



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

HOUSE BILL NO. 842

PRINTER'S NO. 2167

PRIME SPONSOR: **Kenyatta**

### COST / (SAVINGS)

FUND	FY 2023/24	FY 2024/25
General Fund	See Fiscal Impact	See Fiscal Impact

### SUMMARY:

House Bill 842 creates freestanding legislation known as the Clawback Act to require all new state grant and loan program contracts to include language outlining stipulations that could lead to mandated repayment of funds and prevent misuse of state grants or loans.

### ANALYSIS:

This bill provides for mandatory provisions to prevent the misuse of state grants or loans. It also defines terms, "awarding agency," "commonwealth agency," "executive agency," "independent agency," "recipient," and "state grant or loan."

It outlines mandatory provisions to prevent the misuse of state grant or loan funds, including:

- The awarding agency shall notify the recipient in writing if determined:
  - The awarding agency improperly awarded the grant or loan.
  - The benefits of the grant or loan were improperly conferred.
  - The recipient failed to comply with the terms of the grant or loan resulting in fraud, abuse, waste or frustration of the intended purpose of the grant or loan.
- Upon receipt of this written notice, the recipient is to repay the grant or loan to the awarding agency no later than determined by the awarding agency.
- The repayment form shall be in a manner directed by the awarding agency.
- The repayment may include the amount of the grant or loan as well as interest, income, accumulations, and the monetary equivalent of an appreciation in value of real, personal, or mixed property as determined by the awarding agency.
- If the recipient fails to repay the grant or loan, the awarding agency may assess a civil penalty equal to the repayment required plus an additional amount specified in the state grant or loan agreement as determined by the awarding agency.
- Upon total inability to collect the civil penalty or failure of a recipient to repay all of the penalty or grant or loan, the awarding agency may refer the matter to the Office of the Attorney General, who shall institute an action to recover the funds.

This bill would take effect in 120 days after enactment and shall only apply to a state grant or loan agreement made after the effective date and shall not apply to a state grant or loan to the extent it conflicts with federal or state law.

**FISCAL IMPACT:**

The fiscal impact of House Bill 842 on Commonwealth funds is indeterminate. Due to the vast array of state grants and loans administered across multiple agencies, it's difficult to predict a fiscal impact with any accuracy. Staff workload issues may arise at agencies that administer numerous grants and/or loans, such as the Department of Community and Economic Development or the Department of Environmental Protection, while agencies that administer fewer grants and/or loans may be able to absorb any increased workload with current resources.

**PREPARED BY:** Chris Fetterman  
House Appropriations Committee (D)

**DATE:** October 13, 2023

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*