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Montgomery County

Vice Chair
Education, Health, and
Environmental Affairs Committee

Joint Audit Committee
Joint Committee on Federal Relations



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THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

SB542: State Finance and Procurement - Grants - Prompt Payment Requirement
Senate Budget and Taxation Committee
Wednesday, February 16, 2022 | 1pm

Colleagues:

I thought you might be interested in reviewing the testimony submitted for yesterday's House hearing as well.



February 15, 2022

**House Health and Government Operations Committee
TESTIMONY IN SUPPORT**

HB 451 State Finance and Procurement – Grants – Prompt Payment Requirement

Behavioral Health System Baltimore (BHSB) is a nonprofit organization that serves as the local behavioral health authority (LBHA) for Baltimore City. BHSB works to increase access to a full range of quality behavioral health (mental health and substance use) services and advocates for innovative approaches to prevention, early intervention, treatment and recovery for individuals, families, and communities. **Baltimore City represents nearly 35 percent of the public behavioral health system in Maryland, serving over 78,000 people with mental illness and substance use disorders (collectively referred to as “behavioral health”) annually.**

Behavioral Health System Baltimore supports HB 451 State Finance and Procurement – Grants – Prompt Payment Requirement. This bill puts into statute requirements for procedures and timelines to ensure state government makes timely payments to grant recipients.

As a non-profit LBHA, BHSB receives grants from several state agencies, with the largest coming from the Maryland Department of Health (MDH). For the past year, BHSB has experienced delays in payment for invoices submitted to MDH, with the cyber security incident in December 2021 only increasing those delays. These significant, long-term payment delays cause disruption in the delivery of behavioral health services because BHSB is unable to pay community-based providers for the services they are providing. This leaves providers, as well as, BHSB unable to meet our financial obligations such as payroll, related fringe and other operating necessities.

Grant payment delays have caused negative impact in the following ways:

- BHSB has been forced to hold payments for contractually delivered services. This impacts a wide range of services with small, community-based organizations, like the peer-run Wellness and Recovery Centers, being most impacted. Any provider that is solely dependent on LBHA payments is vulnerable to the impact of the nonpayment. Wellness and Recovery Centers will not continue to run if payment is delayed.
- Low-income housing recipients are at risk for not having their rent paid, which may lead to termination of rental agreements and possible homelessness.
- A wellness and recovery center in Baltimore City that provides extensive harm reduction services for people who use drugs was forced to apply for a bridge loan from a private foundation in order to make payroll and not shut its doors. The foundation community has approached BHSB asking why payments are delayed and has expressed concern for people served and what impact this may have on overdose deaths.

Non-profits are businesses and by design, operate in a different way than government agencies. Cash flow management is an important responsibility for non-profits. However, unlike normal businesses, many rely exclusively on grant funding which prohibits the maintenance of cash reserves. By design, non-profits are also prohibited from having other business lines which would generate different income

and cash. This makes cash management even more difficult. Finally, most non-profit LBHAs are unable to obtain a line of credit because of the nature of its funding. Lines of credit are generally granted for other businesses. Therefore, when grant payments are delayed for any reason, LBHAs are put in a precarious position of being unable to meet our contractual obligations with no recourse for a remedy.

Non-profit LBHAs play a unique role in the behavioral health system of care and have been a vital resource for the community. This bill would support non-profits LBHAs to continue to service as a resource for the community and MDH and hold state agencies are accountable to their non-profit grantees for prompt payment. As such, **BHSB urges the House Health and Government Operations Committee to pass HB 451.**

Contact:

Adrienne Breidenstine

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Behavioral Health System Baltimore

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Testimony of Delegate Dana Stein in Support of House Bill 451 - State Finance and Procurement - Grants - Prompt Payment Requirement

Madam Chair and Madam Vice Chair and Members of the House and Government Operations Committee:

Nonprofits operate under grant agreements with the State to provide a wide range of important services. Yet nonprofits must pay attention to cash flow and finances just like any business. Late payments under grants and contracts can pose a serious challenge for many nonprofits, especially for those without significant reserves. A 2020 survey by Maryland Nonprofits of over 700 organizations found that 45% had less than 60 days cash reserve, and a third had less than 30 days.

Under current law, State procurement contracts are required to be paid promptly (within 30 days). This practice goes back to the 1980s. Unfortunately, there is no provision for the timing of payment of state grants. Additionally, there are parameters for procurement invoicing, but there is nothing in the statute or regulation regarding the invoice process for state grant agreements.

At the request of the [Maryland Efficient Grant Application \(MEGA\) Council](#), which was established in 2020 to create a “common application” for grants, HB 451 would **require payment parity** for small businesses and nonprofits.

Nonprofits provide essential services, especially to vulnerable Marylanders. We must do everything we can to ensure that they are able to serve our communities and carry out their missions.

I urge a favorable report on HB 451.



To: House Health and Government Operations Committee
For: HB 451 – State Finance and Procurement – Grants – Prompt Payment Requirement

Date: February 15, 2022

Testimony of: Elise Saltzberg, Saltzberg Consulting

Contact information: 410-486-3603 (office) 410-236-0758 (cell) elise@saltzbergconsulting.com

Thank you for the opportunity to present this testimony in favor of imposing prompt payment requirements on the State’s grant procurement system.

I have worked as a fundraising consultant for dozens of nonprofit organizations in Maryland since 2000, and I am testifying today on their behalf – as well as on behalf of the 32,000 other nonprofits in the State of Maryland. With my assistance, over the years my clients have applied for and received dozens of grants and contracts from various State agencies and departments.

That’s the good news. The bad news is that from the time that the nonprofit organization receives the email saying, “Congratulations, your grant application has been approved” to the time that the organization actually receives a check can be many, many months. Often, the organization is expected to start delivering the services immediately – even though they don’t have a signed contract and they don’t have the funds in hand.

Once the grant paperwork is completed – which can take several weeks to several months – the organization submits copies of invoices and canceled checks to the State agency to request reimbursement. *Then they wait. And they wait. And they wait some more.* Meanwhile, the organization is expected to continue expending its own funds to operate the program, purchase supplies, and pay their staff and sub-contractors, with the mindset that, “well, we’re going to get reimbursed eventually...”

Eventually. Eventually is often months later. Eventually, the organization will either be notified that the reimbursement request is in order and they will receive a check. OR eventually they will be notified that their invoice is not sufficient and the State agency is sending it back to them with a request for additional information or additional documentation.

HB 451 would put an end to all of these delays, which can go on for months. The bill would require State agencies to notify the organization within 10 business days after receipt of the invoice if it is not sufficient and to explain what is amiss. If the agency doesn’t get back to the organization within 10 business days, it’s presumed to be a complete and correct proper invoice and therefore payable within 30 days from receipt. Furthermore, if the invoice remains unpaid for more than 45 days, the State will add a 9% annual interest fee to the invoice, which begins accruing from Day 31 after the invoice is submitted.

These prompt payment requirements would be a godsend for my nonprofit clients and the many other nonprofit organizations that I know about that are operating under extremely tight budgets with very limited cushions to cover their expenses. When it takes many months to receive money that has been committed to them by the State, it can put them over the edge. They simply do not have the capacity to absorb the long delays in getting reimbursed for their expenses. They have trouble making payroll and paying their vendors and sub-contractors, thereby diminishing the effectiveness of their services to needy Marylanders.

The payment terms outlined in HB 451 would put nonprofit service providers that receive grants on the same prompt payment terms that already apply to nonprofit and for-profit businesses that have procurement contracts with the State. This seems like a matter of fairness and parity that can be rectified by your Committee making a favorable recommendation on this bill.

Thank you again for the opportunity to present this testimony.

February 15, 2022

Testimony on House Bill 451
State Finance and Procurement – Grants – Prompt Payment Requirement
House Health and Government Operations Committee
Position: Favorable

The Maryland Out of School Time Network (MOST) is a statewide organization dedicated to closing opportunity gaps by expanding both the quantity and quality of afterschool and summer learning opportunities for school-aged young people. MOST is one of the fifty statewide networks supported by the Charles Stewart Mott Foundation and serves as Maryland’s affiliate to the National Afterschool Association.

MOST Network strongly endorses House Bill 451 which will provide much needed supports to afterschool and summer program providers who receive grant funding from the state of Maryland. In addition, HB 451 will offer protections similar to those who receive contracts through the state’s procurement process.

We have heard many stories from the field that afterschool and summer program providers have faced lengthy delays in receiving payments. In some cases, the delays have created organization-threatening challenges including inability to meet payroll. These delays have also disrupted programming which is relied upon by both children and families. The impact disproportionately affects smaller, community-based organizations, often led by people of color.

Maryland’s ‘prompt pay’ laws, and the regulations that set standards for review of invoices, do not apply to the reimbursable grant agreements that are used with most state grants for the provision of health, education or social services by nonprofits.

These problems of delayed payment, often with no explanation, aren’t new or particularly related to conditions under the current pandemic, although their impact has been more severe for organizations experiencing COVID-related reductions in other revenue sources or increased costs.

We urge you to give the nonprofits serving our people and communities on behalf of the state “payment parity” with the standards that already apply to state agencies in their procurement contracting. Please give House bill 451 a favorable report.

Ellie Mitchell
Director, Maryland Out of School Time Network
emitchell@mostnetwork.org
410-370-7498



Written Testimony in Support of House Bill 451: *State Finance and Procurement – Grants – Prompt Payment Requirement House Health and Government Operations Committee*

Franca Brilliant, Advocacy and Development Director, Nonprofit Montgomery

Thank you for giving me the opportunity to testify. My name is Franca Brilliant and I am the Advocacy and Development Director for Nonprofit Montgomery. We support our nearly 200-member nonprofit organizations with technical assistance, training and resources, and advocacy on issues of importance to the nonprofit sector. The one you are considering today is an obstacle for nonprofits across the state.

I have worked with nonprofit organizations for over 30 years and have seen so many examples of nonprofits struggling to start programs while contracts were stuck in various stages of procurement that I have lost track. In my own direct experience, I have seen delays on payments of invoices from state agencies that extended for months. Delays in paying invoices often follow delays in initial payments on programs with significant start-up costs. Most nonprofits don't have the financial reserves to float a major project with their own funds while waiting for their money to come through. The burden falls especially heavily on the organizations that most need this support—small community-based organizations, many of which are led by people of color.

Current “prompt pay laws” and regulations that set standards for review of invoices don't apply to the reimbursable grants agreements that most nonprofits offering health, education or social services hold with the state. Although the law isn't perfect, it would be a big improvement for service providers who would know that agencies are obliged to respond in a timely manner or face penalties.

We ask that you take steps to ensure that nonprofits serving Maryland communities on behalf of the state are entitled to the same regulations that apply to business contracts with the state. Nonprofit Montgomery supports House Bill 451 and we urge you to give House Bill 451 a favorable report.

Thank you for your consideration.

Nonprofit Montgomery

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February 15, 2022

Testimony on House Bill 451

**State Finance and Procurement – Grants – Prompt Payment Requirement
House Health and Government Operations Committee**

Position: Favorable

Written By: Gary Christopher, Director of Weatherization

Community Action Council of Howard County runs a weatherization program active throughout the State of Maryland. We employ subcontractors to install energy efficiency measures in the homes of our low income clients.

Despite our efforts to work with the Maryland Department of Housing and Community Development to find ways to speed payments for construction work completed, slow payment remains a large problem for us and our subcontractors. Contractors are routinely reluctant to work with us on this program because of the slowness of payment. The contractors that do work with us charge more than they would charge another customer in the open market because of this factor.

The slow payments are not just a result of financial processing times; the DHCD program as currently designed has lengthy review and approval processes that sometimes take months. This occurs even before invoices make it to the Comptroller's office for payment. Any change that starts the payment process earlier would be a welcome change. This would mean starting the payment process before all of the relevant inspections and approvals are obtained, which routinely takes weeks or even months.

As a result of this situation, CAC recently felt compelled to borrow \$960,000 from a bank to provide liquidity to finance our weatherization operations. With stimulus funds arriving from the federal government soon and the urgent need for these services in our community, we felt that some sort of action was needed to keep our operation running and our vendors tolerantly satisfied with doing business with us and the State government. The interest on this loan is not chargeable to any of our grants and will have to be paid by our organization out of donations.

Any action that can speed payments to non profits will be welcome relief to these organizations as well as the populations that they serve.

February 15, 2022

Testimony on House Bill 451
State Finance and Procurement – Grants – Prompt Payment Requirement
House Health and Government Operations Committee

Position: Favorable

Maryland Nonprofits is a statewide association of more than 1300 nonprofit organizations and institutions. We urge you to support House Bill 451 to provide nonprofits delivering state services the same security for prompt payment that is already in law and regulation for procurement contracts. In short, “payment parity”.

Our ‘prompt pay’ laws, and the regulations that set standards for review of invoices, do not apply to the reimbursable grant agreements that are used with most state grants for the provision of health, education or social services by nonprofits.

Nonprofits in Maryland continually face delays in payments on grants or contracts that may extend many months. Additionally, they may need to wait several months for an initial payment on a program with considerable start-up costs. This works to make participation in government programs even more economically difficult for service providers, particularly smaller and younger nonprofits often led by people of color.

These problems of delayed payment, often with no explanation, aren’t new or particularly related to conditions under the current pandemic, although their impact has been more severe for organizations experiencing COVID-related reductions in other revenue sources or increased costs.

The state’s 30-day ‘prompt payment’ law on procurement contracts isn’t perfect, and in fact if you get paid within 45 days there’s no interest penalty. But it would be a critical improvement for many service providers. The provisions in House Bill 451 closely track those in now in state law and COMAR for the handling and payment of invoices.

We urge you to give the nonprofits serving our people and communities on behalf of the state “payment parity” with the standards that already apply to state agencies in their procurement contracting. Please give House bill 451 a favorable report.

Senate Bill 245 will change language in the original 2017 legislation for the NIMBL Program that has been interpreted as essentially making it's required funding completely discretionary – that was clearly not the intent of the General Assembly.

Under House Bill 256, the funding level for the NIMBL revolving loan fund will be 'restored' to 5% of the 1.5% of the state proceeds from video lottery terminals dedicated to the Small, Minority, and Women–Owned Businesses Account – NOT to exceed \$1,000,000. The NIMBL Loan Fund is a revolving fund with loan repayments replenishing the Fund on a regular basis, and is still working with the original \$187,500 amount. The General Assembly authorized an additional transfer of \$150,00 in the FY22 budget that we believe is in process but as far as we can determine that money has not yet been transferred to the NIMBL fund account.

As a practical matter, Senate Bill 245 simply accomplishes what was intended in the original legislation in 2017 and will be a one-time allocation except to the extent of any program losses. The original program legislation, in Section 5-1204 of the Economic Development Article, requires that "If the money in the Account exceeds \$1,000,000, any money in excess of that amount shall be transferred" back to the SMWOB Account.

We urge you to give House Bill 256 a favorable report.



February 15, 2022

**Health and Government Operations Committee
TESTIMONY IN SUPPORT**

HB 451 State Finance and Procurement – Grants – Prompt Payment Requirement

Accessible Resources for Independence is a disability resource and advocacy organization run by and for people with disabilities in Howard and Anne Arundel Counties. We are a small, but mighty nonprofit with a budget of around \$700,000 per year.

Accessible Resources for Independence is pleased to support HB 451 State Finance and Procurement – Grants – Prompt Payment Requirement. This bill ensures that small non-profits like ours are paid on a timely basis.

We have been providing services to Veterans and their families to keep veterans in their homes. We currently serve about 20 Veterans in this program. This program is paid as a fee-for-service, a set amount of money each month for each veteran and is run through a partnership with the Maryland Department of Aging and the Veteran's Administration. We currently have over \$95,000 in outstanding invoices, \$60,000 of which are older than 90 days. We are owed monies from 2018. The last payment we received was in May 2021 and each month we accumulate thousands of dollars in our accounts receivable. Because of this, we are unable to build our reserves and we spend countless hours in staff time trying to get some resolution to our tremendous and continuously growing accounts receivables. This impacts those we serve because it forces us to shift attention away from direct services to the administrative back end.

Maryland has a great opportunity to ensure that those non-profits serving some of the most vulnerable residents are treated equitably and fairly. **Accessible Resources for Independence urges the Health and Government Operations Committee to report favorably on HB 451.**

For more information, please contact Katie Collins-Ihrke, Executive Director, at 443-713-3914.



House Bill 451

State Finance and Procurement – Grants – Prompt Payment Requirement

MACo Position: **SUPPORT**

To: Health and Government Operations Committee

Date: February 15, 2022

From: Kevin Kinnally

The Maryland Association of Counties (MACo) **SUPPORTS** HB 451. By standardizing payment practices, this bill would create a level playing field for state grant recipients, including local governments and nonprofits that provide a wide swath of vital community services for Maryland residents.

Current law requires the State to pay procurement contract invoices within 30 days of receiving a proper invoice. However, state grants are generally not subject to COMAR procurement rules. HB 451 would require the State to pay invoices to grant recipients within 30 days or be liable for interest on the delinquent payment.

Local governments regularly partner with nonprofits to deliver critical programs and services that support childcare, healthcare, workforce development, human services, environmental stewardship, and other critical services. When the State fails to pay invoices in a timely manner, nonprofits are forced to involuntarily bankroll the government services they provide. This, in turn, increases the cost of providing services, shortchanges the residents who are most in need, and effectively results in nonprofits providing the State zero-interest loans to float essential services for shared constituents.

HB 451 would make necessary and timely changes to help local governments and nonprofits avoid service disruptions and financial hardships, enabling counties to better serve and react to community needs. Accordingly, MACo urges the Committee to issue a **FAVORABLE** report for HB 451.



Working to end sexual violence in Maryland

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Testimony Supporting House Bill 451
Lisae C. Jordan, Executive Director & Counsel
February 15, 2022

The Maryland Coalition Against Sexual Assault (MCASA) is a non-profit membership organization that includes the State's seventeen rape crisis centers, law enforcement, mental health and health care providers, attorneys, educators, survivors of sexual violence and other concerned individuals. MCASA includes the Sexual Assault Legal Institute (SALI), a statewide legal services provider for survivors of sexual assault. MCASA represents the unified voice and combined energy of all of its members working to eliminate sexual violence. We urge the Health & Government Operations Committee to report favorably on House Bill 451.

House Bill 451 – Requiring Timely Payment of Grant Funds

Maryland supports survivors of sexual assault, child sexual abuse, sex trafficking, and other crimes through grants of state and federal funds. These grants are generally to non-profit organizations, and these agencies often operate with limited resources. Grants provide core support for salary, benefits, and operational expenses. With the help of grants from Maryland, survivors receive counseling, shelter, legal services, advocacy, and other help. HB451 will help address the delays in disbursement of grant funds that rape crisis centers and others repeatedly experience with Maryland grant awards.

Many state agencies, including the Governor's Office of Crime Control, Youth, and Victim Services, require that grant recipients front funds to use for grant activities and then the state provides reimbursement. Some grants use a monthly reimbursement schedule and others require that a full quarter of expenditures be made prior to reimbursement. In theory, grant reimbursements are to be made within 30 days, but they frequently take far longer. This means, as an example, that a rape crisis center would expend payroll and other expenses for 3 months (one quarter), and then wait another 4 or 5 or more weeks for reimbursement. This is untenable. Many non-profits, particularly smaller organizations in rural communities or those devoted to discrete underserved populations, cannot carry the State of Maryland for the weeks and months it takes to get paid for work already performed.

Sexual assault and rape crisis programs share some of their perspectives:

...for us as a small non-profit, this has posed a great challenge through the years. Our monthly expenses run anywhere between \$40,000-\$70,000. It is not uncommon at all for grant payments to arrive 10-12 weeks after the end of a month or quarter. While we do receive donations and we do fundraise, our flexible fund revenue isn't nearly enough to create the cash flow needed to cover those expenses for 10-12 weeks after a monthly reimbursement request. And for those grants that are quarterly, we must carry those 3 months, in addition to the weeks after waiting for payment. We are lucky enough to have a bank that has given us an unsecured \$100,000 line of credit, which is the only way we can operate. However, we then end up paying interest on it, which could be used for other things. We are very grateful for this line of credit, however, because our previous bank would not provide a line of credit over \$50,000, which simply wasn't enough.

... we have experienced enormous stress as a result of Maryland's failure to pay their bills on time. More than once, I have loaned my agency money so we make payroll, but there is only so much I can do. It's important to remember that we run a tight ship and are fiscally responsible. This is just a question of the State failing to do what they promised to do. We almost missed payroll at Christmas time one year. I'm lucky that our Delegate intervened and cash arrived in time

...the delays in payment create some of the greatest challenges for our non-profit agency. We help child survivors who have had horrible things happen to them, adults who have been raped, students assaulted at school, and other victims and survivors of sexual violence. Our staff works hard, and are paid so much less than they would be paid in the private sector. It just feels disrespectful that the state of Maryland can't pay us on time. Sometimes they have our funds for months and months. We can't charge them interest, but we incur interest expenses if we have to take a loan so we can pay our staff.

... My organization has been providing services for over 40 years in southern Maryland. We have approximately 20 staff members and serve over 2000 individuals a year, providing victims of domestic, dating and sexual violence with everything from shelter to crisis intervention to legal representation and more. Many of our staff members live paycheck to paycheck, and do not have a "cushion" if their payroll is not on time. Similarly, if our nonprofit doesn't receive our reimbursements on a timely basis, we do not have the funds to cover the state reimbursements until they arrive. On at least five occasions over the past 2 years, our funding was significantly delayed. Once our reimbursements did not arrive until 74 days after we requested them. This meant that employees would not get payroll. I had just sold my home and had the profits in my personal account in anticipation of putting a down payment on a new home. So I used that money to cover the next two payrolls until the funds were finally received. In two of the other instances, one of the counties we serve was gracious enough to advance us funds from a future quarter. On the other two occasions, we borrowed money.

...It is unrealistic to think that a small nonprofit will have reserves to cover grant funds. Through very careful monitoring of our budget and saving every penny of donated unrestricted funds possible, we've built up a small cushion over the years, but it could not carry us for any significant period of time. As it was (and as it is), many reimbursements come on a quarterly basis: the result is that each quarter, we are paying out personnel and operational costs for anywhere from 2 weeks to 4 months prior to receiving reimbursements...and that's assuming they are paid on time (i.e. we pay two weeks of payroll on July 15th, for the first two weeks of the quarter. However, we are not allowed to bill for it, and do not receive reimbursement for that, until the end of that quarter, on September 30th. We then receive the funds sometime in October, if things go smoothly). To know that reimbursements would reliably processed in a more timely manner would make a huge positive difference.

... it's amazing to me that the federal government is so much better at paying on grants than Maryland is. Federal grants will allow us to both get reimbursed promptly and also to request funds that will be expended within 10 days. When we request funds awarded under a federal grant and administered by the federal government, the money is in the bank within days. Maryland should be at least as good as the federal bureaucracy.

It is important to remember that sexual assault programs and other non-profits have many of the same responsibilities as other small businesses: payroll, rent, health insurance for employees, utility payments, etc. HB451 would help improve the financial health of rape crisis centers and let them focus on helping survivors.

**The Maryland Coalition Against Sexual Assault
urges the Health & Government Operations Committee to
report favorably on House Bill 451**



BILL NO: House Bill 451
TITLE: State Finance and Procurement – Grants – Prompt Payment Requirement
COMMITTEE: Health and Government Operations
HEARING DATE: February 15, 2022
POSITION: **SUPPORT**

The Maryland Network Against Domestic Violence (MNADV) is the state domestic violence coalition that brings together victim service providers, allied professionals, and concerned individuals for the common purpose of reducing intimate partner and family violence and its harmful effects on our citizens. **MNADV urges the House Health and Government Operations Committee to issue a favorable report on HB 451.**

Survivors of domestic violence in Maryland receive support and services through organizations, many of whom are the recipients of grants of state and federal funds. Non-profit organizations are generally those that receive these grants and operate with limited resources. The state and federal grant dollars are relied upon for salary, benefits, and operational expenses. These grants enable non-profit organizations to provide shelter, counseling, advocacy, legal services and hotlines to victims and survivors of domestic violence in Maryland.

The current structure for reimbursement is untenable for many non-profits, particularly smaller organizations in rural communities or those devoted to discrete underserved populations. They simply cannot front the money and carry the State of Maryland for the weeks and months it takes to get paid for work already performed.

The Governor's Office of Crime Control, Youth, and Victim Services and other state agencies require that grant recipients front funds to use for grant activities and then the state provides reimbursement. Some grants use a monthly reimbursement schedule and others require that a full quarter of expenditures be made prior to reimbursement. Grant reimbursements are to be made within 30 days, but they frequently take far longer. This means, as an example, that a domestic violence service provider would expend payroll and other expenses for 3 months (one quarter), and then wait another 4 or 5 or more weeks for reimbursement.

Maryland's non-profits have the same financial obligations as other small businesses including rent, payroll, health insurance for employees, and more. HB 451 would allow domestic violence non-profits to dedicate their attention to helping the victims and survivors they serve without worrying about their financial security and health.

For the above stated reasons, the **Maryland Network Against Domestic Violence urges a favorable report on HB 451.**

For further information contact Melanie Shapiro ■ Public Policy Director ■ 301-852-3930 ■ mshapiro@mnadv.org

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Testimony for HB 451—Prompt Payment and Payment Parity for Grants
Nancy L. Easterling

I am Nancy Easterling, the Executive Director for Historic Sotterley, Inc., located in St. Mary's County, Maryland, and I am writing in support of HB 451. For those of you not already familiar with Historic Sotterley, our nonprofit runs a 300 year old National Historic Landmark and historic museum site which interprets our complex, and often difficult, shared history. With a full and varied range of programming to include education programs and field trips, tours, cultural events, recreational opportunities, a working farm that donates produce to our local community, our Common Ground Initiative supported by our Descendant community, and much more. Historic Sotterley is truly an exceptional educational and cultural resource for our community, our State, and our Nation.

Historic Sotterley is unlike many museums, however, in that it is not owned by a county, state or federal government, and it does not have an endowment to support its operations. This means we need to earn and work for every dollar that supports our efforts and our mission, and this makes for a pencil-thin budget with often no reserve accounts to serve as a cushion. Despite our challenges, we have never wavered in our dedication to improving how we serve our community, and we have made many advancements over the years of which we are incredibly proud. Generous grants from the State of Maryland have been responsible for many of these important projects and advancements.

There are many grants which I have hesitated to apply for, however, because I know that most state grants work on a reimbursement basis which is difficult for small organizations like ours. Cash flow is everything for a small nonprofit, and we typically do not have funds in reserve to fall back on. It can sometimes take months and months after paying a bill to work our way through the reimbursement process, and we have had to draw on our operational line of credit which then incurs interest payments we will not be reimbursed for, as well as tying up our line of credit and making it unavailable for critical operational expenses such as payroll. We have even had to delay paying other bills when funds became too tight, hoping somehow that the people to whom we owe money will be understanding. They have operational needs to, however, and cash flow is a problem for them as well.

The grant reimbursement process will always be challenging for small nonprofits to navigate because sometimes there are sometimes reimbursement thresholds which must be reached and or time frames for submitting invoices which can push out even further when you are even able to submit invoices for reimbursement. If the invoices are large, it can be even more challenging to navigate cash flow. HB 451 will guarantee that part of the very real concern nonprofits have about applying for grants will be addressed, however, and that they will have some assurance that they will not have to wait months and months to finally be reimbursed for submitted invoices, and can be more certain of the time frame when they can expect to receive reimbursement.

Nonprofits are small businesses that do huge things for our communities. I support HB 451, and please know that your support of this bill is in fact supporting all of the many nonprofits that are working every day to make Maryland a better place for all.

Historic Sotterley Inc's Mission: Preserve our historic structures and natural environment and use the powerful stories of our land, lives, and labor to bring American history to life while serving as an educational and cultural resource.

CHAIRMAN:
Rob Scrivener
VICE CHAIRMAN
Brian Russell

MARYLAND ASPHALT ASSOCIATION



SECRETARY:
David Slaughter
TREASURER:
Jeff Graf
PRESIDENT:
G. Marshall Klinefelter

February 15, 2022

Delegate Shane E. Pendergrass, Chair
Health and Government Operations Committee
241 House Office Building
Annapolis, MD 21401

RE: House Bill 451 – FAVORABLE – State Finance and Procurement – Grants – Prompt Payment Requirement

Dear Chair Pendergrass and Members of the Committee:

The Maryland Asphalt Association is comprised of 18 producer members representing more than 47 production facilities, 24 contractor members, 24 consulting engineer firms and 41 other associate members. We proactively work with regulatory agencies to represent the interests of the asphalt industry both in the writing and interpretation of state and federal regulations that may affect our members. We also advocate for adequate state and federal funding for Maryland's multimodal transportation system.

House Bill 451 would require the State to make payment under a grant agreement within 30 days after payment is due under the grant agreement or the day an invoice is received, after which interest shall accrue. In a similar vein to other pieces of legislation this year that aim to correct a longstanding problem with prompt payments, we applaud the sponsor for this bill. Our members struggle with this frequently in our industry and hope codifying a more expedient payment schedule will ensure contractors are paid on time.

We appreciate you taking the time to address this issue and we respectfully urge a favorable report on House Bill 451.

Thank you,

Marshall Klinefelter
President
Maryland Asphalt Association



February 15, 2022

Delegate Shane E. Pendergrass, Chair
Health and Government Operations Committee
241 House Office Building
Annapolis, MD 21401

RE: House Bill 451 – FAVORABLE – State Finance and Procurement – Grants – Prompt Payment Requirement

Dear Chair Pendergrass and Members of the Committee:

The Maryland Transportation Builders and Materials Association (“MTBMA”) has been and continues to serve as the voice for Maryland’s construction transportation industry since 1932. Our association is comprised of 200 members. MTBMA encourages, develops, and protects the prestige of the transportation construction and materials industry in Maryland by establishing and maintaining respected relationships with federal, state, and local public officials. We proactively work with regulatory agencies and governing bodies to represent the interests of the transportation industry and advocate for adequate state and federal funding for Maryland’s multimodal transportation system.

House Bill 451 would require the State to make payment under a grant agreement within 30 days after payment is due under the grant agreement or the day an invoice is received, after which interest shall accrue. In a similar vein to other pieces of legislation this year that aim to correct a longstanding problem with prompt payments, we applaud the sponsor for this bill. Our members struggle with this frequently in our industry and hope codifying a more expedient payment schedule will ensure contractors are paid on time.

We appreciate you taking the time to address this issue and we respectfully urge a favorable report on House Bill 451.

Thank you,

A handwritten signature in blue ink, appearing to read "Michael Sakata", is written over a large, stylized blue flourish that extends across the page.

Michael Sakata
President and CEO



Achieve with us.



Date: February 11, 2022
To: House Health and Government Operations Committee
From: Rob Malone, Executive Director, The Arc Prince George's County
rmalone@thearcofpgc.org; 301-266-2515
Re: Testimony **in Support of** House Bill 451

Dear Chair Pendergrass and Committee Members:

I am Rob Malone, Executive Director for The Arc Prince George's County and Founder and Board Member for Community Youth Advance. Thank you for this opportunity to share my perspective on the Prompt Payment Bill before you.

The Arc supports people with developmental disabilities and their families from birth throughout life. We are a go-to organization for resources and support. And, Community Youth Advance, a nonprofit I founded in 2015, is now one of the largest youth development organizations in Prince George's County.

I am writing to share with you how adhering to prompt payment rules for state contracts with nonprofits is appropriate, beneficial and equitable.

I think it is fair that the bill requires state agencies to notify contractors within 10 business days, after receipt of invoice, if the invoice is not sufficient, and identify what needs to be addressed. If the agency doesn't get back to you in 10 days, the invoice is presumed to be a good invoice payable in 30 days from receipt.

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Here are just a couple of concerns that would be corrected by passage of this bill:

- Smaller, but yet effective, organizations are locked out of applying for grants because they do not have the financial capital to handle delayed payments. Many would not have lines of credit sufficient enough to support the grants.
- Nonprofits led by Black and brown people typically have fewer resources/assets (76% less) and are currently at a disadvantage when even considering to provide services for the state.
- The 9% interest on delayed payments would cover interest expense from bank lines of credit and prevent the erosion of nonprofit balance sheets.
- Slow payments from the state cause nonprofits to stop or ration services until they can get caught up.
- For many nonprofits, their work with state grant agreements can be their largest source of revenue. Most nonprofits have less than 90 days cash reserve. So, what do you think happens when a state agency takes more than 90 days or 180 days to make payment? I have seen payment delays of up to 9 months from MSDE. That's 270 days.

Making contract payment approaches consistent across the state is the right thing to do. The same discipline and rationale we use for procurement contracts with for-profit organizations should be applied to nonprofit contracts and grant services.

I am asking for your help to pass the Prompt Payment bill that will require state agencies follow the state's 'prompt pay' law on grant agreements.

The importance of government and nonprofit collaboration and cooperation was heightened during the pandemic. Many nonprofits quickly adjusted to meet increased demands of our residents. The Arc did the same.

When nonprofits contract with a government agency, they do so with the promise of timely payment.

It is critical to our state, given the nature of nonprofit work and missions, to have strong nonprofits that can effectively and efficiently partner with government to serve our citizens. Nonprofits help people avoid crises, find the resources they desperately need and get on track with their career and financial goals.

That is what we do well. However, to do this effectively we need to have some predictability in payment.

Therefore, I ask you to support this legislation that will provide incentive for our government agencies to provide proper and timely response for payment to all vendors.



TESTIMONY ON HOUSE BILL 451
State Finance and Procurement -- Grants – Prompt Payment Requirement
House Health and Government Operations Committee

Position: Favorable

The Charles County Charitable Trust is the nonprofit organization that supports and advances the work of the nonprofit community in Charles County by administering grant programs on behalf of Charles County government and which provides other services that promote and nurture the equitable social, economic, and cultural wellbeing of its residents.

We urge the Committee to support House Bill 451 to enable nonprofits in Charles County that are providing state services to receive prompt payment that is already required by law and regulation for procurement contracts. Our current laws do not currently apply to most grant agreements that the state has with nonprofits delivering health, education or social services.

The delay in payments from the state causes serious economic challenges for nonprofits, sometime delaying the delivery of services to the people the grants aim to serve and more often requiring unnecessary investments of administrative time spent in trying to obtain these payments from the state, often waiting several months.

Because of these delays, many Charles County nonprofits are not able to take advantage of available funds because they have small budgets and do not have the cash-flow capacity to operate under these conditions. Ninety percent (90%) of nonprofits in Charles County have annual budgets that do not exceed \$500,000 per year.

Our nonprofits provide services that county government does not, for example, a 24/7 hotline for abused persons, behavioral and mental health services for children, services for people who suffer from substance abuse and addiction, dental services, court-mandated services for parents who neglect or abuse their children, and many more services.

If the law is not changed to allow for equitable access to state grants, a great deal of available services for our residents will never reach them. With a poverty rate of over 6%, and a growing population, state funds are critical in meeting basic health, education and social service needs.

For these reasons, we urge you to support House Bill 451.



Maryland
DEPARTMENT OF PLANNING
MARYLAND HISTORICAL TRUST

HEARING DATE: February 15, 2021

BILL NO: HB451

COMMITTEE: Health & Government Operations

POSITION: Letter of Information

FOR INFORMATION CONTACT: Adam Gruz (410) 767-4613

TITLE:

State Finance and Procurement – Grants – Prompt Payment Requirement

BILL ANALYSIS:

HB451 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 45 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.

HB451 does not apply to grants made by the State Higher Education System, the Capital Budget, the Department of Transportation or the Maryland Technology Development Corporation or business development grants made by the Department of Commerce. In addition, certain types of state assistance listed in the bill as well as assistance provided by means of a cooperative agreement are not subject to the provisions of the bill.

POSITION AND RATIONALE:

The Maryland Historical Trust (MHT) meets the definition of a state grant-making entity as described in HB451. MHT administers four state grant programs: the Maryland Heritage Areas

Authority Grant Program, the African American Heritage Preservation Grant Program, the Capital Historic Preservation Grant Program, and the Non-Capital Historic Preservation Grant Program. MHT is currently managing 427 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. For African American Heritage Preservation Grant projects, there may be more than 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; and, 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. For this reason, all MHT grant agreements currently include the following language: "Requests for Disbursement will be processed within forty-five (45) days from MHT's approval of a complete Request for Disbursement". 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.

In most cases, grantee invoices may be processed quickly. There are, however, occasions when invoices for certain types of projects – especially capital improvements to historic properties – cannot be approved until a site visit is conducted to confirm that work completed meets the terms of the grant agreement. Scheduling of site visits can delay invoice processing, but is critical to ensure that state grant funds are being spent appropriately.

Also of concern is the fact that delays in invoice processing are sometimes 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 the State Department of Assessments and Taxation (SDAT). The grantee, not MHT, is responsible for addressing SDAT issues, which can sometimes take weeks 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 changes have occurred, MHT cannot proceed with disbursement processing.

Finally it should be noted that in those cases where payment of an invoice is delayed, for whatever reason, HB451 requires that the grant-making agency be charged interest on the payment due to the grantee. In so far as grant funds are awarded based on a fixed annual appropriation amount, it is unclear how the agency would pay for the additional and unanticipated expense of the interest penalties.

To conclude, rigid and arbitrary grantee invoice processing timelines as proposed in HB451 do not support grant management best practices and are not in the best interest of the state. Grant-making agencies must be given the authority and flexibility 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.



Larry Hogan | Governor
Boyd Rutherford | Lt. Governor
R. Michael Gill | Secretary of Commerce
Signe Pringle | Deputy Secretary of Commerce

DATE: February 15, 2022
COMMITTEE: House Health and Government Operations
BILL NO: House Bill 451
BILL TITLE: State Finance and Procurement – Grants – Prompt Payment Requirement
POSITION: Statement of Information

This bill establishes as a policy of the State that grant payments be made within 30 days of either the date the payment is due under a grant agreement or the day on which a proper invoice is received by the grant making entity. Should payment be made late, interest of 9% a year is due and accrues beginning on the 31st day. This legislation does not apply to: (1) grants made by the State Higher Education System, the Capital Budget, MDOT, or TEDCO; or (2) “business development grants made by the Department of Commerce”.

The Maryland Department of Commerce (Commerce) has units that provide grants which may not be considered “business development grants”. This phrase has not been strictly defined and Commerce believes it is open to interpretation. Grants which may not be considered “business development” but are administered by Commerce include but are not limited to: grants provided to Destination Marketing Organizations (DMOs) through the Maryland Tourism Development Board, grants provided by the Maryland State Arts Council.

Commerce makes every effort to provide prompt payments in all areas – procurement payments as well as grant payments – but there are factors out of the Department’s control that impact when a payment is made. Specifically, Commerce does not have the ability to directly make payment, and once a grant is processed by Commerce it is then sent to the State Treasurer for a check to be disbursed to the recipient. Delays occur at times because items need to be corrected after information is sent to Annapolis for payment, and these situations occur more often with grant recipients than with contracts/procurement vendors because those vendors are often more experienced in working with the State and its requirements.

Additionally, Commerce is typically processing a larger number of grants for payment at one time than procurement payments. Where Commerce may have a unit/program working with procurement and accounts payable staff to process payment for one contract at a time, typically when units are processing grants, they are batches of grants being processed at the same time, which can slow the process down. This increased volume may contribute to grant payments being made “late”. For reference, the Maryland State Arts Council indicates it is currently an average of 6-8 weeks from when the grant agreement is signed until payment is received.

The factors outlined above may result in a number of grants disbursed by Commerce being considered “late” and therefore subject to interest payment, resulting in a reduced availability of funds for additional grantees.



TO: Members, House Health and Government Operations Committee
FROM: Mary Beth Tung – Director, MEA
SUBJECT: HB 451 - State Finance and Procurement – Grants – Prompt Payment Requirement
DATE: February 15, 2022

MEA POSITION: Letter of Information

House Bill 451 fails to incorporate the mechanics of certain rebate-style grant programs and review timelines of competitive grant programs, making the timelines impracticable. Several Maryland Energy Administration (MEA) programs may be significantly impacted, including:

- Low-to-Moderate Income (LMI) Energy Efficiency Grant Program;
- Clean Energy Rebate Program (supporting solar photovoltaic, geothermal, etc);
- Electric Vehicle Supply Equipment Rebate Program;
- Resiliency Hub Grant Program (supporting solar plus energy storage for no-cost resiliency centers serving LMI communities); and
- some offshore wind job training programs.

In order to ensure the proper and efficient use of state money, before approving an invoice for payment, MEA has to ensure the work for which reimbursement is being requested is consistent with the terms of the grant agreement. To make this determination, MEA collects and compares invoices, timesheets, or other documentation to substantiate charges. This is in addition to any energy savings estimates that also need to be verified or calculated in parallel.

For the largest, highest volume program in this category LMI Energy Efficiency, it currently takes at least 30 days to fully process all documents (energy savings, invoice comparison) assuming no issues arise that require a request of additional information from the grantees. This, in addition to internal financial and external financial processes, is likely to take more than 45 days.

Additionally, it is unlikely that MEA could satisfy the constraints of paragraphs 2-211(g)(2) and (3) for its rebate-style programs. More than one day is needed for proper review. Unless clearly classified as a “subsidy” under this new law, the bill would not accommodate rebate programs that are generally available to the public. For MEA, there is no preexisting grant agreement with our rebate customers. When an application is accepted, MEA’s finance and administration team must follow a multiple step process including several individuals (separation of duties and best practices for theft and fraud prevention) prior to transmitting a request for payment to the Comptroller.

Lastly, MEA grants are funded by the Strategic Energy Investment Fund (SEIF), which has limited statutory uses. Interest on grant payments is not specifically listed in statute. MEA also questions the ability of an agency to make such interest payments without an appropriation for that purpose, and such payments would detract from the statutory purposes for SEIF funding, such as the programs listed above.

MEA asks the committee to consider this information when rendering its report.