

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 First Reader

House Bill 1226 (Delegate Healey)
 Appropriations

Economic Development - Nonprofit Sustainability Fund - Establishment

This bill establishes the Nonprofit Sustainability Fund (NSF) in the Department of Commerce to provide grants for general operating support to qualifying nonprofit organizations in the State. Commerce may contract with one or more intermediary organizations to assist, as specified. The NSF Evaluation Committee is established to determine whether a nonprofit organization meets specified eligibility requirements, including total revenues of \$50,000 to \$10.0 million, and recommend to Commerce which applications should receive a grant. Generally, grant amounts are a percentage of each nonprofit organization’s revenues; however, grants are prorated if there is insufficient funding. Beginning in fiscal 2025, the Governor must include in the annual budget bill an appropriation of \$100.0 million to NSF. Up to 2.0% of the appropriation may be used for Commerce’s administrative expenses and up to 5.0% may be used for expenses of intermediary organizations. The bill specifies related findings of the General Assembly.

Fiscal Summary

State Effect: General fund expenditures increase by \$100.0 million annually beginning in FY 2025. Special fund revenues and expenditures for NSF increase correspondingly as funds are received and used for grants and administrative expenses, as discussed below. This assumes no discretionary funding is provided in FY 2024 and that start-up costs prior to grant funding being available are minimal and absorbable within existing budgeted resources. **This bill establishes a mandated appropriation beginning in FY 2025.**

(\$ in millions)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
SF Revenue	\$0	\$100.0	\$100.0	\$100.0	\$100.0
GF Expenditure	\$0	\$100.0	\$100.0	\$100.0	\$100.0
SF Expenditure	\$0	\$100.0	\$100.0	\$100.0	\$100.0
Net Effect	\$0.0	(\$100.0)	(\$100.0)	(\$100.0)	(\$100.0)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill does not materially affect local government finances or operations.

Small Business Effect: None; however, small nonprofit organizations benefit from significant grant funding made available under the bill.

Analysis

Bill Summary:

Nonprofit Sustainability Fund

NSF is established as a special, nonlapsing fund and administered by Commerce to provide general operating support to nonprofit organizations in the State. NSF consists of money appropriated in the State budget to the fund, interest earnings, and any other money from any other source accepted for the benefit of the fund. NSF may be used only for:

- issuing grants to eligible nonprofit organizations under processes established in the bill;
- reasonable administrative expenses incurred by Commerce and the evaluation committee (up to 2.0% in total annually); and
- reasonable expenses of intermediary organizations under contract to Commerce for purposes of managing grants made under the bill (up to 5.0% annually).

For fiscal 2025 and each fiscal year thereafter, the Governor must include in the annual budget bill an appropriation of \$100.0 million to NSF. Expenditures from NSF may be made only in accordance with the State budget.

Nonprofit Sustainability Fund Evaluation Committee

The NSF Evaluation Committee is established as specified, primarily consisting of individuals with current or former experience in the nonprofit space. A member of the evaluation committee may not receive compensation but is entitled to reimbursement for travel expenses. The evaluation committee must meet as necessary to perform its duties, but at least two times each year. The evaluation committee must evaluate nonprofit organizations that apply for a grant based on the criteria established under the bill and recommend to Commerce which applications should receive a grant.

The evaluation committee must also advise Commerce in the selection of intermediary organizations. Commerce must disclose all material actions and decisions the department makes regarding the administration of NSF to the evaluation committee and must give due consideration to the evaluation committee's recommendations.

General Grant Eligibility

“Nonprofit organization” means an organization that is exempt from taxation under § 501(c)(3), (c)(4), or (c)(6) of the Internal Revenue Code.

“Total revenue” means the amount of revenue that a nonprofit organization most recently reported to the Internal Revenue Service on Part 1 of the federal Form 990 or Form 990EZ.

A nonprofit organization is eligible for a grant under the bill if the nonprofit organization is in good standing with the State Department of Assessments and Taxation, is physically located in the State, and had total revenue of \$50,000 to \$10.0 million in the third calendar year before the organization applies for a grant.

A nonprofit organization is not eligible for a grant if the nonprofit organization has received more than five grants from the fund or operates principally as a hospital, a primary or secondary school, an institution of higher education, a place of worship, or a credit union. A nonprofit organization may be awarded one grant each year, regardless of the number of locations the nonprofit organization operates.

Applicant Selection and Prioritization

The evaluation committee must determine whether a nonprofit organization meets the bill’s eligibility requirements. A decision is final and not subject to appeal. The evaluation committee must consider each timely and complete application. Each application must be determined to be high-priority, regular-priority, or not eligible. The following types of nonprofit organizations must be designated as high-priority:

- human services organizations, including specified types of such services such as, among others, community health services, services for individuals experiencing homelessness or housing insecurity, food insecurity and food assistance, and income assistance, employment services, or job training;
- culturally specific organizations serving historically underserved and underrepresented communities, including disadvantaged racial, ethnic, and religious minorities, immigrants, and lesbian, gay, bisexual, transgender, and other gender-nonconforming individuals;
- nonprofit organizations located outside the Baltimore and Washington metropolitan areas; and
- nonprofit organizations with total revenue of \$1.5 million or less and operations principally located in Allegany, Garrett, Caroline, Cecil, Kent, St. Mary’s, Somerset, Talbot, Wicomico, Washington, and Worcester counties.

Award Amounts

Generally, the maximum amount a nonprofit organization may receive from a grant awarded under the bill is determined based on the organization's total revenue and is:

- 10% of the nonprofit organization's total revenue, if the organization's total revenue is at least \$50,000 but not more than \$500,000 (*\$5,000 to \$50,000*);
- the greater of \$50,000 or 5% of the nonprofit organization's total revenue, if the organization's total revenue is more than \$500,000 but not more than \$2.5 million (*\$50,000 to \$125,000*); and
- the greater of \$125,000 or 1.5% of the nonprofit organization's total revenue, if the organization's total revenue is more than \$2.5 million but not more than \$10.0 million (*\$125,000 to \$150,000*).

However, if the total amount of maximum grants to high-priority applicants exceeds available funding, the grant amounts are reduced on a prorated basis. Likewise, if the total amount of maximum grants to regular-priority applications exceeds available funding, the grant amounts are reduced on a prorated basis.

The bill does not specify whether all high-priority applicants must receive maximum grant amounts before regular-priority applicants can receive funding, *i.e.*, whether there are two separate allocations within the total funding amount.

Grants must be disbursed within 37 days after the announcement of the award and the issuance of a grant agreement.

Other Administrative Provisions

Commerce must publish instructions on its website for applying for grants under the bill, including a clear and reasonable deadline for the submission of applications. In establishing instructions, procedures, forms, grant agreements, reporting requirements, and regulations, Commerce and the evaluation committee must, consistent with acceptable financial management practices, attempt to minimize the administrative burden to nonprofit organizations. Commerce may adopt regulations to implement the bill.

Commerce may contract with one or more intermediary organizations to assist in administering grants under the bill, marketing and outreach, technical assistance, and NSF navigation.

Current Law: There are no economic development or business financial assistance programs in the State of an equivalent annual scale, for the benefit of nonprofit organizations or otherwise.

Commerce’s Office of Finance Programs is charged with delivering and administering the department’s financial incentive and tax credit programs. According to the department’s *Consolidated Incentives Performance Report*, Commerce programs approved \$37.1 million in grants and loans and certified \$33.3 million in tax credits in fiscal 2022. A more comprehensive list of financial incentives available for Maryland businesses can be found on Commerce’s [website](#).

The Maryland Nonprofit Development Center Program within Commerce is charged with assisting the economic growth and revitalization of nonprofit entities in the State. The program must do so by providing (1) grants for training and technical assistance services and (2) bridge loans to nonprofit entities that have received written confirmation of funding from government grants or contracts but have not yet received the funding. Since inception of the program in 2017, 19 loans have been approved for \$475,000.

State Fiscal Effect: This estimate assumes general fund expenditures increase by \$100.0 million annually beginning in fiscal 2025, consistent with the timing of the mandated appropriation. NSF revenues and expenditures increase correspondingly.

Commerce advises that it intends to contract with an intermediary organization to assist in administering the program as allowed under the bill. This estimate assumes the process begins with existing staff in fiscal 2024, in preparation for grant funding being available in fiscal 2025. Costs for existing Commerce staff to develop a request for proposals and for the evaluation committee to advise Commerce on the selection of intermediary organizations are assumed to be minimal and absorbable within existing budgeted resources in fiscal 2024. Multiple Commerce programs are administered with assistance from a third party under a contract.

This estimate assumes that Commerce hires one program manager to oversee the contract with the intermediary organization effective July 1, 2024, when the \$100.0 million in annually mandated funding first becomes available. This estimate reflects the cost of hiring one individual to manage the contract with the intermediary organization and handle any remaining administrative duties for the department. It includes a salary, fringe benefits, one-time start-up costs, ongoing operating expenses, an assumed maximum allocation for the intermediary (5.0%), and \$94.9 million in grant funding.

Position	1.0
Salary and Fringe Benefits	\$124,496
Other Operating Expenses	7,685
Intermediary Organization Contract	5,000,000
Grants for Eligible Nonprofit Organizations	<u>94,867,819</u>
Total FY 2025 State Expenditures	\$100,000,000

Future year expenditures reflect a full salary with annual increases and employee turnover as well as annual increases in ongoing operating expenses and ongoing use of mandated funding to provide grants to eligible nonprofit organizations. If the cost of an intermediary is less than the maximum, or if Commerce administrative expenses are more than this estimate, then the amount of remaining funds available for grants changes.

To the extent that Commerce chooses to hire the program manager earlier than July 1, 2024, for example, if the department wants the program manager to be involved in the selection of an intermediary organization, general fund expenditures also increase in fiscal 2024, likely by about one-half of Commerce's administrative costs shown above.

For illustrative purposes only, a preliminary analysis of Internal Revenue Service Data on Maryland nonprofit organizations indicates that approximately 6,800 501(c)(3), (4), and (6) nonprofit organizations had annual revenues of \$50,000 to \$10.0 million in 2021, with \$6.7 billion in combined revenue. Applying the formulas in the bill for grant amounts to the organizations' reported revenues yields approximately \$290.0 million each year. This does not specifically exclude hospitals, schools, and other groups excluded under the bill, although many hospitals would be excluded due to the revenue limit. Still, there appears to be more than sufficient nonprofit organization revenues to assume all funds can be expended through NSF each year, at least through the first five years of the program, at which point the five-award maximum in the bill may decrease NSF expenditures.

Small Business Effect: While nonprofit organizations are not considered small businesses for purposes of fiscal and policy notes, many small nonprofit organizations benefit from grant funding provided under the bill. Of the roughly 6,800 nonprofit organizations described above, about 4,300 reported revenues of \$50,000 to \$500,000, with combined revenues of \$78.8 million, and another 1,800 nonprofit organizations reported revenues of \$500,001 to \$2.5 million, with combined revenues of \$115.5 million.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Department of Commerce; Department of Budget and Management; Internal Revenue Service; Department of Legislative Services

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km/lgc

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