

CONCURRENCE IN SENATE AMENDMENTS

AB 1318 (Bonta)

As Amended June 23, 2025

2/3 vote. Urgency

SUMMARY

Expands the definition "qualified nonprofit organization" for the purposes of the administration of services to refugees and undocumented persons and the administration of the Rapid Response Program and the Enhanced Services for Asylees and Vulnerable Noncitizens (ESAVN) program to allow contracts or grants be awarded to nonprofits with either state tax-exempt status or federal 501(c)(3) status. Adds an urgency clause.

Senate Amendments

- 1) Provide that, notwithstanding any other law, and unless the context clearly requires otherwise, whenever any reference to Internal Revenue Code Section 501(c)(3) appears in any statute, regulation, or contract, or in any other code, with respect to determining eligibility for any state grant or service contract, or the disbursement of state or local funds, it shall also be deemed to refer to Revenue and Taxation Code Section 23701d.
- 2) Provide that the provisions of this act are severable and that if any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

COMMENTS

501(c)(3) Nonprofits. 501(c)(3) organizations are a category of nonprofit entities recognized by the federal Internal Revenue Code that are exempt from federal income tax because they serve the public good. This designation is one of the most common in the United States (U.S.) nonprofit sector. According to the California Employment Development Department, there were 31,581 nonprofit firms in the third quarter of 2024, employing 1.8 million employees. These nonprofits employed 10.1% of California's workforce of 18.2 million employees. The nonprofits that this bill impacts are the largest type of nonprofit entities, which are 501(c)(3) organizations, employing 1.4 million employees. Additionally, there were 3,147 nonprofits that provided health care and social assistance.

A 501(c)(3) organization must be organized and operated exclusively for one or more of the following purposes: charitable, religious, educational, scientific, literary, testing for public safety, and preventing cruelty to children or animals. These organizations are strictly prohibited from participating or intervening in any political campaign on behalf or against any candidate for public office, which includes making contributions, endorsements, or issuing political statements. Additionally, the activities of the organization must provide a real, tangible benefit to the public or a significant portion of it (e.g. providing food to low-income families, offering educational programs). These organizations typically rely on broad public support, such as donations from individuals and grants from governments or foundations. Examples of 501(c)(3) organizations include food banks, health clinics, environmental organizations, and schools.

While many organizations automatically receive California tax-exempt status after getting a federal 501(c)(3) determination, they must notify the Federal Tax Board and file appropriate documents to maintain compliance.

Federal Actions on 501(c)(3) Nonprofits. Following a series of executive orders (EOs) by President Donald Trump in early 2025, nonprofits engaging in diversity, equity, inclusion (DEI) and environmental justice (EJ) work now face significant legal and financial risks. Two major EOs, "Ending Illegal Discrimination and Restoring Merit-Based Opportunity" and "Ending Radical Wasteful Government DEI Programs and Referencing," aim to eliminate federal support for DEI and EJ programs. These directives not only target public-sector efforts, but also extend to private nonprofits, foundations, and associations, requiring them to certify compliance with federal anti-discrimination laws and potentially subjecting them to federal scrutiny. The U.S. Department of Justice, under new leadership, has been directed to investigate and penalize organizations believed to be engaged in "illegal" DEI practices, raising the threat of civil and criminal enforcement.

In addition to federal funding being at risk, nonprofit leaders are increasingly concerned that these EOs could jeopardize their organization's tax-exempt status. The vague definitions within the orders, combined with calls to identify "discriminatory DEI practitioners," have left many organizations uncertain about which programs or language may be deemed noncompliant. Legal challenges are already underway, such as a lawsuit filed against the American Chemical Society alleging racial discrimination under civil rights laws, but many nonprofits are opting to proactively review their practices. Experts recommend that nonprofits examine their DEI initiatives, reassess reliance on federal funds, and consult legal counsel to mitigate risk. These steps may include scrubbing public-facing materials, isolating DEI-related activities from federally funded programs, or seeking alternative funding sources. While some courts have already enjoined parts of the EOs on constitutional grounds, uncertainty remains high.

In March 2025, President Trump signed an EO, titled "Restoring Public Service Loan Forgiveness (PSLF)," which introduces a new regulatory definition that could indirectly threaten the tax-exempt status of certain nonprofits. The order instructs the U.S. Department of Education to exclude from the PSLF program any nonprofit with a "substantial illegal purpose." This phrase is loosely defined to include nonprofits that: aid violations of immigration law; support terrorism or designated cartels; facilitate what the EO describes as child abuse (e.g. gender-affirming care); repeatedly engage in illegal decimation; and, regularly violate state tort laws (e.g. trespassing, disorderly conduct).

According to experts, the term "substantial illegal purpose" is not defined in federal statute, but appears in a 1984 tax case (*Church of Scientology v IRS*) where tax-exempt status was revoked for illegal activity that violated public policy. The order hints that the IRS could be used to revoke tax exemption from nonprofits alleged to engage in these activities, even without formal charges or convictions. This appears to align with broader efforts by the Trump administration to scrutinize DEI programs, nonprofit service providers to migrants and refugees, and other politically targeted entities. Advocates warn that nonprofits implicated under this new definition should prepare for potential IRS audits and assume their tax-exempt status to be at risk. Even past conduct during open audit periods could justify revocation, regardless of whether the activity has ceased.

Lastly, recent federal legislation has increasingly targeted nonprofits that support vulnerable populations, particularly immigrants and asylum seekers. For example, Senate Bill 497 (Hagerty, R-TN), introduced on February 10, 2025, proposes revoking the 501(c)(3) tax-exempt status of organizations that provide assistance to undocumented immigrants. Similarly, H.R. 9495, introduced in 2024 by Representative Claudia Tenney (R-NY), would have granted the U.S.

Treasury Secretary broad authority to revoke the tax-exempt status of any nonprofit labeled a "terrorist-supporting organization," without requiring due process. These proposals aim to undermine the legal and social services available to immigrants by threatening the nonprofit organizations that deliver them.

This bill. Under current state law, nonprofits must have federal 501(c)(3) status to qualify for many public funding opportunities. This requirement is especially common in programs administered by the California Department of Social Services. As a result, if the federal government revokes a nonprofit's 501(c)(3) status, even for political reasons, the organization could lose access to critical state funding, despite remaining fully compliant with California laws and regulations. This poses a serious risk to the state's safety net, particularly for organizations serving immigrant communities. *This bill* seeks to address that vulnerability by allowing nonprofit organizations to qualify for public funding if they hold either federal 501(c)(3) tax-exempt status or state tax-exempt status under California Revenue and Taxation Code Section 23701d. By recognizing state-level tax-exempt status, *the bill* aims to ensure that nonprofits operating lawfully in California are not disqualified from funding due to federal political actions. This change may help safeguard the state's ability to deliver essential services through trusted nonprofit partners, especially in immigrant communities.

According to the Author

"As someone who spent over a decade working in the nonprofit sector, I have seen firsthand how vital these organizations are to the health, safety, and dignity of our communities. I often refer to the nonprofit sector as the third arm of government, because when public systems fall short, it is nonprofits that step in—filling gaps, reaching marginalized populations, and delivering essential services where government and for-profit entities cannot. Unfortunately, recent efforts have targeted the tax-exempt status of nonprofits that do not align with the current goals of the federal administration. [This bill] ensures that California can continue to partner with nonprofits that meet our state's standards—regardless of federal political shifts—by allowing organizations with state tax-exempt status to continue to receive funding through our programs. This bill protects the integrity of our service network and stands with the organizations that have long stood with our most vulnerable populations."

Arguments in Support

According to California Association of Nonprofits, "[This bill] establishes fair, transparent criteria and a consistent state process to prevent politically motivated efforts to silence or punish nonprofits based on their work or the communities they serve."

Arguments in Opposition

No opposition on file.

FISCAL COMMENTS

According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, the June 23, 2025, version of this bill would result in negligible state costs.

VOTES:

ASM HUMAN SERVICES: 5-2-0

YES: Lee, Calderon, Elhawary, Jackson, Celeste Rodriguez

NO: Castillo, Tangipa

ASM APPROPRIATIONS: 11-4-0

YES: Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache

NO: Sanchez, Dixon, Ta, Tangipa

ASSEMBLY FLOOR: 61-13-5

YES: Addis, Aguiar-Curry, Ahrens, Alvarez, Arambula, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Dixon, Elhawary, Flora, Fong, Gabriel, Garcia, Gipson, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Ward, Wicks, Wilson, Zbur, Rivas

NO: Alanis, Davies, DeMaio, Gallagher, Hadwick, Hoover, Lackey, Macedo, Patterson, Sanchez, Ta, Tangipa, Wallis

ABS, ABST OR NV: Castillo, Chen, Ellis, Jeff Gonzalez, Nguyen

UPDATED

VERSION: June 23, 2025

CONSULTANT: Bri-Ann Hernández-Mengual / HUM. S. / (916) 319-2089

FN: 0001869