

ASSEMBLY BILL

No. 915

Introduced by Assembly Members Chiu and Holden

February 17, 2021

An act to amend Sections 11148.5, 12098.4, 14836, 14837, 14838, 14838.2, 14838.5, 14839, and 14840 of the Government Code, relating to business development.

LEGISLATIVE COUNSEL’S DIGEST

AB 915, as introduced, Chiu. 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, 2023, and would require adoption of that plan by January 1, 2024.

(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 25% procurement goal for small businesses, microbusinesses, disadvantaged business enterprises, and disabled veteran business enterprise participation, 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 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 provide that small business enterprises include, but are not limited to, women-owned, LGBTQ+, and "socially and economically disadvantaged individuals," as described by specified federal laws.

Existing law also declares that the state should aid, counsel, assist, and protect the interests of small business concerns, including microbusinesses, to preserve free competitive enterprise and ensure a fair proportion of the total purchases and contracts or subcontracts for property and services for the state be placed with these enterprises.

This bill would revise this policy declaration to also state that at least 25% of these purchases be placed with small business enterprises, as described above.

(4) The Small Business Procurement and Contract Act 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 “socially and economically disadvantaged individuals” to mean “disadvantaged business enterprises,” 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%, as is reasonable per scope of procurement need relative to free market availability to deliver product, good, or service, by a small, disadvantaged, or disabled veteran business enterprise, consistent with goals established by the Office of Small Business and Disabled Veteran Business Enterprise Services, as specified.

The bill would also require each state agency, by January 1, 2027, to provide a compliance report, relative to the 25% goal described above, to the Department of General Services. The bill would require the

Director of General Services, by December 31, 2027, to testify to the Legislature on the effectiveness and outcomes of the statewide compliance of the minimum 25% goal of small, disadvantaged, or disabled veteran business enterprise procurement participation, and to annually thereafter provide a written report to the Legislature on compliance with this goal, as specified. The bill would provide that an agency's failure to meet the minimum goal of 25% by January 1, 2027, would result in the agency having an audit conducted by the Department of General Services, along with a report to the Legislature as to the reasons and justifications for not meeting that goal, by no later than January 1, 2028.

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 highest bidder based on evaluation factors in addition to price, with that amount being 5% of the highest responsible bidder's total score.

This bill would also require the preference to disadvantaged business enterprises, as defined above, to be a separate 5% of the highest responsible bidder's total score.

Existing law requires the directors of the Department of General Services and other state agencies, with respect to the preference for small businesses and microbusinesses of 5% of the lowest responsible bidder, to not exceed \$50,000 for any bid, and also prohibits the combined cost of preferences granted from exceeding \$100,000. Existing law requires, in bids in which the state has reserved the right to make multiple awards, for this \$50,000 maximum preference cost to be applied, to the extent possible, so as to maximize the dollar participation of small businesses, including microbusinesses.

This bill would also provide that this preference be applied to the extent possible so as to maximize the dollar participation of disadvantaged business enterprises, as defined above. The bill would also require that special consideration be given to disadvantaged business enterprises by both reducing the experience required and reducing the level of inventory normally required and would update existing legislative findings regarding inequities faced by small businesses and disadvantaged business enterprises.

Existing law authorizes a state agency, notwithstanding specified advertising, bidding, and protest provisions, to award a contract for the acquisition of goods, services, or information technology that has an estimated value of greater than \$5,000, but less than \$250,000 to a certified small business, including a microbusiness or a disabled veteran business, as long as the agency obtains price quotations from 2 or more of these certified businesses or disabled veterans business enterprises.

This bill would include a disadvantaged business enterprise within the above-described contract award provisions.

(5) 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 expand that procedure to apply to determining the eligibility of a disadvantaged business enterprise, as defined. 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. The bill would include related legislative findings.

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,
6 cannot be underestimated or overlooked – where in fact the entire
7 California economy is predicated on the continual success and
8 growth of all small businesses.

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

15 (3) Small businesses not only contribute significantly to the tax
16 base of the State of California but also account for approximately
17 7 million employees, or 48.8 percent of all employment in the
18 state.

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

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

26 (6) As the economy pivots to recover and rebound post the
27 COVID economic collapse, it is imperative for the state to assert
28 that procurement goals not only include small businesses (“SBs”),
29 but also minority-owned businesses, also known as “disadvantaged
30 business enterprises” (“DBEs”), as is referenced in federal
31 procurement policies.

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

37 (b) It is the intent of the Legislature that California SBs and
38 DBEs are prioritized and uplifted by means of economic equity

1 as it pertains to a percentage of state procurement dollars going to
2 these entities.

3 SEC. 2. Section 11148.5 of the Government Code is amended
4 to read:

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

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

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

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

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

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

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

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

37 (6) *Developing an "economic equity first" action plan and*
38 *policy for the agency, which will provide, among other things,*
39 *direction, recommendations, and strategies as to how best ensure*
40 *that disadvantaged business enterprises are effectively involved*

1 *in, and benefiting from, the procurement process of the agency.*
2 *The action plan and policy shall be submitted to the agency*
3 *secretary, department director, or executive officer by January 1,*
4 *2023, and adoption of an “economic equity first” action plan shall*
5 *occur by January 1, 2024. The action play may include, but is not*
6 *limited to, education and outreach, disadvantaged business*
7 *enterprise stakeholder engagement, and intentional expansion of*
8 *disadvantaged business enterprise suppliers for the agency.*

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

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

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

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

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

26 SEC. 3. Section 12098.4 of the Government Code is amended
27 to read:

28 12098.4. (a) Each agency of the state shall furnish to the
29 advocate the reports, documents, and information that are public
30 records and that the advocate deems necessary to carry out ~~his or~~
31 ~~her~~ *their* functions under this chapter.

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

1 (2) *The annual report prepared by the advocate shall also*
2 *include details regarding the 25-percent procurement goal for*
3 *small businesses, microbusinesses, disadvantaged business*
4 *enterprises, and disabled veteran business enterprise participation,*
5 *as well as compliance and implementation of relative “economic*
6 *equity first” action plans and policies, developed pursuant to*
7 *Section 11148.5, by state agency liaisons and advocates.*

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

14 (2) The advocate shall post on the GO-Biz ~~Internet Web site~~
15 *internet website* or the advocate’s ~~Internet Web site~~: *internet*
16 *website*:

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

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

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

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

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

38 (ii) Contact information for the Office of Small Business and
39 Disabled Veteran Business Enterprise Services established pursuant
40 to Section 14839.

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

5 (D) A link to the Energy Upgrade California ~~Internet Web site~~
6 *internet website* to assist small business owners in accessing
7 information on the availability of various programs promoting the
8 efficient use of energy.

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

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

22 SEC. 4. Section 14836 of the Government Code is amended
23 to read:

24 14836. (a) The Legislature hereby declares that it serves a
25 public purpose, and it is of benefit to the state, to promote and
26 facilitate the fullest possible participation by all citizens in the
27 affairs of the State of California in every possible way. It is also
28 essential that opportunity is provided for full participation in our
29 free enterprise system by small business ~~enterprises~~ *enterprises*,
30 *which includes, but is not limited to, women-owned, LGBTQ+,*
31 *and “socially and economically disadvantaged individuals,” as*
32 *described in Section 26.67 of Title 49 of the Code of Federal*
33 *Regulations and by Section 8(a) of the Small Business Act of 1953.*

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

1 services for the ~~state~~ *state*, by stating that at least 25 percent of
2 *these purchases* be placed with these enterprises.

3 SEC. 5. Section 14837 of the Government Code is amended
4 to read:

5 14837. As used in this chapter:

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

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

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

10 (1) It is primarily engaged in the chemical or mechanical
11 transformation of raw materials or processed substances into new
12 products.

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

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

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

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

1 average annual gross receipts threshold shall be five million dollars
2 (\$5,000,000).

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

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

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

23 (A) A certified small business or microbusiness is deemed to
24 perform a commercially useful function if the business does all of
25 the following:

26 (i) Is responsible for the execution of a distinct element of the
27 work of the contract.

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

30 (iii) Performs work that is normal for its business services and
31 functions.

32 (iv) Is responsible, with respect to products, inventories,
33 materials, and supplies required for the contract, for negotiating
34 price, determining quality and quantity, ordering, installing, if
35 applicable, and making payment.

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

39 (B) A contractor, subcontractor, or supplier will not be
40 considered to perform a commercially useful function if the

1 contractor’s, subcontractor’s, or supplier’s role is limited to that
2 of an extra participant in a transaction, contract, or project through
3 which funds are passed in order to obtain the appearance of small
4 business or microbusiness participation.

5 (e) “Disabled veteran business enterprise” means an enterprise
6 that has been certified as meeting the qualifications established by
7 paragraph (7) of subdivision (b) of Section 999 of the Military and
8 Veterans Code.

9 (f) “*Socially and economically disadvantaged individuals*”
10 mean “*disadvantaged business enterprises*,” as described in
11 Section 26.67 of Title 49 of the Code of Federal Regulations and
12 by Section 8(a) of the Small Business Act of 1953.

13 SEC. 6. Section 14838 of the Government Code is amended
14 to read:

15 14838. In order to facilitate the participation of small business,
16 including microbusiness, in the provision of goods, information
17 technology, and services to the state, and in the ~~construction~~
18 ~~(including construction, including alteration, demolition, repair,~~
19 ~~or improvement)~~ *improvement*, of state facilities, the directors of
20 the department and other state agencies that enter those contracts,
21 each within their respective areas of responsibility, shall do all of
22 the following:

23 (a) (1) ~~Establish goals, a minimum goal of 25 percent, as is~~
24 ~~reasonable per scope of procurement need relative to free market~~
25 ~~availability to deliver the product, good, or service by a small,~~
26 ~~disadvantaged, or disabled veteran business enterprise, consistent~~
27 ~~with those established by the Office of Small Business and~~
28 ~~Disabled Veteran Business Enterprise Services, for the extent of~~
29 ~~participation of small businesses, including microbusinesses, in~~
30 ~~the provision of goods, information technology, and services to~~
31 ~~the state, and in the construction of state facilities.~~

32 (2) *By January 1, 2027, each state agency shall provide a*
33 *compliance report, relative to the 25-percent small, disadvantaged,*
34 *or disabled veteran business enterprise goal, to the Department*
35 *of General Services. This report shall include the percentage of*
36 *small, disadvantaged, or disabled veteran business enterprise state*
37 *procurement participation per legislative district.*

38 (3) *By December 31, 2027, the Director of General Services*
39 *shall testify to the Legislature on the effectiveness and outcomes*
40 *of the statewide compliance of the minimum 25-percent goal of*

1 *small, disadvantaged, or disabled veteran business enterprise*
2 *procurement participation.*

3 *(4) Thereafter, the Director of General Services shall annually*
4 *provide a written report to the Legislature on compliance with the*
5 *25-percent minimum goal of small, disadvantaged, or disabled*
6 *veteran business enterprise procurement participation, and subject*
7 *to a hearing on this matter, at the discretion of the Legislature.*

8 *(A) The requirement for submitting a report imposed under this*
9 *paragraph is inoperative on January 1, 2032, pursuant to Section*
10 *10231.5.*

11 *(B) A report to be submitted pursuant to this paragraph shall*
12 *be submitted in compliance with Section 9795.*

13 *(5) The failure of an agency to meet the minimum goal of 25*
14 *percent by January 1, 2027, shall result in the agency having an*
15 *audit conducted by the Department of General Services with a*
16 *subsequent report back to the Legislature as to reasons and*
17 *justifications for not meeting the goal, by no later than January*
18 *1, 2028. The context of the reporting shall, at minimum, consist*
19 *of a written report, complete with audit findings from the*
20 *Department of General Services, and may include hearings by,*
21 *and at the discretion of, the Legislature.*

22 *(b) Provide for small business preference, or nonsmall business*
23 *preference for bidders that provide for small business and*
24 *microbusiness subcontractor participation, in the award of contracts*
25 *for goods, information technology, services, and construction, as*
26 *follows:*

27 *(1) In solicitations where an award is to be made to the lowest*
28 *responsible bidder meeting specifications, the preference to small*
29 *business and microbusiness shall be 5 percent of the lowest*
30 *responsible bidder meeting specifications. The preference to*
31 *nonsmall business bidders that provide for small business or*
32 *microbusiness subcontractor participation shall be, up to a*
33 *maximum of 5 percent of the lowest responsible bidder meeting*
34 *specifications, determined according to rules and regulations*
35 *established by the Department of General Services.*

36 *(2) In solicitations where an award is to be made to the highest*
37 *scored bidder based on evaluation factors in addition to price, the*
38 *preference to small business or microbusiness shall be 5 percent*
39 *of the highest responsible bidder's total score. Additionally, the*
40 *preference to disadvantaged business enterprises shall be a*

1 *separate 5 percent of the highest responsible bidder's total score.*
2 The preference to nonsmall business bidders that provide for small
3 business or microbusiness subcontractor participation shall be up
4 to a maximum 5 percent of the highest responsible bidder's total
5 score, determined according to rules and regulations established
6 by the Department of General Services.

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

10 (4) The preference under paragraph (1) shall not exceed fifty
11 thousand dollars (\$50,000) for any bid, and the combined cost of
12 preferences granted pursuant to paragraph (1) and any other
13 provision of law shall not exceed one hundred thousand dollars
14 (\$100,000). In bids in which the state has reserved the right to
15 make multiple awards, this fifty thousand dollar (\$50,000)
16 maximum preference cost shall be applied, to the extent possible,
17 so as to maximize the dollar participation of small businesses,
18 including ~~microbusinesses~~, *microbusinesses and disadvantaged*
19 *business enterprises*, in the contract award.

20 (c) Give special consideration to small ~~businesses and~~
21 ~~microbusinesses~~ *businesses, microbusinesses, and disadvantaged*
22 *business enterprises* by both:

23 (1) Reducing the experience required.

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

25 (d) Give special assistance to small businesses and
26 microbusinesses in the preparation and submission of the
27 information requested in Section 14310.

28 (e) Under the authorization granted in Section 10163 of the
29 Public Contract Code, make awards, whenever feasible, to small
30 business and microbusiness bidders for each project bid upon
31 within their prequalification rating. This may be accomplished by
32 dividing major projects into subprojects so as to allow a small
33 business or microbusiness contractor to qualify to bid on these
34 subprojects.

35 (f) Small business and microbusiness bidders qualified in
36 accordance with this chapter shall have precedence over nonsmall
37 business bidders in that the application of a bidder preference for
38 which nonsmall business bidders may be eligible under this section
39 or any other provision of law shall not result in the denial of the
40 award to a small business or microbusiness bidder. In the event of

1 a precise tie between the low responsible bid of a bidder meeting
2 specifications of a small business or microbusiness, and the low
3 responsible bid of a bidder meeting the specifications of a disabled
4 veteran-owned small business or microbusiness, the contract shall
5 be awarded to the disabled veteran-owned small business or
6 microbusiness. This provision applies if the small business or
7 microbusiness bidder is the lowest responsible bidder, as well as
8 if the small business or microbusiness bidder is eligible for award
9 as the result of application of the small business and microbusiness
10 bidder preference granted by subdivision (b).

11 (g) If the directors of the department and other state agencies
12 that enter into those contracts are unable to reach the goals
13 established under subdivision (a) in the year in which the changes
14 made by the act that added this subdivision become operative, the
15 directors of the department and other state agencies may count
16 towards that goal, contracts with firms that would be considered
17 a small business or microbusiness under the amendments made to
18 Section 14837 by the act adding this subdivision. This subdivision
19 shall become operative on January 1, 2019.

20 SEC. 7. Section 14838.2 of the Government Code is amended
21 to read:

22 14838.2. The Legislature finds and declares all of the following:

23 (a) Market demand is a driving factor in determining profitability
24 of California companies and the ability of those companies to
25 invest in business growth.

26 ~~(b) Recent unemployment figures indicate that California's~~
27 ~~employment has declined by more than 420,000 jobs since the~~
28 ~~middle of 1990, with up to 133,000 of those jobs in the~~
29 ~~manufacturing sector.~~

30 *(b) The onset of COVID-19 and the subsequent economic*
31 *downturn and recession has laid bare considerable social and*
32 *economic inequities, and overall, nearly one-half of all small*
33 *businesses face permanent closure, with disadvantaged business*
34 *enterprises facing even higher foreclosure thresholds.*

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

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

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

8 SEC. 8. Section 14838.5 of the Government Code is amended
9 to read:

10 14838.5. (a) Notwithstanding the advertising, bidding, and
11 protest provisions of Chapter 6 (commencing with Section 14825)
12 of this part and Chapter 2 (commencing with Section 10290) and
13 Chapter 3 (commencing with Section 12100) of Part 2 of Division
14 2 of the Public Contract Code, a state agency may award a contract
15 for the acquisition of goods, services, or information technology
16 that has an estimated value of greater than five thousand dollars
17 (\$5,000), but less than two hundred fifty thousand dollars
18 (\$250,000), to a certified small business, including a microbusiness,
19 *disadvantaged business enterprise*, or to a disabled veteran business
20 enterprise, as long as the agency obtains price quotations from two
21 or more certified small businesses, including microbusinesses, or
22 from two or more disabled veterans business enterprises.

23 (b) In carrying out subdivision (a), a state agency shall consider
24 a responsive offer timely received from a responsible certified
25 small business, including a microbusiness, *disadvantaged business*
26 *enterprise*, or ~~from~~ a disabled veteran business enterprise.

27 (c) If the estimated cost to the state is less than five thousand
28 dollars (\$5,000) for the acquisition of goods, services, or
29 information technology, or a greater amount as administratively
30 established by the director, a state agency shall obtain at least two
31 price quotations from responsible suppliers whenever there is
32 reason to believe a response from a single source is not a fair and
33 reasonable price.

34 SEC. 9. Section 14839 of the Government Code is amended
35 to read:

36 14839. (a) There is hereby established within the department
37 the Office of Small Business and Disabled Veteran Business
38 Enterprise Services. The duties of the office shall include:

39 (1) Compiling and maintaining a comprehensive bidders list of
40 qualified small businesses and disabled veteran business

1 enterprises, and noting which small businesses also qualify as
2 microbusinesses.

3 (2) Coordinating with the Federal Small Business
4 Administration, the Minority Business Development Agency, the
5 California Disabled Veteran Business Enterprise Program
6 Advocate, appointed by the Secretary of the Department of
7 Veterans Affairs pursuant to Section 999.11 of the Military and
8 Veterans Code, and the Small Business Advocate, appointed by
9 the Governor pursuant to Section 12098.3.

10 (3) Providing technical and managerial aids to small businesses,
11 microbusinesses, and disabled veteran business enterprises, by
12 conducting workshops on matters in connection with government
13 procurement and contracting.

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

17 (5) Working with appropriate state, federal, local, and private
18 organizations and business enterprises in disseminating information
19 on bidding procedures and opportunities available to small
20 businesses, microbusinesses, and disabled veteran business
21 enterprises.

22 (6) Making recommendations to the department and other state
23 agencies for simplification of specifications and terms in order to
24 increase the opportunities for small business, microbusiness,
25 *disadvantaged business enterprise*, and disabled veteran business
26 enterprise participation.

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

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

38 (b) The information furnished by each contractor requesting a
39 small business or microbusiness preference shall be under penalty
40 of perjury.

1 SEC. 10. Section 14840 of the Government Code is amended
2 to read:

3 14840. (a) In the process of certifying and determining the
4 eligibility of a disabled veteran business ~~enterprise~~ *enterprise*,
5 *disadvantaged business enterprise*, or a small business enterprise,
6 including a microbusiness, the department shall require the
7 applicant or certified firm to submit a written declaration, under
8 penalty of perjury, that the information submitted to the department
9 pursuant to this chapter, and in the case of a disabled veteran
10 enterprise all information submitted to the department pursuant to
11 Section 999.2 of the Military and Veterans Code, is true and
12 correct. *The department, at its discretion, may apply relevant*
13 *federal certifications for the business categories referenced above,*
14 *including certifications from the federal Small Business*
15 *Administration and federal Department of Transportation, and in*
16 *the department's delineated procurement authority to other state*
17 *agencies.*

18 (b) (1) If the department determines that just cause exists, it
19 may require the owner of the disabled veteran business enterprise,
20 *disadvantaged business enterprise*, microbusiness, or small
21 business, the applicant, or the certified firm to complete and submit
22 to the department a federal Form 4506-T from the Internal Revenue
23 Service, United States Department of the Treasury, requesting a
24 transcript of a tax return.

25 (2) For the purposes of this subdivision, "just cause" means
26 either of the following circumstances exists:

27 (A) The department receives a complaint regarding the certified
28 firm.

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

33 SEC. 11. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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