

AMENDED IN SENATE JUNE 19, 2012

AMENDED IN ASSEMBLY JANUARY 10, 2012

AMENDED IN ASSEMBLY MAY 19, 2011

AMENDED IN ASSEMBLY MAY 11, 2011

AMENDED IN ASSEMBLY MARCH 21, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 53

**Introduced by Assembly Member Solorio
(Coauthors: Assembly Members Davis, Furutani, Mendoza, and
Portantino)**

(Coauthor: Senator Price)

December 6, 2010

An act to add Article 10.2 (commencing with Section 927) to Chapter 1 of Part 2 of Division 1 of the Insurance Code, relating to insurers.

LEGISLATIVE COUNSEL'S DIGEST

AB 53, as amended, Solorio. Insurers: procurement contracts: minority, women, and disabled veteran business enterprises.

Existing law requires each admitted insurer to provide information to the Insurance Commissioner on all of its community development investments and community development infrastructure investments in California.

This bill would require that each admitted insurer with premiums written equal to or in excess of \$100,000,000 submit to the commissioner, by July 1, ~~2012~~ 2013, a report on its minority, women, and disabled veteran-owned business procurement efforts, as specified.

The bill would provide that the failure to file the report by July 1, ~~2012~~ 2013, subjects the admitted insurer to civil penalties to be fixed by the commissioner, as provided.

The bill would require, among other things, that commencing July 1, ~~2014~~ 2015, each eligible admitted insurer biennially update its supplier diversity report and submit a new report, containing additional elements, to the commissioner no later than July 1.

The bill would require that, by July 31, ~~2012~~ 2013, the commissioner establish and maintain a link on the department’s Internet Web site that provides public access to the contents of each admitted insurer’s report on minority, women, and disabled veteran-owned business procurement efforts.

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. Article 10.2 (commencing with Section 927) is
2 added to Chapter 1 of Part 2 of Division 1 of the Insurance Code,
3 to read:

4
5 Article 10.2. Minority, Women, and Disabled Veteran Business
6 Enterprises
7

8 927. The Legislature finds and declares all of the following:

9 (a) It is in the state’s interest to encourage competitive business
10 opportunities for all of its people. Insurers are uniquely positioned
11 to build relationships within the communities they serve through
12 the development, inclusion, and utilization of certified minority,
13 women, and disabled veteran-owned business enterprises whenever
14 possible. National companies are able to leverage buying power
15 to save costs to the benefit of policyholders.

16 (b) By providing that each major insurer submit to the Insurance
17 Commissioner a report explaining the insurer’s supplier diversity
18 statement and expressing its goals regarding certified minority,
19 women, and disabled veteran-owned business enterprises, and the
20 commissioner placing that information on the department’s Internet
21 Web site, that online resource will help facilitate these supplier
22 relationships.

1 927.1. For the purposes of this article, the following definitions
2 apply:

3 (a) “Control” means to exercise the power to make policy
4 decisions.

5 (b) “Disabled veteran business enterprise” has the same meaning
6 as defined in subparagraph (A) of paragraph (7) of subdivision (b)
7 of Section 999 of the Military and Veterans Code, or any successor
8 provision. Disabled—veterans *veteran* business enterprise
9 certification eligibility requirements shall be consistent with those
10 imposed by the Department of General Services, and this section
11 applies only to those disabled veteran business enterprises certified
12 by the Department of General Services.

13 (c) “Minority business enterprise” means a business enterprise,
14 physically located in the United States or its trust territories, that
15 is at least 51 percent owned by a minority group or groups, or, in
16 the case of any publicly owned business, at least 51 percent of the
17 stock of which is owned by one or more minority groups, and
18 whose management and daily business operations are controlled
19 by one or more of those individuals. “Minority” includes African
20 Americans, Hispanic Americans, Native Americans, and Asian
21 Pacific Americans who provide proof of United States citizenship
22 or legal resident alien status.

23 (d) “Operate” means to be actively involved in the day-to-day
24 management of the enterprise and not to be merely officers or
25 directors.

26 (e) “Women business enterprise” means a business enterprise
27 physically located in the United States or its trust territories, that
28 is at least 51 percent owned by a woman or women, or, in the case
29 of any publicly owned business at least 51 percent of the stock of
30 which is owned by one or more women, and whose management
31 and daily business operations are controlled by one or more of
32 those individuals, who provide proof of United States citizenship
33 or legal resident alien status.

34 927.2. (a) (1) By July 1, ~~2012~~ 2013, each admitted insurer,
35 with *California* premiums written of one hundred million dollars
36 (\$100,000,000) or more, shall submit a report to the commissioner
37 on its minority, women, and disabled veteran-owned business
38 procurement efforts during the reporting period.

39 (2) The report shall include all of the following:

40 (A) The insurer’s supplier diversity policy statement.

- 1 (B) The insurer’s outreach and communications to minority,
2 women, and disabled veteran business enterprises, including:
- 3 (i) How the insurer encourages and seeks out minority, women,
4 and disabled veteran owned business enterprises to become
5 potential suppliers.
- 6 (ii) How the insurer encourages its employees involved in
7 procurement to seek out minority, women, and disabled
8 veteran-owned business enterprises to become potential suppliers.
- 9 (iii) How the insurer conducts outreach and communication to
10 minority, women, and disabled veteran business enterprises.
- 11 (iv) How the insurer supports organizations that promote or
12 certify minority, women, and disabled veteran-owned business
13 enterprises.
- 14 (v) Information regarding appropriate contacts at the insurer for
15 interested business enterprises.
- 16 (C) The report shall include information about which
17 procurements are made from minority, women, and disabled
18 veteran business enterprises with at least a majority of the
19 enterprise’s workforce in California, *with each category aggregated*
20 *separately*, to the extent that information is readily accessible. *An*
21 *insurer may also include other relevant information in the report.*
- 22 (3) *An insurer that does not enter into contracts to procure*
23 *goods or services in California satisfies the requirements of*
24 *paragraph (2) by filing a statement with the commissioner attesting*
25 *that it does not enter into procurement contracts in California.*
- 26 (b) Nothing in this section shall be construed to require quotas,
27 set-asides, or preferences in an admitted insurer’s procurement of
28 goods or services, nor does this section apply to insurer producer
29 or licensee contracts. Admitted insurers retain the authority to use
30 business judgment to select the supplier for a particular contract.
- 31 (c) Nothing in this section shall preclude an admitted insurer
32 that is a member of an insurance holding company system, as
33 defined in Article 4.7 (commencing with Section 1215) of Chapter
34 2, from complying with paragraphs (1) and (2) of subdivision (a)
35 through a single filing on behalf of the entire group of affiliated
36 companies.
- 37 (d) Failure to file the report required by subdivision (a), by July
38 1, ~~2012~~ 2013, shall subject the admitted insurer to a civil penalty
39 to be fixed by the commissioner, not to exceed five thousand
40 dollars (\$5,000), or if the act or practice was willful, a civil penalty

1 not to exceed ten thousand dollars (\$10,000). *An insurer may*
 2 *request, and the commissioner may grant, a 30-day extension to*
 3 *file the report if needed due to unintended or unforeseen delays.*
 4 If the insurer has failed to file the report within 30 days of a written
 5 notice by the commissioner *that the insurer has failed to file the*
 6 *report*, the commissioner may find that the failure to file the report
 7 was willful and increase the civil penalty to an amount not to
 8 exceed ten thousand dollars (\$10,000). The penalty imposed by
 9 this section is appealable by means of any remedy provided by
 10 Section 12940, or by Chapter 5 (commencing with Section 11500)
 11 of Part 1 of Division 3 of Title 2 of the Government Code. *This*
 12 *subdivision is the sole means for enforcement of this section.*

13 (e) Commencing July 1, ~~2014~~ 2015, each admitted insurer
 14 specified in subdivision (a) shall biennially update its supplier
 15 diversity report and submit the new report to the commissioner no
 16 later than July 1.

17 (f) By July 31, ~~2012~~ 2013, the commissioner shall establish and
 18 maintain a link on the department’s Internet Web site that provides
 19 public access to the contents of each admitted insurer’s report on
 20 minority, women, and disabled veteran-owned business
 21 procurement efforts. *The commissioner shall include a statement*
 22 *on the department’s Internet Web site that the information*
 23 *contained in the insurer’s report on minority, women, and disabled*
 24 *veteran-owned businesses is provided for informational purposes*
 25 *only.*

26 ~~927.3. In order to facilitate the participation of minority-owned~~
 27 ~~businesses, women-owned businesses, disabled veteran-owned~~
 28 ~~businesses, and small businesses in contract procurement, any~~
 29 ~~insurer subject to this article may consider the following measures~~
 30 ~~to include those businesses in all phases of their contracting:~~

- 31 ~~(a) Timely or progressive payments to those businesses.~~
- 32 ~~(b) The provision of assistance to those businesses by securing~~
 33 ~~contract payments to those businesses with letters of credit,~~
 34 ~~negotiable securities, or other financing arrangements or measures.~~

O