

b. Extent to which applicant is prepared to deal with its mining-related impacts. Consideration shall be given to the applicant's demonstrated ability and willingness to plan for its future. Planning tools which municipalities often apply in this regard include 1) local and regional development plans, addressing such topics as land use patterns, transportation services, housing needs, outdoor recreation facilities, and economic growth, 2) zoning ordinances and other land use controls, 3) coordination of planning activities with neighboring jurisdictions, and 4) participation in state and federal community assistance programs.

c. Extent to which applicant will effectively use any mining impact funds. Consideration shall be given to such factors as 1) the relationship of applicant's strategy to the impacts described, 2) the likelihood that this strategy will accomplish its stated purpose, and 3) the reasonableness of any proposed project expenses. The board may also use this criterion as the basis for ranking highly an applicant's request for planning monies. Addressing potential mining impacts in a local and regional planning effort is considered the first step that a municipality should take in developing an effective strategy to alleviate its mining-related costs.

2m. Geographic criteria. Those applications demonstrating a relatively equal need for funds shall be further evaluated on the basis of the following three distribution priorities:

a. Distribution shall first be made to those municipalities with active metalliferous mining sites or with metalliferous mining sites that were active 3 years previous to December 31 of the current year, or to those municipalities in which a permit has been issued under s. 144.85, Stats., to commence mining.

b. Distribution shall next be made to those municipalities adjacent to the municipalities described in 2m. a. above.

c. Distribution shall next be made to all other municipalities.

3. Decision and notification process. The board shall make its funding decisions by October 1. The board shall thereupon notify all applicants, in writing, of the action taken on their respective application(s).

4. Appeals process. Any municipality wanting to appeal a funding decision by the board must submit a written appeal to the board within 20 days after notification. The 20-day period commences on the day after the mailing of the board's decision. The written appeal shall specify in detail: a) how the board has made a material error of law, b) how the board has made a material error of fact, or c) new, pertinent information which was not available to the board at the time of its decision. A representative of an appealing municipality may appear before the board, prior to board action on the appeal. The board will take action on an appeal case within 30 days after receipt of the written appeal. Any municipality that feels aggrieved by a funding decision of the board may petition the circuit court for a review of the board's decision within 30 days of its original decision, or if a rehearing has been sought as provided in this subdivision, within 30 days of the board's decision on the appeal. The 30-day period commences on the day after the mailing of the board's decision. The appeal must be served on the board and filed in the office of the clerk of circuit court as specified in s. 227.16, Stats.

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5. Expenditure review process. Over the course of any year, the board's staff may make on-site visits and otherwise monitor the uses of discretionary payments by municipalities. Staff shall keep the board informed of its activities and findings in this regard. In addition, any municipality receiving a discretionary payment shall file a detailed expenditure report with the board by March 1 of the year following the year that the funds are received. This expenditure report shall be on forms prepared and furnished by the board. From the monitoring activities, the completed expenditure reports, and the auditing procedure outlined in Tax 13.07, the board shall determine whether or not municipalities have applied their discretionary funds to the purposes authorized in (3) (b).

6. Recoupment of funds. If the board suspects that a municipality has not used all of a discretionary payment appropriately, the board shall hold a hearing on the matter. If the board determines from the hearing that funds were either unused or misused, the board may require recoupment of the unused or misused funds.

7. Use of emergency reserve monies. A portion of the emergency reserve monies invested with the state investment board, or a portion of any other discretionary funds available to the board, may be withdrawn and distributed by the board, at any time, to any municipality which demonstrates its need for financial assistance in alleviating a mining-related cost which is deemed by the board to be sudden and unforeseeable. The policies and procedures presented in (3) shall apply to the distribution and use of emergency reserve monies, except for the specified deadline dates.

History: Cr. Register, September, 1979, No. 285, eff. 10-1-79; am. (3) (c) 7., Register, July, 1980, No. 295, eff. 8-1-80; am. (3) (c) 4., Register, June, 1982, No. 318, eff. 7-1-82.

Tax 13.07 Auditing. All funds received from the board must be placed in a segregated fund account. A financial audit for the account shall be conducted as part of a municipality's annual audit. Where an annual audit is not performed, a financial audit of the account may be required.

History: Cr. Register, September, 1979, No. 285, eff. 10-1-79.

Tax 13.08 Transition. The board may modify deadlines contained in these rules so as to ensure that the first issuances of funds will occur no later than the first Monday in January, 1980. The board may also issue funds prior to the first Monday in January, 1980, if a hardship is demonstrated by a municipality making application for a discretionary payment.

History: Cr. Register, September, 1979, No. 285, eff. 10-1-79.