



COUNTY ADVISORY BULLETIN

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CORONAVIRUS RELIEF FUNDS AND STATE CAPITAL REAPPROPRIATIONS

APPLICABLE LEGISLATION: Am. Sub. HB 481 (133rd General Assembly)

Authorizes the conveyance of state-owned real property. Provides for the distribution of some federal Coronavirus Relief Funds to political subdivisions. Revises the formula used to determine Medicaid rates for nursing facilities. Excludes loan amounts forgiven under the federal CARES Act from the commercial activity tax. Allows a county, township, or municipal corporation appointing authority to establish a mandatory furlough cost savings program in response to COVID-19. Allows certain state employees' salaries and pay supplements to be frozen during state fiscal year 2021. Makes capital reappropriations for the biennium ending June 30, 2022, and makes other appropriations. Declares an emergency.

LEAD SPONSOR: Representative Mark Fraizer

HOUSE COSPONSORS: Representatives Hambley, Clites, Crossman, Ginter, Lanese, Stephens.

SENATE COSPONSORS: Senators Antonio, Blessing, Brenner, Burke, Craig, Dolan, Eklund, Gavarone, Hackett, Hottinger, Huffman, S., Kunze, Lehner, Manning, O'Brien, Schaffer, Sykes, Thomas.

EFFECTIVE DATE: June 19, 2020 (emergency clause). There are no line item vetoes.

BULLETIN SUMMARY

This bulletin summarizes provisions related to the distribution of federal resources from the Coronavirus Relief Fund (CRF) to counties and other local governments that were enacted by Ohio House Bill 481. The furlough authority created by the bill is discussed in a separate County Advisory Bulletin. The CRF was established by the Coronavirus, Aid, Relief, and Economic Security (CARES) Act under the supervision of the U.S. Department of the Treasury. Funds must be used only for "necessary expenditures incurred due the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19)." Federal law also requires that the

expenditures were not been accounted for in the most recent budget of the state or local government, and were incurred between March 1, 2020 and December 30, 2020.

Ohio House Bill 481, as introduced, contained only land conveyance provisions for state-owned property, but the Senate added numerous amendments during a floor session on June 10, including a distribution mechanism for \$350 million from the CRF. The CRF provisions were originally part of Senate Bill 310. The Ohio House concurred in Senate amendments on June 11, 2020, and House Bill 481 was signed by Governor DeWine on June 19.

HB 481 directs the Ohio Office of Budget and Management (OBM) to send CRF resources to county treasuries for distribution by the county auditor according to each county's local government fund formula. These distributions occurred during the week of June 22. The five counties that received direct distributions from the U.S. Treasury (Cuyahoga, Franklin, Hamilton, Montgomery, Summit) were used as conduits for CRF funds for political subdivisions within the county, but county government itself did not receive funds from HB 481.

In order to receive a CRF distribution, a political subdivision must adopt a resolution (or ordinance) pledging to use the funds in accordance with federal law. The resolution must be provided to the county auditor and OBM. The bill requires a redistribution of unencumbered funds within the county in October. Each recipient subdivision must return unspent funds to OBM by December 28, 2020, so that OBM may send them to the U.S. Treasury.

CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT BACKGROUND

The CARES Act (H.R. 748, P.L 116-136) was signed into law by President Trump on March 27, 2020. It contains numerous provisions designed to provide economic relief and financial support to help individuals, businesses, health care providers, and other entities to bolster the nation's response to COVID-19. The Act contains a \$150 billion "Coronavirus Relief Fund" that provides assistance to states, territories, tribal governments, and local governments (Section 5001 of the CARES Act, 22 U.S.C. 801). The CRF cannot be used to replace lost general revenues. Funds must be used only for "necessary expenditures incurred due the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19)." Allowable expenditures have not been accounted for in the most recent budget approved by the state or local government as of March 27, 2020, and they must be incurred between March 1, 2020 and December 30, 2020.

Formal U.S. Treasury guidance was released on April 22, 2020. In May, the department released Frequently Asked Questions (FAQs) to supplement the formal guidance. The FAQs have been periodically updated since that time, with the latest version released July 8, 2020. The Treasury Inspector General released prime recipient reporting requirements on July 2, 2020. Treasury guidance and other documentation are available at: <https://home.treasury.gov/policy-issues/cares/state-and-local-governments>

Funding is distributed to states according to a formula based on population, but smaller states are guaranteed a minimum of \$1.25 billion. The distribution from the U.S. Treasury occurred in late April. Within the allocation for each state, the CARES Act specified that 45 percent is initially reserved for local governments (counties, cities, townships) with at least 500,000 population. Political subdivisions above this threshold received a direct Treasury distribution before the remaining funds were sent to state governments. The amount of funding for these direct distribution entities was determined by their relative share of the state's population.

Ohio's entire allocation is \$4.5 billion, with \$2.5 billion for state government and \$2 billion initially reserved for local governments. In Ohio, the five largest counties (Cuyahoga, Franklin, Hamilton, Montgomery, and Summit) and the City of Columbus were eligible for direct Treasury payment. These six local governments received a combined total of \$778.5 million, leaving approximately \$1.2 billion available for payments to other political subdivisions.

The CARES Act does not provide a specific distribution mechanism for local governments with populations below the 500,000 threshold to receive resources from the Coronavirus Relief Fund. The language of the CARES Act does not require state governments to share the CRF with local governments, nor does it prohibit them from doing so. Follow-up guidance from Treasury clarified that states should share the remainder of the 45 percent local allocation with political subdivisions but permitted each state to devise its own formula. House Bill 481 provided a mechanism for the release of the initial \$350 million, leaving approximately \$850 million to be distributed at a later date. House Bill 481 and subsequent guidance issued by OBM do not apply to the six entities that received direct Treasury distributions.

CORONAVIRUS RELIEF FUNDS

(H.B. 481, Sections 27 and 28)

House Bill 481 provides that as soon as is practicable after the legislation's effective date, the Director of Budget and Management, in consultation with the Tax Commissioner, must distribute payment from the state Coronavirus Relief Fund (Fund 5CV1) to each county treasury. The funds must be deposited into a new fund in the county treasury, created by the county auditor, called the "County Coronavirus Relief Distribution Fund." The payment to each county is determined by the county's relative share of the 2019 Local Government Fund distribution, excluding the following:

- (1) any reduction for traffic camera fines (ORC section 5747.502);
- (2) amounts paid in 2019 to the six political subdivisions that received direct distributions from the US Treasury under the CARES Act;
- (3) supplemental LGF distributions paid to townships (ORC section 5747.503).

INITIAL DISTRIBUTION WITHIN THE COUNTY

(H.B. 481, Section 27 (C), (D), (E))

Within seven days of deposit in the County Coronavirus Relief Distribution Fund, the Act requires the county auditor to distribute funds to county government, municipalities, and townships, with the exception of the six entities that received direct Treasury distributions. These six subdivisions are deemed "ineligible subdivisions" under the Act. The amount of the distribution is equal to the subdivision's fractional share of the 2019 distributions from the County Undivided Local Government Fund, except that park districts and any other special districts are not eligible for a distribution. Upon making the distribution, the county auditor must report to the Director of Budget and Management the amount distributed to each subdivision. The report must be made in the manner prescribed by the Director.

To be eligible to receive a payment from the County Coronavirus Relief Fund, the legislative authority of a county, township, or municipal corporation must adopt a resolution or ordinance

affirming that the funds it receives may be expended only to cover costs of the subdivision consistent with the requirements of section 5001 of the "Coronavirus Aid, Relief, and Economic Security Act," as described in 42 U.S.C. 601(d), and any applicable regulations.¹ The county auditor may not release the funds until the legislative authority adopts this resolution or ordinance, and the subdivision's share of the money from the county coronavirus relief distribution remains in that fund. When the resolution or ordinance is adopted, the legislative authority must certify a copy of the resolution or ordinance to the county auditor and the Director of Budget and Management.

OBM guidance has clarified that a subdivision may adopt the required ordinance at any time until October 15, when a redistribution of unspent funds occurs within the county.

Each subdivision that receives a CRF distribution must create a new fund in the subdivision's treasury to be named the Local Coronavirus Relief Fund, which the subdivision's fiscal officer must create for this purpose. The county auditor creates the fund for the use of county government. Money in the fund may be used only to cover the costs of the subdivision consistent with the requirements of the Coronavirus Relief Fund in the CARES Act. Expenditures from the subdivision's Local Coronavirus Relief Fund will be audited by the Auditor of State during the subdivision's next regular audit to ensure that they been expended in accordance with the requirements of this section. It should be noted that federal law requires a single audit if any entity expends more than \$750,000 in federal funds in one year.

REDISTRIBUTION OF UNSPENT FUNDS WITHIN THE COUNTY

(H.B. 481, Section 27 (F))

Not later than October 15, 2020, the fiscal officer of each subdivision must pay the unencumbered balance of money in the subdivision's local coronavirus relief fund to the county treasurer, who must deposit this revenue in the County Coronavirus Relief Distribution Fund. On or before October 22, 2020, the county auditor must distribute all money to the credit of the County Coronavirus Relief Distribution Fund to the county government and to each municipal corporation and township in the county, unless the subdivision is subject to one of the following three conditions:

- (1) the subdivision is an ineligible subdivision that received a direct Treasury distribution;
- (2) the subdivision paid an unencumbered balance in its Local Coronavirus Relief Fund to the county treasurer; or,
- (3) the subdivision has not adopted the required resolution or ordinance.

The distribution formula for the unencumbered CRF money returned to the County Coronavirus Relief Distribution Fund requires the auditor to distribute 25 percent to county government and the remaining balance to each qualifying municipal corporation or township according to its relative share of the population of all eligible subdivisions in the county.

Each subdivision that receives money in the October redistribution must deposit it in the subdivision's local coronavirus relief fund, subject to the same restrictions as the initial distribution. Upon making the distribution, the county auditor must report to the Director of

¹ Note that the Coronavirus Relief Fund has been recodified as 42 U.S.C. 801.

Budget and Management the amount of the unencumbered balance paid to the county treasury by each subdivision making a payment and the amount distributed to each subdivision receiving a distribution. If no subdivision made a payment to the county treasury, the auditor must report that no payments were made. The report must be made in the manner prescribed by the Director.

REPORTING REQUIREMENTS AND YEAR-END RECOLLECTION OF UNSPENT FUNDS

(H.B. 481, Section 27 (G) and (H))

No later than December 28, 2020, the fiscal officer of each subdivision must pay the balance of money in the subdivision's Local Coronavirus Relief Fund that remains unexpended on that date to the state treasury in the manner prescribed by the Director of Budget and Management. A county, municipal corporation, or township receiving a payment from a County Coronavirus Relief Distribution Fund must, upon request, provide any information related to those payments or their expenditure to the Director of Budget and Management.

OBM guidance requires both an interim and a final financial report. The interim report is due October 15, 2020 for activity through September 30th, and final report is due December 30th as a close-out report for all activity from initial payment and redistributed funds. OBM may need to request additional information from counties and other political subdivisions to comply with the state's prime recipient reporting requirements to the US Treasury, which requires quarterly reports. The Treasury Office of the Inspector General has directed that all records must be maintained for a period of five years after final payments are made with CRF funds.

ADDITIONAL RESOURCES

The Ohio Office of Budget and Management guidance on House Bill 481 is available at <https://grants.ohio.gov/fundingopportunities.aspx>. Counties are advised to consult the guidance during the planning process for HB 481 funding and to address questions to OBM Grants Management, grants@obm.ohio.gov.

Expenditures made from the Local Coronavirus Relief Fund are subject to state and federal audit. The Ohio Auditor of State's COVID-19 Resources Page has FAQs and other resources that are helpful to local governments: https://www.ohioauditor.gov/resources/COVID19_assistance.html