SENATE COMMITTEE ON APPROPRIATIONS
Senator Anna Caballero, Chair
2025 - 2026 Regular Session

SB 247 (Smallwood-Cuevas) - State agency contracts: bid preference: equity metrics

Version: April 21, 2025
Urgency: No
Hearing Date: January 20, 2026

Policy Vote: G.O. 10 - 4
Mandate: No
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Bill Summary: SB 247 requires state agencies awarding certain contracts to provide for a bid preference of up to ten percent to contractors that set equity metrics in their hiring practices, as specified.

Fiscal Impact:

- Unknown, potentially significant costs to the Department of General Services (DGS) for additional limited term staff to develop regulations outlining bid preferences as prescribed by the bill (General Fund).
- Unknown, potentially significant increased qualifying project costs ranging in the hundreds of thousands to millions of dollars, to the extent that the bid preferences proposed by the bill results in delayed solicitations for these projects or in other increased contract costs (various special funds and federal funds). Actual impact to the cost of qualifying projects may vary and depend on, among other things, the size of the contract and number of bidders.

Background: This bill explicitly applies to contracts in excess of $35 million using funds from three specific federal acts: the Infrastructure Investment and Jobs Act (IIJA), the Inflation Reduction Act of 2022 (IRA), and the CHIPS and Science Act of 2022 (CHIPS and Science Act).

Infrastructure Investment and Jobs Act. The IIJA was signed into law by President Joe Biden on November 15, 2021. The IIJA allocated $1.2 trillion toward revitalizing the nation’s infrastructure, with $550 billion dedicated to new investment in areas such as transportation, broadband, water systems, and energy infrastructure.

California, with its extensive infrastructure needs, stands to benefit significantly from the IIJA. According to build.ca.gov, the state is set to receive approximately $42 billion – the largest share among all states – through a combination of formula-based and competitive grants. Specifically, California is expected to receive $38.8 billion to Department of Transportation projects. Through the Justice40 Initiative, the Federal Government had made it a goal that 40% of the overall benefits of certain federal investment, like IIJA, flow to disadvantaged communities that are marginalized, underserved, and overburdened by pollution.

Days after being sworn in, the Trump administration’s funding freeze left of all of these federal funding dollars in jeopardy.

Inflation Reduction Act of 2022. The IRA was enacted on August 16, 2022, and is aimed at reducing the federal deficit, lowering prescription drug prices, and investing in domestic energy production while promoting clean energy. The IRA allocates approximately $370 billion toward energy security and climate change initiative. Since its enactment, the IRA has received substantial funding to advance the state's clean energy and environmental goals. In 2023 alone, California received over $1.6 billion in tax incentives for energy-efficient home improvements, including solar panel installations and heat pump upgrades.

Furthermore, nearly $600 million has been allocated to assist low-and moderate income households in implementing clean and efficient energy upgrades. The state has also received over $500 million from the U.S. Environmental Protection Agency to support clean energy initiatives aimed at reducing greenhouse gas emissions and other pollutants. More than $168 million has been dedicated to adding 2,600 electric vehicle charging stations in rural and disadvantaged areas, with an additional $64 million for upgrading existing infrastructure.

Similar to funds from the IIJA, the federal funding freeze by the Trump administration has significantly impacted California's access to these funds. California, along with other states, has filed legal motions to enforce existing court orders and challenge the funding freeze. It remains unclear if and when all of these funds will become available.

CHIPS and Science Act of 2022. The CHIPS and Science Act was enacted on August 9, 2022, and aimed at bolstering domestic semiconductor manufacturing and strengthening the nation's scientific research and technological innovation. The act seeks to address critical supply chain vulnerabilities and seeks to enhance the United States' competitiveness in key technology sections. California, as a hub of technology and innovation, was set to benefit significantly from the CHIPS and Science Act. Some notable projects in California funded by the act include:

1) Applied Materials has been awarded $100 million to develop advanced packaging technologies.

2) Bosch plans to invest $1.9 billion to transform its Roseville facility into a silicon carbide power semiconductor manufacturing site. The project is expected to crate approximately 1,700 jobs, including roles in construction, manufacturing, and engineering.

3) Akash Systems is set to receive up to $18.2 million to construct a 40,000-square foot cleanroom for advanced semiconductor manufacturing.

Again, the Trump Administration' funding freeze has placed many of these and other projects in jeopardy. As of the writing of this analysis, it remains unclear what projects will continue to be funded, and what the impact on the funding freeze will ultimately be.

Proposed Law:

- Requires an awarding department to provide for a bid preference for contracts with aggregate construction costs of $35 million or more using IIJA, IRA, or CHIPS and Science Act funds to contractors that set equity metrics. Provides the bid preference operate as follows:

- A 1-percent preference for hiring eligible persons to perform 5 to 9 percent, inclusive, of the total contract labor hours.
- A 2-percent preference for hiring eligible persons to perform 10 to 19 percent, inclusive, of the total contract labor hours.
- A 3-percent preference for hiring eligible persons to perform 20 to 29 percent, inclusive, of the total contract labor hours.
- A 4-percent preference for hiring eligible persons to perform 30 to 39 percent, inclusive, of the total contract labor hours.
- A 5-percent preference for hiring eligible persons to perform 40 to 49 percent, inclusive, of the total contract labor hours.
- A 6-percent preference for hiring eligible persons to perform 50 to 59 percent, inclusive, of the total contract labor hours.
- A 7-percent preference for hiring eligible persons to perform 60 to 69 percent, inclusive, of the total contract labor hours.
- An 8-percent preference for hiring eligible persons to perform 70 to 79 percent, inclusive, of the total contract labor hours.
- A 9-percent preference for hiring eligible persons to perform 80 to 89 percent, inclusive, of the total contract labor hours.
- A 10-percent preference for hiring eligible persons to perform 90 percent of the total contract labor hours.

- Prohibits the above bid preferences from being awarded to a noncompliant bidder or be used to achieve any applicable minimum requirements.

- Requires DGS to adopt rules and regulations for administering the outlined bid preferences.

  - Requires these rules and regulations to include enforcement methods to ensure compliance with agreed-upon equity metrics, including requiring contractors to track and report progress to the awarding department.

- Defines:

  - “Equity metrics” as hiring a required percentage of eligible person.
  - “Eligible person” as a person who resides in either a distressed area or a disadvantaged community.
  - “Distressed area” as a census tract determined by the Department of Finance to be in the top quartile of census tracts for having the highest unemployment and poverty in the state.

- "Disadvantaged community" as areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation, or areas with concentrations of people that are of low income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment.

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