

Introduced by Senator Correa

February 22, 2013

An act to amend Section 999 of the Military and Veterans Code, relating to veterans.

LEGISLATIVE COUNSEL'S DIGEST

SB 722, as introduced, Correa. California Disabled Veteran Business Enterprise Program.

Existing law encourages state agencies entering into contracts to establish goals to facilitate the participation of disabled veteran business enterprises, and establishes the California Disabled Veteran Business Enterprise Program for this purpose. Existing law defines “disabled veteran,” for purposes of that program, as a veteran of the military, naval, or air service of the United States, as specified, who has at least 10% service-connected disability and who is domiciled in the state.

This bill would define “disabled veteran,” for purposes of that program, as a veteran of the Armed Forces of the United States, as specified, who has a service-connected disability, as documented by a letter from any branch of the United States Armed Forces or the federal Department of Veterans Affairs, and who is domiciled in the state.

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 of the Military and Veterans Code
- 2 is amended to read:
- 3 999. (a) This article shall be known as, and may be cited as,
- 4 the California Disabled Veteran Business Enterprise Program. The

1 California Disabled Veteran Business Enterprise Program is
2 established to address the special needs of disabled veterans
3 seeking rehabilitation and training through entrepreneurship and
4 to recognize the sacrifices of Californians disabled during military
5 service. It is the intent of the Legislature that every state
6 procurement authority honor California's disabled veterans by
7 taking all practical actions necessary to meet or exceed the disabled
8 veteran business enterprise participation goal of a minimum of 3
9 percent of total contract value.

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

11 (1) "Administering agency" means the Treasurer in the case of
12 contracts for professional bond services, and the Department of
13 General Services' Office of Small Business and Disabled Veteran
14 Business Enterprise Services, in the case of contracts governed by
15 Section 999.2.

16 (2) "Awarding department" means a state agency, department,
17 governmental entity, or other officer or entity empowered by law
18 to issue bonds or enter into contracts on behalf of the state.

19 (3) "Bonds" means bonds, notes, warrants, certificates of
20 participation, and other evidences of indebtedness issued by, or
21 on behalf of, the state.

22 (4) "Contract" includes any agreement or joint agreement to
23 provide professional bond services to the State of California or an
24 awarding department. "Contract" also includes any agreement or
25 joint development agreement to provide labor, services, materials,
26 supplies, or equipment in the performance of a contract, franchise,
27 concession, or lease granted, let, or awarded for, and on behalf of,
28 the state.

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

39 (B) "Disabled veteran business enterprise contractor,
40 subcontractor, or supplier" means any person or entity that has

1 been certified by the administering agency pursuant to this article
2 and that performs a “commercially useful function,” as defined
3 below, in providing services or goods that contribute to the
4 fulfillment of the contract requirements:

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

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

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

11 (III) Performs work that is normal for its business services and
12 functions.

13 (IV) Is responsible, with respect to products, inventories,
14 materials, and supplies required for the contract, for negotiating
15 price, determining quality and quantity, ordering, installing, if
16 applicable, and making payment.

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

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
23 of an extra participant in a transaction, contract, or project through
24 which funds are passed in order to obtain the appearance of a
25 disabled veteran business enterprise participation.

26 (6) “Disabled veteran” means a veteran of the ~~military, naval,~~
27 ~~or air service~~ *Armed Forces* of the United States, including, but
28 not limited to, the Philippine Commonwealth Army, the Regular
29 Scouts, “Old Scouts,” and the Special Philippine Scouts, “New
30 Scouts,” who has ~~at least a 10-percent~~ a service-connected
31 disability, *as documented by a letter from any branch of the United*
32 *States Armed Forces or the federal Department of Veterans Affairs,*
33 and who is domiciled in the state.

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

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

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

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

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

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

25 (8) “Foreign corporation,” “foreign firm,” or “foreign-based
26 business” means a business entity that is incorporated or has its
27 principal headquarters located outside the United States of
28 America.

29 (9) “Goal” means a numerically expressed objective that
30 awarding departments and contractors are required to make efforts
31 to achieve.

32 (10) “Management and control” means effective and
33 demonstrable management of the business entity.

34 (11) “Professional bond services” include services as financial
35 advisers, bond counsel, underwriters in negotiated transactions,
36 underwriter’s counsel, financial printers, feasibility consultants,
37 and other professional services related to the issuance and sale of
38 bonds.

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