

HOUSE BILL NO. 147

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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 AND PENALTIES; PROVIDING THAT THE PROPOSED ACT BE SUBMITTED TO
THE QUALIFIED ELECTORS OF MONTANA; AMENDING SECTIONS 90-6-209 AND 90-6-710, MCA; AND
PROVIDING AN 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; or
- (b) complying with an immigration detainer request or 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].

(2) A state agency or local government may not be considered in violation of this section based solely

1 on a policy otherwise subject to subsection (1) that exclusively concerns an individual who comes forward as a
2 victim of or a witness to a criminal offense.

3

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

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

6 (b) investigate compliance complaints.

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

10

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

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

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

21

22 **NEW SECTION. Section 5. Penalties -- exemptions.** (1) In addition to any other penalties or remedies
23 provided by law and except as provided in subsection (3), a state agency or local government that violates the
24 provisions of [section 2] shall be punished by a fine of \$10,000 every 5 days that the state agency or local
25 government is not in compliance with the provisions of [section 2].

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

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

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

30 (3) A state agency or local government may not be penalized under this section if the state or local

1 government comes into compliance with the provisions of [sections 1 through 5] within 14 days after the filing of
2 an action under [section 4].

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

5 **NEW SECTION. Section 6. Sanctuary jurisdiction prohibited.** A local government as defined in
6 [section 1] may not enact, adopt, implement, enforce, or refer to the electorate a policy described in [section 2].
7

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

9 **"90-6-209. Limitations on grants.** (1) The board may commit itself to the expenditure of funds for more
10 than 1 year for a single project, but the board may not obligate funds not yet appropriated by the legislature. The
11 total amount of grants to state agencies, except grants made pursuant to 90-6-205(4)(b), and Indian tribes may
12 not exceed 7% of the total money allocated to the board during each fiscal year.

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

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

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

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

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

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

23 (b) For the purposes of this subsection (3), "local government" has the meaning provided in [section 1]."
24

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

26 **"90-6-710. Priorities for projects -- procedure -- rulemaking.** (1) The department of commerce must
27 receive proposals for infrastructure projects from local governments on a continual basis. The department shall
28 work with a local government in preparing cost estimates for a project. In reviewing project proposals, the
29 department may consult with other state agencies with expertise pertinent to the proposal. For the projects under
30 90-6-703(1)(a), the department shall prepare and submit two lists containing the recommended projects and the

1 recommended form and amount of financial assistance for each project to the governor, prioritized pursuant to
 2 subsection (2) and this subsection. One list must contain the ranked and recommended bridge projects, and the
 3 other list must contain the remaining ranked and recommended infrastructure projects referred to in
 4 90-6-701(3)(a). Each list must be prioritized pursuant to subsection (2) of this section, but the department may
 5 recommend up to 20% of the interest earnings anticipated to be deposited into the treasure state endowment fund
 6 established in 17-5-703 during the following biennium for bridge projects. Before making recommendations to
 7 the governor, the department may adjust the ranking of projects by giving priority to urgent and serious public
 8 health or safety problems. The governor shall review the projects recommended by the department and shall
 9 submit the lists of recommended projects and the recommended financial assistance to the legislature.

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

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

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

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

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

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

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

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

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

27 (ii) For the purposes of this subsection (2)(b), "local government" has the meaning provided in [section
 28 1].

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

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

1 (5) The department shall report to each regular session of the legislature the status of all projects that
2 have not been completed in order for the legislature to review each project's status and determine whether the
3 authorized grant should be withdrawn."
4

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

8 (2) [Section 6] is intended to be codified as an integral part of Title 7, chapter 5, part 1, and the provisions
9 of Title 7, chapter 5, part 1, apply to [section 6].
10

11 COORDINATION SECTION. SECTION 10. COORDINATION INSTRUCTION. IF HOUSE BILL NO. 146 IS PASSED
12 AND APPROVED, THEN [THIS ACT] IS VOID.
13

14 NEW SECTION. SECTION 11. SEVERABILITY. IF A PART OF [THIS ACT] IS INVALID, ALL VALID PARTS THAT ARE
15 SEVERABLE FROM THE INVALID PART REMAIN IN EFFECT. IF A PART OF [THIS ACT] IS INVALID IN ONE OR MORE OF ITS
16 APPLICATIONS, THE PART REMAINS IN EFFECT IN ALL VALID APPLICATIONS THAT ARE SEVERABLE FROM THE INVALID
17 APPLICATIONS.
18

19 NEW SECTION. Section 12. Effective date. [This act] is effective upon approval by the electorate.
20

21 NEW SECTION. Section 13. Submission to electorate. [This act] shall be submitted to the qualified
22 electors of Montana at the general election to be held in November 2020 by printing on the ballot the full title of
23 [this act] and the following:

- 24 YES on Legislative Referendum ___.
- 25 NO on Legislative Referendum ___.

26 - END -