

Introduced by Senator Berryhill

February 21, 2013

An act to amend Section 999.2 of the Military and Veterans Code, relating to veterans.

LEGISLATIVE COUNSEL'S DIGEST

SB 437, as introduced, Berryhill. Disabled veterans: contracting preferences.

Existing law requires contracts awarded by state agencies for construction, professional services, materials, supplies, equipment, alteration, repair, or improvement to have a 3% participation goal for disabled veterans enterprises, as defined.

This bill would make a technical, nonsubstantive change to that provision.

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

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

- 1 SECTION 1. Section 999.2 of the Military and Veterans Code
- 2 is amended to read:
- 3 999.2. (a) Notwithstanding any other ~~provision~~ of law,
- 4 contracts awarded by any state agency, department, officer, or
- 5 other state governmental entity, including school districts when
- 6 they are expending state funds for construction, professional
- 7 services (except those subject to Chapter 6 (commencing with
- 8 Section 16850) of Part 3 of Division 4 of Title 2 of the Government
- 9 Code), materials, supplies, equipment, alteration, repair, or
- 10 improvement shall have statewide participation goals of not less

1 than 3 percent for disabled veteran business enterprises. These
2 goals apply to the overall dollar amount expended each year by
3 the awarding department.

4 (b) For purposes of this section:

5 (1) “Broker” or “agent” means any individual or entity, or any
6 combination thereof, that does not have title, possession, control,
7 and risk of loss of materials, supplies, services, or equipment
8 provided to an awarding department, unless one or more certified
9 disabled veterans has 51 percent ownership of the quantity and
10 value of the materials, supplies, services, and of each piece of
11 equipment provided under the contract.

12 (2) “Equipment” means any piece of equipment that is used or
13 provided for rental to any state agency, department, officer, or
14 other state governmental entity, including equipment for which
15 operators are provided.

16 (3) “Equipment broker” means any broker or agent who rents
17 equipment to an awarding department.

18 (c) A disabled veteran business enterprise that rents equipment
19 to an awarding department shall be deemed to be an equipment
20 broker unless one or more disabled veterans has 51-percent
21 ownership of the quantity and the value of each piece of equipment.
22 If the equipment is owned by one or more disabled veterans, each
23 disabled veteran owner shall, prior to performance under any
24 contract, submit to the awarding department a declaration signed
25 by the disabled veteran owner stating that the owner is a disabled
26 veteran and providing the name, address, telephone number, and
27 tax identification number of the disabled veteran owner. Each
28 disabled veteran owner shall submit his or her federal income tax
29 returns to the administering agency pursuant to subdivision (g) as
30 if he or she were a disabled veteran business enterprise. The
31 disabled veteran business enterprise of a disabled veteran owner
32 who fails to submit his or her tax returns will be deemed to be an
33 equipment broker.

34 (d) A disabled veteran business enterprise that rents equipment
35 to an awarding department shall, prior to performing the contract,
36 submit to the awarding department a declaration signed by each
37 disabled veteran owner and manager of the enterprise stating that
38 the enterprise obtained the contract by representing that the
39 enterprise was a disabled veteran business enterprise meeting and
40 maintaining all of the requirements of a disabled veteran business

1 enterprise. The declaration shall include the name, address,
2 telephone number, and tax identification number of the owner of
3 each piece of equipment identified in the contract.

4 (e) State funds expended for equipment rented from equipment
5 brokers pursuant to contracts awarded under this section shall not
6 be credited toward the 3-percent goal.

7 (f) A disabled veteran business enterprise that is a broker or
8 agent and that obtains a contract pursuant to subdivision (a) shall,
9 prior to performing the contract, disclose to the awarding
10 department that the business is a broker or agent. The disclosure
11 shall be made in a declaration signed and executed by each disabled
12 veteran owner and manager of the enterprise, declaring that the
13 enterprise is a broker or agent, and identifying the name, address,
14 and telephone number of the principal for whom the enterprise is
15 acting as a broker or agent.

16 (g) (1) A disabled veteran business enterprise, and each owner
17 thereof, shall, at the time of certification, submit to the
18 administering agency complete copies of the enterprise's federal
19 income tax returns for the three previous tax years.

20 (2) A disabled veteran business enterprise, and each owner
21 thereof, shall submit to the administering agency complete copies
22 of the enterprise's federal income tax returns that have a
23 postcertification due date, on or before the due date, including
24 extensions.

25 (3) A disabled veteran business enterprise that, and each owner
26 thereof who, has not submitted to the administering agency
27 complete copies of the enterprise's federal income tax returns for
28 the three tax years preceding certification nor for each
29 postcertification tax year for which a return was required to be
30 filed, shall have 90 days to submit those returns.

31 (4) A disabled veteran business enterprise that fails to comply
32 with any provision of this subdivision shall be prohibited from
33 participating in any state contract until the disabled veteran
34 business enterprise complies with the provisions of this subdivision.
35 Funds expended involving a disabled veteran business enterprise
36 during any period in which that enterprise is not in compliance
37 with the provisions of this subdivision shall not be credited toward
38 the awarding department's 3-percent goal.

39 (h) A disabled veteran business enterprise that fails to maintain
40 the certification requirements set forth in this article shall

- 1 immediately notify the awarding department and the administering
- 2 agency of that failure by filing a notice of failure that states with
- 3 particularity each requirement the disabled veteran business
- 4 enterprise has failed to maintain.

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