

AMENDED IN SENATE JUNE 30, 2008

AMENDED IN ASSEMBLY JANUARY 18, 2008

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 873**

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**Introduced by Assembly Member Davis**

February 22, 2007

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An act to amend Sections 8281, 8283, 8284, and 8285 of the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 873, as amended, Davis. Public utilities: procurement.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical, gas, water, and telephone corporations. Existing law authorizes the commission to establish rules for all public utilities, subject to control by the Legislature. Existing law directs the commission to require every electrical, gas, and telephone corporation with annual gross revenues exceeding \$25,000,000, and their regulated subsidiaries and affiliates, to implement a program developed by the commission to encourage, recruit, and utilize minority-, women-, and disabled veteran-owned business enterprises, as defined, in the procurement of contracts from those corporations or from their regulated subsidiaries and affiliates, and to require the reporting of certain information. The commission has, by rulemaking, adopted General Order 156, applicable to certain electrical, gas, and telephone corporations, to effectuate these requirements.

This bill would extend the minority-, women-, and disabled veteran-owned business enterprises procurement requirements to water corporations with gross annual revenues of more than \$25,000,000 and would encourage each electrical, gas, water, and telephone corporation that is not required to submit a plan to voluntarily adopt a plan for increasing women, minority, and disabled veteran business enterprise procurement in all categories. Because a violation of certain of the requirements by an electrical, gas, or telephone corporation is a crime, this bill would impose a state-mandated local program by expanding the definition of a crime to include violations by a water corporation with gross annual revenues of more than \$25,000,000.

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

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

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

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

1 SECTION 1. Section 8281 of the Public Utilities Code is  
2 amended to read:  
3 8281. (a) The Legislature hereby finds and declares that the  
4 essence of the American economic system of private enterprise is  
5 free competition. Only through full and free competition can free  
6 markets, reasonable and just prices, free entry into business, and  
7 opportunities for the expression and growth of personal initiative  
8 and individual judgment be assured. The preservation and  
9 expansion of that competition is basic to the economic well-being  
10 of this state and that well-being cannot be realized unless the actual  
11 and potential capacity of women, minority, and disabled veteran  
12 business enterprises is encouraged and developed. Therefore, it is  
13 the declared policy of the state to aid the interests of women,  
14 minority, and disabled veteran business enterprises in order to  
15 preserve reasonable and just prices and a free competitive  
16 enterprise, to ensure that a fair proportion of the total purchases  
17 and contracts or subcontracts for commodities, supplies,  
18 technology, property, and services for regulated public utilities are  
19 awarded to women, minority, and disabled veteran business

1 enterprises, and to maintain and strengthen the overall economy  
2 of the state.

3 (b) (1) The Legislature finds all of the following:

4 (A) The opportunity for full participation in our free enterprise  
5 system by women, minority, and disabled veteran business  
6 enterprises is essential if this state is to attain social and economic  
7 equality for those businesses and improve the functioning of the  
8 state economy.

9 (B) Public agencies which have established short- and  
10 long-range women, minority, and disabled veteran business  
11 enterprise goals are awarding 30 percent or more of their contracts  
12 to these business enterprises.

13 (C) Women, minority, and disabled veteran business enterprises  
14 have traditionally received less than a proportionate share of  
15 regulated public utility procurement contracts.

16 (D) It is in the state's interest to expeditiously improve the  
17 economically disadvantaged position of women, minority, and  
18 disabled veteran business enterprises.

19 (E) The position of these businesses can be improved by  
20 providing long-range substantial goals for procurement by  
21 regulated public utilities of technology, equipment, supplies,  
22 services, materials, and construction work from women, minority,  
23 and disabled veteran businesses.

24 (F) That procurement also benefits the regulated public utilities  
25 and consumers of the state by encouraging the expansion of the  
26 number of suppliers for procurements, thereby encouraging  
27 competition among the suppliers and promoting economic  
28 efficiency in the process.

29 (2) It is the purpose of this article to do all of the following:

30 (A) Encourage greater economic opportunity for women,  
31 minority, and disabled veteran business enterprises.

32 (B) Promote competition among regulated public utility  
33 suppliers in order to enhance economic efficiency in the  
34 procurement of electrical, gas, water, and telephone corporation  
35 contracts and contracts of their commission-regulated subsidiaries  
36 and affiliates.

37 (C) Clarify and expand the program for the procurement by  
38 regulated public utilities of technology, equipment, supplies,  
39 services, materials, and construction work from women, minority,  
40 and disabled veteran business enterprises.

1 SEC. 2. Section 8283 of the Public Utilities Code is amended  
2 to read:

3 8283. (a) The commission shall require each electrical, gas,  
4 water, and telephone corporation with gross annual revenues  
5 exceeding twenty-five million dollars (\$25,000,000) and their  
6 commission-regulated subsidiaries and affiliates, to submit  
7 annually, a detailed and verifiable plan for increasing women,  
8 minority, and disabled veteran business enterprise procurement in  
9 all categories.

10 (b) These annual plans shall include short- and long-term goals  
11 and timetables, but not quotas, and shall include methods for  
12 encouraging both prime contractors and grantees to engage women,  
13 minority, and disabled veteran business enterprises in subcontracts  
14 in all categories which provide subcontracting opportunities.

15 (c) The commission shall establish guidelines for all electrical,  
16 gas, water, and telephone corporations with gross annual revenues  
17 exceeding twenty-five million dollars (\$25,000,000) and their  
18 commission-regulated subsidiaries and affiliates, to be utilized in  
19 establishing programs pursuant to this article.

20 (d) Every electrical, gas, water, and telephone corporation with  
21 gross annual revenues exceeding twenty-five million dollars  
22 (\$25,000,000) shall furnish an annual report to the commission  
23 regarding the implementation of programs established pursuant to  
24 this article in a form that the commission shall require, and at the  
25 time that the commission shall annually designate.

26 (e) The commission shall provide a report to the Legislature on  
27 September 1 of each year, on the progress of activities undertaken  
28 by each electrical, gas, water, and telephone corporation with gross  
29 annual revenues exceeding twenty-five million dollars  
30 (\$25,000,000) pursuant to this article in the implementation of  
31 women, minority, and disabled veterans business enterprise  
32 development programs. The commission shall recommend a  
33 program for carrying out the policy declared in this article, together  
34 with recommendations for legislation that it deems necessary or  
35 desirable to further that policy.

36 (f) The Legislature declares that each electrical, gas, water, and  
37 telephone corporation that is not required to submit a plan pursuant  
38 to subdivision (a) is encouraged to voluntarily adopt a plan for  
39 increasing women, minority, and disabled veteran business  
40 enterprise procurement in all categories.

1 SEC. 3. Section 8284 of the Public Utilities Code is amended  
2 to read:

3 8284. (a) The commission shall, by rule or order, adopt criteria  
4 for verifying and determining the eligibility of women, minority,  
5 and disabled veteran business enterprises for procurement contracts.

6 (b) The commission shall develop, and require every electrical,  
7 gas, water, and telephone corporation with gross annual revenues  
8 exceeding twenty-five million dollars (\$25,000,000) and their  
9 commission-regulated subsidiaries and affiliates to implement, an  
10 outreach program to inform and recruit women, minority, and  
11 disabled veteran business enterprises to apply for procurement  
12 contracts under this article.

13 SEC. 4. Section 8285 of the Public Utilities Code is amended  
14 to read:

15 8285. Any person or corporation, through its directors, officers,  
16 or agents, which falsely represents a business as a women,  
17 minority, or disabled veteran business enterprise in the procurement  
18 of, or attempt to procure, contracts from an electrical, gas, water,  
19 or telephone corporation with gross annual revenues exceeding  
20 twenty-five million dollars (\$25,000,000), or a  
21 commission-regulated subsidiary or affiliate subject to this article,  
22 shall be punished by a fine of not more than five thousand dollars  
23 (\$5,000), by imprisonment in a county jail for not more than one  
24 year or in the state prison, or by both that fine and imprisonment.  
25 In the case of a corporation, the fine or imprisonment, or both,  
26 shall be imposed on every director, officer, or agent responsible  
27 for the false statements.

28 *SEC. 5. The Public Utilities Commission may use the "Water*  
29 *Industry Memorandum of Intent to Implement a Utility Supplier*  
30 *Diversity Program," dated April 19, 2004, as the basis for the*  
31 *development of program guidelines to implement the requirements*  
32 *of this act for water corporations.*

33 ~~SEC. 5.~~

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

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

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