

AMENDMENTS TO HOUSE BILL NO. 1438

Sponsor: REPRESENTATIVE GALLOWAY

Printer's No. 1553

1 Amend Bill, page 1, lines 1 through 3, by striking out all of
2 said lines and inserting

3 Amending the act of April 9, 1929 (P.L.343, No.176), entitled
4 "An act relating to the finances of the State government;
5 providing for cancer control, prevention and research, for
6 ambulatory surgical center data collection, for the Joint
7 Underwriting Association, for entertainment business
8 financial management firms, for private dam financial
9 assurance and for reinstatement of item vetoes; providing for
10 the settlement, assessment, collection, and lien of taxes,
11 bonus, and all other accounts due the Commonwealth, the
12 collection and recovery of fees and other money or property
13 due or belonging to the Commonwealth, or any agency thereof,
14 including escheated property and the proceeds of its sale,
15 the custody and disbursement or other disposition of funds
16 and securities belonging to or in the possession of the
17 Commonwealth, and the settlement of claims against the
18 Commonwealth, the resettlement of accounts and appeals to the
19 courts, refunds of moneys erroneously paid to the
20 Commonwealth, auditing the accounts of the Commonwealth and
21 all agencies thereof, of all public officers collecting
22 moneys payable to the Commonwealth, or any agency thereof,
23 and all receipts of appropriations from the Commonwealth,
24 authorizing the Commonwealth to issue tax anticipation notes
25 to defray current expenses, implementing the provisions of
26 section 7(a) of Article VIII of the Constitution of
27 Pennsylvania authorizing and restricting the incurring of
28 certain debt and imposing penalties; affecting every
29 department, board, commission, and officer of the State
30 government, every political subdivision of the State, and
31 certain officers of such subdivisions, every person,
32 association, and corporation required to pay, assess, or
33 collect taxes, or to make returns or reports under the laws
34 imposing taxes for State purposes, or to pay license fees or
35 other moneys to the Commonwealth, or any agency thereof,
36 every State depository and every debtor or creditor of the
37 Commonwealth," in emergency COVID-19 response, providing for
38 COVID-19 Community Fitness-Related Business Grant Program.

1 Amend Bill, page 1, lines 6 through 18; pages 2 through 4,
2 lines 1 through 30; page 5, lines 1 through 21; by striking out
3 all of said lines on said pages and inserting

4 Section 1. The act of April 9, 1929 (P.L.343, No.176), known
5 as The Fiscal Code, is amended by adding a section to read:

6 Section 135-C. COVID-19 Community Fitness-Related Business
7 Grant Program.

8 (a) County block grants.--From money appropriated by the
9 General Assembly for the distribution of grants under this
10 section, each county shall receive an amount equal to the
11 population proportion amount as determined under paragraph (2).
12 The following shall apply:

13 (1) The department shall distribute funding to counties
14 in accordance with this subsection no later than 21 days
15 after the starting date.

16 (2) For the purpose of this subsection, the population
17 proportion amount shall be determined as follows:

18 (i) divide the population estimate of the county by
19 the sum of the population estimates of all counties; and

20 (ii) multiply the quotient under subparagraph (i) by
21 the total amount appropriated by the General Assembly for
22 the distribution of grants under this section.

23 (3) For the purpose of this subsection, a county's
24 population shall be equal to the published estimate by the
25 United States Census Bureau's population estimates program
26 for calendar year 2019.

27 (b) COVID-19 Community Fitness-Related Business Grant
28 Program.--The County Block Grant COVID-19 Community Fitness-
29 Related Business Grant Program is established in the department
30 for the purpose of awarding grants under this section. The
31 following shall apply to the program:

32 (1) No later than 22 days after the starting date, each
33 county that receives a grant under this section shall
34 contract at least one CEDO or CDFI designated to serve that
35 county to award grants under this section.

36 (2) Subject to the prohibition under subparagraph (ii),
37 grants under this section may be awarded to eligible
38 applicants for the purpose of alleviating revenue losses and
39 paying eligible operating expenses. The following shall apply
40 to grants awarded under this section:

41 (i) A grant awarded to an eligible applicant may not
42 exceed \$20,000.

43 (ii) A grant may not be awarded to pay for the same
44 eligible operating expenses for which an eligible
45 applicant receives or received payment, reimbursement or
46 loan forgiveness from the following sources:

47 (A) Money that is not required to be repaid to
48 the Federal Government under the CARES Act or

1 Consolidated Appropriations Act, 2021.

2 (B) The act of May 29, 2020 (P.L. , No. 2A),
3 known as the COVID-19 Emergency Supplement to the
4 General Appropriation Act of 2019.

5 (3) The receipt of a loan or grant issued under the
6 authority of the Federal Government or the Commonwealth shall
7 not disqualify an applicant from eligibility for a grant
8 under this section.

9 (4) Priority in the awarding of grants under this
10 section shall be given to an eligible applicant that meets
11 any of the following:

12 (i) The eligible applicant has not received a loan
13 or grant issued under the authority of the Commonwealth
14 or the Commonwealth's political subdivisions or by the
15 Federal Government under the CARES Act or Consolidated
16 Appropriations Act, 2021.

17 (ii) The eligible applicant was subject to closure
18 by the proclamation of disaster emergency issued by the
19 Governor on March 6, 2020, published at 50 Pa.B. 1644
20 (March 21, 2020), and any renewal of the state of
21 disaster emergency.

22 (iii) The eligible applicant can demonstrate a
23 reduction in revenue that meets any of the following:

24 (A) A reduction in gross receipts of 50% or more
25 for the period beginning after March 31, 2020, and
26 ending before December 31, 2020, in comparison to the
27 period beginning after March 31, 2019, and ending
28 before December 31, 2019.

29 (B) If the eligible applicant was not in
30 operation during the entire comparison period under
31 clause (A), but was in operation on March 1, 2020, a
32 monthly average reduction in gross receipts of 50% or
33 more for the period beginning after March 31, 2020,
34 and ending before December 31, 2020, in comparison to
35 the period beginning after January 1, 2020, and
36 ending before April 1, 2020.

37 (5) The following shall apply to applications to receive
38 grants under this section:

39 (i) Applications shall be in a form determined by a
40 county with input from a CEDO or CDFI processing the
41 application on behalf of a county.

42 (ii) Applications shall contain documentation as
43 required by the county.

44 (iii) Applications shall be available
45 electronically.

46 (iv) No later than 45 days after the starting date,
47 a CEDO or CDFI shall receive and consider applications on
48 a rolling basis until funding for grants received by the
49 county under subsection (a) have been completely
50 expended, or 130 days after the starting date, whichever
51 occurs first. Upon completely expending the funds

1 available for grants, a CEDO or CDFI shall notify the
2 department.

3 (6) The following shall apply to reviewing applications
4 for grants under this section:

5 (i) No later than 160 days after the starting date,
6 a CEDO or CDFI shall approve or disapprove applications
7 for grants.

8 (ii) Upon approving an application under
9 subparagraph (i), a CEDO or CDFI shall enter into a grant
10 agreement with the eligible applicant in order to award
11 the grant.

12 (iii) The grant agreement under subparagraph (ii)
13 shall explain the terms and conditions of the grant,
14 including the applicable laws of this Commonwealth and
15 reporting requirements.

16 (iv) The grant agreement under subparagraph (ii) may
17 be electronically signed and returned to the CEDO or CDFI
18 that approved the application.

19 (7) An eligible applicant or authorized representative
20 of the eligible applicant that submits an application for a
21 grant under this section shall certify in good faith to all
22 of the following:

23 (i) The eligible applicant was in operation on March
24 1, 2020, and if required, paid income taxes to the
25 Federal Government and the Commonwealth, as reported on
26 individual or business tax returns.

27 (ii) The eligible applicant remains in operation and
28 does not intend to permanently cease operations within
29 one year of the date of application.

30 (iii) COVID-19 had an adverse economic impact on the
31 eligible applicant, which makes the grant request
32 necessary to support the ongoing operations of the
33 eligible applicant.

34 (iv) The grant will be used to pay for COVID-19-
35 related economic impacts.

36 (v) During the period beginning January 1, 2021, and
37 ending 150 days after the starting date, the eligible
38 applicant has not and will not receive another grant
39 under this section.

40 (vi) The information provided in the application and
41 all supporting documents and forms are true and accurate
42 in all material respects. An eligible applicant or an
43 authorized representative of the eligible applicant that
44 knowingly makes a false statement to obtain a grant shall
45 be subject to 18 Pa.C.S. § 4904 (relating to unsworn
46 falsification to authorities).

47 (8) The following shall apply to the awarding of grants
48 under this section:

49 (i) A CEDO or CDFI may award grants in increments of
50 \$5,000, not to exceed the limitation under paragraph (2)

51 (i).

1 (ii) A fully executed grant agreement under
2 paragraph (6)(ii) shall be required before the
3 disbursement of grant funds.

4 (iii) The aggregate amount of all grants awarded may
5 not exceed the amount of money received by the county
6 under subsection (a).

7 (9) A CEDO or CDFI may charge a fee not to exceed \$500
8 per completed and reviewed application for a grant under this
9 section. Fees charged under this paragraph shall be deducted
10 from the total amount of money distributed to the county
11 under subsection (a) and may not reduce the amount of the
12 grant awarded to an eligible applicant.

13 (10) A grant awarded under this section shall be paid to
14 an eligible applicant no later than 175 days after the
15 starting date.

16 (11) A county that provides grants under this section
17 shall compile a report, which shall include all of the
18 following:

19 (i) A list of each grant awarded.

20 (ii) The name and address of each grant recipient.

21 (iii) The amount of the grant and a description of
22 the financial impact to the grant recipient.

23 (iv) The name of the CEDO or CDFI that processed the
24 grant.

25 (12) A county shall submit the report under paragraph
26 (11) to the department no later than 200 days after the
27 starting date.

28 (13) The department shall prepare a consolidated report
29 with the information in the reports submitted under paragraph
30 (12) from all counties and submit the consolidated report to
31 the chair and minority chair of the Appropriations Committee
32 of the Senate and the chair and minority chair of the
33 Appropriations Committee of the House of Representatives no
34 later than 235 days after the starting date.

35 (14) The county shall post and maintain the report under
36 paragraph (11) on the county's publicly accessible Internet
37 website.

38 (15) The department shall post and maintain the
39 consolidated report under paragraph (14) on the department's
40 publicly accessible Internet website.

41 (16) A county awarding grants and a CEDO or CDFI
42 processing grants on behalf of a county under this section
43 shall provide documentation to the Department of the Auditor
44 General or the department, upon request, for purposes of an
45 audit review.

46 (17) The department may not impose additional
47 requirements on counties that are not specified in this
48 section.

49 (c) (Reserved).

50 (d) (Reserved).

51 (e) Definitions.--As used in this section, the following

1 words and phrases shall have the meanings given to them in this
2 subsection unless the context clearly indicates otherwise:

3 "CDFI." A community development financial institution that
4 is certified by the United States Department of the Treasury, is
5 headquartered in this Commonwealth, is part of the 17-member
6 Pennsylvania community development financial institution network
7 and primarily provides business loans to low-to-moderate income
8 individuals and business owners.

9 "CEDO." An economic development organization that has been
10 certified by the Pennsylvania industrial development authority
11 or an economic development organization that serves more than
12 one county and is accredited by the International Economic
13 Development Council.

14 "Consolidated Appropriations Act, 2021." The Consolidated
15 Appropriations Act, 2021 (Public Law 116-260, 134 Stat. 1182).

16 "Department." The Department of Community and Economic
17 Development of the Commonwealth.

18 "Economic development organization." Any local development
19 district, industrial development agency, industrial resource
20 center, redevelopment authority, community development financial
21 institution or any other nonprofit economic development
22 organization that is certified to participate in the
23 Pennsylvania industrial development authority loan program.

24 "Eligible applicant." An entity that submits an application
25 for a grant under this section and meets all of the following:

26 (1) The entity is not publicly traded.

27 (2) The entity experienced a reduction in revenue in
28 calendar year 2020, measured as follows:

29 (i) The entity had gross receipts during the first,
30 second, third or fourth quarter in calendar year 2020
31 that demonstrate at least a 25% reduction from the
32 entity's gross receipts during the same quarter in
33 calendar year 2019.

34 (ii) If the entity was not in business during the
35 first or second quarter of calendar year 2019, but was in
36 business during the third and fourth quarters of calendar
37 year 2019, the entity had gross receipts during the
38 first, second, third or fourth quarter of calendar year
39 2020 that demonstrate at least a 25% reduction from the
40 entity's gross receipts during the third or fourth
41 quarter of calendar year 2019.

42 (iii) If the entity was not in business during the
43 first, second or third quarter of calendar year 2019, but
44 was in business during the fourth quarter of calendar
45 year 2019, the entity had gross receipts during the
46 first, second, third or fourth quarter of calendar year
47 2020 that demonstrate at least a 25% reduction from the
48 fourth quarter of calendar year 2019.

49 (iv) If the entity was not in business during
50 calendar year 2019, but was in operation on March 1,
51 2020, the entity had gross receipts during the second,

1 third or fourth quarter of calendar year 2020 that
2 demonstrate at least a 25% reduction from the gross
3 receipts of the entity during the first quarter of
4 calendar year 2020.

5 (v) For the purpose of this definition, if the
6 entity was in operation in all four quarters of calendar
7 year 2019, the entity shall be deemed to have experienced
8 the revenue reduction under subparagraph (i) if the
9 entity experienced a reduction in annual receipts of at
10 least 25% in calendar year 2020 compared to calendar year
11 2019 and the entity provides copies of the entity's
12 annual Federal tax forms substantiating the revenue
13 decline.

14 (vi) For the purpose of this definition, if the
15 entity changed ownership or control in calendar year
16 2020, the entity may measure the entity's reduction in
17 revenue in calendar year 2020 under subparagraph (i),
18 (ii), (iii), (iv) or (v) using the gross receipts of the
19 entity for calendar year 2019.

20 (3) The entity meets all of the following conditions as
21 of March 1, 2020:

22 (i) The entity is a retail or personal service
23 employer within this Commonwealth.

24 (ii) The entity has no more than 10 full-time
25 employees.

26 (iii) The entity has gross annual receipts for the
27 prior fiscal year that did not exceed \$1,000,000.

28 "Eligible operating expense." An operating expense,
29 including a payroll and nonpayroll expense, that is common and
30 accepted in an eligible applicant's industry, helpful and
31 appropriate for the eligible applicant's trade or business and
32 subject to the following limitations:

33 (1) The operating expense must have been incurred
34 between March 1, 2020, and 130 days after the starting date,
35 or prior to submission of an application for a grant under
36 this section, whichever occurs first.

37 (2) For a mortgage obligation, the mortgage must have
38 been in force before March 1, 2020.

39 (3) For rent, under lease agreements, the lease
40 agreement must have been in force before March 1, 2020.

41 (4) For utility costs, service must have begun before
42 March 1, 2020.

43 (5) For the purpose of paragraphs (2) and (3), if an
44 existing mortgage obligation or lease agreement is in force
45 before March 1, 2020, and is refinanced or restructured after
46 March 1, 2020, the mortgage obligation or lease agreement is
47 deemed to have been in force before March 1, 2020.

48 "Fitness-related business." An employer in this Commonwealth
49 that satisfies all of the following criteria:

50 (1) is a gym, fitness center, cheerleader gym, dance
51 studio, gymnastic center, sports-related facility, yoga

1 studio or other business where fitness activities are
2 performed; and

3 (2) the employer's gross annual receipts for the prior
4 fiscal year did not exceed \$1,000,000.

5 "Full-time equivalent employee." The quotient obtained by
6 dividing the total number of hours for which employees were
7 compensated for employment over the preceding 12-month period by
8 2,080.

9 "Gross receipts." Revenue in whatever form received or
10 accrued, in accordance with the recipient's accounting method,
11 from whatever source, including from the sales of products or
12 services, interest, dividends, rents, royalties, fees or
13 commissions, reduced by returns and allowances. The term does
14 not include any of the following:

15 (1) Taxes collected for and remitted to a taxing
16 authority if included in gross or total income, including
17 sales or other taxes collected from customers and excluding
18 taxes levied on an entity or the entity's employees.

19 (2) Proceeds from transactions between an entity and the
20 entity's domestic or foreign affiliates.

21 (3) Amounts collected for another by a travel agent,
22 real estate agent, advertising agent or conference management
23 service provider.

24 "Program." The County Block Grant COVID-19 Community
25 Fitness-Related Business Grant Program established under
26 subsection (b).

27 "Starting date." The effective date of this section or the
28 effective date of an appropriation for distribution of grants
29 under this section, whichever is later.

30 Section 2. This act shall take effect in 30 days.