

HOUSE BILL NO. HB0151

Economic development large project loans-amendments.

Sponsored by: Representative(s) Greear

A BILL

for

1 AN ACT relating to economic development; codifying and
2 amending procedures for loans for economic development
3 projects as specified; amending and specifying duties
4 associated with the large project loan program;
5 establishing a loan review committee; requiring a report;
6 making conforming amendments; repealing noncodified
7 provisions of the loan program; requiring rulemaking;
8 specifying applicability; and providing for effective
9 dates.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

13 **Section 1.** W.S. 9-12-308 is created to read:

14

15 **9-12-308. Large project loan program.**

16

1 (a) The large project account within the revolving
2 investment fund created pursuant to article 16, section 12
3 of the Wyoming constitution, created by 2014 Wyoming
4 session laws, chapter 46, section 2, is continued and
5 codified.

6
7 (b) Funds in the large project account within the
8 revolving investment fund shall be used exclusively to
9 promote and aid economic development of the state by
10 providing loan guarantees or loans to proposed or existing
11 enterprises that will employ people within the state,
12 provide services in the state, use resources in the state
13 or otherwise add economic value to goods, services or
14 resources within the state consistent with this section.

15
16 (c) There is created a loan review committee to
17 review all projects, loans and loan guarantees proposed
18 under this section. The committee shall consist of:

19
20 (i) The governor or his designee;

21
22 (ii) The treasurer or his designee;

23

1 (iii) A member of the board of directors of the
2 council who has expertise in banking or experience in the
3 banking industry, designated by the chief executive officer
4 of the council.

5
6 (d) The members of the loan review committee may
7 request assistance from staff of the governor's office, the
8 state treasurer's office, the council and any bank
9 participating in the loan transaction or loan guarantee to
10 review and evaluate proposed projects, loans and loan
11 guarantees under this section.

12
13 (e) Loans and loan guarantees provided under this
14 section shall be subject to the following procedures:

15
16 (i) Any project shall first be submitted to and
17 reviewed by the council who shall provide preliminary
18 recommendations for the size and parameters of the proposed
19 loan or loan guarantee. The council shall review the
20 project under the process set forth in W.S. 9-12-601
21 through 9-12-603. In developing recommendations for the
22 size and parameters of the proposed loan or loan guarantee

1 under this paragraph, the council may work with the bank
2 that would issue the loan or loan guarantee;

3

4 (ii) The council shall present the project and
5 the proposed loan or loan guarantee and its terms to the
6 loan review committee, which may accept or deny the
7 proposed loan or amend its terms;

8

9 (iii) Upon a favorable recommendation by the
10 council and the loan review committee, the project shall
11 then be submitted to the state loan and investment board
12 for final approval. The council and the loan review
13 committee shall only forward projects and proposed loans
14 under this section that have been determined to meet the
15 requirements of this section;

16

17 (iv) The state loan and investment board shall
18 vote to accept or deny the project and the terms of the
19 loan or loan guarantee developed for the project.

20

21 (f) The council and the loan review committee shall
22 recommend, and the state loan and investment board shall
23 only approve, the issuance of loan guarantees and loans

1 under this section for projects that meet the following
2 requirements:

3

4 (i) Are anticipated to have an economic impact
5 and a public benefit greater than the economic impact and
6 public benefit of projects regularly funded under the
7 Wyoming business ready community program;

8

9 (ii) Based upon the findings of an independent
10 third party selected and approved by the council, will
11 provide the following minimum public benefits:

12

13 (A) The creation of a significant expansion
14 of permanent jobs in the county or counties in which the
15 project will be located;

16

17 (B) A significant increase in the assessed
18 valuation of the county or counties in which the project
19 will be located, by not less than the value of the loans or
20 loan guarantees received by the applicant borrower;

21

1 (C) A substantial increase in the sales,
2 property or other tax revenues to the county or counties
3 where the project will be located; and
4

5 (D) Promotion of a stable, balanced and
6 diversified economy.
7

8 (iii) Has a high likelihood of completion.
9

10 (g) The council shall establish the terms of any
11 loan, loan participation or loan guarantee issued under
12 this section in accordance with the following:
13

14 (i) Loans or loan guarantees provided under this
15 section shall be adequately collateralized. To protect the
16 state's interest, the council may negotiate protections
17 with respect to any accepted collateral, including but not
18 limited to escrow accounts, debt limitations, cash sweeps,
19 pledge rights, corporate approval rights and other
20 mechanisms the council deems appropriate;
21

1 (ii) Loans under this section shall bear
2 interest at a fixed or adjustable rate. The interest rate
3 shall be:

4

5 (A) Indexed to a rate as determined by rule
6 adopted by the council, plus any additional premium
7 determined by the council to be reasonably commensurate
8 with the risk profile of the loan or loan guarantee, as
9 approved by the loan committee; and

10

11 (B) Approved by the loan committee and the
12 state loan and investment board.

13

14 (iii) The council shall ensure through
15 certification of the applicant, or any other manner
16 determined to be adequate by the council, a commitment of
17 at least twenty-five percent (25%) of the total cost of the
18 project from funding sources not provided by the state of
19 Wyoming;

20

21 (iv) Loans or loan guarantees shall be used for
22 direct investment in the project and shall not be used or

1 made available to refinance preexisting debt incurred
2 before commencement of the project;

3

4 (v) Borrowers shall demonstrate a balance sheet
5 and cash flow sufficient to demonstrate their ability to
6 repay the loan or loan guarantee;

7

8 (vi) Borrowers shall provide security to repay
9 the loan with a residual value sufficient to repay the loan
10 or loan guarantee in event of default;

11

12 (vii) When appropriate, the council may require
13 continuing loan guarantees by affiliates and principals of
14 the borrower;

15

16 (viii) Except as provided in this paragraph, the
17 council shall ensure that the lead lender secures a first
18 security interest in the entire project sufficient to
19 adequately protect the investment of loan proceeds or
20 proceeds guaranteed by the state under this section. The
21 security interest shall be shared pro rata with the state
22 in percentage of the loan or loan guarantee. If necessary,
23 the council may allow the lead lender to accept substitute

1 security that will protect repayment to the state on a
2 basis substantially equivalent to a first security interest
3 on the project. The council shall ensure that any alternate
4 security is sufficient to prudently protect the state's pro
5 rata interest;

6

7 (ix) The council shall charge a loan origination
8 fee or loan guarantee fee of one percent (1%) of the total
9 loan or guaranteed loan amount. Funds collected under this
10 paragraph shall be deposited in the large project account
11 within the revolving investment fund, less any amounts used
12 to pay the costs of consultants retained pursuant to
13 subsection (k) of this section.

14

15 (h) No loan or loan guarantee shall be made under
16 this section without the written opinion of the attorney
17 general certifying the legality of the transaction and all
18 documents connected therewith.

19

20 (j) Repayment of principal and interest to the state
21 in connection with loans made under this section shall be
22 deposited to the large project account within the revolving
23 investment fund. All funds within the account may be used

1 for and are continuously appropriated for the purposes of
2 this section. The total principal balance of outstanding
3 loans under this section shall not exceed the amounts
4 appropriated by the legislature plus interest accrued and
5 collected less any losses of loan principal.

6

7 (k) The council is authorized to retain experts and
8 service providers as necessary to fully evaluate, negotiate
9 and implement the terms and conditions of the loans and
10 loan guarantees issued under this section. If an expert or
11 service provider is retained by the council under this
12 subsection, any costs incurred that exceed the loan
13 origination fee or loan guarantee fee set in paragraph
14 (g)(ix) of this section shall be paid by the applicant. The
15 independent third party selected and approved by the
16 council under paragraph (f)(ii) of this section shall not
17 serve as an expert or service provider retained under this
18 subsection.

19

20 (m) The council shall promulgate rules necessary for
21 the implementation of this section.

22

1 **Section 2.** W.S. 9-12-305 and 9-12-306(b) are amended
2 to read:

3
4 **9-12-305. Economic development enterprise fund**
5 **account; deposits; continuous appropriation; loans.**

6
7 Except for fees deposited in accordance with W.S.
8 9-12-302(b), all repayments of principal and interest to
9 the state in connection with loans made under this article
10 and other funds as appropriated by the legislature for the
11 challenge loan program shall be deposited into the economic
12 development enterprise account within the revolving
13 investment fund. All funds in the account may be used for
14 and are continuously appropriated for loans authorized to
15 be made under this article. Funds within the account may
16 also be transferred upon direction of the governor to the
17 large project account within the revolving investment fund
18 ~~created by 2014 Wyoming Session Laws, Chapter 46~~ if
19 required to meet loans or loan guarantees approved ~~by the~~
20 ~~state loan and investment board~~ under ~~that law~~ W.S.
21 9-12-308. The total principal balance of outstanding loans
22 shall not exceed the amounts appropriated by the

1 legislature plus interest accrued and collected less any
2 losses of loan principal or interest.

3

4 **9-12-306. Audit; report.**

5

6 (b) On or before July 15 of each year, the council
7 shall submit a written report to the joint minerals,
8 business and economic development interim committee
9 reviewing rules adopted by the council during the reporting
10 period, presenting a portfolio of loans made under the
11 program and under W.S. 9-12-308 and presenting a risk
12 analysis of the portfolio of loans prepared by the state
13 banking commissioner. The report, portfolio of loans and
14 risk analysis required under this subsection shall be
15 public records. The risk analysis prepared by the state
16 banking commissioner shall not be subject to the
17 limitations of W.S. 9-1-512.

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19 **Section 3.** 2014 Wyoming Session Laws, Chapter 46,
20 Section 2, 2016 Wyoming Session Laws, Chapter 41, Sections
21 3 and 5 and 2018 Wyoming Session Laws, Chapter 98, Sections
22 1 and 2 are repealed.

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