

Memorandum

To: Montana Coal Board

From: Meg O'Leary, Director 
Bill Hoffman, Budget Officer 
Kelly A. Lynch, Administrator, Community Development Division
Montana Department of Commerce 

Date: June 3, 2015

Re: Coal Board Funding for 2017 Biennium

Greetings, Coal Board members. The 2017 Legislative session has concluded, and the Coal Board has been appropriated an increase in coal severance tax monies from the last biennium. However, as a result of a coordination instruction drafting error in HB 228, the awarding and obligation of grant funds will look a little different this biennium than in years past. This memo is intended to explain the bills and appropriations affected, and how Governor Bullock has directed his Office of Budget and Program Planning and the Department of Commerce to solve this procedural issue and provide the funding to the Coal Board as intended by the Governor and the 2015 Legislature.

Relevant Bills from 2015 Legislative Session

HB 228 (Rep. Berry) was signed by the Governor on May 5, 2015. The bill amended Section 15-35-108(7), MCA, increasing the amount of coal severance taxes allocated to the Coal Board account from 2.9% to 5.8% for the 2017 biennium. Combined with the base 2.9% allocation appropriated in HB 2, the passage of HB 228 would have resulted in a total allocation of coal severance taxes to the Coal Board of \$6,964,423 for grants to coal-impacted communities during the 2017 biennium.

Unfortunately, HB 228 did not contain an appropriation authorizing Commerce to spend the additional funding. The bill also contained a coordination instruction that nullified the bill if HB 2 appropriated an amount equal to or greater than \$3,514,423 to the Coal Board for "...the biennium ending June 30, 2017." HB 2 appropriated \$3,711,904 to the Coal Board. Therefore, under its own terms, HB 228 was null and void.

Governor Bullock's Solution

In order to avoid the loss of all additional funds for the Coal Board provided for in HB 228, the Governor line-item vetoed the Coal Board appropriation in HB 2 (the Governor cannot amend an appropriation amount with a line-item veto, but is only authorized to strike an appropriation in its entirety), and instructed the Department to work with the Budget Office "to ensure that sufficient funds will be available for the grants."

The Budget Office has appropriated \$2,463,539 in FY 2016 and \$2,555,267 in FY 2017 of its contingency base funding in HB 2 to the Department for Coal Board grants, for a total of \$5,018,806 during the 2017 biennium.¹ In order to provide the amount of funding to the Coal Board equal to the appropriations in HB 2 and HB 228, the Budget Office and the Department will seek approval of up to \$1,945,617 in supplemental appropriations for FY 2017 in HB 3 during the 2017 Session.

Awards and Obligations during 2017 Biennium

As a result of the above circumstances, the Board has the following funds available for award:

July 2015-June 2016

\$2,463,539 available for award and contract

\$996,949 available for award, contingent upon receiving supplemental appropriation in HB 3 during 2017 Session

June 2016

The Department will request a budget change document from the Budget Office, requesting the transfer of \$996,949 of FY 2017 contingency base funding to FY 2016. If approved, a total of \$3,460,488 would be available for award and contract in FY 2016. If not approved, \$996,949 will remain contingent on passage and approval of HB 3 in the 2017 Session.

July 2016-June 2017

If June 2016 budget change document approved:

\$1,558,318 available for award and contract

\$1,945,617 available for award, contingent upon receiving supplemental appropriation in HB 3 during 2017 Session

If June 2016 budget change document not approved:

\$2,555,267 available for award and contract

\$948,668 available for award, contingent upon receiving supplemental appropriation in HB 3 during 2017 Session

¹ The Budget Office appropriated \$86,086 in FY 2016 and \$85,894 in FY 2017 of its contingency funding to the Department for Coal Board personal services administration costs. This amount was just short of the amount requested in the Governor's budget for the 2017 biennium.

The Coal Board will need to discuss and determine how it would like to proceed with awarding funds during the 2017 biennium. As only a portion of funding awarded is appropriated and not contingent upon the passage and approval of HB 3 by the 2017 Legislature, the Board should decide how to prioritize funding. Options include:

- 1) Accept applications and award funds as applicants apply. In this scenario, the Board would award all FY 2016 appropriated funds first (\$2,463,539), then award remaining contingent funds (\$996,949). The Department will request a budget change document on or about June 2016. If approved, all funds awarded during FY 2016 can move forward with start-up conditions, contracts, and drawdown requests.
- 2) Accept applications and award funds based on priority and importance of project. Those applications with lesser priority or importance would be put on hold until all appropriated funds are awarded to high priority projects during the biennium, and then award the remaining projects awards contingent upon passage and approval of HB 3 in approximately May 2017.

As always, Department staff is available to assist you with these matters and the award process. Thank you in advance for your patience and understanding as we work through this matter together over the upcoming biennium.