



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3703

by Rep. Fred Crespo

SYNOPSIS AS INTRODUCED:

30 ILCS 705/2	from Ch. 127, par. 2302
30 ILCS 705/4	from Ch. 127, par. 2304
30 ILCS 705/6	from Ch. 127, par. 2306
30 ILCS 705/9	from Ch. 127, par. 2309

Amends the Illinois Grant Funds Recovery Act. Modifies the term "grant funds" to allow funds disbursed by the State Comptroller under an appropriation made by the General Assembly to a named entity or person to be considered as grant funds for purposes of the Act. Provides that, at a minimum, a grant agreement must, among other requirements, (1) identify any terms for which a failure to comply may be deemed material non-compliance, and subject grant funds to recovery, and (2) specify any performance levels for which a failure to achieve may result in a determination that grant funds have been misspent and subject to recovery. Provides that a grantor agency or the Attorney General may seek recovery of grant funds when there has been material non-compliance with the grant agreement or when grant funds have been misspent or are being improperly held. Provides that the grantor agency making the grant shall take affirmative and timely action to recover all (currently, all misspent or improperly held) grant funds subject to recovery. Provides that the Attorney General, on his own volition, may act to recover any grant funds which may be recoverable under specified provisions (currently, may act to recover any grant funds which have been misapplied or are being improperly held). Defines terms. Makes conforming changes. Effective immediately.

LRB101 09989 RJF 55091 b

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Grant Funds Recovery Act is amended
5 by changing Sections 2, 4, 6, and 9 as follows:

6 (30 ILCS 705/2) (from Ch. 127, par. 2302)

7 Sec. 2. Definitions. The following terms when used in this
8 Act shall have the meanings ascribed to them in this Section:

9 (a) "Grantor agency" is any agency of State government
10 which dispenses grant funds.

11 (b) "Grant funds" are any public funds dispensed by a
12 grantor agency to any person or entity for obligation,
13 expenditure, or use by that person or entity for a specific
14 purpose or purposes. ~~Funds disbursed by the State Comptroller~~
15 ~~pursuant to an appropriation made by the General Assembly to a~~
16 ~~named entity or person are not grant funds for purposes of this~~
17 ~~Act.~~ Funds disbursed in accordance with a fee for service
18 purchase of care contract are not grant funds for purposes of
19 this Act.

20 Neither the method by which funds are dispensed whether by
21 contract, agreement, grant subsidy, letter of credit, or any
22 other method nor the purpose for which the funds are used can
23 change the character of funds which otherwise would be

1 considered grant funds as defined in this Section.

2 (c) "Grantee" means the person or entity which may use
3 grant funds.

4 (c-5) "Improperly held" means retention of grant funds by a
5 grantee or its subrecipient (i) after the grantor agency has
6 directed the grantee to return the funds pursuant to any
7 authority or right provided to the grantor agency under any
8 statute, rule, or grant agreement, or (ii) in a manner
9 inconsistent with any statute, rule, or grant agreement.

10 (d) "Institution of higher education" means any
11 institution which is authorized to grant degrees within the
12 State of Illinois.

13 (e) "Material non-compliance" means when the grantee or its
14 subrecipient has failed to comply with a term of the grant
15 agreement, other than those terms relating to improperly
16 holding or misspending grant funds, that is so significant that
17 the grantor agency's decision to award the grant would have
18 been affected had it foreseen the non-compliance. "Material
19 non-compliance" includes, but shall not be limited to, any act
20 that may be grounds for permanent placement on the Illinois
21 Debarred and Suspended List established under the Grant
22 Accountability and Transparency Act and a violation of any
23 record access, recordkeeping, or audit provisions.

24 (f) "Misspent" means spent by a grantee or its subrecipient
25 (i) in a manner inconsistent with the terms of any statute,
26 rule, or grant agreement, or (ii) without achieving the

1 performance required by the grant agreement absent compelling
2 mitigating circumstances, as determined by the grantor agency.

3 (g) "Subrecipient" means a person or entity that receives
4 grant funds from a grantee to carry out part of the grant
5 program. "Subrecipient" does not include a vendor.

6 (Source: P.A. 86-602.)

7 (30 ILCS 705/4) (from Ch. 127, par. 2304)

8 Sec. 4. Grant Application and Agreement Requirements.

9 (a) Any person or organization, public or private, desiring
10 to receive grant funds must submit a grant application to the
11 appropriate grantor agency. Applications for grant funds shall
12 be made on prescribed forms developed by the grantor agency,
13 and shall include, without being limited to, the following
14 provisions:

15 (1) the name, address, chief officers, and general
16 description of the applicant;

17 (2) a general description of the program, project, or
18 use for which grant funding is requested;

19 (3) such plans, equipment lists, and other documents as
20 may be required to show the type, structure, and general
21 character of the program, project, or use for which grant
22 funding is requested;

23 (4) cost estimates of developing, constructing,
24 operating, or completing the program, project, or use for
25 which grant funding is requested; and

1 (5) a program of proposed expenditures for the grant
2 funds.

3 (b) Grant funds may not be used except pursuant to a
4 written grant agreement, and any disbursement of grant funds
5 without a grant agreement is void. At a minimum, a grant
6 agreement must:

7 (1) describe the purpose of the grant and be signed by
8 the grantor agency making the grant and all grantees of the
9 grant;

10 (2) specify how payments shall be made, what
11 constitutes permissible expenditure of the grant funds,
12 and the financial controls applicable to the grant,
13 including, for those grants in excess of \$25,000, the
14 filing of quarterly reports describing the progress of the
15 program, project, or use and the expenditure of the grant
16 funds related thereto;

17 (3) specify the period of time for which the grant is
18 valid and, subject to the limitation of Section 5, the
19 period of time during which grant funds may be expended by
20 the grantee;

21 (4) contain a provision that any grantees receiving
22 grant funds are required to permit the grantor agency, the
23 Auditor General, or the Attorney General to inspect and
24 audit any books, records, or papers related to the program,
25 project, or use for which grant funds were provided;

26 (5) contain a provision that all funds remaining at the

1 end of the grant agreement or at the expiration of the
2 period of time grant funds are available for expenditure or
3 obligation by the grantee shall be returned to the State
4 within 45 days; ~~and~~

5 (6) contain a provision in which the grantee certifies
6 under oath that all information in the grant agreement is
7 true and correct to the best of the grantee's knowledge,
8 information, and belief; that the funds shall be used only
9 for the purposes described in the grant agreement; and that
10 the award of grant funds is conditioned upon such
11 certification;~~;~~

12 (7) identify any terms for which a failure to comply
13 may be deemed material non-compliance and subject grant
14 funds, or any portion thereof, to recovery; and

15 (8) specify any performance levels for which a failure
16 to achieve may result in a determination that grant funds,
17 or any portion thereof, have been misspent and subject to
18 recovery.

19 (Source: P.A. 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793
20 for the effective date of changes made by P.A. 96-795).)

21 (30 ILCS 705/6) (from Ch. 127, par. 2306)

22 Sec. 6. Recovery of Grant Funds. A grantor agency or the
23 Attorney General may seek recovery of grant funds when there
24 has been material non-compliance with the grant agreement or
25 when grant funds have been misspent or are being improperly

1 ~~held. Any grant funds which have been misspent or are being~~
2 ~~improperly held are subject to recovery by the grantor agency~~
3 ~~which made the grant or alternatively by the Attorney General.~~

4 The grantor agency making the grant shall take affirmative and
5 timely action to recover all ~~misspent or improperly held~~ grant
6 funds subject to recovery. In order to effectuate the recovery
7 of such grant funds, the grantor agency making the grant is
8 authorized to use any one or a combination of the following:

9 (a) offset against existing grants of, or future grants to
10 be made by, the grantor agency making the recovery;

11 (b) authorize the offset from existing grants or grants to
12 be made by other grantor agencies;

13 (c) authorize the Comptroller to offset any payment from
14 any funds administered by the Comptroller for payment to the
15 grantee, including, but not limited to, distributions of
16 appropriated funds and payment of refunds;

17 (d) initiate any debt collection method authorized by law
18 to any private person; or

19 (e) remove the grantee from any of the grantor agency's
20 programs and forbid the grantee's participation in any such
21 future grant programs for a period not to exceed 2 years.

22 The provisions of this Section are subject to Section 14.

23 (Source: P.A. 87-1262.)

24 (30 ILCS 705/9) (from Ch. 127, par. 2309)

25 Sec. 9. Recovery of Grant Funds by Attorney General. Except

1 as otherwise provided by Section 14, the Attorney General, on
2 his own volition, may act to recover any grant funds which may
3 be recoverable under Section 6 ~~have been misapplied or are~~
4 ~~being improperly held~~ and, when doing so, has all the powers of
5 collection established in this Act in addition to any other
6 powers authorized by law or the Constitution.

7 (Source: P.A. 87-1262.)

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.