

Date of Hearing: April 17, 2012

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE  
ECONOMY

V. Manuel Pérez, Chair

AB 2672 (Jobs, Economic Development, and the Economy Committee) – As Amended: March  
5, 2012

SUBJECT: State contract reporting: enterprise zones

SUMMARY: Increases communication between the Department of General Services (DGS) and the Housing and Community Development Department (HCD) for purposes of implementing the state's enterprise zone program. Specifically, this bill:

- 1) Requires awarding state agencies to prepare a yearly report to the DGS on the level of participation by enterprise zones businesses in contracts.
- 2) Requires the DGS to report to HCD aggregate figures for the level of participation by enterprise zone businesses in contracts.

EXISTING LAW:

- 1) Requires DGS to submit a report to the Legislature every five years that evaluates the effect of the Enterprise Zone program on employment, investment, and incomes, and on state and local tax revenues in designated enterprise zones.
- 2) Establishes a 5% state preference for goods contracts in excess of \$100,000 for companies that certify that at least 50% of the hours required to accomplish the contract are completed in worksites located in an enterprise zone.
- 3) Establishes a 5% state preference for service contracts in excess of \$100,000 for companies that certify that at least 90% of the labor hours required to perform the contract are completed in worksites located in an enterprise zone.
- 4) Awards, where a company complies with the above preferences, an additional preference for companies that employ persons residing in a targeted employment area as follows:
  - a) A 1% preference for companies that hire between 5-9% of their workforce from the targeted employment area.
  - b) A 2% preference for companies that hire between 10-14% of their workforce from the targeted employment area.
  - c) A 3% preference for companies that hire between 15-19% of their workforce from the targeted employment area.
  - d) A 4% preference for companies that hire above 20% of their workforce from a targeted employment area.

- 5) Provides that companies can obtain a maximum 15% preference from combined preference programs.
- 6) Requires HCD to administer the state enterprise zone program.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Author's purpose: According to the author, "As written, the bill requires the Department of General services to report to the Housing and Community Development Department the participation of small businesses located in enterprise zones.

Absent this change, the public has no way of knowing how many small business preferences are being allocated to businesses in enterprise zones."

- 2) Overview of enterprise zones and other geographically-targeted economic development areas: The California Enterprise Zone Program and the other geographically-targeted economic development areas (G-TEDAs) represent the state's primary economic development programs in California. Eligibility for G-TEDA designation is limited to areas within communities that can demonstrate blighted conditions such as high poverty or high unemployment rates.

HCD administers four G-TEDA programs including: Enterprise Zones (EZs), Manufacturing Enhancement Areas (MEAs), Local Agency Military Base Realignment Areas (LAMBRA), and the Targeted Tax Area (TTA).

G-TEDA programs are based on the principle that targeting significant economic incentives to low-income communities allows these communities to more effectively compete for new businesses and retain existing businesses, resulting in increased tax revenues, less reliance on social services, and lower public safety costs. Residents and businesses directly benefit from these more sustainable economic conditions through improved neighborhoods, business expansion, and job creation.

The 42 EZs, eight LAMBRA, two MEAs and one TTA are located in portions of 54 Assembly Districts and 34 Senate Districts. Each zone designation is for a period of 15 years, although the initial zones were given an additional five years due to the slow start-up of the program. No other extensions have been authorized.

G-TEDAs range in size from one square mile to over 70 square miles and in geographic locations ranging from Eureka and Shasta Valley near the Oregon border to San Diego and Calexico along the Mexican border. With the approval of the 2006 reforms, each designated area is governed by a comprehensive economic strategy that details local government commitments, benchmarks, and baselines.

- 3) Overview of the national and California economy: Post-recession analysis traditionally divides the economic cycle into two stages: recovery and expansion. Recovery describes the period of GDP growth occurring after the economy hits bottom, or the "trough," and gives way to expansion when GDP growth surpasses its previous peak. Given this definition, the

national economy entered the expansion phase of the economic cycle during the third quarter of 2011, when annualized GDP reached \$13.38 trillion, surpassing the previous GDP peak of \$13.36 trillion in the fourth quarter of 2007. At a more practical level, the US economy added an average 152,000 net new jobs a month in 2011. In December 2011 and January 2012, however, the economy added 203,000 and 243,000 net new jobs respectively, pushing national unemployment down to 8.3%.

At the state level, the California economy has also been improving at a steady pace. Between 2010 and 2011, unemployment fell from a high of 12.4% to 11.8% in 2011. In January 2012 the unemployment rate fell even further to 10.9%, its lowest rate in three years. In terms of nonfarm jobs gains from 2010 to 2011, the state outperformed the national labor market with 1.4% growth compared to 1.2% nationally. In fact, the state registered job growth across most industries with the largest percentage gains coming from Information, Education, and Administrative Support Services. Only Real Estate and Leasing, Government, Management of Enterprises and Other Services saw continued job losses in 2011 but on a smaller scale than previous years.

In terms of international trade, the state continued to see sustained growth with the value of two-way trade increasing 11.9% from 2010 (based on year-to-date data from January through November 2011). The rate was slower than the increase registered in 2010 when the value of two-way trade surged 21.6% over 2009. In 2011, however, the value of imports grew by 11% while the value of exports through the state's custom districts rose by 13.8%. It should be noted that while exports only accounted for a third of the value of two-way trade, they suffered a smaller decline through the recession and have come back more strongly than imports as demand from Asian trading partners continues to be strong.

According to the March 2012 UCLA Anderson Forecast, state unemployment should improve to an average of 9.8% in 2013. Overall, the Forecast calls for a steady decrease in the California unemployment rate over the next two years, following a slow trajectory towards single-digit unemployment by the end of 2013 and reaching 7.7% by the end of 2014. In addition, according to Chapman University's A. Gary Anderson Center for Economic Research, the California Composite Index, a measure of overall manufacturing activity, increased to 60.3 in the second quarter of 2012, up from 56.6 during the first quarter. Historically, readings above 50 indicate expansion in the manufacturing sector. This is significant because, according to an analysis by the Milken Institute, for every job created in manufacturing, 2.5 jobs are created in other sectors. At the upper bound, electronic computer manufacturing has a multiplier effect of 16 jobs.

- 4) Small business: California's dominance in many economic areas is based, in part, on the significant role small businesses play in the state's \$1.9 trillion economy. Businesses with 1-99 employees comprise nearly 98% of all businesses, and they are responsible for employing more than 37% of all workers in the state.

Small businesses are crucial to the state's international competitiveness and are an important means for dispersing the positive economic impacts of trade within the California economy. California small businesses comprise 96% of the state's 60,000 exporters in 2009, which accounted for over 44% of total exports in the state. Nationally, small businesses represented only 31.9% of total exports. These numbers include the export of only goods and not services.

Historically, small businesses have functioned as economic engines, especially in challenging economic times. During the nation's economic downturn from 1999 to 2003, microenterprises (businesses with fewer than five employees) created 318,183 new jobs or 77% of all employment growth, while larger businesses with more than 50 employees lost over 444,000 jobs. From 2000 to 2001, microenterprises created 62,731 jobs in the state, accounting for nearly 64% of all new employment growth.

In fact, according to the Small Business Administration's Small Business Economy 2011, small businesses nationally outperformed large firms in net job creation nearly three out of four times from 1992 through 2010 when private-sector employment rose.

During this current economic downturn, however, small business owners have been especially hard hit. Equifax has reported that bankruptcies in California rose by 81% in 2009, as compared to 44% nationally. This trend continued in 2010 where the Equifax report stated that while in general bankruptcies were down across the nation including some regions in the west, small business bankruptcies in California accounted for almost 20% of all small business bankruptcies in the nation.

Moreover, according to an analysis by the Small Business and Entrepreneurship Council, of the 34,166 businesses that failed in California between 2007 and 2009, over 94%, or 32,160 businesses, were small businesses with less than 100 employees.

- 5) State procurement and small businesses: The Small Business Act (SBA), administered through DGS, was implemented more than 30 years ago to establish a small business preference within the state's procurement process that would increase the number of contracts between the state and small businesses. In 1989, a disabled veteran owned business enterprise (DVBE) component was added to state procurement practices.

Since 2001, there have been four Executive Orders (EOs) specifying a 25% goal for small business and a 3% DVBE participation goal in state procurement contracts, including EO D-37-01 (2001), EO S-02-06 (2006), EO D-43-01(2001), and EO S-11-06 (2006). Statutory advancements were also made to strengthen the SBA including SB 115 (Florez), Chapter 451, Statutes of 2005, which required DGS to establish a DVBE incentive program for state contracts; and AB 761 (Coto), Chapter 611, Statutes of 2007, which specifically codified the 25% small business participation goal for contracts related to revenues expended from the 2006 infrastructure bonds.

Despite the longstanding existence of the SBA, statutory upgrades, and EOs, the state's success in achieving small business and DVBE participation goals in state procurement contracts has been inconsistent.

For only the third time since the small business participation target was established in 2001, DGS has reported the state achieved its small business target by awarding 26.88% (\$2.40 billion), of the value of all contracts to small businesses in 2008-09. This represents a \$2.0 billion increase in contracts from 2007-08. The state did not achieve its 3% DVBE participation goal in 2008-09. DVBE contract awards, however, did increase to 2.96% (190 million) in 2008-09, up from 2.39% in 2007-08. California awarded \$182 million in small business and DVBE contracts in 2008-09.

In order to assist state entities in reaching the small business participation goals, contracting entities are provided a number of specific tools, including a streamlined procurement method, bid preferences, and lead small business procurement contacts at every agency.

Under the streamlined procurement process, the awarding state entity is authorized to bypass the advertising, bidding, and protest provisions in the State Contract Act. This allows a contract to be awarded directly to a certified small business at a contract price established by checking the proposed rate with two other small businesses. Contracts offered under the streamlined procurement process are currently limited to contracts between \$5,000 and \$100,000. Of the \$2.5 billion of state contracts that were awarded to small businesses in 2008-09, \$225.4 million (17,310 contracts) were awarded through the streamlined procurement process. The actual number may be higher as only 78 of 124 departments reported their small business procurement activities to DGS.

Certified small business bidders and other bidders that commit to using certified small businesses are also eligible for a 5% bid preference where the solicitations are made either on the basis of lowest responsible dollar bid, or on the basis of highest score, considering factors in addition to price. A single bid preference is limited to \$50,000 and the combined costs of preferences shall not exceed \$100,000.

Another important component of the state's effort to increase small business participation in state contracts is the work of the Small Business Advocate and the network of small business liaisons. Under existing law, every state agency is also required to have a single point of contact for small business state procurement opportunities.

- 6) Related legislation: Below is a list of bills related to this measure from the current and prior legislative sessions.
- a) *SB 67 (Price) Small Business Participation in Public Contracts*: This bill would have authorized the Department of General Services to direct all state entities to establish an annual goal of achieving not less than 25% small business participation in state procurement contracts, as specified. Status: The bill was held on the Suspense File of the Assembly Committee on Appropriations 2011.
  - b) *SB 733 (Price) High-Speed Rail: Small Business Bidding Preference*: This bill requires the High-Speed Rail Authority to include within its business plan a strategy ensuring the participation of California small businesses in contracts awarded during all phases of the project, as specified. Status: The bill was held in the Senate Committee on Appropriations 2011.
  - c) *AB 309 (Price) Public Contracts: Small Business Participation*: This bill requires the establishment of a 25% small business participation goal for all state entities and directs the Department of General Services (DGS) to monitor each agency's progress in meeting this goal. It also required that the Office of the Small Business Advocate receive the same progress report information as state entities and direct DGS and the Office of the Small Business Advocate to work collaboratively to assist state entities in meeting their participation goal. This goal is currently provided for in Executive Order (EO) D-37-01

and EO S-02-06. Status: The bill was held under submission in the Assembly Committee on Appropriations, May 2010.

- d) AB 2287 (Bass) California Business Investment Service: This bill would have established the Governor's Office of Economic Development and set a statutory 25% annual procurement goal for state contracts with small businesses. Status: The bill was held in the Assembly Committee on Appropriations, May 2010.
- e) AB 655 (Swanson) Contract Limitations on Small Business Preference: This bill would have required state departments that award contracts pursuant to the Bond Acts of 2006 to consider and grant bid preferences to contractors on the basis of their status as small businesses, the type of community they are located in, and the number of employees they hire from their community. Status: The bill died pursuant to Art. IV, Sec. 10(c) of the Constitution.
- f) AB 761 (Coto) Codification of the Small Business Procurement Goal: This bill requires each state agency awarding contracts that are financed with proceeds from the infrastructure bonds approved by voters in November 2006 to establish a 25% small business participation goal for state infrastructure construction contracts, and to provide specified assistance to small businesses bidding on state infrastructure bond-related contracts. Status: The bill was signed by the Governor, Chapter 611, Statutes of 2007.
- g) AB 1189 (JEDE) State Contracts: Small Businesses and Disabled Veterans: This bill would have exempted state contracts under \$100,000 that are awarded to a certified small business, pursuant to the procurement streamlining process, from the California State Contracts Register advertising requirement for contracting opportunities funded with specified infrastructure bond proceeds. Status: JEDE-related content removed. Bill failed passage on the Senate Floor.
- h) AB 1400 (Richardson) State Contracting and the Small Business Preference: This bill would have required the Regents of the University of California and the Trustees of the California State University to each submit a report to the Department of General Services on the number of consulting, disabled veteran-owned business enterprise, and small business contracts each organization awarded for each fiscal year, on a campus-by-campus basis, and according to a specified format. Status: JEDE-related content removed. The bill failed passage on the Senate Floor.
- i) AB 2630 (Hueso) Small Business Outreach: This bill will requires the Department of General Services, in preparing its report on state contracting activity, to include a list of activities each state agency used to inform small businesses of each of the existing preferences available under state law, and an aggregate number of the number of preferences used in bidding packages for the year. Status: This bill is set for hearing on April 17<sup>th</sup> in the Committee on Jobs, Economic Development, and the Economy.

REGISTERED SUPPORT / OPPOSITION:

Support

Assembly Committee on Jobs, Economic Development and the Economy (Sponsor)

Opposition

None Received

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