

Understanding & Implementing ~~SB 310~~ HB 481



OTARMA
Leading the Way for Ohio Townships

Agenda

- What is ~~Senate Bill 310~~ House Bill 481?
- How does it impact townships?
- What does a township need to do to receive these funds?
- What can and can't the money be used for?



OTARMA
Leading the Way for Ohio Townships

Speakers

- Kim Murnieks

Director of the Office of Budget & Management (OBM)

Kimberly Murnieks was appointed Director of the Office of Budget and Management by Governor Mike DeWine on January 14, 2019. Serving as the Chief Financial Officer for the State of Ohio, she oversees the office that develops, coordinates and monitors the individual budgets of state agencies, provides the Governor and administration with policy analysis, and reviews all state financial transactions made with public funds.

- Greg Beck

Partner at Baker, Dublikar, Beck, Wiley & Mathews

Greg Beck represents a wide range of clients in civil and business litigation. Greg handles business transactions and civil litigation for political subdivisions, employers, and private individuals. A portion of his practice concentrates in the area of police liability and civil rights litigation for townships, employers, and political subdivisions.



OTARMA
Leading the Way for Ohio Townships

What is HB 481?

- Ohio has approximately \$1.2 billion in CARES Act funds that can be allocated to local governments.
- HB 481 is Ohio's bill that appropriates an initial \$350 million of the funding to local governments.
- The bill was originally introduced in May as **SB 310** – then the provisions were amended into **HB 481**, which passed the Ohio Senate on June 10 and the House on June 11, sending the bill to Governor DeWine for signature.
- The bill has an emergency clause and is **effective immediately** upon Governor DeWine's signature.



OTARMA
Leading the Way for Ohio Townships

Director
Kim Murnieks

Impact of HB 481 on Townships



OTARMA
Leading the Way for Ohio Townships

CARES Act Overview

- Money was allocated by the Federal government to states and local governments through the CARES Act to assist with response to the COVID-19 pandemic.
- Allotted money directly to entities with a population 500,000 or more.
- Provided money to states to distribute to entities under 500,000.
- U.S. Treasury has issued guidance and FAQs providing information about how Coronavirus Relief Funds (CRF) may be used.
- In Ohio, the Office of Budget and Management (OBM) is administering the funds.



OTARMA
Leading the Way for Ohio Townships

Distribution Formula

- HB 481 allocates \$350 million.
- Money is to be distributed to counties, municipalities, and townships that did not receive a distribution directly from the U.S. Treasury.
- The County Undivided Local Government Fund (CULGF) formula is used – entities will receive at least 100% of what they received in 2019 in LGF money.
 - Governments that received direct allocations are not eligible.
 - Township/small village amount not included.
 - Park districts not included as eligible subdivisions.



OTARMA
Leading the Way for Ohio Townships

Distribution Formula

- The Director of Budget and Management, in consultation with the Tax Commissioner, shall provide for payment from the Coronavirus Relief Fund to each county treasury, to be deposited into a new fund in the county treasury to be named the County Coronavirus Relief Distribution Fund (CCRDF).
- The amount to be disbursed to each county's respective Coronavirus Relief Distribution Fund is **based upon the proportion of Local Government Fund amounts allocated in 2019**, adjusted to exclude the large counties and municipality that received direct CRF payments.



OTARMA
Leading the Way for Ohio Townships

Distribution Formula

- Within 7 days of deposit in the CCRDF, the county auditor shall distribute that money to all eligible subdivisions within the county.
- Upon making the distribution, the county auditor shall report to the Director of Budget and Management the amount distributed to each subdivision.
- NOTE: a township's share of the money from the CCRDF will not be distributed by the county until the township passes a resolution affirming that the funds will be used as required by the CARES Act – on costs to respond to the COVID-19 pandemic.



Receiving HB 481 Money: *Registering with OBM*

Townships need to register on the OBM Grants Partnership website
<http://Grants.Ohio.gov> under *Funding Opportunities*

Click the **Register** button

Quick and simplified process

Contact information

DUNS number

Affirm that funds will be used in accordance with the CARES Act to respond to the COVID-19 pandemic



Receiving Money:

Implementation Process

- Every township wishing to receive the funds must first pass a resolution - OBM has created a sample resolution and the OTA has formatted it to apply specifically to townships.
- Available on OBM Grants Partnership website <http://Grants.Ohio.gov>, OTA website, and in OTARMA e-Library.
- Resolution must affirm that the funds received will only be expended to cover costs of the subdivision consistent with the requirements of the CARES Act and any applicable regulations.
- Township must certify a copy of the resolution or ordinance to the county auditor and to the Director of Budget and Management by emailing it to grants@obm.ohio.gov.



OTARMA
Leading the Way for Ohio Townships

Receiving Money:

Implementation Process

- Money received by a township shall be deposited into a newly created fund to be named the Local Coronavirus Relief Fund (LCRF).
- Money in the LCRF shall be used to cover costs associated with COVID-19 – no revenue replacement.
- Guidance and FAQs will be posted this week on the Grants Partnership website <http://Grants.Ohio.gov>.
- Money in a subdivision's LCRF will be audited by the Auditor of State during the subdivision's next regular audit.

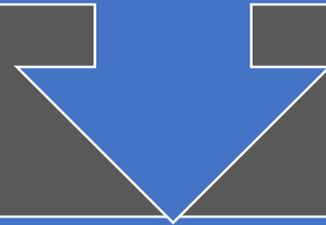


OTARMA
Leading the Way for Ohio Townships

Returning Money:

Implementation Process

Oct. 15, 2020: the township fiscal officer shall pay the unencumbered balance in the township's LCRF to the county treasurer, who shall deposit this revenue in the CCRDF.



Oct. 22, 2020: the county auditor shall redistribute all money as follows:

25% to the county if eligible

Remaining balance to each qualifying municipal corporation or township based on a population

Money must still be used for CRF allowable uses

Reporting, Returning Unspent HB 481 Money: *Implementation Process*

- Reporting will be necessary to comply with federal law – each township receiving a payment from a CCRDF shall, upon request, provide information related to those payments or their expenditure to the Director of OBM – this reporting process will be managed through the Grants Partnership portal <https://grantsportal.ohio.gov>.
- Reporting is not open yet – when initial registration is completed, the township’s grants contact will receive a temporary portal password to log in to the portal and will be notified when reporting is necessary.
- Not later than December 28, 2020, the fiscal officer of each township shall pay the balance of money in the township’s LCRF that remains unexpended on that date back to the state treasury.
- OBM then is required to return CRF that is unexpended on December 30 to the U.S. Treasury.



OTARMA
Leading the Way for Ohio Townships

Greg Beck

Using HB 481 Money



OTARMA
Leading the Way for Ohio Townships

The CARES Act --Section 601(d)

The CARES Act provides that payments from the Fund may only be used to cover costs that -

1. Are **necessary** expenditures incurred **due to** the **public health emergency** with respect to the Coronavirus Disease 2019 (COVID-19);
2. Were **not accounted** for in the budget most recently approved as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government; and
3. Were incurred during the period that begins on **March 1, 2020, and ends on December 30, 2020.**¹



OTARMA
Leading the Way for Ohio Townships

Department of Treasury

Guidance: *Necessary Expenditures*

- The requirement that expenditures be incurred “**due to**” the **public health emergency** means that expenditures *must be used for actions taken to respond to the public health emergency*. These may include expenditures incurred to ... respond directly to the emergency, such as by addressing medical or public health needs, as well as expenditures incurred to respond to second-order effects of the emergency, such as *by providing economic support to those suffering from employment or business interruptions due to COVID-19-related business closures*.
- Funds *may not be used to fill shortfalls in government revenue* to cover expenditures that would not otherwise qualify under the statute. Although a broad range of uses is allowed, **revenue replacement is not a permissible use of Fund payments**.
- The statute also specifies that expenditures using Fund payments must be “necessary.” The Department of the Treasury understands this term broadly to mean that the expenditure is **reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments**.



OTARMA
Leading the Way for Ohio Townships

Department of Treasury Guidance: *Eligible Expenditures*

Eligible expenditures include, but are not limited to, payment for:

- Expenses for acquisition and distribution of medical and protective supplies, including sanitizing products and personal protective equipment, for medical personnel, police officers...
- Expenses for disinfection of public areas and other facilities, e.g., nursing homes, in response to the COVID-19 public health emergency.
- Expenses for technical assistance to local authorities or other entities on mitigation of COVID-19-related threats to public health and safety.
- Expenses for public safety measures undertaken in response to COVID-19.
- Payroll expenses for public safety, public health, health care, human services, and similar employees whose services are substantially dedicated to mitigating or responding to the COVID- 19 public health emergency.



OTARMA
Leading the Way for Ohio Townships

Department of Treasury Guidance: *Ineligible Expenditures*

Nonexclusive examples of ineligible expenditures:

- Damages covered by insurance.
- *Payroll or benefits expenses* for employees whose work duties are *not substantially dedicated to mitigating or responding* to the COVID-19 public health emergency.
- Expenses that have been or will be reimbursed under any federal program, such as the reimbursement by the federal government pursuant to the CARES Act of contributions by States to State unemployment funds.
- Reimbursement to donors for donated items or services.
- Workforce bonuses other than hazard pay or overtime.
- Severance pay.
- Legal settlements.



OTARMA
Leading the Way for Ohio Townships

Department of Treasury Guidance: Costs

The CARES Act also requires that payments be used only to cover costs that were not accounted for in the budget most recently approved as of March 27, 2020.

A cost meets this requirement if either (a) **the cost cannot lawfully be funded using a line item**, allotment, or allocation within that budget *or* (b) the cost is for a **substantially different use from any expected use** of funds in such a line item, allotment, or allocation.

The “most recently approved” budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency. ***A cost is not considered to have been accounted for in a budget merely because it could be met using a budgetary stabilization fund, rainy day fund, or similar reserve account.***



OTARMA
Leading the Way for Ohio Townships

Ohio Auditor Summary of CARES Act Funding

- Funds may be used to respond directly to the emergency as well as respond to second-order effects of the emergency.
- The statute says that an expenditure must be "necessary." **Treasury interpreted this term to mean reasonably necessary for its intended use in the reasonable judgment of the government officials responsible for spending Fund payments.**
- *Funds may not be used to fill shortfalls in government revenue to cover expenditures that would not otherwise qualify under the statute.*



OTARMA
Leading the Way for Ohio Townships

Ohio Auditor Summary of CARES Act Funding

- The CARES Act also requires that payments **be used only to cover costs that were not accounted for in the budget** most recently approved as of March 27, 2020. The "most recently approved" budget refers to the enacted budget for the relevant fiscal period for the particular government, without taking into account subsequent supplemental appropriations enacted or other budgetary adjustments made by that government in response to the COVID-19 public health emergency.
- *Payroll expenses for public safety, public health, health care, human services, and similar employees* **whose services are substantially dedicated to mitigating or responding to the COVID-19 public health emergency.**
- Expenses of providing paid sick and paid family and medical leave to public employees to enable compliance with COVID-19 public health precautions.



Key Factors for decisions:

- Would a reasonable person in the role of a trustee determine the costs were necessary?
- Would a reasonable person in the role of a trustee determine the use of the money was related to the COVID- 19 crisis?
- Document, document, document.
- Obtain a legal opinion in any situation that is not obvious.



OTARMA
Leading the Way for Ohio Townships



OTARMA

Leading the Way for Ohio Townships

Q and A

Remember:

- Consult your legal counsel with specific questions.
- A Q&A Worksheet will be available.
- A sample resolution is available for Ohio townships.
- 1 hour of CE credit can be obtained at <http://training.ohioauditor.gov/> Type in the key word “OTARMA” and OTARMA-CARES Act Funding will appear.
- We will send a follow-up survey, please complete.



OTARMA
Leading the Way for Ohio Townships

Contact Info

- **Kim Murnieks**

Office of Budget & Management
30 East Broad Street, 34th Floor
Columbus, Ohio 43215
Kim.Murnieks@obm.ohio.gov

- **Greg Beck**

Baker Dublikar, Attorneys at Law
400 South Main Street
North Canton, Ohio 44720
(330) 499-6000
Beck@Bakerfirm.com

- **Heidi Fought**

Ohio Township Association
6500 Taylor Road, Suite A
Blacklick, OH 43004
Fought@ohiotownships.org
614-863-0045

- **OBM Grants Partnership**

Grants@obm.ohio.gov



OTARMA
Leading the Way for Ohio Townships



OTARMA

Leading the Way for Ohio Townships

Thank You for
Attending this
OTARMA
Teleconference