

Assembly Bill No. 409

CHAPTER 767

An act to amend Sections 999, 999.5, and 999.7 of, and to add Sections 999.2, 999.11, and 999.12 to, the Military and Veterans Code, relating to veterans.

[Approved by Governor October 7, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 409, Dickerson. Disabled veterans: contracts.

(1) Existing provisions of the Military and Veterans Code specify disabled veterans participation goals for professional bond services and state contacts and set forth definitions for these purposes.

This bill would revise the definitions of "administering agency," "awarding department," and "contract," for the above purposes, as specified.

(2) Existing provisions of the Military and Veterans Code require any state governmental entity that awards contracts for professional bond services to have annual statewide participation goals of not less than 3% for disabled veteran business enterprises, as defined.

This bill would require a business concern, which qualified as a disabled veteran business enterprise prior to the death or certification of a permanent medical disability of the disabled veteran who is a majority owner of that business concern, to be deemed to be, solely for purposes of any contract entered into before that death or certification, a disabled veteran business enterprise for a period not to exceed 3 years after the date of that death or certification of a permanent medical disability, if the business concern is inherited or controlled by the spouse or child of that majority owner, or by both of those persons.

(3) Existing provisions of the Public Contract Code governing public contracts (a) require any state agency, department, officer, or other governmental entity that awards contracts for construction, certain professional services, materials, supplies, equipment, alteration, repair, or improvement to have, among other goals, annual statewide participation goals of not less than 3% for disabled veteran business enterprises, and (b) require a state governmental entity, in awarding a contract to the lowest responsible bidder, to consider the efforts of a bidder to meet, among other goals, disabled veteran business enterprise goals, and (c) require the awarding department to award the contract to the lowest responsible bidder meeting or making good faith efforts to meet those goals, as described.

This bill would add similar provisions to the Military and Veterans Code (a) to require any state agency, department, officer, or other governmental entity that awards contracts for construction, certain professional services, materials, supplies, equipment, alteration, repair, or improvement to have annual statewide participation goals of not less than 3% for disabled veteran business enterprises, and (b) to require a method of monitoring adherence to these goals, as specified.

(4) Existing law requires the Office of Small and Minority Business and each awarding department to report annually to the Governor and the Legislature on the level of participation by disabled veteran business enterprises, as specified.

This bill (a) would require the Department of Veterans Affairs to appoint an advocate to undertake specified responsibilities relating to the implementation of annual statewide participation goals, and (b) would require the Office of Small and Minority Business to work in conjunction with the advocate in making that annual report to the Governor and the Legislature.

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

SECTION 1. Section 999 of the Military and Veterans Code is amended to read:

999. As used in this article, the following definitions apply:

(a) “Administering agency” means the Treasurer in the case of contracts for professional bond services, and the Department of General Services’ Office of Small Business Certification and Resources, formerly known as the Office of Small and Minority Business, in the case of contracts governed by Section 999.2.

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

(c) “Bonds” means bonds, notes, warrants, certificates of participation, and other evidences of indebtedness issued by or on behalf of the State of California.

(d) “Contract” includes any agreement or joint agreement to provide professional bond services to the State of California or an awarding department. “Contract” also includes any agreement or joint development agreement to provide labor, services, material, supplies, or equipment in the performance of a contract, franchise, concession, or lease granted, let, or awarded for and on behalf of the State of California.

(e) “Contractor” means any person or persons, regardless of race, color, creed, national origin, ancestry, sex, marital status, disability, religious or political affiliation, or age, or any sole proprietorship, firm, partnership, joint venture, corporation, or combination thereof



who submits a bid and enters into a contract with a representative of a state agency, department, governmental entity, or other officer empowered by law to enter into contracts on behalf of the State of California. “Contractor” includes any provider of professional bond services who enters into a contract with an awarding department.

(f) “Disabled veteran” means a veteran of the military, naval, or air service of the United States, including, but not limited to, the Philippine Commonwealth Army, the Regular Scouts (“Old Scouts”), and the Special Philippine Scouts (“New Scouts”), with a service-connected disability who is a resident of the State of California.

(g) (1) “Disabled veteran business enterprise” means a business concern certified by the administering agency as meeting all of the following requirements:

(A) It is a sole proprietorship at least 51 percent owned by one or more disabled veterans or, in the case of a publicly owned business, at least 51 percent of its stock is owned by one or more disabled veterans; a subsidiary which is wholly owned by a parent corporation, but only if at least 51 percent of the voting stock of the parent corporation is owned by one or more disabled veterans; or a joint venture in which at least 51 percent of the joint venture’s management and control and earnings are held by one or more disabled veterans.

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

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

(2) Notwithstanding paragraph (1), after the death or the certification of a permanent medical disability of a disabled veteran who is a majority owner of a business concern that qualified as a disabled veteran business enterprise prior to that death or certification of a permanent medical disability, and solely for purposes of any contract entered into before that death or certification, that business concern shall be deemed to be a disabled veteran business enterprise for a period not to exceed three years after the date of that death or certification of a permanent medical disability, if the business concern is inherited or controlled by the spouse or child of that majority owner, or by both of those persons.

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

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



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

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

SEC. 2. Section 999.2 is added to the Military and Veterans Code, to read:

999.2. Notwithstanding any other provision of law, contracts awarded by any state agency, department, officer, or other state governmental entity for construction, professional services (except those subject to Chapter 6 (commencing with Section 16850) of Part 3 of Division 4 of Title 2 of the Government Code), materials, supplies, equipment, alteration, repair, or improvement shall have statewide participation goals of not less than 3 percent for disabled veteran business enterprises. These goals apply to the overall dollar amount expended each year by the awarding department.

SEC. 3. Section 999.5 of the Military and Veterans Code is amended to read:

999.5. (a) The administering agency shall establish a method of monitoring adherence to the goal specified in Section 999.1, including requiring a followup report from all contractors upon the completion of any sale of bonds.

(b) The awarding department shall establish a method of monitoring adherence to the goals specified in Section 999.2.

(c) The administering agency shall adopt rules and regulations, including standards for good faith efforts for the purpose of implementing this section. Emergency regulations consistent with this section may be adopted.

SEC. 4. Section 999.7 of the Military and Veterans Code is amended to read:

999.7. (a) Notwithstanding Section 7550.5 of the Government Code, on January 1 of each year, each awarding department shall report to the Governor, the Legislature, the Office of Small Business Certification and Resources, and the Department of Veterans Affairs on the level of participation by disabled veteran business enterprises in contracts identified in this article. If the established goals are not met, the awarding department shall report to the the Legislature, the Office of Small Business Certification and Resources, and the Department of Veterans Affairs the reasons for the awarding department’s inability to achieve the goals and identify steps it shall take in an effort to achieve the goals.

(b) Notwithstanding Section 7550.5 of the Government Code, on April 1 of each year, the Office of Small Business Certification and Resources shall prepare for the Governor, the Legislature, and the Department of Veterans Affairs a statewide statistical summary



detailing each awarding department's goal achievement and a statewide total of those goals.

SEC. 5. Section 999.11 is added to the Military and Veterans Code, to read:

999.11. The Department of Veterans Affairs shall appoint an advocate to do all of the following:

(a) Oversee, promote, and coordinate efforts to facilitate implementation of this article.

(b) Disseminate information on this article.

(c) Coordinate reports pursuant to Section 999.7.

(d) Coordinate with administering agencies and existing and potential disabled veteran business enterprises to achieve the goals specified in Sections 999.1 and 999.2.

SEC. 6. Section 999.12 is added to the Military and Veterans Code, to read:

999.12. This article includes language similar to that contained in Article 1.5 (commencing with Section 10115) of Chapter 1 of Part 2 of Division 2 of the Public Contract Code and does not create an independent or additional goal or program.

