

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2931 Session of 2020

INTRODUCED BY HARKINS, HOWARD, SNYDER, GALLOWAY, SCHLOSSBERG,
 FREEMAN, ULLMAN, HILL-EVANS, McNEILL, T. DAVIS, KORTZ,
 READSHAW, PASHINSKI, HOHENSTEIN, DELLOSO, SANCHEZ, SIMS,
 DeLUCA, NEILSON, KINSEY, SAINATO, CIRESI AND DEASY,
 OCTOBER 14, 2020

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, OCTOBER 14, 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
 31 collect taxes, or to make returns or reports under the laws

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

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

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

10 Section 134-C. COVID-19 Nonprofit Hazard Pay Grant Program.

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

16 (b) Establishment of program.--The COVID-19 Nonprofit Hazard
17 Pay Grant Program is established within the department to
18 provide hazard pay to employees of a nonprofit corporation that
19 serves a charitable purpose.

20 (c) Eligibility.--

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

23 (i) A nonprofit corporation serving a charitable
24 purpose.

25 (ii) A purely public charity serving a charitable
26 purpose.

27 (iii) A nonprofit health care organization.

28 (iv) A frontline employee whose eligible employer
29 has not applied for a grant under the program on behalf
30 of the frontline employee.

31 (2) In order to be eligible to receive a grant under the
32 program, a nonprofit corporation serving a charitable purpose

1 or a purely public charity serving a charitable purpose shall
2 be located within this Commonwealth and operate or conduct
3 any of the following:

4 (i) Care or assistance organization for individuals
5 with disabilities.

6 (ii) A food bank.

7 (iii) A homeless shelter.

8 (iv) Any other nonprofit corporation providing human
9 services to benefit those impacted by COVID-19 or other
10 vital human services.

11 (3) In order to be eligible to receive a grant under the
12 program, a health care provider shall be located within this
13 Commonwealth and operate or conduct any of the following:

14 (i) Health care or social assistance.

15 (ii) A nursing or residential care facility.

16 (iii) Residential care for individuals with physical
17 disabilities.

18 (iv) A mental health or substance abuse facility.

19 (v) A mental health, psychiatric or substance abuse
20 hospital or other facility.

21 (vi) A general medical or surgical hospital.

22 (vii) A psychiatric or substance abuse hospital.

23 (viii) Ambulatory health care services.

24 (ix) A physician's office.

25 (x) A dentist's office.

26 (xi) Any other office of a health practitioner.

27 (xii) An outpatient care center.

28 (xiii) A medical or diagnostic laboratory.

29 (xiv) Home health care services.

30 (xv) A pharmacy.

1 (xvi) Any other health care services.

2 (d) Application process.--

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

7 (i) A project narrative, including all of the
8 following:

9 (A) Industry category.

10 (B) A brief description of the charitable
11 purpose the employer provides to the public.

12 (C) The employer's location in this
13 Commonwealth.

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

16 (iii) How the employer has adjusted operations to
17 meet the safety requirements of the Centers for Disease
18 Control and Prevention and the Department of Health
19 regarding COVID-19 and limited contact with the public
20 when possible.

21 (iv) The number of employees not working due to
22 testing positive for COVID-19, caring for a family member
23 with COVID-19 or lack of child care.

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

26 (vi) The amount of the grant request.

27 (vii) A brief description of how the grant funds
28 will be used to increase hazard pay, including the
29 following information:

30 (A) The number of the employer's full-time

1 equivalent frontline employees eligible for hazard
2 pay.

3 (B) The job types of the employer's full-time
4 equivalent frontline employees eligible for hazard
5 pay and the reason why the employees must remain
6 frontline employees during the COVID-19 disaster
7 emergency.

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

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

12 (i) Risk of exposure by industry.

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

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

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

19 (i) Employees with a high potential for exposure to
20 known or suspected sources of COVID-19 during specific
21 medical, postmortem or laboratory procedures, including
22 employees performing aerosol-generating procedures or
23 collecting or handling specimens from potentially
24 infectious COVID-19 individuals.

25 (ii) Employees with a high potential for exposure to
26 known or suspected sources of COVID-19, including
27 employees that provide health care delivery and support
28 or medical transport to potentially infectious COVID-19
29 individuals.

30 (iii) Employees that are in frequent close contact

1 with individuals who may be infected with COVID-19, but
2 who are not known or suspected individuals with COVID-19.
3 Employees under this subparagraph shall include employees
4 who may have been in contact with the general public,
5 employees returning from locations with widespread COVID-
6 19 transmission and employees who do not have the ability
7 to socially distance at their place of employment.

8 (iv) Employees that do not require contact with
9 individuals who may be infected with COVID-19, including
10 employees that have minimal occupational contact with the
11 public or other coworkers.

12 (4) The department shall only consider complete
13 applications for grants under the program. An incomplete
14 application shall not be considered by the department and
15 shall be withdrawn.

16 (5) The department shall designate a time for receipt of
17 applications for grants under the program.

18 (6) After the approval of an application by the
19 department, the department shall electronically issue a grant
20 agreement to the applicant explaining the terms and
21 conditions of the grant along with the Federal Funding
22 Accountability and Transparency Act of 2006 (Public Law 109-
23 282, 120 Stat. 1186) form. The applicant shall electronically
24 sign and return the grant agreement to the department within
25 30 days. If the applicant fails to electronically sign and
26 return the grant agreement to the department within 30 days,
27 the grant agreement may be withdrawn by the department. The
28 applicant shall return the Federal Funding Accountability and
29 Transparency Act of 2006 form under this paragraph with the
30 signed grant agreement to the department. If the applicant

1 fails to return the Federal Funding Accountability and
2 Transparency Act of 2006 form under this paragraph, the
3 department may not process the grant agreement. The
4 department shall return a fully executed copy of the grant
5 agreement to the applicant with a grant payment request form
6 and instructions for requesting a grant payment. An applicant
7 may submit a grant payment request with support documentation
8 at the end of the eligible period seeking reimbursement for
9 actual hazard pay expenditures by a date established by the
10 department. The support documentation under this paragraph
11 shall include a signed hazard pay report with the names of
12 the employees, pay date, pay period covered, regular pay,
13 hazard pay, proof of payment and a description of duties of
14 the employees.

15 (7) The department shall transmit the guidelines
16 detailing the application process for the program to the
17 Legislative Reference Bureau for publication in the
18 Pennsylvania Bulletin and post the guidelines on the
19 department's publicly accessible Internet website.

20 (e) Certification.--

21 (1) An employer that receives a grant under the program
22 shall certify compliance with all of the following
23 requirements to the department:

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

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

29 (iii) The employer adheres to the Centers for
30 Disease Control and Prevention guidelines and Department

1 of Health regulations and guidelines for reopening under
2 the Governor's phased reopening plan to protect frontline
3 employees from contracting COVID-19.

4 (iv) The employer complies with all relevant laws,
5 regulations and orders of this Commonwealth during the
6 period of the COVID-19 disaster emergency, including, but
7 not limited to, orders by the Governor, Secretary of
8 Health or other public officials authorized to take
9 actions to mitigate the COVID-19 disaster emergency.

10 (2) An employer that fails to comply with the
11 requirements under paragraph (1) shall be ineligible for
12 grants under the program and may be required to return all,
13 or a portion, of the grants awarded to the employer under the
14 program.

15 (f) System requirements.--In order to be eligible for a
16 grant under the program, an employer shall have a data universal
17 numbering system number and be registered with the Federal
18 Government's system for award management.

19 (g) Administration of hazard pay.--

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

25 (2) Hazard pay provided to an employee shall be in
26 addition to any eligible overtime and other benefits,
27 including employer-paid hazard pay. Hazard pay may not
28 supplant the current compensation of an employee or supplant
29 any scheduled increase to the current compensation of an
30 employee.

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

5 (4) In order to determine the maximum grant request
6 under the program, an employer shall calculate the number of
7 the employer's full-time equivalent employees during a 10-
8 week period who are eligible to receive hazard pay.

9 (5) An employer may apply for a grant under the program
10 to provide hazard pay for no more than 500 eligible full-time
11 equivalent employees per location with a maximum of a
12 \$600,000 grant per location.

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

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

21 (8) Hazard pay shall only be used for frontline
22 employees facing the hazards of COVID-19 and who have
23 continued working through the Governor's 20200319 TWW COVID-
24 19 Business Closure Order for a life-sustaining business or a
25 business that received a waiver from the Governor's 20200319
26 TWW COVID-19 Business Closure Order by the department.

27 (h) Limitations.--

28 (1) An employer that submits an application to the
29 department for a grant under the program shall not be
30 eligible for reimbursement for the administrative costs to

1 submit and complete the application.

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

4 (3) The department may not award a grant under the
5 program in excess of \$1,200 per eligible full-time equivalent
6 employee.

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

17 (i) Definitions.--As used in this section, the following
18 words and phrases shall have the meanings given to them in this
19 subsection unless the context clearly indicates otherwise:

20 "Charitable purpose." The relief of poverty, providing food
21 to those in need, the prevention and treatment of disease or
22 injury, including mental retardation and mental disorders and
23 any other purpose the accomplishment of which is recognized as
24 important and beneficial to the public by the department during
25 the COVID-19 disaster emergency.

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

30 "COVID-19 disaster emergency." The disaster emergency as

1 described in the proclamation of disaster emergency issued by
2 the Governor on March 6, 2020, published at 50 Pa.B. 1644 (March
3 21, 2020), and any renewal of the state of disaster emergency.

4 "Department." The Department of Community and Economic
5 Development of the Commonwealth.

6 "Employee." An employee actively engaged in a task at the
7 direction of an employer serving a charitable purpose during the
8 COVID-19 disaster emergency. The term does not include an
9 employee on leave for the entire duration of the COVID-19
10 emergency.

11 "Frontline employee." An employee deemed necessary by the
12 employer to report to work during the COVID-19 disaster
13 emergency for a nonprofit corporation serving a charitable
14 purpose.

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

17 "Health care nonprofit organization." A 501(c)(3) nonprofit
18 organization that provides health care services. The term
19 includes a 501(c)(3) nonprofit organization that provides
20 education, development and support for frontline employees who
21 provide health care services.

22 "Program." The COVID-19 Nonprofit Hazard Pay Grant Program.

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