

AMENDED IN ASSEMBLY APRIL 16, 2013

AMENDED IN ASSEMBLY MARCH 14, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 550

Introduced by Assembly Member Brown
(Coauthors: Assembly Members Fox and Medina)

February 20, 2013

An act to amend ~~Sections 14838.5 and~~ *Section* 14841 of, and to add Section 14838.6 to, the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 550, as amended, Brown. State government: Office of Small Business and Disabled Veteran Business Enterprise Services.

Existing law provides for various programs to encourage the participation of small businesses, as certified by the Department of General Services, in state agency contracts, and sets forth the duties of the Office of Small Business and Disabled Veteran Business Enterprise Services in this regard.

This bill would require the head of a state agency to ~~promote the use of small businesses in state contracting activity and take every reasonable means to~~ ensure that a state contracting program is administered in a manner that promotes small business participation. This bill would require the head of a state agency *to annually review small business participation levels and* to develop a plan for increasing small business participation levels within 60 days when participation levels are low.

This bill would require the Department of General Services *and the Office of the Small Business Advocate* to ~~examine~~ *serve as a resource*

~~to assist the heads of state agencies in identifying best practices for utilization of small businesses in their contracting programs and to present findings and recommendations to the Legislature detailing changes to the state's business practices that will provide businesses with greater contracting opportunities within the State of California, as specified.~~

This bill would encourage independent state entities, as specified, to take all necessary actions to comply with the intent and the requirements of this bill.

This bill would require a state agency to ~~aggressively~~ *proactively* pursue an annual 25% small business participation level in state contracting and, for an agency that does not achieve this level, to submit to the Governor's office, *the Office of the Small Business Advocate*, and the Legislature ~~an explanation for why the level, within 60 days of the close of the calendar year, notice that the small business participation was not achieved and a plan for improving small business contracting.~~ This bill would require the Department of General Services, *and authorize the Office of the Small Business Advocate*, to provide guidance to state agencies in developing a plan for, and taking the necessary actions toward, achieving the 25% participation level.

~~Existing law allows a state agency to award a contract for the acquisition of goods, services, or information technology that has an estimated value of greater than \$5,000, but less than \$250,000, to a certified small business, including a microbusiness, or to a disabled veteran business enterprise, as long as the agency obtains price quotations from 2 or more certified small businesses, including microbusinesses, or from 2 or more disabled veterans business enterprises.~~

~~This bill would increase the \$250,000 amount to \$500,000.~~

This bill would not require an action that would result in the violation of a court order or a loss of eligibility for federal funding.

This bill would also make findings and declarations regarding small business participation in state contracting.

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

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

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

1 (a) California spends billions of dollars each year on goods,
2 information technology, services, construction, and public works
3 contracts.

4 (b) California small businesses comprise nearly 98 percent of
5 all businesses in the state, employing more than 50 percent of
6 California’s workforce, and generating more than one-half of the
7 state’s gross domestic product.

8 (c) Small businesses are the principal source of new jobs in
9 California’s economy and are instrumental to the health of
10 California’s economy.

11 (d) California should lead the nation in creating an optimum
12 environment that affords all businesses equal access to state agency
13 contracting opportunities, thereby enhancing and encouraging
14 competition and preserving the free enterprise system.

15 (e) Disabled veterans have made incomparable sacrifices while
16 serving and protecting our country and most disabled veteran
17 business enterprises are also certified California small businesses.

18 (f) Enhancing opportunities for small business to participate in
19 the state contracting process is “good business” for California.

20 SEC. 2. Section 14838.5 of the Government Code is amended
21 to read:

22 ~~14838.5. (a) Notwithstanding the advertising, bidding, and~~
23 ~~protest provisions of Chapter 6 (commencing with Section 14825)~~
24 ~~of this part and Chapter 2 (commencing with Section 10290) and~~
25 ~~Chapter 3 (commencing with Section 12100) of Part 2 of Division~~
26 ~~2 of the Public Contract Code, a state agency may award a contract~~
27 ~~for the acquisition of goods, services, or information technology~~
28 ~~that has an estimated value of greater than five thousand dollars~~
29 ~~(\$5,000), but less than five hundred thousand dollars (\$500,000),~~
30 ~~to a certified small business, including a microbusiness, or to a~~
31 ~~disabled veteran business enterprise, as long as the agency obtains~~
32 ~~price quotations from two or more certified small businesses,~~
33 ~~including microbusinesses, or from two or more disabled veterans~~
34 ~~business enterprises.~~

35 ~~(b) In carrying out subdivision (a), a state agency shall consider~~
36 ~~a responsive offer timely received from a responsible certified~~
37 ~~small business, including a microbusiness, or from a disabled~~
38 ~~veteran business enterprise.~~

39 ~~(c) If the estimated cost to the state is less than five thousand~~
40 ~~dollars (\$5,000) for the acquisition of goods, services, or~~

1 ~~information technology, or a greater amount as administratively~~
2 ~~established by the director, a state agency shall obtain at least two~~
3 ~~price quotations from responsible suppliers whenever there is~~
4 ~~reason to believe a response from a single source is not a fair and~~
5 ~~reasonable price.~~

6 ~~SEC. 3.~~

7 *SEC. 2.* Section 14838.6 is added to the Government Code, to
8 read:

9 14838.6. (a) The head of a state agency shall ~~promote the use~~
10 ~~of small business in state contracting activities and take every~~
11 ~~reasonable means to ensure that a state contracting program is~~
12 administered in a manner that promotes small business
13 participation. The head of a state agency shall review small
14 business participation levels within the agency *on an annual basis*
15 and develop a plan for increasing small business participation
16 levels within 60 days when participation levels are low.

17 (b) The Department of General Services *and the Office of the*
18 *Small Business Advocate* shall ~~research and examine~~ *serve as a*
19 *resource to assist the heads of state agencies in identifying the*
20 best practices of both the public and private sectors in the
21 utilization of small businesses in their contracting practices and
22 programs. ~~The Department of General Services shall prepare and~~
23 ~~present findings and recommendations to the Legislature detailing~~
24 ~~changes to the state's business practices that will provide~~
25 ~~businesses with greater contracting opportunities within the State~~
26 ~~of California.~~

27 (c) State constitutional officers, the University of California,
28 the California State University, the Lottery Commission, the Public
29 Employees' Retirement System, that State Teachers' Retirement
30 System, the State Compensation Insurance Fund, and other
31 independent state entities are encouraged to take all necessary
32 actions to comply with the intent and the requirements of the act
33 adding this section.

34 (d) This section shall not be construed to require an action that
35 would result in the violation of a court order or a loss of eligibility
36 for federal funding.

37 ~~SEC. 4.~~

38 *SEC. 3.* Section 14841 of the Government Code is amended
39 to read:

1 14841. (a) Upon completion of a public contract for which a
2 commitment to achieve small business or disabled veteran business
3 enterprise participation goals was made, the contractor shall report
4 to the awarding department the actual percentage of small business
5 and disabled veteran business enterprise participation that was
6 achieved.

7 (b) A state agency shall ~~aggressively~~ *proactively* pursue an
8 annual 25 percent small business participation level in state
9 contracting. A state agency that does not achieve a 25 percent level
10 shall ~~submit~~ *give* to the Governor's office, *the Office of the Small*
11 *Business Advocate*, and the Legislature ~~an explanation for why~~
12 ~~the~~, *within 60 days of the close of the calendar year, notice that*
13 *the small business participation level was not achieved. The*
14 ~~explanation shall include~~ *achieved and shall submit* a plan for
15 improving contracting opportunities for small businesses. The
16 Department of General Services shall, *and the Office of the Small*
17 *Business Advocate may*, provide guidance to state agencies in
18 developing a plan for and taking the necessary actions towards
19 achieving the 25 percent participation level. This subdivision shall
20 not be construed to require an action that would result in the
21 violation of a court order or a loss of eligibility for federal funding.