

AMENDED IN ASSEMBLY AUGUST 19, 2016

AMENDED IN ASSEMBLY AUGUST 15, 2016

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)

(Coauthors: Assembly Members Brown, Eduardo Garcia, Gipson,
Gonzalez, and Jones-Sawyer)

February 18, 2016

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 October 1, 2018, 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 multiple barriers to employment” 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, 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.

This bill would incorporate additional changes to Sections 14837 and 14838 of the Government Code proposed by SB 1176 that would become operative if this bill and SB 1176 are enacted and this bill is enacted last. This bill also would incorporate additional changes to Section 10111 of the Public Contract Code proposed by SB 159 that would become operative if this bill and SB 159 are enacted and this bill is enacted last.

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

1 bottom line mission also entail challenges when meeting regulatory
2 requirements, accessing capital, competing for large-size contracts,
3 and marketing their goods and services.

4 (c) California is home to a dynamic and growing sector of social
5 enterprises. According to the national Social Enterprise Alliance,
6 there are 98 social enterprises from California registered in its
7 database. The San Francisco chapter was founded in 2009 and the
8 Los Angeles chapter was founded in 2010. In 2015, 80
9 California-based employment social enterprises, from startups to
10 mature businesses, competed in a national grant solicitation for
11 the Social Innovation Fund/REDF. Eight were awarded funding
12 and are projected to generate up to 14,000 job opportunities and
13 over \$375 million in revenues between 2016 and 2020. In the
14 Four-Year County Small Business and Social Enterprise Utilization
15 Plan of Los Angeles County, prepared in May 2016, 19 social
16 enterprises meet the Transitional Jobs Opportunity Preference
17 serving the county's workforce. Although this is still a very young
18 sector, a recent report by Mathematica Policy Research found that
19 for every dollar spent by a social enterprise, there was a \$2.23
20 return on investment to society. This includes benefits to taxpayers,
21 including reductions in government transfers, incarceration, and
22 health and housing costs paid for by the public sector. Furthermore,
23 the study also showed that the percentage of total income from
24 government transfers decreased from 71 percent to 24 percent and
25 the total monthly income for workers increased by 91 percent.
26 This study concludes that investing in the growth of social
27 enterprises, as well as their additional support services for workers,
28 can have a positive impact on people's lives, while lessening the
29 burden on government resources.

30 (d) (1) In major economies like those in the United Kingdom
31 and Australia, social enterprise is a mature sector. United Kingdom
32 government statistics identify around 70,000 social enterprises
33 contributing £24 billion to the economy and employing nearly a
34 million people. According to the Social Enterprise Survey for
35 2015, 50 percent of social enterprises reported a profit, 73 percent
36 of social enterprises earn more than 75 percent of their income
37 from trade, and 27 percent of social enterprises have the public
38 sector as their main source of income. Furthermore, 59 percent of
39 social enterprises employ at least one person who is disadvantaged

1 in the labor market, and for 16 percent of social enterprises, this
2 group forms at least half of all employees.

3 (2) Another recent study, by Social Ventures in Australia, found
4 that social enterprises have demonstrated that they can create jobs
5 for people excluded from the mainstream workforce, particularly
6 the long-term unemployed, and showed that this equity outcome
7 is also efficient, as government investment in the creation of
8 businesses is returned via taxation revenue and savings in social
9 security expenditure. In developing economies of Latin America,
10 Asia, and sub-Saharan Africa, social entrepreneurs are creating
11 enterprises that help solve social problems in their countries with
12 a reduced reliance on government or international aid to finance
13 it.

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

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

38 (f) ESEs consist of the following elements:

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

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

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

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

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

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

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

18 (4) Job search and retention services which includes assistance
19 with resumes and cover letters, interview preparation, and job
20 searches.

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

24 (6) Promote and support the completion of industry-recognized
25 certificates.

26 (7) Connections and enrollment support to community colleges,
27 educational institutions, vocational training and certificate
28 programs, preapprenticeship and apprenticeship programs, or other
29 opportunities to pursue career and education advancement.

30 SEC. 2. Section 14836 of the Government Code is amended
31 to read:

32 14836. (a) The Legislature hereby declares that it serves a
33 public purpose, and it is of benefit to the state, to promote and
34 facilitate the fullest possible participation by all citizens in the
35 affairs of the State of California in every possible way. It is also
36 essential that opportunity is provided for full participation in our
37 free enterprise system by small business enterprises, and
38 employment social enterprises.

39 (b) Further, it is the declared policy of the Legislature that the
40 state should aid, counsel, assist, and protect, to the maximum extent

possible, the interests of small business concerns, including microbusinesses and employment social enterprises, in order to preserve free competitive enterprise and to ensure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the state be placed with these enterprises.

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

14837. As used in this chapter:

(a) “Department” means the Department of General Services.

(b) “Director” means the Director of General Services.

(c) “Manufacturer” means a business that meets both of the following requirements:

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

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

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

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

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

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

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

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

(ii) The entity has a major office or manufacturing facility located in California that has been licensed by the state on a

1 continuous basis to conduct business within the state and has
2 continuously employed California residents for work within the
3 state during the prior three years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (B) A contractor, subcontractor, or supplier will not be
39 considered to perform a commercially useful function if the
40 contractor’s, subcontractor’s, or supplier’s role is limited to that

1 of an extra participant in a transaction, contract, or project through
2 which funds are passed in order to obtain the appearance of small
3 business, microbusiness, or employment social enterprise
4 participation.

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

9 (f) The amendments made to this section by the act adding this
10 subdivision shall become operative on October 1, 2018.

11 *SEC. 3.5. Section 14837 of the Government Code is amended*
12 *to read:*

13 14837. As used in this chapter:

14 (a) “Department” means the Department of General Services.

15 (b) “Director” means the Director of General Services.

16 (c) “Manufacturer” means a business that meets both of the
17 following requirements:

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

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

23 (d) (1) (A) “Small business” means an independently owned
24 and operated business that is not dominant in its field of operation,
25 the principal office of which is located in California, the officers
26 of which are domiciled in California, and which, together with
27 affiliates, has 100 or fewer employees, and average annual gross
28 receipts of ~~ten~~ *fifteen* million dollars ~~(\$10,000,000)~~ *(\$15,000,000)*
29 or less over the previous three years, or is a manufacturer, as
30 defined in subdivision (c), with 100 or fewer employees.

31 (B) *For the purposes of public works contracts, contracts*
32 *awarded through competitive bids or otherwise for the erection,*
33 *construction, alteration, repair, or improvement of any kind upon*
34 *real property, “small business” means an independently owned*
35 *and operated business that is not dominant in its field of operation,*
36 *the principal office of which is located in California, the officers*
37 *of which are domiciled in California, and which, together with*
38 *affiliates, has 200 or fewer employees, and average annual gross*
39 *receipts of twenty-five million dollars (\$25,000,000) or less over*
40 *the previous three years.*

(2) “Microbusiness” is a small business which, together with affiliates, has average annual gross receipts of ~~two million five hundred thousand dollars (\$2,500,000)~~ *five million dollars (\$5,000,000)* or less over the previous three years, or is a manufacturer, as defined in subdivision (c), with 25 or fewer employees.

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

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

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

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

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

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

(C) *Earns 51 percent or more of its enterprise revenue from the production or assembly of goods or the provision of services, or 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.*

1 (iii) *Linkage to community colleges, adult schools, or other*
2 *education institutions to gain an education diploma or certificate.*

3 (iv) *Partnership with local or regional workforce development*
4 *boards.*

5 (v) *Job placement and retention services.*

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

8 (ii) *“Enterprise participant who faces multiple barriers to*
9 *employment” means an individual that meets two or more of the*
10 *following:*

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

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

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

19 ~~(3)~~

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

29 ~~(4)~~

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

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

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

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

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

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

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

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

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

29 (f) *The amendments made to this section by the act adding this*
30 *subdivision shall become operative on October 1, 2018.*

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

33 14838. In order to facilitate the participation of small business,
34 including microbusiness and employment social enterprise in the
35 provision of goods, information technology, and services to the
36 state, and in the construction (including alteration, demolition,
37 repair, or improvement) of state facilities, the directors of the
38 department and other state agencies that enter those contracts, each
39 within their respective areas of responsibility, shall do all of the
40 following:

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

(b) Provide for a small business or employment social enterprise preference, or nonsmall business preference for bidders that provide for small business, microbusiness, and employment social enterprise subcontractor participation, in the award of contracts for goods, information technology, services, and 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

1 make multiple awards, this fifty thousand dollar (\$50,000)
2 maximum preference cost shall be applied, to the extent possible,
3 so as to maximize the dollar participation of small businesses,
4 including microbusinesses, and employment social enterprises in
5 the contract award.

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

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

11 (B) An employment social enterprise preference or a nonsmall
12 business preference for bidders that provide for employment social
13 enterprise subcontractor participation.

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

16 (1) Reducing the experience required.

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

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

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

28 (f) Small business, microbusiness, and employment social
29 enterprise bidders qualified in accordance with this chapter shall
30 have precedence over nonsmall business bidders in that the
31 application of a bidder preference for which nonsmall business
32 bidders may be eligible under this section or any other provision
33 of law shall not result in the denial of the award to a small business,
34 microbusiness, or employment social enterprise bidder. In the
35 event of a precise tie between the low responsible bid of a bidder
36 meeting specifications of a small business, microbusiness, or
37 employment social enterprise and the low responsible bid of a
38 bidder meeting the specifications of a disabled veteran-owned
39 small business, microbusiness, or employment social enterprise,
40 the contract shall be awarded to the disabled veteran-owned small

1 business, microbusiness, or employment social enterprise. This
2 provision applies if the small business, microbusiness, or
3 employment social enterprise bidder is the lowest responsible
4 bidder, as well as if the small business, microbusiness, or
5 employment social enterprise bidder is eligible for award as the
6 result of application of the small business, microbusiness, and
7 employment social enterprise bidder preference granted by
8 subdivision (b).

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

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

16 (2) Not less than 70 percent of the total labor hours, excluding
17 supervisors and administration, required to manufacture the goods
18 and perform the contract shall be completed by an enterprise
19 participant who faces multiple barriers to employment. For an
20 employment social enterprise with 25 or fewer total employees,
21 50 percent of the total labor hours, excluding supervisors and
22 administration, required to manufacture the goods and perform
23 the contract shall be completed by an enterprise participant who
24 faces multiple barriers to employment.

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

29 (h) The amendments made to this section by the act adding this
30 subdivision shall become operative on October 1, 2018.

31 *SEC. 4.5. Section 14838 of the Government Code is amended*
32 *to read:*

33 14838. In order to facilitate the participation of small business,
34 including ~~microbusiness~~, *microbusiness and employment social*
35 *enterprise* in the provision of goods, information technology, and
36 services to the state, and in the construction (including alteration,
37 demolition, repair, or improvement) of state facilities, the directors
38 of the department and other state agencies that enter those contracts,
39 each within their respective areas of responsibility, shall do all of
40 the following:

1 (a) Establish goals, consistent with those established by the
2 Office of Small Business Certification and Resources, for the extent
3 of participation of small businesses, including microbusinesses,
4 *and employment social enterprises*, in the provision of goods,
5 information technology, and services to the state, and in the
6 construction of state facilities.

7 (b) Provide for *a small business or employment social enterprise*
8 preference, or nonsmall business preference for bidders that provide
9 for small ~~business and microbusiness~~ *business, microbusiness, and*
10 *employment social enterprise* subcontractor participation, in the
11 award of contracts for goods, information technology, services,
12 and construction, as follows:

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

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

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

38 (4) The preference under paragraph (1) shall not exceed fifty
39 thousand dollars (\$50,000) for any bid, and the combined cost of
40 preferences granted pursuant to paragraph (1) and any other

1 provision of law shall not exceed one hundred thousand dollars
2 (\$100,000). In bids in which the state has reserved the right to
3 make multiple awards, this fifty thousand dollar (\$50,000)
4 maximum preference cost shall be applied, to the extent possible,
5 so as to maximize the dollar participation of small businesses,
6 including microbusinesses, *and employment social enterprises* in
7 the contract award.

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

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

13 (B) *An employment social enterprise preference or a nonsmall*
14 *business preference for bidders that provide for employment social*
15 *enterprise subcontractor participation.*

16 (c) Give special consideration to ~~small—businesses—and~~
17 ~~microbusinesses~~ *businesses, microbusinesses, and employment*
18 *social enterprises* by both:

19 (1) Reducing the experience required.

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

21 (d) Give special assistance to ~~small—businesses—and~~
22 ~~microbusinesses~~ *businesses, microbusinesses, and employment*
23 *social enterprises* in the preparation and submission of the
24 information requested in Section 14310.

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

33 (f) ~~Small—business—and microbusiness~~ *business, microbusiness,*
34 *and employment social enterprise* bidders qualified in accordance
35 with this chapter shall have precedence over nonsmall business
36 bidders in that the application of a bidder preference for which
37 nonsmall business bidders may be eligible under this section or
38 any other provision of law shall not result in the denial of the award
39 to a ~~small—business—or microbusiness~~ *business, microbusiness, or*
40 *employment social enterprise* bidder. In the event of a precise tie

1 between the low responsible bid of a bidder meeting specifications
2 of a small ~~business or microbusiness~~, *business, microbusiness, or*
3 *employment social enterprise* and the low responsible bid of a
4 bidder meeting the specifications of a disabled veteran-owned
5 small ~~business or microbusiness~~, *business, microbusiness, or*
6 *employment social enterprise*, the contract shall be awarded to the
7 disabled veteran-owned small ~~business or microbusiness~~. *business,*
8 *microbusiness, or employment social enterprise*. This provision
9 applies if the small ~~business or microbusiness~~ *business,*
10 *microbusiness, or employment social enterprise* bidder is the lowest
11 responsible bidder, as well as if the small ~~business or microbusiness~~
12 *business, microbusiness, or employment social enterprise* bidder
13 is eligible for award as the result of application of the small
14 ~~business and microbusiness~~ *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*
22 *information technology or construction contract shall be completed*
23 *by an enterprise participant who faces multiple barriers to*
24 *employment.*

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

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

38 (h) *If the directors of the department and other state agencies*
39 *that enter into those contracts are unable to reach the goals*
40 *established under subdivision (a) in the year in which the act that*

1 *added this subdivision takes effect, the directors of the department*
2 *and other state agencies may count towards that goal, contracts*
3 *with firms that would be considered a small business or*
4 *microbusiness under the amendments made to Section 14837 by*
5 *the act adding this subdivision.*

6 *(i) The amendments made to this section by the act adding this*
7 *subdivision shall become operative on October 1, 2018.*

8 SEC. 5. Section 14838.5 of the Government Code is amended
9 to read:

10 14838.5. (a) Notwithstanding the advertising, bidding, and
11 protest provisions of Chapter 6 (commencing with Section 14825)
12 of this part and Chapter 2 (commencing with Section 10290) and
13 Chapter 3 (commencing with Section 12100) of Part 2 of Division
14 2 of the Public Contract Code, a state agency may award a contract
15 for the acquisition of goods, services, or information technology
16 that has an estimated value of greater than five thousand dollars
17 (\$5,000), but less than two hundred fifty thousand dollars
18 (\$250,000), to a certified small business, including a microbusiness,
19 or to an employment social enterprise, or to a disabled veteran
20 business enterprise, as long as the agency obtains price quotations
21 from two or more certified small businesses, including
22 microbusinesses, or from two or more employment social
23 enterprises, or from two or more disabled veteran business
24 enterprises.

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

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

36 (d) The amendments made to this section by the act adding this
37 subdivision shall become operative on October 1, 2018.

38 SEC. 6. Section 14838.64 of the Government Code is amended
39 to read:

1 14838.64. (a) Notwithstanding any other law, including, but
2 not limited to, the advertising, bidding, and protest provisions of
3 Chapter 6 (commencing with Section 14825) of this part and
4 Chapter 2.5 (commencing with Section 10700) and Chapter 3
5 (commencing with Section 12100) of Part 2 of Division 2 of the
6 Public Contract Code, the California State University may award
7 a contract for the acquisition of goods, services, or information
8 technology that has an estimated value of greater than five thousand
9 dollars (\$5,000), but less than two hundred fifty thousand dollars
10 (\$250,000), to a certified small business, including a microbusiness,
11 or to an employment social enterprise, or to a disabled veteran
12 business enterprise, if the California State University obtains price
13 quotations from two or more certified small businesses, including
14 microbusinesses, or from two or more employment social
15 enterprises, or from two or more disabled veteran business
16 enterprises.

17 (b) In carrying out subdivision (a), the California State
18 University shall consider a responsive offer timely received from
19 a responsible certified small business, including a microbusiness,
20 or from an employment social enterprise, or from a disabled veteran
21 business enterprise.

22 (c) The amendments made to this section by the act adding this
23 subdivision shall become operative on October 1, 2018.

24 SEC. 7. Section 14838.7 of the Government Code is amended
25 to read:

26 14838.7. (a) Notwithstanding the advertising and bidding
27 provisions of Chapter 6 (commencing with Section 14825) of this
28 code and Chapter 1 (commencing with Section 10100) of Part 2
29 of Division 2 of the Public Contract Code, a state agency may
30 award a contract for construction, including the erection,
31 construction, alteration, repair, or improvement of any state
32 structure, building, road, or other state improvement of any kind
33 that has an estimated value of greater than five thousand dollars
34 (\$5,000) but less than the cost limit, as specified in subdivision
35 (b) of Section 10105 of the Public Contract Code, to a certified
36 small business, including a microbusiness, or to an employment
37 social enterprise, or to a disabled veteran business enterprise, as
38 long as the agency obtains written bid submittals from two or more
39 certified small businesses, including microbusinesses, or from two

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

3 (b) In implementing subdivision (a), state agencies 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 public work construction project, a state
9 agency shall obtain at least two written bid submittals from
10 responsible contractors whenever there is reason to believe a
11 response from a single source is not a fair and reasonable price.

12 (d) The amendments made to this section by the act adding this
13 subdivision shall become operative on October 1, 2018.

14 SEC. 8. Section 14839 of the Government Code is amended
15 to read:

16 14839. There is hereby established within the department the
17 Office of Small Business and Disabled Veteran Business Enterprise
18 Services. The duties of the office shall include:

19 (a) Compiling and maintaining a comprehensive bidders list of
20 qualified small businesses, employment social enterprises, and
21 disabled veteran business enterprises, and noting which small
22 businesses also qualify as microbusinesses.

23 (b) Coordinating with the federal Small Business Administration,
24 the Minority Business Development Agency, and the Office of
25 Small Business Development of the Department of Economic and
26 Business Development.

27 (c) Providing technical and managerial aids to small businesses,
28 microbusinesses, employment social enterprises, and disabled
29 veteran business enterprises, by conducting workshops on matters
30 in connection with government procurement and contracting.

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

34 (e) Working with appropriate state, federal, local, and private
35 organizations and business enterprises in disseminating information
36 on bidding procedures and opportunities available to small
37 businesses, microbusinesses, employment social enterprises, and
38 disabled veteran business enterprises.

39 (f) Making recommendations to the department and other state
40 agencies for simplification of specifications and terms in order to

1 increase the opportunities for small business, microbusiness,
2 employment social enterprises, and disabled veteran business
3 enterprise participation.

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

8 (h) Making efforts to develop, in cooperation with associations
9 representing counties, cities, and special districts, a core statewide
10 small business certification and employment social enterprise
11 certification application that may be adopted by all participating
12 entities, with any supplemental provisions to be added as necessary
13 by the respective entities.

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

17 (j) The amendments made to this section by the act adding this
18 subdivision shall become operative on October 1, 2018.

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

21 14839.1. (a) The department shall have sole responsibility,
22 except as provided for in subdivision (c), for certifying and
23 determining the eligibility of small businesses, microbusinesses,
24 and employment social enterprises under this chapter.

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

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

34 (d) The amendments made to this section by the act adding this
35 subdivision shall become operative on October 1, 2018.

36 SEC. 10. Section 14840 of the Government Code is amended
37 to read:

38 14840. (a) In the process of certifying and determining the
39 eligibility of a disabled veteran business enterprise, a small business
40 enterprise, including a microbusiness, or an employment social

1 enterprise, the department shall require the applicant or certified
2 firm to submit a written declaration, under penalty of perjury, that
3 the information submitted to the department pursuant to this
4 chapter, and in the case of a disabled veteran enterprise all
5 information submitted to the department pursuant to Section 999.2
6 of the Military and Veterans Code, is true and correct.

7 (b) (1) If the department determines that just cause exists, it
8 may require the owner of the disabled veteran business enterprise,
9 microbusiness, employment social enterprise, or small business,
10 the applicant, or the certified firm to complete and submit to the
11 department a federal Form 4506-T or Form 990 from the Internal
12 Revenue Service, United States Department of the Treasury,
13 requesting a transcript of a tax return. For an employment social
14 enterprise, the department may require documentation that the
15 employment social enterprise is operating in a manner consistent
16 with its articles of incorporation or bylaws.

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

19 (A) The department receives a complaint regarding the certified
20 firm.

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

25 (c) The amendments made to this section by the act adding this
26 subdivision shall become operative on October 1, 2018.

27 SEC. 11. Section 14842 of the Government Code is amended
28 to read:

29 14842. (a) A business that has obtained classification as a
30 small business, microbusiness, or employment social enterprise
31 by reason of having furnished incorrect supporting information or
32 by reason of having withheld information, and that knew, or should
33 have known, the information furnished was incorrect or the
34 information withheld was relevant to its request for classification,
35 and that by reason of that classification has been awarded a contract
36 to which it would not otherwise have been entitled, shall do all of
37 the following:

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

1 (2) Pay to the awarding state agency and the department an
2 amount that is equal to the costs incurred for investigating the
3 small business or microbusiness certification that led to the finding
4 that the contract had been improperly awarded. Costs incurred
5 shall include, but are not limited to, costs and attorney's fees paid
6 by the awarding state agency or the department related to hearings
7 and court appearances.

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

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

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

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

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

37 (f) Prior to the imposition of any sanctions under this article, a
38 business shall be entitled to a public hearing and to at least five
39 working days' notice of the time and place thereof. The notice
40 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 October 1, 2018.

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

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

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

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

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

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

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

1 (6) Knowingly and with intent to defraud, fraudulently represent
2 that a commercially useful function is being performed by a
3 certified small business, microbusiness, or employment social
4 enterprise in order to obtain or retain a bid preference or a state
5 contract.

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

11 (8) Willfully and knowingly aid or assist in, or procure, counsel,
12 or advise, the preparation or presentation of a declaration,
13 statement, or other document that is fraudulent or false as to any
14 material matter, regardless of whether that falsity or fraud is
15 committed with the knowledge or consent of the person authorized
16 or required to present the declaration, statement, or document.

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

20 (b) (1) Any person who is found by the department to have
21 violated any of the provisions of subdivision (a) is subject to a
22 civil penalty of not less than ten thousand dollars (\$10,000) nor
23 more than thirty thousand dollars (\$30,000) for the first violation,
24 and a civil penalty of not less than thirty thousand dollars (\$30,000)
25 nor more than fifty thousand dollars (\$50,000) for each additional
26 or subsequent violation.

27 (2) A person who violates any of the provisions of subdivision
28 (a) shall pay all costs incurred by the awarding department and
29 the Department of General Services for any investigations that led
30 to the finding of the violation. Costs incurred shall include, but
31 are not limited to, costs and attorney's fees paid by the awarding
32 state agency or the department related to hearings and court
33 appearances. All payments to the state pursuant to this paragraph
34 shall be deposited in the fund or funds out of which payments on
35 the contract involved were made, except payments to the
36 department shall be deposited in the Service Revolving Fund.

37 (c) The department shall revoke the small business,
38 microbusiness, or employment social enterprise certification, and
39 the disabled veteran business enterprise certification if the business
40 has both certifications, of any person that violates subdivision (a)

1 for a period of not less than five years, and shall, in addition to the
2 penalties provided for in subdivision (b), suspend the person from
3 bidding on, or participating as a contractor, a subcontractor, or a
4 supplier in, any state contract or project for a period of not less
5 than 3 years nor more than 10 years. However, for an additional
6 or subsequent violation, the period of certification revocation or
7 suspension shall be extended for a period of up to three years. The
8 certification revocation shall apply to the principals of the business
9 and any subsequent businesses formed by one or more of those
10 principals. Any business or person who fails to satisfy any of the
11 penalties imposed pursuant to paragraphs (1) and (2) of subdivision
12 (b) shall be prohibited from further contracting with the state until
13 the penalties are satisfied.

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

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

1 invoices due to the contractor from any other contract awarded to
2 the contractor.

3 (2) For purposes of this section:

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

8 (B) “Contractor” means any person or persons, firm, partnership,
9 corporation, or combination thereof who submits a bid and enters
10 into a contract with a representative of a state agency, department,
11 governmental entity, or other officer empowered by law to enter
12 into contracts on behalf of the State of California.

13 (f) The amendments made to this section by the act adding this
14 subdivision shall become operative on October 1, 2018.

15 SEC. 13. Section 10111 of the Public Contract Code is amended
16 to read:

17 10111. Commencing January 1, 2007, the department shall
18 make available a report on contracting activity containing the
19 following information:

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

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

24 (2) The type of bidding entered into, the number of bidders,
25 whether the low bidder was accepted, and if the low bidder was
26 not accepted, an explanation of why another contractor was
27 selected.

28 (3) The amount of the contract price.

29 (4) Whether the contract was a noncompetitive bid contract,
30 and why the contract was a noncompetitive bid contract.

31 (5) Justification for entering into each consulting services
32 contract.

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

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

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

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

(1) The completion date of the contract.

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

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

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

(1) Construction.

(2) Architectural, engineering, and other professional services.

(3) Procurement of materials, supplies, and equipment.

(4) Information technology procurements.

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

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

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

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

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

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

(5) A statistical summary of small businesses and microbusinesses certified for state contracting by the number of employees at the business for each of the following categories: 0–5, 6–25, 26–50, 51–75, and 76–100.

1 (6) To the extent feasible, beginning in the year 2008, the
2 number of contracts awarded by the department in the categories
3 specified in paragraph (5).

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

8 (f) The level of participation of business enterprises, by race,
9 ethnicity, and gender of the owner, in contracts to the extent that
10 the information has been voluntarily reported to the department.
11 In addition, the report shall contain the levels of participation of
12 business enterprises, by race, ethnicity, and gender of the owner,
13 and whether the business is a lesbian, gay, bisexual, or transgender
14 owned business for the following categories of contracts, to the
15 extent that the information has been voluntarily reported to the
16 department:

17 (1) Construction.

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

19 (3) Professional services.

20 (g) In the years 2011 and 2012, any errors reported to the
21 department by an awarding agency as required by Sections 10302,
22 10344, and 12104.5, in the previous fiscal year.

23 (h) The level of participation by employment social enterprises
24 in state contracting, including the following:

25 (1) Upon request, an up-to-date list of eligible employment
26 social enterprises bidders by general procurement and construction
27 contract categories.

28 (2) By general procurement and construction contract categories,
29 statistics comparing the employment social enterprises contract
30 participation dollars to the total state contract participation dollars.

31 (3) By awarding department and general procurement and
32 construction categories, statistics comparing the employment social
33 enterprises contract participation dollars to the total state contract
34 participation dollars.

35 (4) Any recommendations for changes in statutes or state
36 policies to improve opportunities for employment social
37 enterprises.

38 (5) The aggregate number of employees participating in
39 employment social enterprises and verification of on-the-job and
40 life skills training identified in subparagraph (D) of paragraph (3)

1 of subdivision (d) of Section 14837 of the Government Code. This
2 information shall be reported by categories, as established by the
3 department.

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

6 *SEC. 13.5. Section 10111 of the Public Contract Code is*
7 *amended to read:*

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

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

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

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

19 (3) The amount of the contract price.

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

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

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

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

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

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

33 (1) The completion date of the contract.

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

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

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

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

Additionally, the report shall include a statistical summary detailing each awarding department's goal achievement and a statewide total of those goals. *An awarding department's goal achievement is to be measured pursuant to subdivision (a) of Section 999.2 of the Military and Veterans Code and subdivision (c) of Section 10115 of this code.*

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

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

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

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

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

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

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

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

(f) The level of participation of business enterprises, by race, ethnicity, and gender of the owner, in contracts to the extent that the information has been voluntarily reported to the department. In addition, the report shall contain the levels of participation of business enterprises, by race, ethnicity, and gender of the owner, and whether the business is a lesbian, gay, bisexual, or transgender owned business for the following categories of contracts, to the extent that the information has been voluntarily reported to the department:

(1) Construction.

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

(3) Professional services.

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

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

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

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

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

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

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

~~(h)~~

1 (i) The amendments made to this section by the act adding this
2 subdivision Chapter 861 of the Statutes of 2012 shall apply on and
3 after January 1, 2013.

4 SEC. 14. No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.

13 SEC. 15. Section 3.5 of this bill incorporates amendments to
14 Section 14837 of the Government Code proposed by both this bill
15 and Senate Bill 1176. It shall only become operative if (1) both
16 bills are enacted and become effective on or before January 1,
17 2017, (2) each bill amends Section 14837 of the Government Code,
18 and (3) this bill is enacted after Senate Bill 1176, in which case
19 Section 3 of this bill shall not become operative.

20 SEC. 16. Section 4.5 of this bill incorporates amendments to
21 Section 14838 of the Government Code proposed by both this bill
22 and Senate Bill 1176. It shall only become operative if (1) both
23 bills are enacted and become effective on or before January 1,
24 2017, (2) each bill amends Section 14838 of the Government Code,
25 and (3) this bill is enacted after Senate Bill 1176, in which case
26 Section 4 of this bill shall not become operative.

27 SEC. 17. Section 13.5 of this bill incorporates amendments to
28 Section 10111 of the Public Contract Code proposed by this bill
29 and Senate Bill 159. It shall only become operative if (1) both bills
30 are enacted and become effective on or before January 1, 2017,
31 (2) each bill amends Section 10111 of the Public Contract Code,
32 and (3) this bill is enacted after Senate Bill 159, in which case
33 Section 10111 of the Public Contract Code, as amended by Senate
34 Bill 159, shall remain operative only until January 1, 2017, at
35 which time Section 13.5 of this bill shall become operative, and
36 Section 13 of this bill shall not become operative.