



# HOUSE BILL 1043: 2020 COVID-19 Recovery Act, Sec. 4.2B: Job Retention Grants

2019-2020 General Assembly

<b>Committee:</b>		<b>Date:</b>	November 23, 2020
<b>Introduced by:</b>		<b>Prepared by:</b>	Cindy Avrette Staff Attorney
<b>Analysis of:</b>	Sec. 4.2B of S.L. 2020-4		

**OVERVIEW:** *Sec. 4.2B of S.L. 2020-4, as enacted by Sec. 1.1(e) of S.L. 2020-80, and amended by Sec. 1.5(a) of S.L. 2020-97, appropriates additional money from the Coronavirus Relief Fund to the Office of State Budget and Management (OSBM) and allocates \$15 million to be used to establish a Job Retention Grant program.*

*This section became effective July 1, 2020.*

**BACKGROUND:** The Senate Finance Committee gave a favorable report to Senate Bill 848, the bill that originally proposed using federal CARES act funds to create a Job Retention Grant program to help a business that retained jobs in North Carolina, suffered an economic loss during the period of the pandemic, and did not participate in the other available federal programs. At the request of members, the Finance Committee expanded the Job Retention Grant program to include nonprofits, and especially 501(c)(6) associations because they were not eligible to participate in the federal Paycheck Protection Program (PPP) and many of those trade associations suffered significant revenue challenges due to COVID-19. The legislation inadvertently defined a qualifying nonprofit entity as one exempt from State income tax under G.S. 105-130.11(a)(6); the correct statutory reference that corresponds to a 501(c)(6) nonprofit is G.S. 105-130.11(a)(4).<sup>1</sup>

**BILL ANALYSIS:** This section of the act gives greater programmatic detail for various COVID-19 pandemic funds appropriated to OSBM, one of which is the Job Retention Grant program that originated in Senate Bill 848. The amount allocated for this program is \$15 million.

The stated intent of the program is to provide economic support to businesses and nonprofits that experienced business interruption in connection with the COVID-19 pandemic and did not participate in the federal PPP, the federal Main Street Lending Program, or the North Carolina Rapid Recovery Loan Program. An applicant may not have participated in one of these assistance programs because they did not qualify to participate or because they chose not to participate. These programs are structured as low-interest loan programs to avoid any NC Constitutional concerns.<sup>2</sup> The program created and funded by this act is a grant program.

The Economic Investment Committee (EIC), in the Department of Commerce, will administer the grant program. The Department of Commerce may use a percentage of the funds allocated for the program, not to exceed 5%, as necessary for the administration of the program. The EIC must prescribe the form of the

<sup>1</sup> Legislative staff suggests that the statutory reference be corrected when an appropriate vehicle to do so may be identified.

<sup>2</sup> The NC Constitution prohibits the use of tax revenues for exclusive emoluments to a set of persons not available to the community, except for public service. It also limits the use of tax revenues for public purposes. The State appropriated some of the federal CARES Act funds to GoldenLeaf to be used for low-interest loans to businesses to avoid any constitutional challenge to a grant on the grounds that it would violate either of these constitutional provisions. However, the loan may be forgiven if all employee retention criteria are met and the funds are used for eligible expenses.

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application and may ask for any supporting documentation needed. The applications must be submitted to EIC on or before September 1.

The PPP is designed for employers with 500 or fewer employees, including sole proprietorships, independent contractors, and the self-employed. This grant program is designed for businesses that have employees subject to income tax withholding, but without the 500-employee limit of the PPP. The grant program is available to a business or a nonprofit that retained in North Carolina at least 90% of its full-time employees, or full-time equivalent employees, during the COVID-19 period<sup>3</sup> that it employed in North Carolina at the end of February. The amount of the grant is based upon the applicant's average monthly payroll costs from the last year, indicating the applicant was an employer in this State in the previous year. The program limits the amount of wages per employee the program grants employers. It defines payroll costs based upon the guidelines in the PPP, including the \$100,000 annualized cap on wages, salaries, and bonuses for each employee.

The applicant must also demonstrate that it suffered an economic loss in connection with the COVID-19 pandemic. For a business, its sales for the COVID-19 period must be at least 10% below its sales for the same period in the preceding calendar year. For a nonprofit, its gross receipts for the COVID-19 period must be at least 10% below its gross receipts for the same period in the preceding calendar year.

The maximum grant amount is equal to two months of the eligible applicant's average monthly payroll costs from the last year plus 25% of that amount, not to exceed \$250,000. The total of all funds granted under this Program may not exceed \$15 million. The EIC must calculate the total amount of grants requested from the applicants timely filed. If the total amount of grants requested exceeds the maximum amount of funds available, the EIC must reduce each grant award on a proportionate basis.

**EFFECTIVE DATE:** This section became effective July 1, 2020.

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<sup>3</sup> The COVID-19 period is defined as the period beginning on March 1, 2020 and ending on May 31, 2020.