

(Without Reference to File)

SENATE THIRD READING

SB 87 (Caballero and Min)

As Amended February 17, 2021

Majority vote. Budget Bill Appropriation Takes Effect Immediately

SUMMARY:

This trailer bill establishes the California Small Business COVID-19 Relief Grant Program within the California Office of Small Business Advocate (CalOSBA) to provide grants to qualified small businesses affected by COVID-19 in order to continue to support their operations. This bill contains changes necessary to implement the 2020 Budget Act. Specifically, this bill:

Major Provisions

- 1) *Program Administration.* Establishes the California Small Business COVID-19 Relief Grant Program within CalOSBA.
 - a) Provides that the program shall be under the direct authority of the director.
 - b) Requires the office or its fiscal agent to consult with local, regional, state, and federal public and private entities that share a similar mission to support the needs of small businesses and nonprofits in California.
 - c) Allows the office to contract with a fiscal agent, or amend an existing contract with a fiscal agent to meet specified requirements to carry out the programs at a rate of no more than 5 percent of administrative and program funds.
 - d) Requires the office to allocate grants to qualified small businesses that meet the specified requirements.
- 2) *Eligible Applicant.* Defines a "qualified small business" to mean a business or nonprofit that meets the following criteria:
 - a) An annual gross revenue of less than \$2.5 million but greater than \$1,000, in the 2019 taxable year;
 - b) Began operating prior to June 1, 2019;
 - c) Is currently active and operating, or has a clear plan to reopen when the state permits reopening of the business;
 - d) Has been impacted by COVID-19 and the related health and safety restrictions, such as business interruptions or business closures incurred as a result of the COVID-19 pandemic;
 - e) Provides organizing documents as specified; and
 - f) Is the entity, location, or franchise with the highest revenue in a group.

- 3) *Eligible Business Forms*: Defines business types to include: A sole proprietor, independent contractor, 1099 employee, C-corporation, S-corporation, cooperative, limited liability company, partnership, or limited partnership.
- 4) *Eligible Nonprofit Forms*: Defines a nonprofit to include: A registered 501(c)(3), 501(c)(6), or 501(c)(19) nonprofit entity
- 5) *Ineligible Applicant*. Specifies that ineligible small businesses include certain political and financial industries and businesses that are unlawful under federal, state, or local law, among other restrictions.
- 6) *Qualified Small Business Grants*. Requires grants to qualified small businesses to be awarded in a minimum of three rounds, which includes a closed round in the following amounts:
 - a) \$5,000 for applicants with an annual gross revenue of \$1,000 to \$100,000 in the 2019 taxable year.
 - b) \$15,000 for applicants with an annual gross revenue of greater than \$100,000 and up to \$1 million in the 2019 taxable year.
 - c) \$25,000 for applicants with an annual gross revenue of greater than \$1 million and up to \$2.5 million in the 2019 taxable year.
- 7) *Program Prioritization*. Provides that grants shall be prioritized, to the extent permissible under state and federal equal protection laws, as follows:
 - a) Geographic Distribution based on COVID-19 health and safety restrictions following California's Blueprint for a Safer Economy and county status and the Regional Stay Home Order;
 - b) Industry sectors most impacted by the pandemic, including but not limited to, those identified as in the North American Industry Classifications System codes, as specified;
 - c) Nonprofit mission services most impacted by the pandemic, including but not limited to, emergency food provisions, emergency housing stability, childcare, and workforce development;
 - d) Underserved small business groups that have faced historic barriers to access to capital and networks, and are defined as businesses majority owned and operated, on a daily basis by women, minorities or persons of color, and veterans, or businesses in rural and low-wealth communities;
 - e) Disadvantaged communities tracked by socioeconomic indicators that may include, but are not limited to, low-to-moderate income, poverty rates, unemployment, educational attainment, and other disadvantaging factors that limit access to capital and other resources.
- 8) *Outreach Mandates*. Requires the office to conduct marketing and outreach for equitable awareness and the distribution of grants that includes all of the following:

- a) Engaging multiple partners, including, but not limited to, business and nonprofit associations, chambers of commerce, economic development corporations, and other nonprofit mission-based organization, and organizations with nonprofit expertise.
 - b) Providing access to technical assistance services covering all counting in the state in multiple languages to reach non-English-speaking individuals in all counties in the state.
 - c) Building awareness throughout the state, including in underserved and underbanked communities, by collaborating with multiple community groups to distribute program information, applicant access through multiple branded partner portals, and advertising and social media through owned, paid and earned media channels.
- 9) *Outreach Prior to New Funding Rounds.* Requires for the qualified small business program, outreach in advance of open application rounds to be conducted for a minimum of three weeks prior to opening each application round. Following each round, the fiscal agent shall assess service gaps and address outreach deficiencies as necessary to improve program equity.
- 10) *Connecting Applicants to Other Resources.* Requires the fiscal agent to provide information on how to connect to additional support resources to each applicant whether or not the applicant is selected as a grant recipient.
- 11) *Special Round for Prior Applicants.* Provides that the office or its fiscal agent may conduct a closed round for existing applicants from Rounds 1 and 2 of the COVID-19 Relief Grant, in order to award up to 25 percent of any newly allocated funds while initial outreach for future open rounds is conducted.
- 12) *Cultural Institution Grants.* Provides \$50 million of the total program funds to be allocated in a single round to eligible nonprofit cultural institutions, as follows;
- a) Defines "eligible nonprofit cultural institution" to mean a registered 501(c)(3) nonprofit entity that satisfies the criteria for a qualified small business pursuant to subdivision (f) of Section 12100.82, but with no limitation on annual gross revenue, and that is in one of the following North American Industry Classification System codes as specified.
 - b) Provides that grants to eligible nonprofit cultural institutions to be prioritized on documented percentage revenue declines based on a reporting period comparing Q2 and Q3 of 2020 versus Q2 and Q3 of 2019.
 - c) Requires eligible nonprofit cultural institutions to complete a new application for the grants allocated under this subdivision, even if they already applied in Rounds 1 and 2 of the COVID-19 Relief Grant Program.
 - d) Prohibits an eligible nonprofit cultural institution from receiving a grant if the eligible nonprofit cultural institutions was awarded a qualified small business grant.
 - e) Provides that grants for eligible nonprofit cultural institutions be awarded as follows:
 - i) \$5,000 for applicants with an annual gross revenue of \$1,000 to \$100,000 in the 2019 taxable year.

- ii) \$15,000 for applicants with an annual gross revenue of greater than \$100,000 and up to \$1 million in the 2019 taxable year.
 - iii) \$25,000 for applicants with an annual gross revenue of greater than \$1 million in the 2019 taxable year
- 13) *Eligible Uses*. Requires that grant money awarded shall only be used for costs resulting from the COVID-19 pandemic and related health and safety restrictions, including the following:
- a) Employee expenses, including payroll costs, health care benefits, paid sick, medical, or family leave, and insurance premiums.
 - b) Working capital and overhead, including rent, utilities, mortgage principal, and interest payments, but excluding mortgage prepayments, and debt obligations, including principal and interest, incurred before March 1, 2020.
 - c) Costs associated with reopening business operations after being fully or partially closed due to state-mandated COVID-19 health and safety restrictions and business closures.
 - d) Costs associated with complying with COVID-19 federal, state, or local guidelines for reopening with required safety protocols, including, but not limited to, equipment, plexiglass barriers, outdoor dining, PPE supplies, testing, and employee training expenses.
 - e) Any other COVID-19-related expenses not already covered through grants, forgivable loans, or other relief through federal, state, county or city programs.
 - f) Any other COVID-19-related costs that are not human resource expenses for the state share of Medicaid, employee bonuses, severance pay, taxes, legal settlements, personal expenses, or other expenses unrelated to COVID-19 impacts, repairs from damages already covered by insurance, or reimbursement to donors for donated items or services.
- 14) *Reporting Requirements Timeline*. Requires the following information to be posted on the GO-Biz internet website and requires GO-Biz to provide an electronic copy of the information to the relevant fiscal and policy committees of the Legislature:
- a) Within seven business days of the close of each application period, the office shall post the aggregate data, as available;
 - b) Within 15 business days of the close of each application period, the office shall post the data by legislative district, as available; and
 - c) Within 45 business days, the office shall post the actual awarded information, as available.
- 15) *Reporting Requirement Content*. Authorizes applicants to self-identify race, gender, and ethnicity. Further, the bill requires the office to report the number of grant and dollar amounts awarded for each of the following categories:
- a) Race and ethnicity

- b) Women-owned
- c) Veteran-owned
- d) Located in a disadvantaged community
- e) Located in a rural area
- f) County
- g) State Senate District
- h) State Assembly District
- i) Nonprofits, including by geography
- j) Cultural institutions, including by geography.

16) *Definitions.* Includes various definitions including, but not limited to the following:

- a) "Applicant" means any California taxpayer, including, but not limited to, an individual, corporation, nonprofit organization, cooperative, or partnership, who submits an application for the program.
- b) "California Small Business COVID-19 Relief Grant Program" or "program" means the grant program established in Section 12100.83.
- c) "CalOSBA" or "office" means the Office of the Small Business Advocate within the Governor's Office of Business and Economic Development.
- d) "Director" means the Director of the Office of the Small Business Advocate.
- e) "Fiscal agent" means a California-based Community Development Financial Institution (CDFI) capable of online and mobile application development, customer support, document validation, impact analysis, grant agreements, and awards disbursement, as well as marketing, engagement, and strategic partnerships with a network of CDFIs and nonprofits for implementation.
- f) "Rounds 1 and 2 of the COVID-19 Relief Grant Program" means the first two rounds of grant allocations awarded, prior to the enactment of this article, through the COVID-19 Relief Grant that is administered by CalOSBA and that is funded by Executive Order no. E 20/21-182.

17) *Other Provisions.*

- a) Requires the fiscal agent to issue 1099s and otherwise adhere to tax reporting guidelines.
- b) Excludes from gross income specified grant allocations, for taxable years beginning on or after January 1, 2020, and before January 1, 2030, received by a taxpayer for grant programs funded by Executive Order No. 20/21-182 and the California Small Business COVID-19 Relief Grant Program.

- c) Exempts from the Administrative Procedures Act for any regulation, standard, criterion, procedure, determination, rule notice, guideline, or any other guidance established or issued by the Franchise Tax Board or Go-Biz.
- d) Makes findings and declarations related to the gift of public funds and includes a severability clause.
- e) Sunsets OSBA and GO-Biz's program authority on January 1, 2024.
- f) Takes effect immediately as a bill providing an appropriation related to the Budget Bill.

COMMENTS:

This bill is a budget trailer bill within the overall 2020-21 budget package necessary to implement actions related to grants for qualified small businesses affected by COVID-19.

According to the Author:

Arguments in Support:

The California Chamber of Commerce writes, "The California Chamber of Commerce is pleased to SUPPORT SB 87 (Caballero and Min) as amended February 17, 2021 since it will facilitate and assist with California's economic recovery. Businesses of all sizes are reeling from the catastrophic impacts of COVID-19 and California is still experiencing high rates of unemployment. SB 87, in conjunction with federal aid programs, would assist with addressing these pervasive issues and provide employers impacted by the pandemic with a financial bridge until they can fully recover."

Arguments in Opposition:

None on file.

FISCAL COMMENTS:

Appropriates \$2.075 billion from the General Fund to the Golden State Stimulus Emergency Fund.

VOTES:

SENATE FLOOR: 22-2-15

YES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Hertzberg, Laird, Leyva, McGuire, Newman, Pan, Portantino, Roth, Rubio, Umberg, Wieckowski, Wiener

NO: Nielsen, Wilk

ABS, ABST OR NV: Bates, Borgeas, Dahle, Glazer, Gonzalez, Grove, Hueso, Hurtado, Jones, Limón, Melendez, Min, Ochoa Bogh, Skinner, Stern

UPDATED:

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