

ASSEMBLY BILL

No. 2019

Introduced by Assembly Members Petrie-Norris and Holden
(Principal coauthor: Assembly Member Robert Rivas)
(Principal coauthor: Senator Min)
(Coauthors: Assembly Members Eduardo Garcia, Grayson, and
Ting)
(Coauthor: Senator Archuleta)

February 14, 2022

An act to amend Sections 11148.5, 12098.4, 14836, 14837, 14838, 14838.2, 14838.7, 14839, 14840, and 14843 of the Government Code, and to amend Section 10111 of the Public Contract Code, relating to business development.

LEGISLATIVE COUNSEL'S DIGEST

AB 2019, as introduced, Petrie-Norris. Small and disadvantaged business enterprises.

(1) Existing law requires each state agency that significantly regulates or impacts small business to designate at least one person to serve as a small business liaison for the agency. Existing law requires the small business liaison to be responsible for, among other things, receiving and responding to complaints received by the agency from small businesses and assisting in ensuring that the procurement and contracting processes of the entity are administered in order to meet or exceed the goal of 25% small business participation.

This bill would also require the small business liaison to develop an “economic equity first” action plan and policy for the agency to provide, among other things, direction, recommendations, and strategies as to how to ensure that disadvantaged business enterprises are effectively

involved and benefiting from the procurement process of the agency. The bill would require the action plan and policy to be submitted to the agency secretary, department director, or executive officer by January 1, 2024, and would require adoption of that plan by January 1, 2025.

(2) Existing law establishes the Office of Small Business Advocate within the Governor’s Office of Business and Economic Development, also known as GO-Biz, and prescribes the duties and functions of the Small Business Advocate, who is also the Director of the Office of Small Business Advocate. Existing law requires the advocate to prepare and submit a written annual report to the Governor and the Legislature that describes the activities and recommendations of the office, including an evaluation of the efforts of state agencies and, where appropriate, specific departments, that significantly regulate small businesses to assist minority and other small business enterprises, and make appropriate recommendations to assist the development of these enterprises.

This bill would require the annual report to also include details regarding the office’s activities to support procurement participation by small businesses, microbusinesses, disadvantaged business enterprises, and disabled veteran business enterprises, as well as compliance and implementation of specified action plans and policies by state agency liaisons and advocates.

Existing law requires the advocate to post certain information on the GO-Biz or the advocate’s internet website, including how to receive assistance in certifying as a small business and identifying and participating in state procurement opportunities.

This bill would require the above-described information, and also information in receiving assistance in certifying as a disabled veteran business enterprise and disadvantaged business enterprise, to be easily accessible from the homepage of the Go-Biz internet website.

(3) Existing law, the Small Business Procurement and Contract Act, declares that it is essential that opportunity is provided for full participation in our free enterprise system by small business enterprises.

This bill would also declare that the state economy is strengthened by the diversity and resiliency of its small businesses and that it is essential to ensure all small businesses are able to fully participate in the domestic and global markets, including businesses owned by women and other specified groups.

Existing law requires the Director of General Services and the heads of other state agencies that enter into contracts for the acquisition of

goods, services, and information technology and for the construction of state facilities to establish goals for the participation of small businesses and microbusinesses in these contracts, to provide for a small business preference in the award of these contracts, to give special consideration and special assistance to small businesses, and, whenever possible, to make awards to small businesses, as specified.

Existing law defines a “small business” for these purposes as, among other things, an independently owned and operated business that is not dominant in its field of operation that, commencing January 1, 2019, has average annual gross receipts of \$15 million, as may be adjusted to reflect changes in the California Consumer Price Index, or less over the previous 3 years. Existing law also defines a “microbusiness” as a small business which, together with affiliates, has average annual gross receipts of, commencing January 1, 2019, \$5 million, as may be adjusted to reflect changes in the California Consumer Price Index, or less over the previous 3 years. Existing law requires the director to conduct a biennial review of those average annual gross receipt levels and authorizes the director to adjust the average annual gross receipts threshold to reflect changes in the California Consumer Price Index, as specified.

This bill would require the director to communicate and coordinate with the Small Business Advocate to execute this biennial review. The bill would, for purposes of the act, define “disadvantaged business enterprises” to mean “socially and economically disadvantaged individuals,” as described by federal law.

Existing law requires the directors of the Department of General Services and other state agencies that enter into contracts concerning the provision of goods, information technology, services, and construction of state facilities, to establish goals for the extent of participation of small businesses, including microbusinesses, for those contracts.

This bill would instead require those directors to establish a minimum goal of 25% procurement participation for small businesses, including microbusinesses.

Existing law also requires the directors of the Department of General Services and other state agencies that enter into contracts for the provision of goods, information technology, services to the state, and construction of state facilities, to provide for a small business preference, in the award of contracts, in solicitations where an award is to be made

to the lowest responsible bidder meeting specifications, with the amount being 5% of the lowest responsible bidder meeting specifications.

This bill, with respect to public works contracts, would also require a preference for disadvantaged business enterprises, which would be a separate 5% of the lowest responsible bidder meeting specifications.

Existing law further requires a small business or microbusiness preference, in solicitations where an award is to be made to the highest scored bidder based on evaluation factors in addition to price, in an amount of 5% of the highest responsible bidders score.

This bill, with respect to public works contracts, would also require a preference to disadvantaged business enterprises, which would be a separate 5% of the highest responsible bidder's total score.

Existing law, notwithstanding specified advertising and bidding provisions, authorizes a state agency to award a contract for construction or other state improvement of any kind with an estimated value of greater than \$5,000 but less than a specified cost limit, to a certified small business, including a microbusiness, or to a disabled veteran business enterprise, if the agency obtains written bid submittals from 2 or more certified small businesses or disabled veteran business enterprises.

This bill would expand that provision to include, among those businesses to which this type of contract may be awarded, a disadvantaged business enterprise, if the agency obtains written bid submittals from 2 or more of the above-described businesses.

Existing law, requires the department to make rules and regulations for the purpose of administering these provisions.

This bill would require the department to consider appropriate remedial actions to be taken in regards to mandatory reporting agencies that failed in 3 out of 5 years to meet their small business or disabled veteran business enterprise goals. The bill would require the department to set forth the department's actions in its consolidated annual report.

(4) Existing law establishes the Office of Small Business and Disabled Veteran Business Enterprise Services within the Department of General Services and charges it with specified duties, including making recommendations to the department and other state agencies for simplification of specifications and terms in order to increase the opportunities for small business, microbusiness, and disabled veteran business enterprise participation.

This bill would include, with those recommendations, simplification of specifications and terms in order to increase opportunities for disadvantaged business enterprises.

Existing law requires the department, during the process of certifying and determining the eligibility of a small business or a disabled veteran business enterprise, to require the applicant or certified firm to submit a written declaration, under penalty of perjury, that the information submitted to the department pursuant to specified law is true and correct.

This bill would require the department to establish a fast track small business certification process for business enterprises that hold relevant federal certifications. By expanding the crime of perjury, the bill would create a state-mandated local program. The bill would also permit the Department of General Services to apply relevant federal certifications for the business categories and in its delineated procurement authority to other state agencies.

(5) Existing law, the State Contract Act, requires the Department of General Services to make available a report on contracting activity containing specified information, including a list of consulting services contracts the state has entered into during the previous fiscal year and the level of participation of business enterprises, as specified.

This bill would also require the report to include the level of participation, by agency, of dual certified small business and disadvantaged business enterprises in statewide contracts, including dollar values of contract awards for specified categories.

The bill would include related legislative findings.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) The positive fiscal impact of small businesses and
4 minority-owned businesses to the overall economic health and
5 stability of California, the fifth largest economy in the world,

1 cannot be underestimated or overlooked – where in fact the entire
2 California economy is predicated on the continual success and
3 growth of all small businesses.

4 (2) Given that the size of the California budget is the largest of
5 all states in the entire country, the California budget contributes
6 one-seventh of the country’s gross domestic product (GDP), and
7 that, pre-COVID, small businesses totaled 3.9 million, or 99.8
8 percent of all California businesses, and 1.6 million were minority
9 owned.

10 (3) Small businesses not only contribute significantly to the tax
11 base of the State of California but also account for approximately
12 7 million employees, or 48.8 percent of all employment in the
13 state.

14 (4) It is therefore incumbent upon the State of California to
15 ensure that a fair share of procurement spending be directed and
16 dedicated to small and minority-owned businesses.

17 (5) The State of California must carefully consider and provide
18 guidance to all state departments, agencies, bureaus, and other
19 state entities as to reflect small and minority-owned businesses as
20 a priority when determining procurement decisions.

21 (6) As the economy pivots to recover and rebound post the
22 COVID economic collapse, it is imperative for the state to
23 acknowledge and address the lack of diversity among contractors
24 participating in state contracts and to seek innovative ways to
25 identify diverse businesses owners and encourage them to become
26 certified small businesses. The existing network of California
27 disadvantaged business enterprises could play a crucial role in
28 diversifying the state’s pool of certified small businesses.

29 (7) A means of economic recovery for the financial base of
30 California would include codifying the previously expressed intent
31 of the executive and legislative branches, respectively, of the state
32 achieving a goal of procurement spending of 25 percent to SBs
33 and DBEs.

34 (b) It is the intent of the Legislature that California SBs and
35 DBEs are prioritized and uplifted by means of economic equity
36 as it pertains to a percentage of state procurement dollars going to
37 these entities.

38 SEC. 2. Section 11148.5 of the Government Code is amended
39 to read:

1 11148.5. (a) A state agency that significantly regulates small
2 business or that significantly impacts small business shall designate
3 at least one person who shall serve as a small business liaison. The
4 agency shall utilize existing personnel and resources to perform
5 the duties of small business liaison.

6 (b) A state agency that significantly regulates small business or
7 that significantly impacts small business shall widely publicize
8 the position of small business liaison in appropriate agency
9 publications and by prominently displaying the name and contact
10 information of the small business liaison on the agency's ~~Web site~~
11 *website* if the agency has a ~~Web site~~ *website*.

12 (c) The small business liaison shall be responsible for all of the
13 following:

14 (1) Receiving and responding to complaints received by the
15 agency from small businesses.

16 (2) Providing technical advice and assisting small businesses
17 in resolving problems and questions regarding compliance with
18 the agency's regulations and relevant statutes.

19 (3) Reporting small business concerns and, if appropriate,
20 reporting recommendations to the agency secretary or to the agency
21 head, as defined in Section 11405.40.

22 (4) Reviewing and updating, on a semiannual basis, content on
23 the agency ~~Web site~~ *website* that is accessible through the small
24 business link provided on the State of California Internet portal
25 pursuant to Section 11541.5.

26 (5) Assisting the agency secretary, department director, or
27 executive officer, as applicable, in ensuring that the procurement
28 and contracting processes of the applicable entity are administered
29 in order to meet or exceed the 25 percent small business
30 participation goal, and developing and sharing innovative
31 procurement and contracting practices from the public and private
32 sectors to increase opportunities for small businesses.

33 (6) *Developing an "economic equity first" action plan and*
34 *policy for the agency, which will provide, among other things,*
35 *direction, recommendations, and strategies as to how best ensure*
36 *that disadvantaged business enterprises that also qualify as a small*
37 *business pursuant to Section 14837 are effectively involved in, and*
38 *benefiting from, the procurement process of the agency. The action*
39 *plan and policy shall be submitted to the agency secretary,*
40 *department director, or executive officer by January 1, 2024, and*

1 *adoption of an “economic equity first” action plan shall occur by*
 2 *January 1, 2025. The action plan may include, but is not limited*
 3 *to, education and outreach, disadvantaged business enterprise*
 4 *stakeholder engagement, and intentional expansion of*
 5 *disadvantaged business enterprise suppliers for the agency, which*
 6 *also qualify as a small business pursuant to Section 14837. A state*
 7 *agency may meet the requirements of this subparagraph by having*
 8 *a current targeted procurement outreach plan that includes small*
 9 *businesses, disabled veteran business enterprises, and*
 10 *disadvantaged business enterprises.*

11 (d) The small business liaison shall not advocate for or against
 12 the adoption, amendment, or repeal of any regulation or intervene
 13 in any pending investigation or enforcement action.

14 (e) A state agency that significantly regulates small business or
 15 that significantly impacts small business shall notify the Office of
 16 Small Business Advocate within the Governor’s Office of Business
 17 and Economic Development and the Department of General
 18 Services of each of the following:

19 (1) The name and contact information of the person or persons
 20 who have been designated as the agency’s small business liaison,
 21 on or before March 1, 2018.

22 (2) An occurrence of a vacancy in the position of small business
 23 liaison, within 15 working days of the occurrence of the vacancy.
 24 The state agency shall designate a small business liaison within
 25 three months after providing notice of the vacancy.

26 (f) For purposes of this section, “small business” has the same
 27 meaning as set forth in Section 11342.610.

28 SEC. 3. Section 12098.4 of the Government Code is amended
 29 to read:

30 12098.4. (a) Each agency of the state shall furnish to the
 31 advocate the reports, documents, and information that are public
 32 records and that the advocate deems necessary to carry out the
 33 advocate’s functions under this chapter.

34 (b) (1) The advocate shall prepare and submit a written annual
 35 report to the Governor and to the Legislature that describes the
 36 activities and recommendations of the office, including an
 37 evaluation of the efforts of state agencies and, where appropriate,
 38 specific departments, that significantly regulate small businesses
 39 to assist minority and other small business enterprises, and making

1 recommendations that may be appropriate to assist the development
2 and strengthening of minority and other small business enterprises.

3 (2) *The annual report prepared by the advocate shall also*
4 *include details regarding the office's activities to support*
5 *procurement participation by small businesses, microbusinesses,*
6 *disadvantaged business enterprises, and disabled veteran business*
7 *enterprises. The report shall also include information on state*
8 *agency compliance and implementation of "economic equity first"*
9 *action plans and policies, developed pursuant to Section 11148.5,*
10 *by state agency liaisons and advocates.*

11 (c) (1) The advocate may establish a centralized interactive
12 telephone referral system and internet website to assist small and
13 minority businesses in their operations, including governmental
14 requirements, such as taxation, accounting, and pollution control,
15 and to provide information concerning the agency from which
16 more specialized assistance may be obtained.

17 (2) The advocate shall post on the GO-Biz internet website or
18 the advocate's internet website:

19 (A) Information on how to receive assistance in identifying and
20 understanding the state's regulatory requirements. This information
21 shall include:

22 (i) The name, telephone number, internet website, and email of
23 the small business liaison designated pursuant to Section 11148.5
24 to assist small businesses with understanding and adhering to the
25 regulatory requirements of the state entities in which they serve.

26 (ii) The internet website developed and maintained by GO-Biz
27 to identify licensing, permitting, and registration requirements of
28 state agencies, pursuant to the requirements of Section 12097.1.

29 (B) Information on how to receive assistance in certifying as a
30 small *business, disabled veteran business enterprise, and*
31 *disadvantaged business enterprise, and identifying and*
32 *participating in state procurement opportunities. ~~opportunities~~*
33 *shall be easily accessible from the homepage of the GO-Biz internet*
34 *website.* This information shall include:

35 (i) The name, telephone number, internet website, and email of
36 the small business advocate designated pursuant to Section 14846
37 to assist small businesses in contracting with the state entities in
38 which they serve.

1 (ii) Contact information for the Office of Small Business and
2 Disabled Veteran Business Enterprise Services established pursuant
3 to Section 14839.

4 (C) Information about emergency preparedness, responses to
5 emergencies, and recovery strategies for small businesses. This
6 information shall be developed and updated in consultation with
7 relevant state agencies and emergency responders.

8 (D) A link to the Energy Upgrade California internet website
9 to assist small business owners in accessing information on the
10 availability of various programs promoting the efficient use of
11 energy.

12 (E) Information on programs administered through the statewide
13 network of small business financial development corporations.
14 Programs covered shall include loan guarantees, direct lending,
15 surety bond guarantees, and disaster loans. Information shall be
16 presented in a manner appropriate to address the needs of both
17 small businesses and existing and potential financial institutions
18 and financial companies.

19 (F) Information on how to identify and access services provided
20 through the statewide network of small business technical
21 assistance centers, including, but not limited to, small business
22 development centers, women business centers, veteran business
23 outreach centers, procurement technical assistance centers, and
24 the Manufacturing Extension Partnership.

25 SEC. 4. Section 14836 of the Government Code is amended
26 to read:

27 14836. (a) The Legislature hereby declares that it serves a
28 public purpose, and it is of benefit to the state, to promote and
29 facilitate the fullest possible participation by all citizens in the
30 affairs of the State of California in every possible way. It is also
31 essential that opportunity is provided for full participation in our
32 free enterprise system by small business enterprises.

33 (b) Further, it is the declared policy of the Legislature that the
34 state should aid, counsel, assist, and protect, to the maximum extent
35 possible, the interests of small business concerns, including
36 microbusinesses, in order to preserve free competitive enterprise
37 and to ensure that a fair proportion of the total purchases and
38 contracts or subcontracts for property and services for the state be
39 placed with these enterprises. *state.*

1 (c) *In supporting the success of California small businesses,*
2 *the state economy is strengthened by the diversity and resiliency*
3 *of its small businesses and it is essential to ensure all small*
4 *businesses are able to fully participate in the domestic and global*
5 *markets, including, but not limited to, businesses owned by women,*
6 *disabled individuals, people who identify as LGBTQ, immigrants,*
7 *and socially and economically disadvantaged individuals.*

8 SEC. 5. Section 14837 of the Government Code is amended
9 to read:

10 14837. As used in this chapter:

11 (a) “Department” means the Department of General Services.

12 (b) “Director” means the Director of General Services.

13 (c) “Manufacturer” means a business that meets both of the
14 following requirements:

15 (1) It is primarily engaged in the chemical or mechanical
16 transformation of raw materials or processed substances into new
17 products.

18 (2) It is classified between Codes 31 to 33, inclusive, of the
19 North American Industry Classification System.

20 (d) (1) (A) “Small business” means an independently owned
21 and operated business that is not dominant in its field of operation,
22 the principal office of which is located in California, the officers
23 of which are domiciled in California, and which, together with
24 affiliates, has 100 or fewer employees, and average annual gross
25 receipts of ten million dollars (\$10,000,000) or less over the
26 previous three years, or is a manufacturer, as defined in subdivision
27 (c), with 100 or fewer employees. Commencing January 1, 2019,
28 the average annual gross receipts threshold shall be fifteen million
29 dollars (\$15,000,000).

30 (B) For the purposes of public works contracts, as defined in
31 Section 1101 of the Public Contract Code, and engineering
32 contracts, as described in Section 4525, for public works projects,
33 awarded through competitive bids or otherwise, “small business”
34 means an independently owned and operated business that is not
35 dominant in its field of operation, the principal office of which is
36 located in California, the officers of which are domiciled in
37 California, and which, together with affiliates, has 200 or fewer
38 employees, and average annual gross receipts of thirty-six million
39 dollars (\$36,000,000) or less over the previous three years. This
40 subparagraph shall become operative on January 1, 2019.

1 (2) “Microbusiness” is a small business which, together with
 2 affiliates, has average annual gross receipts of two million five
 3 hundred thousand dollars (\$2,500,000) or less over the previous
 4 three years, or is a manufacturer, as defined in subdivision (c),
 5 with 25 or fewer employees. Commencing January 1, 2019, the
 6 average annual gross receipts threshold shall be five million dollars
 7 (\$5,000,000).

8 (3) (A) The director shall conduct a biennial review of the
 9 average annual gross receipt levels specified in this subdivision
 10 and may adjust that level to reflect changes in the California
 11 Consumer Price Index for all items.

12 (B) Commencing January 1, 2019, the director shall conduct
 13 the biennial review and make that adjustment. To reflect unique
 14 variations or characteristics of different industries, the director
 15 may establish, to the extent necessary, either higher or lower
 16 qualifying standards than those specified in this subdivision, or
 17 alternative standards based on other applicable criteria. *The director*
 18 *shall communicate and coordinate with the Small Business*
 19 *Advocate to execute this biennial review.*

20 (4) Standards applied under this subdivision shall be established
 21 by regulation, in accordance with Chapter 3.5 (commencing with
 22 Section 11340) of Part 1 of Division 3 of Title 2, and shall preclude
 23 the qualification of businesses that are dominant in their industry.
 24 In addition, the standards shall provide that the certified small
 25 business or microbusiness shall provide goods or services that
 26 contribute to the fulfillment of the contract requirements by
 27 performing a commercially useful function, as defined below:

28 (A) A certified small business or microbusiness is deemed to
 29 perform a commercially useful function if the business does all of
 30 the following:

31 (i) Is responsible for the execution of a distinct element of the
 32 work of the contract.

33 (ii) Carries out its obligation by actually performing, managing,
 34 or supervising the work involved.

35 (iii) Performs work that is normal for its business services and
 36 functions.

37 (iv) Is responsible, with respect to products, inventories,
 38 materials, and supplies required for the contract, for negotiating
 39 price, determining quality and quantity, ordering, installing, if
 40 applicable, and making payment.

1 (v) Is not further subcontracting a portion of the work that is
2 greater than that expected to be subcontracted by normal industry
3 practices.

4 (B) A contractor, subcontractor, or supplier will not be
5 considered to perform a commercially useful function if the
6 contractor's, subcontractor's, or supplier's role is limited to that
7 of an extra participant in a transaction, contract, or project through
8 which funds are passed in order to obtain the appearance of small
9 business or microbusiness participation.

10 (e) "Disabled veteran business enterprise" means an enterprise
11 that has been certified as meeting the qualifications established by
12 paragraph (7) of subdivision (b) of Section 999 of the Military and
13 Veterans Code.

14 (f) "*Disadvantaged business enterprises*" mean "*socially and*
15 *economically disadvantaged individuals,*" as described in Section
16 26.67 of Title 49 of the Code of Federal Regulations and by Section
17 8(a) of the Small Business Act of 1953.

18 SEC. 6. Section 14838 of the Government Code is amended
19 to read:

20 14838. In order to facilitate the participation of small business,
21 including microbusiness, in the provision of goods, information
22 technology, and services to the state, and in the construction,
23 including alteration, demolition, repair, or improvement, of state
24 facilities, the directors of the department and other state agencies
25 that enter those contracts, each within their respective areas of
26 responsibility, shall do all of the following:

27 (a) ~~Establish goals, consistent with those established by the~~
28 ~~Office a minimum goal of Small Business and Disabled Veteran~~
29 ~~Business Enterprise Services, for the extent of 25 percent~~
30 ~~procurement participation of for~~ small businesses, including
31 microbusinesses, in the provision of goods, information technology,
32 and services to the state, and in the construction of state facilities.

33 (b) Provide for small business preference, or nonsmall business
34 preference for bidders that provide for small business and
35 microbusiness subcontractor participation, in the award of contracts
36 for goods, information technology, services, and construction, as
37 follows:

38 (1) In solicitations where an award is to be made to the lowest
39 responsible bidder meeting specifications, the preference to small
40 business and microbusiness shall be 5 percent of the lowest

1 responsible bidder meeting specifications. *Additionally, for public*
2 *works contracts, as defined Section 1101 of the Public Contract*
3 *Code, the preference to disadvantaged business enterprises shall*
4 *be a separate 5 percent of the lowest responsible bidder meeting*
5 *specifications.* The preference to nonsmall business bidders that
6 provide for small business or microbusiness subcontractor
7 participation shall be, up to a maximum of 5 percent of the lowest
8 responsible bidder meeting specifications, determined according
9 to rules and regulations established by the Department of General
10 Services.

11 (2) In solicitations where an award is to be made to the highest
12 scored bidder based on evaluation factors in addition to price, the
13 preference to small business or microbusiness shall be 5 percent
14 of the highest responsible bidder's *total score on public works*
15 *contracts, as defined in Section 1101 of the Public Contract Code.*
16 *Additionally, the preference to disadvantaged business enterprises*
17 *shall be a separate 5 percent of the highest responsible bidder's*
18 *total score.* The preference to nonsmall business bidders that
19 provide for small business or microbusiness subcontractor
20 participation shall be up to a maximum 5 percent of the highest
21 responsible bidder's total score, determined according to rules and
22 regulations established by the Department of General Services.

23 (3) The preferences under paragraphs (1) and (2) shall not be
24 awarded to a noncompliant bidder and shall not be used to achieve
25 any applicable minimum requirements.

26 (4) The preference under paragraph (1) shall not exceed fifty
27 thousand dollars (\$50,000) for any bid, and the combined cost of
28 preferences granted pursuant to paragraph (1) and any other
29 provision of law shall not exceed one hundred thousand dollars
30 (\$100,000). In bids in which the state has reserved the right to
31 make multiple awards, ~~this fifty thousand dollar~~
32 *fifty-thousand-dollar* (\$50,000) maximum preference cost shall be
33 applied, to the extent possible, so as to maximize the dollar
34 participation of small businesses, including microbusinesses, in
35 the contract award.

36 (c) Give special consideration to small businesses and
37 ~~microbusinesses~~ *microbusinesses*, by both:

38 (1) Reducing the experience required.

39 (2) Reducing the level of inventory normally required.

1 (d) Give special assistance to small businesses and
2 microbusinesses in the preparation and submission of the
3 information requested in Section 14310.

4 (e) Under the authorization granted in Section 10163 of the
5 Public Contract Code, make awards, whenever feasible, to small
6 business and microbusiness bidders for each project bid upon
7 within their prequalification rating. This may be accomplished by
8 dividing major projects into subprojects so as to allow a small
9 business or microbusiness contractor to qualify to bid on these
10 subprojects.

11 (f) Make continuous efforts to expand the pool of small
12 businesses and microbusinesses that participate in the department's
13 and other state agencies' contracts by regularly seeking out and
14 identifying small businesses and microbusinesses that have not
15 previously done business with the department or other state agency
16 or that are not regularly used by the department or other state
17 agency, and including those small businesses and microbusinesses
18 in the agency's solicitations.

19 (g) Small business and microbusiness bidders qualified in
20 accordance with this chapter shall have precedence over nonsmall
21 business bidders in that the application of a bidder preference for
22 which nonsmall business bidders may be eligible under this section
23 or any other provision of law shall not result in the denial of the
24 award to a small business or microbusiness bidder. In the event of
25 a precise tie between the low responsible bid of a bidder meeting
26 specifications of a small business or microbusiness, and the low
27 responsible bid of a bidder meeting the specifications of a disabled
28 veteran-owned small business or microbusiness, the contract shall
29 be awarded to the disabled veteran-owned small business or
30 microbusiness. This provision applies if the small business or
31 microbusiness bidder is the lowest responsible bidder, as well as
32 if the small business or microbusiness bidder is eligible for award
33 as the result of application of the small business and microbusiness
34 bidder preference granted by subdivision (b).

35 (h) If the directors of the department and other state agencies
36 that enter into those contracts are unable to reach the goals
37 established under subdivision (a) in the year in which the changes
38 made by the act that added this subdivision become operative, the
39 directors of the department and other state agencies may count
40 towards that goal, contracts with firms that would be considered

1 a small business or microbusiness under the amendments made to
2 Section 14837 by the act adding this subdivision. This subdivision
3 shall become operative on January 1, 2019.

4 SEC. 7. Section 14838.2 of the Government Code is amended
5 to read:

6 14838.2. The Legislature finds and declares all of the following:

7 (a) Market demand is a driving factor in determining profitability
8 of California companies and the ability of those companies to
9 invest in business growth.

10 (b) ~~Recent unemployment figures indicate that California's~~
11 ~~employment~~*The onset of COVID-19 and the subsequent economic*
12 ~~downturn and recession has declined by more than 420,000 jobs~~
13 ~~since the middle laid bare considerable social and economic~~
14 ~~inequities, and overall, nearly one-half of 1990, all small~~
15 ~~businesses face permanent closure, with up to 133,000 of those~~
16 ~~jobs in the manufacturing sector. disadvantaged business~~
17 ~~enterprises facing even higher foreclosure thresholds.~~

18 (c) ~~The current economic recession, coupled with losses of~~
19 ~~federal contracts by recession caused by COVID-19 is hitting our~~
20 ~~defense minority and aerospace industries, is causing an economic~~
21 ~~crisis in California. disadvantaged communities the hardest.~~

22 (d) California companies are often at a competitive disadvantage
23 when responding to public contract proposals from government
24 agencies because of factors associated with higher taxes, wages,
25 rents, labor benefits, and insurance rates.

26 (e) The competitiveness of California companies is also
27 impacted as a result of in-state business preference policies that
28 exist in other states.

29 SEC. 8. Section 14838.7 of the Government Code is amended
30 to read:

31 14838.7. (a) Notwithstanding the advertising and bidding
32 provisions of Chapter 6 (commencing with Section 14825) of this
33 code and Chapter 1 (commencing with Section 10100) of Part 2
34 of Division 2 of the Public Contract Code, a state agency may
35 award a contract for construction, including the erection,
36 construction, alteration, repair, or improvement of any state
37 structure, building, road, or other state improvement of any kind
38 that has an estimated value of greater than five thousand dollars
39 (\$5,000) but less than the cost limit, as specified in subdivision
40 (b) of Section 10105 of the Public Contract Code, to a certified

1 small business, including a ~~microbusiness~~, *microbusiness* or a
2 *disadvantaged business enterprise*, or to a disabled veteran
3 business enterprise, as long as the agency obtains written bid
4 submittals from two or more certified small businesses, including
5 microbusinesses, or from two or more disabled veteran business
6 *enterprises*, or *two or more disadvantaged business enterprises*.

7 (b) In implementing subdivision (a), state agencies shall consider
8 a responsive offer timely received from a responsible certified
9 small business, including a microbusiness, or from a disabled
10 veteran business enterprise.

11 (c) If the estimated cost to the state is less than five thousand
12 dollars (\$5,000) for the public work construction project, a state
13 agency shall obtain at least two written bid submittals from
14 responsible contractors whenever there is reason to believe a
15 response from a single source is not a fair and reasonable price.

16 SEC. 9. Section 14839 of the Government Code is amended
17 to read:

18 14839. (a) There is hereby established within the department
19 the Office of Small Business and Disabled Veteran Business
20 Enterprise Services. The duties of the office shall include:

21 (1) Compiling and maintaining a comprehensive bidders list of
22 qualified small businesses and disabled veteran business
23 enterprises, and noting which small businesses also qualify as
24 microbusinesses.

25 (2) Coordinating with the Federal Small Business
26 Administration, the Minority Business Development Agency, the
27 California Disabled Veteran Business Enterprise Program
28 Advocate, appointed by the Secretary of the Department of
29 Veterans Affairs pursuant to Section 999.11 of the Military and
30 Veterans Code, and the Small Business Advocate, appointed by
31 the Governor pursuant to Section 12098.3.

32 (3) Providing technical and managerial aids to small businesses,
33 microbusinesses, and disabled veteran business enterprises, by
34 conducting workshops on matters in connection with government
35 procurement and contracting.

36 (4) Assisting small businesses, microbusinesses, and disabled
37 veteran business enterprises, in complying with the procedures for
38 bidding on state contracts.

39 (5) Working with appropriate state, federal, local, and private
40 organizations and business enterprises in disseminating information

1 on bidding procedures and opportunities available to small
 2 businesses, microbusinesses, and disabled veteran business
 3 enterprises.

4 (6) Making recommendations to the department and other state
 5 agencies for simplification of specifications and terms in order to
 6 increase the opportunities for small business, microbusiness,
 7 *disadvantaged business enterprise*, and disabled veteran business
 8 enterprise participation.

9 (7) Developing, by regulation, other programs and practices
 10 that are reasonably necessary to aid and protect the interest of small
 11 businesses, microbusinesses, and disabled veteran business
 12 enterprises in contracting with the state, including, but not limited
 13 to, those specified in Article 6 (commencing with Section 999) of
 14 Chapter 6 of Division 4 of the Military and Veterans Code.

15 (8) Making efforts to develop, in cooperation with associations
 16 representing counties, cities, and special districts, a core statewide
 17 small business certification application that may be adopted by all
 18 participating entities, with any supplemental provisions to be added
 19 as necessary by the respective entities.

20 (b) The information furnished by each contractor requesting a
 21 small business or microbusiness preference shall be under penalty
 22 of perjury.

23 SEC. 10. Section 14840 of the Government Code is amended
 24 to read:

25 14840. (a) (1) In the process of certifying and determining
 26 the eligibility of a disabled veteran business enterprise or a small
 27 business enterprise, including a microbusiness, the department
 28 shall require the applicant or certified firm to submit a written
 29 declaration, under penalty of perjury, that the information submitted
 30 to the department pursuant to this chapter, and in the case of a
 31 disabled veteran enterprise all information submitted to the
 32 department pursuant to Section 999.2 of the Military and Veterans
 33 Code, is true and correct.

34 (2) *The department shall establish a fast track small business*
 35 *certification process for business enterprises that hold a current*
 36 *federal certification for a disadvantaged business enterprise, as*
 37 *defined in subdivision (f) of Section 14837.*

38 (b) (1) If the department determines that just cause exists, it
 39 may require the owner of the disabled veteran business enterprise,
 40 *disadvantaged business enterprise*, microbusiness, or small

1 business, the applicant, or the certified firm to complete and submit
2 to the department a federal Form 4506-T from the Internal Revenue
3 Service, United States Department of the Treasury, requesting a
4 transcript of a tax return.

5 (2) For the purposes of this subdivision, “just cause” means
6 either of the following circumstances exists:

7 (A) The department receives a complaint regarding the certified
8 firm.

9 (B) The department determines, based on its findings during
10 the course of any certification eligibility review of the applicant
11 or certified firm, that the action described in paragraph (1) is
12 necessary.

13 SEC. 11. Section 14843 of the Government Code is amended
14 to read:

15 14843. (a) The department may make all rules and regulations
16 consistent with the law for the purpose of carrying into effect the
17 provisions of this chapter. Rules and regulations shall be adopted,
18 amended, or repealed in accordance with the provisions of Chapter
19 3.5 (commencing with Section 11340) of Part 1.

20 (b) *The department shall consider appropriate remedial actions*
21 *to be taken in regards to mandatory reporting agencies that failed*
22 *in three out of five years to meet their small business or disabled*
23 *veteran business enterprise goals, including, but not limited to,*
24 *the removal of the department’s delegated contract authority or*
25 *the placement of additional restrictions on contracting activity.*
26 *The department shall set forth it’s actions related to this*
27 *subdivision within the department’s consolidated annual report.*

28 SEC. 12. Section 10111 of the Public Contract Code is amended
29 to read:

30 10111. Commencing January 1, 2007, the department shall
31 make available a report on contracting activity containing the
32 following information:

33 (a) A listing of consulting services contracts that the state has
34 entered into during the previous fiscal year. The listing shall
35 include the following:

36 (1) The name and identification number of each contractor.

37 (2) The type of bidding entered into, the number of bidders,
38 whether the low bidder was accepted, and if the low bidder was
39 not accepted, an explanation of why another contractor was
40 selected.

1 (3) The amount of the contract price.

2 (4) Whether the contract was a noncompetitive bid contract,
3 and why the contract was a noncompetitive bid contract.

4 (5) Justification for entering into each consulting services
5 contract.

6 (6) The purpose of the contract and the potential beneficiaries.

7 (7) The date when the initial contract was signed, and the date
8 when the work began and was completed.

9 (b) The report shall also include a separate listing of consultant
10 contracts completed during that fiscal year, with the same
11 information specified in subdivision (a).

12 (c) The information specified in subdivisions (a) and (b) shall
13 also include a list of any contracts underway during that fiscal year
14 on which a change was made regarding the following:

15 (1) The completion date of the contract.

16 (2) The amount of money to be received by the contractor, if it
17 exceeds 3 percent of the original contract price.

18 (3) The purpose of the contract or duties of the contractor. A
19 brief explanation shall be given if the change in purpose is
20 significant.

21 (d) The level of participation, by agency, of disabled veteran
22 business enterprises in statewide contracting and shall include
23 dollar values of contract award for the following categories:

24 (1) Construction.

25 (2) Architectural, engineering, and other professional services.

26 (3) Procurement of materials, supplies, and equipment.

27 (4) Information technology procurements.

28 Additionally, the report shall include a statistical summary
29 detailing each awarding department's goal achievement and a
30 statewide total of those goals.

31 (e) The level of participation by small business in state
32 contracting including:

33 (1) Upon request, an up-to-date list of eligible small business
34 bidders by general procurement and construction contract
35 categories, noting company names and addresses and also noting
36 which small businesses also qualify as microbusinesses.

37 (2) By general procurement and construction contract categories,
38 statistics comparing the small business and microbusiness contract
39 participation dollars to the total state contract participation dollars.

1 (3) By awarding department and general procurement and
2 construction categories, statistics comparing the small business
3 and microbusiness contract participation dollars to the total state
4 contract participation dollars.

5 (4) Any recommendations for changes in statutes or state
6 policies to improve opportunities for small businesses and
7 microbusinesses.

8 (5) A statistical summary of small businesses and
9 microbusinesses certified for state contracting by the number of
10 employees at the business for each of the following categories:
11 0–5, 26–50, 51–75, and 76–100.

12 (6) To the extent feasible, beginning in the year 2008, the
13 number of contracts awarded by the department in the categories
14 specified in paragraph (5).

15 (7) The number of contracts and dollar amounts awarded
16 annually pursuant to Section 14838.5 of the Government Code to
17 small businesses, microbusinesses, and disabled veteran business
18 enterprises.

19 (f) The level of participation of business enterprises, by race,
20 ethnicity, and gender of the owner, in contracts to the extent that
21 the information has been voluntarily reported to the department.
22 In addition, the report shall contain the levels of participation of
23 business enterprises, by race, ethnicity, and gender of the owner,
24 and whether the business is a lesbian, gay, bisexual, or transgender
25 owned business for the following categories of contracts, to the
26 extent that the information has been voluntarily reported to the
27 department:

28 (1) Construction.

29 (2) Purchases of materials, supplies, or equipment.

30 (3) Professional services.

31 (g) In the years 2011 and 2012, any errors reported to the
32 department by an awarding agency as required by Sections 10302,
33 10344, and 12104.5, in the previous fiscal year.

34 (h) The amendments made to this section by the act adding this
35 subdivision shall apply on and after January 1, 2013.

36 (i) *The level of participation, by agency, of dual certified small*
37 *business and disadvantaged business enterprises in statewide*
38 *contracting and shall include dollar values of contract awards for*
39 *the following categories:*

40 (1) *Construction.*

1 (2) *Architectural, engineering, and other professional services.*

2 (3) *Procurement of materials, supplies, and equipment.*

3 (4) *Information technology procurements.*

4 (5) *By general procurement and construction contract*
5 *categories, statistics comparing the dual certified small business*
6 *and disadvantaged business enterprises contract participation*
7 *dollars to the total state contract participation dollars.*

8 (6) *By awarding department and general procurement and*
9 *construction categories, statistics comparing the dual certified*
10 *small business and disadvantaged business enterprises contract*
11 *participation dollars to the total state contract participation*
12 *dollars.*

13 SEC. 13. No reimbursement is required by this act pursuant
14 to Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the penalty
18 for a crime or infraction, within the meaning of Section 17556 of
19 the Government Code, or changes the definition of a crime within
20 the meaning of Section 6 of Article XIII B of the California
21 Constitution.