

HOUSE BILL NO. 308

INTRODUCED BY J. ESSMANN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO THE COAL BOARD  
5 AND COAL BOARD GRANTS; REVISING MEMBERSHIP OF THE COAL BOARD; ALLOWING COAL BOARD  
6 GRANTS TO BE AWARDED TO CERTAIN LOCAL GOVERNMENT UNITS EXPERIENCING OR EXPECTING  
7 TO EXPERIENCE AN INCREASE IN THE TRANSPORTATION OF COAL; REQUIRING THE DEPARTMENT  
8 OF COMMERCE TO DESIGNATE IMPACT AREAS THAT INCLUDE LOCAL GOVERNMENT UNITS  
9 EXPERIENCING OR EXPECTING TO EXPERIENCE AN INCREASE IN THE TRANSPORTATION OF COAL;  
10 REDUCING GRANTS AVAILABLE TO LOCAL GOVERNMENT UNITS THAT ARE NOT LOCATED IN AN  
11 IMPACT AREA; AMENDING SECTIONS 2-15-1821, 90-6-205, 90-6-206, AND 90-6-207, MCA; AND PROVIDING  
12 AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

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

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16 **Section 1.** Section 2-15-1821, MCA, is amended to read:

17 **"2-15-1821. Coal board -- allocation -- composition.** (1) There is a coal board composed of ~~seven~~ nine  
18 members.

19 (2) The coal board is allocated to the department of commerce for administrative purposes only as  
20 prescribed in 2-15-121.

21 (3) The governor shall appoint a ~~seven-member~~ nine-member coal board, as provided under 2-15-124.

22 ~~———— (4) (a) Subject to subsections (4)(b) and (4)(c), the members of the coal board are selected as follows:~~

23 ~~———— (i) two from the impact areas; and~~

24 ~~———— (ii) two with expertise in education.~~

25 ~~———— (b) At least two but not more than four members must be appointed from each district provided for in~~  
26 ~~5-1-102.~~

27 (4) The members of the coal board are selected as follows:

28 (a) four members from counties producing at least 100,000 tons of coal on a 3-year average as follows:

29 (i) one member from a county containing a city classified in accordance with 7-1-4111 as a city of the  
30 first class;



1 (ii) one member from a county containing a city classified in accordance with 7-1-4111 as a city of the  
 2 second class;

3 (iii) one member from a county containing a city classified in accordance with 7-1-4111 as a city of the  
 4 third class; and

5 (iv) one member from a county containing a town classified in accordance with 7-1-4111;

6 (b) four members from counties through which coal is transported by railroad in a volume of at least  
 7 100,000 tons annually on a 3-year average as follows:

8 (i) one member from a county containing a city classified in accordance with 7-1-4111 as a city of the  
 9 first class;

10 (ii) one member from a county containing a city classified in accordance with 7-1-4111 as a city of the  
 11 second class;

12 (iii) one member from a county containing a city classified in accordance with 7-1-4111 as a city of the  
 13 third class;

14 (iv) one member from a county containing a town classified in accordance with 7-1-4111; and

15 (c) one member from a county that neither produces coal nor has coal transported through it. The county  
 16 or local government unit of residence of this member is not eligible to receive grants during or for 3 years  
 17 following the member's tenure on the board.

18 ~~(e)~~(5) In making the appointments, the governor shall consider people from each of the following fields:

19 ~~(i)~~(a) business;

20 ~~(ii)~~(b) engineering;

21 ~~(iii)~~(c) public administration; ~~and~~

22 (d) education;

23 (e) transportation;

24 (f) local government; and

25 ~~(iv)~~(g) planning."

26

27 **Section 2.** Section 90-6-205, MCA, is amended to read:

28 **"90-6-205. Coal board -- general powers.** The board may:

29 (1) retain professional consultants and advisors;

30 (2) adopt rules governing its proceedings;

1 (3) consider applications for grants from available funds;

2 (4) award grants, subject to 90-6-207, from available funds:

3 (a) to local governmental units, state agencies, and governing bodies of federally recognized Indian  
4 tribes to assist local governmental units and federally recognized Indian tribes in meeting the local impact of coal  
5 development, the transportation of coal, or a major decline in coal mining or in the operation of coal-using energy  
6 complexes by enabling them to adequately provide governmental services and facilities that are needed as a  
7 direct consequence of an increase in the transportation of coal or an increase or decrease in coal development  
8 or in the consumption of coal by a coal-using energy complex; and

9 (b) notwithstanding the provisions of 90-6-207, to the department of transportation, established in  
10 2-15-2501, to expedite the construction, repair, and maintenance of deficient sections of highway within the area  
11 designated in 90-6-210 if the deficiency is the direct result of increased traffic accompanying the development  
12 of coal resources; and

13 (5) award a grant to a local governmental unit for the purpose of paying for part or all of the credit that  
14 the local governmental unit is obligated to give to a major new industrial facility that has prepaid property taxes  
15 under 15-16-201. The board shall award the grant in accordance with 90-6-206."  
16

17 **Section 3.** Section 90-6-206, MCA, is amended to read:

18 **"90-6-206. Basis for awarding grants.** (1) Grants must be awarded on the basis of:

19 (a) need;

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

22 (c) availability of funds; and

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

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

27 (3) Millage rates for the present fiscal year that are lower than the average millage rate levied during the  
28 3 years immediately preceding the year of application for assistance must be considered by the board to indicate  
29 the lack of local effort. The application under these circumstances may be rejected.

30 (4) Further, in determining the degree of local effort, the board shall consider the possibility of requiring

1 that local governmental unit to increase its bonded indebtedness to provide all or part of the governmental service  
 2 or facility that is needed as a direct consequence of an increase in the transportation of coal or an increase or  
 3 decrease in coal development or in the consumption of coal by a coal-using energy complex.

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

7 (6) To the extent that the applicant has no history of mill levies, subsections (2) and (3) do not apply."  
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9 **Section 4.** Section 90-6-207, MCA, is amended to read:

10 **"90-6-207. Priorities for impact grants.** (1) The department of commerce shall biennially designate:

11 (a) each county, incorporated city and town, school district, and other governmental unit that has had  
 12 or expects to have as a result of the impact of coal development a net increase or decrease in estimated  
 13 population of at least 10% over one of the 3-year periods specified in subsection (4);

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

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

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

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

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

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

29 (d) each local governmental unit in which:

30 (i) a mine that has produced 300,000 tons or more of coal a year has ceased all significant mining or is

1 scheduled to cease within 1 year; or

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

5 (e) each county and incorporated city or town that has or expects to have an increase in the  
6 transportation of coal:

7 (i) through the county, city, or town; and

8 (ii) produced from the area designated as the eastern Montana coal field economic growth center as  
9 certified for the secretary of transportation by the governor under 23 U.S.C. 143.

10 (2) Designation under subsection (1) of:

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

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

15 (3) Except as provided in 90-6-205(4)(b), the board may not award more than ~~50%~~ 25% of the funds  
16 appropriated to it each year for grants to governmental units and state agencies for meeting the needs caused  
17 by an increase in the transportation of coal or an increase or decrease in coal development or in the consumption  
18 of coal by a coal-using energy complex to local governmental units other than those governmental units  
19 designated under subsection (1).

20 (4) For the purposes of subsection (1), the department of commerce shall use five 3-year periods as  
21 follows:

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

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

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

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

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

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

30 (6) All funds appropriated under this part are for use related to local impact.

1 (7) All designations based on an increase in coal development or in the consumption of coal by a  
2 coal-using energy complex made under subsection (1)(a), (1)(b), or (1)(c) must be for 1 year. A designation may  
3 not continue after the department of commerce determines that the mine, railroad, or facility that provided the  
4 basis for a designation is contributing sufficient tax revenue to the designated governmental unit to meet the  
5 increased costs of providing the services necessitated by the development of the mine, railroad, or facility.  
6 However, nondesignated local governmental units continue to be eligible for coal impact grants of not more than  
7 ~~50%~~ 25% of the funds appropriated to the board for grants in circumstances in which an impact exists in a  
8 community or area directly affected by:

- 9 (a) the operation of a coal mine or a coal-using energy complex; or  
10 (b) the cessation or reduction of coal mining activity or of the operation of a coal-using energy complex."

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12 **NEW SECTION. Section 5. Notification to tribal governments.** The secretary of state shall send a  
13 copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell  
14 Chippewa tribe.

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16 **NEW SECTION. Section 6. Saving clause.** [This act] does not affect rights and duties that matured,  
17 penalties that were incurred, or proceedings that were begun before [the effective date of this act].

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19 **NEW SECTION. Section 7. Severability.** If a part of [this act] is invalid, all valid parts that are severable  
20 from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part  
21 remains in effect in all valid applications that are severable from the invalid applications.

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23 **NEW SECTION. Section 8. Effective date.** [This act] is effective on passage and approval.

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25 **NEW SECTION. Section 9. Applicability.** (1) [Section 1] applies to vacancies on the coal board  
26 occurring on or after [the effective date of this act] and to appointments made pursuant to 2-15-1821 on or after  
27 [the effective date of this act].

28 (2) [Sections 2 through 4] apply to grants made on or after [the effective date of this act].

29 - END -