

HOUSE BILL 633

Introduced by Whalen, et al.

2/10	Introduced
2/10	Referred to Natural Resources
2/11	Fiscal Note Requested
2/18	Fiscal Note Received
	Died in Committee

1 House BILL NO. 633
 2 INTRODUCED BY Whalen
 3 Michael Conner Hayes
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A
 5 HARD-ROCK MINING EXPLORATION IMPACT TRUST ACCOUNT; PROVIDING
 6 THAT 5 PERCENT OF TOTAL COLLECTIONS FROM THE METALLIFEROUS
 7 MINES LICENSE TAX BE REALLOCATED FROM THE GENERAL FUND TO
 8 THE HARD-ROCK MINING EXPLORATION IMPACT TRUST ACCOUNT FOR
 9 THE PURPOSE OF PROVIDING GRANTS TO LOCAL GOVERNMENT UNITS TO
 10 DEFRAY INCREASED COSTS INCURRED FROM PROVIDING SERVICES AS A
 11 RESULT OF LARGE-SCALE MINERAL EXPLORATION; PLACING A CAP ON
 12 THE AMOUNT OF REVENUE IN THE HARD-ROCK MINING EXPLORATION
 13 IMPACT TRUST ACCOUNT; AMENDING SECTIONS 15-37-117, 90-6-302
 14 THROUGH 90-6-305, AND 90-6-323, MCA; AND PROVIDING EFFECTIVE
 15 DATES AND A RETROACTIVE APPLICABILITY DATE."

17 STATEMENT OF INTENT

18 A statement of intent is required for this bill because
 19 it extends rulemaking authority to the hard-rock mining
 20 impact board to adopt rules to administer the hard-rock
 21 mining exploration impact trust account. The legislature
 22 intends that the board adopt rules to ensure that local
 23 governments have an opportunity to receive financial
 24 assistance to recover costs from increased services as a
 25 result of mining exploration. The rules should, at a

1 minimum, address:

- 2 (1) general provisions for the efficient
- 3 administration of grant awards;
- 4 (2) the form and content of the grant application;
- 5 (3) the submittal deadline for grant applications;
- 6 (4) policies and guidelines for application review,
- 7 including a procedure to evaluate an application when
- 8 information is not provided by a developer;
- 9 (5) the establishment of priorities in awarding
- 10 grants; and
- 11 (6) definition of terms.

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

14 **Section 1.** Section 15-37-117, MCA, is amended to read:

15 "15-37-117. Disposition of metalliferous mines license
 16 taxes. Metalliferous mines license taxes collected under the
 17 provisions of this part are allocated as follows:

- 18 (1) to the credit of the general fund of the state,
- 19 67% not less than 62% of total collections each year;
- 20 (2) to the state special revenue fund to the credit of
- 21 a hard-rock mining impact trust account, 33% of total
- 22 collections each year;
- 23 (3) to the state special revenue fund to the credit of
- 24 the hard-rock mining exploration impact trust account, not
- 25 more than 5% of total collections for the purposes provided

1 in 90-6-305(1)(d)."

2 **Section 2.** Section 90-6-302, MCA, is amended to read:

3 "90-6-302. Definitions. In this part the following
4 definitions apply:

5 (1) "Board" means the hard-rock mining impact board
6 established in 2-15-1822.

7 (2) "Bonds" include bonds, notes, warrants,
8 debentures, certificates of indebtedness, temporary bonds,
9 temporary notes, interim receipts, interim certificates, and
10 all instruments or obligations evidencing or representing
11 indebtedness or evidencing or representing the borrowing of
12 money or evidencing or representing a charge, lien, or
13 encumbrance on specific revenues, special assessments,
14 income, or property of a political subdivision, including
15 all instruments or obligations payable from a special fund.

16 (3) "Local government unit" means a county, city,
17 town, school district, or any of the following independent
18 special districts:

- 19 (a) rural fire district;
- 20 (b) public hospital district;
- 21 (c) refuse disposal district;
- 22 (d) county water and sewer district;
- 23 (e) county water district; or
- 24 (f) county sewer district.
- 25 (4) "Large-scale mineral development" means the

1 construction or operation of a hard-rock mine and the
2 associated milling facility for which a permit is applied
3 for under 82-4-335 on or after May 18, 1981, and for which
4 the average number of persons on the payroll of the mineral
5 developer and of contractors at the mineral development
6 exceeds or is projected to exceed 75 for any consecutive
7 6-month period. A mining operation that would qualify as a
8 large-scale mineral development under this subsection is not
9 a large-scale mineral development if the mine owner and
10 operator are small miners as defined in 82-4-303.

11 (5) "Large-scale mineral exploration" means
12 exploration activities conducted on or beneath the surface
13 of lands for which an exploration license is required under
14 82-4-331 and for which the average number of persons on the
15 payroll of the mineral developer and of contractors at the
16 exploration site exceeds 75 for any consecutive 6-month
17 period."

18 **Section 3:** Section 90-6-303, MCA, is amended to read:

19 "90-6-303. Chairman -- meetings -- facilities --
20 funding. (1) The board shall elect a chairman from among its
21 members.

22 (2) The board shall meet as necessary or as called by
23 the chairman or a majority of the members.

24 (3) The board is allocated to the department of
25 commerce for administrative purposes only as provided in

2-15-121.

(4) The administrative and operating expenses of the board ~~shall~~ must be paid from revenue deposited to the credit of the hard-rock mining impact trust account and the hard-rock mining exploration impact trust account from the license tax on metal mines imposed under Title 15, chapter 37."

Section 4. Section 90-6-304, MCA, is amended to read:

"90-6-304. Accounts established. (1) There is within the state special revenue fund a hard-rock mining impact account. Moneys are payable into this account from payments made by a mining developer in compliance with the written guarantee from the developer to meet the increased costs of public services and facilities as specified in the impact plan provided for in 90-6-307. The state treasurer shall draw warrants from this account upon order of the hard-rock mining impact board.

(2) There is within the state special revenue fund a hard-rock mining impact trust account. Money is payable into this account under the provisions of 15-37-117. After deducting the administrative and operating expenses of the board as provided in 90-6-303, money must be segregated within the account by county of origin. The state treasurer shall draw warrants from this account upon order of the hard-rock mining impact board.

(3) There is within the state special revenue fund a hard-rock mining exploration impact trust account. Money is payable into this account under the provisions of 15-37-117. The unobligated cash balance in the account may not exceed \$200,000. After deducting the administrative and operating expenses of the board as provided in 90-6-303, the remainder may be used as provided in [section 6]. The state treasurer shall draw warrants from this account upon order of the board."

Section 5. Section 90-6-305, MCA, is amended to read:

"90-6-305. Hard-rock mining impact board -- general powers. (1) The board may:

(a) retain professional staff, consultants, and advisors notwithstanding the provisions of 2-15-121;

(b) adopt rules governing its proceedings, determinations, and administration of this part;

(c) award grants to local government units subject to 90-6-306;

(d) award grants to local government units subject to [section 6];

~~(d)~~(e) award grants or loans to local government units from money paid into the hard-rock mining impact trust account subject to the provisions of 90-6-321 and 90-6-322;

~~(e)~~(f) make payments to local government units from money paid to the hard-rock mining impact account as

1 provided in 90-6-307;

2 {f}(g) make determinations as provided in 90-6-307,
3 90-6-321, and 90-6-322; and

4 {g}(h) accept grants and other funds to be used in
5 carrying out this part.

6 (2) The provisions of the Montana Administrative
7 Procedure Act apply to the proceedings and determinations of
8 the board."

9 NEW SECTION. Section 6. Application and basis for
10 awarding grants from hard-rock mining exploration impact
11 trust account. (1) A local government may submit an
12 application to the board for a grant to recover increased
13 capital and operating costs incurred or anticipated to be
14 incurred as a result of large-scale mineral exploration.
15 The local government applying for a grant shall provide the
16 board any information necessary to show that increased costs
17 or anticipated increased costs to the local government are a
18 result of exploration activity. The local government may
19 obtain from a developer intending to engage in large-scale
20 mineral exploration information that includes:

21 (a) the timetable for the exploration activities; and
22 (b) the estimated number of persons coming into the
23 impacted area as a result of the activities.

24 (2) (a) Grants from the hard-rock mining exploration
25 impact trust account must be awarded to a local government

1 unit on the basis of need, which may include:

2 (i) the severity of impact from exploration;

3 (ii) the availability of funds.

4 (b) If a grant is awarded on the basis of anticipated
5 increased costs of providing services as a result of
6 large-scale mineral exploration, the recipient shall provide
7 adequate proof, on forms prescribed by the board, that the
8 increased costs are attributable to the exploration
9 activity.

10 (3) A recipient of a grant award is required to
11 provide a full and complete accounting of the use and
12 distribution of grant funds in the same manner as it
13 accounts for other general revenues. If the entire amount of
14 the grant is not expended for the purpose for which the
15 grant is made, the recipient shall return the unused portion
16 to the board for other grants.

17 **Section 7.** Section 90-6-323, MCA, is amended to read:

18 "90-6-323: Local government budget authority. A local
19 government unit may budget and expend payments received from
20 a mineral developer under this part or part 4 of this
21 chapter or pursuant to a plan approved under this part or a
22 grant received under [section 6]. If a payment is requested
23 or received after the adoption of the budget for the fiscal
24 year in which the payment is to be expended, the governing
25 body of the local government unit may by a majority vote

1 amend its budget to provide for the receipt and expenditure
2 of the payment."

3 NEW SECTION. Section 8. Extension of authority. Any
4 existing authority to make rules on the subject of the
5 provisions of [this act] is extended to the provisions of
6 [this act].

7 NEW SECTION. Section 9. Codification instruction.
8 [Section 6] is intended to be codified as an integral part
9 of Title 90, chapter 6, part 3, and the provisions of Title
10 90, chapter 6, part 3, apply to [section 6].

11 NEW SECTION. Section 10. Retroactive applicability.
12 [This act] applies retroactively, within the meaning of
13 1-2-109, to taxable years beginning after December 31, 1987.

14 NEW SECTION. Section 11. Effective dates. (1)
15 [Section 1 and this section] are effective on passage and
16 approval.

17 (2) [Sections 2 through 10] are effective July 1,
18 1989.

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