



1201 "K" Street, Ste. 1000  
Sacramento, CA 95814  
(916) 441-5351  
[www.calcpa.org](http://www.calcpa.org)

September 13, 2019

The Honorable Gavin Newsom  
Governor of the State of California  
State Capitol  
Sacramento, CA 95814

**RE: AB 1181 – Charitable Org. Accounting Standards**

**OPPOSE**

Dear Governor Newsom,

On behalf of the 45,000 members of the California Society of CPAs (CalCPA) representing the Certified Public Accountant profession working in large, medium, and small public accounting firms, and businesses throughout California, we are writing to urge a veto of Assembly Bill 1181. This bill would create new accounting and fair value standards that deviate from generally accepted accounting principles (GAAP) for charitable organizations that receive certain types of noncash gifts-in-kind (GIK).

We recognize the importance of ensuring charitable organizations do not mislead California donors by overstating the fair value of noncash contributions to inflate their efficiency ratings. We also recognize that the Office of the Attorney General (AG's office) has concerns with how valuation practices for certain noncash contributions can be leveraged by bad actors. Addressing these practices is a laudable objective.

**However, we must regretfully oppose the proposed solution put forth by the AG's office in AB 1181. Specifically, AB 1181:**

- Mandates accounting standards for maintaining financial records that deviate from uniform national accounting and valuation standards as outlined in the GAAP framework.
- Puts a CPA in a position of having to opine on non-GAAP financial records that follow a vague accounting standard rather than following nationally recognized GAAP fair value standards.
- Preempts a comprehensive national solution that will more effectively address the underlying concerns raised by the AG's office.

#### **Mandates a Deviation from GAAP Accounting and Valuation Standards**

Recently, you vetoed legislation, AB 295 (Daly) and AB 412 (Quirk-Silva). These bills would have changed how independent escrow companies and underwritten title companies calculate certain data used to comply with state regulatory requirements. The proposed changes would have deviated from new standards that were adopted by the Financial Accounting Standards Board (FASB). In the veto message you stated: ***"For standards to be standard, they need to apply equally to everyone."*** That reasoning is exactly why we are opposed to AB 1181. It completely dismisses uniformly applied national accounting standards by mandating compliance to a vague accounting standard that is inconsistent with GAAP.

GAAP is the uniform set of accounting principles, standards and procedures that determine how businesses, governments and nonprofits present financial information. As the backbone of financial reporting in the United States, GAAP provides the rules and guidelines that CPAs and organizations follow for a concise, relevant and reliable presentation of financial data. GAAP is not a single standard, rather it is a combination of authoritative standards and guidance in applying those standards to record and report financial information. Together these standards form the foundation for financial accounting for nearly every organization in the country.

GAAP is established, interpreted and, when appropriate, modified through an independent, rigorous and exhaustive process that incorporates public and stakeholder input. This ensures GAAP standards remain relevant and the process for revising standards is transparent and thoughtfully considers all the implications of any proposed change. The FASB and Governmental Accounting Standards Board (GASB) fill this role as the recognized national accounting standard setting bodies.

Specific to the determination of the fair value of a noncash GIK for purposes of the charity's financials, GAAP provides detailed guidance, definitions and procedures. Nevertheless, this can be extremely complex and often includes a level of professional judgement where many factors must be considered. Conversely, AB 1181 sets a vague non-GAAP standard that ignores the many other factors that would need to be considered in the valuation process. This essentially puts a charitable organization and its CPA in a position of having to divert from the nationally recognized GAAP fair value standard and follow non-GAAP state legislated measurements.

### **Does not Address Underlying GIK Valuation Concerns**

Under AB 1181, a charitable organization registered in California that receives certain types of noncash GIK would need to follow California specific fair value criteria as outlined in AB 1181. The resulting non-GAAP valuations would be reflected in the charitable organization's accounting records.

Charities frequently engage a CPA to audit or review their financial statements so that the public, regulators, and other interested entities can review their financial information with confidence. Because the fair value of certain material noncash GIK would be measured using the non-GAAP – AB 1181 valuation criteria – the CPA's audit report will likely present a modified audit opinion. Meaning, the auditor will likely be required to issue a "qualified opinion" or "adverse opinion" because of a determination that the charity's financial statements as a whole, are materially misstated. In these circumstances, the audit report will note that the charity's accounting for, and disclosure of, GIK did not comply with GAAP. The charity would then submit the audited financials with the qualified or adverse opinion to the California AG's office during their next registration renewal.

However, because the charity is also registered in a number of other states and must meet additional federal reporting requirements that require financial records to comply with GAAP, the charity will also need to maintain separate financial and accounting records that present GIK measured using the fair value standards established under GAAP. The charity will incur additional costs to again have a CPA audit their financial statements, which will now come back as a clean opinion concluding that GIK fair values were prepared and presented in accordance with GAAP. These audited financial statements according to GAAP will then be used to meet regulatory requirements in other states, as well as what is publicly disclosed to charity watchdogs. This information will also be used to complete the charity's Form 990 with the IRS.

In effect, AB 1181 will require charities and CPAs to work from two separate financial and accounting records for no additional clarity or transparency related to the reporting of noncash GIK. California consumers who refer to IRS Form 990 and other national charity watchdog groups to analyze a charity's financial information will still be looking at financial records that follow GAAP – not those following California specific standards. Thus, the California specific fair value standards would only create consumer confusion, diminish the comparability, understandability, and the utility of financial statements presented outside the GAAP framework without any impactful changes.

### **Preempts a Comprehensive National Solution that is Being Advanced by FASB**

Through its Not-for-Profit Advisory Committee (NAC), FASB has already taken significant steps to evaluate the practices and problems associated with determining the fair value of noncash GIK. The National Association of State Charity Officers, which includes a representative of the CA AG's office, sent a letter in July 2018 asking FASB to address specific concerns with the potential overvaluation of pharmaceutical GIK. Subsequently they brought together stakeholders from the accounting profession, charitable organizations, state charity regulators,

and charity watchdog groups to address the very concerns raised by the AG's office. This group is already in the process of reviewing how GAAP can be revised to address the concerns over the valuation of a GIK for charitable purposes. At their August 2019 hearing, FASB took steps to significantly increase the transparency, disclosure, and presentation of GIKs while also continuing to evaluate whether specific valuation standards should be reevaluated. This was an important first step in a detailed, rigorous, and public process – which includes opportunities for the AG and other stakeholders to provide input. The result will be adjustments within GAAP that more specifically addresses how charities account for GIKs. Because charities across the country follow GAAP, they will naturally transition to the new standards. However, under AB 1181 California will remain out of step and precluded from the consumer protection benefits of a clear and consistent national standard.

In conclusion, AB 1181 is an extraordinary alteration of accounting standards. It would cause considerable confusion without providing any meaningful protections for California consumers. **We urge you to veto AB 1181 and its short sighted “fix” that will be out of step with a more comprehensive national resolution.**

Thank you for your consideration of our concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jason Fox', with a stylized flourish at the end.

Jason Fox  
Vice President of Government Relations

cc: The Honorable Monique Limón