

SENATE THIRD READING
SB 805 (Rubio)
As Amended September 3, 2021
Majority vote

SUMMARY

This bill would task the California Arts Council with the creation and administration of a California Nonprofit Performing Arts Paymaster for the purpose of providing low-cost payroll services to small nonprofit performing arts organizations, as defined.

Major Provisions

- 1) Defines "council" to mean the Arts Council established pursuant to Section 8751 of the Government Code.
- 2) Defines "performing arts" to mean the types of arts that are performed live for a remote or in person audience, including, but not limited to, music, dance, and drama.
- 3) Defines "nonprofit performing arts organization" to mean a performing arts organization that is exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code and whose primary mission is the creation or presentation of performing arts.
- 4) Clarifies, performing arts organizations that are eligible to apply may also include organizations that are fiscally sponsored organizations and not a formally established 501(c)(3) nonprofit, for which criteria may be determined by the council.
- 5) Defines "small nonprofit performing arts organization" to mean a nonprofit performing arts organization with an average adjusted gross revenue equal to or less than \$1.4 million, except that this amount shall be adjusted every five years based on the California Consumer Price Index as compiled and reported by the Department of Industrial Relations.
- 6) Defines "adjusted gross revenue" to mean the average annual revenue received over the preceding three years, in whatever form, received or accrued from whatever source, excluding matching funds received pursuant to Section 8753.8 of the Government Code and excluding revenue earmarked by the grantor or donor solely for capital expenditures or any pass-through funds collected for the benefit of another organization that is received during an organization's tax year.
- 7) Defines "California nonprofit performing arts paymaster" to mean a person or business entity, contracted by the council and an employer that is a small nonprofit performing arts organization or some other qualifying entity, that does all of the following:
 - a) Calculates, processes, and produces wage payments to the employer's employees under the employer's federal employer identification number.
 - b) Withholds and remits applicable taxes to government agencies using the employer's federal employer identification number.
 - c) Issues federal and state income tax forms to the employer's employees using the employer's federal employer identification number.

- d) Provides workers' compensation and unemployment insurance administration.
- 8) Requires, upon appropriation by the Legislature, the council to establish and administer the California Nonprofit Performing Arts Paymaster for the purpose of providing low-cost payroll and paymaster services to small nonprofit performing arts organizations. The council shall issue a request for proposals, establish criteria to rate and rank applicants, and award contracts on a competitive basis to two or more nonprofit contractors to provide these services.
- 9) States that a contract entered into pursuant to 8), above, shall require the nonprofit contractor to provide the payroll and paymaster services for at least 5 years.
- 10) Requires, upon appropriation by the Legislature, the council to provide a selected nonprofit contractor with a grant award in an amount necessary to fund the initial startup costs of providing payroll and paymaster services pursuant to this section.
- 11) Authorizes a nonprofit contractor providing payroll and paymaster services pursuant to this section to charge a fee, as specified, to a small nonprofit performing arts organization that receives those services.
- 12) Requires a selected nonprofit contractor to submit an annual report to the council by July 31 of each year that includes information about the number of nonprofit performing arts organizations served and the costs associated with providing the services from the preceding fiscal year.
- 13) Authorizes the council to adopt regulations for the purpose of establishing and administering the above provisions.

COMMENTS

This bill seeks to address the employment status of workers in small nonprofit performing arts companies. Specifically, the intent of the bill, as mentioned by the author, is to ensure the proper classification of these workers by creating a statewide payroll and paymaster service as well as by establishing a sliding scale grant based program to assist with employee-associated payroll costs. The payroll grants provided in the bill are conditioned upon key applicant reporting requirements, such as budget size, venue size, and relevant workforce data.

Please see the policy analysis for a complete discussion of this measure.

According to the Author

According to the Author, "This bill will create a critical funding infrastructure to help assist our small nonprofit performing arts companies (SNPAC) known as the "California Nonprofit Performing Arts Paymaster" which will provide low-cost payroll and paymaster services to SNPACs. California has historically lacked investment within the arts and unlike regular small organizations; SNPACs are 501(c)(3) charitable organizations established to bring culture, arts and education to all communities. SNPACs contribute enormously to the economic growth, social well-being and cultural vitality of the local communities they serve.

Arguments in Support

Homeboy Industries, adds in their support, "SB 805 is critical to help SNPACs create and preserve job opportunities for people in the performing arts sector, particularly workers in marginalized communities. These small nonprofit theatres contribute enormously to the economic growth, social well-being and cultural vitality of the local communities they serve."

Arguments in Opposition

Recent amendments have addressed opposition concerns and all major opposition stakeholders have formally removed their opposition and are now neutral.

FISCAL COMMENTS

According to the Assembly Appropriations Committee, cost pressures of an unknown amount, potentially in the millions of dollars, depending on the amount of any appropriation made by the Legislature for the two grant programs. Although the final 2021 budget act appropriated \$500,000 to the California Arts Council (CAC) to establish a non-profit paymaster program, it is unclear if that amount is sufficient to cover the CAC's program administration costs and the grant awards for selected non-profit contractors required by this bill. Additionally, since the final 2021 budget act appropriated \$49.5 million for a related, but ultimately different non-profit performing arts payroll grant program, new General Fund support would be needed to implement the program described by this bill.

VOTES**SENATE FLOOR: 34-5-1**

YES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Grove, Hertzberg, Hueso, Hurtado, Jones, Kamlager, Laird, Leyva, Limón, McGuire, Melendez, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

NO: Bates, Borgeas, Nielsen, Ochoa Bogh, Wilk

ABS, ABST OR NV: Dahle

ASM ARTS, ENTERTAINMENT, SPORTS, TOURISM, AND INTERNET MEDIA: 6-1-0

YES: Quirk-Silva, Valladares, Bloom, Chiu, Friedman, Nazarian

NO: Choi

ASM LABOR AND EMPLOYMENT: 7-0-0

YES: Kalra, Flora, Lorena Gonzalez, Jones-Sawyer, Reyes, Seyarto, Ward

ASM APPROPRIATIONS: 12-0-4

YES: Lorena Gonzalez, Bryan, Calderon, Carrillo, Chau, Gabriel, Eduardo Garcia, Levine, Quirk, Robert Rivas, Akilah Weber, Kalra

ABS, ABST OR NV: Bigelow, Megan Dahle, Davies, Fong

UPDATED

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