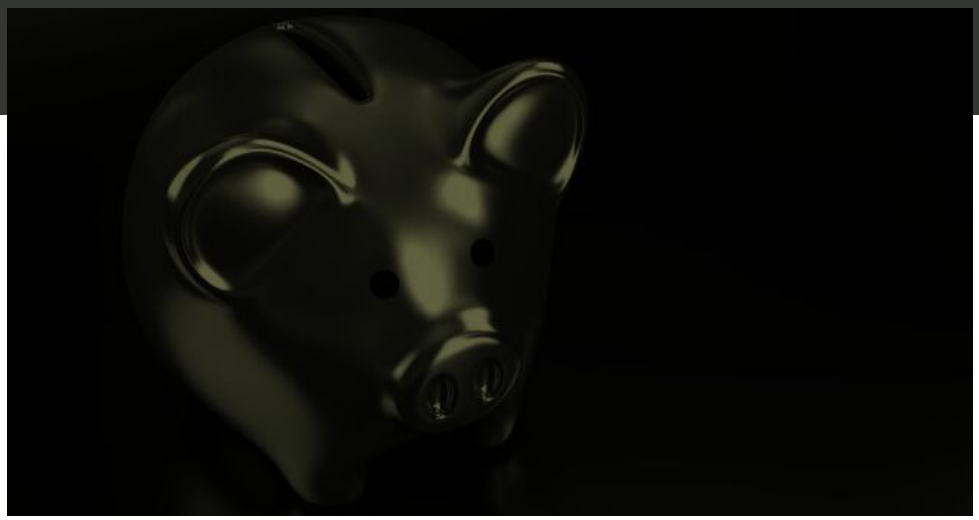
NONPROFITS: LEGISLATION

New CA Protections for Charitable Bequests of Non-Probate Accounts

10.14.26 | Linda J. Rosenthal, JD



With the exception of the deeply disappointing vetoes of the trio of critical grantmaking-reform bills, it was a successful year for the 2026 legislative wish list of the California Association of Nonprofits. See *Legislation Tracker*.

Now that the time for gubernatorial action has passed, we're taking a closer look at a few of the newly enacted "high-priority" bills. See *Blunting Fed Threats to Charitable Sector: New CA Law* (October 7, 2026) *FPLG Blog* [re: AB 2084, Item 1 on the *Legislation Tracker* chart.] If the IRS revokes the tax-exempt status of a CA 501(c)(3), the state is no longer *required* to revoke the corresponding Franchise Tax Board exemption, but may exercise discretion to determine if the federal action was for legitimate wrongdoing under the tax-exemption laws – or otherwise. As "urgency" legislation, AB 2084 went into effect immediately on Governor Gavin Newsom's signature on September 30, 2026.

Set to go on New Year's Day 2027 is Senate Bill (SB) 1288, "Property: non-probate transfer of assets," aka The Legacy Fulfillment Act [Item 4 on *Legislation Tracker*.] Sen. John Laird (D – San Luis Obispo etc.) skillfully led the way on this "under-the-radar" problem about the loss of (possibly) millions in charitable bequests each year.

Senate Bill (SB) 1288: The Issue

We briefly mentioned this "sleeper" issue in a roundup of some of the bills that lawmakers had successfully passed in 2026, just ahead of the "veto watch" in September. See *More Legislative Progress for CA Nonprofits* (August 28, 2026) *FPLG Blog* and *Veto Watch for CA Charitable-Sector Legislation* (September 3, 2026) *FPLG Blog.*

For many financially savvy Californians with a favorite charity, a popular estate-planning choice is designating that organization as beneficiary of an IRA or of any retirement, brokerage, or other payable-on-death account. This type of probate-avoidance strategy can be a win-win for the donor and the donee.

Of course, these generous donors expect that the non-probate assets will be directly transferred at death to the charitable beneficiaries: quickly and simply.

But an important glitch in this strategy has come to light in recent years, likely resulting in the diversion of substantial amounts of money away from the intended charitable beneficiaries.

The statute that governs this type of transaction is the the Uniform Transfer-on-Death (TOD) Security Registration Act (California Probate Code Sections 5500–5512), which "allows individual or joint security owners to register stocks, bonds, and brokerage accounts to pass directly to named beneficiaries upon death without going through probate."

The Glitch

What's the problem?: There is no requirement in the statute that the financial institution do anything at all when the account-holder dies. "…[U]nder current law, there is no clear obligation for financial institutions to notify]beneficiaries when they know an account holder has died. As a result, intended gifts may sit dormant for years, be delayed by administrative hurdles, or ultimately transfer to the state as unclaimed property despite clear beneficiary designations." See *Sponsor Letter to Chair, Assembly Judiciary Committee* (June 3, 2026), from co-sponsors CalNonprofits, Valley Humane Society, and San Diego Humane Society in support of SB 1288.

Moreover, the statute lacks any requirement for the financial institution to deal fairly with the charitable beneficiary: "Even when nonprofits become aware of a gift, they frequently encounter inconsistent documentation demands and administrative hurdles that the donor never intended. Institutions may request unnecessary personal identifying information from nonprofit employees or board members, require coordination among multiple beneficiaries before any share is released, or impose duplicative and burdensome verification requirements…." See *June 3rd letter,* above. See also: *Sign In Support Letter to Chair, Assembly Judiciary Committee* (June 1, 2026) from co-sponsors along with over seventy California organizations; and *Fact Sheet* (Laird) re SB 1288 (updated 3/4/26).

Not a "Theoretical" Problem

"The need for reform is not theoretical," according to these charitable-sector co-sponsors in their June 3rd and other 2026 letters to lawmakers. "Nonprofits across California have experienced years-long delays in receiving beneficiary distributions despite clear designations. Valley Humane Society spent more than two years coordinating with eight other charitable beneficiaries before an IRA distribution was released. San Diego Humane Society currently has multiple pending beneficiary claims and has devoted significant staff time to repeatedly correcting paperwork, following up with financial institutions, and navigating inconsistent distribution requirements. Similar experiences have been reported by healthcare organizations, environmental nonprofits, and charitable gift professionals nationwide."

"Even when a nonprofit is successfully notified of a gift, staff must routinely navigate exhaustive administrative hurdles just to access the funds. Financial institutions frequently demand multiple rounds of documentation, repeated identity verifications, notarized forms, or the unnecessary creation of new institutional accounts before a transfer can be finalized. For nonprofit professionals—who are already managing program delivery, fundraising, compliance, and direct community services—these inefficient processes consume dozens of critical staff hours. Regrettably, the administrative time and costs required to claim smaller gifts often outweigh the value of the donation itself. This forces organizations to make the difficult decision to abandon gifts that donors explicitly intended to support our mission."

The Solution Proposed

"SB 1288 is a narrowly tailored consumer protection measure that … addresses a straightforward but significant gap in current law: while nonprobate assets transfer outside of a will or trust, there is often no clear party responsible for notifying the named beneficiary that the asset exists. As a result, intended gifts may sit dormant for years, be lost to escheatment, or never reach the loved one or charitable organization selected by the account holder." *Sponsor Letter to Chair, Assembly Committee on Appropriations* (July 10, 2026), from co-sponsors.

In that July 10th letter, the co-sponsors explain how they have worked … to respond to concerns raised by opposition and affected stakeholders, e.g., the finance industry. SB 1288 has been amended in several meaningful ways to reduce uncertainty, avoid unintended consequences, and make compliance clearer and more administratively workable….[Major amendments listed.]" However, "the remaining opposition requests would remove or substantially weaken the beneficiary notification requirement itself, which is the central problem SB 1288 is designed to solve."

The Final Bill, Now Law

For the lawmakers' explanation of their approved changes, see *Senate Floor Analyses, 8/24/26* ["Digest"] as well as the final text signed into law ("chaptered") on September 27, 2026 [5 pp. PDF].

The Legislative Counsel's Digest in the chaptered version provides a brief summary of the changes made from prior law. "This bill would…:

- … require [the financial institution] that receives information establishing knowledge of the death of all owners [of the account] … to initiate its beneficiary notification process, as specified.
- …require [the financial institution] to make a reasonable and good faith effort, as defined, to notify each named beneficiary.
- …require a beneficiary to receive their designated share within 60 days of providing all required documentation.
- …specify the necessary information for a nonprofit corporation, charitable trust, or entity that is exempt from federal taxation to establish its legal identity for these purposes.
- … prohibit [the financial institution] from requesting additional information, including, among other things, a social security number and driver's license number, from an individual employed by, or serving on the board of, those types of beneficiaries, except as specified; and require [the financial institution] to permit those types of beneficiaries to demonstrate their entitlement to a security by providing specific documentation."

See also the CalNonprofits announcement: *Governor Newsom Signs Legacy Fulfillment Act* (September 28, 2026): "When Californians designate nonprofits or individuals as beneficiaries of their retirement and brokerage accounts, they do this with a clear expectation: that their hard-earned legacy will support a charitable cause or person they love – swiftly, privately, and without burdensome financial red tape."

"State law has not required financial institutions to notify beneficiaries of non-probate assets (like IRAs, 401ks) when an account holder passes away, leaving millions of potentially charitable dollars at risk. SB 1288's reforms ensure donor intent is respected in a timely and efficient manner."

There are now "clear requirements for financial institutions:

- "Mandatory Notice: Financial institutions must now proactively notify non-probate beneficiaries – both nonprofits and individuals – so gifts reach their intended destination.
- Streamlined Access: Removes administrative roadblocks, such as forcing nonprofits to open new accounts just to claim funds or requesting invasive personal data from nonprofit board members."

Conclusion

Almost all other U.S. jurisdictions have adopted the exact Model TOD Act or a variant of it, which means this glitch has likely been happening for some time all around the nation.

Ordinarily, California leads the charge on legislation reform but – this time – Iowa got there first, in 2024, with a statute that "has served as a successful national model for advancing these vital protections" including for Tennessee, Indiana, and Colorado. This year, Illinois, Missouri, and Nebraska are considering similar proposals.

– Linda J. Rosenthal, J.D., FPLG Information and Research Director