

Sixty-ninth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2208

Introduced by

Senators Patten, Bekkedahl, Erbele, Kessel

Representatives Brandenburg, Porter

1 A BILL for an Act to amend and reenact sections 57-51.1-07.7 and 57-51.1-07.8 of the North
2 Dakota Century Code, relating to the municipal infrastructure fund and the county and township
3 infrastructure fund.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 57-51.1-07.7 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **57-51.1-07.7. Municipal infrastructure fund - Continuing appropriation - State**
8 **treasurer - Reports.**

9 1. There is created in the state treasury the municipal infrastructure fund. The fund
10 consists of all moneys deposited in the fund under section 57-51.1-07.5. All moneys in
11 the fund are appropriated to the state treasurer on a continuing basis for the purpose
12 of providing grants to cities located in non-oil-producing counties. The grant funding
13 may be distributed only to cities located in non-oil-producing counties, excluding hub
14 cities, and may be used only for essential infrastructure projects.

15 4.2. By November thirtieth of each even-numbered year, ~~starting in 2022~~, a city that
16 receives a grant from the fund shall provide a report to the state treasurer on the use
17 of the funding. The state treasurer shall notify cities of the reporting requirement by
18 November first of each even-numbered year, ~~starting in 2022~~. Upon request, the state
19 treasurer may provide an extension of up to fifteen days for a city to submit the report.
20 The state treasurer shall determine the format of the report. The report must include
21 the amount of grant funding received and spent by the city and a description of the
22 infrastructure projects completed in part or in whole with the grant funding. The state
23 treasurer shall make the reports available to the public on the state treasurer's
24 website.

3. a. A city that does not provide the report in a timely manner or in the correct format is not eligible to receive a grant from the fund for a period of two years starting from the date the report was due.
- b. If a city uses the funding in a manner inconsistent with the requirements of this section as identified in any financial audits conducted by the state auditor or an independent accounting firm, the state treasurer shall reduce any future grants to that city by the amount spent that was inconsistent with the requirements.
- c. If a city adopts an ordinance or policy that interferes or conflicts with an energy infrastructure project permitted or approved by a state agency, the city is not eligible to receive any grants from the fund beginning on the later of the date on which the city adopted the ordinance or policy, or the date on which the state agency permits or approves the project.
- 2-4. Within forty days after the fund balance is greater than or equal to the amount needed for the grants under this subsection or by September thirtieth of each odd-numbered year, whichever is earlier, the state treasurer shall distribute moneys in the fund as grants to cities for essential infrastructure projects. The state treasurer shall distribute the grants only if the fund balance is at least ten percent of the amount needed for distributions under this subsection based on the following:
- a. Two million five hundred thousand dollars to each city with a population of at least five thousand;
- b. Five hundred thousand dollars to each city with a population of at least two thousand but less than five thousand; and
- c. One hundred twenty-five thousand dollars to each city with a population of at least one thousand but less than two thousand.
- d. If, at the time of the distributions, the moneys in the fund are less than the amount needed for the grants under this subsection, the state treasurer shall distribute the grants under this subsection on a pro rata basis.
- e. For the purposes of determining the city's population under this subsection, the state treasurer shall use the most recent actual or estimated census data published by the United States census bureau.

- 1 ~~3-5.~~ Within sixty days after the fund receives its statutory limit of oil and gas tax allocations
2 under section 57-51.1-07.5 or by September thirtieth of each odd-numbered year,
3 whichever is earlier, the state treasurer shall distribute the moneys in the fund as
4 grants to cities for essential infrastructure projects. The state treasurer shall distribute
5 the grants only if the fund balance is at least ten percent of the amount needed for
6 distributions under this subsection based on the following:
- 7 a. One hundred fifty dollars per person of the city's population.
- 8 b. In addition to the amounts in subdivision a, for a city with a positive average of
9 the annual percentage increase in population from three years prior, a dollar
10 amount equal to the product of the following:
- 11 (1) The amount calculated in subdivision a; and
- 12 (2) The average of the annual percentage increase in population from three
13 years prior, multiplied by ten.
- 14 c. In addition to the amounts in subdivisions a and b, for a city with a positive
15 average of the annual percentage increase in taxable property values from three
16 years prior, a dollar amount equal to the average of the annual property valuation
17 percentage increase for the three most recent years, multiplied by twenty-five
18 thousandths.
- 19 d. Grants may be distributed under this subdivision only if the grant distributions
20 under subsection 24 are completed. If the moneys in the fund are insufficient to
21 provide for the grants, the state treasurer shall distribute the grants under this
22 subsection on a pro rata basis. If any moneys remain in the fund after the
23 distribution of grants under this subsection, the state treasurer shall distribute any
24 remaining moneys in the fund in proportion to the combined total distributed to
25 each city under this section relative to the combined total distributed to all the
26 cities under this section.
- 27 e. For the purposes of determining the city's population under this subsection, the
28 state treasurer shall use the most recent actual or estimated census data
29 published by the United States census bureau.

- 1 f. For the purposes of determining taxable property values, the state treasurer shall
2 use the most recent data published by the tax commissioner in the tax levy
3 report.

4 4.6. For purposes of this section:

- 5 a. "Essential infrastructure projects" means capital construction projects to construct
6 new infrastructure or to replace existing infrastructure, which provide the fixed
7 installations necessary for the function of a city. Capital construction projects
8 exclude debt repayments and routine maintenance and repair projects, but
9 include the following:

- 10 (1) Water treatment plants;
11 (2) Wastewater treatment plants;
12 (3) Sewer lines and water lines, including lift stations and pumping systems;
13 (4) Water storage systems, including dams, water tanks, and water towers;
14 (5) Storm water infrastructure, including curb and gutter construction;
15 (6) Road and bridge infrastructure, including paved and unpaved roads and
16 bridges;
17 (7) Airport infrastructure;
18 (8) Electricity transmission infrastructure;
19 (9) Natural gas transmission infrastructure; and
20 (10) Communications infrastructure, excluding fiber optic infrastructure.

- 21 b. "Fiscal year" means the period beginning September first and ending August
22 thirty-first of the following calendar year.

- 23 c. "Non-oil-producing county" means a county that received no allocation of funding
24 or a total allocation of less than five million dollars under subsection 2 of section
25 57-51-15 in the most recently completed even-numbered fiscal year before the
26 start of each biennium.

27 **SECTION 2. AMENDMENT.** Section 57-51.1-07.8 of the North Dakota Century Code is
28 amended and reenacted as follows:

1 **57-51.1-07.8. County and township infrastructure fund - Continuing appropriation -**
2 **State treasurer - Reports.**

3 1. There is created in the state treasury the county and township infrastructure fund. The
4 fund consists of all moneys deposited in the fund under section 57-51.1-07.5. All
5 moneys in the fund are appropriated to the state treasurer on a continuing basis for
6 the purpose of providing grants to non-oil-producing counties and townships located in
7 non-oil-producing counties. The grant funding may be distributed only to
8 non-oil-producing counties and townships located in non-oil-producing counties and
9 may be used only for road and bridge infrastructure projects.

10 ~~4.2.~~ By November thirtieth of each even-numbered year, ~~starting in 2022~~, a county that
11 receives a grant from the fund shall provide a report to the state treasurer on the use
12 of the funding. The state treasurer shall notify counties of the reporting requirement by
13 November first of each even-numbered year, ~~starting in 2022~~. Upon request, the state
14 treasurer may provide an extension of up to fifteen days for a county to submit the
15 report. The state treasurer shall determine the format of the report. The report must
16 include the amount of grant funding received and spent by the county and a
17 description of the road and bridge infrastructure projects completed in part or in whole
18 with the grant funding. The state treasurer shall make the reports available to the
19 public on the state treasurer's website.

20 3. a. A county that does not provide the report in a timely manner or in the correct
21 format is not eligible to receive a grant from the fund for a period of two years
22 starting from the date the report was due.

23 b. If a county uses the funding in a manner inconsistent with the requirements of
24 this section as identified in any financial audits conducted by the state auditor or
25 an independent accounting firm, the state treasurer shall reduce any future
26 grants to that county by the amount spent that was inconsistent with the
27 requirements.

28 c. If a county or township adopts an ordinance or policy that interferes or conflicts
29 with an energy infrastructure project permitted or approved by a state agency, the
30 county or township is not eligible to receive any grants from the fund beginning

1 on the later of the date on which the city adopted the ordinance or policy, or the
2 date on which the state agency permits or approves the project.

3 ~~2.4.~~ Within sixty days after the fund receives its statutory limit of oil and gas tax allocations
4 under section 57-51.1-07.5 or by September thirtieth of each odd-numbered year,
5 whichever is earlier, the state treasurer shall distribute moneys in the fund as grants to
6 counties for road and bridge infrastructure projects. The state treasurer shall distribute
7 the grants only if the fund balance is at least ten percent of the amount needed for
8 distributions under this section.

9 ~~3.5.~~ The state treasurer shall distribute the lesser of thirteen percent of the balance of the
10 fund or sixteen million one hundred thousand dollars to non-oil-producing counties for
11 the benefit of the organized and unorganized townships within each non-oil-producing
12 county. The distribution to each non-oil-producing county must provide for an equal
13 allocation to each organized and unorganized township. The amount allocated to
14 organized townships under this section must be paid by the county treasurer to each
15 organized township. The amount allocated to unorganized townships under this
16 section must be credited by the county treasurer to a special fund for unorganized
17 township roads. A township is not eligible for an allocation of funds under this section if
18 the township does not maintain any township roads.

19 ~~4.6.~~ After the distributions in subsection ~~35~~, the state treasurer shall distribute the
20 remaining money in the fund to non-oil-producing counties based on the most recent
21 data compiled by the upper great plains transportation institute regarding North
22 Dakota's county, township, and tribal road and bridge infrastructure needs. The
23 distribution to each non-oil-producing county must be proportional to each
24 non-oil-producing county's total estimated road and bridge investment needs relative
25 to the combined total estimated road and bridge investment needs of all the
26 non-oil-producing counties. The total estimated road and bridge investment needs for
27 each county is the twenty-year estimate for unpaved and paved road and bridge
28 needs as identified by the upper great plains transportation institute. If the data
29 compiled by the upper great plains transportation institute includes more than one
30 twenty-year estimate for the total needs of each county, the state treasurer shall use
31 an average of the twenty-year estimates for each county.

1 ~~5.7.~~ If the moneys in the fund are insufficient to provide for the grants under this section,
2 the state treasurer shall distribute the grants on a pro rata basis.

3 ~~6.8.~~ For purposes of this section:

4 a. "Fiscal year" means the period beginning September first and ending August
5 thirty-first of the following calendar year.

6 b. "Non-oil-producing county" means a county that received no allocation of funding
7 or a total allocation of less than five million dollars under subsection 2 of section
8 57-51-15 in the most recently completed even-numbered fiscal year before the
9 start of each biennium.

10 c. "Road and bridge infrastructure projects" means the projects associated with the
11 construction of new unpaved and paved road and bridge infrastructure or
12 associated with the maintenance, repair, or replacement of existing unpaved and
13 paved road and bridge infrastructure.