

AMENDED IN SENATE SEPTEMBER 6, 2013

**SENATE BILL**

**No. 722**

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**Introduced by Senator Correa**

February 22, 2013

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An act to amend Section ~~999~~ 1341 of the Military and Veterans Code, relating to veterans, *making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 722, as amended, Correa. ~~California Disabled Veteran Business Enterprise Program.~~ *California Mexican American Veterans' Memorial Beautification and Enhancement Fund: extension of operation.*

*Existing law requires the Secretary of Veterans Affairs to establish a California Mexican American Veterans' Memorial Beautification Committee for the purpose of beautification and enhancement of a specified existing memorial on state grounds. Under existing law funds for the beautification and enhancement of the memorial are required to be provided through private contributions and through existing funds collected under the auspices of the former California Mexican American Veterans' Memorial Beautification Commission. Under existing law these funds are required to be deposited in the California Mexican American Veterans' Memorial Beautification and Enhancement Account, a continuously appropriated account within the General Fund. Existing law requires any funds remaining in the account as of July 1, 2014, to revert to the General Fund.*

*This bill would extend the date for the reversion of funds in this account until July 1, 2016.*

*By extending the operation of a continuously appropriated account, this bill would make an appropriation.*

*This bill would declare that it is to take effect immediately as an urgency statute.*

~~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~~<sup>2/3</sup>. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

1     *SECTION 1. Section 1341 of the Military and Veterans Code*  
2     *is amended to read:*

3     1341. (a) Notwithstanding Section 13340 of the Government  
4     Code, all funds deposited in the California Mexican American  
5     Veterans’ Memorial Beautification and Enhancement Account  
6     established pursuant to Section 1340 are hereby continuously  
7     appropriated, without regard to fiscal year, to the Department of  
8     Veterans Affairs for the beautification and enhancement of an  
9     existing memorial and surrounding grounds at the State Capitol  
10    pursuant to Chapter 7 (commencing with Section 1330).

11    (b) On July 1, ~~2014~~, 2016, any moneys remaining in the  
12    California Mexican American Veterans’ Memorial Beautification  
13    and Enhancement Account shall revert to the General Fund.

14    *SEC. 2. This act is an urgency statute necessary for the*  
15    *immediate preservation of the public peace, health, or safety within*  
16    *the meaning of Article IV of the Constitution and shall go into*  
17    *immediate effect. The facts constituting the necessity are:*

18    *In order to prevent the expiration of funding needed for the*  
19    *beautification and enhancement of the California Mexican*  
20    *American Veterans’ Memorial, it is necessary for this act to take*  
21    *effect immediately.*

1 SECTION 1. ~~Section 999 of the Military and Veterans Code is~~  
2 ~~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~~  
5 ~~California Disabled Veteran Business Enterprise Program is~~  
6 ~~established to address the special needs of disabled veterans~~  
7 ~~seeking rehabilitation and training through entrepreneurship and~~  
8 ~~to recognize the sacrifices of Californians disabled during military~~  
9 ~~service. It is the intent of the Legislature that every state~~  
10 ~~procurement authority honor California's disabled veterans by~~  
11 ~~taking all practical actions necessary to meet or exceed the disabled~~  
12 ~~veteran business enterprise participation goal of a minimum of 3~~  
13 ~~percent of total contract value.~~

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

15 (1) ~~“Administering agency” means the Treasurer in the case of~~  
16 ~~contracts for professional bond services, and the Department of~~  
17 ~~General Services’ Office of Small Business and Disabled Veteran~~  
18 ~~Business Enterprise Services, in the case of contracts governed by~~  
19 ~~Section 999.2.~~

20 (2) ~~“Awarding department” means a state agency, department,~~  
21 ~~governmental entity, or other officer or entity empowered by law~~  
22 ~~to issue bonds or enter into contracts on behalf of the state.~~

23 (3) ~~“Bonds” means bonds, notes, warrants, certificates of~~  
24 ~~participation, and other evidences of indebtedness issued by, or~~  
25 ~~on behalf of, the state.~~

26 (4) ~~“Contract” includes any agreement or joint agreement to~~  
27 ~~provide professional bond services to the State of California or an~~  
28 ~~awarding department. “Contract” also includes any agreement or~~  
29 ~~joint development agreement to provide labor, services, materials,~~  
30 ~~supplies, or equipment in the performance of a contract, franchise,~~  
31 ~~concession, or lease granted, let, or awarded for, and on behalf of,~~  
32 ~~the state.~~

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

1 professional bond services who enters into a contract with an  
2 awarding department.

3 (B) “Disabled veteran business enterprise contractor,  
4 subcontractor, or supplier” means any person or entity that has  
5 been certified by the administering agency pursuant to this article  
6 and that performs a “commercially useful function,” as defined  
7 below, in providing services or goods that contribute to the  
8 fulfillment of the contract requirements:

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

11 (I) Is responsible for the execution of a distinct element of the  
12 work of the contract.

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

15 (III) Performs work that is normal for its business services and  
16 functions.

17 (IV) Is responsible, with respect to products, inventories,  
18 materials, and supplies required for the contract, for negotiating  
19 price, determining quality and quantity, ordering, installing, if  
20 applicable, and making payment.

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

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

30 (6) “Disabled veteran” means a veteran of the Armed Forces of  
31 the United States, including, but not limited to, the Philippine  
32 Commonwealth Army, the Regular Scouts, “Old Scouts,” and the  
33 Special Philippine Scouts, “New Scouts,” who has a  
34 service-connected disability, as documented by a letter from any  
35 branch of the United States Armed Forces or the federal  
36 Department of Veterans Affairs, and who is domiciled in the state.

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

1 (i) ~~It is a sole proprietorship at least 51 percent owned by one~~  
2 ~~or more disabled veterans or, in the case of a publicly owned~~  
3 ~~business, at least 51 percent of its stock is unconditionally owned~~  
4 ~~by one or more disabled veterans; a subsidiary that is wholly owned~~  
5 ~~by a parent corporation, but only if at least 51 percent of the voting~~  
6 ~~stock of the parent corporation is unconditionally owned by one~~  
7 ~~or more disabled veterans; or a joint venture in which at least 51~~  
8 ~~percent of the joint venture's management, control, and earnings~~  
9 ~~are held by one or more disabled veterans.~~

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

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

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

29 (8) ~~“Foreign corporation,” “foreign firm,” or “foreign-based~~  
30 ~~business” means a business entity that is incorporated or has its~~  
31 ~~principal headquarters located outside the United States of~~  
32 ~~America.~~

33 (9) ~~“Goal” means a numerically expressed objective that~~  
34 ~~awarding departments and contractors are required to make efforts~~  
35 ~~to achieve.~~

36 (10) ~~“Management and control” means effective and~~  
37 ~~demonstrable management of the business entity.~~

38 (11) ~~“Professional bond services” include services as financial~~  
39 ~~advisers, bond counsel, underwriters in negotiated transactions,~~  
40 ~~underwriter's counsel, financial printers, feasibility consultants,~~

- 1 and other professional services related to the issuance and sale of
- 2 bonds:

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