

TREASURE STATE ENDOWMENT PROGRAM, EASTERN MONTANA GRANT PROGRAM

Program Description

The executive proposes an “Eastern Montana” infrastructure grant program (TSEP-EMGP). The program would be administered by the Department of Commerce and will be run through the Treasure State Endowment Program. To establish the program, HB 5 (Sec. 23-24) would amend two of the TSEP statutes as follows:

- First, infrastructure project types are expanded in 90-6-701 to include
 - Public safety infrastructure related to law enforcement, fire protection, or emergency services.

LFD ISSUE

Amendment Language is Vague

The changes to statute recommended by the executive for TSEP-EMGP is vague. In the amendment to 90-6-701, MCA, the language mentions public safety infrastructure. While this terminology is expanded, there is no certainty related to what is meant. This could mean that acceptable projects could range from vehicles and equipment to facilities. The legislature may want to consider strengthening the statutory amendment to more specifically state the meaning of public safety infrastructure as the body may interpret it.

- Next, language is added to 90-6-710 permitting the agency to award grants
 - Beginning June 1, 2015, the department shall receive proposals from local or tribal governments impacted by growth associated with oil and gas development for community planning and for drinking water, wastewater treatment, or public safety infrastructure projects for an existing or future population. The department shall award grants from June 1, 2015 until April 30, 2016 and distribute the funds appropriated in [section 28(2)(d)] on a reimbursement basis from June 1, 2015 until June 29, 2019. Any funds appropriated in [section (28)(2)(d)] not obligated under this subsection to a local or tribal government by June 30, 2016, must revert to the general fund.

LFD ISSUE

Delegation of Authority

The Legislature would be delegating authority to the DOC (or the executive) under the TSEP-EMGP program. Unlike TSEP, the Legislature would have no role in making a determination of where or to whom the funds, or tax dollars, would be going. This program would allow the DOC to use its judgment in making that determination based on the limited information provided in the statutory amendment. In addition to the questions related to the types of infrastructure that would be included in the program, where the funds would be distributed is also at issue. The amendment mentions that applications will be taken from local or tribal governments impacted by growth associated with oil and gas development. Should the legislature choose to delegate this authority to DOC, it may want to better outline the conditions under which the local governments would receive grants with consideration to the following:

- What is meant by impacted by oil and gas development?
 - Will the funds be distributed exclusively to Eastern Montana (as dubbed in the executive proposal)?
 - What is meant exactly by Eastern Montana?
- Where is the oil and gas development in relation to the local government?
- What type of an impact is being experienced by the local government?
- What type of planning has the local government undertaken with relation to the project?
- What type of infrastructure is needed to address the impact?

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LFD ISSUE (continued)

- How much will the infrastructure cost?
- What part of the cost is the local government contributing to the project?
- What part of the cost would be contributed by the state?
- How will the agency prioritize projects?
- How much community support is there for the project?

The language changes are recommended by the executive to provide a mechanism by which grants could be awarded in the 2017 biennium. The department will accept applications from and award grants from the \$45.0 million appropriation to various types of local governments impacted by oil and gas development for 11 months (June 1, 2015 to April 30 2016). After the April 30, 2016 deadline, TSEP will open up its regular biennial grant application cycle for water, wastewater, solid waste, stormwater, and bridge infrastructure for award during the 2017 legislative session. The appropriation for this program is provided in Sec. 28. The bond proceeds are included as a component of the Build Montana Act. For more information on the bond proposal see F-4 of this report.

LFD COMMENT

If the legislature agrees with the proposal for the EMGP, it may be helpful to request that DOC report how many grants have been awarded, the types of projects approved, the amount of funding awarded for the project, and the progress of the project to the Legislative Finance Interim Committee on a regular basis over the biennial interim.