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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 4682

03/30/2022 Authored by Albright, Boe and Pierson The bill was read for the first time and referred to the Committee on State Government Finance and Elections

1.1 A bill for an act
1.2 relating to state government; increasing fiscal safeguards for state grants to
1.3 nonprofit organizations; amending Minnesota Statutes 2020, section 16B.98,
1.4 subdivision 8; proposing coding for new law in Minnesota Statutes, chapter 16B.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. 16B.971 GRANTS TO NONPROFIT ORGANIZATIONS.

1.7 Subdivision 1. Definitions. (a) As used in this section, the following terms have the
1.8 meanings given.

1.9 (b) "Certified financial audit" means a review of an organization's financial statements,
1.10 fiscal policies, and control procedures by an independent third party to determine if the
1.11 statements fairly represent the organization's financial position and if organizational
1.12 procedures are in accordance with generally accepted accounting principles.

1.13 (c) "Fiscal agent" means the commissioner or head of the state agency responsible for
1.14 administering a grant.

1.15 (d) "Grant" means a grant of state money from any source.

1.16 (e) "Organization" means a nongovernmental organization that is tax exempt under the
1.17 Internal Revenue Code.

1.18 Subd. 2. Requirements for eligibility. (a) For an organization to be eligible to receive
1.19 a grant, the organization must meet the following criteria:

1.20 (1) the organization must submit to the fiscal agent the relevant series Internal Revenue
1.21 Service Form 990 in each of the two years preceding the execution of a grant agreement;

2.1 (2) the organization must not compensate an officer or employee in an amount greater
2.2 than the governor's annual compensation in a 12-month period during the first fiscal year
2.3 beginning, during, or after the 12-month period or in the following fiscal year. Compensation
2.4 for purposes of this section includes salary, bonuses, the present value of stock options, the
2.5 value of employment benefits, employer contributions to retirement or deferred compensation
2.6 plans on behalf of the officer or employee, and any other compensation or benefit of value;
2.7 and

2.8 (3) the organization must not have on its governing board a voting member who is:

2.9 (i) an employee of a state agency; or

2.10 (ii) an official elected to serve in a state, county, or local government office.

2.11 Subd. 3. **Additional eligibility requirements for certain nonprofit organizations.** For
2.12 an organization that received more than 25 percent of revenue from state funds in the fiscal
2.13 year preceding the organization's grant application or that has revenue greater than \$750,000,
2.14 to be eligible to receive a grant, the organization must meet the following criteria:

2.15 (1) the organization must submit to the fiscal agent certified financial audits of the most
2.16 recent two fiscal years preceding the grant application; and

2.17 (2) officers and members of the governing board of the organization must not have been
2.18 convicted of any offense involving theft, fraud, embezzlement, or other misuse or
2.19 misappropriation of funds or property. The commissioner of administration must conduct
2.20 background checks on officers and members of the governing body of the organization
2.21 before an agency may enter into a grant agreement with the organization.

2.22 Subd. 4. **Notice to legislature of ineligibility.** If a grant has been awarded by law to a
2.23 specified organization that the commissioner determines is ineligible to receive the grant
2.24 under subdivision 2 or 3, the commissioner must promptly report that determination to the
2.25 chair of the committee on finance in the senate and the chair of the committee on ways and
2.26 means in the house of representatives.

2.27 Subd. 5. **Grant application.** (a) A fiscal agent administering a grant program must
2.28 require the following information as part of a grant application:

2.29 (1) the purpose of the grant, including goals, priorities, and measurable outcomes;

2.30 (2) eligibility requirements for individuals who will be served by the grant program;

2.31 (3) the proposed geographic service areas for individuals served by the grant;

2.32 (4) the reporting requirements; and

3.1 (5) certification that the applicant is eligible under subdivisions 2 and 3 to receive a
3.2 grant.

3.3 These requirements are in addition to any requirements under existing laws and policies.

3.4 (b) An organization that is specifically identified in law to receive a grant must provide
3.5 the information in paragraph (a) to the commissioner of the fiscal agent for the grant before
3.6 the commissioner may execute the grant agreement.

3.7 Subd. 6. **Reporting on use of funds.** (a) Organizations must provide the following
3.8 information to the fiscal agent:

3.9 (1) a detailed accounting of the use of any grant proceeds;

3.10 (2) a description of program outcomes to date, including performance measured against
3.11 indicators specified in the grant agreement, including but not limited to job creation,
3.12 employment activity, wage information, business formation or expansion, and academic
3.13 performance; and

3.14 (3) the portion of the grant, if any, spent on the recipient's operating expenses.

3.15 Grant recipients must report the information required under this paragraph to the fiscal agent
3.16 within one year after receiving any portion of the grant, and annually thereafter, and within
3.17 30 days following the use of all funds provided under the grant.

3.18 (b) The fiscal agent for a grant to an organization must submit a report containing the
3.19 information provided by the grant recipients to the chairs and ranking minority members
3.20 of the legislative committees and budget divisions with jurisdiction over the agency serving
3.21 as fiscal agent for the grant. The report submitted under this section must also include the
3.22 commissioner's summary of the use of grant proceeds and an analysis of the grant recipients'
3.23 success in meeting the goals, priorities, and measurable outcomes specified for the grant.
3.24 An updated version of this report must be submitted on January 15 of each succeeding year
3.25 until January 15 in the year following the date when all of the grant funds have been spent.

3.26 Subd. 7. **Notice to legislature of fraud or abuse claims.** If the commissioner of
3.27 administration or the Department of Administration Office of Grants Management receives
3.28 a comment or concern about fraud or waste for a grant made by law to a specified
3.29 organization, the commissioner must promptly report the comment or concern to the chair
3.30 of the committee on finance in the senate and the chair of the committee on ways and means
3.31 in the house of representatives.

4.1 Sec. 2. Minnesota Statutes 2020, section 16B.98, subdivision 8, is amended to read:

4.2 Subd. 8. **Audit.** (a) A grant agreement made by an executive agency must include an
4.3 audit clause that provides:

4.4 (1) that the books, records, documents, and accounting procedures and practices of the
4.5 grantee receiving a grant of more than \$500,000 are subject to examination by the granting
4.6 agency and either the legislative auditor or the state auditor, as appropriate, for a period of
4.7 two years prior to the execution of the grant agreement for a grant and during the term of
4.8 the grant agreement; and

4.9 (2) that the books, records, documents, and accounting procedures and practices of the
4.10 grantee or other party that are relevant to the grant or transaction are subject to examination
4.11 by the granting agency and either the legislative auditor or the state auditor, as appropriate,
4.12 for a minimum of six years from the grant agreement end date, receipt and approval of all
4.13 final reports, or the required period of time to satisfy all state and program retention
4.14 requirements, whichever is later. If a grant agreement does not include an express audit
4.15 clause, the audit authority under this subdivision is implied.

4.16 (b) If a grant agreement does not include an express audit clause, the audit authority
4.17 under this subdivision is implied.

4.18 ~~(b)~~ (c) If the granting agency is a local unit of government, and the governing body of
4.19 the local unit of government requests that the state auditor examine the books, records,
4.20 documents, and accounting procedures and practices of the grantee or other party according
4.21 to this subdivision, the granting agency shall be liable for the cost of the examination. If
4.22 the granting agency is a local unit of government, and the grantee or other party requests
4.23 that the state auditor examine all books, records, documents, and accounting procedures
4.24 and practices related to the grant, the grantee or other party that requested the examination
4.25 shall be liable for the cost of the examination.

4.26 Sec. 3. **EFFECTIVE DATE.**

4.27 Sections 1 and 2 are effective the day following final enactment and apply to grants
4.28 appropriated by law after the effective date and to grant agreements executed after the
4.29 effective date.