

Date of Hearing: July 9, 2019

ASSEMBLY COMMITTEE ON BUSINESS AND PROFESSIONS

Evan Low, Chair

SB 483 (Pan) – As Amended March 26, 2019

SENATE VOTE: 38-0

SUBJECT: California family owned businesses

SUMMARY: Creates a definition for California family owned business in the Government Code.

EXISTING LAW:

- 1) Defines a small business as "an independently owned and operated business that is not dominant in the 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 or less over the previous three years, or is a manufacturer as specified." (Government Code (GC) § 14837)
- 2) Defines a microbusiness as "a small business which, together with affiliates, has average annual gross receipts of two million, five hundred thousand dollars or less over the previous three years or is a manufacturer as specified." (GC § 14837)
- 3) Defines a disabled veteran's business enterprise as "an enterprise that has been certified as meeting the qualifications established by Section 999 of the Military Code." (Id.)

THIS BILL:

- 1) Makes various findings and declarations about California family owned businesses, including recognition that these businesses invest more in their employees in terms of training and benefits, promote more women to high-level management positions, and are less likely to lay off employees or downsize in tough economic times while also outlining the engagement in and commitment to local California communities made by these businesses.
- 2) States Legislative intent that this will aid, counsel, assist, and protect the interests of California family owned businesses in order to preserve free competitive enterprise and support family owned enterprises and that the purpose of this change in the law is to provide a framework for the Legislature to better understand and address the role family owned businesses play within the California economy.
- 3) Defines a "California family owned business" (CFOB) as a business that meets certain requirements including organized as a privately held business by one individual or two or more related persons; a partnership of business entities owned by related persons with its principal executive office in California and; in business for more than 10 continuous years.

- 4) Requires the business, in order to be defined as a CFOB, to be controlled by one individual or two or more related persons who exhibit strategic influence and control of the business by holding it as a sole proprietorship or by holding a majority of the voting interest.
- 5) Requires that the business, in order to be defined as a CFOB, demonstrates an intent to continuously operate as a family business according to specific requirements
- 6) Defines “related person” as a person who is related by a common ancestor, pursuant to state or federal law, up to four generations. A spouse, domestic partner, and the spouse or domestic partner of any person that qualifies as a person related by a common ancestor is also included within the definition of “related persons”.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by Legislative Counsel.

COMMENTS:

Purpose. This is sponsored by the *Family Business Association*. Accordingly to the Author, “Family businesses are the backbone of the economy, both nationally and in California. According to the Family Business Association, “Family Businesses generate 57% of the nation’s Gross Domestic Product (GDP), employ 63% of the workforce and create 75% of all new jobs. California’s 1.4 million family businesses employ 7 million Californians. According to a 2012 report prepared for by the Family Business Association, *Family Business and Their Impact on the California Economy*, “in terms of their impact on the economy, family businesses represent a considerable share of economic activity at both the state and national level. While the exact measure of their contribution varies significantly depending upon the definition used...[there are] estimates that family businesses account for approximately 20 to 35 percent of all California businesses, contribute 20 to 40 percent of the state's GDP, and provide between 20 percent and 40 percent of the state's jobs. The report also found that definitional problems around the term “family-owned business” provide measurement challenges when trying to assess the full economic benefit of these businesses. As the report states, “While much research has been conducted in the past few decades on family businesses and their impact on the economy, no commonly accepted definition has emerged as to what exactly constitutes a family business.”

Background. According to the March 2011 Annual Family Business Survey conducted by Family Enterprise USA, “Family businesses have a dramatically positive impact on their communities, and together they are a driving force of the American economy. Family-owned businesses generate 57% of the [Gross Domestic Product (GDP)] in the United States, employ 63% of our nation's workforce and are the societal stabilizers in most communities in the country.”

According to a 2012 report prepared for FBA and provided by the Author, *Family Business and Their Impact on the California Economy*, “in terms of their impact on the economy, family businesses represent a considerable share of economic activity at both the state and national level. While the exact measure of their contribution varies significantly depending upon the definition used...[there are] estimates that family businesses account for approximately 20 to 35 percent of all California businesses, contribute 20 to 40 percent of the state's GDP, and provide between 20 percent and 40 percent of the state's jobs.” The report also found that definitional problems around the term “family-owned business” provide measurement challenges when

trying to assess the full economic benefit of these businesses. As the report states, "While much research has been conducted in the past few decades on family businesses and their impact on the economy, no commonly accepted definition has emerged as to what exactly constitutes a family business."

Prior Related Legislation. AB 1430 (Cooper) was almost identical to this bill. (Status: The bill was not considered on the Senate Floor prior to pertinent deadlines.)

AB 1260 (Medina of 2014) was almost identical to AB 1430 and this bill. (Status: The bill was vetoed by Governor Brown whose veto message is discussed below.)

ARGUMENTS IN SUPPORT:

The *Family Business Association* states, "[a] statutory definition of a family owned business is important for California because a family owned business is distinct in many ways from other businesses...A uniform definition of a Family Owned Business will provide many benefits including one definition that can be referenced across codes in California including Tax and Government codes and it provides one definition that can be referenced by local municipalities that want to promote Family-Owned Businesses within their local jurisdictions...Importantly, SB 483 will let California lead the nation by being the first to statutorily define a family owned business so that decision makers are able to consider the special challenges of operating these businesses when considering future actions."

POLICY ISSUES:

As previously raised in the Senate Committee on Business, Professions and Economic Development analysis, in 2014, an almost identical bill, AB 1260, was vetoed. In his veto message, Governor Brown wrote, "Family-owned businesses have an important role in our state and local economies and I am supportive of efforts that recognize their vital contributions. I am concerned, however, that adding a definition of 'California Family Owned Business' in statute with no legal or programmatic purpose will not achieve the bill's intended purpose."

It remains unclear how adding a definition of CFOB to the statute will provide any benefit to the state or those businesses that fall under the definition. Is it the Author's intention for this definition to serve as a precursor to these entities, defined in statute, receiving preference in government such as prioritization in government contracts and procurement? Does the Author intend for this definition to serve as a starting point for additional changes to the law intended to assist, benefit or recognize these entities?

REGISTERED SUPPORT:

Family Business Association (Sponsor)

REGISTERED OPPOSITION:

None on file.

Analysis Prepared by: Danielle Sires / B. & P. / (916) 319-3301