



July 17, 2020

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W., Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

By this correspondence, the DC Commission on the Arts and Humanities respectfully transmits, for the Council's consideration and enactment, the Commission on the Arts and Humanities' ("CAH"): (1) proposed emergency legislation entitled the "Arts and Humanities Omnibus Emergency Amendment Act of 2020"; (2) proposed and related "Resolution"; (3) "Temporary" and "Permanent" versions of the above-referenced CAH emergency bill; and (4) related Fiscal Impact Statement and Legal Sufficiency Certification. The purpose of this legislation is to revise the Commission on the Arts and Humanities Act of 1975, as amended, in a manner that revises some of the formulas used to allocate CAH's grant awards.

On January 31, 2020, the federal Department of Health and Human Services ("DHHS") declared a public health emergency for the United States, for the purpose of aiding the nation's health care community in responding to the worldwide COVID-19 pandemic ("Pandemic"). In response to the Pandemic, the World Health Organization and the United States' Center for Disease Control both declared COVID-19 to be a "public health emergency of international concern." In response to the Pandemic and in accordance with the DHHS' above-referenced public health emergency declaration, the Mayor of the District of Columbia issued, on March 11, 2020, Mayor's Order 2020-045 and Mayor's Order 2020-046 (both of which are captioned "Declaration of Public Health Emergency: Coronavirus (COVID-19)").

Our Commission has learned that many in our local arts and humanities communities are struggling to survive during this ongoing worldwide Pandemic. If enacted, the proposed and accompanying "Arts and Humanities Omnibus Emergency Amendment Act of 2020" will authorize the Commission to lawfully award certain grants to organizations, the proceeds of which may be used by a grantee to pay, among other expenses, the respective grantee's mortgage and/or rent obligations that are directly related to their art-making and/or humanities work-related space.

Accordingly, we respectfully urge the Council to act favorably and expeditiously on the above-referenced legislation. Thank you for your time and consideration.

Sincerely,

On behalf of the DC Commission on the Arts and Humanities



Chairman Phil Mendelson
at the Request of the Chairperson of
the Commission on the Arts and
Humanities

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, Chapter 2 of Title 39 of the District of Columbia Official Code to revise the formulas used to allocate the Commission on the Arts and Humanities' annual budget.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Arts and Humanities Omnibus Emergency Amendment Act of 2020".

Sec. 2. Title 39 of the District of Columbia Official Code is amended as follows:

(a) Chapter 2 is amended as follows:

(1) Section 39-205 is amended as follows:

(A) Section 39-205 (c-1)(2)(A) is amended by striking the entire sentence that reads "17% for grants to fund capital projects in support of either the Arts and Humanities Cohort or the National Capital Arts Cohort" and inserting in its place the following language: "(A) 17% for grants to fund grant recipients' operations-related expenses which, in this context, include capital project-related expenses and, exclusively during the District's Fiscal Year 2021,

37 certain arts- and/or humanities-related mortgage and/or rent obligations including, but not
38 necessarily limited to: (i) expenses related to the operation of a grant recipient's United States
39 Internal Revenue Service-recognized and arts- and/or humanities-related home-based office; and
40 (ii) expenses related to a grant recipient's rental of District-based space that is used to produce
41 and/or publicly present arts- and/or humanities-related work. Any and all grant funds that are
42 awarded to a grantee by the Commission pursuant to this Subsection but that are not expended
43 during the fiscal year within which the funds were awarded shall be returned to the Commission
44 by the involve grantee immediately after the grantee has determined that she/he/it will not
45 expend the subject funds during the current fiscal year, and by no later than the last day of the
46 fiscal year during which the subject grant award was made. Any such returned grant-related
47 funds shall not revert to the unassigned fund balance of the District's General Fund at the end of
48 the fiscal year, or at any other time, but shall, instead, be deposited by the Commission into the
49 Arts and Humanities Fund that was established by D.C. Official Code § 39-205.01;"

50 (B) Section 39-205 is further amended by inserting, immediately below Section
51 39-205 (c-1)(2)(A), the following language: "(A-1) During the District's Fiscal Year 2021,
52 members of the National Capital Arts Cohort shall not be eligible to receive any of the
53 Commission grant funds that are referenced in this Chapter's Section 39-205 (c-1)(2)(A);"

54 (C) Section 39-205 (c-1)(2)(C) is amended by adding the following language:
55 "(iii) Any and all Commission grant funds that are awarded to an organization that is a member
56 of the National Capital Arts Cohort but that are not expended during the fiscal year within which
57 the funds were awarded shall be returned to the Commission by the involve National Capital
58 Arts Cohort member immediately after that grantee has determined that it will not expend the
59 subject funds during the current fiscal year, and by no later than the last day of the fiscal year

60 during which the subject grant award was made. Any such returned grant-related funds shall not
61 revert to the unassigned fund balance of the District's General Fund at the end of the fiscal year,
62 or at any other time, but shall, instead, be deposited by the Commission into the Arts and
63 Humanities Fund that was established by D.C. Official Code § 39-205.01."

64 (D) Section 39-205 (c-1)(2)(D) is amended by deleting the sentence that reads
65 "5% the [sic] for the Humanities Grant Program" and inserting the following language: "5% for
66 the Humanities Grant Program."

67 (2) Section 39-205.01 is amended as follows:

68 Section 39-205.01 (b) is amended by inserting, immediately following § 39-
69 205.01 (b)(4), the following language: "(5) Grant funds that have been awarded by the
70 Commission and subsequently returned to the Commission pursuant to the mandates of either
71 D.C. Official Code § 39-205 (c-1)(2)(A) or D.C. Official Code §39-205 (c-1)(2)(C)."

72 (3) Section 39-205.02 is amended as follows:

73 Section 39-205.02 (b)(1) is amended by inserting, immediately following the
74 sentence that begins with the words "Each year, the Commission shall make a grant in the
75 amount provided under §39-205 (c-1)(2)(D) to a grant-managing entity . . ." the following
76 language: "Any and all grant funds that are awarded to the grant-managing entity that is
77 referenced in this Subsection but that are not expended during the fiscal year within which the
78 funds were awarded shall be returned to the Commission by the grant-managing entity
79 immediately after the grant-managing entity has determined that it will not sub-grant and/or
80 expend all of the subject funds during the current fiscal year, and by no later than the last day of
81 the fiscal year during which the subject grant award was made. Any such returned grant-related
82 funds shall not revert to the unassigned fund balance of the District's General Fund at the end of

83 the fiscal year, or at any other time, but shall, instead, be deposited by the Commission into the
84 Arts and Humanities Fund that was established by D.C. Official Code § 39-205.01. The grant-
85 managing entity that is referenced in this Subsection shall not be eligible to receive from the
86 Commission any grant funds that are awarded by the Commission to its grantees for general
87 operating support.”

88 Sec. 3. Fiscal impact statement.

89 The Council adopts the attached fiscal impact statement as the fiscal impact statement
90 required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December
91 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

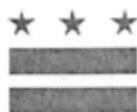
92 Sec. 4. Effective date.

93 This act shall take effect following approval by the Mayor (or in the event of veto by the
94 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
95 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412
96 (a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C.
97 Official Code §1-204.12 (a)).

98

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL
KARL A. RACINE



Legal Counsel Division

*PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION*

MEMORANDUM

TO: J. Carl Wilson
General Counsel
Commission on Arts and Humanities (DCCAH)

FROM: Brian K. Flowers *BKF*
Deputy Attorney General
Legal Counsel Division

DATE: July 7, 2020

RE: Arts and Humanities Omnibus Emergency, Temporary and Permanent Amendment Act of 2020 and an Accompanying Emergency Declaration Resolution (AE-20-492)

This responds to an email request we received from your office by which you transmitted proposed legislation entitled the “Arts and Humanities Omnibus Emergency Amendment Act of 2020” (Emergency Act), substantively identical temporary and permanent versions of the draft legislation, and an accompanying emergency declaration resolution (Resolution) on the same subject to our Office for a legal sufficiency review (together, the Legislation).¹

The Legislation will amend, on an emergency, temporary and permanent basis, Chapter 2 of Title 39 of the District of Columbia Official Code to revise the formula used to allocate the Commission on the Arts and Humanities’ annual budget. In substantive part, it provides that the DCCAH may allocate up to:

... 17% for grants to fund grant recipients’ operations-related expenses and, exclusively during the District’s Fiscal Year 2021, certain arts- and/or humanities-related mortgage and/or rent obligations including, but not necessarily limited to: (i) expenses related to the operation of a grant recipient’s United States Internal Revenue Service-recognized and arts- and/or humanities-related home-based office; and (ii) expenses related to a grant recipient’s rental of District-based space that is used to produce and/or publicly present arts- and/or humanities-related work.

Further, the Legislation provides that the balance of any unused grant funds must be returned to the DCCAH no later than the last day of the fiscal year of the award for deposit into the Arts and Humanities revolving fund established by D.C. Official Code § 39-205.01.

¹ This Office suggested several clarifying changes that the DCCAH accepted and incorporated into revised versions of the Legislation.

The Resolution establishes the emergency circumstances leading to the need for the emergency version of the Legislation.

This Office has reviewed the Legislation and determined that it is legally sufficient. I have attached a Certificate of Legal Sufficiency for your use. In addition, please be reminded that you must secure a fiscal impact statement from the Office of the Chief Financial Officer to accompany the Legislation. If you have any questions about this memorandum, please contact either Anne R. Hollander, Senior Assistant Attorney General, at 724-5560, or me at 724-5524.

BKF/arh

Attachment

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



Legal Counsel Division

MEMORANDUM

TO: Ronan Gulstone
Director
Office of Policy and Legislative Affairs

FROM: Brian K. Flowers
Deputy Attorney General
Legal Counsel Division

DATE: July 7, 2020

RE: Arts and Humanities Omnibus Emergency, Temporary and Permanent Amendment Act of 2020 and an Accompanying Emergency Declaration Resolution (AE-20-492)

This is to Certify that this Office has reviewed the legislation entitled the “Arts and Humanities Omnibus Emergency Amendment Act of 2020”, substantively identical temporary and permanent versions of the draft legislation, and an accompanying emergency declaration resolution on the same subject, and determined that the legislation and resolution are legally sufficient. If you have any questions, please do not hesitate to call me at 724-5524.

Brian K. Flowers

Brian K. Flowers


Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: July 17, 2020

SUBJECT: Fiscal Impact Statement – Arts and Humanities Omnibus Emergency
Amendment Act of 2020 (and accompanying permanent version)

REFERENCE: Draft Introduction as provided to the Office of Revenue Analysis on July
8, 2020

Conclusion

Funds are sufficient in the fiscal year 2020 budget and the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the proposed resolution.

Background

The DC Commission on the Arts and Humanities (“Commission”) is currently required to make grants that include 17% of total grant amounts for capital projects of the National Capital Arts Cohort¹ or Arts and Humanities Cohort²; 50% for the Arts and Humanities Cohort; 28% for the National Capital Arts Cohort; and 5% for the Humanities Grant Program. The proposed bill changes the 17% allocation so that it may be used for grant recipients’ capital or operating expenses, which may include, during fiscal year 2021 only, mortgage and/or rent obligations for District-based space that is used to produce and/or publicly present arts- and/or humanities-related work. Members of the National Capital Arts Cohort are not eligible to receive these grants during fiscal year 2021.

¹ The National Capital Arts Cohort includes those organizations that (i) Have an annual income, exclusive of District funds, in excess of \$1 million for each of the 3 years before receipt of a grant awarded under this chapter; (ii) Have income from federal funds of less than \$1 million for each of the 3 years before receipt of a grant under this chapter; and (iii) Receive funding from the National Capital Arts and Cultural Affairs Grant Program (“NCACA Grant Program”).D.C. Code § 39-202(9).

² The Arts and Humanities Cohort includes those individuals and organizations that directly produce or present content or facilitate productions of other arts and humanities organizations or provide arts education services. D.C. Code § 39-202(3).

The Honorable Phil Mendelson

FIS: "Arts and Humanities Omnibus Emergency Amendment Act of 2020" (and accompanying permanent version), draft Introduction provided to the Office of Revenue Analysis July 8, 2020

The bill further requires organizations which will not expend their grant funds prior to the end of a fiscal year to return such unspent funds to the Commission. Any such returned grant-related funds shall not revert to the unassigned fund balance of the District's General Fund at the end of the fiscal year, or at any other time, but shall, instead, be deposited by the Commission into the Arts and Humanities Fund.³

Financial Plan Impact

Funds are sufficient in the fiscal year 2020 budget and the fiscal year 2021 through fiscal year 2024 budget and financial plan to implement the proposed resolution. The proposed bill alters the uses, but not the amounts, of the Commission's required grants.

³ D.C. Code § 39-205.01