

HOUSE BILL NO. 200

INTRODUCED BY K. HOLMLUND

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING STATE AGENCIES AND LOCAL GOVERNMENTS FROM ENACTING OR ENFORCING CERTAIN POLICIES CONCERNING CITIZENSHIP AND IMMIGRATION; REQUIRING THE ATTORNEY GENERAL TO INVESTIGATE AND ENFORCE CERTAIN PROVISIONS; PROVIDING DEFINITIONS; PROVIDING PENALTIES; AMENDING SECTIONS 90-6-209 AND 90-6-710, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

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

NEW SECTION. Section 1. Definitions. As used in [sections 1 through 5], the following definitions apply:

- (1) "Local government" means a municipality, a county, or a consolidated city-county government.
- (2) "Policy" means a formal or informal rule, order, ordinance, or policy, whether written or unwritten.
- (3) "State agency" means an office, position, commission, committee, board, department, council, division, bureau, section, or any other entity or instrumentality of the executive branch of state government.

NEW SECTION. Section 2. Sanctuary jurisdiction prohibited -- exception. (1) Except as provided in subsection (2), a state agency or local government may not enact, adopt, implement, enforce, or refer to the electorate a policy that prohibits or restricts a government entity, official, or employee from:

- (a) sending to, receiving from, exchanging with, or maintaining for a federal, state, or local government entity information regarding a person's citizenship or immigration status for a lawful purpose;
- (b) complying with a notification request concerning the release of an individual if the request is lawfully made by the United States department of homeland security acting pursuant to its authority under 8 U.S.C. 1226 and 1357 as those sections read on [the effective date of this act]; or
- (c) complying with an immigration detainer request if:
 - (i) the request is lawfully made by the United States department of homeland security acting pursuant

1 to its authority under 8 U.S.C. 1226 and 1357 as those sections read on [the effective date of this act]; and

2 (ii) the arrest is authorized under state law.

3 (2) A state agency or local government may not be considered in violation of this section based solely
4 on a policy otherwise subject to subsection (1) that exclusively concerns an individual who comes forward as a
5 victim of or a witness to a criminal offense.

6
7 **NEW SECTION. Section 3. Monitoring and compliance.** (1) The attorney general shall:

8 (a) monitor state and local government compliance with the provisions of [section 2]; and

9 (b) investigate compliance complaints.

10 (2) If an investigation by the attorney general finds that a state agency or local government has
11 violated the provisions of [section 2], the attorney general shall bring a civil action against the state agency or
12 local government.

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14 **NEW SECTION. Section 4. Standing -- venue -- notifications.** (1) The attorney general has
15 standing to bring a civil action under [sections 1 through 5] to compel compliance by a state agency or local
16 government.

17 (2) An action under [sections 1 through 5] must be instituted in the state district court for the county in
18 which the local government or state agency is located.

19 (3) If a court of competent jurisdiction finds that a local government has violated the provisions of
20 [sections 1 through 5], the attorney general shall notify the coal board provided for in 2-15-1821 and the
21 department of commerce for the purpose of compliance with 90-6-209 and 90-6-710. If the attorney general
22 finds that the local government comes into compliance with the provisions of [sections 1 through 5], the attorney
23 general shall certify to the coal board and the department of commerce that the local government is no longer in
24 violation of the provisions of [sections 1 through 5].

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26 **NEW SECTION. Section 5. Penalties -- exemptions.** (1) In addition to any other penalties or
27 remedies provided by law and except as provided in subsection (3), a state agency or local government that
28 violates the provisions of [section 2] shall be punished by a fine of \$10,000 every 5 days that the state agency

or local government is not in compliance with the provisions of [section 2].

(2) Except as provided in subsection (3), a local government that is in violation of [section 2] may not:

(a) receive new grants awarded under the provisions of Title 90, chapter 6, part 2; or

(b) have projects prioritized or recommended by the department of commerce for infrastructure projects under the provisions of Title 90, chapter 6, part 7.

(3) A state agency or local government may not be penalized under this section if the state or local government comes into compliance with the provisions of [sections 1 through 5] within 14 days after the filing of an action under [section 4].

(4) A fine collected pursuant to this section must be deposited in the state general fund.

NEW SECTION. Section 6. Sanctuary jurisdiction prohibited. A local government as defined in [section 1] may not enact, adopt, implement, enforce, or refer to the electorate a policy described in [section 2].

Section 7. Section 90-6-209, MCA, is amended to read:

"90-6-209. Limitations on grants. (1) The board may commit itself to the expenditure of funds for more than 1 year for a single project, but the board may not obligate funds not yet appropriated by the legislature. The total amount of grants to state agencies, except grants made pursuant to 90-6-205(4)(b), and Indian tribes may not exceed 7% of the total money allocated to the board during each fiscal year.

(2) A grant to an Indian tribe under 90-6-205 may not be approved by the board unless:

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

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

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

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

(3) (a) The board may not award a new grant to a local government that is in violation of [section 2] pursuant to the provisions of [section 5].

(b) For the purposes of this subsection (3), "local government" has the meaning provided in [section 11.]

Section 8. Section 90-6-710, MCA, is amended to read:

"90-6-710. Priorities for projects -- procedure -- rulemaking. (1) The department of commerce must receive proposals for infrastructure projects from local governments on a continual basis. The department shall work with a local government in preparing cost estimates for a project. In reviewing project proposals, the department may consult with other state agencies with expertise pertinent to the proposal. For the projects under 90-6-703(1)(a), the department shall prepare and submit two lists containing the recommended projects and the recommended form and amount of financial assistance for each project to the governor, prioritized pursuant to subsection (2) and this subsection. One list must contain the ranked and recommended bridge projects, and the other list must contain the remaining ranked and recommended infrastructure projects referred to in 90-6-701(3)(a). Each list must be prioritized pursuant to subsection (2) of this section, but the department may recommend up to 20% of the interest earnings anticipated to be deposited into the treasure state endowment fund established in 17-5-703 during the following biennium for bridge projects. Before making recommendations to the governor, the department may adjust the ranking of projects by giving priority to urgent and serious public health or safety problems. The governor shall review the projects recommended by the department and shall submit the lists of recommended projects and the recommended financial assistance to the legislature.

(2) (a) In preparing recommendations under subsection (1), preference must be given to infrastructure projects based on the following order of priority:

~~(a)~~(i) projects that solve urgent and serious public health or safety problems or that enable local governments to meet state or federal health or safety standards;

~~(b)~~(ii) projects that reflect greater need for financial assistance than other projects;

~~(c)~~(iii) projects that incorporate appropriate, cost-effective technical design and that provide thorough, long-term solutions to community public facility needs;

~~(d)~~(iv) projects that reflect substantial past efforts to ensure sound, effective, long-term planning and management of public facilities and that attempt to resolve the infrastructure problem with local resources;

~~(e)(v)~~ projects that enable local governments to obtain funds from sources other than the funds provided under this part;

~~(f)(vi)~~ projects that provide long-term, full-time job opportunities for Montanans, that provide public facilities necessary for the expansion of a business that has a high potential for financial success, or that maintain the tax base or that encourage expansion of the tax base; and

~~(g)(vii)~~ projects that are high local priorities and have strong community support.

(b) (i) The department may not recommend or prioritize projects submitted by a local government that is in violation of [section 2] pursuant to the provisions of [section 5].

(ii) For the purposes of this subsection (2)(b), "local government" has the meaning provided in [section 1].

(3) After the review required by subsection (1), the projects must be approved by the legislature.

(4) The department shall adopt rules necessary to implement the treasure state endowment program.

(5) The department shall, in accordance with 5-11-210, report to each regular session of the legislature the status of all projects that have not been completed in order for the legislature to review each project's status and determine whether the authorized grant should be withdrawn."

NEW SECTION. Section 9. Codification instruction. (1) [Sections 1 through 5] are intended to be codified as an integral part of Title 2, chapter 1, and the provisions of Title 2, chapter 1, apply to [sections 1 through 5].

(2) [Section 6] is intended to be codified as an integral part of Title 7, chapter 5, part 1, and the provisions of Title 7, chapter 5, part 1, apply to [section 6].

NEW SECTION. Section 10. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 11. Effective date. [This act] is effective on passage and approval.

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