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S.B. 357*
133rd General Assembly

Bill Analysis

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Version: As Reported by Senate Finance

Primary Sponsor: Sen. Dolan

Joe McDaniels, Attorney

SUMMARY

- Appropriates \$650 million of funding allocated to the state from the federal “Coronavirus Aid, Relief, and Economic Security Act” (CARES Act) to counties, municipalities, and townships to fund COVID-19 pandemic-related expenses.
- Distributes funds based on population (excluding local governments that receive direct federal funding under the CARES Act).
- Requires subdivisions to spend the funds only on pandemic-related expenses as required under the CARES Act.
- Changes procedures and defers deadlines prescribed by H.B. 481 of the 133rd General Assembly for the redistribution of unspent CARES Act funds to local subdivisions and, later, the return of unspent funds to the state.
- Declares an emergency.

DETAILED ANALYSIS

Local CARES Act revenue distribution

The bill appropriates \$650 million of the money allocated to the state under the federal “Coronavirus Aid, Relief, and Economic Security Act” (CARES Act) to counties, townships, and municipalities to fund necessary COVID-19 pandemic-related expenses. This appropriation is in addition to the \$350 million previously allocated by the state to counties, townships, and municipalities under H.B. 481 of the 133rd General Assembly and an additional \$175 million

* This analysis was prepared before the report of the Senate Finance Committee appeared in the Senate Journal. Note that the legislative history may be incomplete.

appropriation approved by the Controlling Board and allocated to those subdivisions on August 24, 2020.¹ The bill also changes procedures and defers deadlines prescribed by H.B. 481 for the redistribution of unspent CARES Act funds by counties and, later, the return of unspent funds to the state.

Federal CARES Act

Among other provisions, the CARES Act directs federal money to states and more populous local governments to fund “necessary expenditures incurred due to the public health emergency” connected with the COVID-19 pandemic, provided those expenses are incurred between March 1 and December 30, 2020, and are not accounted for in the state’s or subdivision’s current budget.²

The state received approximately \$4.53 billion in CARES Act funding.³ Under the CARES Act, local governments with a population of 500,000 or more may receive a direct payment from the federal government out of their state’s allocation. Ohio has six of these subdivisions – the City of Columbus, and Cuyahoga, Franklin, Hamilton, Montgomery, and Summit counties – that received directly \$778 million altogether, accounting for 17% of Ohio’s total allocated share.⁴ Thus, the state treasury received approximately \$3.75 billion of the state’s total allocation.

Distribution to local governments

The bill appropriates \$650 million of this state share for distribution to the counties, municipalities, and townships that did not receive direct federal CARES Act payments (which the bill refers to as “eligible subdivisions”).⁵ The money is distributed on the basis of each eligible subdivision’s population. The money is first distributed to the 88 county treasuries from the state fund that receives CARES Act revenue – the Coronavirus Relief Fund – by the Director of Budget and Management. This distribution is deposited to each county’s coronavirus relief distribution fund – created pursuant to H.B. 481.⁶ The amount received by each county is based on the proportion that the sum of the populations of each eligible subdivision located in the county plus the population of the county (if the county is an eligible subdivision) bears to the sum of the populations of all eligible subdivisions in Ohio. Only the portion of a municipality’s or

¹ See Fund/Appropriation Request No. OBM0100130, August 24, 2020, *available at* <https://www.ecb.ohio.gov/Print/PrintCBR.aspx?CBR=OBM0100130>.

² Section 5001 of the “Coronavirus Aid, Relief, and Economic Security Act,” as codified in 42 United States Code (U.S.C.) 801.

³ Grant A. Driessen, The Coronavirus Relief Fund (CARES Act, Title V): Background and State and Local Allocations, Congressional Research Service, p. 4 (August 25, 2020), *available at* <https://crsreports.congress.gov/product/pdf/R/R46298>.

⁴ CRS CARES Act Report, p. 7.

⁵ Section 1(A)(1); Section 5.

⁶ Section 27(B) of H.B. 481 of the 133rd General Assembly.

township's population that resides in a county is included in computing that county's coronavirus relief distribution fund payment. Even if a county is not an eligible subdivision, municipalities and townships in that county will still receive an allocation, as described below.⁷

Once the CARES Act revenue is paid to the county, the money is further divided between the county and its municipalities and townships, except for those that are not eligible subdivisions. The amount distributed from the county coronavirus relief distribution fund to each eligible subdivision is based on the proportion that the population of the eligible subdivision bears to the sum of the populations of all eligible subdivisions located in the county plus the population of the county if the county is an eligible subdivision. Municipalities and townships that are eligible subdivisions receive CARES Act distributions from each county in which their population resides. Therefore, only the portion of a subdivision's population that resides in a particular county is included in computing that county's distribution to the subdivision.⁸

For purposes of the computations described above, the populations of eligible subdivisions are based on the most recent estimates published by the Development Services Agency.⁹ The population of a township does not include persons who reside in its incorporated areas.¹⁰

Once a subdivision receives its share of the CARES Act revenue it must deposit the money in its local coronavirus relief fund – also created pursuant to H.B. 481.¹¹ The eligible subdivision must use the revenue solely for the purposes prescribed in the CARES Act. The Auditor of State must audit this fund during the subdivision's next regular audit to ensure the revenue was used properly.¹²

Resolution requirement

The distribution of CARES Act funds under H.B. 481 was conditioned upon the legislative authority of the recipient county, municipality, or township adopting a resolution or ordinance affirming that the revenue will only be used for the purposes prescribed in the CARES Act and certifying it to the Director of Budget and Management and the county auditor. The bill extends this stipulation to all funds distributed through a county coronavirus relief distribution fund, including the amounts appropriated by the bill and appropriations approved by the Controlling Board. Adopting one such resolution or ordinance is sufficient to meet the bill's requirement.

⁷ Section 1(B).

⁸ Section 1(C).

⁹ See, Ohio Development Services Agency, State and U.S. Population Estimates, *available at* https://development.ohio.gov/reports/reports_pop_est.htm.

¹⁰ Section 1(A)(2).

¹¹ Section 27(E) of H.B. 481 of the 133rd General Assembly.

¹² Section 1(D).

So a subdivision that adopted a resolution or ordinance under H.B. 481 is not required to do so again.

If a subdivision does not adopt a resolution or ordinance regarding its use of CARES Act funds, the subdivision's share of funding is retained in the county coronavirus relief distribution fund until either the subdivision adopts such a resolution or ordinance, or the unencumbered balance of the fund is redistributed to other subdivisions, as described below.¹³

Redistribution of unused funds

The bill modifies the rules prescribed by H.B. 481 for the return and redistribution of unspent funds and applies them to all local government CARES Act appropriations – including those made by the bill and H.B. 481 and any such appropriation approved by the Controlling Board.

Under the modified rules, subdivisions must return to the county treasury any CARES Act funding that remains unencumbered as of November 20, 2020. (H.B. 481 required unencumbered funds to be returned by October 15, 2020.) If a subdivision is located in more than one county, it must divide and pay the unencumbered funds among those counties proportionally, based on the cumulative amount of CARES Act funds the subdivision received from each county. Returned revenue must then be redistributed by the county auditor no later than November 25, 2020. (H.B. 481 required redistribution of funds by October 22, 2020.)

The funds are redistributed to the county and municipalities and townships in the county that (1) did not receive a direct federal distribution of CARES Act funds, (2) spent 100% of all previous CARES Act distributions, and (3) adopted a resolution or ordinance pertaining to the use of CARES Act funds, as described above. Generally, one-quarter of the returned revenue is paid to the county, if eligible, and the remainder is paid to the other eligible municipalities and townships based on each subdivision's population relative to the population of all such subdivisions. However, if fewer than one-quarter of municipalities and townships with a population that resides in the county qualify for a redistribution payment, the share of returned revenue paid to the county, if eligible, is increased from one-quarter to one-half.

Like the initial distribution of funds appropriated by the bill, the populations used to compute the redistribution of unspent CARES Act funds are based on the most recent estimates published by the Development Services Agency. Portions of municipal and township populations that reside outside the county are excluded from these computations, as are portions of township populations that reside in incorporated areas.¹⁴

Reporting to OBM

Whenever a county auditor distributes or redistributes the CARES Act payments under the bill to local subdivisions, the auditor must report the amount that is being paid to each

¹³ Section 1(G).

¹⁴ Sections 1(E) and 4; Divisions (A) and (F) of Section 27 of H.B. 481 of the 133rd General Assembly.

subdivision to the OBM Director. In addition, any subdivision that receives CARES Act revenue under the bill must comply with any request from the Director for information on how those funds were spent.¹⁵

Return of unused funds

The bill defers the date, set by H.B. 481, by which a subdivision must return any unspent balance of its local coronavirus relief fund to the state treasury from December 28, 2020, to February 1, 2021, but specifies that, for the period beginning December 31, 2020, and ending February 1, 2021, the subdivision's fund may be held open for accounting purposes only. As discussed above, the CARES Act requires this money to be spent only for COVID-19 pandemic related costs incurred no later than December 30, 2020. The deferral applies to local CARES Act funds appropriated by the bill and H.B. 481, as well as any similar appropriations approved by the Controlling Board.¹⁶

HISTORY

Action	Date
Introduced	08-27-20
Reported, S. Finance	---

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¹⁵ Section 1(E) and (F).

¹⁶ Section 1(E) and 4; Section 27(G) of H.B. 481 of the 133rd General Assembly.