



AN ACT REVISING THE DEPARTMENT LOAN PROCESS WITHIN THE RENEWABLE RESOURCE GRANT AND LOAN PROGRAM; AMENDING SECTIONS 85-1-605, 85-1-613, AND 85-1-617, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

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

Section 1. Section 85-1-605, MCA, is amended to read:

"85-1-605. Grants, loans, and bonds for state, local, or tribal government assistance. (1) The department may recommend to the legislature that grants and loans be made from revenue deposited in the natural resources projects state special revenue account established in 15-38-302, that loans be made from renewable resource bond proceeds deposited in the renewable resource loan proceeds account established in 85-1-617(5), and that coal severance tax bonds be authorized pursuant to Title 17, chapter 5, part 7, to provide financial assistance to a department, agency, board, commission, or other division of state government, to a city, county, or other political subdivision or local government body of the state, including an authority as defined in 75-6-304, or to a tribal government. The legislature may approve by appropriation or other appropriate means those grants and loans that it finds consistent with the policies and purposes of the program.

(2) In addition to legislative approval pursuant to subsection (1), the department may request that the board of examiners issue renewable resource bonds of the state so the department may make loans for projects from renewable resource bond proceeds deposited in the renewable resource loan proceeds account established in 85-1-617(5) to a department, agency, board, commission, or other division of state government, to a municipality, county, or other political subdivision or local government body of the state, including an authority as defined in 75-6-304, an irrigation district, a water and sewer district, or other special districts, or to a tribal government.

~~(2)~~(3) Nothing in this part creates or expands the state's or a local government's authority to incur

debt, and the legislature may authorize and the department may make loans only to state and local government entities otherwise structured to incur debt.

~~(3)~~(4) Loans may not be authorized except to a state, local, or tribal government entity that agrees to secure the authorized loan with its bond.

~~(4)~~(5) In addition to implementing those projects approved by the legislature or requested by the department pursuant to subsection (2), the department may request up to 10% of the grant funds available and up to \$10 million for loans from the natural resources projects state special revenue account established in 15-38-302 and the renewable resource loan proceeds account in any biennium to be used for emergencies. These emergency grant projects or loan projects, or both, may not be made because of the gross negligence of the state, local, or tribal government applicant, must be approved by the department, and must be defined as those projects otherwise eligible for either grant funding or loan funding, or both, that, if delayed ~~until legislative approval can be obtained~~, will cause substantial damages or legal liability to the project sponsor. In allocating the funds, the department shall inform the legislative fiscal analyst. The department shall provide a copy of the information to the legislature in accordance with 5-11-210.

~~(5)~~(6) The grants and loans provided for by this section may be made for projects that enhance renewable resources in the state through conservation, development, management, or preservation; ~~for assessing feasibility or planning; for implementing renewable resource projects; and for similar purposes approved by the legislature~~ or requested by the department pursuant to subsection (2).

~~(6)~~(7) Grant and loan agreements with tribal governments in Montana entered into under this part must contain, in addition to other appropriate terms and conditions, the following conditions:

- (a) a requirement that in the event a dispute or claim arises under the agreement, state law will govern as to the interpretation and performance of the agreement and that any judicial proceeding concerning the terms of the agreement will be brought in the district court of the first judicial district of the state of Montana;
- (b) an express waiver of the tribal government's immunity from suit on any issue specifically arising from the transaction of a loan or grant; and
- (c) an express waiver of any right to exhaust tribal remedies signed by the tribal government."

Section 2. Section 85-1-613, MCA, is amended to read:

"85-1-613. Limits on loans. (1) A loan to a private person that is not a water users' association or ditch company organized and incorporated pursuant to Title 35, chapter 14, or Title 85, chapter 6, part 1, for a renewable resource grant and loan program project may not be made from the natural resources projects state special revenue account established in 15-38-302 or the renewable resource loan proceeds account if the loan exceeds the lesser of \$400,000 or 80% of the fair market value of the security given for the project. In determining the fair market value for the security given for a loan, the department shall consider appraisals made by qualified appraisers and other factors that it considers important.

(2) A loan to a private person that is a water users' association or ditch company organized and incorporated pursuant to Title 35, chapter 14, or Title 85, chapter 6, part 1, may not be made from the natural resources projects state special revenue account established in 15-38-302 or the renewable resource loan proceeds account if the loan would exceed the lesser of \$3 million or an amount representing the annual debt service on the loan that would exceed 80% of the annual net revenue of the system that would be pledged for payment of the loan. In determining the amount of annual net revenue that may be pledged for payment of the loan, annual expenses for operation and maintenance must be subtracted from the gross revenue of the system.

(3) A loan to the state, a local government, or a tribal government for a renewable resource grant and loan program project may not be made by the department from the natural resources projects state special revenue account established in 15-38-302 or renewable resource loan proceeds account if the loan exceeds the lesser of \$200,000 or the project sponsor's remaining debt capacity.

(4) The period for repayment of loans may not exceed 30 years.

(5) The interest rate at which loans may be made under this part must be sufficient to:

(a) cover the bond debt service for a loan; and

(b) establish and maintain a loan loss reserve fund to be used for bond debt service if a loan loss occurs.

(6) A loan made under this part may not be used for the cost of operation and maintenance of a project."

Section 3. Section 85-1-617, MCA, is amended to read:

"85-1-617. Issuing renewable resource bonds -- renewable resource loan proceeds account. (1)

When authorized by the legislature or requested by the department pursuant to 85-1-605(2) and within the limits of the authorization on the request and ~~within~~ the further limitations established in this section, the board of examiners may issue and sell renewable resource bonds of the state in the amount and manner it considers necessary and proper to finance the renewable resource grant and loan program. The full faith and credit and taxing powers of the state are pledged for the prompt and full payment of all bonds issued and interest and redemption premiums payable on the bonds according to their terms.

(2) Each series of renewable resource bonds may be issued by the board of examiners, upon request of the department, at public or private sale, in denominations and forms, whether payable to bearer with attached interest coupons or registered as to principal or as to both principal and interest, with provisions for conversion or exchange and for the issuance of notes in anticipation of the issuance of definitive bonds, bearing interest at a rate or rates, maturing at a rate or rates, maturing at a time or times not exceeding 30 years from date of issue, subject to optional or mandatory redemption at earlier times and prices and upon notice, with provisions for payment and discharge by the deposit of funds or securities in escrow for that purpose, and payable at the office of a banking institution or institutions within or outside the state that the board of examiners shall determine subject to the limitations contained in this section and 17-5-731.

(3) In the issuance of each series of renewable resource bonds, the interest rates and the maturities and mandatory redemption provisions contained in the bonds must be established in a manner that the funds then specifically pledged and appropriated by law to the renewable resource loan debt service fund will, in the judgment of the board of examiners, be received in an amount sufficient in each year to pay all principal, redemption premiums, and interest due and payable in that year with respect to that and all prior series of bonds, except outstanding bonds as to which the obligation of the state has been discharged by the deposit of funds or securities sufficient for their payment in accordance with the terms of the resolutions by which they are authorized to be issued.

(4) In all other respects, the board of examiners is authorized to prescribe the form and terms of the bonds and notes and shall do whatever is lawful and necessary for their issuance and payment. The bonds, notes, and interest coupons appurtenant to the bonds or notes must be signed by the members of the board of examiners, and the bonds and notes must be issued under the great seal of the state of Montana. The bonds,

notes, and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all bonds and notes issued and sold.

(5) There is created a renewable resource loan proceeds account within the state special revenue fund established in 17-2-102.

(6) All proceeds of bonds or notes issued under this section, other than refunding bonds, must be deposited in the renewable resource loan proceeds account established in subsection (5), except that any principal and accrued interest received in repayment of a loan made from the proceeds of bonds issued under this section must be deposited in the renewable resource loan debt service fund and the renewable resource loan loss reserve fund pursuant to 85-1-603. All proceeds of refunding bonds must be deposited in the renewable resource loan debt service fund and applied to the payment and redemption of outstanding bonds issued under this section as directed by the board of examiners, whether at maturity or on any earlier date on which they may be prepaid according to their terms.

(7) All actions taken by the board of examiners under this section or 85-1-619 must be authorized by a vote of a majority of the members of the board of examiners."

Section 4. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each federally recognized tribal government in Montana.

Section 5. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
HB 775, 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. 775

INTRODUCED BY M. HOPKINS

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