

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCS for HB 413 Financial Assistance for Rural Communities  
**SPONSOR(S):** Local Administration, Federal Affairs & Special Districts Subcommittee  
**TIED BILLS:** **IDEN./SIM. BILLS:**

<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
Orig. Comm.: Local Administration, Federal Affairs & Special Districts Subcommittee		Roy	Darden

**SUMMARY ANALYSIS**

The Rural Economic Development Initiative (REDI) is a program created within the Department of Economic Opportunity responsible for coordinating and focusing the efforts and resources of state and regional agencies on the problems which affect the fiscal, economic, and community viability of Florida's economically distressed rural communities, working with local governments, community-based organizations, and private organizations that have an interest in the growth and development of these communities to find ways to balance environmental and growth management issues with local needs.

A rural area of opportunity is a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, sever or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.

The U.S. Department of Housing and Urban Development (HUD) provides federal grants to states and local governments that are disaster impacted. Community Development Block Grant Disaster Recovery (CDBG-DR) Program provide grants to help cities, counties, and states recover from certain disasters declared by the President of the United States, subject to congressional funds appropriation. CDBG grantees may be required to incur costs prior to the effective date of the grant agreement in order to secure the grant award. The grantee may be reimbursed for these costs with the grant award.

The bill requires that an agency agreement to provide state or federal financial assistance to a rural community or a rural area of opportunity, include a provision that allows the agency to provide for the payment of invoices to the county or municipality for verified and eligible performance that has been completed in accordance with the terms and conditions set forth in the agreement.

The provision is meant to alleviate the financial hardships that certain rural counties and municipalities encounter when administering agreements and must be utilized by the agency based on demonstrated financial hardship and may not be construed to alter or limit any other provisions of federal or state law, rule, or other regulation.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

##### Rural Economic Development Initiative (REDI)

The Rural Economic Development Initiative (REDI) is a program created within the Department of Economic Opportunity (DEO), responsible for coordinating and focusing the efforts and resources of state and regional agencies on the problems which affect the fiscal, economic, and community viability of Florida's economically distressed rural communities, working with local governments, community-based organizations, and private organizations that have an interest in the growth and development of these communities to find ways to balance environmental and growth management issues with local needs.<sup>1</sup> REDI reviews and evaluates the impact of statutes and rules on rural communities and works to minimize any adverse impact and undertake outreach and capacity-building efforts.<sup>2</sup>

A rural community is defined as a:

- County with a population of 75,000 or fewer;
- County with a population of 125,000 or fewer, if the county is contiguous to a county with a population of 75,000 or fewer;
- Any municipality in a county that meets the above criteria; or
- An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer, with an employment base focused on traditional agriculture or resource-based industries, located in a county not defined as rural, and which has at least three or more economic distress factors.<sup>3</sup>

A rural area of opportunity (RAO) is a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, sever or chronic distress, a natural disaster or that presents a unique economic development opportunity of regional impact.<sup>4</sup> An area may also be designated as a RAO if it presents a unique economic development opportunity of regional impact. The designation of a RAO must be agreed upon by DEO, as well the county and municipal governments to be included in the RAO.<sup>5</sup>

Based on recommendations by REDI, the Governor may designate up to three RAOs by executive order.<sup>6</sup> This designation establishes these areas as priority assignments for REDI as well as allows the Governor, acting through REDI, to waive criteria, requirements, or similar provisions of any economic development initiative.

Currently, there are three designated RAO areas:

- Northwest RAO: Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington Counties, and portions of Walton County (the City of Freeport and lands north of the Choctawhatchee Bay and intercoastal waterway).

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<sup>1</sup> S. 288.0656(3), F.S.

<sup>2</sup> S. 288.0656(4), F.S.

<sup>3</sup> S. 288.0656(2)(e), F.S. "Economic distress" means conditions affecting the fiscal and economic viability of a rural community, including such factors as low per capita income, low per capita taxable values, high unemployment, high underemployment, low weekly earned wages compared to the state average, low housing values compared to the state average, high percentages of the population receiving public assistance, high poverty levels compared to the state average, and a lack of year-round stable employment opportunities. S. 288.0656(2)(c), F.S.

<sup>4</sup> S. 288.0656(2)(d), F.S.

<sup>5</sup> S. 288.0656(7)(b), F.S.

<sup>6</sup> S. 288.0656(7)(a), F.S.

- South Central RAO: DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee Counties, and the cities of Pahokee, Belle Glade, and South Bay in Palm Beach County and the city of Immokalee in Collier County.
- North Central RAO: Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union Counties.<sup>7</sup>

### Agency Grant Agreements

A state agency means a separate agency or unit of state government created or established by law and includes, but is not limited to, the following and the officers thereof: authority, board, branch, bureau, commission, department, division, institution, office, officer, or public corporation, as the case may be, except any such agency or unit within the legislative branch of state government other than the Florida Public Service Commission.<sup>8</sup> An agency may enter an agreement with a county or municipal entity for state or federal financial assistance. The agreement between the entity and the entity must include provisions specifying:

- A scope of work that clearly establishes the tasks the recipient is required to perform;
- The division of the agreement into quantifiable units of deliverables that must be received and accepted in writing by the agency before payment;
- Financial consequences that apply if the recipient fails to perform the minimum level of service required by the agreement;
- A recipient of federal or state financial assistance may expend funds only for allowable costs resulting from obligations incurred during the specified agreement period;
- Any balance of unobligated funds which has been advanced or paid must be refunded to the state agency;
- Any funds paid in excess of the amount to which the recipient or subrecipient is entitled under the terms and conditions of the agreement must be refunded to the state agency;
- Any other additional provisions required by state law.<sup>9</sup>

The Chief Financial Officer establishes and disseminates uniform procedures for grant management to ensure that services have been rendered in accordance with agreement terms before the agency processes an invoice for payment.<sup>10</sup> The procedures include, but are not limited to, monitoring and documenting recipient performance, reviewing and documenting deliverables for payment requested by recipients and providing written certification by the grant manager of the agency's receipt of goods and services.<sup>11</sup> The grant manager must reconcile and verify all funds received against all funds expended during the grant agreement period and produce a final report which identifies any funds paid in excess by the recipient.<sup>12</sup>

### Community Development Block Grant Disaster Recovery Program (CDBG-DR)

Federal grants are a mechanism used by the Federal government to fund projects that provide public services and stimulate the economy.<sup>13</sup> Federal grant awards can be applied for by state and local governments, universities, research labs, law enforcement agencies, non-profit organizations, and businesses.<sup>14</sup>

<sup>7</sup> Dept. of Economic Opportunity, *Rural Areas of Opportunity*, <https://floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity> (last visited Mar. 25, 2023). The economic development organizations for these RAOs are named OpportunityFlorida, Florida's Heartland Regional Economic Development Initiative, and the North Florida Economic Development Partnership, respectively.

<sup>8</sup> S. 11.45(1)(l), F.S.

<sup>9</sup> S. 215.971(1), F.S.

<sup>10</sup> S. 215.971(2)(b), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> S. 215.971(2)(c), F.S.

<sup>13</sup> USA.gov. *Government Grants and Loans*. <https://www.usa.gov/grants> (last visited March 24, 2023)

<sup>14</sup> *Id.*

The U.S. Department of Housing and Urban Development (HUD) provides federal grants to states and local governments that have been impacted by disasters CDBG-DR.<sup>15</sup> CDBG-DR provides grants to help cities, counties, and states recover from certain disasters declared by the President of the United States, subject to congressional funds appropriation.<sup>16</sup>

CDBG-DR grantees may incur costs prior to the effective date of the grant agreement with HUD.<sup>17</sup> The grantee may pay these costs after the effect date of the grant agreement. Grantees can incur any eligible cost to be reimbursed provided it meets certain conditions:

- The activity for which the costs are being incurred is included in a consolidated plan action plan, an amended consolidated plan action plan, or a loan guarantee application prior to the costs being incurred;
- Citizens are advised of the extent to which these pre-award costs will affect future grants;
- The costs and activities funded are in compliance with the CDBG-DR regulations and the environmental review requirements;
- The activity for which payment is being made complies with the statutory and regulatory provisions in effect at the time the costs are paid for with CDBG-DR funds;
- CDBG-DR payment will be made during a time no longer than the next two program years following the effective date of the grant agreement or amendment in which the activity is first included; and
- The total amount of pre-award costs to be paid during any program year is no more than 25 percent of grant amount for that year or \$300,000, whichever is greater.<sup>18</sup>

Upon written request from the grantee, HUD may authorize payment of pre-award costs for activities that do not meet the requirement for a two-year payback or where the total amount exceeds 25 percent of the grant amount.<sup>19</sup> Factors HUD will consider in granting exceptions to the period of repayment or the dollar threshold include:

- Whether granting the authority would result in a significant contribution to the goals and purposes of the CDBG-DR program;
- Whether failure to grant the authority would result in undue hardship to the grantee or beneficiaries of the activity;
- Whether granting the authority would not result in a violation of a statutory provision or any other regulatory provisions;
- Whether circumstances are clearly beyond the grantees control; and
- Any other relevant considerations.<sup>20</sup>

The CDBG-DR program has specific financial requirements in order to be eligible to apply for the grants. To apply, state and local governments must support indirect costs with a cost allocation plan or an indirect cost proposal prepared in accordance with the policy.<sup>21</sup> An indirect cost proposal is required if the local government has indirect costs resulting from centralized services that will be charged to federal awards and other indirect costs originating in various departments carrying out federal awards.<sup>22</sup> The proposal is used to establish an indirect cost rate, which is used to determine the amount of reimbursement a grantee can obtain for indirect costs.

## Effect of Proposed Changes

The bill requires that an agency agreement to provide state or federal financial assistance to a rural community or a rural area of opportunity include a provision that allows the agency to provide for the

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<sup>15</sup> Legal Aid Disaster Resource Center, *The Community Development Block Grant Disaster Recovery Program*. [https://www.ladrc.org/wp-content/uploads/2020/11/CDBG-DR-Overview-A\\_Final-dated.pdf](https://www.ladrc.org/wp-content/uploads/2020/11/CDBG-DR-Overview-A_Final-dated.pdf) (last visited Mar. 25, 2023).

<sup>16</sup> *Id.*

<sup>17</sup> U.S. Department of Housing and Urban Development, *Community Development Block Grant Disaster Recovery Grant Funds: Chapter 11.3 Pre-Award Costs* (November 2007).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.* at Chapter 11.9.1 Indirect Costs.

<sup>22</sup> *Id.*

payment of invoices to the county or municipality for verified and eligible performance that has been completed in accordance with the terms and conditions set forth in the agreement.

The provision is meant to alleviate the financial hardships that certain rural counties and municipalities encounter when administering agreements and must be utilized by the agency based on demonstrated financial hardship and

may not be construed to alter or limit any other provisions of federal or state law, rule, or other regulation.

**B. SECTION DIRECTORY:**

Section 1: Amends 215.971, F.S. relating to agreements funded with federal or state assistance.

Section 2: Enables the act to take effect July 1, 2023.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

Local governments may be able to apply for more grants if the agency provides for the payment of invoices to meet with the terms and conditions of the grant agreement.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill neither provides authority for nor requires rulemaking by executive branch agencies.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

None.