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Senate Dems Pitch $50B Grant Program For Nonprofit Hiring

By **David van den Berg**

Law360 (May 15, 2020, 6:52 PM EDT) -- Senate Democrats announced legislation Friday that would create a U.S. Treasury Department-run $50 billion jobs grant program for charitable nonprofits to help them retain workers and provide jobs to the unemployed during the novel coronavirus pandemic.

Under the Work Opportunities and Resources to Keep Nonprofit Organizations Well Act, with Sen. Amy Klobuchar, D-Minn., as the lead sponsor, nonprofit organizations could get millions of dollars in grants and would have to use much of the money for employee compensation costs. The proposal comes as more than 36 million Americans have filed claims for unemployment benefits since March 15, and charitable nonprofits face increasing demand for their services and declining revenues, according to the bill text.

"We need to help charitable nonprofits keep their doors open, scale their invaluable services and provide opportunities for unemployed Americans to return to work serving their communities," Klobuchar said in a statement.

Nine Senate Democrats co-sponsored the measure, referred to as the Work Now Act, three of whom serve on the Senate Finance Committee.

Under the proposal, Treasury would distribute 78% of the money as block grants to state and local governments and 2% to Indian tribes. Intermediaries, which the bill defines as national or regional nonprofits providing administrative and support services to a network of affiliates, members or branches, would get 20% of the money.

Organizations seeking funds would submit applications to state and local governments and Indian tribes, who could award grants up to $3 million. Nonprofits addressing public needs that have grown because of the pandemic and associated economic crisis, including direct services organizations that provide help with basic needs such as housing and food to help people stabilize their lives, would have priority, as would organizations in rural areas.

Intermediaries would apply to Treasury for funds on their own behalf, on behalf of their networks or both. Intermediaries would have to provide assurances that they have systems in place to distribute funds efficiently, and could receive up to $100 million under the bill. Treasury could award an additional grant of up to $300 million if the intermediary demonstrates in its application it will use the difference between that and the $100 million maximum allowable grant to hire employees after the law's enactment.

Each grantee would have to use at least 60% of the funds they receive for employee compensation costs. Other than benefits, those costs may generally only be used for employees hired after the law's enactment, including any worker the organization fired or furloughed before. However, if grantors agree with applicants that using funds to pay workers hired before the law's enactment is needed because of financial constraints imposed by the pandemic and the attending economic crisis, they could use it for those workers under procedures Treasury may prescribe. Treasury will give the same priority to applicant intermediaries as state and local governments and Indian tribes have to give to applicants seeking grants from them.

Organizations could use a portion of funds awarded for employee compensation costs to innovate and develop new service models to meet needs resulting from the pandemic, according to the bill text. The bill allows recipient organizations to use no more than 40% of funds to cover operating costs such as rent and utilities and program costs, including those associated with online service delivery.

Gene Takagi, of the NEO Law Group, said he hopes the $50 billion will be a starting point for understanding how a reinforced charitable sector could aid in the country's recovery. He said he expects much of the hiring under the measure would consist of rehiring laid-off or furloughed employees.

"I don't know how many people will actually come from outside of the charitable sector into the charitable sector," he said.

The measure is a thoughtful attempt to support charities assisting the most vulnerable and avoids many of the pitfalls and legal challenges nonprofits have faced securing funds under the Small Business Administration's Paycheck Protection Program, according to Alexander Reid of Morgan Lewis & Bockius LLP.

Allowing governments to make funding decisions, as under the bill, would be a major difference from the PPP under the Coronavirus Aid, Relief, and Economic Security Act, which tasked banks with allocating funds.

"Just as prior banking relationships mattered under the PPP, political relationships will matter under the Work Now Act," Reid said. "The administrators of the Work Now Act will also confront issues such as whether and [to] what extent religious organizations should be eligible, whether organizations with endowments should be required to use those funds first and whether controversial or politically unpopular organizations should receive funding."

A spokesman for Senate Finance Chairman Chuck Grassley, R-Iowa, did not have an immediate comment.

--Editing by Neil Cohen.