

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2523 Session of
1992

INTRODUCED BY COY, DeWEESE, McCALL, SERAFINI, BATTISTO, FARGO,
LaGROTTA, SALOOM, CAWLEY, ARGALL, KOSINSKI, MUNDY, HAYES,
WOZNIAK, JOHNSON, MERRY, TRELLO, FAIRCHILD, BELFANTI, LUCYK,
STUBAN, PRESTON, RICHARDSON, STEELMAN, CESSAR AND STABACK,
MARCH 18, 1992

REFERRED TO COMMITTEE ON APPROPRIATIONS, MARCH 18, 1992

AN ACT

1 Amending the act of October 11, 1984 (P.L.906, No.179), entitled
2 "An act providing for the administration and allocation of
3 certain Federal Block Grants," further defining "county's net
4 population," "eligible city, borough, incorporated town and
5 township," "eligible entitlement entity" and "local public
6 agency"; providing for block grant qualifying criteria and
7 for the establishment of the Community Development Block
8 Grant Advisory Committee; and further providing for fund
9 allocations, for minimum grants, for additional grants, for
10 use of funds and for regulations.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 1 of the act of October 11, 1984
14 (P.L.906, No.179), known as the Community Development Block
15 Grant Entitlement Program for Nonurban Counties and Certain
16 Other Municipalities, is amended to read:

17 Section 1. Declaration of purpose.

18 The purpose of this act is to establish [an annual Community
19 Development Block Grant Entitlement for certain cities,
20 boroughs, towns and townships and for 54 counties to be used by

1 said counties principally in boroughs, towns and townships which
2 are not allocated annual entitlements. Assured annual funding
3 will permit meaningful programs to be developed and local staff
4 capacity to be created and maintained. Boroughs, towns and
5 townships will also have the opportunity to obtain annually
6 discretionary funding for projects for community development
7 activities which are eligible under the Housing and Community
8 Development Act. Initially, it will put 54 counties and certain
9 municipalities on a comparable basis with the 12 urban counties
10 and 28 cities, boroughs and townships which receive direct
11 annual community development block grant entitlements from the
12 Federal Department of Housing and Urban Development.] a
13 Community Development Block Grant Program that governs the
14 Commonwealth's administration of funds received annually through
15 the Federal Housing and Community Development Act of 1974
16 (Public Law 93-383, 42 U.S.C. § 5301 et seq.); to provide
17 certain counties, cities, boroughs, towns, townships and home
18 rule municipalities with an annual entitlement allocation of
19 funds; and, to provide an allocation of funds to be distributed
20 by the department on a competitive basis to those cities,
21 boroughs, towns, townships and home rule municipalities which do
22 not receive an annual entitlement allocation.

23 Section 2. The definitions of "county's net population,"
24 "eligible city, borough, incorporated town and township,"
25 "eligible entitlement entity," "general qualifications criteria"
26 and "local public agency" in section 3 of the act are amended to
27 read:

28 Section 3. Definitions.

29 The following words and phrases when used in this act shall
30 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "County's net population." The balance remaining after
3 subtracting from the county's total population, the populations
4 of all metropolitan cities and eligible entitlement cities,
5 boroughs, incorporated towns [and townships], townships and home
6 rule municipalities situate within the county [from its total
7 population].

8 * * *

9 "Eligible city, borough, incorporated town [and township],
10 township and home rule municipality." All cities, boroughs,
11 incorporated towns [and townships], townships and home rule
12 municipalities which are eligible to receive [and which apply
13 directly or through a county or a designated local public agency
14 for] funds which are available to the Commonwealth pursuant to
15 the Housing and Community Development Act and which are not
16 eligible as either an urban county or a metropolitan city and
17 which [were] are not considered [in Federal fiscal year 1984] as
18 part of an urban county's federally funded community development
19 block grant program[. In addition, a borough, incorporated town
20 and township to be eligible must have a population according to
21 the latest Decennial Census of 4,000 or more and at the time of
22 filing for the annual entitlement grant must also meet the
23 current minimum standards of physical and economic distress for
24 the Federal Urban Development Action Grant Program as determined
25 by the Secretary of Housing and Urban Development pursuant to
26 section 119 of the Housing and Community Development Act.] at
27 the time of filing an application for funds under this act. All
28 eligible [entitlement municipalities] entities must also meet
29 the general qualifications criteria of [this] section 13.1.

30 * * *

1 "Eligible entitlement entity." [Any eligible county or any
2 eligible city, borough, incorporated town and township.] All
3 eligible counties and all eligible cities, boroughs,
4 incorporated towns, townships or home rule municipalities having
5 a population according to the latest decennial census of 4,000
6 or more, which, when filing for the annual entitlement
7 allocation, meet the current minimum standards of physical and
8 economic distress under the Federal Urban Development Action
9 Grant Program as determined by the Secretary of Housing and
10 Urban Development pursuant to section 119 of the Housing and
11 Community Development Act of 1974 (Public Law 93-383, 42 U.S.C.
12 § 5318) or to regulations established by the department; and
13 which were not part of an urban county's federally funded
14 community development block grant program in Federal fiscal year
15 1984.

16 ["General qualifications criteria."

17 (1) An eligible entitlement entity must have the legal
18 capacity to undertake assisted housing programs and community
19 development activities. The designation of a housing or
20 redevelopment authority to undertake assisted housing
21 programs in the entitlement entity's jurisdiction shall be
22 considered prima facie evidence of capacity to undertake
23 assisted housing programs. Every eligible entitlement entity
24 shall adopt a three-year community development plan, which
25 shall be reviewed and approved by the department, and
26 identify the activities to be undertaken and the projected
27 use of funds for the year for which funding is applied. The
28 entitlement entity shall also certify that it has the legal
29 capacity to carry out the community development program
30 either directly, or through the designation of a local public

1 agency.

2 (2) However, in the case of an eligible borough,
3 incorporated town or township which is under 10,000 in
4 population, it shall be deemed to have met the general
5 qualifications criteria, if the county in which it is located
6 and which receives the annual grant on behalf of the eligible
7 entitlement entity meets the criteria. Further, any borough,
8 incorporated town or township with a population of 10,000 or
9 more and which by resolution designates the eligible county
10 to receive its grant on its behalf shall also be deemed to
11 have met the general qualifications criteria if said county
12 meets the criteria.

13 (3) The department shall review and approve the three-
14 year community development plan and the projected use of
15 funds, in whole or in part, within 45 days of receipt. An
16 activity or use of funds may be disapproved if ineligible or
17 if the department deems the scope of the project to be
18 inadequate to meet the municipality's community development
19 needs. To the extent an activity or use of funds is deemed
20 ineligible or inadequate, the community shall be eligible to
21 submit an amended proposal for review and approval within 45
22 days of receipt.]

23 * * *

24 "Local public agency." A redevelopment authority under the
25 act of May 24, 1945 (P.L.991, No.385), known as the Urban
26 Redevelopment Law, or a housing authority under the act of May
27 28, 1937 (P.L.955, No.265), known as the Housing Authorities
28 Law, or any other duly constituted public body legally capable
29 of undertaking activities authorized by the Housing and
30 Community Development Act of 1974 (Public Law 93-383, 42 U.S.C.

1 § 5301 et seq.) within the jurisdiction of the eligible county,
2 city, borough, incorporated town, township or home rule
3 municipality.

4 * * *

5 Section 3. Sections 4, 5, 6, 7, 8 and 13 of the act are
6 amended to read:

7 Section 4. Allocation of funds for [1985] 1993 and thereafter.

8 The funds which the Commonwealth receives pursuant to the
9 Housing and Community Development Act shall be allocated by the
10 department in accordance with the following formula:

11 (1) An amount of 2% of the funds shall be used by the
12 department for administrative costs.

13 (2) An additional amount of 13% of the funds may be used
14 by the department for [discretionary] competitive projects in
15 eligible cities, boroughs, towns [and townships], townships
16 and home rule municipalities which are not eligible
17 entitlement entities, or for [urgent need projects, planning
18 projects, economic development projects and other projects]
19 activities that are eligible and fundable under the Housing
20 and Community Development Act[; or in eligible entitlement
21 entities with a population less than 10,000, for urgent need
22 projects or to complete planning projects, economic
23 development projects and other projects eligible under the
24 Housing and Community Development Act undertaken by the
25 eligible entitlement entity with its entitlement].

26 (3) The balance of the funds which remain after
27 subtracting the administrative costs of the department and
28 the amount reserved by the department for [discretionary]
29 competitive projects shall be allocated as follows:

30 (i) Thirty-eight percent to eligible entitlement

counties.

(ii) [Thirty-eight] Sixty-two percent to eligible entitlement cities, boroughs, incorporated towns [and townships], townships and home rule municipalities.

[(iii) Twenty-four percent to eligible cities.

(iv)] The amount of funds allocated to an eligible entitlement [entity] city, borough, incorporated town, township or home rule municipality and which are not awarded to [the entitlement] the entity whether due to failure to timely apply for the funds or due to a failure to meet the general qualifications criteria shall, for that funding year, be added to the funds available to the [class of which the entity is a part and allocated to other members of the class in accordance with the provisions for additional grants pursuant to section 6 or 7 unless provisions of section 7(c) are operative] department for competitive projects in eligible cities, boroughs, incorporated towns, townships and home rule municipalities which are not eligible entitlement entities.

Section 5. Minimum grants for [1985] 1993 and thereafter.

(a) Amounts.--Each eligible entitlement entity shall receive a minimum annual grant of \$200,000 if a county[; \$300,000 if a city;] and \$50,000 if a city, borough, incorporated town [or township], township or home rule municipality.

(b) Division of insufficient funds.--In any year in which the amount of Federal funds which are available to the Commonwealth pursuant to the Housing and Community Development Act are insufficient to provide in full all of the minimum grants provided for by subsection (a), each eligible entitlement

1 entity shall receive an annual grant which shall be equal to the
2 sum which is obtained by multiplying the [minimum grant it is
3 authorized pursuant to subsection (a) times a fraction, the
4 numerator of which shall be the] amount of Federal money
5 available to the class of which it is a part [and the
6 denominator of which shall be the total amount of funds which
7 would be necessary to provide each eligible entitlement entity
8 of the class of which it is a part with a grant in an amount in
9 accordance with subsection (a)] by a fraction, the numerator of
10 which shall be each eligible entitlement entity's population and
11 the denominator of which shall be the total population of all
12 eligible entitlement entities of the class of which it is a
13 part.

14 Section 6. Additional grants for counties for [1985] 1993 and
15 thereafter.

16 (a) Basic grant.--Each eligible county shall receive an
17 annual grant, in addition to the minimum annual grant provided
18 under section 5, which shall be equal to the sum which is
19 obtained by multiplying the balance of funds available to
20 eligible counties by a fraction, the numerator of which shall be
21 each eligible county's net population and the denominator of
22 which shall be the total net population for all eligible
23 counties.

24 (b) Inclusions.--To the total annual grant to the county
25 determined by section 5 and subsection (a) shall be added the
26 annual grants of each eligible entitlement city, borough,
27 incorporated town [and township], township and home rule
28 municipality located in the eligible county [whose population is
29 less than 10,000. There shall also be added to the annual grants
30 of the county, the annual grants of each borough, incorporated

1 town and township with a population of 10,000 or more], provided
2 such eligible entitlement entity specifically designates, by
3 resolution, the county to administer the grant on its behalf.
4 These add-on grants pursuant to this subsection must be expended
5 by the county on behalf of the eligible entitlement city,
6 borough, incorporated town [or township], township or home rule
7 municipality for eligible and fundable activities designated by
8 resolution of said eligible [entity] entitlement city, borough,
9 incorporated town, township or home rule municipality. The
10 county shall, however, have the right to subtract from such add-
11 on grant the proportionate share of environmental compliance,
12 administration, monitoring and audit costs incurred by the
13 county up to the amount allowed under Federal law.

14 Section 7. Additional grants for cities, boroughs, incorporated
15 towns [and townships for 1985], townships and
16 home rule municipalities for 1993 and thereafter.

17 (a) Amount.--Each eligible entitlement city, borough,
18 incorporated town [and township], township and home rule
19 municipality shall receive an annual grant, in addition to the
20 minimum annual grant provided by section 5, which shall be equal
21 to the sum which is obtained by multiplying the balance of funds
22 available to eligible entitlement cities, [in the case of cities
23 and the balance of funds available to eligible] boroughs,
24 incorporated towns [and townships in the case of such eligible
25 entities], townships and home rule municipalities by a fraction,
26 the numerator of which shall be each eligible entitlement
27 city's, borough's, incorporated town's [and township's],
28 township's and home rule municipality's population and the
29 denominator of which shall be the total population [in the case
30 of a city, for all eligible cities; and in the case of a

1 borough, incorporated town or township, the net population] of
2 all eligible entitlement cities, boroughs, incorporated towns
3 [and townships], townships and home rule municipalities.

4 (b) [Discretionary] Competitive projects.--[A
5 nonentitlement] An eligible city, borough, incorporated town [or
6 township], township or home rule municipality which is not
7 entitled to receive an allocation under this act may apply to
8 the department annually for funds reserved by the department
9 under section 4 for [discretionary] competitive projects. Each
10 such eligible municipality may authorize an eligible entitlement
11 entity or its designated local public agency to [contract with]
12 apply to the department for such funds and administer the
13 project on its behalf.

14 (c) Unused grants.--

15 [(1) If an eligible county fails to apply for an annual
16 grant of any eligible entitlement borough, incorporated town
17 or township within said county, subject to section 6(b), the
18 eligible entitlement entity may apply for its own grant.

19 (2)] If an eligible county fails to apply for its annual
20 grant determined by sections 5 and 6(a), the department shall
21 distribute the county grant to one or more cities, boroughs
22 [or townships] , townships or home rule municipalities within
23 such county which are not entitlement entities pursuant to
24 this act and are not considered a metropolitan city.

25 Section 8. Use of funds for [1985] 1993 and thereafter.

26 (a) [Eligible activities.--The funds which are allocated to
27 eligible entitlement entities by the department in accordance
28 with this act shall be used only for eligible activities which
29 are permitted in accordance with the Housing and Community
30 Development Act.

1 (b) Use.--Use by county.--Those funds which are allocated
2 to counties pursuant to sections 5 and 6(a) must be used by the
3 county to benefit eligible cities, boroughs and townships, which
4 [are not entitlement entities pursuant to this act nor
5 considered a metropolitan city] do not receive an entitlement
6 allocation under this act.

7 [(c) Countywide projects.--If a countywide or an areawide
8 project benefits an eligible entitlement entity or metropolitan
9 city, the proportional cost of the project benefiting the
10 eligible entitlement entity or metropolitan city shall be met by
11 funds not allocated to the county under sections 5 and 6.

12 (d) Authority.--

13 (1)] (b) Use by others.--Funds allocated to an eligible
14 entitlement borough, incorporated town [or township],
15 township or home rule municipality, and which are added on to
16 the county's annual grant pursuant to section 6(b), shall be
17 spent, less the county's proportionate share of
18 environmental, administrative, monitoring and audit costs,
19 solely for eligible projects specifically designated by
20 resolution by the eligible borough, incorporated town [or
21 township], township or home rule municipality.

22 [(2) Further, if an eligible borough, incorporated town
23 or township wishes to undertake an eligible project at a cost
24 which exceeds the amount of the annual allocation grant, or
25 if the department determines that the scope of the proposed
26 project exceeds the amount of the annual allocation grant,
27 the eligible borough, incorporated town or township may
28 temporarily waive, in whole or in part, its annual allocation
29 in order to aggregate a larger amount by combining the amount
30 of the temporarily waived grant with a grant anticipated for

1 receipt in the second and/or third year of any three-year
2 cycle. Temporary waiver of an annual allocation grant shall
3 be accomplished by resolution by the eligible borough,
4 incorporated town or township.

5 (3) In the event of a temporary waiver the amount of the
6 waived grant shall be considered a county grant for said year
7 or years and expended by the county in accordance with
8 subsections (b) and (c).

9 (4) The county in the subsequent year or years shall
10 first use the funds allocated to it for nonentitlement
11 entities to reimburse the temporarily waived grant or grants
12 of the eligible borough, incorporated town or township to be
13 used for the purposes designated by said eligible entity.

14 (5) If the total amount of the temporarily waived grants
15 in any year is adequate to fund any of the anticipated
16 projects, then the county shall immediately fund those
17 projects for which sufficient funding is available. Any
18 eligible borough, incorporated town or township which
19 receives a grant pursuant to this paragraph shall forego
20 future funding, in whole or in part, until the amount of the
21 advanced grant, in excess of the community's entitlement, is
22 returned to the county.]

23 Section 13. Use of local public agencies.

24 Any [entitlement entity, which is eligible to receive an
25 annual grant directly and which has not designated a county to
26 apply for a grant on its behalf, and those municipalities under
27 sections 10, 11 and 12,] eligible county, city, borough,
28 incorporated town, township or home rule municipality may
29 designate any local public agency to apply for and administer
30 any program or project on its behalf [and may authorize the

1 agency to apply to the department and contract with the
2 department for its annual entitlement. Further, in the case of
3 an eligible entitlement borough or township which is located in
4 an urban county, it may apply and administer its grant in its
5 own name or it may designate a county local public agency].

6 Section 4. The act is amended by adding a section to read:

7 Section 13.1. General qualifications criteria.

8 (a) Application requirements.--An eligible county, city,
9 borough, incorporated town, township or home rule municipality
10 which applies for funds under this act must submit an
11 application which identifies the activities to be undertaken and
12 the projected cost of those activities, and includes a
13 certification that it has the legal capacity to carry out the
14 proposed activities either directly, or through the designation
15 of a local public agency.

16 (b) Three-year plan.--The application shall also include a
17 three-year community development plan and other documentation as
18 may be required by the department to satisfy Federal
19 requirements.

20 (c) Application reviewed by department.--The department
21 shall review all such applications within 45 days of receipt.

22 (d) Disapproval grounds.--

23 (1) In the case of an application submitted by an
24 eligible entitlement entity, the department shall disapprove
25 an application if the amount of the entity's unexpended
26 contracted funds under this act exceed two times the fiscal
27 year grant for which the entity is applying.

28 (2) In the case of an application submitted by an
29 eligible entitlement entity, an activity shall be disapproved
30 by the department if the department determines that the

1 activity is not eligible or fundable under the Housing and
2 Community Development Act or, if the activity is not designed
3 to meet the community development needs of the entitlement
4 entity, as expressed in the entity's three-year community
5 development plan. If the department determines that an
6 activity is not eligible or fundable or is not designed to
7 meet the community development needs of the entitlement
8 entity, the entitlement entity may submit an amended
9 application to the department within 45 days of the entity's
10 receipt of the department's determination. The amended
11 application shall propose activities which are eligible and
12 fundable and are designed to meet the community development
13 needs of the entitlement entity, and the department shall
14 review and approve the amended application within 45 days of
15 receipt.

16 (3) In the case of an application submitted by an
17 eligible entitlement county, an activity shall be disapproved
18 by the department if the department determines that the
19 activity does not directly benefit those eligible cities,
20 boroughs, incorporated towns, townships and home rule
21 municipalities which are not eligible entitlement entities.
22 In addition, if the county proposes to undertake an activity
23 which benefits a municipality which is a metropolitan city,
24 or a city, borough, incorporated town, township or home rule
25 municipality included in an urban county's federally funded
26 community development block grant program, or an eligible
27 entitlement city, borough, incorporated town, township or
28 home rule municipality under this act, the proportional cost
29 of the activity benefiting such municipality shall be met by
30 funds not allocated to the county under this act.

1 Section 5. Section 14 of the act is amended to read:

2 Section 14. Regulations.

3 (a) Authority.--The department shall [adopt regulations to
4 carry out the provisions of this act and to provide for projects
5 whose scope is adequate to meet the community development needs
6 of the municipalities covered by this act. Such regulations,
7 unless specifically required by Federal or State law, shall not
8 be more] administer this act in a manner that is not more
9 restrictive or more burdensome than the Federal regulations
10 [which are applicable to urban counties and metropolitan cities
11 which receive funding directly from the Federal Government under
12 the Housing and Community Development Act. The department shall
13 make prompt review of applications for funds and amendments
14 thereto and rely on local certifications unless independent
15 evidence is available which tends to challenge in a substantial
16 manner the certifications] governing the State Community
17 Development Block Grant Program. If these Federal regulations
18 become outdated, the department may use the Federal regulations
19 governing the Entitlement Community Development Block Grant
20 Program as a "safe harbor," supplemented by applicable Federal
21 policy memoranda.

22 (b) Time.--

23 (1) The department shall, within 45 days of the
24 effective date of this act, submit for review pursuant to
25 section 5(e) of the act of June 25, 1982 (P.L.633, No.181),
26 known as the Regulatory Review Act, regulations for the
27 allocation of funds to eligible entities under sections 10,
28 11 and 12 of this act, with notice of proposed rulemaking
29 omitted pursuant to section 204 of the act of July 31, 1968
30 (P.L.769, No.240), referred to as the Commonwealth Documents

1 Law.

2 (2) The department shall, within 90 days of the
3 effective date of this act, submit for review pursuant to
4 section 5(a) of the Regulatory Review Act, notice of proposed
5 rulemaking for regulations to govern the allocation of funds
6 to eligible entities for Federal fiscal year [1985] 1993 and
7 thereafter. If, for any reason the department fails to issue
8 such regulations within the 30 days, an eligible entitlement
9 entity shall follow the presubmission and submission
10 requirements of the Federal regulations contained in Subpart
11 D - Entitlement Grants of Title 24 Part 570, Community
12 Development Block Grants. However, where "HUD" is contained
13 in said regulations, the department shall be substituted in
14 its place; and the requirements of 24 CFR § 570.306 for
15 Housing Assistance Plan shall not be applicable.

16 Section 6. The act is amended by adding a section to read:

17 Section 14.1. Community Development Block Grant Advisory
18 Committee.

19 (a) Establishment.--A Community Development Block Grant
20 Advisory Committee is hereby created and shall have the
21 responsibility of advising the department on matters related to
22 the administration of funds under this act. The committee may
23 establish bylaws governing its activities.

24 (b) Members.--The committee shall consist of two
25 representatives appointed by each of the following associations:

26 (1) The Pennsylvania Association of Housing and
27 Redevelopment Authorities.

28 (2) The Pennsylvania League of Cities.

29 (3) The Pennsylvania State Association of Boroughs.

30 (4) The Pennsylvania State Association of County

1 Commissioners.

2 (5) The Pennsylvania State Association of Township
3 Commissioners.

4 (6) The Pennsylvania State Association of Township
5 Supervisors.

6 Members of the committee shall serve at the pleasure of their
7 respective associations.

8 Section 7. This act shall take effect January 1, 1993.