14, or Title 85, chapter 6, part 1.

14
15 **Section 2.** Section 85-1-605, MCA, is amended to read:

16 **"85-1-605. Grants, loans, and bonds for state, local, or tribal government assistance --**
17 **prioritization.** (1) (a) Pursuant to [section 1] and to subsection (1)(b) of this section, The the department may
18 recommend to the legislature that grants and loans be made from revenue deposited in the natural resources
19 projects state special revenue account established in 15-38-302, that loans be made from renewable resource
20 bond proceeds deposited in the renewable resource loan proceeds account established in 85-1-617(5), and
21 that coal severance tax bonds be authorized pursuant to Title 17, chapter 5, part 7, to provide financial
22 assistance to a department, agency, board, commission, or other division of state government, to a city, county,
23 or other political subdivision or local government body of the state, including an authority as defined in 75-6-
24 304, or to a tribal government. The legislature may approve by appropriation or other appropriate means those
25 grants and loans that it finds consistent with the policies and purposes of the program.

26 (b) The department shall rank projects using a ratio calculated by dividing the amount of the locally
27 provided match by the estimated total cost of the project. Projects with a higher ratio of local match to total
28 project cost may be given priority over other projects with a lower ratio, and consideration must be given to the

1 size and cost of the proposed project, the number of users the project serves, and the ability of the applicant to
2 fund the capital reserve account pursuant to [section 1].

3 (2) Pursuant to [section 1] and ~~in~~ in addition to legislative approval pursuant to subsection (1) of
4 this section, the department may request that the board of examiners issue renewable resource bonds of the
5 state so the department may make loans for projects from renewable resource bond proceeds deposited in the
6 renewable resource loan proceeds account established in 85-1-617(5) to a department, agency, board,
7 commission, or other division of state government, to a municipality, county, or other political subdivision or
8 local government body of the state, including an authority as defined in 75-6-304, an irrigation district, a water
9 and sewer district, or other special districts, or to a tribal government.

10 (3) Nothing in this part creates or expands the state's or a local government's authority to incur
11 debt, and the legislature may authorize and the department may make loans only to state and local government
12 entities otherwise structured to incur debt.

13 (4) Loans may not be authorized except to a state, local, or tribal government entity that agrees to
14 secure the authorized loan with its bond.

15 (5) In addition to implementing those projects approved by the legislature or requested by the
16 department pursuant to subsection (2), the department may request up to 10% of the grant funds available and
17 up to \$10 million for loans from the natural resources projects state special revenue account established in 15-
18 38-302 and the renewable resource loan proceeds account in any biennium to be used for emergencies. These
19 emergency grant projects or loan projects, or both, may not be made because of the gross negligence of the
20 state, local, or tribal government applicant, must be approved by the department, and must be defined as those
21 projects otherwise eligible for either grant funding or loan funding or both that, if delayed, will cause substantial
22 damages or legal liability to the project sponsor. In allocating the funds, the department shall inform the
23 legislative fiscal analyst. The department shall provide a copy of the information to the legislature in accordance
24 with 5-11-210.

25 (6) The grants and loans provided for by this section may be made for projects that enhance
26 renewable resources in the state through conservation, development, management, or preservation, for
27 assessing feasibility or planning, for implementing renewable resource projects, and for similar purposes
28 approved by the legislature or requested by the department pursuant to subsection (2).

(7) To be eligible for grants or loans under this section, applications must be submitted by the owner or owners of the project. The owner of the project may be a third-party entity who is identified as the entity to which the funding will be awarded and distributed.

(7)(8) Grant and loan agreements with tribal governments in Montana entered into under this part must contain, in addition to other appropriate terms and conditions, the following conditions:

(a) a requirement that in the event a dispute or claim arises under the agreement, state law will govern as to the interpretation and performance of the agreement and that any judicial proceeding concerning the terms of the agreement will be brought in the district court of the first judicial district of the state of Montana;

(b) an express waiver of the tribal government's immunity from suit on any issue specifically arising from the transaction of a loan or grant; and

(c) an express waiver of any right to exhaust tribal remedies signed by the tribal government."

NEW SECTION. Section 3. Local government requirements before funds are released. (1) To be eligible to receive funding under this part, a local government other than a tribal government must establish and continually fund a capital reserve account meeting the requirements of subsection (3) for necessary infrastructure improvements, including but not limited to improvements to water supply systems, wastewater systems, and irrigation systems.

(2) The capital reserve account must be established by September 30 of the odd-numbered year preceding the next regularly scheduled legislative session when the local government intends to receive potential funding.

(3) (a) Except as provided in subsection (4), The the local government shall deposit into the capital reserve account an amount equal to 10% of the revenues received by the local government from water supply fees, wastewater system usage fees, or water delivery fees assessed by the local government.

(b) A local government may not create any form of special district or improvement district to fund the capital reserve account provided for in this section.

(4) For the first 5 years after [the effective date of this act], the required deposit amount is 5% of the revenues received from water supply fees, wastewater system usage fees, or water delivery fees.

~~(4)(5)~~ A local government may expend funds from the capital reserve account only to fund projects

1 with a total estimated cost of at least \$50,000.

2

3 **Section 4.** Section 90-6-703, MCA, is amended to read:

4 **"90-6-703. Types of financial assistance available.** (1) Pursuant to [section 3], ~~The the~~ legislature
5 shall provide for and make available to local governments the following types of financial assistance under this
6 part:

7 (a) matching grants for local infrastructure projects;

8 (b) matching grants for infrastructure planning; and

9 (c) emergency grants for local infrastructure projects.

10 (2) The department of commerce may provide local governments with emergency grants for
11 infrastructure projects only if necessary to remedy conditions that, if allowed to continue until legislative
12 approval could be obtained, will endanger the public health or safety and expose the applicant to substantial
13 financial risk. The department shall report to the governor, the legislative fiscal analyst, and the local
14 government interim committee in accordance with 5-11-210 regarding emergency grants that are awarded
15 during each biennium. The report must be provided in an electronic format.

16 (3) The department of commerce may provide local governments with matching grants for
17 infrastructure planning. The department shall report to the governor and the legislature in accordance with 5-11-
18 210 regarding infrastructure planning grants that are awarded during each biennium.

19 (4) To be eligible for financial assistance under this section, applications must be submitted by the
20 owner or owners of the project. The owner of the project may be a third-party entity who is identified as the
21 entity to which the funding will be awarded and distributed."

22

23 **Section 5.** Section 90-6-710, MCA, is amended to read:

24 **"90-6-710. Priorities for projects -- procedure -- rulemaking.** (1) The department of commerce
25 must receive proposals for infrastructure projects from local governments on a continual basis. The department
26 shall work with a local government in preparing cost estimates for a project. In reviewing project proposals, the
27 department may consult with other state agencies with expertise pertinent to the proposal. For the projects
28 under 90-6-703(1)(a), the department shall prepare and submit two lists containing the recommended projects

1 and the recommended form and amount of financial assistance for each project to the governor, prioritized
2 pursuant to subsection (2) and this subsection. One list must contain the ranked and recommended bridge
3 projects, and the other list must contain the remaining ranked and recommended infrastructure projects referred
4 to in 90-6-701(3)(a). Each list must be prioritized pursuant to subsection (2) of this section, but the department
5 may recommend up to 20% of the interest earnings anticipated to be deposited into the Montana coal
6 endowment fund established in 17-5-703 during the following biennium for bridge projects. Before making
7 recommendations to the governor, the department may adjust the ranking of projects by giving priority to urgent
8 and serious public health or safety problems. The governor shall review the projects recommended by the
9 department and shall submit the lists of recommended projects and the recommended financial assistance to
10 the legislature.

11 (2) (a) In preparing recommendations under subsection (1), preference must be given to
12 infrastructure projects based on the following order of priority:

13 (i) projects that solve urgent and serious public health or safety problems or that enable local
14 governments to meet state or federal health or safety standards;

15 (ii) projects that reflect greater need for financial assistance than other projects;

16 (iii) projects that incorporate appropriate, cost-effective technical design and that provide thorough,
17 long-term solutions to community public facility needs;

18 (iv) projects that reflect substantial past efforts to ensure sound, effective, long-term planning and
19 management of public facilities and that attempt to resolve the infrastructure problem with local resources;

20 (v) projects that enable local governments to obtain funds from sources other than the funds
21 provided under this part;

22 (vi) projects with a higher ratio calculated by dividing the total amount of the locally provided match
23 by the estimated cost of the entire project, with consideration given to the size and cost of the proposed project,
24 the number of users the project serves, and the ability of the applicant to fund the capital reserve account
25 pursuant to [section 3];

26 ~~(vi)~~(vii) projects that provide long-term, full-time job opportunities for Montanans, that provide public
27 facilities necessary for the expansion of a business that has a high potential for financial success, or that
28 maintain the tax base or that encourage expansion of the tax base; and

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~~(vii)~~(viii) projects that are high local priorities and have strong community support.

(b) (i) The department may not recommend or prioritize projects submitted by a local government that is in violation of 2-1-602 pursuant to the provisions of 2-1-605.

(ii) For the purposes of this subsection (2)(b), "local government" has the meaning provided in 2-1-601.

(3) After the review required by subsection (1), the projects must be approved by the legislature.

(4) The department shall adopt rules necessary to implement the Montana coal endowment program.

(5) The department shall, in accordance with 5-11-210, report to the legislature the status of all projects that have not been completed in order for the legislature to review each project's status and determine whether the authorized grant should be withdrawn.

(6) A local government may begin construction of the proposed infrastructure project after submitting an application to the department and prior to legislative approval of a grant award, if the local government:

(a) has secured the firm commitment of all funding necessary to finance the proposed project;

(b) assumes all risk, liability, and financing for the proposed project; and

(c) acknowledges that any project expenses incurred prior to legislative approval of a grant award may be rendered ineligible by the department if the local government fails to meet any program requirements set forth in this part or the rules adopted by the department pursuant to subsection (4)."

NEW SECTION. Section 6. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 85, chapter 1, part 6, and the provisions of Title 85, chapter 1, part 6, apply to [section 1].

(2) [Section 3] is intended to be codified as an integral part of Title 90, chapter 6, part 7, and the provisions of Title 90, chapter 6, part 7, apply to [section 3].

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