

HB 97 INTRODUCED BY ASAY, ET AL.
AUTHORIZING COAL BOARD LOANS FOR PUBLIC WORKS
 PROJECTS STATEWIDE

1/07 INTRODUCED
1/07 REFERRED TO TAXATION
1/14 HEARING
2/13 TABLED IN COMMITTEE

1 HB BILL NO. 97
2 INTRODUCED BY Wayne Smith, Kent Cook
3 E. Kilgore

4 A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE COAL
5 BOARD TO FINANCE LOCAL GOVERNMENT PUBLIC WORKS PROJECTS ON A
6 STATEWIDE BASIS; AND AMENDING SECTIONS 90-6-201 AND 90-6-205
7 THROUGH 90-6-209, MCA."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10 Section 1. Section 90-6-201, MCA, is amended to read:

11 "90-6-201. Purpose. The purposes of this part are to
12 assist local governmental units ~~which have been required to~~
13 ~~expand the provision of public services as a consequence of~~
14 ~~large-scale development of coal mines and coal-using energy~~
15 ~~complexes throughout the state in building, maintaining, and~~
16 improving public works, to assist in the construction and
17 reconstruction of designated portions of highways which
18 serve the area affected by such large-scale coal
19 development, to support county land planning, and to invest
20 a portion of the tax revenue from coal mines in a permanent
21 fund, the income from which shall be used for the support of
22 public schools throughout the state."

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

24 "90-6-205. (Temporary) Coal board -- general powers.
25 The board may:

- 1 (1) retain professional consultants and advisors;
- 2 (2) adopt rules governing its proceedings;
- 3 (3) consider applications for grants from the local
4 impact and education trust fund account;
- 5 (4) consider applications for loans from the local
6 impact and education trust fund account for periods and
7 interest rates to be determined by the board; and
- 8 (5) award grants and loans, subject to 90-6-207, not
9 to exceed in any one year the revenue paid into the local
10 impact and education trust fund account, less the
11 appropriation provided in section 1, Chapter 5, Special Laws
12 of June 1986. After June 30, 1987, the board may not exceed
13 in any one year seven-fifteenths of the revenue paid into
14 the local impact and education trust fund account. The board
15 may award grants and loans:
16 (a) to local governmental units, state agencies, and
17 governing bodies of federally recognized Indian tribes to
18 assist local governmental units and federally recognized
19 Indian tribes in ~~meeting the local impact of coal~~
20 ~~development by enabling them to adequately provide~~
21 ~~governmental services and facilities which are needed as a~~
22 ~~direct consequence of coal development~~ providing adequate
23 governmental services and public facilities; and
24 (b) notwithstanding the provisions of 90-6-207, to the
25 department of highways established in 2-15-2501 to expedite



1 the construction, repair, and maintenance of deficient
2 sections of highway within the area designated in 90-6-210
3 if the deficiency is the direct result of increased traffic
4 accompanying the development of coal resources; and

5 (c) provided that as used in this subsection (5),
6 "revenue paid" does not include interest income from the
7 account reinvested in the account in trust for the public
8 schools and the university system. Grants and loans may be
9 from current allocations only, and no part of the principal
10 or income of the trust referred to in 90-6-211 may be used
11 for this purpose. The money derived from loan repayments,
12 including the interest thereon, must be deposited to the
13 credit of the local impact fund referred to in 90-6-202.

14 (6) award a grant to a local government unit for the
15 purpose of paying for part or all of the credit that the
16 local government unit is obligated to give to a major new
17 industrial facility that has prepaid property taxes under
18 15-16-201. The board must award the grant in accordance with
19 90-6-206.

20 90-6-205. (Effective July 1, 1987) Coal board --
21 general powers. The board may:

- 22 (1) retain professional consultants and advisors;
23 (2) adopt rules governing its proceedings;
24 (3) consider applications for grants from the local
25 impact and education trust fund account;

1 (4) consider applications for loans from the local
2 impact and education trust fund account for periods and
3 interest rates to be determined by the board; and

4 (5) award grants and loans, subject to 90-6-207, not
5 to exceed in any one year seven-elevenths and after June 30,
6 1979, seven-fifteenths of the revenue paid into the local
7 impact and education trust fund account:

8 (a) to local governmental units, state agencies, and
9 governing bodies of federally recognized Indian tribes to
10 assist local governmental units and federally recognized
11 Indian tribes in ~~meeting--the--local--impact--of--coal~~
12 ~~development--by--enabling--them--to--adequately--provide~~
13 ~~governmental--services--and--facilities--which--are--needed--as--a~~
14 ~~direct--consequence--of--coal--development~~ providing adequate
15 governmental services and public facilities; and

16 (b) notwithstanding the provisions of 90-6-207, to the
17 department of highways established in 2-15-2501 to expedite
18 the construction, repair, and maintenance of deficient
19 sections of highway within the area designated in 90-6-210
20 if the deficiency is the direct result of increased traffic
21 accompanying the development of coal resources; and

22 (c) provided that as used in this subsection (5),
23 "revenue paid" does not include interest income from the
24 account reinvested in the account in trust for the public
25 schools and the university system. Grants and loans may be

1 from current allocations only, and no part of the principal
 2 or income of the trust referred to in 90-6-211 may be used
 3 for this purpose. The money derived from loan repayments,
 4 including the interest thereon, must be deposited to the
 5 credit of the local impact fund referred to in 90-6-202.

6 (6) award a grant to a local government unit for the
 7 purpose of paying for part or all of the credit that the
 8 local government unit is obligated to give to a major new
 9 industrial facility that has prepaid property taxes under
 10 15-16-201. The board must award the grant in accordance with
 11 90-6-206."

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

13 "90-6-206. Basis for awarding grants or loans. (1)
 14 Grants ~~and loans~~ shall be awarded on the basis of:

- 15 (a) need;
 16 (b) degree of severity of impact from the coal
 17 development;
 18 (c) availability of funds; and
 19 (d) degree of local effort in meeting these needs.

20 (2) Loans shall be awarded on the basis of:

- 21 (a) need;
 22 (b) availability of funds; and
 23 (c) degree of local effort in meeting these needs.

24 ~~(2)~~(3) In determining the degree of local effort, the
 25 board shall review the millage rates levied for the present

1 fiscal year in relation to the average millage rates levied
 2 during the 3 years immediately preceding coal development in
 3 that area ~~or 1970, whichever is later, which impacts the~~
 4 ~~local government unit applying for assistance in the case of~~
 5 a grant application or during the 3 years immediately
 6 preceding the date of application for a loan.

7 ~~(3)~~(4) Millage rates for the present fiscal year which
 8 are lower than the average millage rate levied during the 3
 9 years immediately preceding coal development in that area ~~or~~
 10 ~~1970, whichever is later, in the case of a grant application~~
 11 or during the 3 years immediately preceding the date of
 12 application for a loan shall be deemed by the board to
 13 indicate the lack of local effort. The application under
 14 such circumstances may be rejected.

15 ~~(4)~~(5) Further, in determining the degree of local
 16 effort, the board shall consider the possibility of
 17 requiring that local government unit to increase its bonded
 18 indebtedness to provide all or part of the governmental
 19 service or ~~facility which is needed as a direct consequence~~
 20 ~~of coal development to finance all or part of the public~~
 21 works project for which assistance is needed.

22 ~~(5)~~(6) To the extent funds are needed to evaluate and
 23 plan for the impact needs caused by coal development,
 24 consideration of bond issues and millage levies may be
 25 waived.

1 ~~(6)~~(7) To the extent the applicant has no history of
2 mill levies, subsections ~~(2)~~ (3) and ~~(3)~~ (4) do not apply."

3 Section 4. Section 90-6-207, MCA, is amended to read:

4 "90-6-207. Priorities for impact grants. (1) The
5 department of commerce shall annually designate:

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

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

14 (i) a mining permit in accordance with the Montana
15 Strip and Underground Mine Reclamation Act has been granted
16 by the department of state lands for a project within the
17 county that will establish a new coal mine to produce at
18 least 1 million tons a year or that will increase the
19 production of an existing mine by at least 1 million tons a
20 year and for which the department of commerce determines
21 that the new or expanded production authorized by the permit
22 will commence within 3 years of the designation; or

23 (ii) a certificate of environmental compatibility and
24 public need in accordance with the Montana Major Facility
25 Siting Act has been granted by the board of natural

1 resources and conservation for a steam-generating or other
2 coal-burning facility that will consume at least 1 million
3 tons a year of Montana-mined coal and for which the
4 department of commerce determines the construction or
5 operation will commence within 3 years of the designation;

6 (c) each local governmental unit located within 50
7 miles, measured over the shortest all-weather public road,
8 of a mine or facility qualifying under subsection (1)(b)(i)
9 or (1)(b)(ii); and

10 (d) each local governmental unit in which:

11 (i) a mine that has produced 1 million tons or more of
12 coal a year and has ceased all significant mining or is
13 scheduled to cease within 1 year; or

14 (ii) a steam-generating or other coal-burning facility
15 that has operated under a certificate of environmental
16 compatibility and public need in accordance with the Montana
17 Major Facility Siting Act and that has consumed at least 1
18 million tons of Montana-mined coal a year has closed or is
19 scheduled to close within 1 year.

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

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

24 (b) a county extends to and includes as a designated
25 unit any local governmental unit in the county that contains

1 at least 10% of the total population of the county.

2 (3) Except as provided in 90-6-205(5)(b), the coal
3 board shall, subject to the appropriations of the
4 legislature, award at least 50% of all grants awarded to
5 governmental units and state agencies for meeting the needs
6 caused by coal development each year to these designated
7 governmental units.

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

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

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

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

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

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

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

25 (6) All funds placed in the local impact and

1 educational trust fund account established under this part,
2 subject to the limitations imposed by 90-6-211, shall be
3 subject to appropriations by the legislature for use related
4 to local impact, for loans to local governments for public
5 works, or for transfer to a permanent trust for education."

6 Section 5. Section 90-6-208, MCA, is amended to read:

7 "90-6-208. Applications for grants or loans. The
8 governing body of a city, town, county, school district, any
9 other local or state governmental unit or agency, or the
10 governing body of a federally recognized Indian tribe may
11 apply for a grant or a loan to enable it to provide
12 governmental services which are needed as a direct
13 consequence of coal development or for a loan to finance a
14 public works project. The coal board shall prescribe the
15 form for applications. Applicants shall describe the nature
16 of their proposed expenditures and the time involved."

17 Section 6. Section 90-6-209, MCA, is amended to read:

18 "90-6-209. Limitations on grants and loans. (1) The
19 board may commit itself to the expenditure of funds for more
20 than 1 year for a single project, as long as the grant or
21 loan does not extend over more than 10 years and does not
22 exceed reasonable revenue expectations. The total amount of
23 grants and loans to state agencies, except grants made
24 pursuant to 90-6-205(5)(b), and Indian tribes may not exceed
25 7% of the total money allocated to the board during each

1 fiscal year.

2 (2) (a) ~~No loan may be approved by the board if the~~
 3 ~~source of money for repayment would be derived from property~~
 4 ~~taxes. Repayment may be made from fees, rents, and~~
 5 ~~admissions, use charges, and special assessments~~ The rate of
 6 interest on loans to local governments to finance public
 7 works projects may not exceed the amount necessary to pay
 8 the costs of servicing the loans and maintaining a revolving
 9 fund.

10 (b) The repayment period for loans approved by the
 11 board may not exceed 20 years.

12 (c) The board shall hold all loan contracts within its
 13 administrative offices. The board may not sell, assign, or
 14 pledge a loan contract to any other entity.

15 (d) A local government unit or the governing body of a
 16 federally recognized Indian tribe receiving a loan from the
 17 board shall use or commit for use the loan money within 1
 18 year of the date of the board's final approval of the loan.

19 (e) If a local government unit or the governing body
 20 of a federally recognized Indian tribe fails to comply with
 21 subsection (2)(d), the entire loan must be repaid within 30
 22 days following expiration of the 1-year period.

23 (3) No loan or grant to an Indian tribe under 90-6-205
 24 may be approved by the board unless, with respect to that
 25 loan or grant:

1 (a) the governing body of the tribe has agreed:

2 (i) to waive its immunity from suit on any issue
 3 specifically arising from the transaction of a loan or grant
 4 obtained under this part; and

5 (ii) to the adjudication of any dispute arising out of
 6 the loan or grant transaction in the district court of the
 7 first judicial district of the state of Montana; and

8 (b) approval of the transaction has been obtained from
 9 the secretary of the United States department of the
 10 interior whenever such approval is necessary."

11 NEW SECTION. Section 7. Extension of authority. Any
 12 existing authority of the coal board to make rules on the
 13 subject of the provisions of this act is extended to the
 14 provisions of this act.

-End-