

Effective 7/1/2024

Part 3
County of the First Class Infrastructure Bank Fund

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72-2-301 Definitions.

As used in this part:

- (1) "Fund" means the County of the First Class Infrastructure Bank Fund created under Section 72-2-402.
- (2) "Infrastructure assistance" means any use of fund money, except an infrastructure loan, to provide financial assistance for transportation projects or publicly owned infrastructure projects, including:
 - (a) capital reserves and other security for bond or debt instrument financing; or
 - (b) any letters of credit, lines of credit, bond insurance, or loan guarantees obtained by a public entity to finance transportation projects.
- (3) "Infrastructure loan" means a loan of fund money to finance a transportation project or publicly owned infrastructure project.
- (4) "Public entity" means a county of the first class or any of the following located within a county of the first class:
 - (a) a municipality;
 - (b) a special district;
 - (c) a special service district; or
 - (d) an intergovernmental entity organized under state law.
- (5) "Publicly owned infrastructure project" means a project to improve sewer or water infrastructure that is owned by a public entity.
- (6) "Transportation project" means a project:
 - (a) to improve a state or local highway;
 - (b) to improve a public transportation facility or nonmotorized transportation facility;
 - (c) to construct or improve parking facilities;
 - (d) that is subject to a transportation reinvestment zone agreement pursuant to Section 11-13-227 if the state is party to the agreement; or
 - (e) that is part of a housing and transit reinvestment zone created pursuant to Title 63N, Chapter 3, Part 6, Housing and Transit Reinvestment Zone Act.
- (7) "Transportation project" includes the costs of acquisition, construction, reconstruction, rehabilitation, equipping, and fixturing.
- (8) "Transportation project" may only include a project if the project is part of:
 - (a) the statewide long range plan;
 - (b) a regional transportation plan of the area metropolitan planning organization if a metropolitan planning organization exists for the area; or
 - (c) a local government general plan or economic development initiative.

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72-2-302 County of the First Class Infrastructure Bank Fund -- Creation -- Use of money.

- (1) There is created a revolving loan fund entitled the County of the First Class Infrastructure Bank Fund.

- (2)
 - (a) The fund consists of money generated from the following revenue sources:
 - (i) deposits into the fund in accordance with Subsection 72-2-121(9);
 - (ii) appropriations made to the fund by the Legislature;
 - (iii) federal money and grants that are deposited into the fund;
 - (iv) money transferred to the fund by the commission from other money available to the department;
 - (v) state grants that are deposited into the fund;
 - (vi) contributions or grants from any other private or public sources for deposit into the fund; and
 - (vii) subject to Subsection (2)(b) and Section 72-2-306, all money collected from repayments of fund money used for infrastructure loans or infrastructure assistance.
 - (b) When a loan from the fund is repaid, the department may request and the Legislature may transfer from the fund to the source from which the money originated an amount equal to the repaid loan.
- (3)
 - (a) The fund shall earn interest.
 - (b) All interest earned on fund money shall be deposited into the fund.
- (4) Money in the fund shall be used by the department, as prioritized by the commission, only to:
 - (a) provide infrastructure loans or infrastructure assistance; and
 - (b) pay the department for the costs of administering the fund, providing infrastructure loans or infrastructure assistance, monitoring transportation projects and publicly owned infrastructure projects, and obtaining repayments of infrastructure loans or infrastructure assistance.
- (5)
 - (a) The department may establish separate accounts in the fund for infrastructure loans, infrastructure assistance, administrative and operating expenses, or any other purpose to implement this part.
 - (b) Prioritization of infrastructure loans described in Subsection (5)(a) shall follow the same process as described in Section 72-2-303.
 - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules governing how the fund and its accounts may be held by an escrow agent.
- (6) Fund money shall be invested by the state treasurer as provided in Title 51, Chapter 7, State Money Management Act, and the earnings from the investments shall be credited to the fund.

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72-2-303 Loans and assistance -- Authority -- Rulemaking.

- (1) Money in the fund may be used by the department, as prioritized by the commission or as directed by the Legislature, to make infrastructure loans or to provide infrastructure assistance to any public entity for any purpose consistent with any applicable constitutional limitation.
- (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules providing procedures and standards for making infrastructure loans and providing infrastructure assistance and a process for prioritization of requests for loans and assistance.
- (3) The prioritization process, procedures, and standards for making an infrastructure loan or providing infrastructure assistance may include consideration of the following:
 - (a) availability of money in the fund;

- (b) credit worthiness of the project;
- (c) demonstration that the project will encourage, enhance, or create economic benefits to the state or political subdivision;
- (d) likelihood that assistance would enable the project to proceed at an earlier date than would otherwise be possible;
- (e) the extent to which assistance would foster innovative public-private partnerships and attract private debt or equity investment;
- (f) demonstration that the project provides a benefit to the state highway system, including safety or mobility improvements;
- (g) the amount of proposed assistance as a percentage of the overall project costs with emphasis on local and private participation;
- (h) demonstration that the project provides intermodal connectivity with public transportation, pedestrian, or nonmotorized transportation facilities; and
- (i) other provisions the commission considers appropriate.

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72-2-304 Loan program procedures -- Repayment.

- (1) A public entity within a county of the first class may obtain an infrastructure loan from the department, upon approval by the commission, by entering into a loan contract with the department secured by legally issued bonds, notes, or other evidence of indebtedness validly issued under state law, including pledging all or any portion of a revenue source controlled by the public entity to the repayment of the loan.
- (2) A loan or assistance from the fund shall bear interest at a rate not to exceed .5% above bond market interest rates available to the state.
- (3) A loan shall be repaid no later than 20 years from the date the department issues the loan to the borrower, with repayment commencing no later than:
 - (a) when the project is completed; or
 - (b) in the case of a highway project, when the facility has opened to traffic.
- (4) The public entity shall repay the infrastructure loan in accordance with the loan contract from any of the following sources:
 - (a) transportation project or publicly owned infrastructure project revenues, including special assessment revenues;
 - (b) general funds of the public entity;
 - (c) money withheld under Subsection (7); or
 - (d) any other legally available revenues.
- (5) An infrastructure loan contract with a public entity may provide that a portion of the proceeds of the loan may be applied to fund a reserve fund to secure the repayment of the loan.
- (6) Before obtaining an infrastructure loan, a county or municipality shall:
 - (a) publish its intention to obtain an infrastructure loan at least once in accordance with the publication of notice requirements under Section 11-14-316; and
 - (b) adopt an ordinance or resolution authorizing the infrastructure loan.
- (7)
 - (a) If a public entity fails to comply with the terms of a public entity's infrastructure loan contract, the department may seek any legal or equitable remedy to obtain compliance or payment of damages.

- (b) If a public entity fails to make infrastructure loan payments when due, the state shall, at the request of the department, withhold an amount of money due to the public entity and deposit the withheld money into the fund to pay the amounts due under the contract.
- (c) The department may elect when to request the withholding of money under this Subsection (7).
- (8) All loan contracts, bonds, notes, or other evidence of indebtedness securing the loan contracts shall be held, collected, and accounted for in accordance with Section 63B-1b-202.
- (9) For any money received into the fund for repayment of a loan as described in this section, the department shall distribute the repaid money as described in Section 72-2-306.

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72-2-305 Department authority to contract.

The department may, upon approval of the commission:

- (1) make all contracts, execute all instruments, and do all things necessary or convenient to provide financial assistance for transportation projects or publicly owned infrastructure projects in accordance with this chapter; and
- (2) enter into and perform the contracts and agreements with entities concerning the planning, construction, leasing, or other acquisition, installation, or financing of transportation projects or publicly owned infrastructure projects.

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72-2-306 Distribution of funds after repayment.

- (1) Any money deposited into the fund from repayment of a loan or interest issued under this part shall be distributed as described in this section.
- (2) As the department receives repayment of a loan and interest issued under this part, the department shall distribute:
 - (a) 50% of the money to Sandy, for a bridge connecting a commuter rail station on the west side of I-15 with the east side of I-15;
 - (b) 30% of the money to Bluffdale, for construction of a multiple lane, grade-separated rail crossing at 1000 West and 14600 South; and
 - (c) 20% of the money to the department, to construct and provide enhanced ingress and egress to a transit mobility center on property north of Big Cottonwood Canyon.

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