



Committee Directly to Council
Staff: Robert H. Drummer, Senior Legislative Attorney
Purpose: To receive testimony/final action - vote expected
Keywords: #COVID19EconomicRelief
Search terms: COVID-19, economic relief, grants

AGENDA ITEMS #14 and 4
March 31, 2020
Public Hearing/Action

SUBJECT

Expedited Bill 16-20, Economic Development Fund – Public Health Emergency Grant Program – Established
Lead Sponsor: County Council

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Public Hearing/Action – vote expected.

DESCRIPTION/ISSUE

Expedited Bill 16-20 would:

- establish a Public Health Emergency Grant Program;
- provide for the administration and eligibility criteria of the Program;
- authorize regulations to implement the program; and
- generally amend the law related to the Economic Development Fund.

SUMMARY OF KEY DISCUSSION POINTS

- The criteria for eligibility for the grant program.

This report contains:

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MEMORANDUM

March 27, 2020

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Expedited Bill 16-20, Economic Development Fund – Public Health Emergency Grant Program – Established¹

PURPOSE: Public Hearing/Action – Council votes required

Expedited Bill 16-20 was not referred to a Committee. Action on this Bill requires a motion and a second.

Expedited Bill 16-20, Economic Development Fund – Public Health Emergency Grant Program – Established, sponsored by the County Council, was introduced on March 24, 2020. Action is scheduled following this hearing.

Expedited Bill 16-20 would:

- establish a Public Health Emergency Grant Program;
- provide for the administration and eligibility criteria of the Program; and
- authorize regulations to implement the program.

Background

A new coronavirus disease, called Covid-19, has spread extremely quickly, making its way to over 100 countries, including the United States. On March 11, the World Health Organization officially declared the Covid-19 viral disease a pandemic. The number of new cases in the United States is growing quickly and has spread to each of the 50 States and the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands. To slow the spread of this communicable disease, Governor Hogan issued several emergency orders including closing all non-essential businesses, restricting public transit, closing schools, prohibiting public gatherings of 10 persons or more, and postponing the Presidential Primary Election in Maryland.

¹#COVID19EconomicRelief
Search terms: COVID-19, economic relief, grants

Although County government operations are continuing during this pandemic, County employees are using situational teleworking wherever possible to perform their duties. Due to the need to limit person to person contact, many County residents have lost paychecks and many County businesses and non-profits have lost revenue.

Expedited Bill 16-20 is an emergency action to establish a new Public Health Emergency Grant Program in the existing Economic Development Fund to respond to the significant financial hardship many County residents and businesses have experienced due to the Covid-19 pandemic. The Program would authorize grants to a local for-profit or non-profit business that has its principal place of business in the County and employs 100 or less full-time equivalent employees. The maximum grant for financial losses due to a public health emergency, such as the Covid-19 pandemic, would be \$75,000. The Bill would also authorize the Director of Finance to award mini-grants to an eligible for-profit or non-profit business up to \$2500 to reimburse the business for costs incurred to purchase technology equipment and software to facilitate employee teleworking during the public health emergency.

The Public Health Emergency Grant Program would be subject to Council appropriation. The Council tentatively plans to act on a special appropriation to fund this Program along with the Bill. The County Attorney's Office concluded that there were no legal impediments to enacting the Bill.

Public Hearing

The Public hearing is scheduled for March 31 immediately before action on the Bill. According to the Governor's emergency Executive Order limiting public gatherings to no more than 10 people in response to the state of emergency related to COVID-19, the public will not be physically present in the Council Hearing Room. The public was asked to participate in the process by providing their testimony either through email at county.council@montgomerycountymd.gov, U.S. mail, or placing it in the drop-off box located in front of the doors of the Council Office Building next to the fish pond entrance (parking garage side of building).

At the time this packet went to print, we had received testimony from Marilyn Balcombe on behalf of the Gaithersburg-Germantown Chamber of Commerce supporting the Bill and testimony from Dr. Uma Jayaraman, a family practice physician in the County asking that the Bill include grants to local medical practices suffering financial losses while treating patients during the pandemic. We also received an email from Arash Tafakor, the owner of an alcohol retail store in the County asking the County to temporarily permit alcohol distributors to bypass the County warehouse and ship products directly to retail outlets. Jaime Bernardo, LMT, a massage therapist supported the Bill and asked to ensure that a sole proprietor is eligible. Lori S. Melman, Ph.D., LCSW-C (on behalf of a salon owner), Omari Sarjeant (summer camp operator), and Steven Sellers Lapham (non-profit) supported the Bill. Finally, Maryanne Arnow requested support for renters, and Dr. Joseph Nwoye requested support for job seekers.

Issues

- 1. Should the grant agreements require the applicant to certify the accuracy of statements and documents submitted on the application?**

Inspector General Megan Davey Limarzi raised this issue with Council staff. Ms. Limarzi suggested adding a fraud reduction measure to ensure accountability and a warning to anyone considering taking advantage of these circumstances. This could be accomplished with the following amendment:

Amend lines 28-34 as follows:

- (d) Grant Agreement. In order to receive financial assistance from the Fund under the Program, a local business must enter into a grant agreement with the County, which must include [[conditions related to]]:
- (1) the County’s right to audit financial records of the grantee;
 - (2) the grantee’s reporting obligations to the Director; [[and]]
 - (3) the grantee’s obligation to remit to the County any unused or improperly used funds; and
 - (4) a certification by the applicant, under penalty of perjury, that the grant application and all documentation and statements in support of eligibility for funds are true and correct, and that the applicant understands that they may be prosecuted for any false statements made as part of the application.

Council staff recommendation: approve this amendment.

2. Should the definition of principal place of business be spelled out in the Bill?

The Bill defines “principal place of business” by referring to the definition adopted in regulations used for the Local Small Business Subcontracting Program. The County Attorney’s Office suggested that the Bill include the entire definition in the Procurement Regulations. This can be done by the following amendment:

Amend lines 11-12 as follows:

Principal place of business in the County [[has the meaning stated in regulations adopted under Section 11B-81]] means a regular course of business commerce in the County by a business, along with any of the following:

- (1) the business has its physical business location(s) only in the County;
or
- (2) the business has physical business locations both in and outside of the County, and the County-based location(s) account for over 50% of the business's total number of employees, or over 50% of the business's gross sales.

Council staff recommendation: approve this amendment to enhance the readability and clarity of the Bill.

3. Would a sole proprietorship with no employees other than the owner be eligible?

The Council received questions concerning the eligibility of a sole proprietorship with no employees other than the owner for a grant under the Bill. The Bill defines an eligible local business eligible to apply for a grant as:

Local business means a for-profit or non-profit entity that:

- (1) has its principal place of business in the County; and
- (2) employs 100 or less full-time-equivalent employees.

There is no minimum number of employees required for eligibility. Therefore, the owner of a sole proprietorship located in the County would be able to apply for a grant for reimbursement of financial losses due to the pandemic. This would include self-employed individuals such as house cleaners, wedding photographers, health care providers, hair stylists, and barbers.

4. How should the new Federal and State emergency relief plans affect eligibility?

Since the introduction of Bill 16-20, the State of Maryland has opened up an emergency relief program for Maryland businesses suffering financial losses and the U.S. Congress is poised to approve an enormous emergency relief plan that includes potential grants to businesses and workers. Bill 16-20 is targeted at County businesses with less than 100 employees.

The Maryland Department of Commerce summarized the Maryland Small Business Covid-19 relief plan on its website as follows:

If you are a Maryland-based business impacted by the Coronavirus with under 50 full- and part-time employees, or a Maryland manufacturer, check out the programs below to see if you qualify for assistance.

- [Maryland Small Business COVID-19 Emergency Relief Loan Fund](#) - This \$75 million loan fund (for for-profit businesses only) offers no interest or principal payments due for the first 12 months, then converts to a 36-month term loan of principal and interest payments, with an

interest rate at 2% per annum. [Learn more.](#)

- [Maryland Small Business COVID-19 Emergency Relief Grant Fund](#) - This \$50 million grant program for businesses and non-profits offers grant amounts up to \$10,000, not to exceed 3 months of demonstrated cash operating expenses for the first quarter of 2020. [Learn more.](#)
- [Maryland COVID-19 Emergency Relief Manufacturing Fund](#) - This \$5 million incentive program helps Maryland manufacturers to produce personal protective equipment (PPE) that is urgently needed by hospitals and health-care workers across the country. More details are expected to be announced by Friday, March 27, 2020.

The \$2 trillion Federal relief plan has not yet been finalized, but it should provide some relief to County businesses as well. The Council's special appropriation for this Program is \$20 million. The County cannot afford to reimburse all small County businesses for their financial losses due to this pandemic. The Council may want to consider adding guidelines for the Program that direct the Executive to consider County grants as secondary to Federal or State grants for the same losses to increase the effectiveness of this money.

Councilmember Hucker may introduce an amendment to establish guidelines for the grants that direct the Executive to consider a County grant as secondary to available Federal and State grants. The Amendment would also prohibit reimbursement for business losses that are covered by an insurance policy purchased by the business and reimbursement for wages paid to an employee for a time period the employee is eligible for unemployment benefits in order to preserve the fund assets. Finally, the amendment would clarify that the amount of a grant be calculated by looking at lost revenue rather than lost profits to help a business that may not have been making a profit before the emergency. See Hucker Amendment 1 (Guidelines) at ©6.

5. Should the Program include low interest loans?

The Bill limits the relief to grants. The State is offering small grants but larger low interest loans to businesses. Councilmember Hucker plans to introduce an amendment that would expand the program to permit loans as well as grants. See Hucker Amendment 2 (Loans) at ©7.

6. Should the outreach include technical assistance on how to apply for a grant?

The Bill directs the Executive to designate an employee to notify local businesses about this Program and other relief measures. It may be helpful to require the outreach effort to include help with how to apply for a grant. Councilmember Hucker plans to introduce an amendment to do this. See Hucker Amendment 3 (Technical Assistance) at ©8.

7. Should the maximum grant be reduced to \$50,000 to increase the number of businesses that receive help?

The Bill caps the maximum grant at \$75,000. The Council is scheduled to approve a special appropriation of \$20 million to fund the Program. It is unknown how many businesses this could cover. Reducing the cap to \$50,000 could help more businesses but may not provide enough help for some businesses to recover. Councilmember Hucker plans to introduce an amendment to reduce the

cap to \$50,000 for both for-profit and non-profit businesses. See Hucker Amendment 4 (Maximum Grant) at ©9.

8. Should a portion of the grant money be reserved for restaurants and other retail storefront businesses in the County?

The Bill does not reserve money for any industry. The Governor’s emergency order closing all non-essential businesses and limiting public gatherings to 10 people has decimated restaurants and other retail storefront businesses that have been forced to close. Failing to reserve money for these hard hit industries that help drive the local economy could result in many of these businesses unable to recover. Councilmember Hucker plans to introduce an amendment that would reserve two-thirds of the appropriated funds for these businesses. See Hucker Amendment 5 (Restaurant and Retail Industry) at ©10.

9. What is the fiscal and economic impact of the Bill?

At the time this staff report went to print, we had not received a fiscal impact statement from Finance or an Economic Impact Statement from OLO. The fiscal impact is directly related to the amount of the special appropriation for the Program – currently proposed to be \$20 million. While we hope the Program helps many local businesses recover from the financial distress caused by the pandemic, it is impossible to know how much of a positive effect it can have. The length of the pandemic, the amount of economic damage done to local businesses, and the availability of Federal and State emergency relief are unknown at the present time.

Although Code §2-81B(e) generally requires an economic impact statement before a Bill is enacted, this provision does not apply to an expedited bill, such as Expedited Bill 16-20.

This packet contains:	<u>Circle #</u>
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Expedited Bill No. 16-20
Concerning: Economic Development
Fund – Public Health Emergency
Grant Program – Established
Revised: 3/24/2020 Draft No. 7
Introduced: March 24, 2020
Expires: September 24, 2021
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: County Council

AN EXPEDITED ACT to:

- (1) establish a Public Health Emergency Grant Program;
- (2) provide for the administration and eligibility criteria of the Program;
- (3) authorize regulations to implement the program; and
- (4) generally amend the law related to the Economic Development Fund.

By adding

Montgomery County Code
Chapter 20, Finance
Section 20-76F

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 20-76F is added as follows:**

2 **20-76F. Public Health Emergency Grant Program.**

3 (a) Definitions. As used in this Section:

4 Director means the Director of the Department of Finance or the
5 Director's designee.

6 Fund means the Economic Development Fund established under Section
7 20-73.

8 Local business means a for-profit or non-profit entity that:

9 (1) has its principal place of business in the County; and

10 (2) employs 100 or less full-time-equivalent employees.

11 Principal place of business has the meaning stated in regulations adopted
12 under Section 11B-81.

13 Public health emergency means a situation caused by the spread of a
14 communicable disease in the County that results in a Federal, State, or
15 County state of emergency order restricting business operation in the
16 County.

17 Program means the Public Health Emergency Grant Program established
18 under this Section.

19 (b) Establishment of Program. Subject to appropriation, the Director must
20 create and administer a Public Health Emergency Grant Program to assist
21 a local business that demonstrates significant financial loss caused
22 directly or indirectly by a public health emergency.

23 (c) Eligibility. The Director, based upon information submitted by the
24 applicant for assistance, must find that:

25 (1) the applicant owns a local business; and

26 (2) the local business has suffered significant financial losses caused
27 directly or indirectly by a public health emergency.

28 (d) Grant Agreement. In order to receive financial assistance from the Fund
 29 under the Program, a local business must enter into a grant agreement
 30 with the County, which must include conditions related to:

- 31 (1) the County's right to audit financial records of the grantee;
 32 (2) the grantee's reporting obligations to the Director; and
 33 (3) the grantee's obligation to remit to the County any unused or
 34 improperly used funds.

35 (e) Financial assistance.

36 (1) The Director may award a grant from the Fund to an eligible local
 37 business under paragraph (c).

38 (2) The amount of a grant to a for-profit local business for financial
 39 losses during a public health emergency must not exceed \$75,000.

40 (3) The amount of a grant to a non-profit local business for a reduction
 41 in earned operational revenue during a public health emergency
 42 must not exceed \$75,000.

43 (4) The amount of a grant to a for-profit or a non-profit local business
 44 for the cost of purchasing technology equipment and software to
 45 facilitate employee teleworking during a public health emergency
 46 must not exceed \$2,500.

47 (5) A grant under paragraph (2) or (3) may be used [[to]] for employee
 48 wages and benefits, taxes, debt, rent, or other operating losses.

49 (f) Regulations. The Executive may adopt Method 2 regulations to
 50 implement this Section. The regulations must specify the application
 51 procedures and eligibility criteria for a grant to a local business under the
 52 Program.

53 (g) Outreach. The Executive must designate an employee to lead an effort
 54 to notify local businesses throughout the County about this Program and

55 other available government programs that may help with an economic
56 recovery. The outreach should emphasize businesses located in hard to
57 reach communities.

58 (h) Reports. On or before March 31 of each year, the Executive must report
59 to the Council on the activities of the Program. The report must include:

60 (1) the number of local businesses participating in the Program;

61 (2) the number and dollar amount of grants made; and

62 (3) an evaluation of the impact of the Program on economic
63 development within the County.

64 **Sec. 2. Expedited Effective Date.**

65 The Council declares that this legislation is necessary for the immediate
66 protection of the public interest. This Act takes effect on the date on which it becomes
67 law.

Approved:

Sidney Katz, President, County Council

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 16-20, Economic Development Fund – Public Health Emergency Grant Program – Established

DESCRIPTION:	Expedited Bill 16-20 would: <ul style="list-style-type: none">• establish a Public Health Emergency Grant Program;• provide for the administration and eligibility criteria of the Program; and• authorize regulations to implement the program.
PROBLEM:	The Covid-19 pandemic has created significant financial hardship to County residents and businesses.
GOALS AND OBJECTIVES:	Provide some financial relief to County businesses during the pandemic.
COORDINATION:	Finance, Procurement, OMB
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Robert H. Drummer, Senior Legislative Attorney
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	NA

Hucker Amendment 1 (Guidelines)

Amend lines 47-48 as follows:

- (f) Guidelines for Grants and loans. A grant or loan under paragraph (2) or (3) must:
- [(5)] (1) [[A grant under paragraph (2) or (3)]] be calculated by reviewing documentation of lost revenue and may be used [[to]] for employee wages and benefits, taxes, debt, rent, or other operating losses[.];
 - (2) be secondary to emergency grants or loans that may be awarded by the Federal or State governments for the same losses and may be used to supplement Federal or State grants or loans;
 - (3) not reimburse a business for losses that are reimbursed through an insurance policy purchased by the business; and
 - (4) not reimburse a business for wages paid to an employee for a time period the employee is eligible for unemployment insurance benefits.

Hucker Amendment 2 (Loans)

Amend lines 35 to 42 as follows:

(e) Financial assistance.

- (1) The Director may award a grant or low interest loan from the Fund to an eligible local business under paragraph (c).
- (2) The amount of a grant or loan to a for-profit local business for financial losses during a public health emergency must not exceed \$75,000.
- (3) The amount of a grant or loan to a non-profit local business for a reduction in earned operational revenue during a public health emergency must not exceed \$75,000.

Amend lines 58-63 as follows:

(h) Reports. On or before March 31 of each year, the Executive must report to the Council on the activities of the Program. The report must include:

- (1) the number of local businesses participating in the Program;
- (2) the number and dollar amount of grants and loans made; and
- (3) an evaluation of the impact of the Program on economic development within the County.

Hucker Amendment 3 (Technical Assistance)

Amend lines 53-57 as follows:

- (g) Outreach. The Executive must designate an employee to lead an effort to notify local businesses throughout the County about this Program and other available government programs that may help with an economic recovery. The outreach should emphasize businesses located in hard to reach communities and assist businesses on how to apply for a grant or loan.

Hucker Amendment 4 (Maximum Grant)

Amend lines 38-42 as follows:

- (2) The amount of a grant to a for-profit local business for financial losses during a public health emergency must not exceed ~~[\$75,000]~~ \$50,000.
- (3) The amount of a grant to a non-profit local business for a reduction in earned operational revenue during a public health emergency must not exceed ~~[\$75,000]~~ \$50,000.

Hucker Amendment 5 (Restaurant and Retail Industry)

Add the following after line 48:

- (g) Restaurant and Retail Industries. The Executive must reserve two-thirds of the funds appropriated for the public health emergency for local businesses that are in the restaurant or retail storefront industries.