South Carolina General Assembly
123rd Session, 2019-2020

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A154, R170, H3210

STATUS INFORMATION

General Bill
Sponsors: Reps. Loftis, Clyburn, Collins, Burns, Clary, W. Cox, Morgan, Hyde, Stringer, Elliott, B. Cox, Gagnon, Caskey, Bannister, Willis, Sottile, Stavrinakis, Daning, Blackwell, Taylor, Forrester, Fry, West, Finlay, Simrill, V.S. Moss, Bryant, Bales, D.C. Moss, Erickson, Herbkersman, Whitmire and Weeks
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Companion/Similar bill(s): 185

Introduced in the House on January 8, 2019
Introduced in the Senate on April 10, 2019
Last Amended on September 23, 2020
Passed by the General Assembly on September 23, 2020
Governor's Action: September 25, 2020, Signed

Summary: CARES Act

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
12/18/2018	House	Prefiled
12/18/2018	House	Referred to Committee on **Labor, Commerce and Industry**
1/8/2019	House	Introduced and read first time (House Journal-page 128)
1/8/2019	House	Referred to Committee on **Labor, Commerce and Industry** (House Journal-page 128)
1/17/2019	House	Member(s) request name added as sponsor: Collins
1/29/2019	House	Member(s) request name added as sponsor: Burns
1/29/2019	House	Recalled from Committee on **Labor, Commerce and Industry** (House Journal-page 31)
1/29/2019	House	Committed to Committee on **Ways and Means** (House Journal-page 31)
1/30/2019	House	Member(s) request name added as sponsor: Clary, W.Cox, Morgan, Hyde, Stringer
3/20/2019	House	Member(s) request name added as sponsor: Elliott, B.Cox, Gagnon, Caskey, Bannister, Willis, Sottile, Stavrinakis, Daning, Blackwell, Taylor, Forrester, Fry, West, Finlay, Simrill, V.S.Moss, Bryant, Bales, D.C.Moss, Erickson, Herbkersman, Whitmire
3/27/2019	House	Committee report: Favorable **Ways and Means** (House Journal-page 39)
4/2/2019	House	Member(s) request name added as sponsor: Weeks
4/9/2019	House	Read second time (House Journal-page 30)
4/9/2019	House	Roll call Yeas-99 Nays-3 (House Journal-page 30)
4/10/2019	House	Read third time and sent to Senate (House Journal-page 8)

4/10/2019	Senate	Introduced and read first time (Senate Journal-page 13)
4/10/2019	Senate	Referred to Committee on **Finance** (Senate Journal-page 13)
9/15/2020	Senate	Committee report: Favorable with amendment **Finance** (Senate Journal-page 10)
9/15/2020	Senate	Committee Amendment Adopted (Senate Journal-page 59)
9/15/2020	Senate	Amended (Senate Journal-page 59)
9/15/2020	Senate	Read second time (Senate Journal-page 59)
9/15/2020	Senate	Roll call Ayes-40 Nays-2 (Senate Journal-page 59)
9/15/2020	Senate	Unanimous consent for third reading on next legislative day
9/16/2020	Senate	Read third time and returned to House with amendments (Senate Journal-page 17)
9/16/2020	House	Senate amendment amended (House Journal-page 19)
9/16/2020	House	Roll call Yeas-112 Nays-2 (House Journal-page 19)
9/16/2020	House	Returned to Senate with amendments (House Journal-page 19)
9/17/2020	Senate	Non-concurrence in House amendment (Senate Journal-page 7)
9/16/2020	House	House insists upon amendment and conference committee appointed Reps. GM Smith, Clyburn, and Finlay (House Journal-page 52)
9/17/2020	Senate	Conference committee appointed Alexander, Sheheen, Davis (Senate Journal-page 8)
9/22/2020	Senate	Conference committee appointed Alexander, Jackson, Davis (Senate Journal-page 12)
9/23/2020	House	Conference report received and adopted (House Journal-page 12)
9/23/2020	House	Roll call Yeas-109 Nays-3 (House Journal-page 12)
9/23/2020	Senate	Conference report received and adopted (Senate Journal-page 165)
9/23/2020	Senate	Roll call Ayes-39 Nays-2 (Senate Journal-page 165)
9/23/2020	Senate	Ordered enrolled for ratification (Senate Journal-page 175)
9/25/2020		Ratified R 170
9/25/2020		Signed By Governor
10/2/2020		Effective date 09/25/20
10/2/2020		Act No. 154

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VERSIONS OF THIS BILL

12/18/2018
3/27/2019
9/15/2020
9/16/2020
9/16/2020-A
9/23/2020

(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

(A154, R170, H3210)

AN ACT TO AUTHORIZE THE EXPENDITURE OF FEDERAL FUNDS DISBURSED TO THE STATE IN THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT, AND TO SPECIFY THE MANNER IN WHICH FUNDS MAY BE EXPENDED.

Be it enacted by the General Assembly of the State of South Carolina:

PART I

Expenditure Authorizations and Reimbursement

SECTION 1. The State of South Carolina received funds from the federal "Coronavirus Aid, Relief, and Economic Security Act" (hereinafter referred to as the CARES Act). A portion of those funds have been reimbursed for authorized expenditures pursuant to Act 142 of 2020. The source of revenue authorized for expenditure and reimbursement in SECTION 3 is the remaining portion of the CARES Act funds that remain on deposit in the Coronavirus Relief Fund established and maintained by the Executive Budget Office pursuant to Act 135 of 2020.

SECTION 2. (A) The expenditure authorizations contained in SECTION 3(A), (C), and (G) are supplemental to the expenditure authorizations for the same purposes as contained in Act 142 of 2020. The remaining expenditure authorizations contained in SECTION 3 may be reimbursed by the Executive Budget Office from the Coronavirus Relief Fund.

(B) State agencies, institutions of higher learning, including technical colleges, counties, municipalities, special purpose districts, and hospitals shall maximize the use of federal funds made available in this act wherever possible within the allowable uses. If any reimbursement to any recipient, or subrecipient, resulting from an authorization contained herein is disallowed by federal law, then the recipient or subrecipient shall promptly return the funds disbursed to the Executive Budget Office for deposit in the Coronavirus Relief Fund.

(C) To maximize the benefit of all funds received by the State, all state agencies, institutions of higher learning, including technical colleges, counties, municipalities, special purpose districts, and hospitals are directed to coordinate expenditure reimbursements through, and in consultation with, the Department of Administration and the grant manager. State agencies, and institutions of higher learning, including technical colleges, shall submit to the Executive Budget Office a detailed budget plan for any funding received that is related to COVID-19, regardless of the source. Counties, municipalities, special purpose districts, hospitals, and independent colleges and universities shall submit to the Executive Budget Office information sufficient to identify other COVID-19-related funding that they are receiving, regardless of the source, and provide a detailed accounting of how the funding is being used.

SECTION 3. State agencies and higher education institutions are authorized to expend federal funds in the Coronavirus Relief Fund if the expenditure is in compliance with the CARES Act. The Executive Budget Office is authorized to reimburse from the Coronavirus Relief Fund, up to the amounts listed below in each category, expenditures compliant with the CARES Act by the following sectors: state agencies, institutions of higher learning, counties, municipalities, special purpose districts, public and private hospitals, nonprofit and minority and small businesses.

(A) Department of Health and Environmental Control

Statewide Testing and Monitoring $ 73,022,613;

(B) Medical University of South Carolina

Statewide Testing $ 20,150,000;

(C) Department of Employment and Workforce

Unemployment Trust Fund $420,000,000;

(E) Department of Administration

Nonprofit Relief Program $ 25,000,000;

(F) Department of Administration

Minority and Small Business Relief

Program $ 40,000,000;

(G) Department of Administration

State, Local Government, Independent

College and University Expenditures $115,000,000.

PART II

Directives to Receiving Entities

SECTION 4. The Department of Education is authorized to utilize unexpended authorizations contained in Section 3(B) of Act 142 of 2020 for the costs associated with the following:

(1) School safety measures taken in response to COVID-19 including, but not limited to, purchasing masks, gloves, wipes, hand sanitizer, face shields, cleaning solution, Plexiglas, and other cleaning equipment and supplies.

(2) Additional expenses incurred by Virtual SC in response to COVID-19.

(3) Hire or contract for school nurse services for those schools that do not have a full-time school nurse.

(4) Tutoring, supplemental services, and support services to include services for unengaged students, interventionists, and after school learning extensions that prioritize face-to-face instruction focused on students with identified reading or math difficulties and students with IEPs to address deficits resulting from COVID-19.

(5) Technology purchases of devices and connectivity equipment to support online learning resulting from COVID-19.

It is the intent of the General Assembly that reimbursements for item (1) - school safety measures - be the department's first priority for reimbursement.

SECTION 5. State agencies may apply for reimbursement in a similar manner as set forth in SECTION 6 of Act 142 of 2020.

SECTION 6. (A) There is established through the SC CARES Grant Management Program a nonprofit entity reimbursement grant program with the funds authorized in Section 3(E). The program shall award grants to qualifying nonprofit entities to reimburse the qualifying nonprofit entity for some, or all, of the costs associated with qualifying expenditures incurred, or expected to be incurred, by the qualifying nonprofit entity between March 1, 2020, and December 1, 2020. A qualifying nonprofit entity may receive a grant in an amount between two thousand five hundred dollars and fifty thousand dollars. Nonprofit entities must apply for grants no later than November 1, 2020.

(B)(1) Applications for grants shall be made to the panel established in item (2). An applicant shall provide the panel with information concerning the applicant's expenditures for which the applicant seeks a grant. Grants shall be awarded for qualifying expenditures in amounts determined by the panel. First, priority must be given to applicants that did not receive other assistance, such as a Paycheck Protection Program loan or other CARES funds. Then, priority shall be given to applications for expenditures related to: (1) food assistance, including prepared meals; (2) rent or mortgage assistance; (3) utilities assistance; (4) mental health counseling; (5) health care services, including access to health care supplies, mental health, and behavioral health; (6) criminal domestic violence and children's advocacy services; and (7) arts and cultural items or activities.

(2)(a) Applications for grants shall be evaluated and awarded by a panel consisting of:

(i) the Director of the Department of Social Services, or his designee;

(ii) the Director of the Department of Mental Health, or his designee;

(iii) the Director of the Department of Consumer Affairs, or his designee;

(iv) the Director of the Department of Health and Human Services, or his designee;

(v) the Director of the Department of Alcohol and Other Drug Abuse Services, or his designee;

(vi) the Secretary of State, or his designee;

(vii) the Director of the South Carolina Arts Commission, or his designee;

(viii) the Director of the Department of Archives and History, or his designee; and

(ix) the Executive Director of the South Carolina State Housing Finance and Development Authority, or his designee.

(b) The panel shall meet as often as is necessary to fulfill its obligations as provided herein. The panel may utilize remote technology for meetings or other activities as necessary. The Department of Administration shall assist with the coordination of the panel's meetings.

(c) The panel shall develop an application and establish criteria for the evaluation of applications that is consistent with the requirements contained herein, including the priorities identified in item (1). During its evaluation of applications, the panel shall give consideration to the geographic distribution of services provided by the qualifying expenditures so that grants are awarded on a statewide basis.

(d) The Department of Administration shall provide staff support for the panel. The Department of Administration, in conjunction with SC CARES Grant Management Program, shall confirm that all reimbursement requests in the grant applications comply with federal CARES Act requirements.

(C) For the purposes of the nonprofit entity reimbursement grant program established herein:

(1) "Qualifying nonprofit entity" means a 501(c)(3) that has been operating in South Carolina for at least six months prior to the Governor's initial COVID-19 state of emergency declaration on March 13, 2020.

(2) "Qualifying expenditure" means an expenditure of funds related to services provided to people in response to the COVID-19 public health emergency. The definition of qualifying expenditure does not include any expenditure that qualified the nonprofit entity to receive federal emergency relief funds, including the Paycheck Protection Program, if the nonprofit entity has, or will, receive the federal emergency relief funds.

SECTION 7. (A) There is established through the SC CARES Grant Management Program a minority and small business enterprise reimbursement grant program with the funds authorized in Section 3(F). The program shall award grants to qualifying minority and small business enterprises to reimburse the enterprise for some, or all, of the costs associated with qualifying expenditures incurred, or expected to be incurred, by the qualifying minority or small business enterprise between March 1, 2020, and December 1, 2020. A qualifying minority or small business enterprise may receive a grant in an amount between two thousand five hundred dollars and twenty-five thousand dollars. Minority and small business enterprises must apply for grants no later than November 1, 2020.

(B) Applications for grants shall be made to the SC CARES Grant Management Program. An applicant shall provide the SC CARES Grant Management Program with information concerning the applicant's expenditures for which the applicant seeks a grant. The grant manager shall evaluate grant applications to confirm that all reimbursement requests in the grant applications comply with federal CARES Act requirements.

(C)(1) Priority must be given to minority businesses, to applicants that did not receive other assistance, such as a Paycheck Protection Program loan or other CARES funds, to businesses with fifteen or fewer employees, and to businesses that demonstrate the greatest financial need.

(2)(a) Priorities must be assigned to minority and small business enterprises by a panel consisting of:

(i) the Director of the Commission for Minority Affairs, or his designee;

(ii) the Secretary of Commerce, or his designee; and

(iii) the Director of the Department of Revenue, or his designee.

(b) In addition to assigning priorities, the panel also must make an initial determination of which applicants

meet the definitions set forth in subsection (D). Once the panel has made such determinations and has assigned priorities, the panel shall award grants in the amounts determined by the SC CARES Act Grant Management Program and in accordance with this SECTION.

(D) For the purposes of the minority and small business enterprise reimbursement grant program:

(1) "Economically disadvantaged individuals" means those socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged.

(2) "Minority business enterprise" means a business with twenty-five or fewer employees that has been operating in South Carolina for at least six months prior to the Governor's initial COVID-19 state of emergency declaration on March 13, 2020, and is owned by an individual who is a United States citizen and who is economically and socially disadvantaged.

(3) "Qualifying expenditure" means costs associated with business interruptions resulting from the COVID-19 public health emergency and any expenses deemed necessary and incurred as a result of the COVID-19 health emergency. The definition of qualifying expenditure does not include any expenditure that qualified the minority or small business enterprise to receive federal emergency relief funds, including the Paycheck Protection Program, if the minority or small business enterprise has, or will, receive the federal emergency relief funds.

(4) "Small business enterprise" means a business with twenty-five or fewer employees that has been operating in South Carolina for at least six months prior to the Governor's initial COVID-19 state of emergency declaration on March 13, 2020.

(5) "Socially disadvantaged individuals" means those individuals who are members of the following groups: African Americans; Hispanic Americans; Native Americans (including individuals recognized as American Indians, Eskimos, Aleuts, and Native Hawaiians), and Asian Pacific Americans.

SECTION 8. The funds authorized for the Department of Health and Environmental Control pursuant to Section 3(A) must be utilized in the manner prescribed for the Statewide Testing Plan established in Section 7 of Act 142 of 2020.

SECTION 9. The funds authorized for the Medical University of South Carolina pursuant to Section 3(B) for statewide testing shall be utilized to continue the Medical University's COVID-19 at-risk testing initiative.

SECTION 10. (A)(1) State agencies, public institutions of higher learning, counties, municipalities, and special purpose districts are authorized to apply for reimbursement of expenditures necessary for the response to the COVID-19 public health emergency incurred, or expected to be incurred, between July 1, 2020, and December 30, 2020.

(2) Independent colleges and universities that are member institutions of the South Carolina Independent Colleges and Universities nonprofit corporation are authorized to apply for reimbursement of expenditures that were necessary for the response to the COVID-19 public health emergency incurred, or expected to be incurred, between March 1, 2020, and December 30, 2020. Bob Jones University and Clinton College are also authorized to apply for reimbursement of expenditures that were necessary for the response to the COVID-19 public health emergency that were incurred, or expected to be incurred, between March 1, 2020,

and December 30, 2020.

(3) All applications for reimbursement shall be submitted to the SC CARES Grant Management Program on or before November 15, 2020.

(B) If the Executive Budget Office determines that the amount of eligible expenditures through December 30, 2020, exceeds the authorizations provided for in Act 142 of 2020 and Section 3(G) of this act, then the Executive Budget Office is authorized to prioritize the remaining reimbursements for expenses incurred as a result of COVID-19 in the following order:

(1) institutions of higher learning, including member institutions of the South Carolina Independent Colleges and Universities nonprofit corporation and Bob Jones University and Clinton College, for expenses related to providing virtual and in-person educational services for students enrolled for the fall 2020 semester;

(2) state agencies;

(3) county governments;

(4) municipal governments; and

(5) special purpose districts.

SECTION 11. Excess funds authorized in SECTION 9 of Act 142 of 2020 for the Hospital Relief Fund shall be used for the reimbursement of eligible hospital expenditures incurred on or before September 30, 2020. No hospital shall be reimbursed for expenses that were already reimbursed from the fund or which were eligible for reimbursement from any other fund source. The Executive Budget Office shall distribute the balance of the Hospital Relief Fund to hospitals based upon their respective shares of their unreimbursed and validated expenditures incurred due to the COVID-19 public health emergency.

SECTION 12. To ensure that the State of South Carolina maximizes the use of federal funds authorized through the Coronavirus Relief Fund, the Director of the Executive Budget Office is authorized to reallocate any unused authorization in a particular enumerated item in this act and in Act 142 of 2020 to any enumerated item for which approved reimbursements exceed the authorization. This reallocation may not be implemented prior to December 1, 2020. Should this condition be met in multiple authorizations, the director shall reallocate any unused authorization according to the following prioritization:

(1) Department of Employment and Workforce - Unemployment Trust Fund;

(2) Department of Health and Environmental Control - Statewide Testing and Monitoring;

(3) Medical University of South Carolina - Statewide Testing;

(4) State Department of Education - Uses Authorized in SECTION 4 of this act;

(5) Department of Administration - State, Local Government, Independent Colleges and University Expenditures;

(6) Department of Administration - Minority and Small Business Relief Program;

(7) Department of Administration - Nonprofit Relief Program;

(8) Department of Administration - Executive Budget Office Hospital Relief Program;

(9) Adjutant General - Emergency Management Division Personal Protective Equipment Stockpile and Supply Chain; and

(10) Office of Regulatory Staff - Broadband Mapping and Planning, Infrastructure, and Mobile Hotspots.

SECTION 13. In order to address the extraordinary challenges facing Patriots Point Development Authority due to COVID-19, the authority shall utilize the $1,000,000 authorized by proviso 52.2 and the $1,700,000 appropriated by proviso 118.16, Item (45), both of Act 91 of 2019, for agency operating expenses. The Department of Administration shall assist Patriots Point in the development of a long-term financial strategy and operational plan. The provisions of this SECTION shall remain in effect until replaced by a subsequent act of the General Assembly.

SECTION 14. The funds allocated to the Department of Employment and Workforce for the unemployment trust fund from the CARES Act Coronavirus Relief Fund shall be utilized to offset the unexpected losses to the unemployment trust fund between March 1, 2020, and December 30, 2020, resulting from the pandemic and to set the total effective rates for 2021 rate classes at the same total effective rates as 2020 rate classes.

PART III

Miscellaneous Provisions

SECTION 15. Due to the strains caused by COVID-19, for Fiscal Year 2020-21, the earnings limitation imposed pursuant to Section 9-1-1790 and Section 9-11-90 of the 1976 Code does not apply to retired members of the South Carolina Retirement System or the Police Officers Retirement System who return to covered employment to participate in the state's public health preparedness and response to the COVID-19 virus. To the extent allowed by the CARES Act, the Public Employee Benefit Authority may apply to have its implementation costs to be reimbursed.

SECTION 16. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 17. The provisions of this act take effect upon approval of the Governor.

Ratified the 25th day of September, 2020.

Approved the 25th day of September, 2020.

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