SENATE COMMITTEE ON APPROPRIATIONS
Senator Sabrina Cervantes, Chair
2025 - 2026 Regular Session

AB 880 (Bennett) - State government grants and contracts: payment of claims and grantees' indirect costs

Version: February 19, 2025
Urgency: No
Hearing Date: August 3, 2026

Policy Vote: G.O. 15 - 0
Mandate: No
Consultant: Janelle Miyashiro

Bill Summary: AB 880 revises the California Prompt Payment Act (PPA) eliminating the $500,000 cap that previously exempted certain Medi-Cal payments from penalty provisions. AB 880 also narrows the circumstances under which the state can dispute an invoice and expands the definition of "grant" to include specified agreements with nonprofit organizations.

Fiscal Impact:
- The Department of General Services (DGS) estimates costs of $174,000 annually for the first two years to update regulations and the State Contracting Manual (SCM). Additionally, DGS anticipates $85,000 in ongoing annual costs to manage an increase in workload to calculate invoice discrepancies, resolve errors with contractors, and handle contract (Service Revolving Fund).

- Unknown, potentially significant increase in state contracting costs, to the extent that raising the PPA cap for nonprofits results in the state paying more late penalties. Actual costs will depend on individual contract terms and agency capacity to process the expanded scope of payments on time.

- Unknown, potentially significant cost pressures for state agencies. Allowing grantees to select varying indirect cost reimbursement rates will likely increase the portion of overall grant funding spent on a grantee's indirect costs (General Fund, special fund, and federal funds). Because this bill does not increase total funding for individual programs, paying higher overhead reimbursements means less money remains for a program's authorized core purpose. Actual costs will range from absorbable to hundreds of thousands of dollars per entity, depending on their specific contracting activities and grant terms. (See Staff Comments for additional detail.)

Background: Under the PPA, state agencies that acquire property or services pursuant to a contract with a business are required to make payment on the date required by the contract, or within 45 days of the state agency's receipt of an undisputed invoice. If this requirement is not met, state agencies must automatically calculate and pay appropriate late payment penalties as specified in Government Code Section 927, et seq. Late payments may occur for a variety of reasons, including administrative decisions relating to cash flow, bond sales, or delays in meeting conditions set forth in federal legislation.

Existing law specifies that state agencies pay applicable penalties, without requiring the claimant to submit an additional invoice for these amounts, whenever the state agency fails to submit a correct claim to the Controller by the required payment approval date and payment is not issued within 45 calendar days from the state agency receipt of an undisputed invoice. Penalties paid by a state agency to a certified small business, nonprofit organization, nonprofit public benefit corporation, and a small business or nonprofit that provides services or equipment under Medi-Cal shall be calculated at a rate of 10% above the United State Prime Rate on June 30th of the prior year.

Additionally, the PPA provides that if the Controller fails to make payment within 15 calendar days of receipt of the claim from a state agency, and payment is not issued within 45 calendar days from state agency receipt of an undisputed invoice, the Controller shall pay applicable penalties to the claimant without requiring that the claimant submit an invoice for these amounts. If the claimant is a resource conservation district, a certified small business, a nonprofit organization, a nonprofit benefit corporation, or a small business or nonprofit organization that provides services or equipment under the Medi-Cal program, the controller must pay a penalty at a rate of 10% above the United State Prime Rate on June 30 of the prior fiscal year, as specified.

However, existing law specifies that for the late payment penalty provisions of the PPA described above, a nonprofit organization is only eligible to receive a penalty payment if the contract or grant is an amount less than $500,000. Since 2013, DGS has overseen the PPA to ensure that government agencies, in a timely manner, pay their contracts awarded to a certified small business or nonprofit. The PPA indicates that nonprofits are only eligible to receive a penalty payment if the grant or contract awarded is an amount less than $500,000. Hence, the PPA only applies to a limited set of grants, excluding numerous nonprofits that provide essential services to California communities.

Proposed Law:

- Revises the definition of “grant” to include a signed final agreement between a state agency and a nonprofit organization, and removes the current $500,000 exception.
- Redefines “nonprofit service organization” as an organization that qualifies for tax exemption under Section 501(c)(3) of the Internal Revenue Code.
- Clarifies that a discrepancy must exceed $250 or 5 percent of the invoice/claimed amount (whichever is less) to constitute reasonable cause for a state agency to dispute it.
- Requires a state agency administering a grant program to reimburse a grantee’s indirect costs at one of the following rates, as requested by the grantee:
    - The grantee’s negotiated indirect cost rate agreement (NICRA).
    - The de minimis indirect cost rate specified in Part 200 (commencing with Section 200.0) of Title 2 of the Code of Federal Regulations.
    - An existing state rate.
    - A rate proposed by the grantee, if they lack an existing state rate.

- Prohibits a state agency from reimbursing indirect costs unless the grantee disclosed the requested rate in their grant application.
- Allows the establishment of one or more indirect cost pools to calculate costs and equitably distribute indirect expenses to the objectives served. Requires these pools to be distributed based on relative benefits derived to ensure equitable results.
- Applies these provisions to any state-administered grant program, regardless of whether it is funded by state funds, federal funds, or a combination of both.
- Defines "existing state rate" to mean a rate utilized by the grantee with a state agency within the last five years.
- Defines "grantee" to mean 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.
- Defines "indirect costs" to mean 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.
- Defines "negotiated indirect cost rate agreement" to mean an agreement pursuant to Part 200 (Commencing with Section 200.0) of Title 2 of the Code of Federal Regulations that is approved by the federal government.

Related Legislation: AB 1039 (Hart, 2026) requires, rather than authorizes, an administering state agency to advance a payment to a recipient entity, as defined, in accordance with specified requirements for all grants and contracts entered into after January 1, 2026, and requires the solicitation for the grant or contract to state the percentage of funds that may be distributed as an advance payment, as specified. AB 1039 is pending in this committee.

SB 1246 (Limon, 2024) would have deleted, for the purposes of the PPA, the definition of the term "grant" from the PPA and delete the $500,000 exception in existing law and provide that only specified late payment penalties apply to a signed final agreement for a grant, as specified, or a grant by any state agency to a nonprofit organization. SB 1246 was vetoed.

SB 336 (Umberg, 2023) would have required state agencies administering a grant program to reimburse a grantee's indirect costs at one of three specified rates requested by the grantee in its state grant program application, as specified. SB 336 was vetoed.

SB 557 (Limon, 2023) would have expanded the definition of a grant for the purposes of the PPA requiring timely payments to include nonprofits by changing what is considered a grant and sets a specific monetary threshold of $250 or five percent of the invoiced amount (whichever is lower) for when a state agency can dispute a bill related to property or services delivered. SB 557 was vetoed.

SB 1069 (Umberg, 2022) would have required DGS to establish a state standard negotiated cost agreement for awarding state grants to grantees that do not have an existing NICRA, as specified, and requires state agencies to use the previously negotiated terms if a grantee has an existing NICRA approved by the federal government, as specified. SB 1069 was held on the Suspense File in the Assembly Appropriations Committee.

Staff Comments: Costs for impacted agencies will vary according to their grant programs, existing contracts, and negotiations with fund recipients. For comparison:

- The California Department of Forestry and Fire Protection (CAL FIRE) estimates costs of $257,000 in year one and $462,000 ongoing (General Fund) for 3.0 Associate Governmental Program Analysts (AGPAs). These positions will manage an expected 5,000 hours of new annual workload to incorporate federal guidelines and NICRAs into CAL FIRE's grant programs. Duties include conducting administrative reviews of applications, verifying the applicability of indirect rates on invoices, obtaining updated NICRAs, and processing grant agreement amendments for budget changes driven by NICRA updates.

- The California Department of Corrections and Rehabilitation (CDCR) estimates ongoing costs of $758,000 (General Fund) for five new positions (1.0 Staff Services Manager II, 1.0 Staff Services Manager I, and 3.0 AGPAs) to help processes its more than 100 annual grants. CDCR also anticipates unknown, potentially significant ongoing cost pressures as a larger portion of grant funds is allocated to indirect costs. CDCR notes concerns that if more grant funds are diverted to indirect costs rather than direct programming, it could result in fewer rehabilitative credit-earning opportunities.

- The State Water Resources Control Board (Water Board) estimates annual ongoing costs of $3.5 million (various special funds). This estimate includes additional staff to interpret and apply indirect cost reimbursement rules, and to ensure the Water Board can meet the 45-day processing timeframe for a much larger pool of grantees. The Water Board also notes potential unknown annual costs for penalties if processing deadlines are missed. Because the special fund sources for these grants generally do not authorize penalty payments, any required penalties would likely have to be paid from the General Fund.

- The Office of Emergency Services and Department of Justice expect any impact to be minor.

-- END --