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State and Local Government Provisions in the HEROES Act

On May 12, 2020, House Democratic leadership released the 1,815-page text of the **Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act** ([H.R. 6800](#)), a \$3 trillion package to respond to the coronavirus crisis. A 90-page section-by-section summary of the HEROES Act is available [here](#) and a one-pager on the bill is available [here](#).

The House is scheduled to vote on the HEROES Act this Friday, May 15, where it is very likely to pass on a mainly party-line vote. However, over the past several weeks, Senate Majority Leader Mitch McConnell (R-KY) and the Trump Administration have expressed objections to taking up another COVID-19 relief package right now, saying there has not been enough time since the \$2 trillion CARES Act was enacted on March 27th to determine whether new legislation is needed or necessary. This very likely means that the GOP-controlled Senate will pass its own version of the COVID-19 relief package in early-mid June that looks substantively different from the HEROES Act, and a compromise version will eventually become law in June.

Major provisions of importance/interest to public entities in the HEROES Act include the following (as described by House Democrats in their summary documents):

A new [State and Local Coronavirus Relief Fund](#) through the Department of the Treasury “to help first responders, frontline health workers, transit employees, teachers, and other workers providing vital services. Funds can be used for COVID-related expenses, to replace foregone revenues not projected on January 31, 2020, or to respond to negative economic impacts of COVID. Funds are available until expended, providing flexibility over the next several years.” The HEROES Act also makes an improvement to the CARES Act’s \$150 billion Coronavirus Relief Fund by “Expand[ing] the use of funds to cover lost, delayed, or decreased revenue stemming from the COVID public health emergency.” In addition to \$500 billion for state governments, the HEROES Act’s State and Local Coronavirus Relief Fund includes a total of \$375 billion to all local governments, allocated in the following way:

- **\$250 billion awarded within 30 days of enactment to all municipalities and counties**
 - **\$125 billion** to municipalities using a modified CDBG formula
 - **\$87.5 billion** to entitlement municipalities (generally defined as those with populations of at least 50,000)
 - **\$37.5 billion** to non-entitlement municipalities (generally defined as those with populations of less than 50,000). These funds will be awarded to

- states, which must make awards to non-entitlement cities based solely on population within 30 days of receipt.
 - **\$125 billion** to counties based on population
- **\$125 billion awarded one year after the date of enactment to all municipalities and counties**
 - **\$62.5 billion** to municipalities using a modified CDBG formula
 - **\$43.75 billion** to entitlement municipalities (generally defined as those with populations of at least 50,000)
 - **\$18.75 billion** to non-entitlement municipalities (generally defined as those with populations of less than 50,000). These funds will be awarded to states, which must make awards to non-entitlement cities based solely on population within 30 days of receipt.
 - **\$62.5 billion** to counties based on population

Federal, state, and local governments allowed tax credits for paid sick and paid family and medical leave:

removes the exclusion disallowing the paid sick and family leave credits enacted in the Families First Coronavirus Response Act (FFCRA) for Federal, state, and local governments. It makes conforming changes to the definition of qualified wages to align the credit with the intent that the credit cover the leave required by the respective mandates. This provision is effective as if included in FFCRA (which was enacted on March 18, 2020).

Pandemic Emergency Assistance and Services Funding to States, Localities, and Community-Based Organizations for Emergency Aid and Services:

This subsection directly appropriates \$9.6 billion to the Social Services Block Grant for the sole purpose of providing emergency aid and services to disadvantaged children, families, and households. It requires the Department of Health and Human Services to distribute the funds to all 50 states, the District of Columbia, and all U.S. Territories within 45 days, and requires states and territories to obligate the funds by December 31, 2020. Under this section, states would be required to pass through at least 50 percent of the funds to county governments, local governments working in partnership with community-based organizations, or directly to community-based organizations with experience serving disadvantaged individuals or families. States are required to distribute the funds expeditiously, ensure that the pass-through funds are distributed to sub-state areas based on the area's share of disadvantaged individuals, and report to HHS on their plan for distribution within 90 days. The funds could be used to provide basic economic and well-being necessities, provide necessary supplies to protect against infection, help connect individuals and families to payments and services for which they are eligible, provide short-term cash, non-cash, or in-kind disaster relief, and pay operational costs directly related to providing the services and maintaining local social service operations to assist needy families.

Emergency relief for State, territorial, Tribal, and local governments: This section expands the Federal Reserve's assistance to local governments by allowing U.S. territories, as well as a greater number of cities and counties, to be eligible issuers in the Federal Reserve's Municipal Liquidity Facility. The population threshold for eligible counties and localities would be lowered to 50,000 (it's currently 500,000 for counties and 250,000 for smaller localities).

A Heroes' Fund for essential workers, with \$200 billion to ensure that essential workers who have risked their lives working during the pandemic receive hazard pay.

Supports testing, tracing and treatment, by providing another \$75 billion for coronavirus testing, contact tracing and isolation measures, ensuring every American can access free coronavirus treatment, and supporting hospitals and providers.

Additional Emergency Supplemental Appropriations for Existing Federal Programs

Local governments and public entities are eligible to receive funding from a vast majority of the programs, including:

- **Supplemental Nutrition Assistance Program (SNAP):** Provides \$10 billion to support anticipated increases in participation and to cover program cost increases related to flexibilities provided to SNAP by the Families First Coronavirus Response Act.
- **Emergency Food Assistance Program (TEFAP):** Includes \$150 million to help local food banks meet increased demand for low-income Americans during the emergency.
- **Census Bureau, Periodic Censuses and Programs:** \$400 million for expenses due to delays in the 2020 Decennial Census in response to the coronavirus. \$10 million for expenses incurred as a result of the coronavirus.
- **Violence Against Women Act (VAWA) programs:** \$100 million, with a waiver of the local match requirement, including \$30 million for grants to combat violence against women, \$15 million for transitional housing assistance grants, \$15 million for sexual assault victims assistance, \$10 million for rural domestic violence and child abuse enforcement assistance, \$10 million for legal assistance for victims, \$4 million for assistance to tribal governments, and \$16 million to support families in the justice system.
- **Byrne Justice Assistance Grants:** \$300 million to help prevent, prepare for, and respond to coronavirus, including for purchasing personal protective equipment and controlling outbreaks of coronavirus at prisons, with waivers of the local match and non-supplanting requirements. Public defender funding is also an authorized use of Byrne-JAG grants. The bill additionally prevents the Department of Justice from preventing these funds from going to sanctuary jurisdictions.
- **Community Oriented Policing Services (COPS):** \$300 million for law enforcement hiring grants and for the purchase of personal protective equipment, with waivers of the local match and non-supplanting requirements.
- **Second Chance Act grants:** \$250 million for grants to help facilitate the reintegration of ex-prisoners back into society and to prevent recidivism.
- **Pandemic Justice Response Act Grants:** \$600 million, including: (1) \$500 million to prevent, detect, and stop the presence of COVID-19 in correctional institutions, and for pre-trial citation and release grants, (2) \$25 million for Rapid COVID-19 Testing at correctional institutions, and (3) \$75 million for Juvenile Specific Services.
- **Assistance to Homeowners:** \$75 billion to states, territories, and tribes to address the ongoing needs of homeowners struggling to afford their housing due directly or indirectly to the impacts of the pandemic by providing direct assistance with mortgage payments, property taxes, property insurance, utilities, and other housing related costs.
- **Elections:** \$3.6 billion for grants to States for contingency planning, preparation, and resilience of elections for Federal office.
- **Broadband:** \$1.5 billion “to close the homework gap by providing funding for Wi-Fi hotspots and connected devices for students and library patrons, and \$4 billion for emergency home connectivity needs.”

- **Assisting Small Businesses:** \$10 billion in grants to small businesses that have suffered financial losses as a result of the coronavirus outbreak.
- **Federal Emergency Management Agency:** \$1.3 billion to prevent, prepare for, and respond to coronavirus, including \$200 million for the Emergency Food and Shelter Program; \$500million for Assistance to Firefighter Grants (AFG); \$500million for Staffing for Adequate Fire and Emergency Response (SAFER) grants; and \$100 million for Emergency Management Performance Grants (EMPG). The HEROES Act prohibits the use of funds provided in the bill from being used for other purposes. For AFG and SAFER, the bill waives cost sharing requirements for cash-strapped fire departments and waives certain other program requirements in order to help expedite grant awards.
- **Environmental Protection Agency:** \$50 million for environmental justice grants, including investigating links between pollution exposure and the transmission and health outcomes of coronavirus in environmental justice communities.
- **Department of Labor:** \$3.1 billion to support workforce training and worker protection activities related to coronavirus.
- **Health Resources and Services Administration:** \$7.6 billion to support expanded health care services for underserved populations.
- **Centers for Disease Control and Prevention:** \$2.1 billion to support federal, state, and local public health agencies to prevent, prepare for, and respond to the coronavirus.
- **Public Health and Social Services Emergency Fund:** \$175 billion to reimburse for health care related expenses or lost revenue attributable to the coronavirus, as well as to support testing and contact tracing to effectively monitor and suppress COVID-19.
- **Substance Abuse and Mental Health Services Administration:** \$3 billion to increase mental health support during this challenging time, to support substance abuse treatment, and to offer increased outreach.
- **Administration for Children and Families:** \$10.1 billion to provide supportive and social services for families and children through programs.
- **Administration for Community Living:** \$100 million to provide direct services such as home-delivered and prepackaged meals, and supportive services for seniors and disabled individuals, and their caregivers.
- **Department of Education:** \$100.15 billion to support the educational needs of States, school districts, and institutions of higher education in response to coronavirus.
- **Highways:** \$15 billion for grants to support the ongoing work of State, Tribal, and Territorial Departments of Transportation and certain local governments to mitigate the effects of coronavirus including the salaries of staff and other administrative expenses.
- **Transit Emergency Relief:** \$15.75 billion for operating assistance grants to support the transit agencies that require significant additional assistance to maintain basic transit services. Of these amounts \$11.75 billion will be distributed by formula and \$4 billion will be available to any grantee or sub-recipient by application to the Secretary.
- **Tenant-Based Rental Assistance:** \$4 billion to allow public housing agencies (PHAs) to respond to coronavirus and the ability to keep over 2.2 million families stably housed even when facing a loss of income, including \$1 billion for new, temporary, vouchers for individuals and families who are homeless or at risk of becoming homeless, or fleeing domestic violence. Allows PHAs the flexibility necessary for the safe and effective administration of these funds while maintaining fair housing, nondiscrimination, labor standards, and environmental protections.

- **Public Housing Operating Fund:** \$2 billion for PHAs to carry out coronavirus response for the operation and management of almost 1 million public housing units. Allows PHAs the flexibility necessary for the safe and effective administration of these funds while maintaining fair housing, nondiscrimination, labor standards, and environmental protections.
- **Community Development Block Grant:** \$5 billion for coronavirus response and to mitigate the impacts in our communities to be distributed by formula to current grantees. The legislation continues to waive the public services cap to allow communities to respond to the impacts of the pandemic. An additional \$15 billion in Community Development Block Grant funding is also authorized to provide states and local governments with additional flexible resources to mitigate and address the health and economic impacts of COVID-19.
- **Homeless Assistance Grants:** \$11.5 billion for Emergency Solutions Grants to address the impact of coronavirus among individuals and families who are homeless or at risk of homelessness and to support additional homeless assistance, prevention, and diversion activities to mitigate the impacts of the pandemic.
- **Emergency Rental Assistance:** \$100 billion to provide emergency assistance to help low-income renters at risk of homelessness avoid eviction due to the economic impact of the coronavirus pandemic.
- **Project-Based Rental Assistance:** \$750 million to ensure the continuation of housing assistance for low-income individuals and families living in project-based rental assistance properties, and to ensure housing providers can take the necessary actions to prevent, prepare for, and respond to the pandemic.
- **Housing for the Elderly:** \$500 million to maintain operations at properties providing affordable housing for low-income seniors and to ensure housing providers can take the necessary actions to prevent, prepare for, and respond to the coronavirus pandemic. To ensure access to supportive services for this vulnerable population, this includes \$300 million for service coordinators and the continuation of existing congregate service grants for residents of assisted housing projects.
- **Low Income Home Energy Assistance Program (LIHEAP):** This section expands energy assistance for low-income families, reduces barriers to LIHEAP participation during the COVID-19 emergency, and temporarily increases LIHEAP agencies' administrative resources to process the higher volume of applications remotely.
- **Water Assistance:** This section provides emergency funding to help low-income families who face high costs for drinking water and wastewater services pay these bills and avert shut-offs and late fees during the COVID-19 crisis.
- **Home Energy and Water Service Continuity:** Requires states and utilities receiving federal emergency funds to adopt or maintain in force policies to prevent shutoffs and ensure safety and continuity of home energy and water services to residential customers during the COVID-19 public health emergency.
- **Low-Income Household Drinking Water and Wastewater Assistance:** Provides financial assistance to low income and other adversely affected consumers to assist with payments for drinking water and wastewater expenses by authorizing \$1.5 billion for grants to states, territories and Indian Tribes.
- **Water Service Continuity:** Adds additional requirements to protect water services to residential customers during the COVID-19 public health emergency. Ensures all occupied residences are connected to water services throughout the emergency's duration, and that any reconnections are conducted in a manner that minimizes health risks. It also prohibits providers from assessing late fees for nonpayment occurring during the emergency period.