

AMENDED IN ASSEMBLY MAY 6, 2015

AMENDED IN ASSEMBLY APRIL 16, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 865**

---

---

**Introduced by Assembly Member Alejo**  
*(Coauthor: Assembly Member Jones-Sawyer)*

February 26, 2015

---

---

An act to add Section 25230 to the Public Resources Code, relating to the State Energy Resources Conservation and Development Commission.

LEGISLATIVE COUNSEL'S DIGEST

AB 865, as amended, Alejo. State Energy Resources Conservation and Development Commission: *contracts*, grants, and loans: diversity.

The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission. Existing law requires the State Energy Resources Conservation and Development Commission to administer various grant and loan programs.

This bill would require the State Energy Resources Conservation and Development Commission to ~~require that each recipient of a grant or loan, where the recipient has gross annual revenues exceeding \$25,000,000, or a different threshold determined by the commission, as a condition for the receipt of that grant or loan, annually submit a detailed and verifiable plan for increasing procurement from women, minority, disabled veteran, and LGBT business enterprises, as defined, in all categories, including, but not limited to, renewable energy, advanced technologies, and demonstration projects, and furnish an~~

~~annual report regarding the implementation of programs established pursuant to this requirement. The bill would require the State Energy Resources Conservation and Development Commission to establish guidelines for those grant or loan recipients to utilize in establishing programs pursuant to these requirements. The bill would require the State Energy Resources Conservation and Development Commission to develop, and would require those grant or loan recipients to implement, an outreach program to inform and recruit women, minority, disabled veteran, and LGBT business enterprises to apply for procurement contracts.~~ *develop an outreach program to inform and recruit the most qualified loan and grant applicants, and contractors, including, but not limited to, women, minority, disabled veteran, and LGBT business enterprises, as defined. The bill would require that one component of the outreach program be a process for tracking the diversity of contractors, loan recipients, and grant recipients. The bill would require the commission to include certified women, minority, disabled veteran, and LGBT business enterprises in announcements about workshops, trainings, and funding opportunities, as appropriate, and consider including them in capacity building activities. The bill would require the commission to require that each contractor, recipient of a grant awarded, or loan approved by the commission on or after October 1, 2016, for an amount of \$1,000,000 or more, including amended contracts, loans, and grant agreements that bring the total value of the loan or grant to \$1,000,000 or more (1) report on the demographic makeup of the management of the firm or organization, (2) submit a detailed and verifiable outreach plan for increasing subcontractor opportunities by certified women, minority, disabled veteran, and LGBT business enterprises, (3) implement the outreach plan to the best of the contractor's or recipient's financial and administrative capacity, and (4) furnish a report to the commission regarding the activities and outcomes achieved in implementing the outreach plan. The bill would require the commission to establish guidelines for all contractors, grant recipients, and loan recipients to utilize in preparing, implementing, and reporting on the outreach plans. The bill would require each contractor and recipient of a grant or loan that is subject to the bill's requirements to submit data on a form provided by the commission of the activities and outcomes of its outreach plan on October 1 of the following fiscal year in which the contract was awarded, the loan was approved, or the grant was received. The bill would require the State Energy Resources Conservation and*

Development Commission to consider establishing a Diversity Task Force to consider and make recommendations about diversity in the energy industry, including diversity of corporate governing boards and procurement from diverse businesses.

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 25230 is added to the Public Resources  
2 Code, to read:  
3 25230. (a) For purposes of this section, the following terms  
4 have the following meanings:  
5 (1) “Control” means exercising the power to make policy  
6 decisions.  
7 (2) “Disabled veteran business enterprise” has the same meaning  
8 as defined in Section 999 of the Military and Veterans Code.  
9 (3) “LGBT business enterprise” means a business enterprise  
10 that is at least 51 percent owned by a lesbian, gay, bisexual, or  
11 transgender person or persons, or, in the case of any publicly owned  
12 business, at least 51 percent of the stock of which is owned by one  
13 or more lesbian, gay, bisexual, or transgender persons, and whose  
14 management and daily business operations are controlled by one  
15 or more of those individuals.  
16 (4) “Minority business enterprise” means a business enterprise  
17 that is at least 51 percent owned by a minority group or groups,  
18 or, in the case of any publicly owned business, at least 51 percent  
19 of the stock of which is owned by one or more minority groups,  
20 and whose management and daily business operations are  
21 controlled by one or more of those individuals. The contracting  
22 utility shall presume that minority includes African Americans,  
23 Hispanic Americans, Native Americans, and Asian Pacific  
24 Americans.  
25 (5) To “operate” means to be actively involved in the day-to-day  
26 management. It is not enough to merely be an officer or director.  
27 (6) “Renewable energy project” means a project for the  
28 development and operation of an eligible renewable energy  
29 resource meeting the requirements of the California Renewables  
30 Portfolio Standard Program (Article 16 (commencing with Section  
31 399.11) of Chapter 2.3 of Part 1 of Division 1).

1 (7) “Women business enterprise” means a business enterprise  
2 that is at least 51 percent owned by a woman or women, or, in the  
3 case of any publicly owned business, at least 51 percent of the  
4 stock of which is owned by one or more women, and whose  
5 management and daily business operations are controlled by one  
6 or more of those individuals.

7 (b) (1) *The commission shall develop an outreach program to*  
8 *inform and recruit the most qualified loan and grant applicants,*  
9 *and contractors, including, but not limited to, women, minority,*  
10 *disabled veteran, and LGBT business enterprises. The purpose of*  
11 *the program is to ensure that the commission recognizes the*  
12 *demographic shifts of the California marketplace and is nurturing*  
13 *the new and next generation of energy technology leaders.*

14 (2) *One component of the outreach program shall be a process*  
15 *for tracking the diversity of contractors, loan recipients, and grant*  
16 *recipients. Among other activities, the commission shall identify*  
17 *existing sources for locating information on certified women,*  
18 *minority, disabled veteran, and LGBT business, which may include,*  
19 *but is not limited to, the clearinghouse database maintained by*  
20 *the Public Utilities Commission, the list of Disabled Veteran*  
21 *Business Enterprises certified by the Procurement Division of the*  
22 *Department of General Services, as well as information on other*  
23 *nonprofit organizations that verify or certify women, minority, and*  
24 *LGBT business enterprises.*

25 (3) *The commission shall include certified women, minority,*  
26 *disabled veteran, and LGBT business enterprises in announcements*  
27 *about workshops, trainings, and funding opportunities, as*  
28 *appropriate, and shall consider including them in capacity building*  
29 *activities.*

30 ~~(b)~~

31 (c) *The commission shall require that each contractor, recipient*  
32 *of a grant awarded, or loan administered approved by the*  
33 *commission, where the recipient has annual revenues exceeding*  
34 *twenty-five million dollars (\$25,000,000), or a different threshold*  
35 *determined to be appropriate by the commission, do both*  
36 *commission on or after October 1, 2016, for an amount of one*  
37 *million dollars (\$1,000,000) or more, including amended contracts,*  
38 *loans, and grant agreements that bring the total value of the*  
39 *contract, loan, or grant to one million dollars (\$1,000,000) or*

1 *more, do all of the following as a condition for the receipt of that*  
2 *grant or loan:*

3 *(1) Report on the demographic makeup of the management of*  
4 *the firm or organization awarded the contract or receiving the*  
5 *grant or loan.*

6 ~~*(1) Annually submit*~~

7 *(2) Submit a detailed and verifiable outreach plan for increasing*  
8 ~~*procurement from subcontractor opportunities with the prime*~~  
9 ~~*contractor, grantee, or borrower by certified women, minority,*~~  
10 ~~*disabled veteran, and LGBT business enterprises in all categories,*~~  
11 ~~*including, but not limited to, renewable energy, advanced*~~  
12 ~~*technologies, and demonstration projects. These annual plans shall*~~  
13 ~~*include short- and long-term goals and timetables, but not quotas,*~~  
14 ~~*and shall include methods for encouraging both prime contractors*~~  
15 ~~*and grantees to engage women, minority, disabled veteran, and*~~  
16 ~~*LGBT business enterprises in subcontracts in all categories that*~~  
17 ~~*provide subcontracting opportunities, including, but not limited*~~  
18 ~~*to, renewable energy, advanced technologies, and demonstration*~~  
19 ~~*projects. pursuant to the requirements of this section.*~~

20 *(3) Implement the outreach plan submitted to the commission*  
21 *to the best of the contractor's or recipient's financial and*  
22 *administrative capacity.*

23 ~~*(2) Furnish an annual*~~

24 *(4) Furnish a report to the commission regarding the*  
25 ~~*implementation of programs established pursuant to this section*~~  
26 ~~*in a form that the commission shall require, and at the time that*~~  
27 ~~*the commission shall annually designate. Each activities and*~~  
28 ~~*outcomes achieved in implementing the outreach plan, pursuant*~~  
29 ~~*to the requirements of this section.*~~

30 *(d) Each report required by this section shall be a public*  
31 *document and shall be made readily available on an Internet Web*  
32 ~~*site either maintained by the grant or loan recipient or maintained*~~  
33 ~~*by the commission.*~~

34 ~~*(e)*~~

35 *(e) (1) The commission shall establish guidelines for all grant*  
36 ~~*or contractors, grant recipients, and loan recipients, subject to*~~  
37 ~~*subdivision (b), (c), to utilize in establishing programs preparing,*~~  
38 ~~*implementing, and reporting on the outreach plans pursuant to*~~  
39 ~~*this section.*~~

1 ~~(d) The commission shall develop, and require every grant or~~  
2 ~~loan recipient, subject to subdivision (b), to implement, an outreach~~  
3 ~~program to inform and recruit women, minority, disabled veteran,~~  
4 ~~and LGBT business enterprises to apply for procurement contracts~~  
5 ~~under this section.~~

6 *(2) The guidelines shall include methods for encouraging*  
7 *contractors, grant recipients, and loan recipients to engage*  
8 *certified women, minority, disabled veteran, and LGBT business*  
9 *enterprises in subcontracts in all categories that provide*  
10 *subcontracting opportunities, including, but not limited to,*  
11 *renewable energy projects, advanced technologies, and*  
12 *demonstration projects.*

13 *(3) The commission shall consider specifying consequences for*  
14 *not meeting the requirements of subdivision (c).*

15 *(4) The guidelines shall integrate the existing reporting*  
16 *requirements for state contractors, as relevant, and shall not*  
17 *require duplicate reporting of data that is otherwise required by*  
18 *state law. The contractor or loan or grant recipient may submit*  
19 *reports of another state entity to provide the same information.*

20 *(f) (1) Each recipient of a loan or grant, or contract, subject*  
21 *to this section, shall submit the outreach plan described in*  
22 *subdivision (c) within 60 days of the award or approval of the*  
23 *loan, grant, or contract.*

24 *(2) The outreach plan shall include short- and long-term goals*  
25 *and timetables, but not quotas, and shall include methods the*  
26 *contractor, grant recipient, or loan recipient intends to use to*  
27 *increase the number of certified women, minority, disabled veteran,*  
28 *and LGBT business enterprises that participate in all categories*  
29 *of subcontracting opportunities, including, but not limited to,*  
30 *renewable energy projects, advanced technologies, and*  
31 *demonstration projects.*

32 *(3) The outreach plan may be updated, as necessary, to reflect*  
33 *changes in the marketplace, local conditions, changes in the*  
34 *structure of the firm or organization, and other issues impacting*  
35 *the effectiveness of the plan.*

36 *(g) Each contractor and recipient of a grant or loan subject to*  
37 *this section shall submit data on a form provided by the commission*  
38 *of the activities and outcomes of its outreach plan on October 1*  
39 *of the following fiscal year in which the contract was awarded,*  
40 *the loan was approved, or the grant was received.*

1 (e)  
2 (h) After receipt of the ~~detailed~~ *initial* plans and ~~annual~~ reports,  
3 the commission shall consider establishing a Diversity Task Force  
4 to consider and make recommendations about diversity in the  
5 energy industry, including diversity of corporate governing boards  
6 and procurement from diverse businesses. If the commission  
7 establishes a Diversity Task Force, the commission shall consider  
8 how it can address and promote local and targeted hiring.

O