

AMENDED IN ASSEMBLY JANUARY 16, 2004

AMENDED IN ASSEMBLY SEPTEMBER 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1592

**Introduced by Committee on Veterans Affairs (Parra (Chair),
Cohn, Kehoe, Matthews, Mullin, Nakano, Salinas, and Wiggins)**

February 21, 2003

An act to amend Section 14845 of the Government Code, and to amend Sections 999, 999.5, 999.7, 999.9, 999.11, and 999.12 of the Military and Veterans Code, relating to veterans.

LEGISLATIVE COUNSEL'S DIGEST

AB 1592, as amended, Committee on Veterans Affairs. California Disabled Veteran Business Enterprise Program.

~~Under~~

(1) *Under* existing law, state agencies and all other state entities contracting for materials, supplies, equipment, alteration, repair, or improvement are required to have at least 3% participation goals for disabled veteran business enterprises. Existing law requires the Department of Veterans Affairs and the awarding departments to appoint a Disabled Veteran Business Enterprise Program Advocate to assist in meeting the participation goals.

The bill would make specify that the Department of General Services is the administering agency of the California Disabled Veteran Business Enterprise Program *except in the case of contracts for professional bond services*, would specify the duties of the Department of General Services in meeting that requirement, would set standards for meeting

the program’s participation goals, and would impose reporting requirements regarding contracts ~~on state~~ entered into by awarding departments that participate in the program.

(2) Existing law makes it a misdemeanor to violate specified prohibitions relating to disabled veteran business enterprises.

This bill would specify that the identity of any person that provides information to the awarding department or the Department of General Services, regarding another person’s violation of these prohibitions or a provision of existing law relating to fraud and obstruction of justice in certifying minority, women, or disabled veteran business enterprises, is protected from disclosure under the California Public Records Act.

(3) Existing law requires the Department of General Services’ small business advocate to provide, at a minimum, specified services to small businesses.

This bill, instead, would require the department’s small business advocate to provide these services to certified small businesses and certified disabled veteran business enterprises.

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

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

1 SECTION 1. Section 14845 of the Government Code is
2 amended to read:

3 14845. Using existing resources, the Department of General
4 Services’ small business advocate shall, at a minimum, provide the
5 following services:

6 (a) Assist *certified* small businesses and *certified disabled*
7 *veteran business enterprises* by providing information regarding
8 all of the following:

9 (1) Identification of potential *certified* small business and
10 *certified disabled veteran business enterprise* subcontractors and
11 potential subcontracting opportunities.

12 (2) Solicitation protest procedures and timelines.

13 (3) Prompt payment procedures.

14 (b) Using existing resources, develop and maintain an outreach
15 and education program to assist *certified* small businesses and
16 *certified disabled veteran business enterprises* to establish the
17 California multiple award schedule. The department shall actively
18 promote the availability of *certified* small business and *certified*



1 *disabled veteran business enterprise* suppliers to deliver or
2 provide a broad range of goods and services to governmental
3 agencies through their participation in the California multiple
4 award schedule program established pursuant to Chapter 2
5 (commencing with Section 10290) of Part 2 of Division 2 of the
6 Public Contract Code and other types of contracts established by
7 state agencies for repetitively used and commonly needed goods
8 and services.

9 (c) Whenever the director consolidates the needs of multiple
10 state agencies and establishes a contract for repetitively purchased
11 or commonly needed goods or services, the director shall both
12 encourage bidders to utilize *certified* small business *and certified*
13 *disabled veteran business enterprise* suppliers and subcontractors,
14 and utilize multiple award methods whenever practicable to
15 further ensure that a fair proportion of needed goods and services
16 are obtained from *certified* small businesses *and certified disabled*
17 *veteran business enterprises*.

18 (d) Using existing resources, establish a training and
19 development program for acquisition professionals, including
20 methods for structuring solicitations to enhance the participation
21 of *certified* small businesses *and certified disabled veteran*
22 *business enterprises* in state contracting.

23 (e) Using existing resources, the department shall establish a
24 recognition and awards program for state employees who make an
25 outstanding contribution to the state's overall effort to increase the
26 level of *certified* small business participation in state contracting
27 *or certified disabled veteran business enterprise participation in*
28 *state contracting*.

29 (f) Prepare, and make available to the public, a directory of
30 *certified* small business *and certified disabled veteran business*
31 *enterprise* suppliers.

32 (g) In its review of state agency acquisitions, the department,
33 as applicable, shall identify areas where improvements in the level
34 of participation of *certified* small businesses *and certified disabled*
35 *veteran business enterprises* in state contracting can be achieved.

36 SEC. 2. Section 999 of the Military and Veterans Code is
37 amended to read:

38 999. ~~As~~ (a) The article shall be known as and may be cited
39 as the California Disabled Veteran Business Enterprise Program.

40 (b) As used in this article, the following definitions apply:



1 ~~(a)~~
 2 (1) “Administering agency” means the Treasurer in the case of
 3 contracts for professional bond services, and the Department of
 4 General Services’ Office of Small Business and Disabled Veteran
 5 Business Enterprise Services, in the case of contracts governed by
 6 Section 999.2.

7 ~~(b)~~
 8 (2) “Awarding department” means any state agency,
 9 department, governmental entity, or other officer or entity
 10 empowered by law to issue bonds or enter into contracts on behalf
 11 of the State of California.

12 ~~(c)~~
 13 (3) “Bonds” means bonds, notes, warrants, certificates of
 14 participation, and other evidences of indebtedness issued by or on
 15 behalf of the State of California.

16 ~~(d)~~
 17 (4) “Contract” includes any agreement or joint agreement to
 18 provide professional bond services to the State of California or an
 19 awarding department. “Contract” also includes any agreement or
 20 joint development agreement to provide labor, services, material,
 21 supplies, or equipment in the performance of a contract, franchise,
 22 concession, or lease granted, let, or awarded for and on behalf of
 23 the State of California.

24 ~~(e)(1)~~
 25 (5) (A) “Contractor” means any person or persons, regardless
 26 of race, color, creed, national origin, ancestry, sex, marital status,
 27 disability, religious or political affiliation, or age, or any sole
 28 proprietorship, firm, partnership, joint venture, corporation, or
 29 combination thereof who submits a bid and enters into a contract
 30 with a representative of a state agency, department, governmental
 31 entity, or other officer empowered by law to enter into contracts
 32 on behalf of the State of California. “Contractor” includes any
 33 provider of professional bond services who enters into a contract
 34 with an awarding department.

35 ~~(2)~~
 36 (B) “Disabled Veteran Business Enterprise contractor,
 37 subcontractor, or supplier” means any person or entity that has
 38 been certified by the administering agency pursuant to this article
 39 and that performs a “commercially useful function,” as defined



1 below, in providing services or goods that contribute to the
2 fulfillment of the contract requirements:

3 ~~(A)~~

4 (i) A person or an entity is deemed to perform a “commercially
5 useful function” if a person or entity does all of the following:

6 ~~(i)-(I)~~

7 (I) (aa) Is responsible for the execution of a distinct element
8 of the work of the contract.

9 ~~(II)~~

10 (ab) Carries out the obligation by actually performing,
11 managing, or supervising the work involved.

12 ~~(III)~~

13 (ac) Performs work that is normal for its business services and
14 functions.

15 ~~(ii)~~

16 (II) Is not further subcontracting a portion of the work that is
17 greater than that expected to be subcontracted by normal industry
18 practices.

19 ~~(B)~~

20 (ii) A contractor, subcontractor, or supplier will not be
21 considered to perform a commercially useful function if the
22 contractor’s, subcontractor’s, or supplier’s role is limited to that of
23 an extra participant in a transaction, contract, or project through
24 which funds are passed in order to obtain the appearance of
25 disabled veteran business enterprise participation.

26 ~~(f)~~

27 (6) “Disabled veteran” means a veteran of the military, naval,
28 or air service of the United States, including, but not limited to, the
29 Philippine Commonwealth Army, the Regular Scouts (“Old
30 Scouts”), and the Special Philippine Scouts (“New Scouts”), who
31 has at least a 10 percent service-connected disability and who is
32 domiciled in the State of California.

33 ~~(g)-(1)~~

34 (7) (A) “Disabled veteran business enterprise” means a
35 business certified by the administering agency as meeting all of the
36 following requirements:

37 ~~(A)~~

38 (i) It is a sole proprietorship at least 51 percent owned by one
39 or more disabled veterans or, in the case of a publicly owned
40 business, at least 51 percent of its stock is owned by one or more



1 disabled veterans; a subsidiary ~~which~~ *that* is wholly owned by a
2 parent corporation, but only if at least 51 percent of the voting
3 stock of the parent corporation is owned by one or more disabled
4 veterans; or a joint venture in which at least 51 percent of the joint
5 venture's management and control and earnings are held by one or
6 more disabled veterans.

7 ~~(B)~~

8 (ii) The management and control of the daily business
9 operations are by one or more disabled veterans. The disabled
10 veterans who exercise management and control are not required to
11 be the same disabled veterans as the owners of the business.

12 ~~(C)~~

13 (iii) It is a sole proprietorship, corporation, or partnership with
14 its home office located in the United States, which is not a branch
15 or subsidiary of a foreign corporation, foreign firm, or other
16 foreign-based business.

17 ~~(2)~~

18 (B) Notwithstanding ~~paragraph (1)~~ *subparagraph (A)*, after the
19 death or the certification of a permanent medical disability of a
20 disabled veteran who is a majority owner of a business that
21 qualified as a disabled veteran business enterprise prior to that
22 death or certification of a permanent medical disability, and solely
23 for purposes of any contract entered into before that death or
24 certification, that business shall be deemed to be a disabled veteran
25 business enterprise for a period not to exceed three years after the
26 date of that death or certification of a permanent medical disability,
27 if the business is inherited or controlled by the spouse or child of
28 that majority owner, or by both of those persons.

29 ~~(h)~~

30 (7) "Foreign corporation," "foreign firm," and
31 "foreign-based business" means a business entity that is
32 incorporated or has its principal headquarters located outside the
33 United States of America.

34 ~~(i)~~

35 (8) "Goal" means a numerically expressed objective that
36 awarding departments and contractors are required to make efforts
37 to achieve.

38 ~~(j)~~

39 (9) "Management and control" means effective and
40 demonstrable management of the business entity.



1 ~~(k)~~
2 (10) “Professional bond services” include services as financial
3 advisers, bond counsel, underwriters in negotiated transactions,
4 underwriter’s counsel, financial printers, feasibility consultants,
5 and other professional services related to the issuance and sale of
6 bonds.

7 SEC. 3. Section 999.5 of the Military and Veterans Code is
8 amended to read:

9 999.5. (a) The administering agency for the California
10 Disabled Veteran Business Enterprise Program shall be the
11 Department of General Services, except in the case of contracts for
12 professional bond services. The Department of General Services
13 shall consult with the State Disabled Veteran Business Enterprise
14 Program Advocate, appointed by the Department of Veteran’s
15 Affairs pursuant to Section 999.11, on all matters relating to the
16 California Disabled Veteran Business Enterprise Program. The
17 administering agency shall establish policies, rules, and
18 regulations that all awarding agencies shall follow in complying
19 with the California Disabled Veteran Business Enterprise
20 Program. The Department of Veterans Affairs shall establish a
21 method of monitoring adherence to the ~~goal~~ goals specified in
22 Section 999.1, including requiring a followup report from all
23 contractors upon the completion of any sale of bonds Sections
24 999.1 and 999.2.

25 (b) ~~The awarding department shall establish a method of~~
26 ~~monitoring adherence to the goals specified in Section 999.2~~
27 ~~administering agency shall have the authority to require awarding~~
28 ~~departments to withhold a portion of the payments to contractors~~
29 ~~if the State Disabled Veteran Business Enterprise Program~~
30 ~~Advocate for the awarding department determines that a~~
31 ~~contractor has failed to use disabled veteran business enterprises~~
32 ~~to the extent specified in the contract.~~

33 (c) The Department of Veterans Affairs shall promote the
34 California Disabled Veteran Business Enterprise Program to the
35 fullest extent possible and shall maintain complete records of its
36 outreach efforts and set up a system to track its effectiveness. This
37 system shall include regular, periodic surveys of newly certified
38 disabled veteran business enterprises to determine how they
39 learned of the program, why they became certified, and what their
40 experience with awarding departments has been.



1 ~~(c)~~
 2 (d) An awarding department shall not credit toward the
 3 department's 3 percent goal state funds expended on a contract
 4 with a disabled veteran business enterprise that does not meet and
 5 maintain the certification requirements.

6 ~~(d)~~
 7 (e) The administering agency shall adopt rules and regulations,
 8 including standards for good faith efforts, for the purpose of
 9 implementing this section. *The standards shall require bidders on*
 10 *state contracts to contact the administering agency for a list of*
 11 *certified disabled veteran business enterprises that are maintained*
 12 *by the Office of Small Business and Disabled Veteran Business*
 13 *Enterprise Services. Emergency regulations consistent with this*
 14 *section may be adopted.*

15 SEC. 4. Section 999.7 of the Military and Veterans Code is
 16 amended to read:

17 999.7. (a) ~~(1) On January~~ September 1 of each year, the
 18 *State Disabled Veteran Business Enterprise Program Advocate for*
 19 *each awarding department, appointed in accordance with Section*
 20 *999.12, shall report to the Governor, the Legislature, the*
 21 *Department of General Services, and the Department of Veterans*
 22 *Affairs deliver to the administering agency a report on the level of*
 23 *participation by disabled veteran business enterprises in contracts*
 24 *identified in this article for the previous fiscal year.*

25 ~~(2) If the awarding department has not met the established~~
 26 ~~goals for that year, the awarding department shall report to the~~
 27 ~~Legislature, the Department of General Services, and the~~
 28 ~~Department of Veterans Affairs the reasons for the awarding~~
 29 ~~department's inability to achieve the goals and shall identify steps~~
 30 ~~it shall take in an effort to achieve the goals.~~

31 (b) *The written report shall include the following information:*

32 (1) *The total number of contracts and the total contract dollars*
 33 *awarded by the department during the reporting period.*

34 (2) *The total number of contracts and the total contract dollars*
 35 *awarded by the department during the reporting year for contracts*
 36 *that were administratively exempted from certified disabled*
 37 *veteran business enterprise participation.*

38 (3) *The total number of contracts and the total contract dollars*
 39 *actually awarded by the department to certified disabled veteran*



1 *business enterprises either as prime contractors or subcontractors*
2 *during the reporting period.*

3 (4) *The percent of the department's total contract dollars*
4 *actually awarded to disabled veteran business enterprises either*
5 *as prime contractors or subcontractors during the reporting*
6 *period.*

7 (5) *The number of individual certified disabled veteran*
8 *business enterprises receiving awarded contract dollars and the*
9 *average amount received during the reporting period.*

10 (6) *The total contract dollars awarded by the department*
11 *during the previous three fiscal years.*

12 (7) *The total contract dollars awarded by the department to*
13 *disabled veteran business enterprises either as prime contractors*
14 *or subcontractors, during the previous three fiscal years.*

15 (8) *The percent of total contract dollars awarded by the*
16 *department during the previous three fiscal years to certified*
17 *disabled veteran business enterprises either as prime contractors*
18 *or subcontractors.*

19 (c) *If the established 3 percent goals for disabled veteran*
20 *business enterprise participation in state contracts is not met by*
21 *the awarding department during the reporting period, the report*
22 *shall describe in detail all of the following:*

23 (1) *The reasons for the awarding department's inability to*
24 *achieve the 3 percent goal including the reasons given by*
25 *department director or next highest ranking official for*
26 *administratively waiving disabled veteran business enterprise*
27 *participation on any contracts awarded by the department during*
28 *the reporting period.*

29 (2) *The steps the department will take during the following*
30 *reporting period to achieve the 3 percent goal.*

31 (d) (1) ~~On April~~ *January 1 of each year, the Department of*
32 *General Services shall prepare for deliver to the Governor, the*
33 *Legislature, and the Department of Veterans Affairs a statewide*
34 *statistical summary detailing each awarding department's goal*
35 *achievement and a statewide total of those goals. State Disabled*
36 *Veteran Business Enterprise Program Advocate, a report that*
37 *summarizes the reports specified in subdivision (a).*

38 (2) *The report shall be prepared in consultation with the State*
39 *Disabled Veteran Business Enterprise Program Advocate in the*



1 *Department of Veterans Affairs. The report shall have three*
2 *sections, as follows:*

3 (A) *The first section shall list, by state department, the*
4 *awarding departments that have submitted the information*
5 *prescribed in subdivision (a); those state departments that have*
6 *not submitted the information prescribed in subdivision (a); those*
7 *state departments that have completed implementation of their*
8 *plan to improve disabled veteran business enterprise*
9 *participation; and those state departments that have not*
10 *completed implementation of their plan to improve disabled*
11 *veteran business enterprise participation.*

12 (B) *The second section shall detail each awarding*
13 *department's goal achievement and a statewide total of those*
14 *goals. This section shall be formatted to be an aggregation of all*
15 *of the statistical information prepared by the State Disabled*
16 *Veteran Business Enterprise Program Advocates for all awarding*
17 *departments as submitted to the administering agency as*
18 *described in paragraphs (1) to (8), inclusive, of subdivision (a).*

19 (C) *The third section shall include a summary of the*
20 *information prescribed in paragraphs (1), (2), and (3) of*
21 *subdivision (a), an analysis of that information, and recommended*
22 *specific actions the administering agency can take to require the*
23 *accurate reporting of all awarding departments and to improve*
24 *statewide attainment of the 3 percent disabled veteran business*
25 *enterprise participation goal during the following reporting*
26 *period. These recommendations shall not be limited and may*
27 *include recommendations to provide for negotiated disabled*
28 *veteran business enterprise participation goal attainment for*
29 *specified awarding departments.*

30 *SEC. 5. Section 999.9 of the Military and Veterans Code is*
31 *amended to read:*

32 999.9. (a) *It shall be unlawful for a person to do any of the*
33 *following:*

34 (1) *Knowingly and with intent to defraud, fraudulently obtain,*
35 *retain, attempt to obtain or retain, or aid another in fraudulently*
36 *obtaining or retaining or attempting to obtain or retain,*
37 *certification as a disabled veteran business enterprise for the*
38 *purpose of this article.*

39 (2) *Willfully and knowingly make a false statement with the*
40 *intent to defraud, whether by affidavit, report, or other*



1 representation, to a state official or employee for the purpose of
2 influencing the certification or denial of certification of any entity
3 as a disabled veteran business enterprise.

4 (3) Willfully and knowingly obstruct, impede, or attempt to
5 obstruct or impede, any state official or employee who is
6 investigating the qualifications of a business entity that has
7 requested certification as a disabled veteran business enterprise.

8 (4) Knowingly and with intent to defraud, fraudulently obtain,
9 attempt to obtain, or aid another person in fraudulently obtaining
10 or attempting to obtain, public moneys, contracts, or funds
11 expended under a contract, that are awarded by any state agency,
12 department, officer, or other state governmental agency, to which
13 the person is not entitled under this article.

14 (5) Knowingly and with intent to defraud, fraudulently
15 represent participation of a disabled veteran business enterprise in
16 order to obtain or retain a bid preference or a state contract.

17 (6) Willfully and knowingly make or subscribe to any
18 statement, declaration, or other document that is fraudulent or
19 false as to any material matter, whether or not that falsity or fraud
20 is committed with the knowledge or consent of the person
21 authorized or required to present the declaration, statement, or
22 document.

23 (7) Willfully and knowingly aid or assist in, or procure,
24 counsel, or advise, the preparation or presentation of a declaration,
25 statement, or other document that is fraudulent or false as to any
26 material matter, regardless of whether that falsity or fraud is
27 committed with the knowledge or consent of the person authorized
28 or required to present the declaration, statement, or document.

29 (8) Willfully and knowingly fail to file any declaration or
30 notice with the awarding agency that is required by Section 999.2.

31 (9) Establish, or knowingly aid in the establishment of, or
32 exercise control over, a firm found to have violated any of
33 paragraphs (1) to (8), inclusive.

34 (b) Any person who violates any of the provisions of
35 subdivision (a) shall be guilty of a misdemeanor punishable by
36 imprisonment in the county jail not exceeding six months or by a
37 fine not exceeding one thousand dollars (\$1,000), or by both. In
38 addition, the person shall be liable for a civil penalty of not less
39 than ten thousand dollars (\$10,000) nor more than thirty thousand
40 dollars (\$30,000) for the first violation, and a civil penalty of not



1 less than thirty thousand dollars (\$30,000) nor more than fifty
2 thousand dollars (\$50,000) for each additional or subsequent
3 violation. A defendant who violates any of the provisions of
4 subdivision (a) shall pay all costs and attorney's fees incurred by
5 the plaintiff in a civil action brought pursuant to this section.

6 (c) (1) The Department of General Services shall suspend any
7 person who violates subdivision (a) from bidding on, or
8 participating as either a contractor, subcontractor, or supplier in,
9 any state contract or project for a period of not less than three years,
10 and if certified as a disabled veteran business enterprise, the
11 department shall revoke the business' certification for a period of
12 not less than three years. An additional or subsequent violation
13 shall extend the periods of suspension and revocation for a period
14 of not less than five years. The suspension and revocation shall
15 apply to the principals of the business and any subsequent business
16 formed or financed by, or affiliated with, those principals.

17 (2) The Department of General Services shall prohibit any
18 business or person who fails to satisfy the penalties, costs, and
19 attorney's fees imposed pursuant to subdivision (b) from further
20 contracting with the state until the penalties are satisfied.

21 (d) *The identity of any person that provides information to the*
22 *awarding department or the Department of General Services*
23 *regarding another person's violation of this section, or Section*
24 *10115.10 of the Public Contract Code with respect to disabled*
25 *veteran business enterprise certification or participation, shall be*
26 *protected from disclosure under the California Public Records Act*
27 *(Chapter 3.5 (commencing with Section 6250) of Division 7 of the*
28 *Government Code).*

29 (e) The awarding department shall report all alleged violations
30 of this section to the Department of General Services. The
31 Department of General Services shall subsequently report all
32 alleged violations to the Attorney General who shall determine
33 whether to bring a civil action against any person or firm for
34 violation of this section.

35 ~~(e)~~

36 (f) The Department of General Services shall monitor the status
37 of all reported violations and shall maintain and make available to
38 all state departments a central listing of all firms and persons who
39 have been determined to have committed violations resulting in
40 suspension.



1 ~~(f)~~

2 (g) No awarding department shall enter into any contract with
3 any person suspended for violating this section during the period
4 of the person’s suspension. No awarding department shall award
5 a contract to any contractor utilizing the services of any person as
6 a subcontractor suspended for violating this section during the
7 period of the person’s suspension.

8 ~~(g)~~

9 (h) The awarding department shall check the central listing
10 provided by the Department of General Services to verify that the
11 person or contractor to whom the contract is being awarded, or any
12 person being utilized as a subcontractor or supplier by that person
13 or contractor, is not under suspension for violating this section.

14 ~~Section 999 of the Military and Veterans Code is amended to read:~~

15 ~~999. — This article may be cited as the California Disabled~~
16 ~~Veteran Business Enterprise Program. As used in this article, the~~
17 ~~following definitions apply:~~

18 ~~(a) “Administering agency” means the Treasurer in the case of~~
19 ~~contracts for professional bond services, and the Department of~~
20 ~~General Services’ Office of Small Business Certification and~~
21 ~~Resources, formerly known as the Office of Small and Minority~~
22 ~~Business, in the case of contracts governed by Section 999.2.~~

23 ~~(b) “Awarding department” means any state agency,~~
24 ~~department, governmental entity, or other officer or entity~~
25 ~~empowered by law to issue bonds or enter into contracts on behalf~~
26 ~~of the State of California.~~

27 ~~(c) “Bonds” means bonds, notes, warrants, certificates of~~
28 ~~participation, and other evidences of indebtedness issued by or on~~
29 ~~behalf of the State of California.~~

30 ~~(d) “Contract” includes any agreement or joint agreement to~~
31 ~~provide professional bond services to the State of California or an~~
32 ~~awarding department. “Contract” also includes any agreement or~~
33 ~~joint development agreement to provide labor, services, material,~~
34 ~~supplies, or equipment in the performance of a contract, franchise,~~
35 ~~concession, or lease granted, let, or awarded for and on behalf of~~
36 ~~the State of California.~~

37 ~~(e) “Contractor” means any person or persons, regardless of~~
38 ~~race, color, creed, national origin, ancestry, sex, marital status,~~
39 ~~disability, religious or political affiliation, or age, or any sole~~
40 ~~proprietorship, firm, partnership, joint venture, corporation, or~~



1 combination thereof who submits a bid and enters into a contract
2 with a representative of a state agency, department, governmental
3 entity, or other officer empowered by law to enter into contracts
4 on behalf of the State of California. “Contractor” includes any
5 provider of professional bond services who enters into a contract
6 with an awarding department.

7 (f) ~~“Disabled veteran” means a veteran of the military, naval,~~
8 ~~or air service of the United States, including, but not limited to, the~~
9 ~~Philippine Commonwealth Army, the Regular Scouts (“Old~~
10 ~~Scouts”), and the Special Philippine Scouts (“New Scouts”), with~~
11 ~~a service-connected disability who is a resident of the State of~~
12 ~~California.~~

13 (g) (1) ~~“Disabled veteran business enterprise” means a~~
14 ~~business concern certified by the administering agency as meeting~~
15 ~~all of the following requirements:~~

16 (A) ~~It is a sole proprietorship at least 51 percent owned by one~~
17 ~~or more disabled veterans or, in the case of a publicly owned~~
18 ~~business, at least 51 percent of its stock is owned by one or more~~
19 ~~disabled veterans; a subsidiary that is wholly owned by a parent~~
20 ~~corporation, but only if at least 51 percent of the voting stock of~~
21 ~~the parent corporation is owned by one or more disabled veterans;~~
22 ~~or a joint venture in which at least 51 percent of the joint venture’s~~
23 ~~management and control and earnings are held by one or more~~
24 ~~disabled veterans.~~

25 (B) ~~The management and control of the daily business~~
26 ~~operations are by one or more disabled veterans who are rated by~~
27 ~~the United States Department of Veterans Affairs as being at least~~
28 ~~10 percent disabled. The disabled veterans who exercise~~
29 ~~management and control are not required to be the same disabled~~
30 ~~veterans as the owners of the business concern.~~

31 (C) ~~It is a sole proprietorship, corporation, or partnership with~~
32 ~~its home office located in the United States, which is not a branch~~
33 ~~or subsidiary of a foreign corporation, foreign firm, or other~~
34 ~~foreign-based business.~~

35 (2) ~~Notwithstanding paragraph (1), after the death or the~~
36 ~~certification of a permanent medical disability of a disabled~~
37 ~~veteran who is a majority owner of a business concern that~~
38 ~~qualified as a disabled veteran business enterprise prior to that~~
39 ~~death or certification of a permanent medical disability, and solely~~
40 ~~for purposes of any contract entered into before that death or~~



1 ~~certification, that business concern shall be deemed to be a~~
2 ~~disabled veteran business enterprise for a period not to exceed~~
3 ~~three years after the date of that death or certification of a~~
4 ~~permanent medical disability, if the business concern is inherited~~
5 ~~or controlled by the spouse or child of that majority owner, or by~~
6 ~~both of those persons.~~

7 ~~(h) “Foreign corporation,” “foreign firm,” and~~
8 ~~“foreign-based business” means a business entity that is~~
9 ~~incorporated or has its principal headquarters located outside the~~
10 ~~United States of America.~~

11 ~~(i) “Goal” means a numerically expressed objective that~~
12 ~~awarding departments and contractors are required to make efforts~~
13 ~~to achieve.~~

14 ~~(j) “Management and control” means effective and~~
15 ~~demonstrable management of the business entity.~~

16 ~~(k) “Professional bond services” include services as financial~~
17 ~~advisers, bond counsel, underwriters in negotiated transactions,~~
18 ~~underwriter’s counsel, financial printers, feasibility consultants,~~
19 ~~and other professional services related to the issuance and sale of~~
20 ~~bonds.~~

21 ~~SEC. 2. Section 999.5 of the Military and Veterans Code is~~
22 ~~amended to read:~~

23 ~~999.5. (a) The administering agency for the California~~
24 ~~Disabled Veteran Business Enterprise Program shall be the~~
25 ~~Department of General Services. The Department of General~~
26 ~~Services shall consult with the State Disabled Veteran Business~~
27 ~~Enterprise Program Advocate, appointed by the Department of~~
28 ~~Veterans Affairs pursuant to Section 999.11, on all matters relating~~
29 ~~to the California Disabled Veteran Business Enterprise Program.~~
30 ~~The administering agency shall establish policies, rules, and~~
31 ~~regulations that all awarding agencies shall follow in complying~~
32 ~~with the California Disabled Veteran Business Enterprise~~
33 ~~Program. The Department of Veterans Affairs shall establish a~~
34 ~~method of monitoring adherence to the goals specified in Sections~~
35 ~~999.1 and 999.2.~~

36 ~~(b) The administering agency shall have the authority to~~
37 ~~require awarding departments to withhold a portion of the~~
38 ~~payments to contractors if the State Disabled Veteran Business~~
39 ~~Enterprise Program Advocate for the awarding department~~



1 ~~determines that a contractor has failed to use disabled veteran~~
2 ~~business enterprises to the extent specified in the contract.~~

3 ~~(c) The administering agency shall promote the California~~
4 ~~Disabled Veteran Business Enterprise Program to the fullest extent~~
5 ~~possible, including, but not limited to, aggressively exploring~~
6 ~~outreach opportunities with the United States Department of~~
7 ~~Veterans Affairs, and organizations such as the American Legion,~~
8 ~~Disabled American Veterans, Veterans of Foreign Wars, and~~
9 ~~Vietnam Veterans of America. It shall also cultivate a clear~~
10 ~~working relationship with county veteran service officers and~~
11 ~~recognized in-state organizations comprised of disabled veteran~~
12 ~~business enterprises including the California Disabled Veteran~~
13 ~~Business Enterprise Program Alliance. The administering agency~~
14 ~~shall maintain complete records of its outreach efforts and set up~~
15 ~~a system to track its effectiveness. This system shall include~~
16 ~~regular, periodic surveys of newly certified disabled veteran~~
17 ~~business enterprises to determine how they learned of the program,~~
18 ~~why they became certified, and what their experience with~~
19 ~~awarding departments has been.~~

20 ~~(d) The administering agency shall adopt rules and regulations,~~
21 ~~including standards for good faith efforts for the purpose of~~
22 ~~implementing this section. The standards shall require bidders on~~
23 ~~state contracts to contact the administering agency for a list of~~
24 ~~certified disabled veteran business enterprises that are maintained~~
25 ~~by the Office of Small Business Certification and Resources.~~
26 ~~Emergency regulations consistent with this section may be~~
27 ~~adopted.~~

28 ~~SEC. 3. Section 999.7 of the Military and Veterans Code is~~
29 ~~amended to read:~~

30 ~~999.7. (a) Notwithstanding Section 7550.5 of the~~
31 ~~Government Code, on January 1 of each year, the State Disabled~~
32 ~~Veteran Business Enterprise Program Advocate for each awarding~~
33 ~~department, appointed in accordance with Section 999.12, shall~~
34 ~~deliver to the administering agency, the Office of Small Business~~
35 ~~Certification and Resources, and the State Disabled Veteran~~
36 ~~Business Enterprise Program Advocate a report on the level of~~
37 ~~participation by disabled veteran business enterprises in contracts~~
38 ~~identified in this article for the previous fiscal year. The written~~
39 ~~report shall include the following information:~~



1 ~~(1) The total number of contracts and the total number of~~
2 ~~contract dollars awarded by the department during the reporting~~
3 ~~period.~~

4 ~~(2) The total number of contracts and the total number of~~
5 ~~contract dollars awarded by the department during the reporting~~
6 ~~year for contracts which exempted certified disabled veteran~~
7 ~~business enterprise participation.~~

8 ~~(3) The total of number of contracts and the total number of~~
9 ~~contract dollars actually awarded by the department to certified~~
10 ~~disabled veterans business enterprises during the reporting period.~~

11 ~~(4) The percent of the department's total contract dollars~~
12 ~~actually awarded to disabled veterans business enterprises during~~
13 ~~the reporting period.~~

14 ~~(5) The number of individual certified disabled veteran~~
15 ~~business enterprises receiving awarded contract dollars and the~~
16 ~~average amount received during the reporting period.~~

17 ~~(6) The total of contract dollars awarded by the department~~
18 ~~during the previous three fiscal years.~~

19 ~~(7) The total of contract dollars awarded by the department to~~
20 ~~disabled veteran business enterprises during the previous three~~
21 ~~fiscal years.~~

22 ~~(8) The percent of total contract dollars awarded by the~~
23 ~~department during the previous three fiscal years to certified~~
24 ~~disabled veterans business enterprises.~~

25 ~~(b) If the established 3 percent goal for disabled veteran~~
26 ~~business enterprise participation in state contracts is met by the~~
27 ~~awarding department during the reporting period, the report shall~~
28 ~~describe in detail the special steps, if any, that the awarding~~
29 ~~department took during the reporting period to achieve the 3~~
30 ~~percent disabled veteran business enterprise participation goal. If~~
31 ~~the established 3 percent goals for disabled veteran business~~
32 ~~enterprise participation in state contracts is not met by the~~
33 ~~awarding department during the reporting period, the report shall~~
34 ~~describe in detail:~~

35 ~~(1) The reasons for the awarding department's inability to~~
36 ~~achieve the 3 percent goal including the reasons given by chief~~
37 ~~deputy director for waiving disabled veteran business enterprise~~
38 ~~participation on any contracts awarded by the department during~~
39 ~~the reporting period.~~



1 ~~(2) The steps the department will take during the following~~
2 ~~reporting period to achieve the 3 percent goal.~~

3 ~~(3) The estimated date on which the implementation of those~~
4 ~~steps to meet the 3 percent goal shall be completed.~~

5 ~~(e) (1) Notwithstanding Section 7550.5 of the Government~~
6 ~~Code, on April 1 of each year, the administering agency's Office~~
7 ~~of Small Business Certification and Resources shall deliver to the~~
8 ~~Governor, the Legislature, and the State Disabled Veteran~~
9 ~~Business Enterprise Program Advocate, and all directors or~~
10 ~~executive secretaries, as applicable, of all state departments, a~~
11 ~~report that summarizes the reports specified in subdivision (a).~~

12 ~~(2) The report shall be prepared in consultation with the State~~
13 ~~Disabled Veteran Business Enterprise Program Advocate in the~~
14 ~~Department of Veterans Affairs. The report shall have three~~
15 ~~sections, as follows:~~

16 ~~(A) The first section shall list, by state department, the~~
17 ~~awarding departments that have submitted the information~~
18 ~~prescribed in subdivision (a); those state departments that have not~~
19 ~~submitted the information prescribed in subdivision (a); those~~
20 ~~state departments that have completed implementation of their~~
21 ~~plan to improve disabled veteran business enterprise participation;~~
22 ~~and those state departments that have not completed~~
23 ~~implementation of their plan to improve disabled veteran business~~
24 ~~enterprise participation.~~

25 ~~(B) The second section shall detail each awarding department's~~
26 ~~goal achievement and a statewide total of those goals. This section~~
27 ~~shall be formatted to be an aggregation of all of the statistical~~
28 ~~information prepared by the Disabled Veteran Business Enterprise~~
29 ~~Program Advocates for all awarding departments as submitted to~~
30 ~~the Office of Small Business Certification and Resources as~~
31 ~~described in paragraphs (1) to (8), inclusive of subdivision (a).~~

32 ~~(C) The third section shall include a summary of the~~
33 ~~information prescribed in paragraphs (1), (2), and (3) of~~
34 ~~subdivision (a), an analysis of that information, and recommended~~
35 ~~specific actions the administering agency can take to require the~~
36 ~~accurate reporting of all awarding departments and to improve~~
37 ~~statewide attainment of the 3 percent disabled veteran business~~
38 ~~enterprise participation goal during the following reporting~~
39 ~~period. These recommendations shall not be limited and may~~
40 ~~include recommendations to provide for negotiated disabled~~



1 ~~veteran business enterprise participation goal attainment for~~
2 ~~specified awarding departments.~~

3 ~~SEC. 4.—~~

4 *SEC. 6.* Section 999.11 of the Military and Veterans Code is
5 amended to read:

6 999.11. The Secretary of the Department of Veterans Affairs
7 shall appoint the State Disabled Veteran Business Enterprise
8 Program Advocate. The State Disabled Veteran Business
9 Enterprise Program Advocate shall report directly to the secretary
10 and shall do all of the following:

11 (a) Oversee, promote, and coordinate efforts to facilitate
12 implementation of this article.

13 (b) Disseminate information on this article.

14 (c) Coordinate reports pursuant to Section 999.7.

15 (d) Coordinate with administering agencies and existing and
16 potential disabled veteran business enterprises to achieve the goals
17 specified in Sections 999.1 and 999.2.

18 (e) Coordinate with the State Disabled Veteran Business
19 Enterprise Program Advocate appointed in all awarding
20 departments pursuant to Section 999.12.

21 ~~SEC. 5.—~~

22 *SEC. 7.* Section 999.12 of the Military and Veterans Code is
23 amended to read:

24 999.12. Each awarding department shall appoint an agency
25 State Disabled Veteran Business Enterprise Program Advocate.

26 This person shall be the same individual appointed pursuant to
27 Section 14846 of the Government Code. The *agency* State
28 Disabled Veteran Business Enterprise Program Advocate shall do
29 all of the following:

30 (a) Assist certified disabled veteran business enterprises in
31 participating in that agency's contracting process.

32 (b) Assist contract officers in seeking disabled veteran business
33 enterprises to participate in the agency's contract and procurement
34 activities by performing good faith efforts to recruit disabled
35 veteran business enterprises to offer their services as either a prime
36 contractor or subcontractor on any contract proposed by the
37 awarding department which requires disabled veteran business
38 enterprise participation, and by other feasible means.

39 (c) Meet regularly with the State Disabled Veteran Business
40 Enterprise *Program* Advocate and contract and procurement



1 staffs of their departments to disseminate information about the
2 ~~disabled veterans business enterprise program.~~ — *California*
3 *Disabled Veteran Business Enterprise Program.*

4 (d) Serve as an advocate for the disabled veteran business
5 enterprises that are utilized or are proposed to be utilized as the
6 agency’s contractors or subcontractors by verifying all California
7 Disabled Veteran Business Enterprise Program information
8 submitted to the awarding department pertaining to bidders’
9 fulfillment of contract ~~requirement~~—*requirements* for disabled
10 veteran business enterprise participation prior to the award of such
11 contracts, by participating in the department’s decisionmaking on
12 the award of contracts which require disabled veteran business
13 enterprise participation, and by monitoring ~~contractors~~
14 *contractors’* use of disabled veteran business enterprise
15 subcontractors on awarded contracts and recommending to the
16 awarding department’s ~~head~~—*director or next highest ranking*
17 *official*, the Office of Small Business ~~Certification and Resources~~
18 *and Disabled Veteran Business Enterprise Services* in the
19 administering agency, and the State Disabled Veteran Business
20 Enterprise Program Advocate in the Department of Veterans
21 Affairs that payments to contractors be withheld when they fail to
22 use disabled veteran business enterprises to *the* extent specified in
23 their contracts.

24 (e) Report to the Office of Small Business ~~Certification and~~
25 ~~Resources~~— *and Disabled Veteran Business Enterprise Services*
26 regarding any violation of this article.

27 (f) Coordinate and meet, on a regular basis, with the State
28 Disabled Veteran Business Enterprise Program Advocate at the
29 Department of Veterans Affairs in an effort to meet the statewide
30 3-percent goal provided for in Section 999.2.

