

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 399

Introduced by Senator Wright

February 20, 2013

An act to ~~add~~ *amend* Section ~~927.14~~ to 927.6 of the Government Code, relating to state contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 399, as amended, Wright. ~~State contracts: expedited payment procedure.~~ *California Prompt Payment Act.*

The California Prompt Payment Act provides that a state agency that fails to make a timely payment for goods or services acquired pursuant to a contract with a specified business or organization is subject to a late payment penalty.

This bill would require, if a state agency receives an invoice for the successful completion of a contract for which emergency work or remedial measures were necessary to immediately avert, alleviate, repair, or mitigate destruction of property, the state agency to submit the invoice to the Controller for payment not more than 15 days from receipt of the invoice.

The California Prompt Payment Act subjects a state agency that acquires property or services pursuant to a contract with a business to a late penalty payment, if it fails to make payment to the person or business on the date required by the contract. Existing law provides that the penalty payable to 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 is 10% above the United States Prime Rate on

June 30 of the prior fiscal year. The State Contract Act prescribes the procedures and requirements applicable to various state agency contracts, and exempts from these procedures and requirements specified contracts for required emergency work or remedial measures related to the accidental or unplanned release of toxic substances.

This bill would include a contractor performing emergency work or remedial measures related to the accidental or unplanned release of toxic substances within the list of entities entitled to the late payment penalty of 10% above the United States Prime Rate.

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 927.6 of the Government Code is amended*
2 *to read:*

3 927.6. (a) State agencies shall pay applicable penalties, without
4 requiring that the claimant submit an additional invoice for these
5 amounts, whenever the state agency fails to submit a correct claim
6 schedule to the Controller by the required payment approval date
7 and payment is not issued within 45 calendar days from the state
8 agency receipt of an undisputed invoice. The penalty shall cease
9 to accrue on the date the state agency submits the claim schedule
10 to the Controller for payment or pays the claimant directly, and
11 shall be paid for out of the state agency's support appropriation.
12 If the claimant is a certified small business, *a contractor*
13 *performing emergency work or remedial measures pursuant to*
14 *subdivision (b) of Section 10101 of the Public Contract Code, a*
15 *nonprofit organization, a nonprofit public benefit corporation, or*
16 *a small business or nonprofit organization that provides services*
17 *or equipment under the Medi-Cal program, the state agency shall*
18 *pay to the claimant a penalty at a rate of 10 percent above the*
19 *United States Prime Rate on June 30 of the prior fiscal year.*
20 *However, a nonprofit organization shall only be eligible to receive*
21 *a penalty payment if it has been awarded a contract or grant in an*
22 *amount less than five hundred thousand dollars (\$500,000). If the*
23 *amount of the penalty is ten dollars (\$10) or less, the penalty shall*
24 *be waived and not paid by the state agency.*

25 (b) For all other businesses, the state agency shall pay a penalty
26 at a rate of 1 percent above the Pooled Money Investment Account

1 daily rate on June 30 of the prior fiscal year, not to exceed a rate
2 of 15 percent. If the amount of the penalty is one hundred dollars
3 (\$100) or less, the penalty shall be waived and not paid by the state
4 agency. On an exception basis, state agencies may avoid payment
5 of penalties for failure to submit a correct claim schedule to the
6 Controller by the required payment approval date by paying the
7 claimant directly from the state agency's revolving fund within
8 45 calendar days following the date upon which an undisputed
9 invoice is received by the state agency.

10 SECTION 1. Section 927.14 is added to the Government Code,
11 to read:

12 ~~927.14. Notwithstanding any other provision of law, except~~
13 ~~where payment is made directly by a state agency pursuant to~~
14 ~~Section 927.6, if a state agency receives an invoice for the~~
15 ~~successful completion of a contract for which emergency work or~~
16 ~~remedial measures were necessary to immediately avert, alleviate,~~
17 ~~repair, or mitigate destruction of property, the state agency shall~~
18 ~~submit the invoice to the Controller for payment not more than 15~~
19 ~~days from receipt of the invoice.~~

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