

AMENDED IN ASSEMBLY MAY 27, 2016

AMENDED IN ASSEMBLY APRIL 6, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2270

Introduced by Assembly Member Bonta
(Coauthor: Assembly Member Gonzalez)

February 18, 2016

An act to amend Sections 63089.95 and 63089.96 of the Government Code, relating to state government, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2270, as amended, Bonta. California Infrastructure and Economic Development Bank: surety bond program.

Under the Small Business Financial Assistance Act of 2013, the California Infrastructure and Economic Development Bank, within the Governor's Office of Business and Economic Development, administers specific programs relating to small business, either administered directly by the bank or under contract with small business financial development corporations. The act authorizes bank programs to offer surety bond guarantees. The act prohibits a corporation from guaranteeing any loan unless and until it makes specified determinations, including that there is a low probability that the surety bond would be granted by a financial institution or financial company under reasonable terms or conditions, and the beneficiary has demonstrated a reasonable prospect of successful completion of the project.

This bill would modify that prohibition to refer to a surety bond instead of a loan and would add private bonding companies to those

entities considered when calculating the probability that a surety bond would be granted.

The act, in addition to the authority described above, authorizes a corporation to act as a guarantor on a surety bond for any small business contractor, including, but not limited to, women, minority, and disabled veteran contractors.

This bill would expand those entities for which a corporation may act as a guarantor on a surety bond to include disadvantaged business enterprise contractors. The bill would require a surety bond program to include technical assistance to a participating contractor, as prescribed. The bill would authorize the bank, in implementing a surety bond program under the act, to assign all or part of the program to another state entity in a prescribed manner, to establish one or more pilot projects before approving directives and guidelines for a statewide surety bond and small contractor assistance program, and to establish one or more nonstate contracts under specific circumstances.

The act continues in existence the California Small Business Expansion Fund (expansion fund), a continuously appropriated fund that includes General Fund moneys. The expansion fund may be used to pay defaulted loan guarantee or surety bond losses, or other financial product defaults or losses, to fund direct loans and other debt instruments, to pay administrative costs of corporations, to pay state support and administrative costs, and to pay costs to protect a real property interest in a financial product default.

By expanding the activities of the bank that are funded by continuous appropriation from the expansion fund, this bill would make an appropriation.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
 State-mandated local program: no.

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

- 1 SECTION 1. Section 63089.95 of the Government Code is
- 2 amended to read:
- 3 63089.95. In furtherance of the purposes set forth in Section
- 4 63088.1 of this code and Section 14001 of the Corporations Code,
- 5 a corporation may do any one or more of the following activities,
- 6 but only to the extent that the activities are authorized pursuant to
- 7 the contract between the bank and corporation: guarantee, endorse,
- 8 or act as surety on the bonds, notes, contracts, or other obligations

1 of, or assist financially, any person, firm, corporation, or
2 association, and may establish and regulate the terms and
3 conditions with respect to any such guarantees or financial
4 assistance and the charges for interest and service connected
5 therewith, except that the corporation shall not guarantee any surety
6 bond unless and until it determines:

7 (a) There is a low probability that the surety bond would be
8 granted by a private bonding company, financial institution, or
9 financial company under reasonable terms or conditions, and the
10 beneficiary has demonstrated a reasonable prospect of successful
11 completion of the project.

12 (b) The surety bond project coverage will be used exclusively
13 in this state.

14 (c) The beneficiary has a minimum equity interest in the business
15 as determined by the directives and requirements.

16 (d) As a result of the surety bond, the jobs generated or retained
17 demonstrate reasonable conformance to the directives and
18 requirements specifying employment criteria.

19 SEC. 2. Section 63089.96 of the Government Code is amended
20 to read:

21 63089.96. (a) In addition to the authority granted by Section
22 63089.95, pursuant to the directives and requirements a corporation
23 may act as guarantor on a surety bond for any small business
24 contractor, including, but not limited to, women, minority, disabled
25 veteran, and disadvantaged business enterprise contractors.

26 (b) The provisions of subdivision (a) allowing a corporation to
27 act as a guarantor on surety bonds may be funded through
28 appropriate state or federal funding sources. Federal funds shall
29 be deposited in the Federal Trust Fund in the State Treasury in
30 accordance with Section 16360, for transfer to the expansion fund.

31 (c) The surety bond program shall include technical assistance
32 to a participating contractor. Technical assistance provided pursuant
33 to this section shall include, but is not limited to, all of the
34 following:

35 (1) Assessment and identification of the particular barriers facing
36 the participating contractor and development of solutions to those
37 barriers. Activities pursuant to this paragraph may include the
38 following:

39 (A) Assessments by surety and construction experts.

40 (B) Development of a business plan.

- 1 (C) Workshops addressing contractor bonding, bidding on state
- 2 projects, job safety, and other topics that would be beneficial to
- 3 the participating contractor.
- 4 (D) Project field support.
- 5 (2) Identification of, and assistance in obtaining, other financial
- 6 support and resources. Activities pursuant to this paragraph may
- 7 include the following:
- 8 (A) Linkages with accountants, brokers, and surety companies
- 9 committed to helping contractors build bonding and organizational
- 10 capacity.
- 11 (B) Prequalifications for additional assistance.
- 12 (C) Collateral guarantees.
- 13 (d) In implementing a surety bond program pursuant to this
- 14 chapter, the bank may:
- 15 (1) Assign all or part of the program to another state entity that
- 16 agrees to implement the program consistent with this chapter and
- 17 *the* directives and requirements adopted by the bank. If the bank
- 18 assigns all or a part of the program to another state entity, the bank
- 19 shall retain responsibility for reporting on the use and outcomes
- 20 of the program, pursuant to Section 63089.98.
- 21 (2) Establish one or more pilot projects before approving
- 22 directives and guidelines for a statewide surety bond and small
- 23 contractor assistance program.
- 24 (3) Establish one or more nonstate contracts, to the extent
- 25 deemed necessary by the bank, based on there being an insufficient
- 26 number of corporations interested in, and qualified to, implement
- 27 a surety bond program, including the technical assistance required
- 28 in subdivision (c). These contractors shall be subject to the
- 29 applicable reporting requirements of this chapter, Section 63089.97,
- 30 and any other directive or requirement set by the bank.