

AMENDED IN ASSEMBLY JUNE 30, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE APRIL 4, 2016

**SENATE BILL**

**No. 1219**

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**Introduced by Senator Hancock**  
**(Coauthors: Senators Hall and Hueso)**  
(Coauthor: Assembly Member Jones-Sawyer)

February 18, 2016

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An act to amend Sections 14836, 14837, 14838, 14838.5, 14838.64, 14838.7, 14839, 14839.1, 14840, 14842, and 14842.5 of the Government Code, *and to amend Section 10111 of the Public Contract Code*, relating to state contracting.

LEGISLATIVE COUNSEL'S DIGEST

SB 1219, as amended, Hancock. Small Business Procurement and Contract Act: employment social enterprises.

Existing law, the Small Business Procurement and Contract Act, grants a specified preference for small businesses and microbusinesses in the award of a contract for goods, services, or information technology to the state and in the construction of state facilities. Existing law defines small business and microbusiness for these and other purposes. Existing law permits a state agency and the California State University to award specified types of contracts with a value of between \$5,000 and \$250,000 to a certified small business, including a microbusiness and a disabled veteran business enterprise, without complying with certain competitive bidding requirements, provided the agency obtains price quotations from 2 or more small businesses, including microbusinesses, or 2 or more disabled veteran business enterprises. Existing law

establishes the Office of Small Business and Disabled Veteran Business Enterprise Services and prescribes duties for the office, which include maintaining a bidders list of small businesses and disabled veteran businesses and noting which small businesses also qualify as microbusinesses. Existing law prescribes penalties for a small business or microbusiness that provides incorrect information or withholds information that leads to its incorrect classification as such an entity and is awarded a contract because of that classification. *Existing law requires the Department of General Services to make available a report on contracting activity.*

This bill would, on and after July 1, 2017, grant an employment social enterprise ~~the a preference and status that is provided similar to a small business or microbusiness for purposes of the provisions as described above.~~ The bill would define an employment social enterprise as ~~a for-profit business or nonprofit business~~ *a California-based social purpose corporation, a benefit corporation, or a nonprofit corporation that earns a majority 51% or more of its enterprise revenue from the production or assembly of goods and services, or the provision of services and that demonstrates evidence in its articles of incorporation or bylaws of its mission to provide employment with on-the-job and life skills training to a direct labor force that is comprised of a majority 80% or more of individuals enterprise participants who face significant multiple barriers to employment.* The bill would define ~~“individuals an “enterprise participant who face faces significant barriers to employment” to include individuals who recently have been released from a federal, state, or local correctional facility or who have a criminal record or history, individuals who are, or have been, homeless, and youth and young adults between 16 and 24 years of age, inclusive, who lack a high school diploma, are not enrolled in school, and are unemployed.~~ *an individual that has employment barriers, is or was homeless, or is an out-of-school youth.* The bill would require the above-described report by the department to include information relating to the level of participation of employment social enterprises in state contracting. The bill would require specified documents and facts to be certified under penalty of perjury. *By expanding the crime of perjury, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

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

1     *SECTION 1. The Legislature finds and declares all of the*  
2     *following:*

3     *(a) Unrelenting unemployment and deepening poverty are a*  
4     *reality for many Californians. According to the United States*  
5     *Census Bureau, California's poverty rate is 16.4 percent as*  
6     *compared to a national rate of 15.6 percent. It is estimated that*  
7     *nearly a quarter of California's children, 22.7 percent, are living*  
8     *in households with annual incomes below the federal poverty line.*  
9     *A significant contributing factor to these poverty rates are the*  
10    *education and basic skill deficit of many Californians from rural*  
11    *and inner-city areas, historically underserved population groups,*  
12    *and those who are more recently encountering employment*  
13    *challenges, including the formerly incarcerated and the homeless.*  
14    *Without comprehensive, thoughtful, and strategic intervention, the*  
15    *economic disparity within the state will only increase.*

16    *(b) Smaller-sized businesses and social enterprises can function*  
17    *as economic engines. The social enterprise model uses*  
18    *entrepreneurial activity to pursue a social purpose. Social*  
19    *enterprises advance the social mission through market-based*  
20    *strategies and may be structured as independent for-profit*  
21    *businesses, nonprofit ventures, or a business unit or division within*  
22    *a larger nonprofit organization. Small businesses and social*  
23    *enterprises are expected to become increasingly important due to*  
24    *their ability to be more flexible and better suited to meet niche*  
25    *market needs and respond to the necessities of vulnerable*  
26    *communities. However, their small to medium size and double*  
27    *bottom line mission also entail challenges when meeting regulatory*  
28    *requirements, accessing capital, competing for large-size contracts,*  
29    *and marketing their goods and services.*

30    *(c) California is home to a dynamic and growing sector of social*  
31    *enterprises. According to the national Social Enterprise Alliance,*  
32    *there are 98 social enterprises from California registered in its*  
33    *database. The San Francisco chapter was founded in 2009 and*

1 the Los Angeles chapter was founded in 2010. In 2015, 80  
2 California-based employment social enterprises, from startups to  
3 mature businesses, competed in a national grant solicitation for  
4 the Social Innovation Fund/REDF. Eight were awarded funding  
5 and are projected to generate up to 14,000 job opportunities and  
6 over \$375 million in revenues between 2016 and 2020. In the  
7 Four-Year County Small Business and Social Enterprise Utilization  
8 Plan of Los Angeles County, prepared in May 2016, 19 social  
9 enterprises meet the Transitional Jobs Opportunity Preference  
10 serving the county's workforce. Although this is still a very young  
11 sector, a recent report by Mathematica Policy Research found that  
12 for every dollar spent by a social enterprise, there was a \$2.23  
13 return on investment to society. This includes benefits to taxpayers,  
14 including reductions in government transfers, incarceration, and  
15 health and housing costs paid for by the public sector.  
16 Furthermore, the study also showed that the percentage of total  
17 income from government transfers decreased from 71 percent to  
18 24 percent and the total monthly income for workers increased by  
19 91 percent. This study concludes that investing in the growth of  
20 social enterprises, as well as their additional support services for  
21 workers, can have a positive impact on people's lives, while  
22 lessening the burden on government resources.

23 (d) (1) In major economies like those in the United Kingdom  
24 and Australia, social enterprise is a mature sector. United Kingdom  
25 government statistics identify around 70,000 social enterprises  
26 contributing £24 billion to the economy and employing nearly a  
27 million people. According to the Social Enterprise Survey for 2015,  
28 50 percent of social enterprises reported a profit, 73 percent of  
29 social enterprises earn more than 75 percent of their income from  
30 trade, and 27 percent of social enterprises have the public sector  
31 as their main source of income. Furthermore, 59 percent of social  
32 enterprises employ at least one person who is disadvantaged in  
33 the labor market, and for 16 percent of social enterprises, this  
34 group forms at least half of all employees.

35 (2) Another recent study, by Social Ventures in Australia, found  
36 that social enterprises have demonstrated that they can create jobs  
37 for people excluded from the mainstream workforce, particularly  
38 the long-term unemployed, and showed that this equity outcome  
39 is also efficient, as government investment in the creation of  
40 businesses is returned via taxation revenue and savings in social

1 security expenditure. In developing economies of Latin America,  
2 Asia, and sub-Saharan Africa, social entrepreneurs are creating  
3 enterprises that help solve social problems in their countries with  
4 a reduced reliance on government or international aid to finance  
5 it.

6 (e) (1) Under the social enterprise umbrella, there are  
7 mission-driven businesses known as employment social enterprises  
8 (ESE) which are dedicated to hiring and assisting people who face  
9 barriers to employment. They combine commercial  
10 activities—producing, manufacturing, and distributing products  
11 and services—with a transitional job that has supportive  
12 management and assistance to foster the success of people who  
13 want to work but are often not given the opportunity by mainstream  
14 employers. ESEs combine market wage-paying transitional jobs  
15 while providing essential job readiness services that help  
16 participants develop appropriate work habits and basic skills,  
17 build real work experience, and manage life issues. A 2015  
18 California study, the Mathematica Jobs Study, showed that the  
19 percentage of people who had a job six to 12 months after their  
20 ESE position was 20 points higher than people who received only  
21 traditional workforce training support.

22 (2) Due to the ESE social mission, the cost of doing business  
23 includes on-the-job workforce and employment training for a labor  
24 force that is largely comprised of participants with significant  
25 barriers to employment. In the nonprofit sector, business profits  
26 are reinvested into the business to support training and grow more  
27 jobs. It is also common for businesses to leverage other public and  
28 private resources to support the additional cost of workforce  
29 training.

30 (f) ESEs consist of the following elements:

31 (1) Small and medium-size nonprofit or for-profit businesses  
32 that sell goods or services.

33 (2) A mission to employ low-income people with multiple  
34 barriers to employment.

35 (3) Short- or long-term wage-paying employment that combines  
36 real work, training and skill development, and supportive services  
37 for participants who are overcoming barriers to employment.

38 (g) Elements of participant training and supportive services  
39 may include one or more of the following:

1     (1) *Experience with workplace norms and general behaviors*  
2     *that facilitate success in any work environment and on-the-job*  
3     *training.*

4     (2) *Worksite supervision which includes feedback on*  
5     *performance and coaching to help participants become work ready*  
6     *and transition to traditional, unsupported employment.*

7     (3) *Linking participants to services that can help them stabilize*  
8     *their lives, avoid relapse of behaviors such as drug abuse or*  
9     *criminal activity, and obtain life supports related to needs such*  
10    *as child care or housing.*

11    (4) *Job search and retention services which includes assistance*  
12    *with resumes and cover letters, interview preparation, and job*  
13    *searches.*

14    (5) *Job development and placement services to identify job*  
15    *openings, schedule interviews, and follow up with employers after*  
16    *a participant has an interview.*

17    (6) *Promote and support the completion of industry-recognized*  
18    *certificates.*

19    (7) *Connections and enrollment support to community colleges,*  
20    *educational institutions, vocational training and certificate*  
21    *programs, preapprenticeship and apprenticeship programs, or*  
22    *other opportunities to pursue career and education advancement.*

23    **SECTION 1.**

24    **SEC. 2.** Section 14836 of the Government Code is amended  
25    to read:

26    14836. (a) The Legislature hereby declares that it serves a  
27    public purpose, and it is of benefit to the state, to promote and  
28    facilitate the fullest possible participation by all citizens in the  
29    affairs of the State of California in every possible way. It is also  
30    essential that opportunity is provided for full participation in our  
31    free enterprise system by small business enterprises, and  
32    employment social enterprises that provide jobs for individuals  
33    ~~who have experienced significant barriers to employment, such as~~  
34    ~~incarceration, homelessness, disability, and youth disconnected~~  
35    ~~from school and work.~~ *enterprises.*

36    (b) Further, it is the declared policy of the Legislature that the  
37    state should aid, counsel, assist, and protect, to the maximum extent  
38    possible, the interests of small business concerns, including  
39    microbusinesses and employment social enterprises, in order to  
40    preserve free competitive enterprise and to ensure that a fair

1 proportion of the total purchases and contracts or subcontracts for  
2 property and services for the state be placed with these enterprises.

3 ~~SEC. 2.~~

4 SEC. 3. Section 14837 of the Government Code is amended  
5 to read:

6 14837. As used in this chapter:

7 (a) "Department" means the Department of General Services.

8 (b) "Director" means the Director of General Services.

9 (c) "Manufacturer" means a business that meets both of the  
10 following requirements:

11 (1) It is primarily engaged in the chemical or mechanical  
12 transformation of raw materials or processed substances into new  
13 products.

14 (2) It is classified between Codes 31 to 33, inclusive, of the  
15 North American Industry Classification System.

16 (d) (1) "Small business" means an independently owned and  
17 operated business that is not dominant in its field of operation, the  
18 principal office of which is located in California, the officers of  
19 which are domiciled in California, and which, together with  
20 affiliates, has 100 or fewer employees, and average annual gross  
21 receipts of ten million dollars (\$10,000,000) or less over the  
22 previous three years, or is a manufacturer, as defined in subdivision  
23 (c), with 100 or fewer employees.

24 (2) "Microbusiness" is a small business which, together with  
25 affiliates, has average annual gross receipts of two million five  
26 hundred thousand dollars (\$2,500,000) or less over the previous  
27 three years, or is a manufacturer, as defined in subdivision (c),  
28 with 25 or fewer employees.

29 (3) "Employment social enterprise" ~~is a for-profit business or~~  
30 ~~nonprofit business that earns a majority of its enterprise revenue~~  
31 *means an entity that meets all of the following:*

32 (A) *Is organized as a social purpose corporation, a benefit*  
33 *corporation, or a nonprofit corporation.*

34 (B) *Is a California-based entity that meets one or more of the*  
35 *following:*

36 (i) *The entity has a principal office in California, and the officers*  
37 *are domiciled in California.*

38 (ii) *The entity has a major office or manufacturing facility*  
39 *located in California that has been licensed by the state on a*  
40 *continuous basis to conduct business within the state and has*

1 continuously employed California residents for work within the  
2 state during the prior three years.

3 (iii) The entity is a nonprofit organization incorporated in  
4 another state that has sponsored or co-sponsored substantive  
5 economic and workforce development activities within this state  
6 and has provided services to individuals who face multiple barriers  
7 to employment in at least 20 of the prior 24 months.

8 (C) Earns 51 percent or more of its enterprise revenue from the  
9 production or assembly of goods and services and that demonstrates  
10 or the provision of services, or a combination of both.

11 (D) Demonstrates evidence in its articles of incorporation,  
12 bylaws, or both, of its the employment social enterprise's mission  
13 to provide employment with on-the-job and life skills training to  
14 a direct labor—free force, not including supervisors and  
15 administration, that is comprised of a majority at least 80 percent  
16 of individuals enterprise participants who face significant multiple  
17 barriers to employment. “Individuals To document on-the-job and  
18 life skills training, an employment social enterprise shall provide  
19 documentation, under penalty of perjury, that one or more of the  
20 following services is being offered to individuals who face multiple  
21 barriers to employment:

22 (i) Basic skills and job readiness assessment.

23 (ii) Referral system to industry-recognized certificates and  
24 training.

25 (iii) Linkage to community colleges, adult schools, or other  
26 education institutions to gain an education diploma or certificate.

27 (iv) Partnership with local or regional workforce development  
28 boards.

29 (v) Job placement and retention services.

30 (E) (i) Has two or more enterprise participants who face  
31 multiple barriers to employment.

32 (ii) “Enterprise participant who face significant faces multiple  
33 barriers to employment” are defined as means an individual that  
34 meets one or more of the following:

35 (A) Individuals who have recently been released from a federal,  
36 state, or local correctional facility, or a person who, while not  
37 recently incarcerated, has a criminal record or history.

38 (I) Is an individual with employment barriers, as defined in  
39 subdivision (j) of Section 14005 of the Unemployment Insurance  
40 Code.



1 ~~(B) Individuals who are, or have been,~~

2 ~~(II) Is or has been homeless, as defined by the United States~~  
3 ~~Department of Health and Human Services as of January 1, 2016.~~

4 ~~(C) Youth and young adults between 16 and 24 years of age,~~  
5 ~~inclusive, who lack a high school diploma, are not enrolled in~~  
6 ~~school, and are unemployed.~~

7 ~~(III) Is an out-of-school youth. “Out-of-school youth” means~~  
8 ~~an individual who meets the definition in Section 3164(a)(1)(B)~~  
9 ~~of Title 29 of the United States Code.~~

10 (4) The director shall conduct a biennial review of the average  
11 annual gross receipt levels specified in this subdivision for small  
12 business and microbusiness and may adjust that level to reflect  
13 changes in the California Consumer Price Index for all items. To  
14 reflect unique variations or characteristics of different industries,  
15 the director may establish, to the extent necessary, either higher  
16 or lower qualifying standards than those specified in this  
17 subdivision, or alternative standards based on other applicable  
18 criteria.

19 (5) Standards applied under this subdivision shall be established  
20 by regulation, in accordance with Chapter 3.5 (commencing with  
21 Section 11340) of Part 1 of Division 3 of Title 2, and shall preclude  
22 the qualification of ~~businesses~~ *a small business or microbusiness*  
23 ~~that are~~ *is* dominant in ~~their~~ *its* industry. In addition, the standards  
24 shall provide that the certified small business, microbusiness, or  
25 employment social enterprise shall provide goods or services that  
26 contribute to the fulfillment of the contract requirements by  
27 performing a commercially useful function, as defined below:

28 (A) A certified small business, microbusiness, or employment  
29 social enterprise is deemed to perform a commercially useful  
30 function if the business does all of the following:

31 (i) Is responsible for the execution of a distinct element of the  
32 work of the contract.

33 (ii) Carries out its obligation by actually performing, managing,  
34 or supervising the work involved.

35 (iii) Performs work that is normal for its business services and  
36 functions.

37 (iv) Is responsible, with respect to products, inventories,  
38 materials, and supplies required for the contract, for negotiating  
39 price, determining quality and quantity, ordering, installing, if  
40 applicable, and making payment.

1 (v) Is not further subcontracting a portion of the work that is  
2 greater than that expected to be subcontracted by normal industry  
3 practices.

4 (B) A contractor, subcontractor, or supplier will not be  
5 considered to perform a commercially useful function if the  
6 contractor's, subcontractor's, or supplier's role is limited to that  
7 of an extra participant in a transaction, contract, or project through  
8 which funds are passed in order to obtain the appearance of small  
9 business, microbusiness, or employment social enterprise  
10 participation.

11 (e) "Disabled veteran business enterprise" means an enterprise  
12 that has been certified as meeting the qualifications established by  
13 paragraph (7) of subdivision (b) of Section 999 of the Military and  
14 Veterans Code.

15 (f) The amendments made to this section by the act adding this  
16 subdivision shall become operative on July 1, 2017.

17 ~~SEC. 3.~~

18 *SEC. 4.* Section 14838 of the Government Code is amended  
19 to read:

20 14838. In order to facilitate the participation of small business,  
21 including microbusiness and employment social ~~enterprise~~,  
22 *enterprise* in the provision of goods, information technology, and  
23 services to the state, and in the construction (including alteration,  
24 demolition, repair, or improvement) of state facilities, the directors  
25 of the department and other state agencies that enter those contracts,  
26 each within their respective areas of responsibility, shall do all of  
27 the following:

28 (a) Establish goals, consistent with those established by the  
29 Office of Small Business Certification and Resources, for the extent  
30 of participation of small businesses, including microbusinesses,  
31 and employment social enterprises, in the provision of goods,  
32 information technology, and services to the state, and in the  
33 construction of state facilities.

34 (b) Provide for *a small business or employment social enterprise*  
35 preference, or nonsmall business preference for bidders that provide  
36 for small business, microbusiness, and employment social  
37 ~~enterprise~~, *enterprise* subcontractor participation, in the award of  
38 contracts for goods, information technology, services, and  
39 construction, as follows:

(1) In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, the preference to small business, microbusiness, and employment social enterprise shall be 5 percent of the lowest responsible bidder meeting specifications. The preference to nonsmall business bidders that provide for small business, microbusiness, or employment social enterprise subcontractor participation shall be, up to a maximum of 5 percent of the lowest responsible bidder meeting specifications, determined according to rules and regulations established by the Department of General Services.

(2) In solicitations where an award is to be made to the highest scored bidder based on evaluation factors in addition to price, the preference to small business, microbusiness, or employment social enterprise shall be 5 percent of the highest responsible bidder's total score. The preference to nonsmall business bidders that provide for small business, microbusiness, or employment social enterprise subcontractor participation shall be up to a maximum 5 percent of the highest responsible bidder's total score, determined according to rules and regulations established by the Department of General Services.

(3) The preferences under paragraphs (1) and (2) shall not be awarded to a noncompliant bidder and shall not be used to achieve any applicable minimum requirements.

(4) The preference under paragraph (1) shall not exceed fifty thousand dollars (\$50,000) for any bid, and the combined cost of preferences granted pursuant to paragraph (1) and any other provision of law shall not exceed one hundred thousand dollars (\$100,000). In bids in which the state has reserved the right to make multiple awards, this fifty thousand dollar (\$50,000) maximum preference cost shall be applied, to the extent possible, so as to maximize the dollar participation of small businesses, including microbusinesses, and employment social enterprises in the contract award.

*(5) A bidder may be awarded a preference for both of the following in a single bid:*

*(A) A small business preference or a nonsmall business preference for bidders that provide for small business or microbusiness subcontractor participation.*

1     (B) *An employment social enterprise preference or a nonsmall*  
2     *business preference for bidders that provide for employment social*  
3     *enterprise subcontractor participation.*

4     (c) Give special consideration to small businesses,  
5     microbusinesses, and employment social enterprises by both:

6         (1) Reducing the experience required.

7         (2) Reducing the level of inventory normally required.

8     (d) Give special assistance to small businesses, microbusinesses,  
9     and employment social enterprises in the preparation and  
10    submission of the information requested in Section 14310.

11    (e) Under the authorization granted in Section 10163 of the  
12    Public Contract Code, make awards, whenever feasible, to small  
13    business, microbusiness, and employment social enterprise bidders  
14    for each project bid upon within their prequalification rating. This  
15    may be accomplished by dividing major projects into subprojects  
16    so as to allow a small business, microbusiness, or employment  
17    social enterprise contractor to qualify to bid on these subprojects.

18    (f) Small business, microbusiness, and employment social  
19    enterprise bidders qualified in accordance with this chapter shall  
20    have precedence over nonsmall business bidders in that the  
21    application of a bidder preference for which nonsmall business  
22    bidders may be eligible under this section or any other provision  
23    of law shall not result in the denial of the award to a small business,  
24    microbusiness, or employment social enterprise bidder. In the  
25    event of a precise tie between the low responsible bid of a bidder  
26    meeting specifications of a small business, microbusiness, or  
27    employment social enterprise and the low responsible bid of a  
28    bidder meeting the specifications of a disabled veteran-owned  
29    small business, microbusiness, or employment social enterprise,  
30    the contract shall be awarded to the disabled veteran-owned small  
31    business, microbusiness, or employment social enterprise. This  
32    provision applies if the small business, microbusiness, or  
33    employment social enterprise bidder is the lowest responsible  
34    bidder, as well as if the small business, microbusiness, or  
35    employment social enterprise bidder is eligible for award as the  
36    result of application of the small business, microbusiness, and  
37    employment social enterprise bidder preference granted by  
38    subdivision (b).

1     (g) *In order to qualify for the incentives under this section, an*  
2 *employment social enterprise shall demonstrate and certify under*  
3 *penalty of perjury the following:*

4     (1) *Not less than 70 percent of the total labor hours, excluding*  
5 *supervisors and administration, required to perform the*  
6 *information technology or construction contract shall be completed*  
7 *by an enterprise participant who faces multiple barriers to*  
8 *employment.*

9     (2) *Not less than 70 percent of the total labor hours, excluding*  
10 *supervisors and administration, required to manufacture the goods*  
11 *and perform the contract shall be completed by an enterprise*  
12 *participant who faces multiple barriers to employment. For an*  
13 *employment social enterprise with 25 or fewer total employees,*  
14 *50 percent of the total labor hours, excluding supervisors and*  
15 *administration, required to manufacture the goods and perform*  
16 *the contract shall be completed by an enterprise participant who*  
17 *faces multiple barriers to employment.*

18     (3) *Not less than 80 percent of the total labor hours, excluding*  
19 *supervisors and administration, required to provide services and*  
20 *perform the contract shall be completed by an enterprise*  
21 *participant who faces multiple barriers to employment.*

22     ~~(g)~~

23     (h) *The amendments made to this section by the act adding this*  
24 *subdivision shall become operative on July 1, 2017.*

25     ~~SEC. 4.~~

26     SEC. 5. *Section 14838.5 of the Government Code is amended*  
27 *to read:*

28     14838.5. (a) *Notwithstanding the advertising, bidding, and*  
29 *protest provisions of Chapter 6 (commencing with Section 14825)*  
30 *of this part and Chapter 2 (commencing with Section 10290) and*  
31 *Chapter 3 (commencing with Section 12100) of Part 2 of Division*  
32 *2 of the Public Contract Code, a state agency may award a contract*  
33 *for the acquisition of goods, services, or information technology*  
34 *that has an estimated value of greater than five thousand dollars*  
35 *(\$5,000), but less than two hundred fifty thousand dollars*  
36 *(\$250,000), to a certified small business, including a microbusiness,*  
37 *or to an employment social enterprise, or to a disabled veteran*  
38 *business enterprise, as long as the agency obtains price quotations*  
39 *from two or more certified small businesses, including*  
40 *microbusinesses, or from two or more employment social*

1 enterprises, or from two or more disabled veteran business  
2 enterprises.

3 (b) In carrying out subdivision (a), a state agency shall consider  
4 a responsive offer timely received from a responsible certified  
5 small business, including a microbusiness, or from an employment  
6 social enterprise, or from a disabled veteran business enterprise.

7 (c) If the estimated cost to the state is less than five thousand  
8 dollars (\$5,000) for the acquisition of goods, services, or  
9 information technology, or a greater amount as administratively  
10 established by the director, a state agency shall obtain at least two  
11 price quotations from responsible suppliers whenever there is  
12 reason to believe a response from a single source is not a fair and  
13 reasonable price.

14 (d) The amendments made to this section by the act adding this  
15 subdivision shall become operative on July 1, 2017.

16 ~~SEC. 5.~~

17 *SEC. 6.* Section 14838.64 of the Government Code is amended  
18 to read:

19 14838.64. (a) Notwithstanding any other law, including, but  
20 not limited to, the advertising, bidding, and protest provisions of  
21 Chapter 6 (commencing with Section 14825) of this part and  
22 Chapter 2.5 (commencing with Section 10700) and Chapter 3  
23 (commencing with Section 12100) of Part 2 of Division 2 of the  
24 Public Contract Code, the California State University may award  
25 a contract for the acquisition of goods, services, or information  
26 technology that has an estimated value of greater than five thousand  
27 dollars (\$5,000), but less than two hundred fifty thousand dollars  
28 (\$250,000), to a certified small business, including a microbusiness,  
29 or to an employment social enterprise, or to a disabled veteran  
30 business enterprise, if the California State University obtains price  
31 quotations from two or more certified small businesses, including  
32 microbusinesses, or from two or more employment social  
33 enterprises, or from two or more disabled veteran business  
34 enterprises.

35 (b) In carrying out subdivision (a), the California State  
36 University shall consider a responsive offer timely received from  
37 a responsible certified small business, including a microbusiness,  
38 or from an employment social enterprise, or from a disabled veteran  
39 business enterprise.

1 (c) The amendments made to this section by the act adding this  
2 subdivision shall become operative on July 1, 2017.

3 ~~SEC. 6.~~

4 *SEC. 7.* Section 14838.7 of the Government Code is amended  
5 to read:

6 14838.7. (a) Notwithstanding the advertising and bidding  
7 provisions of Chapter 6 (commencing with Section 14825) of this  
8 code and Chapter 1 (commencing with Section 10100) of Part 2  
9 of Division 2 of the Public Contract Code, a state agency may  
10 award a contract for construction, including the erection,  
11 construction, alteration, repair, or improvement of any state  
12 structure, building, road, or other state improvement of any kind  
13 that has an estimated value of greater than five thousand dollars  
14 (\$5,000) but less than the cost limit, as specified in subdivision  
15 (b) of Section 10105 of the Public Contract Code, to a certified  
16 small business, including a microbusiness, or to an employment  
17 social enterprise, or to a disabled veteran business enterprise, as  
18 long as the agency obtains written bid submittals from two or more  
19 certified small businesses, including microbusinesses, or from two  
20 or more employment social enterprises, or from two or more  
21 disabled veteran business enterprises.

22 (b) In implementing subdivision (a), state agencies shall consider  
23 a responsive offer timely received from a responsible certified  
24 small business, including a microbusiness, or from an employment  
25 social enterprise, or from a disabled veteran business enterprise.

26 (c) If the estimated cost to the state is less than five thousand  
27 dollars (\$5,000) for the public work construction project, a state  
28 agency shall obtain at least two written bid submittals from  
29 responsible contractors whenever there is reason to believe a  
30 response from a single source is not a fair and reasonable price.

31 (d) The amendments made to this section by the act adding this  
32 subdivision shall become operative on July 1, 2017.

33 ~~SEC. 7.~~

34 *SEC. 8.* Section 14839 of the Government Code is amended  
35 to read:

36 14839. There is hereby established within the department the  
37 Office of Small Business and Disabled Veteran Business Enterprise  
38 Services. The duties of the office shall include:

39 (a) Compiling and maintaining a comprehensive bidders list of  
40 qualified small businesses, employment social enterprises, and

1 disabled veteran business enterprises, and noting which small  
2 businesses also qualify as microbusinesses.

3 (b) Coordinating with the federal Small Business Administration,  
4 the Minority Business Development Agency, and the Office of  
5 Small Business Development of the Department of Economic and  
6 Business Development.

7 (c) Providing technical and managerial aids to small businesses,  
8 microbusinesses, employment social enterprises, and disabled  
9 veteran business enterprises, by conducting workshops on matters  
10 in connection with government procurement and contracting.

11 (d) Assisting small businesses, microbusinesses, employment  
12 social enterprises, and disabled veteran business enterprises, in  
13 complying with the procedures for bidding on state contracts.

14 (e) Working with appropriate state, federal, local, and private  
15 organizations and business enterprises in disseminating information  
16 on bidding procedures and opportunities available to small  
17 businesses, microbusinesses, employment social enterprises, and  
18 disabled veteran business enterprises.

19 (f) Making recommendations to the department and other state  
20 agencies for simplification of specifications and terms in order to  
21 increase the opportunities for small business, microbusiness,  
22 employment social enterprises, and disabled veteran business  
23 enterprise participation.

24 (g) Developing, by regulation, other programs and practices  
25 that are reasonably necessary to aid and protect the interest of small  
26 businesses, microbusinesses, employment social enterprises, and  
27 disabled veteran business enterprises in contracting with the state.

28 (h) Making efforts to develop, in cooperation with associations  
29 representing counties, cities, and special districts, a core statewide  
30 small business certification and employment social enterprise  
31 certification application that may be adopted by all participating  
32 entities, with any supplemental provisions to be added as necessary  
33 by the respective entities.

34 (i) The information furnished by each contractor requesting a  
35 small business, microbusiness, or employment social enterprise  
36 preference shall be under penalty of perjury.

37 (j) The amendments made to this section by the act adding this  
38 subdivision shall become operative on July 1, 2017.



1 ~~SEC. 8.~~

2 *SEC. 9.* Section 14839.1 of the Government Code is amended  
3 to read:

4 14839.1. (a) The department shall have sole ~~responsibility~~  
5 *responsibility, except as provided for in subdivision (c),* for  
6 certifying and determining the eligibility of small businesses,  
7 microbusinesses, and employment social enterprises under this  
8 chapter.

9 (b) Local agencies shall have access to the department's list of  
10 certified small businesses and certified employment social  
11 enterprises on the department's Internet Web site, which is  
12 available to the public, for use as a reference guide to confirm a  
13 small business or employment social enterprise certification.

14 (c) *The department may assign all or portions of the certification*  
15 *process, the determination of eligibility, or the auditing of*  
16 *compliance with the articles of incorporation and the bylaws of*  
17 *employment social enterprises to another state entity or local*  
18 *entity.*

19 ~~(e)~~

20 (d) The amendments made to this section by the act adding this  
21 subdivision shall become operative on July 1, 2017.

22 ~~SEC. 9.~~

23 *SEC. 10.* Section 14840 of the Government Code is amended  
24 to read:

25 14840. (a) In the process of certifying and determining the  
26 eligibility of a disabled veteran business enterprise, a small business  
27 enterprise, including a microbusiness, or an employment social  
28 enterprise, the department shall require the applicant or certified  
29 firm to submit a written declaration, under penalty of perjury, that  
30 the information submitted to the department pursuant to this  
31 chapter, and in the case of a disabled veteran enterprise all  
32 information submitted to the department pursuant to Section 999.2  
33 of the Military and Veterans Code, is true and correct.

34 (b) (1) If the department determines that just cause exists, it  
35 may require the owner of the disabled veteran business enterprise,  
36 microbusiness, employment social enterprise, or small business,  
37 the applicant, or the certified firm to complete and submit to the  
38 department a federal Form 4506-T or Form 990 from the Internal  
39 Revenue Service, United States Department of the Treasury,  
40 requesting a transcript of a tax return. *For an employment social*

1 *enterprise, the department may require documentation that the*  
2 *employment social enterprise is operating in a manner consistent*  
3 *with its articles of incorporation or bylaws.*

4 (2) For the purposes of this subdivision, “just cause” means  
5 either of the following circumstances exists:

6 (A) The department receives a complaint regarding the certified  
7 firm.

8 (B) The department determines, based on its findings during  
9 the course of any certification eligibility review of the applicant  
10 or certified firm, that the action described in paragraph (1) is  
11 necessary.

12 (c) The amendments made to this section by the act adding this  
13 subdivision shall become operative on July 1, 2017.

14 ~~SEC. 10.~~

15 *SEC. 11.* Section 14842 of the Government Code is amended  
16 to read:

17 14842. (a) A business that has obtained classification as a  
18 small business, microbusiness, or employment social enterprise  
19 by reason of having furnished incorrect supporting information or  
20 by reason of having withheld information, and that knew, or should  
21 have known, the information furnished was incorrect or the  
22 information withheld was relevant to its request for classification,  
23 and that by reason of that classification has been awarded a contract  
24 to which it would not otherwise have been entitled, shall do all of  
25 the following:

26 (1) Pay to the state any difference between the contract amount  
27 and what the state’s costs would have been if the contract had been  
28 properly awarded.

29 (2) Pay to the awarding state agency and the department an  
30 amount that is equal to the costs incurred for investigating the  
31 small business or microbusiness certification that led to the finding  
32 that the contract had been improperly awarded. Costs incurred  
33 shall include, but are not limited to, costs and attorney’s fees paid  
34 by the awarding state agency or the department related to hearings  
35 and court appearances.

36 (3) In addition to the amounts described in paragraphs (1) and  
37 (2), be assessed a penalty in an amount of not more than 10 percent  
38 of the amount of the contract involved.

39 (b) The department shall suspend any person who violates  
40 subdivision (a) from transacting any business with the state either

1 directly as a prime contractor or indirectly as a subcontractor, for  
2 a period of not less than 3 years and not more than 10 years. State  
3 agencies may reject the bid of a supplier offering goods,  
4 information technology, or services manufactured or provided by  
5 a subcontractor if that subcontractor has been declared ineligible  
6 to transact any business with the state under this chapter, even  
7 though the bidder is a business in good standing.

8 (c) All payments to the state pursuant to paragraphs (1) and (2)  
9 of subdivision (a) shall be deposited in the fund or funds out of  
10 which payments on the contract involved were made, except  
11 payments to the department made pursuant to paragraph (2) of  
12 subdivision (a) shall be deposited in the Service Revolving Fund.

13 (d) All payments to the state pursuant to paragraph (3) of  
14 subdivision (a) shall be deposited in the state General Fund.

15 (e) The small business certification, employment social  
16 enterprise certification, and the disabled veteran business enterprise  
17 certification if the business has multiple certifications, of a business  
18 found to have violated subdivision (a) shall be revoked by the  
19 department for a period of not less than five years. For an additional  
20 or subsequent violation, the period of certification revocation or  
21 suspension shall be extended for a period of up to 10 years. The  
22 certification revocation shall apply to the principals of the business  
23 and any subsequent businesses formed by one or more of those  
24 principals.

25 (f) Prior to the imposition of any sanctions under this article, a  
26 business shall be entitled to a public hearing and to at least five  
27 working days' notice of the time and place thereof. The notice  
28 shall state the reasons for the hearing.

29 (g) Any business or person that fails to satisfy any of the  
30 amounts specified in paragraphs (1) to (3), inclusive, of subdivision  
31 (a) shall be prohibited from further contracting with the state until  
32 all amounts are satisfied.

33 (h) For purposes of this section, "awarding state agency" means  
34 a state agency or other state governmental entity that awarded the  
35 contract, if it was not awarded by the department.

36 (i) The amendments made to this section by the act adding this  
37 subdivision shall become operative on July 1, 2017.

38 ~~SEC. 11.~~

39 *SEC. 12.* Section 14842.5 of the Government Code is amended  
40 to read:

1 14842.5. (a) It shall be unlawful for a person to do any of the  
2 following:

3 (1) Knowingly and with intent to defraud, fraudulently obtain,  
4 retain, attempt to obtain or retain, or aid another in fraudulently  
5 obtaining or retaining or attempting to obtain or retain, certification  
6 as a small business, microbusiness, or employment social enterprise  
7 for the purposes of this chapter.

8 (2) Willfully and knowingly make a false statement with the  
9 intent to defraud, whether by affidavit, report, or other  
10 representation, to a state official or employee for the purpose of  
11 influencing the certification or denial of certification of any entity  
12 as a small business, microbusiness, or employment social  
13 enterprise.

14 (3) Willfully and knowingly obstruct, impede, or attempt to  
15 obstruct or impede, any state official or employee who is  
16 investigating the qualifications of a business entity that has  
17 requested certification as a small business, microbusiness, or  
18 employment social enterprise.

19 (4) Knowingly and with intent to defraud, fraudulently obtain,  
20 attempt to obtain, or aid another person in fraudulently obtaining  
21 or attempting to obtain, public moneys, contracts, or funds  
22 expended under a contract, that are awarded by any state agency,  
23 department, officer, or other state governmental agency, to which  
24 the person is not entitled under this chapter.

25 (5) Knowingly and with intent to defraud, fraudulently represent  
26 certified small business, microbusiness, or employment social  
27 enterprise participation in order to obtain or retain a bid preference  
28 or a state contract.

29 (6) Knowingly and with intent to defraud, fraudulently represent  
30 that a commercially useful function is being performed by a  
31 certified small business, microbusiness, or employment social  
32 enterprise in order to obtain or retain a bid preference or a state  
33 contract.

34 (7) Willfully and knowingly make or subscribe to any statement,  
35 declaration, or other document that is fraudulent or false as to any  
36 material matter, whether or not that falsity or fraud is committed  
37 with the knowledge or consent of the person authorized or required  
38 to present the declaration, statement, or document.

39 (8) Willfully and knowingly aid or assist in, or procure, counsel,  
40 or advise, the preparation or presentation of a declaration,

1 statement, or other document that is fraudulent or false as to any  
2 material matter, regardless of whether that falsity or fraud is  
3 committed with the knowledge or consent of the person authorized  
4 or required to present the declaration, statement, or document.

5 (9) Establish, or knowingly aid in the establishment of, or  
6 exercise control over, a firm found to have violated any provision  
7 of paragraphs (1) to (8), inclusive.

8 (b) (1) Any person who is found by the department to have  
9 violated any of the provisions of subdivision (a) is subject to a  
10 civil penalty of not less than ten thousand dollars (\$10,000) nor  
11 more than thirty thousand dollars (\$30,000) for the first violation,  
12 and a civil penalty of not less than thirty thousand dollars (\$30,000)  
13 nor more than fifty thousand dollars (\$50,000) for each additional  
14 or subsequent violation.

15 (2) A person who violates any of the provisions of subdivision  
16 (a) shall pay all costs incurred by the awarding department and  
17 the Department of General Services for any investigations that led  
18 to the finding of the violation. Costs incurred shall include, but  
19 are not limited to, costs and attorney's fees paid by the awarding  
20 state agency or the department related to hearings and court  
21 appearances. All payments to the state pursuant to this paragraph  
22 shall be deposited in the fund or funds out of which payments on  
23 the contract involved were made, except payments to the  
24 department shall be deposited in the Service Revolving Fund.

25 (c) The department shall revoke the small business,  
26 microbusiness, or employment social enterprise certification, and  
27 the disabled veteran business enterprise certification if the business  
28 has both certifications, of any person that violates subdivision (a)  
29 for a period of not less than five years, and shall, in addition to the  
30 penalties provided for in subdivision (b), suspend the person from  
31 bidding on, or participating as a contractor, a subcontractor, or a  
32 supplier in, any state contract or project for a period of not less  
33 than 3 years nor more than 10 years. However, for an additional  
34 or subsequent violation, the period of certification revocation or  
35 suspension shall be extended for a period of up to three years. The  
36 certification revocation shall apply to the principals of the business  
37 and any subsequent businesses formed by one or more of those  
38 principals. Any business or person who fails to satisfy any of the  
39 penalties imposed pursuant to paragraphs (1) and (2) of subdivision

(b) shall be prohibited from further contracting with the state until the penalties are satisfied.

(d) If a contractor, subcontractor, supplier, subsidiary, or affiliate thereof, has been found by the department to have violated subdivision (a) and that violation occurred within three years of another violation of subdivision (a) found by the department, the department shall prohibit that contractor, subcontractor, supplier, subsidiary, or affiliate thereof, from entering into a state project or state contract and from further bidding to a state entity, and from being a subcontractor to a contractor for a state entity, and from being a supplier to a state entity.

(e) (1) In addition to the penalties imposed by this section, if a contractor is found to be in violation of paragraph (6) of subdivision (a), any existing contract between that contractor and any awarding department may be terminated at the discretion of the awarding state agency, and, where payment to the contractor is made directly by the state agency, the agency shall set off penalties and costs due to the state against any payments due to that contractor. In the event that the contracting state agency has forwarded the contract and invoices to the Controller for payment, the state agency shall reduce the amount due to the contractor as reflected in the claim schedule submitted to the Controller by the amount of the penalties and costs due the state. In addition, with regard to any penalties and costs due to the state that the state agency has not accounted for by either a set off against payments due to the contractor or a reduction reflected in the claim schedule submitted to the Controller, to the extent that the Controller is making payments to the contractor on behalf of any state agency, the Controller shall set off penalties and costs due against any invoices due to the contractor from any other contract awarded to the contractor.

(2) For purposes of this section:

(A) “Awarding state agency” means any state agency, department, governmental entity, or other officer or entity empowered by law to enter into contracts on behalf of the State of California.

(B) “Contractor” means any person or persons, firm, partnership, corporation, or combination thereof who submits a bid and enters into a contract with a representative of a state agency, department,

1 governmental entity, or other officer empowered by law to enter  
2 into contracts on behalf of the State of California.

3 (f) The amendments made to this section by the act adding this  
4 subdivision shall become operative on July 1, 2017.

5 *SEC. 13. Section 10111 of the Public Contract Code is amended*  
6 *to read:*

7 10111. Commencing January 1, 2007, the department shall  
8 make available a report on contracting activity containing the  
9 following information:

10 (a) A listing of consulting services contracts that the state has  
11 entered into during the previous fiscal year. The listing shall  
12 include the following:

13 (1) The name and identification number of each contractor.

14 (2) The type of bidding entered into, the number of bidders,  
15 whether the low bidder was accepted, and if the low bidder was  
16 not accepted, an explanation of why another contractor was  
17 selected.

18 (3) The amount of the contract price.

19 (4) Whether the contract was a noncompetitive bid contract,  
20 and why the contract was a noncompetitive bid contract.

21 (5) Justification for entering into each consulting services  
22 contract.

23 (6) The purpose of the contract and the potential beneficiaries.

24 (7) The date when the initial contract was signed, and the date  
25 when the work began and was completed.

26 (b) The report shall also include a separate listing of consultant  
27 contracts completed during that fiscal year, with the same  
28 information specified in subdivision (a).

29 (c) The information specified in subdivisions (a) and (b) shall  
30 also include a list of any contracts underway during that fiscal year  
31 on which a change was made regarding the following:

32 (1) The completion date of the contract.

33 (2) The amount of money to be received by the contractor, if it  
34 exceeds 3 percent of the original contract price.

35 (3) The purpose of the contract or duties of the contractor. A  
36 brief explanation shall be given if the change in purpose is  
37 significant.

38 (d) The level of participation, by agency, of disabled veteran  
39 business enterprises in statewide contracting and shall include  
40 dollar values of contract award for the following categories:

- 1 (1) Construction.
- 2 (2) Architectural, engineering, and other professional services.
- 3 (3) Procurement of materials, supplies, and equipment.
- 4 (4) Information technology procurements.

5 Additionally, the report shall include a statistical summary  
6 detailing each awarding department's goal achievement and a  
7 statewide total of those goals.

8 (e) The level of participation by small business in state  
9 contracting including:

10 (1) Upon request, an up-to-date list of eligible small business  
11 bidders by general procurement and construction contract  
12 categories, noting company names and addresses and also noting  
13 which small businesses also qualify as microbusinesses.

14 (2) By general procurement and construction contract categories,  
15 statistics comparing the small business and microbusiness contract  
16 participation dollars to the total state contract participation dollars.

17 (3) By awarding department and general procurement and  
18 construction categories, statistics comparing the small business  
19 and microbusiness contract participation dollars to the total state  
20 contract participation dollars.

21 (4) Any recommendations for changes in statutes or state  
22 policies to improve opportunities for small businesses and  
23 microbusinesses.

24 (5) A statistical summary of small businesses and  
25 microbusinesses certified for state contracting by the number of  
26 employees at the business for each of the following categories:  
27 0–5, 26–50, 51–75, and 76–100.

28 (6) To the extent feasible, beginning in the year 2008, the  
29 number of contracts awarded by the department in the categories  
30 specified in paragraph (5).

31 (7) The number of contracts and dollar amounts awarded  
32 annually pursuant to Section 14838.5 of the Government Code to  
33 small businesses, microbusinesses, and disabled veteran business  
34 enterprises.

35 (f) The level of participation of business enterprises, by race,  
36 ethnicity, and gender of the owner, in contracts to the extent that  
37 the information has been voluntarily reported to the department.  
38 In addition, the report shall contain the levels of participation of  
39 business enterprises, by race, ethnicity, and gender of the owner,  
40 and whether the business is a lesbian, gay, bisexual, or transgender



1 owned business for the following categories of contracts, to the  
2 extent that the information has been voluntarily reported to the  
3 department:

4 (1) Construction.

5 (2) Purchases of materials, supplies, or equipment.

6 (3) Professional services.

7 (g) In the years 2011 and 2012, any errors reported to the  
8 department by an awarding agency as required by Sections 10302,  
9 10344, and 12104.5, in the previous fiscal year.

10 (h) *The level of participation by employment social enterprises*  
11 *in state contracting, including the following:*

12 (1) *Upon request, an up-to-date list of eligible employment*  
13 *social enterprises bidders by general procurement and construction*  
14 *contract categories.*

15 (2) *By general procurement and construction contract*  
16 *categories, statistics comparing the employment social enterprises*  
17 *contract participation dollars to the total state contract*  
18 *participation dollars.*

19 (3) *By awarding department and general procurement and*  
20 *construction categories, statistics comparing the employment social*  
21 *enterprises contract participation dollars to the total state contract*  
22 *participation dollars.*

23 (4) *Any recommendations for changes in statutes or state*  
24 *policies to improve opportunities for employment social*  
25 *enterprises.*

26 (5) *The aggregate number of employees participating in*  
27 *employment social enterprises and verification of on-the-job and*  
28 *life skills training identified in subparagraph (D) of paragraph*  
29 *(3) of subdivision (d) of Section 14837 of the Government Code.*  
30 *This information shall be reported by categories, as established*  
31 *by the department.*

32 ~~(h)~~

33 (i) The amendments made to this section by the act adding this  
34 subdivision shall apply on and after January 1, 2013.

35 SEC. 14. *No reimbursement is required by this act pursuant*  
36 *to Section 6 of Article XIII B of the California Constitution because*  
37 *the only costs that may be incurred by a local agency or school*  
38 *district will be incurred because this act creates a new crime or*  
39 *infraction, eliminates a crime or infraction, or changes the penalty*  
40 *for a crime or infraction, within the meaning of Section 17556 of*

- 1 *the Government Code, or changes the definition of a crime within*
- 2 *the meaning of Section 6 of Article XIII B of the California*
- 3 *Constitution.*

O