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HOUSE BILL NO. 355

INTRODUCED BY J. FITZPATRICK, T. WELCH, F. ANDERSON, S. KERNS, D. HAWK, C. KNUDSEN, G. NIKOLAKAKOS, K. ZOLNIKOV, S. ESSMANN, M. BERTOGLIO, L. BREWSTER, J. DOOLING, G. FRAZER, M. BINKLEY, E. BUTTREY, K. WALSH, D. LOGE, B. KEENAN, J. READ, R. FITZGERALD, M. HOPKINS, G. PARRY, M. YAKAWICH, J. FULLER, J. SMALL, M. CUFFE, R. LYNCH, J. WELBORN, B. GILLESPIE, D. SALOMON, R. TEMPEL, M. LANG, C. SPRUNGER, D. ZOLNIKOV, J. ETCHART, J. LYNCH, P. TUSS, W. RUSK, D. HARVEY, J. KASSMIER, S. STEWART PEREGOY, F. MANDEVILLE, T. VERMEIRE, Z. WIRTH

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE STATE-LOCAL INFRASTRUCTURE PARTNERSHIP ACT OF 2023; PROVIDING FOR GRANTS TO ELIGIBLE ENTITIES FOR INFRASTRUCTURE PROJECTS; SETTING UP A GRANT PROCESS; REQUIRING A PERCENTAGE OF MATCHING FUNDS; PROVIDING FOR OVERSIGHT; ADDRESSING COST OVERRUNS AND MISAPPROPRIATION OF FUNDS; SETTING GRANT LIMITS; PROVIDING AN APPROPRIATION; PROVIDING FOR ALLOCATIONS TO COUNTIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. **Section 1. Short title.** [This act] may be cited as "The State-Local Infrastructure Partnership Act of 2023".

NEW SECTION. **Section 2. Purpose.** The purpose of this act is to use a portion of the state's general fund surplus to fund the maintenance and repair of local government infrastructure facilities on a partnership basis with local government supplying a cash match.

NEW SECTION. **Section 3. Appropriation.** For the biennium beginning July 1, 2023, there is appropriated ~~\$265~~ \$267 million from the general fund to the department of commerce to distribute funds as allocated in [section 12] to counties for each county commission to grant project funds for eligible projects.

1 NEW SECTION. Section 4. Calculation for allocation of funds. Each, Except as provided in

2 subsection (4), each county will receive an allocation of funds based on the following:

3 (1) the county's 2020 population;

4 (2) the ability of the county's local population to pay for services as measured by per capita
5 income; and

6 (3) the county's ability to raise tax revenue locally as measured by per capita taxable valuation.

7 (4) If a county's allocation as calculated pursuant to the criteria in subsections (1) through (3) is
8 less than \$300,000, the county shall receive \$300,000.

10 NEW SECTION. Section 5. Eligible use of funds -- eligible entities. (1) Funds Except as provided

11 in subsection (2), funds allocated in [section 12] may be used only by eligible entities to maintain or repair
12 existing local government infrastructure, including potable water systems, sewer systems, fire suppression
13 systems if independent of the potable water systems, streets, roads, bridges, landfills, street lights, and public
14 grounds and buildings.

15 (2) Funds allocated in [section 12] may be used to expand existing water and wastewater
16 treatment plants that are being operated at 90% of design capacity or greater.

17 ~~(2)(3)~~ Entities eligible for grants under [this act] include incorporated cities and towns, counties,
18 school districts, and special districts.

20 NEW SECTION. Section 6. Grant process -- commission and department of commerce review --

21 priority. (1) The county commission shall solicit and accept applications from eligible entities within the county
22 on or before July 1, 2023.

23 (2) Once all the applications have been received, the county commission shall hold a public
24 hearing and, based on the information contained within the application and the information received at the
25 public hearing, prepare a recommendation for funding in priority order and transmit the recommendation to the
26 department of commerce.

27 (3) The department of commerce shall review the recommendations of the county commission and
28 the content of the recommended application and determine whether the application complies with [this act]. If

1 the application does not comply, the department shall issue notice to the applicable county commission.

2 (4) The department of commerce may not substitute its judgment for that of the county commission
3 and cannot revise the recommended priority list.

4 (5) Priority is given to projects that maintain or repair publicly owned potable water systems,
5 publicly owned sewer systems, and municipal fire suppression systems that are independent of a water system.

6 (6) A grant recipient's entitlement to receive funds is dependent on the grant recipient's compliance
7 with the conditions described in [section 13].

8 (7) The department of commerce shall administer the grant program and disburse funds directly to
9 the applicants pursuant to the provisions of [section 13].

10 (8) The department of commerce is authorized 2 FTE on a temporary basis through June 30,
11 2025. If the department's workload for the administration of [this act] requires additional staff, the office of
12 budget and program planning may authorize an additional 2 FTE to terminate June 30, 2025. If program
13 administration continues into the 2027 biennium, the department shall submit a budget modification request
14 with its 2027 biennium budget request to continue the FTE on a temporary basis.

15
16 **NEW SECTION. Section 7. Grant application -- contents -- matching funds requirement.** Each
17 application for grant funds must contain the following information:

18 (1) the name of the applicant entity and its address, telephone number, e-mail address, and legal
19 status, such as whether it is an incorporated city or what type of special district it is;

20 (2) the name, address, telephone number, e-mail address, and title of the individual person who
21 will be directly responsible for the management of the project or projects to be funded by the application, such
22 as a public works director or a consulting engineer, and a copy of the individual's resume attesting to the
23 individual's qualifications and ability to manage the project;

24 (3) a narrative description of the prospective project, including a description of the problems to be
25 addressed and the need to undertake the repairs. The applicant shall also submit a list of tasks to be
26 undertaken to address the problem. A map or google earth photo showing the project is also required.
27 Photographs documenting the nature of the problems are advisable but not required.

28 (4) a project cost estimate showing the total cost of the project, prepared by a licensed

1 professional engineer or qualified contractor. The cost estimated must be itemized by the list of task elements
2 as required in subsection (3).

3 (5) a time schedule showing each step in the repair process starting with the preparation of the bid
4 documents through completion of the work. Specific calendar dates are recommended.

5 (6) a statement that the information contained in the application is true, which must be signed by
6 an authorized representative of the applicant; and

7 (7) a statement identifying a cash match equal to no less than 25% of the total project cost, which
8 may not include in-kind contributions of goods or in-kind services.

9

10 **NEW SECTION. Section 8. Project management, cost overruns, and supplemental**
11 **appropriations.** The grant applicant entity is fully responsible for managing the project and ensuring that it is
12 completed on-time and within budget. If cost overruns occur, the cost of the overrun is the full and sole
13 responsibility of the applicant. No supplemental appropriation may be authorized by the state.

14

15 **NEW SECTION. Section 9. Misappropriation or diversion of funds.** In the event the grantee
16 misappropriates or diverts any portion of the state grant or local government match to another use, the
17 applicant will repay the state the misappropriated or diverted funds within 12 months of the date of notice from
18 the state and pay a fine equal to 20% of the amount misappropriated or diverted to the state's general fund.

19

20 **NEW SECTION. Section 10. Grant limits.** (1) Except for city-county consolidated governments and
21 counties receiving an allocation of less than \$1 million, no single applicant can receive more than one-third of
22 the county's total allocation from the state.

23 (2) City-county consolidated governments are limited to two-thirds of the total county allocation.

24 (3) Counties whose allocation is less than \$1 million are not subject to any restriction regarding
25 how much an individual applicant may receive.

26 (4) Counties in which the local government infrastructure has been significantly damaged by a
27 natural disaster are not subject to any restriction regarding how much an individual applicant may receive.

28

1 NEW SECTION. Section 11. Project reports and completion notices. The applicant shall provide a
 2 progress report to the department of commerce on a quarterly basis identifying the work that has been
 3 undertaken on the project, the work completed, and the amount of funds expended to date. At the completion of
 4 the project, the final report must include a statement attesting to the completion of the project, which must be
 5 signed by the project manager.

6
 7 NEW SECTION. Section 12. County allocations. The following amounts are allocated to counties
 8 as follows:

9 County	Allocation
10 Beaverhead	\$2,314,332
11 Big Horn	\$4,081,455
12 Blaine	\$2,135,880
13 Broadwater	\$1,945,896
14 Carbon	\$2,082,624
15 Carter	\$257,040 <u>\$300,000</u>
16 Cascade	\$22,310,904
17 Chouteau	\$1,396,176
18 Custer	\$3,241,152
19 Daniels	\$308,538
20 Dawson	\$2,164,644
21 Deer Lodge	\$2,764,935
22 Fallon	\$534,059
23 Fergus	\$2,892,632
24 Flathead	\$25,269,782
25 Gallatin	\$23,929,035
26 Garfield	\$280,160 <u>\$300,000</u>
27 Glacier	\$4,163,070
28 Golden Valley	\$147,087 <u>\$300,000</u>

Amendment - 1st Reading-white - Requested by: John Fitzpatrick - (H) Appropriations

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0355.001.003

1	Granite	\$792,528
2	Hill	\$4,174,182
3	Jefferson	\$3,030,210
4	Judith Basin	\$348,166
5	Lake	\$9,193,471
6	Lewis and Clark	\$18,200,196
7	Liberty	\$412,552
8	Lincoln	\$6,311,438
9	Madison	\$1,480,222
10	McCone	\$407,166
11	Meagher	\$459,576
12	Mineral	\$1,380,240
13	Missoula	\$28,926,986
14	Musselshell	\$1,243,584
15	Park	\$3,669,330
16	Petroleum	\$141,683 <u>\$300,000</u>
17	Phillips	\$1,043,808
18	Pondera	\$1,330,668
19	Powell	\$1,882,731
20	Powder River	\$396,566
21	Prairie	\$195,289 <u>\$300,000</u>
22	Ravalli	\$12,408,930
23	Richland	\$1,963,242
24	Roosevelt	\$2,975,775
25	Rosebud	\$1,669,482
26	Sanders	\$3,524,848
27	Sheridan	\$673,657
28	Silver Bow	\$9,313,093

Amendment - 1st Reading-white - Requested by: John Fitzpatrick - (H) Appropriations

- 2023

68th Legislature 2023

Drafter: Julie Johnson, 406-444-4024

HB0355.001.003

1	Stillwater	\$1,600,788
2	Sweetgrass	\$688,755
3	Teton	\$1,429,332
4	Toole	\$942,068
5	Treasure	\$125,952 <u>\$300,000</u>
6	Valley	\$1,582,770
7	Wheatland	\$481,806
8	Wibaux	\$193,338 <u>\$300,000</u>
9	Yellowstone	\$38,610,726

11 **NEW SECTION. Section 13. Conditions of grants -- disbursement of funds.** (1) The disbursement
12 of grant funds by the department of commerce for the projects awarded pursuant to [this act] by county
13 commissions is subject to completion of the following conditions:

- 14 (a) the grant recipient has completed a budget and implementation schedule for the project;
- 15 (b) the grant recipient has a project management plan that is approved by the department of
16 commerce;
- 17 (c) the grant recipient is in compliance with the auditing and reporting requirements provided in 2-
18 7-503 and has established a financial accounting system that the department of commerce can reasonably
19 ensure conforms to generally acceptable accounting principles; and
- 20 (d) the grant recipient has entered into a contract with the department of commerce, a provision of
21 which must document that the local matching funds are available and committed to the project.

22 (2) Prior to the department of commerce disbursing fund for construction expenses, the grant
23 recipient shall identify and certify that the recipient has obtained local, state, and federal permits and approvals.

24 (3) The department of commerce shall disburse grants on a reimbursement basis as grant
25 recipients incur eligible project expenses in accordance with the terms of the contract. If actual project
26 expenses are lower than the projected expense of the project, the department may, at its discretion, reduce the
27 amount of grant funds to be provided to grant recipients in proportion to all of the project funding sources.

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