

**ASSEMBLY BILL**

**No. 1783**

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**Introduced by Assembly Member Perea**

February 21, 2012

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An act to amend Section 14839.1 of, and to add Section 14839.2 to, the Government Code, and to amend Section 2002 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1783, as introduced, Perea. Public contracts: small business preferences.

Existing law requires state agencies to give small businesses a 5% preference in contracts for construction, the procurement of goods, or the delivery of services and establishes a procedure by which a business can be certified as a small business by the Department of General Services for the purposes of these preferences.

This bill would provide that a small business shall be certified as a small business, for purposes of those preferences, without the submission of supporting documentation and would require the certified small business to produce that documentation upon request of the Department of General Services or the awarding state agency.

Existing law also authorizes a local agency to provide for a small business preference in construction, the procurement of goods, or the delivery of services, and to establish a subcontracting participation goal for small businesses on contracts with a preference for those bidders who meet the goal. Existing law authorizes each local agency to define a small business for the purposes of these preferences and goals.

This bill would require the local agency to include a certified small business, certified at the state level, as a small business for local preference and goal purposes.

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 14839.1 of the Government Code is  
2 amended to read:

3 14839.1. (a) Except as provided in subdivision (b), the  
4 department shall have sole responsibility for certifying and  
5 determining the eligibility of small businesses and microbusinesses  
6 under this chapter.

7 (b) Notwithstanding subdivision (a), a business that has been  
8 certified by, or on behalf of, another governmental entity may be  
9 eligible for certification as a small business if the certifying entity  
10 uses substantially the same or more stringent definitions as those  
11 set forth in Section 14837 and substantially the same or a more  
12 stringent certification analysis than that used by the department  
13 pursuant to this chapter.

14 (c) *Notwithstanding any other provision, a small business shall*  
15 *be certified by the department as a certified small business upon*  
16 *application to the department and shall not be required to submit*  
17 *the supporting documentation at that time. The certified small*  
18 *business, upon request of the department, shall provide the*  
19 *eligibility documentation to the department for the purposes of*  
20 *this article.*

21 SEC. 2. Section 14839.2 is added to the Government Code, to  
22 read:

23 14839.2. (a) A certified small business that is bidding on, or  
24 has been awarded, a state agency contract shall, upon the request  
25 of the awarding state agency, provide the documentation supporting  
26 its eligibility as a certified small business.

27 (b) For purposes of this section, “awarding state agency” means  
28 a state agency or other state governmental agency that awarded  
29 the contract, if it was not awarded by the department.

30 SEC. 3. Section 2002 of the Public Contract Code is amended  
31 to read:

1     2002. (a) Notwithstanding any other provision of law requiring  
2 a local agency to award contracts to the lowest responsible bidder,  
3 any local agency may do any of the following in facilitating  
4 contract awards to small businesses:

5     (1) Provide for a small business preference in construction, the  
6 procurement of goods, or the delivery of services where  
7 responsibility and quality are equal. The preference to a small  
8 business shall be up to 5 percent of the lowest responsible bidder  
9 meeting specifications.

10    (2) Establish a subcontracting participation goal for small  
11 businesses on contracts and grant a preference, up to a maximum  
12 of 5 percent, to those bidders who meet the goal.

13    (3) Require bidders to make good faith efforts to meet a  
14 subcontracting participation goal for small business contracts.  
15 Bidders that fail to meet the goal shall demonstrate that they made  
16 good faith efforts to utilize small business contractors.

17    (b) The term “small business,” as used in this section, shall be  
18 defined by each local agency.

19    (c) *Notwithstanding subdivision (b), “small business” shall*  
20 *include a small business enterprise certified pursuant to Article 1*  
21 *(commencing with Section 14835) of Chapter 6.5 of Part 5.5 of*  
22 *Division 3 of Title 2 of the Government Code.*