

AMENDED IN SENATE JUNE 30, 2015

AMENDED IN SENATE JUNE 16, 2015

AMENDED IN ASSEMBLY MAY 7, 2015

AMENDED IN ASSEMBLY MARCH 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 413**

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

February 19, 2015

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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. The bill would clarify the scope and purpose of the provision authorizing 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. The bill would also set forth a statement of legislative intent.

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. (a) It is the intent of the Legislature that the  
 2 certification created by this act not conflict with the intended  
 3 purpose of the California Disabled Veteran Business Enterprise  
 4 Program, which is, as stated in subdivision (a) of Section 999 of  
 5 the Military and Veterans Code, “to address the special needs of  
 6 disabled veterans seeking rehabilitation and training through  
 7 entrepreneurship and to recognize the sacrifices of Californians  
 8 disabled during military service.”

9 (b) The Legislature finds and declares all of the following:

10 (1) Allowing ~~any~~ a person who is not a “disabled veteran,” as  
 11 defined in paragraph (6) of subdivision (b) of Section 999 of the  
 12 Military and Veterans Code, to perform the role of a “disabled  
 13 veteran” within the California Disabled Veteran Business  
 14 Enterprise Program, would conflict with the intended purpose of  
 15 the program by placing that person in competition with a “disabled  
 16 veteran” for program benefits intended to meet the special needs  
 17 of disabled veterans.

18 (2) ~~Family members~~ *The spouse or child of a disabled veterans*  
 19 *veteran* may participate in the program without conflicting with  
 20 the program’s intended purpose, if their participation is limited to  
 21 either fulfilling existing contracts or providing for the orderly and  
 22 equitable disposition of a certified disabled veteran business  
 23 enterprise following the death or permanent medical disability of  
 24 the business’ majority owner.

25 (3) Three years is sufficient time for the orderly and equitable  
 26 disposition of a certified disabled veteran business enterprise  
 27 following the death or permanent medical disability of the majority  
 28 owner.

1 (c) It is the intent of the Legislature that the certification created  
2 by this act shall not establish any business advantage other than  
3 to permit ~~certain family members~~ *the spouse or child* of the  
4 majority owner of a disabled veteran business enterprise to  
5 temporarily control and fully operate that business upon the death  
6 or permanent medical disability of the majority owner.

7 SEC. 2. Section 999 of the Military and Veterans Code is  
8 amended to read:

9 999. (a) This article shall be known as, and may be cited as,  
10 the California Disabled Veteran Business Enterprise Program. The  
11 California Disabled Veteran Business Enterprise Program is  
12 established to address the special needs of disabled veterans  
13 seeking rehabilitation and training through entrepreneurship and  
14 to recognize the sacrifices of Californians disabled during military  
15 service. It is the intent of the Legislature that every state  
16 procurement authority honor California's disabled veterans by  
17 taking all practical actions necessary to meet or exceed the disabled  
18 veteran business enterprise participation goal of a minimum of 3  
19 percent of total contract value.

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

21 (1) "Administering agency" means the Treasurer, in the case of  
22 contracts for professional bond services, and the Department of  
23 General Services' Office of Small Business and Disabled Veteran  
24 Business Enterprise Services, in the case of contracts governed by  
25 Section 999.2.

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

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

32 (4) "Contract" includes any agreement or joint agreement to  
33 provide professional bond services to the State of California or an  
34 awarding department. "Contract" also includes any agreement or  
35 joint development agreement to provide labor, services, materials,  
36 supplies, or equipment in the performance of a contract, franchise,  
37 concession, or lease granted, let, or awarded for, and on behalf of,  
38 the state.

39 (5) (A) "Contractor" means ~~any~~ *a* person or persons, regardless  
40 of race, color, creed, national origin, ancestry, sex, marital status,

1 disability, religious or political affiliation, age, or any sole  
 2 proprietorship, firm, partnership, joint venture, corporation, or  
 3 combination thereof that submits a bid and enters into a contract  
 4 with a representative of a state agency, department, governmental  
 5 entity, or other officer empowered by law to enter into contracts  
 6 on behalf of the state. “Contractor” includes ~~any~~ a provider of  
 7 professional bond services who enters into a contract with an  
 8 awarding department.

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

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

17 (I) Is responsible for the execution of a distinct element of the  
 18 work of the contract.

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

21 (III) Performs work that is normal for its business services and  
 22 functions.

23 (IV) Is responsible, with respect to products, inventories,  
 24 materials, and supplies required for the contract, for negotiating  
 25 price, determining quality and quantity, ordering, installing, if  
 26 applicable, and making payment.

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

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

37 (6) “Disabled veteran” means a veteran of the military, naval,  
 38 or air service of the United States, including, but not limited to,  
 39 the Philippine Commonwealth Army, the Regular Scouts, “Old  
 40 Scouts,” and the Special Philippine Scouts, “New Scouts,” who

1 has at least a 10-percent service-connected disability and who is  
2 domiciled in the state.

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

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

15 (ii) The management and control of the daily business operations  
16 are by one or more disabled veterans. The disabled veterans who  
17 exercise management and control are not required to be the same  
18 disabled veterans as the owners of the business.

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

23 (B) Notwithstanding subparagraph (A), after the death or the  
24 certification of a permanent medical disability of a disabled veteran  
25 who is a majority owner of a business that qualified as a disabled  
26 veteran business enterprise prior to that death or certification of a  
27 permanent medical disability, that business shall be deemed to be  
28 a disabled veteran business enterprise for a period not to exceed  
29 three years after the date of that death or certification of a  
30 permanent medical disability, if the business is inherited or  
31 controlled by the spouse or child of ~~that~~ *the* majority owner, or by  
32 both of those persons. A business is a disabled veteran business  
33 enterprise pursuant to this subparagraph under either of the  
34 following circumstances:

35 (i) For the duration of any contract entered into prior to the death  
36 or certification of permanent medical disability for the sole purpose  
37 of fulfilling the requirements of that contract.

38 (ii) After the date of the majority owner’s death or certification  
39 of permanent medical disability established by this subparagraph  
40 for the sole purpose of providing sufficient time to make orderly

1 and equitable arrangements for the disposition of the business,  
2 except that the business shall not enter into any new contract as a  
3 disabled veteran business enterprise for purposes of the program  
4 if the contract would not be completed within the three-year period.

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

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

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

14 (11) “Professional bond services” include services as financial  
15 advisers, bond counsel, underwriters in negotiated transactions,  
16 underwriter’s counsel, financial printers, feasibility consultants,  
17 and other professional services related to the issuance and sale of  
18 bonds.