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**SENATE COMMITTEE ON  
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**  
Senator Richard Roth, Chair  
2021 - 2022 Regular

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**Bill No:** AB 915  
**Author:** Chiu  
**Version:** July 5, 2021  
**Urgency:** No  
**Consultant:** Dana Shaker

**Hearing Date:** July 14, 2021

**Fiscal:** Yes

**Subject:** Small and disadvantaged business enterprises

**SUMMARY:** Establishes "Disadvantaged Business Enterprises" (DBE) as a state category of small business for the purposes of state contracting and makes various changes to existing small business programs to provide for this category of small businesses. Requires state agencies to develop equity plans for procuring goods from DBEs. Codifies an executive order that state agencies set a goal of 25% for small business procurement, as specified.

**Existing law:**

- 1) Establishes the Governor's Office of Business and Economic Development (GO-Biz) within the Governor's Office for the purpose of serving as the lead state agency for economic strategy and marketing of California on issues relating to business development, private sector investment, and economic growth. (Government Code (GOV) §§ 12096-12098.5)
- 2) Establishes the Office of the Small Business Advocate (OSBA) within GO-Biz and outlines the duties and functions of the Director of OSBA including representing the views and interests of small businesses before other state agencies whose policies and activities may affect small businesses. (GOV §§ 12098-12098.9)
- 3) Requires the designated Small Business Advocate within OSBA to prepare and submit a written annual report to the Governor and the Legislature that describes the activities and recommendations of the office, including an evaluation of the efforts of state agencies and, where appropriate, specific departments, that significantly regulate small businesses to assist minority and other small business enterprises, and make appropriate recommendations to assist the development of these enterprises. (GOV § 12098.4 (b))
- 4) Requires each state agency that significantly regulates or impacts small business to designate at least one person to serve as a small business liaison for the agency. Requires the small business liaison to be responsible for, among other things, receiving and responding to complaints received by the agency from small businesses and assisting in ensuring that the procurement and contracting processes of the entity are administered in order to meet or exceed the goal of 25% small business participation. (GOV § 11148.5)

- 5) Declares, under the Small Business Procurement and Contract Act, that it is essential that opportunity is provided for full participation in our free enterprise system by small business enterprises. (GOV § 14836 (a))
- 6) Requires, under the Small Business Procurement and Contract Act, that the Director of the Department of General Services (DGS) and the heads of other state agencies that enter into contracts for the acquisition of goods, services, and information technology and for the construction of state facilities to establish goals for the participation of small businesses and microbusinesses in these contracts, to provide for a small business preference in the award of these contracts, to give special consideration and special assistance to small businesses, and, whenever possible, to make awards to small businesses, as specified. (Public Contract Code (PCC) § 10100 *et seq.*)
- 7) Defines a “small business” for these purposes as, among other things, an independently owned and operated business that is not dominant in its field of operation that, commencing January 1, 2019, has average annual gross receipts of \$15 million, as may be adjusted to reflect changes in the California Consumer Price Index (CCPI), or less over the previous 3 years. (GOV § 14836 (d)(1))
- 8) Defines a “microbusiness” as a small business which, together with affiliates, has average annual gross receipts of, commencing January 1, 2019, \$5 million, as may be adjusted to reflect changes in the CCPI, or less over the previous 3 years. (GOV § 14836 (d)(2))
- 9) Requires the DGS director to conduct a biennial review of those average annual gross receipt levels and authorizes the director to adjust the average annual gross receipts threshold to reflect changes in the CCPI, as specified. (GOV § 14837 (3)(A))
- 10) Requires the directors of DGS and other state agencies that enter into contracts for the provision of goods, information technology, services to the state, and construction of state facilities, to provide for a small business preference, in the award of contracts, in solicitations where an award is to be made to the lowest responsible bidder meeting specifications, with the amount being 5% of the lowest responsible bidder meeting specifications. (PCC § 6106.5 *et seq.*)
- 11) Authorizes a state agency to award a contract for construction or other state improvement of any kind with an estimated value of greater than \$5,000 but less than a specified cost limit, to a certified small business, including a microbusiness, or to a disabled veteran business enterprise, so long as the agency obtains written bid submittals from 2 or more certified small businesses or disabled veteran business enterprises. (GOV § 14838.7)
- 12) Establishes the Office of Small Business (OSB) and Disabled Veteran Business Enterprise Services (DVBES) within DGS and charges it with specified duties, including making recommendations to the department and other state agencies for simplification of specifications and terms in order to increase the opportunities for small business, microbusiness, and disabled veteran business enterprise participation. (GOV § 14835 *et seq.*)

- 13) Requires, under the Small Business Procurement and Contract Act, that DGS make rules and regulations for the purpose of carrying into effect the act. (GOV § 1483 *et seq.*)
- 14) Requires DGS, during the process of certifying and determining the eligibility of a small business or a disabled veteran business enterprise, to require the applicant or certified firm to submit a written declaration, under penalty of perjury, that the information submitted to the department pursuant to specified law is true and correct. (GOV § 14835 *et seq.*)

**This bill:**

- 1) Requires the small business liaison to develop an “economic equity first” action plan and policy for any applicable agency to provide, among other things, direction, recommendations, and strategies as to how to ensure that DBEs are effectively involved and benefitting from the procurement process of the agency. The action plan and policy are required to be submitted to the agency secretary, department director, or executive officer by January 1, 2023, and would require adoption of that plan by January 1, 2024.
- 2) Requires an annual report currently required to be submitted by the OSBA Advocate to the Governor’s Office and the Legislature to also include details regarding OSBA’s activities to support procurement participation by small businesses, microbusinesses, DBEs, and DVBEs, as well as compliance and implementation of specified action plans and policies by state agency liaisons and advocates.
- 3) Requires that specified information that the Advocate is currently required to post on the Advocate’s internet website, and also information in receiving assistance in certifying as a DVBE and DBE, to be easily accessible from the homepage of the GO-Biz internet website.
- 4) Adds language into the Small Business and Procurement Act (Act) that would declare that the state economy is strengthened by the diversity and resiliency of its small businesses and that it is essential to ensure all small businesses are able to fully participate in the domestic and global markets, including businesses owned by women and other specified groups.
- 5) Defines “DBEs” to mean “socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities. The social disadvantage must stem from circumstances beyond their control.”
- 6) Requires the heads of state agencies that enter into contracts concerning the provisions of goods, information technology, services, and construction of state facilities, to establish a minimum goal of 25% procurement participation for small business, including microbusinesses.

- 7) Requires, with respect to public works contracts, a preference for DBEs, a separate five percent of the lowest responsible bidder meeting specifications.
- 8) Expands a current provision to include, among those businesses to which this type of contract may be awarded, a DBE, so long as the agency obtains written bid submittals from two or more specified businesses.
- 9) Expands a current provision in law that requires the Office of Small Business and DVBE to make recommendations to DGS to also include, with those recommendations, simplification of specifications and terms in order to increase opportunities for DBEs.
- 10) Requires DGS to establish a fast track small business certification process for business enterprises that hold relevant federal certifications.
- 11) Authorizes DGS to apply relevant federal certifications for the business categories and in its delineated procurement authority to other state agencies.
- 12) Requires DGS to consider appropriate remedial actions to be taken in regards to mandatory reporting agencies that failed in three out of five years to meet their small business or DVBE goals, and to include DGS actions in DGS's consolidated annual report.
- 13) Requires a current DGS report to include the level of participation, by agency, of dual certified small business and DBEs in statewide contracts, including dollar values of contract awards for specified categories.
- 14) Makes the following findings and declarations, and clarifies intent:
  - a) The positive fiscal impact of small businesses and minority-owned businesses to the overall economic health and stability of California, the fifth largest economy in the world, cannot be underestimated or overlooked – where in fact the entire California economy is predicated on the continual success and growth of all small businesses.
  - b) Given that the size of the California budget is the largest of all states in the entire country, the California budget contributes one-seventh of the country's gross domestic product (GDP), and that, pre-COVID, small businesses totaled 3.9 million, or 99.8 percent of all California businesses, and 1.6 million were minority owned.
  - c) Small businesses not only contribute significantly to the tax base of the State of California but also account for approximately 7 million employees, or 48.8 percent of all employment in the state.
  - d) It is therefore incumbent upon the State of California to ensure that a fair share of procurement spending be directed and dedicated to small and minority-owned-businesses.

- e) The State of California must carefully consider and provide guidance to all state departments, agencies, bureaus, and other state entities as to reflect small and minority-owned businesses as a priority when determining procurement decisions.
- f) As the economy pivots to recover and rebound post the COVID economic collapse, it is imperative for the state to acknowledge and address the lack of diversity among contractors participating in state contracts and to seek innovative ways to identify diverse businesses owners and encourage them to become certified small businesses. The existing network of California disadvantaged business enterprises could play a crucial role in diversifying the state's pool of certified small businesses.
- g) A means of economic recovery for the financial base of California would include codifying the previously expressed intent of the executive and legislative branches, respectively, of the state achieving a goal of procurement spending of 25 percent to SBs and DBEs.
- h) It is the intent of the Legislature that California SBs and DBEs are prioritized and uplifted by means of economic equity as it pertains to a percentage of state procurement dollars going to these entities.

**FISCAL EFFECT:** According to the Assembly Appropriations Committee, this bill would have the following cost impacts:

- 1) One-time General Fund (GF) costs to DGS of \$100,000 for the development of policies related to this bill and staffing costs of \$599,000 for the first two years of the bill. Ongoing GF costs of \$450,000 starting in year three of the bill's implementation.
- 2) Minor and absorbable GF costs to GO-Biz.
- 3) Potential increased costs for public works projects based on expansion of bid preference provided by this bill. Preference can result in agencies selecting higher bids instead of lower bids and directly increase costs of some contracts.
- 4) Ongoing GF and special fund costs, of an unknown but potentially significant amount, to state agencies to develop equity plans. Costs could be lower to the extent a state agency meets this requirement by having a current targeted procurement outreach plan for small businesses.

**COMMENTS:**

- 1. **Purpose.** The California Asian Pacific Chamber of Commerce, the California Hispanic Chamber of Commerce, and the California African American Chamber of Commerce are the Sponsors of this bill. According to the Author, "historically, small businesses, minority-owner or otherwise, have struggled with efficiently attaining: 1) access to state resources, and 2) access to state contracting opportunities.

With no accountability or formal procurement goal in statute, many small businesses find the state inconsistent in delivering contracts to certified small

businesses. AB 915 codifies the 25 percent state procurement goal for small businesses, and takes steps to make state contracting more accessible to our entrepreneurs.”

## 2. Background.

*GO-Biz*. In February 2010, the Little Hoover Commission undertook a review of the state's economic and workforce development programs. In its final report, *Making up for Lost Ground: Creating a Governor's Office of Economic Development*, it analyzed the status and effectiveness of current programs since the 2003 demise of the Technology, Trade and Commerce Agency (TTCA) and recommended the creation of a new governmental entity to fill the void left by the dismantled agency.

The report called for a single entity that would promote greater economic development, foster job creation, serve as a policy advisor and deliver specific services (i.e., permitting, tax, regulatory, and other information) directly to the California business community. In April 2010, Governor Schwarzenegger issued Executive Order S-05-10 as a means to operationalize the report recommendations including the creation of the Governor's Office of Economic Development (GOED).

In October 2011, the Governor signed AB 29 (John A. Pérez, Chapter 475, Statutes of 2011), which effectively codified GOED and changed its name to GO-Biz. Since its inception, the office has served thousands of businesses, 95 percent of which are small businesses. The most frequent types of assistance include help with permit streamlining, starting a business, relocation and expansion of businesses, and regulatory challenges.

In March 2012, Governor Brown initiated a reorganization process to realign the state's administrative structure. Key changes include dismantling of the Business, Transportation and Housing Agency (BTH) and the shifting of a number of key programs to GO-Biz including the Small Business Loan Guarantee Program, the California Travel and Tourism Commission, the California Film Commission, the Film California First Program, and the Infrastructure and Economic Development Bank (IBank). Currently, GO-Biz administers the following programs and units:

- “Made In California” program for the purpose of encouraging consumer product awareness and to foster the purchases of products manufactured in California.
- Innovation Hub (iHub) program, an effort to harness and enhance California's innovative spirit
- The California Competes Tax Credit Program under which “businesses who want to come to California or stay and grow in California” can receive an income tax credit.
- The California Business Investment Services Unit, which provides no-fee, tailored site selection services to employers and others who may be considering California for relocation or expansion.

- The California Business Portal, which provides information to California businesses about common questions, permitting, financial options, and more.
- The California Community Reinvestment Grants Program, which was included in Proposition 64, authorized GO-Biz to award grants to local health departments and certain nonprofit organizations to support communities disproportionately affected by the War on Drugs.
- Office of the Small Business Advocate which provides information and assistance to small businesses.
- The Zero Emission Vehicles (ZEV) Infrastructure Unit which works to “accelerate the deployment of ZEV infrastructure
- The International Affairs and Business Development Unit, which serves as California’s primary point of contact for expanding international trade and investment relations. This unit focuses on foreign direct investment (services for foreign investors, foreign investment technical assistance, and the EB-5 Investor Visa Program), international trade promotion (STEP program, trade missions, export assistance, and the California-China Trade Office), and international agreements.

OSBA. Since its inception, GO-Biz has served thousands of businesses, 95 percent of which are small businesses. The most frequent types of assistance include help with permit streamlining, starting a business, relocation and expansion of businesses, and regulatory challenges. In addition to economic development programs, GO-Biz is responsible for specialized assistance to small businesses through the OSBA. OSBA directly serves the small business community through hosting summits, forums, and interagency meetings; maintaining resources for technical assistance, financing, and state procurement; holding webinars, and other outreach methods. OSBA oversees the Capital Infusion Program, which enables the California Small Business Development Center (SBDC) Networks to expand their one-to-one, no-cost, confidential consulting to small business owners. From its inception in 2014 to 2016, the Capital Infusion Program resulted in roughly \$379 million in documented capital infusion and served over 20,000 small business owners across the state. In 2015, GO-Biz launched a new California Business Portal; the site includes a Business Navigator feature, which provides custom information regarding permits, licenses, and incentives that relate specifically to the user’s business. OSBA also provides emergency preparedness resources on its website and was involved in facilitating disaster relief financing efforts for small businesses during the 2017 Northern and Southern California fires. During the COVID-19 pandemic, OSBA has been crucial in hosting events for small businesses to learn how to adapt, particularly by moving into the online space through trainings with names ranging from Google to Facebook.

*Previous Relevant Executive Order.* On March 29, 2006, Executive Order S-02-06 by Governor Schwarzenegger, established a minimum participation goal of 25% for small businesses/microbusinesses. It also directed DGS to monitor the progress of all agencies, departments, boards and commissions towards meeting the 25% small business participation goal.

*State Actions Taken to Support Small Businesses During the COVID-19 Pandemic.*

In response to the COVID-19 pandemic, the state began taking action to support small businesses in several ways, including small business relief. The state has also taken the following actions related to small business grants and programs since the start of the COVID-19 pandemic. First, Governor Newsom provided \$125 million in small business loans. The California Infrastructure Economic Development Bank (IBank) provided \$100 million in loan guarantees for small businesses that may not be eligible for federal relief. Then, in November Governor Newsom announced the California Rebuilding Fund, a public-private partnership that drives capital from private, philanthropic and public sector resources – including a \$25 million anchor commitment and \$50 million guarantee allocation from the California Infrastructure and Economic Development Bank (IBank) – to Community Development Financial Institutions (CDFIs). Second, the Governor added \$12.5 million to the Fund in late November so that it could be fully capitalized, saying this money will “help the 3rd party administrator of the fund raise \$125 million to make more low-interest loans to small businesses with less access to loans from traditional banking institutions.” Third, the state secured \$30 Billion in Federal Small Business Relief. California secured an SBA disaster declaration early on March 17, 2020 to open up the Economic Injury Disaster Loans (EIDL) program for California small businesses and private non-profit organizations. Fourth, the state provided micro-grants to immigrant social entrepreneurs, allocating \$10 million in the 2020-21 budget for Social Entrepreneurs for Economic Development (SEED) to provide micro-grants to immigrant social entrepreneurs. Fifth, the state provided \$500 million via the OSBA in late November 2020 for small businesses impacted by the pandemic and the health and safety restrictions. Funds were awarded in early 2021 via Community Development Financial Institutions to distribute relief through grants of up to \$25,000 to underserved micro and small businesses throughout the state. An additional almost \$2.1 billion was added for small business grants of up to \$25,000 with the passage of SB 87 (Caballero, Chapter 7, Statutes of 2021) in February 2021, with provisions that specified the recent OSBA grants would not be included in overall gross income tax calculations. The California 2021-2022 Budget Bill, AB 128 (Ting, 2021), includes \$1.5 billion in grant funding to support small businesses, with up to \$25,000 of grant money available per business.

*The Impact of This Bill.* This bill focuses on a number of different strategies to bolster the growth of disadvantaged businesses. First, it would require small business liaisons to develop an “economic equity first” action plan and policy for the agency to provide, among other things, direction, recommendations, and strategies as to how to ensure that disadvantaged business enterprises are effectively involved and benefiting from the procurement process of the agency. It also require this action plan to be submitted to the agency secretary, department director, or executive officer by January 1, 2023, and would require adoption of that plan by January 1, 2024. Second, the bill would require the OSBA annual report on recommendations of the of the office submitted to the Governor and Legislature to also include: 1) details regarding the office’s activities to support procurement participation by small businesses, microbusinesses, disadvantaged business enterprises, and disabled veteran business enterprises, and 2) compliance and implementation of specified action plans and policies by state agency liaisons and advocates. Third, it would require additional information posted on its website, including information in receiving assistance in certifying as a disabled veteran

business enterprise and disadvantaged business enterprise, to be easily accessible from the homepage of the Go-Biz internet website. Fourth, it requires the Director of General Services to communicate and coordinate with the Small Business Advocate to execute this biennial review, and define “disadvantaged business enterprises” to mean “socially and economically disadvantaged individuals,” as described by federal law. Fifth, it would require state agency directors to establish a minimum goal of 25% procurement participation for small businesses, including microbusinesses. Sixth, it would require a preference to disadvantaged business enterprises, which would be a separate 5% of the highest responsible bidder’s total score, with respect to public works contracts. Seventh, it would expand the category of certified businesses that can receive construction contracts to include disadvantaged business enterprises, in addition to the already approved microbusinesses and disabled veteran business enterprises. Eighth, it would expand opportunities for disadvantaged business enterprises by requiring OSB and DVBE to make recommendations to DGS and other state agencies for simplification of specifications and terms in order to increase the opportunities for small business, microbusiness, and disabled veteran business enterprise participation. Ninth, it would require DGS to establish a fast track small business certification process for business enterprises that hold relevant federal certifications. Tenth, it would require DGS to consider appropriate remedial actions to be taken in regards to mandatory reporting agencies that failed in 3 out of 5 years to meet their small business or disabled veteran business enterprise goals, and to include DGS actions in the DGS’s consolidated annual report. Eleventh, it would require the report to include the level of participation, by agency, of dual certified small business and disadvantaged business enterprises in statewide contracts, including dollar values of contract awards for specified categories.

3. **Related Legislation.** SB 87 (Caballero, Chapter 7, Statutes of 2021) provided \$2.075 billion in economic relief and support to small businesses, established the California Small Business COVID-19 Relief Grant Program within CalOSBA to assist small businesses affected by COVID-19 through administration of grants, and required CalOSBA to provide grants to qualified small businesses, as defined, in accordance with specified criteria, including geographic distribution based on COVID-19 restrictions, industry sectors most impacted by the pandemic, and underserved small businesses. This bill also excluded recent OSBA grant allocations from being included in gross income tax calculations.

SB 430 (Borgeas, 2021) requires a state agency to establish a policy to reduce or waive civil penalties for violations of regulatory or statutory requirements by a small business under specified conditions. (Status: *Held on the Senate Appropriations Committee Suspense File*)

AB 1574 (Jobs, Economic Development, and the Economy, 2021) makes various changes to California’s certified small and microbusiness, DVBE, and Target Area Contract Preference Act programs, including enhanced public promotion of the programs, authorizing any public prosecutor to bring a civil action for a violation involving a knowingly fraudulent representation, and expanding and clarifying the Target Area Contract Preference Act. (Status: *this bill is pending in the Senate Governmental Organization Committee*)

4. **Arguments in Support.** Generally, supporters say that the bill will establish economic equity in State contracting by doing three primary things. First, the bill codifies the goal of 25% of State procurement to be directed toward small businesses. Second, the bill makes a fast-track of small business certification for “Disadvantaged Business Enterprises” (DBEs). Third, it establishes accountability within the Administration and throughout the bureaucracy to enforce the intent of meeting that goal while directing all State agencies to develop and enact and education and outreach plan which will inform their communication strategy to minority and hard-to-reach businesses. They argue that, given the purchasing power and influence of the State of California, enacting this bill will be a critical next step to raising the tide for all small businesses in the State.

## **SUPPORT AND OPPOSITION:**

### Support:

Asian Business Association of Los Angeles  
 Asian Business Association of San Diego  
 Asian Pacific Islander American Public Affairs Association (APAPA)  
 Association of Financial Development Corporations (FDCS); the  
 Bizfed - Los Angeles County  
 Black Leadership Council  
 California African American Chamber of Commerce  
 California Asian Pacific Chamber of Commerce (CAPCC)  
 California Business Roundtable  
 California Charter Schools Association  
 California Charter Schools Association Advocates (CCSAA)  
 California Forward Action Fund  
 California Hispanic Chambers of Commerce  
 California Immigrant Policy Center  
 California Retailers Association  
 California State Treasurer  
 Cameo - California Association for Micro Enterprise Opportunity  
 City of San Diego  
 Coalition for Small and Disabled Veteran Businesses  
 Golden Gate Business Association  
 Greater Los Angeles African American Chamber of Commerce  
 Greater Sacramento Economic Council  
 Los Angeles County Business Federation (BIZFED)  
 National Association of Women Business Owners (NAWBO)  
 National Association of Women Business Owners - California  
 National Association of Women Business Owners - Ventura County Chapter  
 National Association of Women Business Owners, San Diego Chapter  
 Sacramento Area Council of Governments  
 Sacramento Asian Pacific Chamber of Commerce  
 Sacramento Metropolitan Chamber of Commerce  
 San Diego Regional Chamber of Commerce  
 San Diego; City of  
 San Francisco Chamber of Commerce  
 Small Business California

Small Business Majority  
Valley Vision

Opposition:

None received

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