



California
Association
of Nonprofits

PROTECTING, STRENGTHENING
AN PROMOTING NONPROFITS

STATE HEADQUARTERS

520 S. Grand Ave., Suite 695
Los Angeles, CA 90071
(213) 347-2070
www.CANonprofits.org

SACRAMENTO PUBLIC POLICY OFFICE

P.O. Box 188947
Sacramento, CA 95818-8947
(916) 402-1335

CAN INSURANCE SERVICES

1500 41st Ave., Suite 280
Capitola, CA 95010
(831) 462-7415
(888) 427-5222
www.caninsurance.com

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CAN Policy Council
CAN Regional Partners Network
Advisory Body to the State
Attorney General
Quality Reporting Task Force

To: Assembly Member Joe Coto
The Greenlining Institute
Members of the California Association of Nonprofits

Re: AB 624

Introduction

As a leading advocate for our 1,800 members and nonprofit organizations in California, and after gathering multiple opinions, reviewing op-eds and other documents, and meeting with our policy advisory groups including the CAN Policy Council and the CAN Regional Partners Network, the California Association of Nonprofits (CAN) believes it is time to express our deep concern about AB 624. As the nation's largest nonprofit state association, CAN works to protect, strengthen, and promote California nonprofits.

CAN's mission is to:

1. Expand and strengthen the influence, accountability, and effectiveness of California nonprofits in a manner that builds their capacity to accomplish their missions, and
2. Preserve and promote the idealism and value of nonprofits in society.

AB 624 as amended would require all private foundations in California with assets of more than \$250 million to collect and publicize data on the racial composition of the foundation's board of directors, including the percentage that are African-American, Asian-American, Pacific Islander, Caucasian, Latino, Native American and Alaskan Native. The bill also mandates reporting on the board's gender composition and sexual orientation in addition to the racial composition, gender and sexual orientation of the foundation's staff.

The bill also would require publishing the percentage of business contracts awarded to businesses owned by African-Americans, Asian-Americans, Pacific Islanders, Caucasians, Latinos, Native Americans, Alaskan Natives and lesbian, gay, bisexual and transgender people and the number of grants awarded to organizations serving those groups. It seeks information on the number of grants awarded to organizations where 50 percent or more of the board members are ethnic minorities and the number of grants awarded to organizations where 50 percent or more of the staff are ethnic minorities or are lesbian, gay, bisexual or transgender people.

The bill would require a private foundation to disclose this information via its Web site, if available, and to include this information in its annual report, as specified. This bill is thought to be the first of its type in the nation.

CAN is committed to staff and board diversity. Yet, in the spirit of full disclosure, while our board would be considered diverse under AB 624, at this moment our staffing would not. However, as recently as the summer of 2007, our staff did fulfill all the diversity characteristics outlined in AB 624.

Concerns about AB 624

CAN agrees with the Nonprofit and Unincorporated Organizations Committee of the Business Law Section of the State Bar of California, AB 624 “is intrusive on many levels [and] would create burdens out of proportion to any benefit that might result.” We also agree with their observation that “the bill might adversely affect the charity grantmaking of foundations as well as the ability of worthy nonprofits to receive grants.”

1. The most obvious problem with AB 624 is the requirement to disclose personal ethnic and sexual orientation data. The Council on Foundations notes in their report on AB 624 that, “while collecting and reporting foundation data is important, asking foundations to query their boards and staff members and publicly report such personal information as their sexual orientation and identification would be intrusive and a violation of basic privacy rights. Requiring grantees to report this information about the persons they assist is even more intrusive and some grantees may lack the tools to accurately collect and report detailed demographic data on every client they serve.” Many people also prefer not to disclose such information and consider it a matter of privacy that is protected by the US and the California Constitutions.
2. Of perhaps greatest concern to CAN is the implication that the collection and disclosure of ethnic and sexual orientation data will somehow result in more funding to minority-serving nonprofits. Even if it did, would more funding to those contractors and nonprofits that met the board and staff criteria necessarily result in improved or increased services and programs to diverse communities? While there is certainly great benefit from board and staff diversity, mandating diversity will not necessarily result in improved or even expanded services and programs to diverse communities. Board and staff diversity does not guarantee that diverse communities will receive the services and programs they need.
3. If the purpose of the mandate in AB 624 is that diversity improves governance or staff performance, there is no evidence to support that assumption either.
4. How “serving minorities” is defined is far more complicated than AB 624 would suggest. A recent Mercury News editorial cited the work of the Hewlett Foundation as it was described at a Sacramento hearing: “Hewlett underwrites important research on community colleges where most of the students are minorities. The foundation also is spending money to combat air pollution in the San Joaquin Valley where asthma is chronic among Latino children.” Would these grants qualify as serving minorities as defined by AB 624? Without meaningful information about what programs actually achieve and who they serve, the board and staff diversity data is meaningless.
5. Foundations have the right to determine how their funding will be distributed. Many foundations already require grantees to report on the racial diversity and ethnic differences of their board, staff and clientele when applying for a grant. Many foundations voluntarily provide that information about their organizations. However, information at the level of detail mandated by AB 624 quickly becomes burdensome. In addition, of great concern to CAN is the slippery slope we encounter when we begin inviting government to legislate how foundations distribute their assets.
6. In their report on AB 624, the Council on Foundations states that the foundation community is engaged in “open and frank discussions of how grantmakers can improve

their own diversity and serve more diverse communities.” They add, “we believe that it would be premature to mandate the collection and publication of data on the sexual orientation, race, and gender of the staffs and boards of grantmaking and grantee organizations.”

7. An example of voluntary action is the Diversity in Philanthropy Project where 30 leading foundation trustees, senior staff, and philanthropy network executives are working to expand diversity and inclusion in foundation decision making as an essential strategy to improve effectiveness and impact.
8. In addition, Funders for Lesbian and Gay Issues and other key partners are leading an effort known as Common Vision where a special emphasis on race, ethnicity, gender, sexual orientation and identification, and socio-economic status is part of their ongoing work. The Council report adds, “These are long-term efforts aimed at improving the way philanthropy thinks about, acts upon, and, ultimately, serves diverse communities. Diversity and inclusion in the philanthropic sector is ongoing work.”
9. There are over 146,000 nonprofits in California and 72% have incomes under \$500,000 a year. Only 10% have budgets over \$1 million annually. Many, if not most, of those groups serve diverse communities in one way or another. Most nonprofits desperately need more income. The competition for funding, particularly for funding policy work is overwhelming. AB 624 could result in more income to some of these groups, but it will be at the expense of others. As important as it is to encourage and even expect more funding from foundations to diverse organizations, to do so based on the diversity of the board and staff will do little to meaningfully address the critical issues this state faces.

Summary

Could philanthropy do more to support diverse communities? Of course they could. All of us – foundations, government and nonprofits alike – want to eliminate the inequity that exists in California and in society in general. Many of the foundations targeted by AB 624 already focus their grantmaking on diverse communities through both direct and indirect funding strategies. We know funding is inadequate for nonprofits serving diverse communities. The chief complaint of most nonprofits everywhere is that funding is inadequate given the issues they want to change. If we look at nonprofits as a whole, foundation funding is only 10% to 15% of their total budgets. To ask foundations to fill the inequity in funding just isn’t realistic.

If this bill is really an attempt to do more to reduce the inequality experienced by diverse populations or the funding inequity experienced by nonprofits serving diverse populations, then we need a far more meaningful policy than AB 624 provides. It is CAN’s hope that a more grounded and meaningful discussion can take place between those who are concerned about these issues about what kind of policies are really needed to build the capacity of the nonprofit community, including those that serve diverse communities.

Those of us who provide the advocacy and policy work of CAN are saddened and greatly concerned that AB 624 has created such divisiveness. The ideas and values AB 624 has raised deserve an open and well researched and documented statewide discussion – involving foundations, government and nonprofits – of how California could better address the multitude of issues that impact its diverse communities. Instead, what we have is powerful opposition, a threat to take the bill in its current form to other states, and op-eds that enthusiastically oppose

the bill and offer little meaningful discussion about what this bill should actually be about – creating prosperity and opportunity for all Californians.

In CAN's role as the statewide voice, go-to resource and provider of necessary tools, educational programs, and cost-saving benefits for our members and the nonprofit sector as a whole, we also seek to advance the public good and strengthen trust in the nonprofit community. To just oppose or support AB 624 without a deep discussion about the significant policy issues it raises seems irresponsible to us.

Transparency, visibility and disclosure are very important to CAN. CAN leaders worked for over 12 years at the national level to redesign IRS Form 990 in an effort to improve financial transparency and public accountability. CAN has long promoted a national initiative to improve the quality of nonprofit financial reporting – again to improve transparency and public understanding of how nonprofits use their financial resources. The accountability practices outlined in our Ensuring Nonprofit Integrity Initiative recommend that nonprofits have board and staff who reflect the diversity of their communities and that program development is inclusive of the thoughts and needs of those communities.

We encourage the transparency of foundations and nonprofits and support their work to build healthy, prosperous communities. AB 624, in its current form, does not achieve that end. And, as others have suggested, it could actually slow or hinder current programs that do serve diverse communities.

AB 624 has the potential to negatively affect the diverse populations and communities it seeks to serve and to slow—rather than grow—philanthropy and philanthropy's commitment to serve such populations. It's a crude yardstick and does not get to the bigger issue: How do we create funding access and prosperity for all Californians?

Our public policy staff at CAN has been engaged on this issue to work with all parties to reach a resolution. Please do not hesitate to contact me or our public policy staff regarding this issue.

*This statement only reflects the opinion of the policy staff and members of the Legislative Committee of the California Association of Nonprofits.
It should not be constructed to represent the view of any CAN Policy Council member, CAN Regional Partner or CAN organizational member.*



Florence Green
Executive Director
California Association of Nonprofits

CC: Ken Larsen, Public Policy Director, California Association of Nonprofits
Kathy Lynch, Lynch and Associates