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Supreme Court ID No. 206212  
County of Lebanon  
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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

COUNTY OF LEBANON,	:
Petitioner	:
	:
v.	:
	:
	: ORIGINAL JURISDICTION
THE HONORABLE THOMAS W. WOLF	:
IN HIS OFFICIAL CAPACITY AS	:
GOVERNOR, COMMONWEALTH OF	:
PENNSYLVANIA,	:
Respondent	: NO. 433 MD 2020
	:

**EMERGENCY APPLICATION FOR RELIEF AND EXPEDITED HEARING**

Pursuant to Pennsylvania Rule of Appellate Procedure 123 and in conjunction with the concurrently filed Petition for Review in the Nature of a Complaint for Declaratory and Mandamus Relief filed, Petitioner applies for this Court to decide the Petition in a expedited and fast tracked process and accordingly, the Petitioner, County of Lebanon, avers as follows:

1. On July 22, 2020, Petitioner, County of Lebanon, filed a Petition for Review in the Nature of a Complaint for Declaratory and Mandamus Relief seeking an Order from this Court compelling Respondent, Governor Thomas W. Wolf to release to the County of Lebanon the Federal CARES funds designated for receipt by the County of Lebanon pursuant to Act 24 of 2020.

2. On May 29, 2020, Governor Wolf signed Act 24 of 2020 which provides \$625 million in CARES Act funding by means of block grants for counties in the Commonwealth to be distributed by the Department of Community and Economic Development. The funding provided is strictly for support of COVID-19 related activities to offset the cost of direct county COVID-19 response; assist businesses and municipalities; provide behavioral health and substance use disorder treatment services; fund nonprofit assistance programs; and deploy broadband to unserved or underserved areas.
3. Section 130-C of Act 24 of 2020, governing the County Block Grant states in Section 130-C(a) “from money appropriated for COVID Relief – County Block Grant for county block grants, each county *shall* receive an amount equal to the population proportion amount as determined by subsection (e),” (emphasis added) which subsection describes that “for the purposes of subsection (a), the population proportion shall be determined as follows: 1) the population estimate of the county; divided by 2) the sum of the population estimates of all counties minus the sum of the population estimates of all counties that received a disbursement directly from the Federal Government through the CARES Act.
4. Act 24 of 2020 also sets forth the only criteria for when a County is to be excluded from receiving funds: “(d) Exclusion.--A county that has received a disbursement directly from the Federal Government through the CARES Act is not eligible to receive funds under this subarticle.”
5. The legislature was clear in the language chosen in the Act and was clear in the manner in which the CARES funding was to be distributed to the counties.

6. Further, Section 130-C(a.1) of Act 24 sets forth the following “Distribution.--The Department of Community and Economic Development shall distribute funding to counties on or before July 15, 2020.”
7. After signing Act 24 into law, the Governor, through the Department of Community and Economic Development placed further restrictions and requirements, which were unanticipated and not provided for by law, on the distribution of the County Block Grant in COVID-19 County Relief Block Grant Program Guidelines (hereinafter called “program guidelines”) published in June 2020.
8. As of the date of the filing of this application, the County of Lebanon has not received any of the funds due them pursuant to the County Block Grant, funded through the Federal CARES Act, and to the best of Petitioner’s knowledge and belief, the other 66 counties in Pennsylvania have received the allocated funds.
9. The County of Lebanon is entitled to \$12,805,164.00 under Act 24 of 2020.
10. Governor Wolf has a constitutional and statutory responsibility to take care that the laws be faithfully executed.
11. Governor Wolf’s decision to add additional eligibility language to those passed and signed into law, by him, in Act 24 of 2020, is a gross abuse of power and not supported by the Emergency Powers Act.
12. Wolf’s unilateral decision makes Lebanon the only Pennsylvania county to have been cut off from a \$625 million allocation of federal coronavirus relief money.
13. The County of Lebanon is without any redress beyond this Petition, as by the Governor’s own argument, he alone has the ability to circumvent, amend, or revoke any subsequent legislation that may be passed to address this denial of funding.

14. Every day that Governor Wolf fails to release the Federal CARES Act provided funding through Act 24's County Block Grant results in irreparable harm to the County of Lebanon, its economy, residents, businesses, and non-profit entities.
15. The County of Lebanon has already lost seven days to comply with the requirements of Act 24.
16. The CARES Act and Act 24 has timing requirements and deadlines, which required the prompt use of the funds and return of unused funds to with triggering dates beginning in December 2020.
17. Time is of the essence to achieve the objectives of Act 24 and meet the required statutory deadlines for disbursement, administration, and accounting of said funds.
18. The normal timeline for review of this case would not provide sufficient time for the County's compliance with Act 24 and defeats the statutory intent of the funds.

#### **RELIEF SOUGHT**

Wherefore, for the reasons stated above, Petitioner respectfully requests this Honorable Court to grant an expedited and fast track review of the Petition for Review in the Nature of a Complaint for Declaratory and Mandamus Relief and schedule a hearing and responsive filing deadlines accordingly.

Respectfully submitted this 22<sup>nd</sup> day of July, 2020

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

County of Lebanon

/s/ David R. Warner, Jr.\_\_\_\_\_

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**ORDER**

And now, this \_\_\_\_\_ day of July, 2020, upon the filing of Emergency Application for Relief and Expedited Hearing, the relief sought in the Application is GRANTED and the Petition for Review in the Nature of a Complaint for Declaratory and Mandamus Relief shall be handled by this Court in an expedited and fast track process. A hearing on the said Petition is hereby scheduled before this Court on the \_\_\_\_\_ day of July, 2020, at \_\_\_\_:\_\_\_\_.\_\_\_\_.m. in Courtroom \_\_\_\_\_.

Any party in interest intending to oppose the relief requested in the Petition is hereby directed to file any responsive pleading to the Petition no less than \_\_\_\_ days prior to the scheduled hearing. Any responsive pleading to the said Petition shall be served simultaneously with filing upon the Petitioner’s counsel by hand-delivery or electronic transmission.

BY THE COURT:

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