

HOUSE BILL NO. 927

Introduced: 04/11/83

Referred to Committee on Natural Resources: 04/12/83

Hearing: 4/15/83

Report: 04/16/83, Do Pass, As Amended

2nd Reading: 04/18/83, Do Pass

3rd Reading: 04/18/83, Do Pass

Transmitted to Senate: 04/19/83

Referred to Committee on Rules: 04/19/83

Died in Senate Committee

1 HOUSE BILL NO. 927
2 INTRODUCED BY Balderson

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE WATER
5 DEVELOPMENT PROGRAM LAWS TO APPLY PROVISIONS RELATING TO
6 LOAN AND GRANT APPLICATIONS, ELIGIBILITY, AND EVALUATION
7 CRITERIA TO STATE AND LOCAL GOVERNMENT GRANT AND LOAN
8 PROPOSALS; ESTABLISHING A PREFERENCE FOR PROJECTS THAT CAN
9 PAY INTEREST AT MARKET RATES; CLARIFYING THE EVALUATION OF
10 PREFERENCES AND CRITERIA; AND AMENDING SECTIONS 85-1-608
11 THROUGH 85-1-610 AND 85-1-612, MCA."

12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 Section 1. Section 85-1-608, MCA, is amended to read:

15 "85-1-608. Applications for grants and loans to
16 private-persons. (1) A local or state government entity or a
17 private person may apply for a grant or loan to finance a
18 water development project or activity to be constructed,
19 developed, and operated in Montana.

20 (2) An application for a loan or grant must be in the
21 form prescribed by the board and contain or be accompanied
22 by any information necessary to adequately describe the
23 proposed project or activity and necessary for evaluation of
24 the proposed project or activity under the criteria set out
25 in 85-1-609 and 85-1-610."

1 Section 2. Section 85-1-609, MCA, is amended to read:
2 "85-1-609. Eligibility for a loan or grant ~~to a~~
3 ~~private-person.~~ The department may not award a grant or loan
4 to a private person or recommend award of a grant or loan to
5 a public entity under 85-1-605 unless the department finds,
6 based on the application and the department's investigation
7 and evaluation of the proposal, that:

8 (1) the proposed water development project or
9 activity:

10 (a) will promote, enhance, or advance the purpose,
11 policies, and objectives of the water development program;

12 (b) will be constructed, developed, and operated
13 within the state of Montana;

14 (c) will be economically feasible. (A project or
15 activity is economically feasible if the project benefits
16 exceed the project costs. The department shall consider only
17 tangible benefits and costs in calculating economic
18 feasibility.)

19 (d) will be an efficient use of natural resources
20 including water, energy, land, and air. (An efficient use is
21 one that minimizes waste.)

22 (e) will provide multipurpose facilities to the extent
23 practicable;

24 (f) will comply with statutory and regulatory
25 standards protecting the quality of resources such as air,

1 water, land, fish, wildlife, and recreational opportunities;

2 (g) will provide associated public benefits in
3 addition to any private benefits the project or activity may
4 provide; and

5 (h) is needed to accomplish the purpose for which the
6 water development project or activity is proposed;

7 (2) the applicant has adequate financial resources to
8 construct, operate, and maintain the water development
9 project or activity. The department shall consider financial
10 resources from any source for which the applicant has
11 qualified, including a water development grant or loan.

12 (3) the applicant, ~~if a private person,~~ holds or can
13 acquire all necessary lands, other than public lands, and
14 interests therein and water rights necessary for the
15 construction, operation, and maintenance of the proposed
16 water development project or activity;

17 (4) if the application is for a loan, the applicant is
18 credit-worthy and able and willing to enter into a contract
19 with the department for loan repayment and construction or
20 development of the proposed water development project or
21 activity; and

22 (5) if the application is for a grant, the applicant
23 is able and willing to enter into a contract with the
24 department for construction or development of the proposed
25 water development project or activity."

1 Section 3. Section 85-1-610, MCA, is amended to read:

2 "85-1-610. Evaluation of applications for grants and
3 or loans to private persons. The department shall consider
4 the following criteria and preferences in evaluating
5 applications and recommending or selecting the recipients of
6 grants and loans for water development projects and
7 activities that are eligible for funding under 85-1-605 or
8 85-1-609:

9 (1) The extent and desirability of the public benefits
10 that will be provided must be considered.

11 (2) A water development project or activity that will
12 be used as part of a family farm shall be given preference.
13 A family farm is one devoted primarily to agriculture under
14 the ownership and operation of a resident Montana family.

15 (3) A water development project or activity that will
16 utilize or develop water reserved under 85-2-316 shall be
17 given preference.

18 (4) The department, to the extent practicable, shall
19 attempt to achieve geographic balance in the promotion of
20 water development projects and activities through the
21 awarding of loans and grants to private persons.

22 (5) The extent to which the water development project
23 or activity will fully utilize water resources and promote
24 the conservation and efficient use of the water resource
25 shall be evaluated and considered.

(6) Projects or activities that could not be accomplished without the assistance of a loan or grant shall be given preference.

~~(7) Projects or activities that can pay full market rate interest shall be given preference.~~

~~(7)(8)~~ The department shall give due consideration to any other factor that, in the department's judgment, is important to the evaluation of the water development project or activity in light of the purposes, policies, and objectives of the water development program.

~~(9) In evaluating proposals under this section, the department shall consider preferences as equivalent to one another and initially rank projects meeting the same number of preferences equally. Those meeting a greater number of preferences must be ranked higher. The department shall then evaluate the proposals under the additional criteria to establish priorities within each rank established. Each award or recommendation must be made in the order of rank and priority thus established."~~

Section 4. Section 85-1-612, MCA, is amended to read:

"85-1-612. Rulemaking authority. The board shall adopt rules:

(1) prescribing the form and content of applications for grants and loans;

(2) governing the application of the criteria for

awarding loans and grants to private persons;

~~(3) governing the application of the criteria for evaluating proposals for loans and grants to state and local government entities;~~

~~(4) providing time periods for submission of proposals for evaluation prior to a legislative session;~~

~~(3)(5)~~ providing for the servicing of loans including arrangements for obtaining security interests and the establishment of reasonable fees or charges to be made; and

~~(4)(6)~~ describing the terms and conditions for making grants and loans, the security instruments, and the agreements necessary."

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 927

3 House Natural Resources Committee

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5 It is the Intent of the Legislature that the Department
6 of Natural Resources and Conservation adopt rules that
7 provide for the evaluation of proposals under Section
8 85-1-610, MCA, wherein the preferences provided for may be
9 given appropriate weight for the purpose of ensuring a fair
10 and reasonable selection of projects for funding. The
11 Legislature further intends that the Department adopt a rule
12 establishing time frames for the timely submission of
13 applications in order that a careful evaluation of all
14 eligible proposals may occur prior to each Legislative
15 session.

SECOND READING

HB 927

Approved by Committee
on Natural Resources

HOUSE BILL NO. 927

INTRODUCED BY BARDANOUE

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE WATER DEVELOPMENT PROGRAM LAWS TO APPLY PROVISIONS RELATING TO LOAN AND GRANT APPLICATIONS, ELIGIBILITY, AND EVALUATION CRITERIA TO STATE AND LOCAL GOVERNMENT GRANT AND LOAN PROPOSALS; ESTABLISHING A PREFERENCE FOR PROJECTS THAT CAN PAY INTEREST AT MARKET RATES; CLARIFYING THE EVALUATION OF PREFERENCES AND CRITERIA; AND AMENDING SECTIONS 85-1-608 THROUGH 85-1-610 AND 85-1-612, MCA."

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

Section 1. Section 85-1-608, MCA, is amended to read:

"85-1-608. Applications for grants and loans to private-persons. (1) A local or state government entity or a private person may apply for a grant or loan to finance a water development project or activity to be constructed, developed, and operated in Montana.

(2) An application for a loan or grant must be in the form prescribed by the board and contain or be accompanied by any information necessary to adequately describe the proposed project or activity and necessary for evaluation of the proposed project or activity under the criteria set out in 85-1-609 and 85-1-610."

Section 2. Section 85-1-609, MCA, is amended to read:

"85-1-609. Eligibility for a loan or grant to--a private-person. The department may not award a grant or loan to a private person or recommend award of a grant or loan to a public entity under 85-1-605 unless the department finds, based on the application and the department's investigation and evaluation of the proposal, that:

(1) the proposed water development project or activity:

(a) will promote, enhance, or advance the purpose, policies, and objectives of the water development program;

(b) will be constructed, developed, and operated within the state of Montana;

(c) will be economically feasible. (A project or activity is economically feasible if the project benefits exceed the project costs. The department shall consider only tangible benefits and costs in calculating economic feasibility.)

(d) will be an efficient use of natural resources including water, energy, land, and air. (An efficient use is one that minimizes waste.)

(e) will provide multipurpose facilities to the extent practicable;

(f) will comply with statutory and regulatory standards protecting the quality of resources such as air,

1 water, land, fish, wildlife, and recreational opportunities;

2 (g) will provide associated public benefits in
3 addition to any private benefits the project or activity may
4 provide; and

5 (h) is needed to accomplish the purpose for which the
6 water development project or activity is proposed;

7 (2) the applicant has adequate financial resources to
8 construct, operate, and maintain the water development
9 project or activity. The department shall consider financial
10 resources from any source for which the applicant has
11 qualified, including a water development grant or loan.

12 (3) the applicant, if a private person, holds or can
13 acquire all necessary lands, other than public lands, and
14 interests therein and water rights necessary for the
15 construction, operation, and maintenance of the proposed
16 water development project or activity;

17 (4) if the application is for a loan, the applicant is
18 credit-worthy and able and willing to enter into a contract
19 with the department for loan repayment and construction or
20 development of the proposed water development project or
21 activity; and

22 (5) if the application is for a grant, the applicant
23 is able and willing to enter into a contract with the
24 department for construction or development of the proposed
25 water development project or activity."

1 Section 3. Section 85-1-610, MCA, is amended to read:

2 "85-1-610. Evaluation of applications for grants and
3 or ~~and~~ loans to ~~private~~ persons. The department shall
4 consider the following criteria and preferences in
5 evaluating applications and recommending ~~or~~ selecting the
6 recipients of grants and loans for water development
7 projects and activities that are eligible for funding under
8 85-1-602 ~~or~~ 85-1-609:

9 (1) The extent and desirability of the public benefits
10 that will be provided must be considered.

11 (2) A water development project or activity that will
12 be used as part of a family farm shall be given preference.
13 A family farm is one devoted primarily to agriculture under
14 the ownership and operation of a resident Montana family.

15 (3) A water development project or activity that will
16 utilize or develop water reserved under 85-2-316 shall be
17 given preference.

18 (4) The department, to the extent practicable, shall
19 attempt to achieve geographic balance in the promotion of
20 water development projects and activities through the
21 awarding of loans and grants to private persons.

22 (5) The extent to which the water development project
23 or activity will fully utilize water resources and promote
24 the conservation and efficient use of the water resource
25 shall be evaluated and considered.

(6) Projects or activities that could not be accomplished without the assistance of a loan or grant shall be given preference.

~~(7) Projects or activities APPLYING FOR A LOAN that can pay full market rate interest shall be given preference.~~

~~(7)(B)~~ The department shall give due consideration to any other factor that, in the department's judgment, is important to the evaluation of the water development project or activity in light of the purposes, policies, and objectives of the water development program.

~~(8) In evaluating proposals under this section, the department shall consider preferences as equivalent to one another and initially rank projects meeting the same number of preferences equally. Those meeting a greater number of preferences must be ranked higher. The department shall then evaluate the proposals under the additional criteria to establish priorities within each rank established. Each award or recommendation must be made in the order of rank and priority thus established."~~

Section 4. Section 85-1-612, MCA, is amended to read:

"85-1-612. Rulemaking authority. The board shall adopt rules:

(1) prescribing the form and content of applications for grants and loans;

(2) governing the application of the criteria for

EVALUATING APPLICATIONS AND awarding loans and grants to private persons;

~~(3) governing the application of the criteria for evaluating proposals for loans and grants to state and local government entities~~

~~(4)(3) providing time periods for submission of proposals for evaluation prior to a legislative session;~~

~~(5)(4)~~ providing for the servicing of loans including arrangements for obtaining security interests and the establishment of reasonable fees or charges to be made; and

~~(6)(5)(2)~~ describing the terms and conditions for making grants and loans, the security instruments, and the agreements necessary."

-End-

1 STATEMENT OF INTENT

2 HOUSE BILL 927

3 House Natural Resources Committee
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5 It is the intent of the Legislature that the Department
6 of Natural Resources and Conservation adopt rules that
7 provide for the evaluation of proposals under Section
8 85-1-610, MCA, wherein the preferences provided for may be
9 given appropriate weight for the purpose of ensuring a fair
10 and reasonable selection of projects for funding. The
11 Legislature further intends that the Department adopt a rule
12 establishing time frames for the timely submission of
13 applications in order that a careful evaluation of all
14 eligible proposals may occur prior to each Legislative
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(2) An application for a loan or grant must be in the form prescribed by the board and contain or be accompanied by any information necessary to adequately describe the proposed project or activity and necessary for evaluation of the proposed project or activity under the criteria set out in 85-1-609 and 85-1-610."

Section 2. Section 85-1-609, MCA, is amended to read:

"85-1-609. Eligibility for a loan or grant to--a private-person. The department may not award a grant or loan to a private person or recommend award of a grant or loan to a public entity under 85-1-605 unless the department finds, based on the application and the department's investigation and evaluation of the proposal, that:

(1) the proposed water development project or activity:

(a) will promote, enhance, or advance the purpose, policies, and objectives of the water development program;

(b) will be constructed, developed, and operated within the state of Montana;

(c) will be economically feasible. (A project or activity is economically feasible if the project benefits exceed the project costs. The department shall consider only tangible benefits and costs in calculating economic feasibility.)

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1 water, land, fish, wildlife, and recreational opportunities;

2 (3) will provide associated public benefits in
3 addition to any private benefits the project or activity may
4 provide; and

5 (h) is needed to accomplish the purpose for which the
6 water development project or activity is proposed;

7 (2) the applicant has adequate financial resources to
8 construct, operate, and maintain the water development
9 project or activity. The department shall consider financial
10 resources from any source for which the applicant has
11 qualified, including a water development grant or loan.

12 (3) the applicant, ~~if a private person,~~ holds or can
13 acquire all necessary lands, other than public lands, and
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15 construction, operation, and maintenance of the proposed
16 water development project or activity;

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18 credit-worthy and able and willing to enter into a contract
19 with the department for loan repayment and construction or
20 development of the proposed water development project or
21 activity; and

22 (5) if the application is for a grant, the applicant
23 is able and willing to enter into a contract with the
24 department for construction or development of the proposed
25 water development project or activity."

1 Section 3. Section 85-1-610, MCA, is amended to read:

2 "85-1-610. Evaluation of ~~applications for~~ grants and
3 ~~or~~ ~~AND~~ loans to ~~private persons~~. The department shall
4 consider the following criteria and preferences in
5 evaluating applications and ~~recommending or~~ selecting the
6 recipients of grants and loans for water development
7 projects and activities that are eligible for funding under
8 ~~85-1-605 or~~ 85-1-609:

9 (1) The extent and desirability of the public benefits
10 that will be provided must be considered.

11 (2) A water development project or activity that will
12 be used as part of a family farm shall be given preference.
13 A family farm is one devoted primarily to agriculture under
14 the ownership and operation of a resident Montana family.

15 (3) A water development project or activity that will
16 utilize or develop water reserved under 85-2-316 shall be
17 given preference.

18 (4) The department, to the extent practicable, shall
19 attempt to achieve geographic balance in the promotion of
20 water development projects and activities through the
21 awarding of loans and grants to private persons.

22 (5) The extent to which the water development project
23 or activity will fully utilize water resources and promote
24 the conservation and efficient use of the water resource
25 shall be evaluated and considered.

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~~(9) In evaluating proposals under this section, the department shall consider preferences as equivalent to one another and initially rank projects meeting the same number of preferences equally. Those meeting a greater number of preferences must be ranked higher. The department shall then evaluate the proposals under the additional criteria to establish priorities within each rank established. Each award or recommendation must be made in the order of rank and priority thus established.~~

Section 4. Section 85-1-612, MCA, is amended to read:

"85-1-612. Rulemaking authority. The board shall adopt rules:

(1) prescribing the form and content of applications for grants and loans;

(2) governing the application of the criteria for

EVALUATING APPLICATIONS AND awarding loans and grants to private persons;

~~(3) governing the application of the criteria for evaluating proposals for loans and grants to state and local government entities~~

~~(3)(3) providing time periods for submission of proposals for evaluation prior to a legislative session;~~

~~(3)(5)(4) providing for the servicing of loans including arrangements for obtaining security interests and the establishment of reasonable fees or charges to be made; and~~

~~(4)(6)(5) describing the terms and conditions for making grants and loans, the security instruments, and the agreements necessary."~~

-End-