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UNFINISHED BUSINESS

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Bill No: SB 87  
Author: Caballero (D) and Min (D), et al.  
Amended: 2/17/21  
Vote: 21

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SENATE FLOOR: Not relevant

ASSEMBLY FLOOR: Not available

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**SUBJECT:** California Small Business COVID-19 Relief Grant Program: income tax:  
gross income: exclusion: small business grants

**SOURCE:** Author

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**DIGEST:** This bill establishes the California Small Business COVID-19 Relief Grant Program within the California Office of Small Business Advocate (CalOSBA) to assist qualified small businesses affected by COVID-19 through the administration of grants. This bill appropriates \$2.075 billion to fund the program, including \$50 million for nonprofit cultural institutions.

*Assembly Amendments* delete the Senate version of this bill and instead add the current language.

**ANALYSIS:** Small businesses have been disproportionately affected by the COVID-19 pandemic and the related health and safety restrictions, with hundreds of thousands of businesses permanently shuttered and many more on unstable financial footing<sup>1</sup>. Compared to this time last year, small business revenue in California is down more than 30 percent, with the hardest hit sector, leisure and hospitality, down over 70 percent<sup>2</sup>.

*Existing and Proposed Federal Aid.* There are a number of related federal aid programs:

- The primary source of federal small business aid is the Paycheck Protection Program (PPP), which provides forgivable, low-interest loans to businesses with fewer than

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<sup>1</sup> [https://www.brookings.edu/wp-content/uploads/2020/09/PP\\_Hamilton\\_Final.pdf](https://www.brookings.edu/wp-content/uploads/2020/09/PP_Hamilton_Final.pdf)

<sup>2</sup> <https://tracktherecovery.org/>

500 employees. As of August 2020, 623,360 California businesses had received a total of \$69 billion in PPP loans (average loan size \$110,000)<sup>3</sup>. The program tied loan forgiveness to maintaining payroll and specified that businesses must use the majority of funds on payroll expenses within a period of a few months. The program recently reopened with additional funding. Businesses are now able to apply for a second loan and some changes were made to help smaller businesses.

- The Economic Injury Disaster Loans (EIDL) Advance program provided grants of up to \$10,000 but ran out of funding in July 2020<sup>4</sup>. The December federal aid package included another \$20 billion for a Targeted EIDL Advance program, which focuses on applicants located in low-income communities who demonstrate at least a 30 percent drop in gross receipts.
- The December federal aid package includes \$15 billion for Shuttered Venue Operators grants to live venues, independent movie theaters, and other cultural institutions with fixed-seating theaters.
- The relief package proposed by the new federal administration includes \$15 billion to support more than one million small businesses through a grant program, but it is not clear what will end up in the final package.

Despite this, many small businesses are still in need of aid. More than 40 percent of California small businesses reported needing financial assistance or additional capital in the next six months<sup>5</sup>. The focus on payroll expenses through PPP was challenging for businesses who have significant other expenses such as rent. PPP loans also only covered a few months of payroll, and we are approaching a year of COVID-related closures and restrictions.

*Existing State Aid.* Executive Order No. E 20/21-182 allocated \$500 million from the Disaster Response-Emergency Operations Account to fund the COVID-19 Relief Grant Program, in order to provide financial relief to small businesses suffering from the economic impacts of the COVID-19 pandemic. The program was administered by the CalOSBA within the Governor's Office of Business and Economic Development, also known as GO-Biz. CalOSBA used five percent of this funding to contract with a Community Development Financial Institution (CDFI) to administer the program. The second and final application round of this program recently closed, and all of the money will be distributed by April 1, 2021.

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<sup>3</sup> <https://home.treasury.gov/system/files/136/SBA-Paycheck-Protection-Program-Loan-Report-Round2.pdf>

<sup>4</sup> <https://www.sba.gov/article/2020/jul/11/sba-provided-20-billion-small-businesses-non-profits-through-economic-injury-disaster-loan-advance>

<sup>5</sup> <https://portal.census.gov/pulse/data/#data>

This bill:

- 1) Establishes, formally, and expands the California Small Business COVID-19 Relief Grant Program, based on the initial grant program described above. This program would provide grants of up to \$25,000 to qualified small businesses and nonprofits with up to \$2.5 million annual gross revenue, and to eligible nonprofit cultural institutions with no limitation on annual gross revenue.
- 2) Specifies that grants would be allocated across at least four rounds: one closed round using the existing applicants from Rounds 1 and 2 of the previous COVID-19 Relief Grant Program (described above), one round for the eligible nonprofit cultural institutions (described below), and at least two open rounds for all qualified small businesses. Grant amounts scale with annual gross revenue (based on 2019): \$5 thousand for revenue up to \$100,000, \$15,000 for revenue between \$100,000 and \$1 million, and \$25,000 for revenue over \$1 million.

#### *Eligible Businesses*

- 3) Specifies eligibility criteria for small businesses and nonprofits, including that they must:
  - have more than \$1,000 and less than \$2.5 million in annual gross revenue.
  - have been in operation by June 1, 2019.
  - have been impacted by COVID-19 and the related health and safety restrictions.
  - be open or have a plan to reopen when allowed.
  - provide specified documentation.
  - have a physical presence in California.
  - be the franchise or location with the highest revenue.

Ineligible businesses include certain political and financial industries and businesses that are unlawful under federal, state or local law, among other restrictions.

#### *Priority*

- 4) Specifies criteria for how grants would be prioritized:
  - Geographic distribution based on current statewide COVID-19 restrictions.
  - Impacted industries, including but not limited to educational services, accommodation and food services, transportation, personal services, and arts, entertainment and recreation, specified by their North American Industry Classification System (NAICS) codes.
  - Impacted nonprofit mission services, including but not limited to emergency food provisions, emergency housing stability, childcare, and workforce development.

- Underserved business groups such as businesses owned by women, minorities or veterans or businesses located in rural and low-wealth communities.
- Disadvantaged communities as indicated by socioeconomic factors such as unemployment rates, among others.

### *Eligible Uses*

- 5) Provides that grant funds must be used for costs resulting from the COVID-19 pandemic, such as employee expenses, working capital and overhead including rent, and costs associated with health and safety restrictions such as purchasing PPE. Funds cannot be used to cover costs already covered by other relief or grant programs.

### *Cultural Institutions*

- 6) Sets aside \$50 million for eligible nonprofit cultural institutions. These are defined as registered 501(c)(3) entities in specific industries that meet the criteria for an eligible business as outlined above, except with no limitation on annual gross revenue. This bill specifies eligible industries based on NAICS codes, including performing arts companies, museums, and zoos, among others. For this set aside, grants would be prioritized based on the percentage decline in revenue between Q2 and Q3 of 2019 and Q2 and Q3 of 2020. Small nonprofit cultural institutions (with annual gross revenue less than \$2.5 million) would be eligible to apply for both this set aside and the main program. However, they could only receive one grant and would have to apply to both programs separately.

### *Program Administration*

- 7) Allows CalOSBA to contract with a fiscal agent to carry out the program at a rate of up to five percent of the program funds, consistent with the previous grant program. In order to achieve equitable awareness and distribution of grants, this bill requires CalOSBA and/or the fiscal agent to work with partners across the state to conduct marketing and outreach for a minimum of three weeks prior to each application round, and to provide technical assistance in multiple languages. CalOSBA must also post preliminary information online within seven business days and final information online within 45 business days of the close of each application period, including breakdowns by race and ethnicity, women- and veteran-ownership, and geography.

### *Tax Exemption*

- 8) Excludes grants distributed through either the previous grant program or this grant program from gross income for state taxes for tax years 2020-2029. It provides

regulatory authority to the Franchise Tax Board to implement this exclusion, exempt from the Administrative Procedure Act. This bill also authorizes the board to audit and/or recapture grants.

### *Definitions*

9) Includes various definitions including, but not limited to, the following:

- “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.
- “California Small Business COVID-19 Relief Grant Program” or “program” means the grant program established in Section 12100.83.
- “CalOSBA” or “office” means the Office of the Small Business Advocate within the Governor’s Office of Business and Economic Development.
- “Director” means the Director of the OSBA.
- “Fiscal agent” means a California-based 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.

### **Comments**

*Anticipated demand.* CalOSBA received over 300,000 applications requesting a total of over \$4 billion in the first round of the COVID-19 Relief Grant Program alone. Thus, even an appropriation of \$2.075 billion will not meet the full scale of the problem.

*Businesses need additional and continued support.* These grants will help some businesses in the short-term. However, even businesses that receive these grants, or receive aid through other programs, will need sustained support to continue operating. The grants proposed here are small compared to the magnitude of the revenue losses suffered in the past year, particularly for the larger businesses and the large nonprofit cultural institutions. In addition, large businesses across many sectors were excluded from this program but may also need financial assistance. The Legislature should consider additional ways to support California’s businesses, especially as we face continued health and safety restrictions and shifting economic conditions moving forward.

*Continued coordination with federal assistance.* The Legislature should continue to consider how state funds can best complement evolving federal aid programs, and how to target businesses that may be left out.

*Large administrative costs and limited transparency and oversight.* CalOSBA contracted with a fiscal agent to run the initial grant program. This enabled grant funding to get out impressively fast in what seems to be an equitable way with low fraud and waste, which would be difficult for the state to replicate on its own. This arrangement comes with administrative costs that, although a reasonable percentage of the total funds, are sizable, especially as the program scales. In addition, the fiscal agent has considerable freedom to rank and select grantees within the overall guidance of the program, which has led to some confusion about the selection criteria. However, this bill more clearly specifies the selection criteria and includes additional reporting requirements after each round of grants to ensure target businesses are being served.

**FISCAL EFFECT:** Appropriation: Yes Fiscal Com.: Yes Local: No

According to the Senate Budget and Fiscal Review Committee, this bill appropriates \$2.075 billion from the General Fund to the Golden State Stimulus Fund to GO-Biz in order to administer the California Small Business COVID-19 Relief Grant Program. \$50 million of that amount is set aside for nonprofit cultural institutions. Up to five percent of these funds may be used for administrative fees.

**SUPPORT:** (Verified 2/18/21)

None received

**OPPOSITION:** (Verified 2/18/21)

None received

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2/22/21 14:41:12

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