

AMENDED IN ASSEMBLY MARCH 24, 2022

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

ASSEMBLY BILL

No. 2873

Introduced by Assembly Member Jones-Sawyer

February 18, 2022

An act to amend Section ~~50000~~ of 50199.15 of, and to add Section 50199.23 to, the Health and Safety Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

AB 2873, as amended, Jones-Sawyer. ~~Housing~~-California Tax Credit Allocation Committee: low-income housing credit: women, minority, disabled veteran, and LGBT business enterprises.

(1) Under existing law, the California Tax Credit Allocation Committee administers the federal and state low-income housing tax credit programs. Existing law requires the committee to allocate the housing credit on a specified regular basis, and to only allocate credits to a project if the housing sponsor enters into a specified regulatory agreement. Existing law authorizes the committee to make any allocation or reservation of the state's housing credit ceiling to a housing credit applicant subject to specified terms and conditions.

This bill would require a housing credit applicant, and any of their subsidiaries and affiliates, for the purpose of expanding the program for the procurement by affordable housing companies of technology, equipment, supplies, services, materials, and construction work from women, minority, disabled veteran, and LGBT business enterprises, as those terms are defined, to annually submit a report to the committee, in a form and at the time designated by the committee, that includes, among other things, a detailed and verifiable plan for increasing procurement from those above-described business enterprises, and

short- and long-term diversity goals and timetables. The bill would require the committee to consider the findings from those reports to establish guidelines for affordable housing applicants and their subsidiaries and affiliates and establish a procedure to review those reports to verify the housing credit applicant’s claims. The bill would provide that its provisions are severable.

(2) Existing law also requires the committee to annually submit to the Legislature a report on its activities during the previous calendar year, related to the allocation of low-income housing credits and the projects and units that benefit from the credits, as specified.

Commencing in the 2023 calendar year, this bill would require the committee to also include in its annual report a summary of the commitments made by affordable housing companies to the goals specified in this bill and their progress toward meeting those goals.

~~Existing law, the Zenovich-Mosccone-Chacon Housing and Home Finance Act, generally governs housing and home finance.~~

~~This bill would make nonsubstantive changes to those provisions.~~

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

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

1 SECTION 1. *The Legislature hereby finds and declares all of*
2 *the following:*

3 (a) *The essence of the American economic system of private*
4 *enterprise is free, open, and transparent competition. Only through*
5 *free, open, and transparent competition can free markets,*
6 *reasonable and just prices, free entry into business, and*
7 *opportunities for the expression and growth of personal initiative*
8 *and individual judgment be ensured.*

9 (b) *The preservation and expansion of that competition are*
10 *basic to the economic well-being of this state and that well-being*
11 *cannot be realized unless the actual and potential capacity of*
12 *women, minority, disabled veteran, and LGBT business enterprises*
13 *is encouraged and developed.*

14 (c) *It is the declared policy of the state to aid the interests of*
15 *women, minority, disabled veteran, and LGBT business enterprises*
16 *to do all of the following:*

17 (1) *Preserve reasonable and just prices and a free competitive*
18 *enterprise.*

1 (2) *Ensure that a fair proportion of the total purchases and*
2 *contracts or subcontracts for commodities, supplies, technology,*
3 *property, and services for regulated public utilities, including, but*
4 *not limited to, renewable energy, wireless telecommunications,*
5 *broadband, smart grid, and rail projects, are awarded to women,*
6 *minority, disabled veteran, and LGBT business enterprises.*

7 (3) *Maintain and strengthen the overall economy of the state*

8 (d) *The opportunity for full participation in the affordable*
9 *housing construction system by women, minority, disabled veteran,*
10 *and LGBT business enterprises is essential if this state is to attain*
11 *social and economic equality for those businesses and improve*
12 *the functioning of the state economy.*

13 (e) *Public agencies and some regulated utilities that have*
14 *established short- and long-range women, minority, disabled*
15 *veteran, and LGBT business enterprise goals are awarding 30*
16 *percent or more of their contracts to these business enterprises.*

17 (f) *Women, minority, disabled veteran, and LGBT business*
18 *enterprises have traditionally received less than a proportionate*
19 *share of affordable housing procurement contracts.*

20 (g) *It is in the state's interest to expeditiously improve the*
21 *economically disadvantaged position of women, minority, disabled*
22 *veteran, and LGBT business enterprises.*

23 (h) *The position of these businesses can be substantially*
24 *improved by providing long-range substantial goals for*
25 *procurement by affordable housing company credit recipients of*
26 *technology, equipment, supplies, services, materials, and*
27 *construction work from women, minority, disabled veteran, and*
28 *LGBT businesses.*

29 (i) *That procurement also benefits affordable housing credit*
30 *recipients and consumers of the state by encouraging the expansion*
31 *of the number of suppliers for procurements, thereby encouraging*
32 *competition among the suppliers and promoting economic*
33 *efficiency in the process.*

34 (j) *The long-term economic viability of this state depends*
35 *substantially upon the ability of affordable housing projects to*
36 *incorporate women, minority, disabled veteran, and LGBT*
37 *businesses into those projects.*

38 *SEC. 2. Section 50199.15 of the Health and Safety Code is*
39 *amended to read:*

1 50199.15. (a) The committee shall annually submit to the
2 Legislature by April 1 of each year a report specifying, with respect
3 to its activities under this chapter during the previous calendar
4 year, (1) the total amount of low-income housing credits allocated
5 by the committee, (2) the total number of units assisted by the
6 credit that are, or are to be, occupied by households whose income
7 is 60 percent or less of area median gross income, (3) the amount
8 of the credit allocated to each project, the other financing available
9 to the project, and the number of units that are, or are to be, therein
10 occupied by households whose income is 60 percent or less of area
11 median gross income, and (4) sufficient information to identify
12 the project.

13 (b) The committee shall also include in its annual report to the
14 Legislature, an aggregation of the information which shall be
15 submitted annually by housing sponsors for all projects which
16 have received an allocation in previous years, specifying all of the
17 following:

18 (1) Information sufficient to identify the project.

19 (2) The total number of units in the project.

20 (3) The total number of units assisted by the credit that are
21 required to be occupied by households whose income is 60 percent
22 or less of the area median gross income as a condition of receiving
23 a tax credit.

24 (4) The total number of units assisted by the credit that are
25 occupied by households whose income is 60 percent or less of the
26 area median gross income.

27 (c) The committee shall also include in its annual report to the
28 Legislature, any recommendations for improvement in the
29 low-income housing tax credit.

30 (d) *Commencing in the 2023 calendar year, the committee shall*
31 *include in its annual report to the Legislature a summary of the*
32 *commitments made by affordable housing companies to the goals*
33 *specified in Section 50199.23 and their progress toward meeting*
34 *those goals.*

35 *SEC. 3. Section 50199.23 is added to the Health and Safety*
36 *Code, to read:*

37 50199.23. (a) *For the purposes of this section, the following*
38 *definitions apply:*

39 (1) *“Control” means exercising the power to make policy*
40 *decisions and active involvement in the day-to-day management*

1 of a business enterprise. Being an officer or director does not alone
2 demonstrate active involvement.

3 (2) “Disabled veteran business enterprise” has the same
4 meaning as defined in Section 999 of the Military and Veterans
5 Code.

6 (3) “LGBT business enterprise” means a business enterprise
7 that is at least 51-percent owned by a lesbian, gay, bisexual, or
8 transgender person or persons; or, in the case of any publicly
9 owned business, at least 51 percent of the stock of which is owned
10 by one or more lesbian, gay, bisexual, or transgender persons;
11 and whose management and daily business operations are
12 controlled by one or more of those individuals.

13 (4) “Minority business enterprise” means a business enterprise
14 that is at least 51-percent owned by a minority group or groups,
15 or, in the case of any publicly owned business, at least 51 percent
16 of the stock of which is owned by one or more minority groups,
17 and whose management and daily business operations are
18 controlled by one or more of those individuals. The contracting
19 utility shall presume that minority includes African Americans,
20 Hispanic Americans, Native Americans, and Asian Pacific
21 Americans.

22 (5) “Women business enterprise” means a business enterprise
23 that is at least 51-percent owned by a woman or women, or, in the
24 case of any publicly owned business, at least 51 percent of the
25 stock of which is owned by one or more women, and whose
26 management and daily business operations are controlled by one
27 or more of those individuals.

28 (b) It is the purpose of this section to do both of the following:

29 (1) Encourage greater economic opportunity for women,
30 minority, disabled veteran, and LGBT business enterprises.

31 (2) Clarify and expand the program for the procurement by
32 affordable housing companies of technology, equipment, supplies,
33 services, materials, and construction work from women, minority,
34 disabled veteran, and LGBT business enterprises.

35 (c) (1) A housing credit applicant, and any of their subsidiaries
36 and affiliates, shall annually submit a report to the committee, in
37 a form that the committee shall require, and at the time that the
38 committee shall annually designate. The report shall include all
39 of the following:

1 (A) A detailed and verifiable plan for increasing procurement
2 from women, minority, disabled veteran, and LGBT business
3 enterprises in all categories.

4 (B) Short- and long-term diversity goals and timetables, but not
5 quotas, related to contractor race and ethnicity, contractor gender,
6 and contractor census-tract income distribution.

7 (C) Proposed methods for encouraging both prime contractors
8 and awardees to engage women, minority, disabled veteran, and
9 LGBT business enterprises in subcontracts in all categories that
10 provide subcontracting opportunities.

11 (D) The current status of, and, if any, strategies for, increasing
12 procurement from women, minority, disabled, veteran, and LGBT
13 business enterprises in all categories.

14 (2) The committee shall consider the findings from the reports
15 submitted pursuant to this subdivision to establish guidelines for
16 all affordable housing applicants and their subsidiaries and
17 affiliates.

18 (d) The committee shall establish a procedure to review the
19 reports submitted pursuant to subdivision (c) for the purpose of
20 verifying the claims made by a housing credit applicant on the
21 report.

22 (e) The provisions of this section are severable. If any provision
23 of this section or its application is held invalid, that invalidity shall
24 not affect other provisions or applications that can be given effect
25 without the invalid provision or application.

26 SECTION 1. ~~Section 50000 of the Health and Safety Code is~~
27 ~~amended to read:~~

28 50000. ~~This division shall be known, and may be cited to, as~~
29 ~~the Zenovich-Mosccone-Chacon Housing and Home Finance Act.~~

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