

AMENDED IN ASSEMBLY AUGUST 1, 2016

AMENDED IN ASSEMBLY JUNE 30, 2016

AMENDED IN SENATE MAY 31, 2016

AMENDED IN SENATE APRIL 4, 2016

**SENATE BILL**

**No. 1219**

**Introduced by Senator Hancock**

**(Coauthors: Senators Hall and Hueso)**

~~(Coauthor: Assembly Member Jones-Sawyer)~~

*(Coauthors: Assembly Members Brown, Eduardo Garcia, Gipson, and  
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 a preference and status similar to a small business or microbusiness as described above. The bill would define an employment social enterprise as a California-based social purpose corporation, a benefit corporation, or a nonprofit corporation that earns 51% or more of its enterprise revenue from the production or assembly of goods 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 80% or more of enterprise participants who face multiple barriers to employment. The bill would define an “enterprise participant who faces ~~significant~~ *multiple* barriers to employment” ~~to include as an individual that has meets certain criteria, including that he or she has~~ *as an individual that meets certain criteria, including that he or she has* employment barriers, is or was homeless, or is an out-of-school ~~youth~~ *youth, as specified*. 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: 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,  
15 the 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 the  
34 Los Angeles chapter was founded in 2010. In 2015, 80  
35 California-based employment social enterprises, from startups to  
36 mature businesses, competed in a national grant solicitation for  
37 the Social Innovation Fund/REDF. Eight were awarded funding  
38 and are projected to generate up to 14,000 job opportunities and

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

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

30 (2) Another recent study, by Social Ventures in Australia, found  
31 that social enterprises have demonstrated that they can create jobs  
32 for people excluded from the mainstream workforce, particularly  
33 the long-term unemployed, and showed that this equity outcome  
34 is also efficient, as government investment in the creation of  
35 businesses is returned via taxation revenue and savings in social  
36 security expenditure. In developing economies of Latin America,  
37 Asia, and sub-Saharan Africa, social entrepreneurs are creating  
38 enterprises that help solve social problems in their countries with  
39 a reduced reliance on government or international aid to finance  
40 it.

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

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

(f) ESEs consist of the following elements:

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

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

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

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

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

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

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

5 (4) Job search and retention services which includes assistance  
6 with resumes and cover letters, interview preparation, and job  
7 searches.

8 (5) Job development and placement services to identify job  
9 openings, schedule interviews, and follow up with employers after  
10 a participant has an interview.

11 (6) Promote and support the completion of industry-recognized  
12 certificates.

13 (7) Connections and enrollment support to community colleges,  
14 educational institutions, vocational training and certificate  
15 programs, preapprenticeship and apprenticeship programs, or other  
16 opportunities to pursue career and education advancement.

17 SEC. 2. Section 14836 of the Government Code is amended  
18 to read:

19 14836. (a) The Legislature hereby declares that it serves a  
20 public purpose, and it is of benefit to the state, to promote and  
21 facilitate the fullest possible participation by all citizens in the  
22 affairs of the State of California in every possible way. It is also  
23 essential that opportunity is provided for full participation in our  
24 free enterprise system by small business enterprises, and  
25 employment social enterprises.

26 (b) Further, it is the declared policy of the Legislature that the  
27 state should aid, counsel, assist, and protect, to the maximum extent  
28 possible, the interests of small business concerns, including  
29 microbusinesses and employment social enterprises, in order to  
30 preserve free competitive enterprise and to ensure that a fair  
31 proportion of the total purchases and contracts or subcontracts for  
32 property and services for the state be placed with these enterprises.

33 SEC. 3. Section 14837 of the Government Code is amended  
34 to read:

35 14837. As used in this chapter:

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

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

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

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

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

6 (d) (1) “Small business” means an independently owned and  
7 operated business that is not dominant in its field of operation, the  
8 principal office of which is located in California, the officers of  
9 which are domiciled in California, and which, together with  
10 affiliates, has 100 or fewer employees, and average annual gross  
11 receipts of ten million dollars (\$10,000,000) or less over the  
12 previous three years, or is a manufacturer, as defined in subdivision  
13 (c), with 100 or fewer employees.

14 (2) “Microbusiness” is a small business which, together with  
15 affiliates, has average annual gross receipts of two million five  
16 hundred thousand dollars (\$2,500,000) or less over the previous  
17 three years, or is a manufacturer, as defined in subdivision (c),  
18 with 25 or fewer employees.

19 (3) “Employment social enterprise” means an entity that meets  
20 all of the following:

21 (A) Is organized as a social purpose corporation, a benefit  
22 corporation, or a nonprofit corporation.

23 (B) Is a California-based entity that meets one or more of the  
24 following:

25 (i) The entity has a principal office in California, and the officers  
26 are domiciled in California.

27 (ii) The entity has a major office or manufacturing facility  
28 located in California that has been licensed by the state on a  
29 continuous basis to conduct business within the state and has  
30 continuously employed California residents for work within the  
31 state during the prior three years.

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

37 (C) Earns 51 percent or more of its enterprise revenue from the  
38 production or assembly of goods or the provision of services, or  
39 a combination of both.

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

- (i) Basic skills and job readiness assessment.
- (ii) Referral system to industry-recognized certificates and training.
- (iii) Linkage to community colleges, adult schools, or other education institutions to gain an education diploma or certificate.
- (iv) Partnership with local or regional workforce development boards.
- (v) Job placement and retention services.

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

(ii) "Enterprise participant who faces multiple barriers to employment" means an individual that meets ~~one~~ two or more of the following:

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

1 14838. In order to facilitate the participation of small business,  
2 including microbusiness and employment social enterprise in the  
3 provision of goods, information technology, and services to the  
4 state, and in the construction (including alteration, demolition,  
5 repair, or improvement) of state facilities, the directors of the  
6 department and other state agencies that enter those contracts, each  
7 within their respective areas of responsibility, shall do all of the  
8 following:

9 (a) Establish goals, consistent with those established by the  
10 Office of Small Business Certification and Resources, for the extent  
11 of participation of small businesses, including microbusinesses,  
12 and employment social enterprises, in the provision of goods,  
13 information technology, and services to the state, and in the  
14 construction of state facilities.

15 (b) Provide for a small business or employment social enterprise  
16 preference, or nonsmall business preference for bidders that provide  
17 for small business, microbusiness, and employment social  
18 enterprise subcontractor participation, in the award of contracts  
19 for goods, information technology, services, and construction, as  
20 follows:

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

31 (2) In solicitations where an award is to be made to the highest  
32 scored bidder based on evaluation factors in addition to price, the  
33 preference to small business, microbusiness, or employment social  
34 enterprise shall be 5 percent of the highest responsible bidder's  
35 total score. The preference to nonsmall business bidders that  
36 provide for small business, microbusiness, or employment social  
37 enterprise subcontractor participation shall be up to a maximum  
38 5 percent of the highest responsible bidder's total score, determined  
39 according to rules and regulations established by the Department  
40 of General Services.

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

4 (4) The preference under paragraph (1) shall not exceed fifty  
5 thousand dollars (\$50,000) for any bid, and the combined cost of  
6 preferences granted pursuant to paragraph (1) and any other  
7 provision of law shall not exceed one hundred thousand dollars  
8 (\$100,000). In bids in which the state has reserved the right to  
9 make multiple awards, this fifty thousand dollar (\$50,000)  
10 maximum preference cost shall be applied, to the extent possible,  
11 so as to maximize the dollar participation of small businesses,  
12 including microbusinesses, and employment social enterprises in  
13 the contract award.

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

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

19 (B) An employment social enterprise preference or a nonsmall  
20 business preference for bidders that provide for employment social  
21 enterprise subcontractor participation.

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

24 (1) Reducing the experience required.

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

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

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

36 (f) Small business, microbusiness, and employment social  
37 enterprise bidders qualified in accordance with this chapter shall  
38 have precedence over nonsmall business bidders in that the  
39 application of a bidder preference for which nonsmall business  
40 bidders may be eligible under this section or any other provision

1 of law shall not result in the denial of the award to a small business,  
2 microbusiness, or employment social enterprise bidder. In the  
3 event of a precise tie between the low responsible bid of a bidder  
4 meeting specifications of a small business, microbusiness, or  
5 employment social enterprise and the low responsible bid of a  
6 bidder meeting the specifications of a disabled veteran-owned  
7 small business, microbusiness, or employment social enterprise,  
8 the contract shall be awarded to the disabled veteran-owned small  
9 business, microbusiness, or employment social enterprise. This  
10 provision applies if the small business, microbusiness, or  
11 employment social enterprise bidder is the lowest responsible  
12 bidder, as well as if the small business, microbusiness, or  
13 employment social enterprise bidder is eligible for award as the  
14 result of application of the small business, microbusiness, and  
15 employment social enterprise bidder preference granted by  
16 subdivision (b).

17 (g) In order to qualify for the incentives under this section, an  
18 employment social enterprise shall demonstrate and certify under  
19 penalty of perjury the following:

20 (1) Not less than 70 percent of the total labor hours, excluding  
21 supervisors and administration, required to perform the information  
22 technology or construction contract shall be completed by an  
23 enterprise participant who faces multiple barriers to employment.

24 (2) Not less than 70 percent of the total labor hours, excluding  
25 supervisors and administration, required to manufacture the goods  
26 and perform the contract shall be completed by an enterprise  
27 participant who faces multiple barriers to employment. For an  
28 employment social enterprise with 25 or fewer total employees,  
29 50 percent of the total labor hours, excluding supervisors and  
30 administration, required to manufacture the goods and perform  
31 the contract shall be completed by an enterprise participant who  
32 faces multiple barriers to employment.

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

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

39 SEC. 5. Section 14838.5 of the Government Code is amended  
40 to read:

1 14838.5. (a) Notwithstanding the advertising, bidding, and  
2 protest provisions of Chapter 6 (commencing with Section 14825)  
3 of this part and Chapter 2 (commencing with Section 10290) and  
4 Chapter 3 (commencing with Section 12100) of Part 2 of Division  
5 2 of the Public Contract Code, a state agency may award a contract  
6 for the acquisition of goods, services, or information technology  
7 that has an estimated value of greater than five thousand dollars  
8 (\$5,000), but less than two hundred fifty thousand dollars  
9 (\$250,000), to a certified small business, including a microbusiness,  
10 or to an employment social enterprise, or to a disabled veteran  
11 business enterprise, as long as the agency obtains price quotations  
12 from two or more certified small businesses, including  
13 microbusinesses, or from two or more employment social  
14 enterprises, or from two or more disabled veteran business  
15 enterprises.

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

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

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

29 SEC. 6. Section 14838.64 of the Government Code is amended  
30 to read:

31 14838.64. (a) Notwithstanding any other law, including, but  
32 not limited to, the advertising, bidding, and protest provisions of  
33 Chapter 6 (commencing with Section 14825) of this part and  
34 Chapter 2.5 (commencing with Section 10700) and Chapter 3  
35 (commencing with Section 12100) of Part 2 of Division 2 of the  
36 Public Contract Code, the California State University may award  
37 a contract for the acquisition of goods, services, or information  
38 technology that has an estimated value of greater than five thousand  
39 dollars (\$5,000), but less than two hundred fifty thousand dollars  
40 (\$250,000), to a certified small business, including a microbusiness,

1 or to an employment social enterprise, or to a disabled veteran  
2 business enterprise, if the California State University obtains price  
3 quotations from two or more certified small businesses, including  
4 microbusinesses, or from two or more employment social  
5 enterprises, or from two or more disabled veteran business  
6 enterprises.

7 (b) In carrying out subdivision (a), the California State  
8 University shall consider a responsive offer timely received from  
9 a responsible certified small business, including a microbusiness,  
10 or from an employment social enterprise, or from a disabled veteran  
11 business enterprise.

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

14 SEC. 7. Section 14838.7 of the Government Code is amended  
15 to read:

16 14838.7. (a) Notwithstanding the advertising and bidding  
17 provisions of Chapter 6 (commencing with Section 14825) of this  
18 code and Chapter 1 (commencing with Section 10100) of Part 2  
19 of Division 2 of the Public Contract Code, a state agency may  
20 award a contract for construction, including the erection,  
21 construction, alteration, repair, or improvement of any state  
22 structure, building, road, or other state improvement of any kind  
23 that has an estimated value of greater than five thousand dollars  
24 (\$5,000) but less than the cost limit, as specified in subdivision  
25 (b) of Section 10105 of the Public Contract Code, to a certified  
26 small business, including a microbusiness, or to an employment  
27 social enterprise, or to a disabled veteran business enterprise, as  
28 long as the agency obtains written bid submittals from two or more  
29 certified small businesses, including microbusinesses, or from two  
30 or more employment social enterprises, or from two or more  
31 disabled veteran business enterprises.

32 (b) In implementing subdivision (a), state agencies shall consider  
33 a responsive offer timely received from a responsible certified  
34 small business, including a microbusiness, or from an employment  
35 social enterprise, or from a disabled veteran business enterprise.

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

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

3 SEC. 8. Section 14839 of the Government Code is amended  
4 to read:

5 14839. There is hereby established within the department the  
6 Office of Small Business and Disabled Veteran Business Enterprise  
7 Services. The duties of the office shall include:

8 (a) Compiling and maintaining a comprehensive bidders list of  
9 qualified small businesses, employment social enterprises, and  
10 disabled veteran business enterprises, and noting which small  
11 businesses also qualify as microbusinesses.

12 (b) Coordinating with the federal Small Business Administration,  
13 the Minority Business Development Agency, and the Office of  
14 Small Business Development of the Department of Economic and  
15 Business Development.

16 (c) Providing technical and managerial aids to small businesses,  
17 microbusinesses, employment social enterprises, and disabled  
18 veteran business enterprises, by conducting workshops on matters  
19 in connection with government procurement and contracting.

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

23 (e) Working with appropriate state, federal, local, and private  
24 organizations and business enterprises in disseminating information  
25 on bidding procedures and opportunities available to small  
26 businesses, microbusinesses, employment social enterprises, and  
27 disabled veteran business enterprises.

28 (f) Making recommendations to the department and other state  
29 agencies for simplification of specifications and terms in order to  
30 increase the opportunities for small business, microbusiness,  
31 employment social enterprises, and disabled veteran business  
32 enterprise participation.

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

37 (h) Making efforts to develop, in cooperation with associations  
38 representing counties, cities, and special districts, a core statewide  
39 small business certification and employment social enterprise  
40 certification application that may be adopted by all participating

1 entities, with any supplemental provisions to be added as necessary  
2 by the respective entities.

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

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

8 SEC. 9. Section 14839.1 of the Government Code is amended  
9 to read:

10 14839.1. (a) The department shall have sole responsibility,  
11 except as provided for in subdivision (c), for certifying and  
12 determining the eligibility of small businesses, microbusinesses,  
13 and employment social enterprises under this chapter.

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

19 (c) The department may assign all or portions of the certification  
20 process, the determination of eligibility, or the auditing of  
21 compliance with the articles of incorporation and the bylaws of  
22 employment social enterprises to another state entity or local entity.

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

25 SEC. 10. Section 14840 of the Government Code is amended  
26 to read:

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

36 (b) (1) If the department determines that just cause exists, it  
37 may require the owner of the disabled veteran business enterprise,  
38 microbusiness, employment social enterprise, or small business,  
39 the applicant, or the certified firm to complete and submit to the  
40 department a federal Form 4506-T or Form 990 from the Internal



1 Revenue Service, United States Department of the Treasury,  
2 requesting a transcript of a tax return. For an employment social  
3 enterprise, the department may require documentation that the  
4 employment social enterprise is operating in a manner consistent  
5 with its articles of incorporation or bylaws.

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

8 (A) The department receives a complaint regarding the certified  
9 firm.

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

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

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

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

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

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

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

(b) The department shall suspend any person who violates subdivision (a) from transacting any business with the state either directly as a prime contractor or indirectly as a subcontractor, for a period of not less than 3 years and not more than 10 years. State agencies may reject the bid of a supplier offering goods, information technology, or services manufactured or provided by a subcontractor if that subcontractor has been declared ineligible to transact any business with the state under this chapter, even though the bidder is a business in good standing.

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

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

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

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

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

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

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

1 SEC. 12. Section 14842.5 of the Government Code is amended  
2 to read:

3 14842.5. (a) It shall be unlawful for a person to do any of the  
4 following:

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

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

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

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

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

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

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

1 (8) Willfully and knowingly aid or assist in, or procure, counsel,  
2 or advise, the preparation or presentation of a declaration,  
3 statement, or other document that is fraudulent or false as to any  
4 material matter, regardless of whether that falsity or fraud is  
5 committed with the knowledge or consent of the person authorized  
6 or required to present the declaration, statement, or document.

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

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

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

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

1 penalties imposed pursuant to paragraphs (1) and (2) of subdivision  
2 (b) shall be prohibited from further contracting with the state until  
3 the penalties are satisfied.

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

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

33 (2) For purposes of this section:

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

38 (B) “Contractor” means any person or persons, firm, partnership,  
39 corporation, or combination thereof who submits a bid and enters  
40 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 categories,  
16 statistics comparing the employment social enterprises contract  
17 participation dollars to the total state contract participation dollars.

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

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

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

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

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



1 the meaning of Section 6 of Article XIII B of the California  
2 Constitution.

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