SPONSOR: Rep. Minor-Brown & Sen. Sokola & Sen. Buckson & Rep. Harris & Rep. Osienski & Rep. Spiegelman & Rep. K. Williams & Sen. Townsend & Sen. Pettyjohn & Sen. Hocker & Rep. Dukes & Sen. Lockman & Rep. Michael Smith
Reps. Gray, K. Johnson, Morrison, Yearick, Bolden, Gorman, Chukwuocha, Shupe, Romer; Sens. Cruce, Hoffner, Wilson

HOUSE OF REPRESENTATIVES
153rd GENERAL ASSEMBLY

HOUSE BILL NO. 190
AS AMENDED BY
HOUSE AMENDMENT NO. 1
AND
SENATE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO GRANTS-IN-AID.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 63, Title 29 of the Delaware Code by transferring § 6341 to a new subchapter IIIC and then making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter III-C. Grants-in-Aid

~~§ 6341.~~ § 6351. Grants-in-aid.

(a) No appropriation for a grant-in-aid shall be made otherwise than pursuant to an act by the General Assembly, passed with the concurrence of 3/4 of all the members elected to each House.

(b) To be eligible for a grant-in-aid, an organization must meet all of the following:

(1) Be one of the following:

a. Incorporated as a non-profit with IRS recognizable exempt status or operate under the umbrella of a parent organization that is an incorporated non-profit with IRS recognizable exempt status.

b. A state, county, or local government agency.

(2) Be in operation for at least 2 years prior to applying for a grant-in-aid.

(3) If the organization falls under paragraph (b)(1)a. of this section, it must have an active, community-represented, volunteer Board of Directors (Board) that sets policies, goals, and objectives, and maintains minutes of regularly scheduled meetings and any special meetings. The organization's Board must adopt all of the following policies:

a. A conflict of interest policy for Board members.

b. A whistleblower policy for the organization's employees and volunteers, including Board members. At a minimum, this whistleblower protection policy must include all of the protections under Chapter 17 of Title 19.

(4) Be providing a service that is 1 or more of the following:

a. Satisfying unmet needs in the community.

b. Unduplicated by other state-supported agencies.

c. Complementary or supplemental to other state-funded programs.

d. Providing child care for school-age children before school, after school, or during the summer or other breaks in the course of the school year.

(5) Have written accounting and budget procedures that are available upon the request of the Controller General.

(6) Have demonstrated ability to fund at least half of its operations through sources of revenue other than a grant-in-aid.

(7) Submit all of the following with the required application for a grant-in-aid:

a. If the organization received a grant-in-aid for the current fiscal year, documentation of community support in the form of testimonials from Delaware residents who have benefited from the services provided using that grant-in-aid. An organization may not submit a testimonial in support of an application if the organization submitted that testimonial in support of a previous grant-in-aid application.

b.1. A copy of the organization's most recent audit. The audit submitted under this paragraph (b)(7)b.1. must be issued within the previous 3 years and completed by either a Certified Public Accountant or a Public Accountant.

2. Notwithstanding paragraph (b)(7)b.1. of this section, an organization that received a grant-in-aid for the current fiscal year that is less than $250,000 may submit a copy of the organization's most recent review or compilation of financial statements if that review or compilation was completed within the previous 3 years by either a Certified Public Accountant or a Public Accountant.

3. If an organization that received a grant-in-aid for the current fiscal year that is less than $250,000 cannot provide either an audit or a review or compilation of financial statements under paragraphs (b)(7)b.1. through (b)(7)b.2. of this section, the organization must submit a statement of the circumstances related to the reason it cannot comply with either requirement and must submit any available supporting documentation, including all of the following: profit and loss statements, budget materials, bank statements, and IRS Form 990.

c. A signed certification that each member of the organization's Board has received a copy of the organization's conflict of interest policy and either of the following:

1. A statement that all members of the organization's Board have attested to being in compliance with the organization's conflict of interest policy.

2. A list of potential or perceived conflicts that Board members have under the organization's conflict of interest policy and a statement that the members of the organization's Board have attested to either being in compliance with the organization's conflict of interest policy or to disclosing all potential or perceived conflicts.

d.1. A certification that the organization is not currently, and has never been, the defendant in any litigation regarding the misuse of money received from this State or grant money received from any source.

2. If the organization cannot provide the certification under paragraph (b)(7)d.1. of this section, the organization must disclose all actions against the organization for the misuse of money received from this State or under a grant, including all of the following for each action: the court caption, status of the case, and if applicable, the disposition and date thereof.

(c) Grant-in-aid funding may not be used for any of the following:

(1) The purchase of capital equipment.

(2) The relocation, rehabilitation, renovation, or purchase of buildings.

(3) The payment of any part of an elected official's salary or benefits.

(4) A political campaign or for partisan political purposes.

(5) The hiring of lobbyists or other lobbying services.

(6) Activities, programs, or services that benefit individuals who do not reside in Delaware.

(7) Providing child care that does not meet the requirements under paragraph (b)(4)d. of this section.

(d) Money appropriated under a grant-in-aid is paid to an organization in quarterly installments.

(e) The Controller General may contract for or conduct a performance or financial audit of the receipt, handling, or expenditure of a grant-in-aid by an organization that is not a state agency. An audit under this subsection may not include funds other than the money appropriated under a grant-in-aid unless the money appropriated under a grant-in-aid is commingled with other funds in a manner that requires those other funds to also be audited.

(f) The Controller General may delay or withhold a grant-in-aid installment payment if the organization does any of the following:

(1) If required, fails to submit a quarterly statement of expenditures under the grant-in-aid.

(2) Spends money from the grant-in-aid for purposes that were not included under the appropriation by the General Assembly.

(3) Spends money for a purpose prohibited under subsection (c) of this section.

(4) Ceases operation or is not providing some or all of the programs or services for which the grant-in-aid was appropriated.

(g) An organization must repay money dispersed under a grant-in-aid if the Controller General, in consultation with the Chair and Vice-Chair of the Joint Finance Committee, determines that the organization misused the money or failed to provide some or all of the programs or services for which the grant-in-aid was appropriated.

Section 2. This Act shall take effect on July 1, 2028.