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AB-1776 Resource conservation districts: California Prompt Payment Act. (2021-2022)

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Assembly Bill No. 1776

CHAPTER 455

An act to amend Sections 927.2, 927.6, 927.7, and 927.11 of the Government Code, relating to resource conservation districts.

[Approved by Governor September 22, 2022. Filed with Secretary of State September 22, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1776, Gallagher. Resource conservation districts: California Prompt Payment Act.

Existing law, the California Prompt Payment Act, generally provides that a state agency that acquires property or services pursuant to a contract with a business but fails to make payment to the person or business on the date required by the contract is subject to a late payment penalty, as specified. The act requires state agencies to pay applicable penalties, without requiring that the claimant 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. The act requires a state agency to pay, through the Controller, to the claimant a penalty at a rate of 10 percent above the United States Prime Rate on June 30 of the prior fiscal year if the claimant is a certified small business, a nonprofit organization, a nonprofit public benefit corporation, or a small business or nonprofit organization that provides services or equipment under the Medi-Cal program, as prescribed. The act requires, if the Director of Finance determines that a state agency or the Controller is unable to promptly pay an invoice as provided for by this chapter due to a major calamity, disaster, or criminal act, the late payment penalty provisions described above to be suspended, except as they apply to certain claimants, including a certified small business, a nonprofit organization, or a nonprofit public benefit corporation.

This bill would include a resource conservation district in the list of entities entitled to the late payment penalty and excepted from the suspension provision described above.

The act also requires the required payment approval date, as defined, to be extended by 30 calendar days if an invoice from a business under a contract with the Department of Forestry and Fire Protection would become subject to late payment penalties during the annually declared fire season, as declared by the Director of Forestry and Fire Protection, except if the contract is with a certified small business, a nonprofit organization, or a nonprofit public benefit corporation.

This bill would also except a contract with a resource conservation district from that extension provision.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 927.2 of the Government Code is amended to read:

927.2. The following definitions apply to this chapter:

- (a) "Claim" means payment requests prepared and submitted by a state agency to the Controller for payment to the named claimant.
- (b) (1) "Grant" means a signed final agreement between any state agency and a local government agency or organization authorized to accept grant funding for victim services or prevention programs administered by any state agency, or restoration activities performed by a resource conservation district.

(2) A grant defined by this subdivision is a contract and subject to this chapter.
- (c) "Invoice" means a bill or claim that requests payment on a contract under which a state agency acquires property or services or pursuant to a signed final grant agreement.
- (d) "Medi-Cal program" means the program established pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.
- (e) "Nonprofit public benefit corporation" means a corporation, as defined by subdivision (b) of Section 5046 of the Corporations Code, that has registered with the Department of General Services as a small business.
- (f) "Nonprofit service organization" means a nonprofit entity that is organized to provide services to the public.
- (g) "Notice of refund or other payment due" means a state agency provides notice to the person that a refund or payment is owed to that person or the state agency receives notice from the person that a refund or undisputed payment is due.
- (h) "Payment" means any form of the act of paying, including, but not limited to, the issuance of a warrant or a registered warrant by the Controller, or the issuance of a revolving fund check by a state agency, to a claimant in the amount of an undisputed invoice.
- (i) "Reasonable cause" means a determination by a state agency that any of the following conditions are present:
 - (1) There is a discrepancy between the invoice or claimed amount and the provisions of the contract or grant.
 - (2) There is a discrepancy between the invoice or claimed amount and either the claimant's actual delivery of property or services to the state or the state's acceptance of those deliveries.
 - (3) Additional evidence supporting the validity of the invoice or claimed amount is required to be provided to the state agency by the claimant.
 - (4) The invoice has been improperly executed or needs to be corrected by the claimant.
 - (5) There is a discrepancy between the refund or other payment due as calculated by the person to whom the money is owed and by the state agency.
- (j) "Received by a state agency" means the date an invoice is delivered to the state location or party specified in the contract or grant or, if a state location or party is not specified in the contract or grant, wherever otherwise specified by the state agency.
- (k) "Required payment approval date" means the date on which payment is due as specified in a contract or grant or, if a specific date is not established by the contract or grant, 30 calendar days following the date upon which an undisputed invoice is received by a state agency.
- (l) "Resource conservation district" means a resource conservation district established pursuant to Division 9 (commencing with Section 9001) of the Public Resources Code.
- (m) "Revolving fund" means a fund established pursuant to Article 5 (commencing with Section 16400) of Chapter 2 of Part 2 of Division 4 of Title 2.
- (n) "Small business" means a business certified as a "small business" in accordance with subdivision (d) of Section 14837, including certified small businesses engaged in the development, design, and construction of California's high-speed rail system pursuant to the California High-Speed Rail Act (Division 19.5 (commencing with Section 185000) of the Public Utilities Code).
- (o) "Small business" and "nonprofit organization" mean, in reference to providers under the Medi-Cal program, a business or organization that meets all of the following criteria:
 - (1) The principal office is located in California.
 - (2) The officers, if any, are domiciled in California.

(3) If a small business, it is independently owned and operated.

(4) The business or organization is not dominant in its field of operation.

(5) Together with any affiliates, the business or organization has gross receipts from business operations that do not exceed three million dollars (\$3,000,000) per year, except that the Director of Health Services may increase this amount if the director deems that this action would be in furtherance of the intent of this chapter.

(p) "Department of FISCal" means the organization responsible for operating and maintaining the Financial Information System for California integrating statewide accounting, budgeting, cash management, and procurement pursuant to subdivision (b) of Section 11890.

SEC. 2. Section 927.6 of the Government Code is amended to read:

927.6. (a) State agencies shall pay applicable penalties, without requiring that the claimant 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. The penalty shall cease to accrue on the date the state agency submits the claim to the Controller for payment or pays the claimant directly, and shall be paid for out of the state agency's support appropriation. If the claimant is a resource conservation district, certified small business, a nonprofit organization, a nonprofit public benefit corporation, or a small business or nonprofit organization that provides services or equipment under the Medi-Cal program, the state agency shall pay to the claimant a penalty at a rate of 10 percent above the United States Prime Rate on June 30 of the prior fiscal year. However, a nonprofit organization shall only be eligible to receive a penalty payment if it has been awarded a contract or grant in an amount less than five hundred thousand dollars (\$500,000). If the amount of the penalty is ten dollars (\$10) or less, the penalty shall be waived and not paid by the state agency.

(b) For all other businesses, the state agency shall pay a penalty at a rate of 1 percent above the Pooled Money Investment Account daily rate on June 30 of the prior fiscal year, not to exceed a rate of 15 percent. If the amount of the penalty is one hundred dollars (\$100) or less, the penalty shall be waived and not paid by the state agency. On an exception basis, state agencies may avoid payment of penalties for failure to submit a correct claim to the Controller by the required payment approval date by paying the claimant directly from the state agency's revolving fund within 45 calendar days following the date upon which an undisputed invoice is received by the state agency.

SEC. 3. Section 927.7 of the Government Code is amended to read:

927.7. (a) The Controller shall pay claimants within 15 calendar days of receipt of a correct claim from the state agency. 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. Penalties shall cease to accrue on the date full payment is made, and shall be paid for out of the Controller's funds. If the claimant is a resource conservation district, a certified small business, a nonprofit organization, a nonprofit public benefit corporation, or a small business or nonprofit organization that provides services or equipment under the Medi-Cal program, the Controller shall pay to the claimant a penalty at a rate of 10 percent above the United States Prime Rate on June 30 of the prior fiscal year, from the 16th calendar day following receipt of the claim from the state agency. However, a nonprofit organization shall only be eligible to receive a penalty payment if it has been awarded a contract or grant in an amount less than five hundred thousand dollars (\$500,000). If the amount of the penalty is ten dollars (\$10) or less, the penalty shall be waived and not paid by the Controller. For all other businesses, the Controller shall pay penalties at a rate of 1 percent above the Pooled Money Investment Account daily rate on June 30 of the prior fiscal year, not to exceed a rate of 15 percent. If the amount of the penalty is one hundred dollars (\$100) or less, the penalty shall be waived and not paid by the Controller.

(b) The Department of FISCal shall be responsible for applicable penalties if the Financial Information System for California delays the delivery of a correct claim from the state agency to the Controller, preventing the Controller from making payment within 15 calendar days and payment is not issued within 45 calendar days from state agency receipt of an undisputed invoice.

SEC. 4. Section 927.11 of the Government Code is amended to read:

927.11. (a) Except in the case of a contract with a resource conservation district, a certified small business, a nonprofit organization, or a nonprofit public benefit corporation, if an invoice from a business under a contract with the Department of Forestry and Fire Protection would become subject to late payment penalties during the annually declared fire season, as declared by the Director of Forestry and Fire Protection, then the required payment approval date shall be extended by 30 calendar days.

(b) No nonprofit public benefit corporation shall be eligible for a late payment penalty if a state agency fails to make timely payment because no Budget Act has been enacted.

(c) (1) If the Director of Finance determines that a state agency or the Controller is unable to promptly pay an invoice as provided for by this chapter due to a major calamity, disaster, or criminal act, then otherwise applicable late payment penalty provisions contained in Sections 927.6 and 927.7 shall be suspended, except as they apply to a claimant that is any of the following:

(A) A resource conservation district.

(B) A certified small business.

(C) A nonprofit organization.

(D) A nonprofit public benefit corporation.

(E) A small business or nonprofit organization that provides services or equipment under the Medi-Cal program.

(2) A suspension pursuant to this subdivision shall remain in effect until the Director of Finance determines that the suspended late payment penalty provisions should be reinstated.

(d) Except as provided in subdivision (b), in the event a state agency fails to make timely payment because no Budget Act has been enacted, penalties shall continue to accrue until the time that the invoice is paid.