



Maryland
DEPARTMENT OF PLANNING
MARYLAND HISTORICAL TRUST

HEARING DATE: January 19th at 1:00 PM

BILL NO: SB112

COMMITTEE: Budget and Taxation

POSITION: Oppose

FOR INFORMATION CONTACT: Kristin Fleckenstein (410) 767-7243

TITLE: State Finance and Procurement – Grants – Prompt Payment Requirement

BILL ANALYSIS:

SB112 would require State grant-making entities to make a payment under a grant agreement within 30 days after the date on which the payment becomes due under the grant agreement, or, if later, the day on which the State grant-making entity receives a proper invoice from the grantee. Any request for payment that remains unpaid more than 30 days after the State grant-making entity receives a proper invoice or after the date stipulated in the grant agreement will accrue interest at the rate of 9% a year starting on the 31st day that payment was otherwise due.

SB112 defines what constitutes a “proper invoice” and how to determine a payment due date and the date on which interest will begin to accrue. The bill stipulates how State grant-making entities shall process grantee invoices and includes a timeline for processing of invoices: 1.) State grant-making entities must determine if an invoice is a “proper invoice” within 5 days; 2.) State grant-making entities must submit the invoice to the Comptroller for payment within 1 day after determining that the invoice is found to be a “proper invoice”; 3.) State grant-making entities must notify grantees if a submitted invoice does not satisfy the definition of a “proper invoice” within 2 days after that determination.

SB112 does not apply to grants made by a unit in the Judicial branch of state government or grants funded from general obligation bond proceeds or from a general fund appropriation to the Board of Public Works.

POSITION AND RATIONALE:

This bill impacts the Maryland Historical Trust (MHT) in so far as MHT is a State grant-making entity. Grant programs administered by MHT that are Affected by the bill's provisions include the Maryland Heritage Areas Authority Grant Program and Non-Capital Historic Preservation Grant Program which are funded with special funds and the Certified Local Government Subgrant Program which is funded with federal funds. MHT is currently managing approximately 120 grants which have been awarded through these programs. For most grantees, MHT processes a minimum of one grant disbursement and a maximum of three grant disbursements per fiscal year.

Disbursement requests submitted by grantees are reviewed by MHT grant project managers to ensure compliance with all grant agreement requirements. Grant project managers seek to ensure that: 1.) all costs incurred by the grantee are clearly identified on the invoices for the disbursement that is being sought; 2.) grantees are complying with the special conditions set forth in their grant agreement, as well as all other terms and conditions of the grant; and, 3.) grant funded deliverables meet the requirements stipulated in the grant agreement. The due diligence undertaken by MHT staff in carrying out its grant-making responsibilities is reflected in the clean audit that the agency recently received from the DLS auditors.

The 2 and 5 day timeframes stipulated by SB 112 which require determination of whether or not an invoice fulfills the requirements noted above is not reasonable, especially considering the fact that project monitors are frequently out of the office conducting site visits or providing technical assistance to grantees around the state. The 1 day timeframe required for submittal of the invoice to the Comptroller's office is similarly unrealistic as it fails to acknowledge how agency payment systems include checks and balances designed to ensure that funds are expended appropriately.

In most cases, grantee invoices may be processed quickly. There are, however, occasions when delays in invoice processing is due to conditions outside of MHT's control. As an example, MHT may not approve a grantee's disbursement request unless the grantee is in good standing with SDAT. The grantee, not MHT, is responsible for addressing SDAT issues which can sometimes take months to resolve. Similarly, the creation of grantee mail codes or changes of address in the Comptroller's database can impact disbursement processing times. While this may seem like a minor detail, it is a time-consuming step that is necessary to ensure that a grantee's payment is sent to the correct address. Until MHT has received confirmation that the SDAT or mail code updates have been resolved, MHT cannot proceed with disbursement processing. Small non-profit organizations with limited capacity find these problems particularly challenging to resolve.

Punitive fiscal measures in the form of the accrual of interest on grantee payments as proposed in this bill would unfairly target grant-making agencies in those cases where payment delays are the result of issues outside of the agency's area of influence. Grant-making agencies should be given the authority to set grant disbursement schedules and timelines that are responsive to individual program requirements in order to ensure that they serve as good stewards of state funds.