

Date of Hearing: April 20, 2010

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE
ECONOMY

V. Manuel Perez, Chair

AB 1918 (Davis) – As Amended: April 5, 2010

SUBJECT: Public Utilities Commission procurement

SUMMARY: Requires the Public Utilities Commission (PUC) to require specified wireless telecommunications service providers to annually report on their progress in increasing contracting with women- and minority-owned businesses and disabled veteran business enterprises (DVBEs). Specifically, this bill:

- 1) Requires the PUC to require wireless telecommunications service providers, with gross annual revenues exceeding \$25 million and their commission-regulated subsidiaries and affiliates, to adopt a detailed and verifiable plan for increasing women- and minority-owned businesses and DVBEs contract participation rates and to report annually on its implementation.
- 2) Requires the PUC to establish guidelines for the implementation of this bill.
- 3) Requires the PUC to provide a report to the Legislature on September 1 of each year, on the progress of activities undertaken by wireless telecommunications service providers, as specified.
- 4) Requires the PUC, by rule or order, to adopt criteria for verifying and determining the eligibility of women- and minority-owned businesses and DVBEs for targeted procurement contracts.
- 5) Requires the PUC to develop, and requires wireless telecommunications service providers to implement, an outreach program to inform and recruit women- and minority-owned businesses and DVBEs to apply for procurement contracts, as specified.
- 6) Adds wireless telecommunications service providers to the list of business entities that can be prosecuted for false representation of a women- and minority-owned business or a DVBE in the procurement of a contract.

EXISTING LAW:

- 1) Requires the PUC to require each electrical, gas, water, and telephone corporation with revenues over \$25 million and their commission-regulated subsidiaries and affiliates to submit annually a detailed and verifiable plan for increasing women- and minority-owned business and DVBE procurement in all categories.
- 2) Requires the PUC to establish guidelines for the annual women- and minority-owned business and DVBE procurement plans.

- 3) Requires the PUC to adopt criteria for determining and verifying the eligibility of a women- and minority-owned business and DVBE for procurement contracts.
- 4) Encourages each electrical, gas, water, and telephone corporation that is not required to submit a plan under current law to voluntarily adopt a plan for increasing women- and minority-owned business and DVBE procurement in all categories.
- 5) Establishes as a crime for false representation of a women, minority, or DVBE in the procurement of a contract, punishable by a fine of \$5,000, or by imprisonment in the county jail or state prison, not to exceed one year, or by both fine and imprisonment. In the case of a corporation, the fine or imprisonment shall be imposed on every director, officer, or agent for the false statements.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Author's purpose: Currently, wireless telecommunications service providers are not among the utility companies required to comply with General Order 156. AB 1918 is necessary in order to increase diversity participation in wireless telecommunications service providers as other major utilities are required.
- 2) PUC General Order 156: In 1986, the PUC adopted General Order 156 (GO 156), which created the Women-owned and Minority-owned Business Enterprise program to increase diversity in various utility operations and procurement processes. GO 156 requires the PUC-regulated electrical, gas, and telephone corporations with gross annual revenues exceeding \$25 million to submit annual reports on their progress in meeting the short- and long-term goals and timelines set in their diversity plan for increasing the participation of women- and minority-owned businesses in all procurement categories.

GO 156 includes rules and regulations for the utilities' compliance with the women- and minority-owned business program, and it requires participating utilities to inform, recruit, and obtain at least 20% of their products and services purchased within a five-year period from women- and minority-owned businesses. The targets are 15% for minority-owned businesses and 5% for women-owned businesses.

In 1990, DVBEs were included in GO 156 in SB 2398 (Dills) Chapter 516, Statutes of 1990. In implementing the bill the PUC adopted (D. 95-12-045) which set a 1.5% goal for DVBEs.

- 3) Wireless service providers: The chart below describes the women- and minority-owned business and DVBE contract participation rates for three wireless telecommunication providers in 2008 and 2009.

Women and Minority Owned Business and DVBE Contract Participation Rates			
Service Provider	Women, Minority, or DVBE	2008	2009
AT&T Mobility	Women	1.31%	0.62%
	Minority	4.33%	6.14%
	DVBE	0.01%	0.003%
	TOTAL	5.65%	6.77%
Verizon Wireless	Women	9.11%	2.75%
	Minority	3.43%	3.43%
	DVBE	0.18%	0.11%
	TOTAL	17.5%	6.29%
Sprint	Women		4.90%
	Minority		8.49%
	DVBE		0.55%
	TOTAL		13.93%
Source: According to author information for AT&T and Verizon Wireless and Sprint was excerpted from the yearly reports to the CPUC.			

As the chart indicates, the largest percentage of contracts went to minority business owners (8.49%). Women and DVBE contracts were awarded at a much smaller percentage rate (3.43% and 0.18% respectively). In 2008 Verizon Wireless was the only one to exceed the 5% goal for women-owned businesses with 0.11% of contracts being awarded. However, all three companies did not meet their DVBE goal. In all cases, DVBEs were awarded contracts at less than 1% in each year reported.

Concerns have been raised that meeting the procurement participation goals may be difficult. AB 1918 encourages this challenge and requires the PUC to assist in designing an outreach program to assist the wireless telecommunication providers in reaching their goal. In addition, organizations such as the California Hispanic Chamber of Commerce have established their own outreach programs for corporate contracts with small business.

- 4) Women-Owned Businesses: While the number of women on corporate boards and in upper management of Fortune 500 companies significantly lags behind women's overall representation in the workforce, women-owned businesses are an increasingly important segment of the small business community. Below are some facts on women-owned businesses from the Center for Women's Business Research (Center).
- a) As of 2004, there are an estimated 1,249,343 privately held, women-owned firms in California, accounting for 48.6% of all privately held firms in the state.
 - b) The 1,249,343 privately held, women-owned firms in California generated more than \$406 billion in sales and employed 2,818,949 people in 2004.

- c) Between 1997 and 2004, the Center estimates that the number of privately held, women-owned firms in California increased by 7.1%, employment grew by 31%, and sales increased by 47.2%.
 - d) Among the 50 states and Washington, D.C., California ranked first in the number of privately held, women-owned firms in 2004, first in employment, and first in sales.
 - e) California ranked 47th in the growth of privately held, women-owned firms between 1997 and 2004, 19th in employment growth, and 24th in sales growth among the 50 states and Washington, D.C.
 - f) Woman-owned firms, particularly among ethnic women, increased at a rate five times greater than all firms. The rate of African-American women-owned firms increased by 12% annually, as compared to 2% for all firms and just under 4% for all woman-owned firms.
 - g) Although women own approximately 40% of all businesses in the U.S., they receive less than 5% of all venture capital.
- 5) Minority-Owned Businesses: In 2000, the Milken Institute's Center on Emerging Domestic Markets issued a report in collaboration with the U.S. Department of Commerce. The report which found minority-owned firms are surpassing the growth of all U.S. businesses, growing at a rate of 17% per year, six times the growth rate of all other firms. Minority firms' sales were growing 34% per year—more than twice the rate of all other firms. California has also seen an increase in minority-owned firms, including:
- a) In 2002, Latino-owned firms totaled 427,805—an increase of 27% from 1997.
 - b) In 2002, African American-owned firms totaled 113,003—an increase of 43% from 1997.
 - c) In 2002, Asian-owned firms totaled 372,221—an increase of 19% from 1997.
 - d) In 2002, American Indian and Alaska Native-owned firms totaled 40,541—an increase of 52% from 1997.
 - e) However, even with this growth, minority-owned firms receive less than 2% of venture capital.
- 6) Related Legislation: Below is a list of related legislation.
- a. AB 873 (Davis) – PUC: procurement contracts with water companies – This bill requires each water corporation with 10,000 or more service connections to submit annual plans for increasing procurement from women- and minority-owned businesses and DVBEs to encourage each electrical, gas, water, and telephone corporation that is not required to submit a plan under current law to voluntarily adopt a plan for increasing women, minority, and DVBE procurement in all categories. Status: Chapter 316, Status of 2008.

- b. SB 2398 (Dills) – PUC: DVBE procurement goal - This bill included DVBEs in the classes of entities eligible under women- and minority-owned business programs. A subsequent PUC decision includes disabled veteran-owned business enterprises (D. 95-12-045) and establishes a 1.5-percent goal for disabled veteran-owned businesses. Status: Chapter 516, Statutes of 1990.

- c. AB 3678 (Moore) – PUC procurement goals - This bill codified the broader parameters of GO 156, and requires electrical, gas, and telephone corporations (with gross annual revenues exceeding \$25 million) to annually submit a detailed and verifiable plan for increasing women- and minority-owned business procurement in all categories that includes short- and long-term goals and timetables, and furnish an annual report. It also required the PUC to establish guidelines for the plans. Status: Chapter 1259, Statutes of 1986.

REGISTERED SUPPORT / OPPOSITION:

Support

None received

Opposition

None received

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