

ASSEMBLY BILL

No. 619

Introduced by Assembly Member Vince Fong

February 9, 2023

An act to add Section 8596.1 to the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 619, as introduced, Vince Fong. State government: emergency services: nonprofit service providers.

Existing law, the California Emergency Services Act, authorizes the Governor to declare a state of emergency during conditions of disaster or extreme peril to persons or property. Existing law authorizes the Governor, during a state of emergency, to suspend any regulatory statute, or statute prescribing the procedure for conduct of state business, or the orders, rules, or regulations of any state agency, including provisions relating to eligibility to receive unemployment compensation benefits, if the Governor determines and declares that strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay the mitigation of the effects of the emergency. Existing law requires each department, division, bureau, board, commission, officer, and employee of this state to render all possible assistance to the Governor and to the Director of Emergency Services in carrying out the act.

This bill would authorize a nonprofit entity that provides services pursuant to a contract with a state agency, during a state of war emergency or a state of emergency, to request the state agency to allow that nonprofit to modify the method in which it provides those services so long as the purpose of the contract is served. The bill would require

the state agency and the nonprofit entity, if the state agency agrees to that modification, to prepare and sign an addendum to the contract establishing the terms and conditions of the modification.

The bill would require the nonprofit entity to notify each state agency from which it receives funding of a closure or of an impacted program, including whether a closure is location specific or due to executive order, and why the service level may be impacted. The bill would further require the nonprofit entity to identify and thoroughly document all expenditures associated with the closed program and retain documentation to justify expenses and to support claiming continued state funding, as specified. The bill would require a state agency that receives notification from a nonprofit entity pursuant to these provisions to ensure that funding is available to pay for canceled services, closed programs, or reduced service levels.

The bill would also permit a nonprofit entity, when a disruption occurs that prohibits that entity from providing services pursuant to a contract but a state of emergency or state of war emergency is not declared, to submit a request to the applicable state agency for flexibility with respect to services and funding pursuant to the contract. The bill would authorize a state agency to approve the written request if it determines that doing so is reasonable under the circumstances described by the nonprofit agency.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 8596.1 is added to the Government Code,
- 2 to read:
- 3 8596.1. (a) During a state of war emergency or a state of
- 4 emergency, a nonprofit entity that provides services pursuant to a
- 5 contract with a state agency may request the state agency to allow
- 6 that nonprofit to modify the method in which it provides those
- 7 services so long as the purpose of the contract is served. If the state
- 8 agency agrees to that modification, the state agency and nonprofit
- 9 entity shall prepare and sign an addendum to the contract
- 10 establishing the terms and conditions of the modification.
- 11 (b) The nonprofit entity shall notify each state agency from
- 12 which it receives funding of a closure or of an impacted program,

1 including whether a closure is location specific or due to executive
2 order, and why the service level may be impacted.

3 (c) (1) The nonprofit entity shall identify and thoroughly
4 document all expenditures associated with the closed program.
5 The nonprofit entity shall retain documentation to justify expenses
6 and to support claiming continued state funding in accordance
7 with the following requirements:

8 (A) Fixed and regular costs that continue to be incurred shall
9 be paid normally.

10 (B) Hourly employees, including those who would not otherwise
11 be paid when a program is not operating, shall be paid the
12 anticipated wage during the closure.

13 (C) If there are any expenses that will not be incurred due to a
14 program closure, those expenses shall be identified and excluded
15 from invoicing. If the costs occurred prior to the closure, those
16 costs shall be paid by the contracting state agency.

17 (2) While contract expenditures may be billed using a regular
18 monthly invoice template, the expenses related to a closure shall
19 be documented and provided separately to the state agency.

20 (A) A nonprofit entity with a cost reimbursement contract shall
21 invoice for the month, but shall be flexible and responsive to the
22 applicable state agency's requests for additional documentation
23 about expenditures during closure, which may include
24 documentation of specific services that were expected but unable
25 to be delivered, and costs associated with those services.

26 (B) A nonprofit entity with a fee-for-service contract shall
27 invoice for the month by calculating one-twelfth of the contracted
28 units of service, and shall provide documentation of specific
29 services that were expected but unable to be delivered.

30 (d) A state agency that receives notification from a nonprofit
31 entity pursuant to subdivision (b) shall ensure that funding is
32 available to pay for canceled services, closed programs, or reduced
33 service levels.

34 (e) When a disruption occurs that prohibits a nonprofit entity
35 from providing services pursuant to a contract with a state agency,
36 but a state of emergency or a state of war emergency is not
37 declared, the nonprofit entity may submit to the impacted state
38 agency for approval a written request for flexibility with respect
39 to services and funding pursuant to the contract. The state agency
40 may approve the written request if it determines that doing so is

- 1 reasonable under the circumstances described by the nonprofit
- 2 agency.

O