

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2953 Session of 2020

INTRODUCED BY O'MARA, GALLOWAY, KENYATTA, HILL-EVANS, KINSEY, SANCHEZ, HOWARD, MADDEN, CALTAGIRONE, DRISCOLL, HOHENSTEIN, ISAACSON, WILLIAMS, DEASY, McCLINTON, WEBSTER, SCHLOSSBERG, ZABEL, SHUSTERMAN, READSHAW, A. DAVIS, DAVIDSON, ULLMAN, KIM, DeLUCA, DONATUCCI, CIRESI, KRUEGER, DELLOSO, WARREN, GREEN AND SIMS, OCTOBER 26, 2020

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, OCTOBER 26, 2020

AN ACT

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

1 collect taxes, or to make returns or reports under the laws  
2 imposing taxes for State purposes, or to pay license fees or  
3 other moneys to the Commonwealth, or any agency thereof,  
4 every State depository and every debtor or creditor of the  
5 Commonwealth," in emergency COVID-19 response, establishing  
6 the COVID-19 Hazard Pay Grant Program.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

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

11 Section 134-C. COVID-19 Hazard Pay Grant Program.

12 (a) Use of funds.--From money appropriated for COVID Relief  
13 - Hazard Pay, \$100,000,000, in addition to any other funds made  
14 available to the Commonwealth for COVID-19 relief, shall be  
15 transferred by the State Treasurer to the department for the  
16 purpose of making grants under this section.

17 (b) Establishment of program.--The COVID-19 Hazard Pay Grant  
18 Program is established within the department to provide hazard  
19 pay to employees of a life-sustaining business or occupation.

20 (c) Eligibility.--

21 (1) The following shall be eligible to apply for grants  
22 under the program:

23 (i) A life-sustaining business.

24 (ii) The governing body of a municipality.

25 (iii) A nonprofit health care organization.

26 (iv) A public transportation agency.

27 (v) A certified economic development organization.

28 (vi) An individual whose eligible employer has not  
29 applied for a grant under the program on behalf of the  
30 employee.

31 (2) In order to be eligible to receive a grant under the  
32 program, a health care provider shall be located within this  
33 Commonwealth and operate or conduct any of the following:

- 1           (i) Health care or social assistance.
- 2           (ii) A nursing or residential care facility.
- 3           (iii) A nursing care facility.
- 4           (iv) Residential care for individuals with physical
- 5 disabilities.
- 6           (v) A mental health or substance abuse facility.
- 7           (vi) A community care facility for individuals 65
- 8 years of age or older.
- 9           (vii) A general medical or surgical hospital.
- 10          (viii) A psychiatric or substance abuse hospital.
- 11          (ix) A specialty hospital.
- 12          (x) Ambulatory health care services.
- 13          (xi) A physician's office.
- 14          (xii) A dentist's office.
- 15          (xiii) Any other office of a health practitioner.
- 16          (xiv) An outpatient care center.
- 17          (xv) A medical or diagnostic laboratory.
- 18          (xvi) Home health care services.
- 19          (xvii) A pharmacy.
- 20          (xviii) Any other health care services.

21          (3) In order to be eligible to receive a grant under the  
22 program, a food manufacturer shall be located within this  
23 Commonwealth and conduct any of the following:

- 24           (i) Animal food manufacturing.
- 25           (ii) Animal slaughtering and processing.
- 26           (iii) Dairy product manufacturing.
- 27           (iv) Fruit and vegetable preserving and specialty
- 28 food manufacturing.
- 29           (v) Bakers and tortilla manufacturing.
- 30           (vi) Any other food manufacturing.

1           (vii) Grain and oilseed milling.

2           (viii) Sugar and confectionery product  
3 manufacturing.

4           (ix) Seafood product preparation and packaging.

5           (4) In order to be eligible to receive a grant under the  
6 program, a food retailer shall be located within this  
7 Commonwealth and operate or conduct any of the following:

8           (i) A grocer or convenience store.

9           (ii) A specialty food store.

10          (iii) A facility licensed by the Department of  
11 Agriculture as a retail food facility.

12          (5) In order to be eligible to receive a grant under the  
13 program, a social assistance provider shall be located within  
14 this Commonwealth and conduct any of the following:

15          (i) Child day care services.

16          (ii) Individual or family services.

17          (iii) Community food and housing, emergency and  
18 other relief services.

19          (iv) Vocational rehabilitation services.

20          (6) In order to be eligible to receive a grant under the  
21 program, a hospitality provider shall be located within this  
22 Commonwealth and operate or conduct any of the following:

23          (i) Bed and breakfast facilities.

24          (ii) Janitorial services to buildings and dwellings.

25          (7) In order to be eligible to receive a grant under the  
26 program, a transit and ground passenger transportation  
27 provider shall be located within this Commonwealth and  
28 operate or conduct any of the following:

29          (i) An urban transit system.

30          (ii) Interurban and rural bus transportation.

1           (iii) Generalized freight trucking.

2           (iv) Specialized freight trucking.

3           (8) In order to be eligible to receive a grant under the  
4 program, an emergency services provider shall be located  
5 within this Commonwealth, provide security services for an  
6 eligible entity specified under this subsection that was not  
7 closed under the Governor's 20200319 TWW COVID-  
8 19 Business Closure Order and operate or conduct any of the  
9 following:

10           (i) Emergency services.

11           (ii) A police department.

12           (iii) A fire department.

13           (iv) Emergency medical services.

14           (9) In order to be eligible to receive a grant under the  
15 program, a veterinarian shall be located within this  
16 Commonwealth and conduct veterinary services.

17           (10) Any other industry in this Commonwealth that  
18 includes a life-sustaining business not specified under this  
19 subsection shall be eligible to receive a grant under the  
20 program.

21           (d) Application process.--

22           (1) In order to apply for a grant under the program, an  
23 employer shall submit the department's electronic single  
24 application for assistance and provide all of the following  
25 in the application:

26           (i) A project narrative, including all of the  
27 following:

28           (A) Industry category.

29           (B) A brief description of the life-sustaining  
30 services the employer provides to the public.

1                   (C) The employer's location in this  
2                   Commonwealth.

3                   (ii) Changes to the operations and hours of the  
4                   employer due to the COVID-19 disaster emergency.

5                   (iii) How the employer has adjusted operations to  
6                   meet the safety requirements of the Centers for Disease  
7                   Control and Prevention and the Department of Health  
8                   regarding COVID-19 and limited contact with the public  
9                   when possible.

10                  (iv) The number of employees not working due to  
11                  testing positive for COVID-19, caring for a family member  
12                  with COVID-19 or lack of childcare.

13                  (v) Whether the employer is currently providing  
14                  hazard pay for the employer's employees.

15                  (vi) The amount of the grant request.

16                  (vii) A brief description of how the grant funds  
17                  will be used to increase hazard pay, including the  
18                  following information:

19                    (A) The number of the employer's full-time  
20                    equivalent frontline employees eligible for hazard  
21                    pay.

22                    (B) The job types of the employer's full-time  
23                    equivalent frontline employees eligible for hazard  
24                    pay and the reason why the employees must remain  
25                    frontline during the COVID-19 disaster emergency.

26                    (C) The hourly rate of the employer's employees,  
27                    excluding fringe benefits.

28                  (2) The department shall evaluate an application for a  
29                  grant under the program using the following criteria:

30                    (i) Risk of exposure by industry.

1           (ii) The location and prevalence of COVID-19.

2           (iii) The average hourly wage paid by the employer.

3           (3) The department shall prioritize applications for  
4 grants under the program in accordance with the Worker  
5 Exposure Risk to COVID-19 released by the Occupational Safety  
6 and Health Administration and based on the following:

7           (i) Employees with a high potential for exposure to  
8 known or suspected sources of COVID-19 during specific  
9 medical, postmortem or laboratory procedures, including  
10 employees performing aerosol-generating procedures or  
11 collecting or handling specimens from potentially  
12 infectious COVID-19 individuals.

13           (ii) Employees with a high potential for exposure to  
14 known or suspected sources of COVID-19, including  
15 employees that provide health care delivery and support  
16 or medical transport to potentially infectious COVID-19  
17 individuals.

18           (iii) Employees that are in frequent close contact  
19 with individuals who may be infected with COVID-19, but  
20 who are not known or suspected individuals with COVID-19.  
21 Employees under this subparagraph shall include employees  
22 who may have been in contact with the general public,  
23 employees returning from locations with widespread COVID-  
24 19 transmission and employees who do not have the ability  
25 to socially distance at their place of employment.

26           (iv) Employees that do not require contact with  
27 individuals who may be infected with COVID-19, including  
28 employees who have minimal occupational contact with the  
29 public or other coworkers.

30           (4) The department shall only consider complete

1 applications for grants under the program. An incomplete  
2 application shall not be considered by the department and  
3 shall be withdrawn.

4 (5) The department shall designate a time for receipt of  
5 applications for grants under the program. After the approval  
6 of an application by the department, the department shall  
7 electronically issue a grant agreement to the applicant  
8 explaining the terms and conditions of the grant along with  
9 the Federal Funding Accountability and Transparency Act of  
10 2006 (Public Law 109-282, 120 Stat. 1186) form. The applicant  
11 shall electronically sign and return the grant agreement to  
12 the department within 30 days. If the applicant fails to  
13 electronically sign and return the grant agreement to the  
14 department within 30 days, the grant agreement may be  
15 withdrawn by the department. The applicant shall return the  
16 Federal form under this paragraph with the signed grant  
17 agreement to the department. If the applicant fails to return  
18 the Federal form under this paragraph, the department may not  
19 process the grant agreement. The department shall return a  
20 fully executed copy of the grant agreement to the applicant  
21 with a grant payment request form and instructions for  
22 requesting a grant payment. An applicant may submit a grant  
23 payment request with support documentation at the end of the  
24 eligible period seeking reimbursement for actual hazard pay  
25 expenditures by a date established by the department. The  
26 support documentation under this paragraph shall include a  
27 signed hazard pay report with the names of the employees, pay  
28 date, pay period covered, regular pay, hazard pay, proof of  
29 payment and a description of duties of the employees.

30 (6) The department shall submit the guidelines detailing

1 the application process for the program to the Legislative  
2 Reference Bureau for publication in the Pennsylvania Bulletin  
3 and post the guidelines on the department's publicly  
4 accessible Internet website.

5 (e) Certification.--

6 (1) An employer that receives a grant under the program  
7 shall certify compliance with all of the following  
8 requirements to the department:

9 (i) The employer pays the employer's employees at  
10 least the minimum wage under the act of January 17, 1968  
11 (P.L.11, No.5), known as The Minimum Wage Act of 1968.

12 (ii) The employer pays the employer's share of the  
13 Federal FICA tax obligations for the hazard pay.

14 (iii) The employer adheres to the Centers for  
15 Disease Control and Prevention guidelines and Department  
16 of Health regulations and guidelines for reopening under  
17 the Governor's phased reopening plan to protect frontline  
18 employees from contracting COVID-19.

19 (iv) The employer complies with all relevant laws,  
20 regulations and orders of this Commonwealth during the  
21 period of the COVID-19 disaster emergency, including, but  
22 not limited to, orders by the Governor, Secretary of  
23 Health or other public officials authorized to take  
24 actions to mitigate the COVID-19 disaster emergency.

25 (2) An employer that fails to comply with the  
26 requirements under paragraph (1) shall be ineligible for  
27 grants under the program and may be required to return all,  
28 or a portion, of the grants awarded to the employer under the  
29 program.

30 (f) Certified economic development organizations.--A

1 certified economic development organization that submits an  
2 application for grants under the program on behalf of multiple  
3 employers shall submit a separate applicant form for each  
4 employer. A certified economic development organization that  
5 submits an application for grants under the program on behalf of  
6 multiple employers may request an administrative fee, in  
7 addition to the grants awarded to the employers, not to exceed  
8 5% of the grant total. The administrative fee under this  
9 subsection shall not exceed \$125,000.

10 (g) System requirements.--In order to be eligible for a  
11 grant under the program, an employer shall have a data universal  
12 numbering system number and be registered with the Federal  
13 Government's system for award management.

14 (h) Administration of hazard pay.--

15 (1) An employer that receives a grant under the program  
16 shall use the grant money to provide hazard pay to an  
17 employee for a 10-week period as designated by the department  
18 at a rate of an additional \$3 per hour of the employee's  
19 regular pay rate.

20 (2) Hazard pay provided to an employee shall be in  
21 addition to any eligible overtime and other benefits,  
22 including employer-paid hazard pay. Hazard pay may not  
23 supplant the current compensation of an employee or supplant  
24 any scheduled increase to the current compensation of an  
25 employee.

26 (3) An employer shall provide hazard pay to an employee  
27 according to the employee's regular pay schedule. An employer  
28 may not withhold hazard pay from an employee and provide the  
29 hazard pay to the employee in a later lump sum.

30 (4) In order to determine the maximum grant request

1 under the program, an employer shall calculate the number of  
2 the employer's full-time equivalent employees during a 10-  
3 week period who are eligible to receive hazard pay.

4 (5) An employer may apply for a grant under the program  
5 to provide hazard pay for no more than 500 eligible full-time  
6 equivalent employees per location with a maximum of a  
7 \$600,000 grant per location.

8 (6) Notwithstanding any other provision of law, the  
9 receipt of a grant under the program shall not affect an  
10 employer's eligibility for a grant or the amount of a grant  
11 provided under any other laws of this Commonwealth.

12 (7) Grant funds under the program may be used for hazard  
13 pay for full-time equivalent frontline employees, excluding  
14 fringe benefits and overtime, during the 10-week period  
15 determined by the department.

16 (8) Hazard pay shall only be used for frontline  
17 employees facing the hazards of COVID-19 and who have  
18 continued working through the Governor's 20200319 TWW COVID-  
19 19 Business Closure Order for a life-sustaining business or a  
20 business that received a waiver from the Governor's 20200319  
21 TWW COVID-19 Business Closure Order by the department.

22 (i) Limitations.--

23 (1) An employer that submits an application directly to  
24 the department for a grant under the program shall not be  
25 eligible for reimbursement for the administrative costs to  
26 submit and complete the application.

27 (2) An employer may not provide hazard pay for any hours  
28 worked by an employee in excess of 40 hours in a week.

29 (3) The department may not award a grant under the  
30 program in excess of \$1,200 per eligible full-time equivalent

1 employee.

2 (4) An employer may receive more than \$3,000,000 in  
3 grant funding under the program. A certified economic  
4 development organization or health care nonprofit  
5 organization applicant representing frontline employees may  
6 not receive more than \$3,000,000 in grant funding under the  
7 program. A health care nonprofit organization that submits an  
8 application for a grant under the program on behalf of the  
9 organization's employees shall be eligible for grant money to  
10 health care employees directly employed by qualified  
11 participants in State Medicaid long-term support and services  
12 programs.

13 (j) Definitions.--As used in this section, the following  
14 words and phrases shall have the meanings given to them in this  
15 subsection unless the context clearly indicates otherwise:

16 "Certified economic development organization." A nonprofit  
17 corporation or association with the purpose of enhancing the  
18 economic conditions of the community.

19 "COVID-19." The novel coronavirus disease of 2019. An  
20 infectious disease caused by severe acute respiratory syndrome  
21 coronavirus 2 that was first identified during December 2019 in  
22 Wuhan, China.

23 "COVID-19 disaster emergency." The disaster emergency as  
24 described in the proclamation of disaster emergency issued by  
25 the Governor on March 6, 2020, published at 50 Pa.B. 1644 (March  
26 21, 2020), and any renewal of the state of disaster emergency.

27 "Department." The Department of Community and Economic  
28 Development of the Commonwealth.

29 "Employee." An employee actively engaged in a task at the  
30 direction of an employer designated as a life-sustaining

1 business during the COVID-19 disaster emergency. The term does  
2 not include an employee on leave for the entire duration of the  
3 COVID-19 emergency.

4 "Frontline employee." An employee deemed necessary by the  
5 employer to report to work during the COVID-19 disaster  
6 emergency for a life-sustaining business.

7 "Hazard pay." Additional pay for performing hazardous duties  
8 or work involving physical hardship related to COVID-19.

9 "Health care nonprofit organization." A 501(c)(3) nonprofit  
10 organization that provides health care services. The term  
11 includes a 501(c)(3) nonprofit organization that provides  
12 education, development and support for frontline employees who  
13 provide health care services.

14 "Life-sustaining business." A corporation, partnership, sole  
15 proprietorship, limited liability company, business trust or  
16 other commercial entity approved by the department and  
17 designated by the Governor to maintain operations during the  
18 COVID-19 disaster emergency, which:

19 (1) performs or conducts a range of vital operations,  
20 functions and services that are essential to assisting this  
21 Commonwealth and its political subdivisions in protecting  
22 people and their communities while ensuring continuity of  
23 functions critical and essential to public health and safety  
24 or economic and homeland security; and

25 (2) continues to be operational and appropriately  
26 modified to adhere to the Centers for Disease Control and  
27 Prevention and Department of Health workforce and customer  
28 protection guidelines during the COVID-19 disaster emergency.

29 "Public transportation agency." As follows:

30 (1) A public transit agency, including, but not limited

1 to, any airport authority, public airport, port authority or  
2 similar public entity, which:

3 (i) is established under the laws of this  
4 Commonwealth;

5 (ii) is charged with the provision of transportation  
6 services to the traveling public; and

7 (iii) owns and maintains or is authorized to own and  
8 maintain a physical plant, including rolling stock,  
9 stations, shelters, hangars, runways, maintenance and  
10 support facilities.

11 (2) The term includes a municipality that operates a  
12 mass transportation system.

13 Section 2. This act shall take effect in 60 days.