

HOUSE BILL NO. 435

INTRODUCED BY B. MCCHESENEY

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS GOVERNING COAL IMPACT GRANT AWARDS;
5 INCLUDING AN INCREASE IN TRANSPORTATION OF COAL THROUGH A LOCAL GOVERNMENT UNIT AS
6 A CONDITION FOR FORMING THE BASIS OF AWARDING GRANTS; ADDING TO A LOCAL GOVERNMENT
7 UNIT'S ELIGIBILITY REQUIREMENTS THE ESTABLISHMENT OF RAILROAD CROSSING QUIET ZONES AND
8 A CERTAIN DAILY AVERAGE NUMBER OF COAL TRAINS; REQUIRING THAT PREFERENCE FOR GRANT
9 AWARDS BE GIVEN TO LOCAL GOVERNMENT UNITS THAT MEET CERTAIN CONDITIONS; ALLOWING
10 FOR GRANTS UP TO \$200,000 FOR EACH RAILROAD QUIET ZONE CROSSING; AND AMENDING
11 SECTIONS 90-6-205, 90-6-206, ~~AND~~ 90-6-207, AND 90-6-208, MCA."

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

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15 **Section 1.** Section 90-6-205, MCA, is amended to read:
16 **"90-6-205. Coal board -- general powers.** The board may:
17 (1) retain professional consultants and advisors;
18 (2) adopt rules governing its proceedings;
19 (3) consider applications for grants from available funds;
20 (4) award grants, subject to 90-6-207, from available funds:
21 (a) to local governmental units, state agencies, and governing bodies of federally recognized Indian
22 tribes to assist local governmental units and federally recognized Indian tribes in meeting the local impact of coal
23 development, the transportation of coal, or a major decline in coal mining or in the operation of coal-using energy
24 complexes by enabling them to adequately provide governmental services and facilities that are needed as a
25 direct consequence of an increase in the transportation of coal or an increase or decrease in coal development
26 or in the consumption of coal by a coal-using energy complex; and
27 (b) notwithstanding the provisions of 90-6-207, to the department of transportation, established in
28 2-15-2501, to expedite the construction, repair, and maintenance of deficient sections of highway within the area
29 designated in 90-6-210 if the deficiency is the direct result of increased traffic accompanying the development
30 of coal resources; and

1 (5) award a grant to a local governmental unit for the purpose of paying for part or all of the credit that
2 the local governmental unit is obligated to give to a major new industrial facility that has prepaid property taxes
3 under 15-16-201. The board shall award the grant in accordance with 90-6-206."
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5 **Section 2.** Section 90-6-206, MCA, is amended to read:

6 **"90-6-206. Basis for awarding grants.** (1) Grants must be awarded on the basis of:

7 (a) need;

8 (b) degree of severity of impact from an increase in the transportation of coal or an increase or decrease
9 in coal development or in the consumption of coal by a coal-using energy complex;

10 (c) availability of funds; and

11 (d) degree of local effort in meeting these needs.

12 (2) In determining the degree of local effort, the board shall review the millage rates levied for the present
13 fiscal year in relation to the average millage rates levied during the 3 years immediately preceding the year of
14 application for assistance.

15 (3) Millage rates for the present fiscal year that are lower than the average millage rate levied during the
16 3 years immediately preceding the year of application for assistance must be considered by the board to indicate
17 the lack of local effort. The application under these circumstances may be rejected.

18 (4) Further, in determining the degree of local effort, the board shall consider the possibility of requiring
19 that local governmental unit to increase its bonded indebtedness to provide all or part of the governmental service
20 or facility that is needed as a direct consequence of an increase in the transportation of coal or an increase or
21 decrease in coal development or in the consumption of coal by a coal-using energy complex.

22 (5) To the extent that funds are needed to evaluate and plan for the impact needs caused by the increase
23 in the transportation of coal or the increase or decrease in coal development or in the consumption of coal by a
24 coal-using energy complex, consideration of bond issues and millage levies may be waived.

25 (6) To the extent that the applicant has no history of mill levies, subsections (2) and (3) do not apply."
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27 **Section 3.** Section 90-6-207, MCA, is amended to read:

28 **"90-6-207. Priorities for impact grants.** (1) The department of commerce shall biennially designate:

29 (a) each county, incorporated city and town, school district, and other governmental unit that has had
30 or expects to have as a result of the impact of coal development a net increase or decrease in estimated

1 population of at least 10% over one of the 3-year periods specified in subsection ~~(4)~~ (5) (6);

2 (b) each county and all local governmental units within each county in which:

3 (i) a mining permit in accordance with the Montana Strip and Underground Mine Reclamation Act has
4 been granted by the department of environmental quality for a project within the county that will establish a new
5 coal mine to produce at least 300,000 tons a year and that the department of commerce determines will
6 commence production within 2 years;

7 (ii) the department of commerce has determined that the production of an existing mine will increase or
8 decrease by at least 1 million tons a year and that the new, expanded, or reduced production will commence
9 within 2 years of the designation;

10 (iii) a newly constructed railroad serves a new, existing, or expanding coal mine; or

11 (iv) an air quality permit has been issued by the department of environmental quality for a new
12 steam-generating or other new coal-burning facility that will consume at least 1 million tons a year of
13 Montana-mined coal and for which the department of commerce determines the construction or operation will
14 commence within 2 years of the designation;

15 (c) each local governmental unit located within 100 miles, measured over the shortest all-weather public
16 road, of a mine or facility qualifying under subsection (1)(b)(i), (1)(b)(ii), or (1)(b)(iv); and

17 (d) each local governmental unit in which:

18 (i) a mine that has produced 300,000 tons or more of coal a year has ceased all significant mining or is
19 scheduled to cease within 1 year; or

20 (ii) a steam-generating or other coal-burning facility that has operated under an air quality permit issued
21 by the department of environmental quality and that has consumed at least 1 million tons of Montana-mined coal
22 a year has closed or is scheduled to close within 1 year.

23 ~~_____ (2) The department of commerce shall biennially designate each local government unit that has
24 established a railroad quiet zone under 69-14-620 and that has or expects to have the rail transportation of coal:~~

25 ~~_____ (a) through the local government unit in a number averaging at least 18 loaded or unloaded coal trains
26 each day; and~~

27 ~~_____ (b) that is produced from the area designated as the eastern Montana coal field economic growth center
28 as certified for the secretary of transportation by the governor under 23 U.S.C. 143.~~

29 (2) THE DEPARTMENT OF COMMERCE SHALL BIENNIALLY DESIGNATE EACH LOCAL GOVERNMENT UNIT THAT HAS
30 OR EXPECTS TO HAVE WITHIN 2 YEARS THE RAIL TRANSPORTATION OF COAL THROUGH THE LOCAL GOVERNMENT UNIT IN

1 A NUMBER AVERAGING AT LEAST ~~EIGHT~~ 12 LOADED OR UNLOADED COAL TRAINS EACH DAY.

2 (3) THE DEPARTMENT OF COMMERCE SHALL BIENNIALY DESIGNATE EACH LOCAL GOVERNMENT UNIT THAT IS
 3 DESIGNATED UNDER SUBSECTIONS (1) AND (2) AND THAT HAS PROPOSED A RAILROAD QUIET ZONE UNDER 49 CFR, PARTS
 4 222 AND 229.

5 ~~(2)(3)(4)~~ Designation under subsection (1) of:

6 (a) any local governmental unit extends to and includes as a designated unit the county in which it is
 7 located; and

8 (b) a county extends to and includes as a designated unit any local governmental unit in the county that
 9 contains at least 10% of the total population of the county.

10 ~~(3)(4)(5)~~ Except as provided in 90-6-205(4)(b), the board may not award more than 50% of the funds
 11 appropriated to it each year for grants to governmental units and state agencies for meeting the needs caused
 12 by an increase or decrease in coal development or in the consumption of coal by a coal-using energy complex
 13 to local governmental units other than those governmental units designated under subsection (1).

14 ~~(4)(5)(6)~~ For the purposes of subsection (1), the department of commerce shall use five 3-year periods
 15 as follows:

16 (a) one consecutive 3-year period ending 2 calendar years prior to the current calendar year;

17 (b) one consecutive 3-year period ending 1 calendar year prior to the current calendar year;

18 (c) one consecutive 3-year period ending with the current calendar year;

19 (d) one consecutive 3-year period ending 1 calendar year after the current calendar year; and

20 (e) one consecutive 3-year period ending 2 calendar years after the current calendar year.

21 ~~(5)(6)(7)~~ Attention should be given by the board to the need for community planning before the full impact
 22 is realized. Applicants should be able to show how their request reasonably fits into an overall plan for the orderly
 23 management of the existing or contemplated growth or decline problems.

24 ~~(6)(7)(8)~~ All funds appropriated under this part are for use related to local impact.

25 ~~(7)(8)(9)~~ All designations based on an increase in coal development or in the consumption of coal by
 26 a coal-using energy complex made under subsection (1)(a), (1)(b), or (1)(c) must be for 1 year. A designation may
 27 not continue after the department of commerce determines that the mine, railroad, or facility that provided the
 28 basis for a designation is contributing sufficient tax revenue to the designated governmental unit to meet the
 29 increased costs of providing the services necessitated by the development of the mine, railroad, or facility.
 30 However, nondesignated local governmental units continue to be eligible for coal impact grants of not more than

1 50% of the funds appropriated to the board for grants in circumstances in which an impact exists in a community
2 or area directly affected by:

3 (a) the operation of a coal mine or a coal-using energy complex; or

4 (b) the cessation or reduction of coal mining activity or of the operation of a coal-using energy complex.

5 ~~(9) In awarding funds, preference must be given to local government units that meet the requirements~~
6 ~~of subsections (1) and (2).~~

7 (10) IN AWARDING FUNDS, PREFERENCE MUST BE GIVEN TO LOCAL GOVERNMENT UNITS BASED ON THE
8 FOLLOWING ORDER OF PRIORITY:

9 (A) LOCAL GOVERNMENT UNITS THAT ARE DESIGNATED UNDER SUBSECTION (1);

10 (B) LOCAL GOVERNMENT UNITS THAT ARE DESIGNATED UNDER SUBSECTION (3); AND

11 (C) LOCAL GOVERNMENT UNITS THAT ARE DESIGNATED UNDER SUBSECTION (2) AND THAT HAVE PROPOSED A
12 RAILROAD QUIET ZONE UNDER 49 CFR, PARTS 222 AND 229.

13 ~~(10)(11) Local government units that receive an award in accordance with subsection (9) SUBSECTIONS~~
14 ~~(10)(B) AND (10)(C) are eligible for up to \$200,000 for each crossing at which a railroad quiet zone has been~~
15 ~~established."~~

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17 **SECTION 4. SECTION 90-6-208, MCA, IS AMENDED TO READ:**

18 **"90-6-208. Applications for grants. (1)** The governing body of a city, town, county, or school district,
19 any other local or state governmental unit or agency, or the governing body of a federally recognized Indian tribe
20 may apply for a grant to enable it to provide governmental services that are needed as a direct consequence of
21 an increase or decrease of coal development or of an increase or decrease in the consumption of coal by a
22 coal-using energy complex. The board shall prescribe the form for applications. Applicants shall describe the
23 nature of their proposed expenditures and the time involved.

24 (2) An application by the governing body of a local government unit that is designated under 90-6-207(2)
25 and that has proposed a railroad quiet zone under 49 CFR, parts 222 and 229, or that is designated under
26 90-6-207(3) must be accompanied by an application review fee of \$5."

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