

AMENDED IN ASSEMBLY MAY 7, 2015
AMENDED IN ASSEMBLY MARCH 16, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 413

Introduced by Assembly Member Chávez
(Coauthors: Assembly Members Kim and Mathis)

February 19, 2015

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

LEGISLATIVE COUNSEL'S DIGEST

AB 413, as amended, Chávez. California Disabled Veteran Business Enterprise Program.

The California Disabled Veteran Business Enterprise Program addresses the special needs of disabled veterans by assisting state procurement authorities in meeting or exceeding the disabled veteran enterprise participation goal of 3% for procurement contracts. Existing law, under the program, authorizes a child or spouse to continue to operate a disabled veteran business enterprise for 3 years after the death or the certification of a permanent medical disability of a disabled veteran who was the majority owner of that enterprise, but only for purposes of any contract entered into before his or her death or certification of disability.

This bill would delete the provision that only allows a child or spouse to operate the business for purposes of the contracts entered into before death or certification of disability.

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 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
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~~ *Treasurer*, in
16 the case of contracts for professional bond services, and the
17 Department of General Services' Office of Small Business and
18 Disabled Veteran Business Enterprise Services, in the case of
19 contracts governed by 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

1 entity, or other officer empowered by law to enter into contracts
2 on behalf of the state. “Contractor” includes any provider of
3 professional bond services who enters into a contract with an
4 awarding department.

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

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

13 (I) Is responsible for the execution of a distinct element of the
14 work of the contract.

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

17 (III) Performs work that is normal for its business services and
18 functions.

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

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

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

32 (6) “Disabled veteran” means a veteran of the military, naval,
33 or air service of the United States, including, but not limited to,
34 the Philippine Commonwealth Army, the Regular Scouts, “Old
35 Scouts,” and the Special Philippine Scouts, “New Scouts,” who
36 has at least a 10-percent service-connected disability and who is
37 domiciled in the state.

38 (7) (A) “Disabled veteran business enterprise” means a business
39 certified by the administering agency as meeting all of the
40 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, that business shall be deemed to be
23 a disabled veteran business enterprise for a period not to exceed
24 three years after the date of that death or certification of a
25 permanent medical disability, if the business is inherited or
26 controlled by the spouse or child of that majority owner, or by
27 both of those persons.

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

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

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

37 (11) “Professional bond services” include services as financial
38 advisers, bond counsel, underwriters in negotiated transactions,
39 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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