



Bill Analysis

Author: Umberg

Sponsor:

Bill Number: SB 336

Related Bills: See Legislative
History

Amended: September 1, 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—The franchise Tax Board (FTB) has not formally voted or taken a position on this bill.

SUMMARY OF AMENDMENTS

The September 1, 2023, amendments added a definition for “grantee,” a provision that the grantee can be awarded indirect costs if the grantee discloses the requested rate amount in their grant program application and made other non-substantial changes.

This analysis only addresses the provisions of the bill that would impact the 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.

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 requested by the grantee, for reimbursement of indirect costs when awarding a grant, if the grantee disclosed the requested amount in their grant program application:

- 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.
- 3) "Grantee" means an applicant for a grant program that is administered by a state agency that is selected by the state agency to be awarded a grant under that program.

This bill would authorize an applicant for a grant administered by a state agency to opt out, when applying for the grant, to be reimbursed for its indirect costs.

For the purposes of calculating indirect costs and to facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs.

Effective/Operative Date

This bill would become effective and operative January 1, 2025.

*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.

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, the FTB has partnered with the California Department of Community Services and Development, who contracts directly with grantee organizations that provide outreach related to CalEITC and VITA.

OTHER STATES' INFORMATION

None noted.

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 September 1, 2023, would not impact state income or franchise tax revenue.

LEGAL IMPACT

None noted.

EQUITY IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

Support:

Assembly Committee on Accountability and Administrative Review's analysis 07-03-2023

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
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:

Assembly Committee on Accountability and Administrative Review's analysis
07-03-2023

None on file.

ARGUMENTS*Proponents:*

Assembly Floor analysis 09-05-2023

According to the co-sponsors, Rural Community Assistance Corporation and the Self-Help Enterprises, and support coalition:

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.

Opponents:

Assembly Floor analysis 09-05-2023

None on file.

LEGISLATIVE CONTACT

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