



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 CITIES AND TOWNS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

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

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.

Section 3. Appropriation. For the biennium beginning July 1, 2023, there is appropriated \$20 million from the general fund to the department of commerce to distribute funds as allocated in [section 11] to grant recipients awarded in compliance with [this act] for eligible projects as recommended by each legislative body of a city or town.

Section 4. Eligible use of funds -- eligible entities. (1) Except as provided in subsection (2), funds allocated in [section 11] may be used only by eligible entities to maintain or repair existing local government infrastructure, including drinking water systems, wastewater treatment systems, fire suppression systems if

independent of the drinking water systems, streets, roads, bridges, landfills, street lights, airports, and public grounds and buildings.

(2) Funds allocated in [section 11] may be used to expand existing water and wastewater treatment plants that are being operated at 90% of design capacity or greater.

(3) Entities eligible for grants under [this act] include incorporated cities and towns.

Section 5. Grant process -- commission and department of commerce review -- priority. (1) The legislative body of a city or town shall solicit and accept applications for eligible projects within the city or town on or before December 31, 2023.

(2) Once all the applications have been received, the legislative body of the city or town shall hold a public hearing and, based on the information contained within the application and the information received at the public hearing, prepare a recommendation for funding in priority order and transmit the recommendation to the department of commerce.

(3) The department of commerce shall review the recommendations of the legislative body of the city or town and the content of the recommended application and determine whether the application complies with [this act]. If the application does not comply, the department shall issue notice to the applicable legislative body of the city or town.

(4) The department of commerce may not substitute its judgment for that of the legislative body of the city or town and cannot revise the recommended priority list.

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

(6) A grant recipient's entitlement to receive funds is dependent on the grant recipient's compliance with the conditions described in [section 12].

(7) The department of commerce shall administer the grant program and disburse funds directly to the applicants pursuant to the provisions of [section 12].

(8) The department of commerce is authorized 2 FTE on a temporary basis through June 30, 2025. If the department's workload for the administration of [this act] requires additional staff, the office of

budget and program planning may authorize an additional 2 FTE to terminate June 30, 2025. If program administration continues into the 2027 biennium, the department shall submit a budget modification request with its 2027 biennium budget request to continue the FTE on a temporary basis.

Section 6. Grant application -- contents -- matching funds requirement. Each application for grant funds must contain the following information:

- (1) the name of the project for which the applicant is seeking a grant;
- (2) the name, address, telephone number, e-mail address, and title of the individual person who will be directly responsible for the management of the project or projects to be funded by the application, such as a public works director or a consulting engineer, and a copy of the individual's resume attesting to the individual's qualifications and ability to manage the project;
- (3) a narrative description of the prospective project, including a description of the problems to be addressed and the need to undertake the repairs. The applicant shall explain why the proposed project is appropriate, cost-effective, and is a long-term solution to the problem. The applicant shall also submit a list of tasks to be undertaken to address the problem. A map or google earth photo showing the project is also required. Photographs documenting the nature of the problems are advisable but not required.
- (4) a project cost estimate showing the total cost of the project, prepared by a licensed professional engineer or qualified contractor. The cost estimated must be itemized by the list of task elements as required in subsection (3).
- (5) a time schedule showing each step in the repair process starting with the preparation of the bid documents through completion of the work. Specific calendar dates are recommended.
- (6) a statement that the information contained in the application is true, which must be signed by an authorized representative of the applicant; and
- (7) a statement identifying a local cash match equal to no less than 25% of the total project cost, which may not include in-kind contributions of goods or in-kind services.

Section 7. Project management, cost overruns, and supplemental appropriations. (1) The grant applicant is fully responsible for managing the project and ensuring that it is completed on-time and within

budget. If cost overruns occur, the cost of the overrun is the full and sole responsibility of the applicant. No supplemental appropriation may be authorized by the state.

(2) Except as provided in subsection (3), the grant applicant must have the project under contract by December 31, 2024.

(3) In cases in which an applicant has used all reasonable efforts to find a contractor for a project but has failed, the applicant may request one two-year extension from the department of commerce.

(4) Projects funded under [this act] must be completed by December 31, 2027.

Section 8. Misappropriation or diversion of funds. In the event the grantee misappropriates or diverts any portion of the state grant or local government match to another use, the applicant will repay the department of commerce the misappropriated or diverted funds within 12 months of the date of notice from the state and pay a fine equal to 20% of the amount misappropriated or diverted to the state's general fund.

Section 9. Grant limits. (1) Except for cities and towns receiving an allocation of less than \$1 million, no single applicant can receive more than one-third of the city or town's total allocation from the state.

(2) Cities and towns whose allocation is less than \$1 million are not subject to any restriction regarding how much an individual applicant may receive.

(3) Cities and towns in which the local government infrastructure has been significantly damaged by a natural disaster are not subject to any restriction regarding how much an individual applicant may receive.

Section 10. Project reports and completion notices. (1) The applicant shall provide a progress report to the department of commerce on a quarterly basis identifying the following:

- (a) work that has been undertaken on the project;
- (b) the work percentage of work completed;
- (c) the amount of funds expended to date;
- (d) remaining funds;
- (e) description of any significant problems;
- (f) whether the project encountered any modification necessary to the scope of work, budget, or

schedule; and

(g) the projected completion date.

(2) At the completion of the project, the final report must include a statement attesting to the completion of the project, which must be signed by the project manager.

Section 11. City and town allocations. (1) The amount allocated to incorporated cities and towns is determined as follows:

(a) The amount of \$15 million must be divided among the incorporated cities and towns with a population of less than 10,000 as of the most recent decennial federal census in the following manner:

(i) 50% in the ratio that the city or town street and alley mileage, exclusive of the national highway system and the primary system, within corporate limits bears to the total street and alley mileage, exclusive of the national highway system and primary system, within the corporate limits of all incorporated cities and towns in Montana with a population of less than 10,000; and

(ii) 50% in the ratio that the population within the corporate limits of the city or town bears to the total population within corporate limits of all the cities and towns in Montana with a population of less than 10,000 as of the most recent decennial federal census.

(b) The amount of \$5 million must be divided among the incorporated cities with a population of more than 10,000 as of the most recent decennial federal census in the following manner:

(i) 50% in the ratio that the city or town street and alley mileage, exclusive of the national highway system and the primary system, within corporate limits bears to the total street and alley mileage, exclusive of the national highway system and primary system, within the corporate limits of all incorporated cities in Montana with a population of more than 10,000; and

(ii) 50% in the ratio that the population within the corporate limits of the city bears to the total population within corporate limits of all the cities in Montana with a population of more than 10,000 as of the most recent decennial federal census.

(2) For the purposes of this section in which distribution of funds is made on a basis related to population, the population must be determined for cities and towns according to the latest official decennial federal census.

(3) For the purposes of this section in which determination of mileage is necessary for distribution of funds, the department of transportation shall utilize the yearly certified statement indicating the total mileage as provided in 15-70-101(7).

Section 12. Conditions of grants -- disbursement of funds. (1) The disbursement of grant funds by the department of commerce for the projects awarded pursuant to [this act] by the legislative bodies of cities and towns is subject to completion of the following conditions:

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

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

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

Section 13. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 355, originated in the House.

Chief Clerk of the House

Speaker of the House

Signed this _____ day
of _____, 2023.

President of the Senate

Signed this _____ day
of _____, 2023.

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

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