

A-Engrossed Senate Bill 602

Ordered by the Senate June 11
Including Senate Amendments dated June 11

Sponsored by Senators CAMPOS, MANNING JR; Senators GOLDEN, MEEK, Representatives CHAICHI, HARTMAN, NELSON, NOSSE, SOSA (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Sets up a body to talk to state agencies about how to make grants and buy goods and services for the state from not for profit organizations. (Flesch Readability Score: 63.4).

[Digest: The Act sets policies for the state to use for awards of grants and public contracts to certain recipients. (Flesch Readability Score: 67.3).]

Establishes the Nonprofit *[Organization]* Advisory Council *[within the Oregon Department of Administrative Services]*. Specifies the membership of the council and requires the council to *[review the state's]* **consult with the Oregon Department of Administrative Services and with employees of state agencies that make grants to or enter into public contracts with nonprofit organizations concerning granting and procurement processes as applied to nonprofit organizations. Provides that the council shall also identify and recommend updates to statutes and administrative rule to improve grant making and contracting processes with nonprofit organizations, evaluate and recommend whether to create a centralized database to manage grant making** and report to the Legislative Assembly. *[Establishes the Nonprofit Organization Partnership Fund to fund the council.]*

Specifies requirements for grant agreements and public contracts into which state agencies enter with nonprofit organizations.

[Requires the Oregon Department of Administrative Services to create a centralized database for use in managing the state's grants to nonprofit organizations.]

[Takes effect on the 91st day following adjournment sine die.]

A BILL FOR AN ACT

1
2 Relating to state agency relations with nonprofit organizations.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) As used in this section, "state agency" means an agency of the executive**
5 **department, as defined in ORS 174.112, other than the Secretary of State, the State Treas-**
6 **urer and the Oregon Public Defense Commission.**

7 **(2) The Nonprofit Advisory Council is established. The Governor shall appoint the 11**
8 **members of the council who, to the extent possible, represent geographically diverse regions**
9 **of this state, as follows:**

10 **(a) One member who represents the office of the Governor;**

11 **(b) One member who represents the Oregon Department of Administrative Services;**

12 **(c) Two members who represent state agencies that conduct procurements for services**
13 **from nonprofit organizations;**

14 **(d) One member who represents either a public or private foundation with headquarters**
15 **in this state; and**

16 **(e) Six members who represent nonprofit organizations that since January 1, 2020, have**
17 **received grants from or entered into public contracts with a state agency, a municipality or**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 another nonprofit organization.

2 (3) The term of office of each member is four years, but a member serves at the pleasure
3 of the Governor. Before the term of a member expires, the Governor shall appoint a suc-
4 cessor whose term begins on January 1 next following. A member is eligible for reappoint-
5 ment for one additional term. If there is a vacancy for any cause, the Governor shall make
6 an appointment that becomes immediately effective for the unexpired term.

7 (4) Members of the council are not entitled to compensation.

8 (5) The council shall select one of the council's members as chairperson and another
9 member as vice chairperson, for a two-year term. The chairperson and vice chairperson may
10 not serve for more than two consecutive terms.

11 (6) A majority of the members of the council constitutes a quorum for transacting busi-
12 ness, but only if the majority includes both members identified in subsection (2)(a), (b) or (c)
13 of this section and members identified in subsection (2)(d) or (e) of this section.

14 (7)(a) The council shall meet at a place, day and hour determined by the council. The
15 council may also meet at other times and places specified by the call of the chairperson or
16 of a majority of the members of the council.

17 (b) A member who is unable to attend a meeting of the council may designate a person
18 from the same office, agency, foundation or organization, as appropriate, as the member to
19 attend the meeting on the member's behalf and to exercise the member's powers and duties
20 during the meeting.

21 (8) A majority of the members of the council must approve official action by the council.
22 The council may recommend legislation, public policy and solutions to address the goals
23 specified in subsection (9) of this section.

24 (9) The council shall:

25 (a) Consult with the Oregon Department of Administrative Services and with employees
26 of state agencies that make grants to or enter into public contracts with nonprofit organ-
27 izations, concerning granting and procurement processes in this state as applied to nonprofit
28 organizations, and recommend changes necessary to ensure that the processes and materials
29 take account of business practices that are common among nonprofit organizations.

30 (b) Identify and recommend updates to statute and administrative rule to improve grant
31 making and contracting processes with nonprofit organizations.

32 (c) Make recommendations that include improving training plans, contract or grant
33 agreement templates and other related materials.

34 (d) Evaluate and recommend, in consultation with state agencies that have a high volume
35 of grant agreements with nonprofit organizations, whether to create a centralized database
36 to manage grant making.

37 (e) Compile and deliver not later than the end of each biennium a report on progress that
38 has occurred during the previous two years related to grant making reform and procurement
39 of services from nonprofit organizations. The council shall deliver the report as provided in
40 ORS 192.245 to:

41 (A) Interim committees of the Legislative Assembly related to grant making and public
42 procurement; and

43 (B) The Racial Justice Council.

44 (10) The Oregon Department of Administrative Services shall provide staff support to the
45 council.

1 (11) Each state agency shall assist the council in performing the council's duties and, to
2 the extent permitted by laws relating to confidentiality, furnish such information and advice
3 as the members of the council consider necessary to perform the members' duties.

4 **SECTION 2. (1) As used in this section:**

5 (a) "Advance payment" means a payment a state agency makes to a nonprofit organiza-
6 tion under a grant agreement or public contract before the nonprofit organization disburses
7 moneys for purposes of carrying out the program or activity that is the subject of the grant
8 or public contract.

9 (b) "Nonprofit organization" means an organization or a group of organizations that:

10 (A) Is described in section 501(c)(3) of the Internal Revenue Code and is exempt from
11 income tax under section 501(a) of the Internal Revenue Code;

12 (B) Is registered to operate in this state;

13 (C) Is operated primarily for scientific, educational, service, charitable or similar pur-
14 poses in the public interest;

15 (D) Is not organized primarily for profit;

16 (E) Is not an institute of higher education; and

17 (F) Uses net proceeds to maintain, improve and expand the organization's operations.

18 (c) "Program year" means a 12-month period during which a program or activity that a
19 grant funds or that is subject to a public contract is active.

20 (d)(A) "Public contract" means a state agency's sale or other disposal, or purchase, lease,
21 rental or other acquisition, of personal property or services, including personal services.

22 (B) "Public contract" does not include a grant.

23 (e) "State agency" means an agency of the executive department, as defined in ORS
24 174.112, other than the Secretary of State, the State Treasurer and the Oregon Public De-
25 fense Commission.

26 (2)(a) A state agency may take one or both of the actions described in paragraph (b) of
27 this subsection if:

28 (A) The state agency advertises a grant or solicits a procurement for services and in the
29 advertisement or solicitation specifies a maximum amount of the grant or a maximum con-
30 tract price for the procurement;

31 (B) The grant recipient or the contractor to which the state agency intends to award the
32 grant or public contract is a nonprofit organization; and

33 (C) After evaluating grant applications or proposals for the procurement, the state
34 agency determines that the specified maximum amount of the grant or the contract price is
35 insufficient to complete the services for which the state agency intends to award the grant
36 or public contract.

37 (b) Under the circumstances described in paragraph (a) of this subsection, a state agency
38 may:

39 (A) Adjust the amount of the grant or the contract price for the procurement to cover
40 the full amount of the estimated costs of direct services and associated reporting or decrease
41 the obligations in the grant agreement or public contract; or

42 (B) Ensure that the amount of the grant or the contract price is sufficient to cover any
43 requirements the state agency has for insurance coverage other than insurance coverage
44 that is common among nonprofit organizations.

45 (3)(a) A nonprofit organization may charge as a cost of administering a grant or provid-

1 ing a service under a public contract and for the nonprofit organization's other indirect costs
2 not less than the greater of:

3 (A) The rate of indirect costs that the nonprofit organization may charge under a nego-
4 tiated indirect cost rate agreement with a federal agency, as provided in 2 C.F.R. 200.414, as
5 in effect on the effective date of this 2025 Act, if the nonprofit organization has negotiated
6 such an agreement; or

7 (B) The de minimis rate described in 2 C.F.R. 200.414.

8 (b) A nonprofit organization may negotiate during the term of the grant agreement or
9 public contract for a greater rate of indirect or administrative costs than the rate the
10 nonprofit organization charges under paragraph (a) of this subsection if the program or ac-
11 tivity requires additional indirect or administrative costs to meet the objectives of the grant
12 or public contract.

13 (c) A state agency may negotiate and establish a payment schedule in the grant agree-
14 ment or public contract and ensure timely payments to the nonprofit organization by
15 tracking the state agency's performance and correcting performance that does not meet the
16 payment schedule.

17 (4)(a) A state agency shall provide in each grant agreement or public contract with a
18 nonprofit organization that the state agency:

19 (A) Shall provide an advance payment in an amount equivalent to, at a minimum, 25
20 percent of the amount of the grant or contract price that the nonprofit organization will
21 receive during a program year if the grant or public contract is for work the nonprofit or-
22 ganization will perform in response to a declaration of a state of emergency under ORS
23 401.165.

24 (B) May offer a cost-of-living adjustment or inflation adjustment for a public contract
25 with a term that exceeds 12 months, or that the state agency extends or reviews for a period
26 in addition to an initial 12 months, if the state agency has an appropriation that provides
27 funding for an adjustment.

28 (b) Apart from the requirement to make an advance payment in the circumstances de-
29 scribed in paragraph (a)(A) of this subsection, a state agency may offer an advance payment
30 to a nonprofit organization and shall provide in the grant agreement or the public contract
31 the terms under which the state agency will make the advance payment.

32 (c) If a state agency does not intend, or is unable, to provide an advance payment under
33 a grant or public contract, the state agency shall explain in the advertisement for the grant
34 or the solicitation documents for the procurement why the state agency is not offering an
35 advance payment.

36 (d) If in a public contract a state agency provides in accordance with paragraph (a)(B)
37 of this subsection that the state agency cannot offer a cost-of-living adjustment or an in-
38 flation adjustment because the state agency does not have an appropriation to fund the ad-
39 justment, the state agency must offer the nonprofit organization an opportunity to present
40 an adjusted scope of work that specifies deliverables or outcomes. If the state agency accepts
41 the proposed scope of work, the parties shall amend the public contract to reflect the ac-
42 cepted scope of work.

43 (5) A state agency may establish a program year that best suits the objectives of a grant
44 agreement or public contract with a nonprofit organization.