



Bill Analysis

Author: Umberg

Sponsor:

Bill Number: SB 336

Related Bills: See Legislative
History

Amended: June 26, June 30,
and July 6, 2023

SUBJECT

Negotiated Cost Agreements

SUMMARY

This bill, under the Government Code (GOV), would require a state agency administering a grant program to use a specified method for determining reimbursement of indirect costs.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The June 26, 2023, amendments modified defined terms, removed the Department of General Services (DGS) requirement to establish a process for applicants for grants to negotiate a state standard negotiated cost agreement for state grants, modified the provisions for reimbursement of a grantee's indirect costs, and removed provisions to determine reimbursement of direct costs.

The June 30, 2023, amendments added a definition for "indirect costs" and made other technical changes.

The July 6, 2023, amendments modified the definition of "indirect costs" and added a provision to establish indirect cost pools.

This analysis only addresses the provisions of the bill that would impact the Franchise Tax Board (FTB).

REASON FOR THE BILL

The reason for this bill is to ensure that state agencies administering grant programs compensate grantees for their indirect costs of providing services funded by grants.

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ANALYSIS

This bill, under the GOV, would, unless prohibited by any other state or federal law, require a state agency administering a state grant program to use one of the following three methods, as selected by the grantee, for reimbursement of indirect costs when awarding a grant:

- 1) The grantee's negotiated indirect cost rate, pursuant to its negotiated indirect cost rate agreement;
- 2) A 10% de minimis indirect cost rate on direct costs; or
- 3) A rate negotiated by the grantee with another state agency within the last five years.

This bill would apply to any grant program administered by a state agency, regardless of whether the funding source of the grant is state funds, federal funds, or a combination thereof.

This bill would define the following terms:

- 1) "Negotiated indirect cost rate agreement" means an agreement pursuant to Part 200 of Title 2 of the Code of Federal Regulations that is approved by the federal government.
- 2) "Indirect costs" means those costs incurred for a common or joint purpose benefiting more than one objective, and not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved.

Effective/Operative Date

This bill would become effective and operative January 1, 2024.

Federal/State Law

Federal Law

The federal Office of Management and Budget provides regulations for government entities that enter into contracts with nonprofits for services and includes guidance for reimbursement of direct and indirect costs.

State Law

No comparable provision in state law.

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Implementation Considerations

None noted.

Technical Considerations

None noted.

Policy Considerations

None noted.

LEGISLATIVE HISTORY

SB 1069 (Umberg, 2021/2022), similar to this provision, would have required DGS to establish a state standard negotiated cost agreement for awarding state grants to grantees that do not have an existing federal negotiated cost rate agreement. SB 1069 was held in the Assembly Appropriations Committee without further action.

PROGRAM BACKGROUND

SB 154 (Skinner, 2021/2022) authorized funding for FTB to perform outreach to create increased awareness of the California Earned Income Tax Credit (CalEITC) and the Volunteer Income Tax Assistance Program (VITA). This authorization allowed FTB to work with nonprofit and community-based organizations to perform the outreach. Under this program, FTB has partnered with the California Department of Community Services and Development (CSD), who contracts directly with grantee organizations that provide outreach related to CalEITC and VITA.

FISCAL IMPACT

The FTB's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be determined.

ECONOMIC IMPACT

This bill, as amended July 6, 2023, would not impact state income or franchise tax revenue.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

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SUPPORT/OPPOSITION

Support

As per the July 3, 2023, Assembly Committee on Accountability and Administrative Review's analysis of SB 336, the following organizations are in support of this bill:

Rural Community Assistance Corporation (Co-Sponsor)
Self-Help Enterprises (Co-Sponsor)
Amigos De Los Rios
Amity Foundation
Angelenos for Trees
Arts District Community Council LA
Bay Area Urban Forest Ecosystem Council
California Association of Nonprofits
California Coalition for Youth
California Partnership to End Domestic Violence
California Releaf
California Urban Forests Council
Canopy
Center for Nonprofit Management
Central Coast Urban Forests Council
Children's Bureau of Southern California
Children's Institute
Clean & Green Pomona
Climate Action Now
Community Alliance with Family Farmers
Community Bridges
Community Forest Advisory Committee
Disability Rights California
El Concilio of Stockton
Fresno Building Healthy Communities
Growing Together
Health Right 360
Industrial District Green
Inland Empire Community Collaborative
Inland Urban Forest Council
International Society of Arboriculture Western Chapter
Koreatown Youth + Community Center
Koreatown Youth and Community Center INC.
Los Angeles Beautification Team
Los Angeles Neighborhood Land Trust
Lumber Cycle
Madera Coalition for Community Justice

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Meals on Wheels California
Meals on Wheels Orange County
Nonprofit Finance Fund (NFF)
North East Trees
PATH (People Assisting the Homeless)
Sacramento Tree Foundation
Sacramento Urban Forest Council
San Diego Regional Urban Forests Council
San Francisco Estuary Institute
Santa Cruz Volunteer Center
Street Tree Seminar
Sustainable Claremont
The Climate Center
Tree Fresno
Treepeople
United Ways of California
Urban Ecos
Watsonville Wetlands Watch
Westcare California INC.
Your Childrens Trees

Opposition

As per the same July 3, 2023, analysis, there is no opposition on file.

ARGUMENTS

Proponents

As per the July 3, 2023, Assembly Committee on Accountability and Administrative Review's analysis of SB 336, the co-sponsors of the bill write that:

Unlike the federal government, California does not have a system to provide uniform reimbursement to nonprofits for their indirect costs. As a result, many nonprofits who partner with the state are not fully compensated for necessary but indirect expenses— including accounting, technology infrastructure, building and utility expenses, and other similar costs. Not reimbursing nonprofits for the true costs of providing services is harmful to the organizations, to the people they serve, and to the organizations' partnerships with state agencies. Aligning the state's reimbursement rates with those of the federal government just makes sense, as does creating a standard negotiated state rate that is no lower than 10% of direct costs.

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Further complicating the issue is the matter of inconsistency across the state. For example, one nonprofit reported having four different rates on four separate state contracts in the same fiscal year, increasing audit risks, adding additional accounting time and eroding compliance with Generally Acceptable Accounting Principles (GAAP) that are required for nonprofits. By aligning state reimbursement rates for nonprofits with those of the federal government, California will simplify paperwork and processes for state agencies and nonprofits alike.

Opponents

None noted.

LEGISLATIVE CONTACT

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