

By Mrs. Parente of Milford, petition of Marie J. Parente relative to procedural requirements in applying for federal grant funds. Federal Financial Assistance.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Four.

AN ACT RELATIVE TO THE PROCEDURAL REQUIREMENTS FOR APPLYING FOR FEDERAL GRANT FUNDS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section one of Chapter 29 of the Massachusetts
2 General Laws, as most recently amended by Section 4 of Chap-
3 ter 488 of the Acts of 1986, is hereby further amended by striking
4 out the definition for "Federal Grant" and inserting in place
5 thereof the following: —

6 "Federal Grant", any financial assistance available to a state
7 agency from the United States government, either directly or
8 through an intermediary, whether a project, formula, or block
9 grant (new or continuing), a subvention, a subsidiary, an augmen-
10 tation, or a state plan. For the purpose of this section, "Federal
11 Grant" shall include such financial assistance from the United
12 states government for payments under Titles XVIII, XIX, XX, and
13 XXII of the Social Security Act and other reimbursements
14 received from state entitlement expenditures and credited to the
15 General Fund. "Federal Grant" shall also mean federal financial
16 assistance from the United States government for purposes as pro-
17 vided for in section thirty-four of chapter ninety, section two of
18 chapter one hundred and thirty-one, section ten of chapter one
19 hundred and thirty-two A, section two E of chapter twenty-nine
20 and chapter ninety-two. For the purposes of this chapter, "Federal
21 Grant" shall not mean federal financial assistance from the United
22 States government for direct payments to individuals nor for other
23 purposes as provided for under section forty-eight of chapter one
24 hundred and fifty-one A.

1 SECTION 2. Chapter 29 is hereby further amended by striking
2 out section 6B as most recently amended by section 11 of
3 Chapter 488 of the Acts of 1986, and inserting in place thereof the
4 following section: —

5 Section 6B. (a) Notwithstanding any general or special law to
6 the contrary, no state agency shall apply for federal grants, either
7 new or continuing, or for participation in a federally assisted
8 program under any federal law, and no state agency shall approve
9 an application for such a federal grant or approve participation
10 submitted by an agency other than a state agency, unless such
11 agency shall have at least thirty days prior to submitting an appli-
12 cation, notified the Commissioner, the House and Senate Ways
13 and Means Committees and the Joint Committee on Federal
14 Financial Assistance on forms and in a manner prescribed by the
15 Commissioner. Such notice shall, at a minimum, include: —

16 (1) reference to the federal statutory authority under which the
17 action is proposed;

18 (2) a description of the substance of the application;

19 (3) a fiscal statement setting forth: —

20 (i) the projected grant budget per year including the number of
21 personnel to be funded with federal funds;

22 (ii) the estimated amount of cash match, in kind match or other
23 monies to be supplied by the state and any other source from
24 which such match will be required, and a description of the
25 federal allocation formula and matching requirements including
26 whether the grant is distributed to the Commonwealth on the basis
27 of a federally specified formula or on the basis of the federal
28 grantor's discretion and a description of the federal constraints
29 placed on the agency's discretion to use the grant; and

30 (iii) the duration of the grant, the number of fiscal years the
31 agency has been receiving assistance and the number of fiscal
32 years in which assistance can be expected to continue under the
33 program, and a statement as to the priority of the program along-
34 side other state and federally funded programs, including whether
35 the agency would request that all or part of the program be funded
36 out of the General Fund in the event federal funds are reduced or
37 discontinued.

38 All AF-G1 Notification of Intent to Apply for a Federal Grant
39 forms prescribed by the Commissioner under this section shall

40 require the signature of the chairperson of the Joint Committee
41 on Federal Financial Assistance along with the appropriate
42 agency head.

43 Within thirty days of being notified by an agency of its intent to
44 apply for a federal grant, the Commissioner, the House and Senate
45 Ways and Means Committees and the Joint Committee on Federal
46 Financial Assistance shall review and may make recommenda-
47 tions on said applications. If approval is given to an agency's
48 application, the agency may proceed with forwarding the
49 approved application to the federal government. All applications
50 being forwarded to the federal government must contain a letter of
51 approval from the Joint Committee on Federal Financial
52 Assistance. Letters of approval from the Commissioner and the
53 House and Senate Ways and Means Committees shall be optional.
54 The Commissioner, the House and Senate Ways and Means
55 Committees and the Joint Committee on Federal Financial
56 Assistance may deny or delay approval of an application if it is
57 determined that additional information is required to complete a
58 review or if it is determined that the application does not
59 adequately meet the requirements set forth by the provisions of
60 this act. Any requests for additional information or further clarifi-
61 cation of a grant application must be addressed and resolved by
62 the applying agency before the application may proceed further.

63 The Comptroller will not allow monies to be expended on any
64 federal grant applied for by a state agency unless said agency
65 complies with the procedural requirements set forth by this act.

66 If within thirty days of notification of intent to apply for a
67 federal grant, no action has been taken by either the
68 Commissioner, the House and Senate Ways and Means
69 Committees, or the Joint Committee on Federal Financial
70 Assistance, the application may proceed. To avoid any inconsis-
71 tency or duplication in review, the commissioner shall establish
72 procedures whereby notices given under this section shall be coordi-
73 nated with other notice requirements for project or plan propos-
74 als in connection with federal aid including those required
75 under Circular A-95 of the United States Office of Management
76 and Budget.

77 Notwithstanding the foregoing provisions, any federal grant
78 which is included as an appropriation in the state budget shall not

79 be subject to the foregoing review by the House and Senate Ways
80 and Means Committees.

81 (b) Upon official notification to a state agency from a federal
82 department or agency of approval of a state plan or application for
83 federal funds, the state agency shall notify the Commissioner, the
84 Comptroller, the House and Senate Ways and Means Committees
85 and the Joint Committee on Federal Financial Assistance promptly
86 of the amount, duration, payment schedule and other attendant
87 financial terms and conditions. Such notification shall be for the
88 purposes of appropriate recording. The Commissioner shall issue
89 a quarterly report, detailing by agency, the status of federal funds
90 applied for, received and expended. Upon issuance, this report
91 shall be made immediately available to the House and Senate
92 Ways and Means Committees and to the Joint Committee on
93 Federal Financial Assistance.

94 (c) All requests for appropriations by an agency for submission
95 to the Governor and recommendation to the General Court, shall
96 contain on forms and in a format prescribed by the Commissioner,
97 all federal grants received by an agency including that information
98 required in subsection (a). Pursuant to section six, the budget
99 director shall include all federal grants received or anticipated by
100 the state agencies as part of the budget.

101 (d) Notwithstanding the provisions of any general or special
102 law to the contrary, no state agency shall establish new or expand
103 existing programs involving federal or other non-state monies
104 beyond the scope of those already established, recognized and
105 approved by the General Court, until the program and projected or
106 actual availability of money is submitted to the budget director for
107 recommendation to the General Court. No state agency may make
108 expenditures from any federal grant unless such expenditures are
109 made pursuant to specific appropriations of the General Court and
110 allotment thereof, said allotment to be made by the comptroller
111 upon receipt of federal grant funds.

112 Every state agency shall submit a spending plan for such
113 federal grants, by subsidiary accounts, to the House and Senate
114 Ways and Means Committees and the Joint Committee on Federal
115 Financial Assistance by September first of each year and shall
116 submit revisions of such spending plans to said committees as
117 they shall from time to time be revised.

118 Pursuant to section two C, all such expenditures shall be
119 charged to the General Federal Grants Funds. Notwithstanding the
120 amount of the appropriation for a specific federal grant, the
121 amount so expended from such federal grant shall not exceed the
122 amount actually received and deposited in the General Federal
123 Grants Fund for such federal grants. To the extent not precluded
124 by the terms and conditions under which federal monies are made
125 available by the United States government, a state agency shall
126 use federal grants in accordance with any policies or priorities
127 established by the General Court for the activity being assisted.

128 (e) If federal grant monies become available to the state for
129 expenditure, as provided for in subsection (a), and the availability
130 of such monies could not reasonably have been anticipated and
131 included in the budget approved by the General Court for the
132 fiscal year in question, the treasurer may accept such monies on
133 behalf of the state and the Governor may make expenditures of
134 such monies as are authorized by federal and state law. Upon
135 application for, and receipt of such monies, the Governor shall
136 submit to the House and Senate Ways and Means Committees
137 and the Joint Committee on Federal Financial Assistance a
138 statement: —

139 (1) describing the proposed federal expenditures in the same
140 manner as described in the budget document; and

141 (2) explaining why the availability of such federal grants and
142 the necessity of their expenditure could not have been anticipated
143 in time for such expenditures to have been approved as part of the
144 budget enacted for that particular fiscal year.

145 No federal grant monies may be expended by a state agency for
146 any program for more than one fiscal year without appropriation
147 from the general court in accordance with this section.

148 (f) Each spending agency in receipt of federal grant monies
149 shall at the commencement of each fiscal year, and no later than
150 July thirty-first, and any agency which has not previously been in
151 receipt of a federal grant shall, upon notification of grant
152 approval, authorize the Comptroller upon his receipt of notice of a
153 federal grant award to initiate such procedures as are established
154 by the Commissioner to transfer from the federal grant account to
155 the General Fund for the costs of fringe benefits, indirect costs
156 and space use charges related to each federal grant received by

157 that spending agency; provided, however, that the share of the
158 cost of fringe benefits attributable to employee pension costs shall
159 be transferred to the state employees pension reserve fund to meet
160 the costs of unfunded pension liability of state employees. Upon
161 approval by the Commissioner, and subject to regulations estab-
162 lished by him, the amount of indirect costs, either in whole or in
163 part, charged to a federal grant may be utilized to comply with
164 federal requirements for in kind contributions. The costs of fringe
165 benefits must, in all cases, be recovered in cash. The Comptroller
166 shall not allow expenditures for the payment of salaries to be
167 made from any federal grant account for which he has not been
168 authorized to charge the full amount of fringe benefits to the
169 account. On or before August fifteenth, and upon request through-
170 out the year, the Commissioner shall submit a report to the House
171 and Senate Ways and Means Committees and the Joint Committee
172 on Federal Financial Assistance, detailing compliance with this
173 provision by all state agencies in receipt of federal funds.
174 Notwithstanding any provisions of general or special law to the
175 contrary, this paragraph shall apply to all state agencies; provided,
176 however, that any institution of higher learning shall be exempt
177 from those charges associated with indirect costs, as described in
178 the following paragraph.

179 (g) Any portion of a grant received by an institution of higher
180 learning which, according to the conditions of said federal grant,
181 is to be paid for or to cover any overhead expenses, indirect costs,
182 supporting services or facilities, or for any purpose other than the
183 direct object of the grant, may be transferred in whole or in part to
184 separate accounts and expended without appropriation for the
185 support of a computer or computers, of another research grant or
186 of publishing programs under the exclusive control of such
187 institution, or for faculty research or research and scholarly
188 work under the supervision of members of the faculty of such
189 institution.

190 (h) No individual, corporation or other organization utilizing
191 grants shall be permitted to occupy or use land, buildings, or
192 facilities of the Commonwealth or use the services of any officer
193 or employee of the Commonwealth during his regular working
194 hours unless there is a written agreement, approved by the
195 Commissioner, between said individual, corporation or other orga-
196 nization and said officer or employee, that the Commonwealth

197 will be reimbursed for such occupancy or use; provided, however,
198 upon recommendation of any department, institution, board,
199 commission, agency or employee setting forth good and sufficient
200 reason, this requirement may be waived in whole or in part by the
201 Commissioner on a particular project or projects. All such reim-
202 bursements shall be paid into the state treasury. Notice of such
203 waiver shall be filed with the state auditor.

204 (i) Federal grants shall not be used to supplement the regular
205 salary or compensation of any officer or employee of the
206 Commonwealth for services performed during his regular work
207 hours.

208 (j) The following shall come under the provisions of sub-
209 sections (a), (d) and (e):—

210 (1) federal grants coming to institutions of higher education,
211 including research grants;

212 (2) all research grants to individuals, agencies or institutions of
213 higher education; regardless of dollar amount and whether or not
214 said grants create new or expand existing programs or commit-
215 ments of state resources.

216 (3) any federal grant regardless of dollar amount, unless
217 excluded from the provisions of subsections (a), (d) and (e) and
218 by the following subsection (k).

219 (k) Federal grant funds made available to the state for costs and
220 damages resulting from natural disasters, civil disobedience, or
221 other occurrences of sufficient severity to have occasioned the
222 declaration of the Governor of a state of emergency shall be
223 excluded from the provisions of subsections (a), (d) and (e).

