

Date of Hearing: June 21, 2023

ASSEMBLY COMMITTEE ON ACCOUNTABILITY AND ADMINISTRATIVE REVIEW

Cottie Petrie-Norris, Chair

SB 557 (Limón) – As Amended May 18, 2023

SENATE VOTE: 40-0

SUBJECT: California Prompt Payment Act: nonprofit organizations

SUMMARY: This bill expands the definition of a grant for the purposes of the California Prompt Payment Act (PPA) requiring timely payments to include nonprofits, further defines “reasonable cause” for invoice disputes, eliminates the prohibition for nonprofits to be eligible for late payment penalties, and requires state agencies to include information about late payment penalties to nonprofits to the Department of General Services (DGS). Specifically, **this bill:**

- 1) Expands, for the purposes of the PPA, the definition of “grant” to also include a signed final agreement between any state agency and a nonprofit organization.
- 2) Amends, for the purposes of the PPA, the definition of “nonprofit organization” to mean an organization that qualifies as an exempt organization under Section 501(c)(3) of the Internal Revenue Code.
- 3) Excludes discrepancies of less than two hundred and fifty dollars (\$250) or 5 % of the invoiced amount, whichever is the lesser, between the invoice or claimed amount and either the claimant’s actual delivery or acceptance of property or services to the state, as a “reasonable cause” for a state agency to dispute a claimant’s invoice.
- 4) Removes the provision that a nonprofit organization shall only be eligible to receive a late penalty payment from a state agency if it has been awarded a contract or grant in an amount less than \$500,000.
- 5) Requires state agencies, within 90 calendar days following the end of the fiscal year, to identify the total number and dollar amount of late payment penalties paid to nonprofit organizations and report that information to DGS.
- 6) Requires DGS to prepare a report separately listing the number and total dollar amount of all late payment penalties paid to nonprofit organizations by each state agency during the preceding fiscal year and make the information available to the public.

EXISTING LAW:

- 1) Requires state agencies that award grants or that acquire properties or services pursuant to a contract to make timely payments to the grant or contract. (Gov. Code Sec. 927.1)
- 2) Provides that if a state agency or the State Controller fails to take certain timely actions, and payment is not issued within 45 calendar days from the state agency receipt of an undisputed invoice, state agency or the Controller must, as applicable, pay certain penalties. (Gov. Code Sec. 927.4)

- 3) Provides that nonprofit organizations shall only be eligible to receive a penalty payment if it has been awarded a contract or grant in an amount less than \$500,000. (Gov. Code Sec. 927.6(a))
- 4) Authorizes a state agency to dispute for reasonable cause an invoice, refund request, or claim for Medi-Cal reimbursement, as specified. (Gov. Code Sec. 927.3 and Sec. 927.5)
- 5) Requires state agencies to provide DGS with a report on late payment penalties that were paid by that state agency during the preceding fiscal year, as specified. (Gov. Code Sec. 927.9)
- 6) Defines “grant” to mean a signed final agreement between any state agency and local government agency or organization authorized to accept grant funding for victim services or prevention programs administered by any state agency, or restorative activities performed by a resource conservation district. (Gov. Code Sec. 927.2(b))
- 7) Defines “reasonable cause” to include a determination by a state agency that there is a discrepancy between the invoice or claimed amount and either the claimant’s actual delivery of property or services to the state or the state’s acceptance of those deliveries. (Gov. Code Sec. 927.2(i))

FISCAL EFFECT: Legislative Counsel has keyed this bill as fiscal.

COMMENTS:

- 1) *According to the Author.*

“California nonprofits are a bridge to our local communities, ensuring that critical services are accessible to residents while contributing to their regional, social, and economic growth. SB 557 ensures that nonprofits receive grants and contract payments from the state, in a timely manner, for the betterment of their communities.”

- 2) California Prompt Payment Act.

Under the PPA, state agencies that acquire property or services pursuant to a contract are required to pay undisputed invoices within 45 days of receipt or automatically calculate and pay the appropriate late payment penalties. However, a state agency may dispute an invoice submitted by a claimant for reasonable cause if the state agency notifies the claimant within 15 days of receipt of the invoice, or delivery of property or services.

This bill defines “reasonable cause” to be a discrepancy of an amount greater than two hundred and fifty dollars (\$250) or 5% of the invoice amount, whichever is less.

The PPA specifies that the penalties paid by a state agency to a resource conservation district, certified small business or nonprofit organization, a nonprofit public benefit corporation, or a small business or nonprofit organization that provides services or equipment under the Medi-Cal program, shall be calculated at a rate of 10% above the United States Prime Rate on June 30 of the prior fiscal year. However, nonprofit organizations are only eligible to receive a penalty payment if the grant or contract awarded is in an amount less than \$500,000.

This bill eliminates this cap for nonprofit organizations.

The PPA only applies to grants between any state agency and a local government or an organization authorized to accept grant funding for (1) victim services or prevention programs administered by any state agency, or (2) restoration activities performed by a resource conservation district.

This bill expands the definition of “grants” to also include “a final agreement between any state agency and a nonprofit organization.”

The bill also makes a clarifying amendment to the PPA definition of “nonprofit organization.” With this new definition of “nonprofit organization,” this bill now requires state agencies to include penalty payments made to nonprofits in their existing annual penalty reporting to DGS.

3) *Arguments in Support.*

A coalition of supporters, including the California Nonprofit Association, writes:

“The state relies on nonprofits to help put critical policies into action, partnering with community organizations to help the homeless, build affordable housing, respond to the impacts of climate change, support domestic violence victims, and in countless ways improve the lives of vulnerable members of our communities. To succeed, nonprofits need contracting terms that set us up to partner effectively.”

SB 557 “updates the state’s Prompt Payment Act to increase equity and fairness for nonprofits by expanding it to cover all state contracts with nonprofits, setting a minimum discrepancy amount, removing the existing eligibility cap on nonprofits contracts, and includes any penalties paid to nonprofits in the required annual report.”

PATH (People Assisting the Homeless) writes that it takes anywhere from 30 days to eight months for the state to remit payment on contracts after nonprofits submit invoices. “[Many] organizations have experienced delays in payment resulting from minor discrepancies, including rounding up or down by a single dollar.” PATH states that this is hardest on smaller nonprofits that serve disadvantaged communities. “Many of these nonprofits have only 30 days of cash on hand.”

REGISTERED SUPPORT / OPPOSITION:

Support

Amity Foundation
California Association of Nonprofits
California Partnership to End Domestic Violence
California Releaf
Center for Nonprofit Management
Children's Institute
Community Alliance with Family Farmers
Community Bridges
Disability Rights California
El Concilio of Stockton
Fresno Building Healthy Communities

Health Right 360
Inland Empire Community Collaborative
Koreatown Youth + Community Center
Meals on Wheels California
Nonprofit Finance Fund (NFF)
PATH (People Assisting the Homeless)
Rural Community Assistance Corporation
Santa Cruz Volunteer Center
Self-help Enterprises
Treepeople
United Ways of California
Westcare California INC.

Opposition

None on file.

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