
THIRD READING

Bill No: SB 247
Author: Smallwood-Cuevas (D)
Amended: 4/21/25
Vote: 21

SENATE GOVERNMENTAL ORG. COMMITTEE: 10-4, 4/22/25

AYES: Padilla, Archuleta, Ashby, Blakespear, Cervantes, Richardson, Rubio, Smallwood-Cuevas, Wahab, Weber Pierson

NOES: Valladares, Dahle, Jones, Ochoa Bogh

NO VOTE RECORDED: Hurtado

SENATE APPROPRIATIONS COMMITTEE: 5-2, 1/22/26

AYES: Caballero, Cabaldon, Grayson, Richardson, Wahab

NOES: Seyarto, Dahle

SUBJECT: State agency contracts: bid preference: equity metrics

SOURCE: Author

DIGEST: This bill requires state agencies, in awarding contracts in excess of \$35 million using funds from the federal Infrastructure Investment and Jobs Act (IIJA), the Inflation Reduction Act of 2022 (IRA), or the Creating Helpful Incentives to Produce Semiconductors for America Act (CHIPS) and Science Act of 2022, to provide a bid preference up to 10%, depending on the number of total contract labor hours performed by individuals residing in a “distressed area” or “disadvantaged community.”

ANALYSIS:

Existing law:

- 1) Establishes procedures for state agencies to enter into contracts for goods and services, including generally requiring that certain contracts by a state agency be approved by the Department of General Services (DGS).

- 2) Requires, generally, public contracts to be awarded by competitive bidding pursuant to procedures set forth, as specified.
- 3) Establishes the Target Area Contract Preference Act (TACPA), which aims to stimulate economic growth and job creation in economically distressed areas within the state. It does so by offering bid preferences, as specified, to California-based companies that commit to performing a significant portion of their work in these designated areas and, optionally, by hiring individuals with a high risk of unemployment.
- 4) Requires the California Environmental Protection Agency (CalEPA) to identify disadvantaged communities for investment opportunities (subdivision (a) of Section 39711 of the Health and Safety Code). Those communities shall be identified based on geographic, socioeconomic, public health, and environmental hazard criteria, and may include but not limited to, either of the following:
 - a) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation.
 - b) Areas with concentrations of people that are low income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment.
- 5) Establishes, through the Small Business Procurement and Contract Act, a minimum goal of 25% procurement participation for small businesses in the provision of goods, information technology, and services to the state, and in the construction of state facilities.
- 6) Requires 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 five percent of the lowest responsible bidder meeting those specifications.

This bill:

- 1) Requires an awarding department to provide for a bid preference in the award of contracts, as defined, to contractors that set equity metrics, as defined. The bid preference shall operate as follows:
 - a) One-percent preference for hiring eligible persons to perform five to nine percent of the total contract hours.
 - b) Two-percent preference for hiring eligible persons to perform 10 to 19 percent of the total contract hours.
 - c) Three-percent preference for hiring eligible persons to perform 20 to 29 percent of the total contract hours.
 - d) Four-percent preference for hiring eligible persons to perform 30 to 39 percent of the total contract hours.
 - e) Five-percent preference for hiring eligible persons to perform 40 to 49 percent of the total contract hours.
 - f) Six-percent preference for hiring eligible persons to perform 50 to 59 percent of the total contract hours.
 - g) Seven-percent preference for hiring eligible persons to perform 60 to 69 percent of the total contract hours.
 - h) Eight-percent preference for hiring eligible persons to perform 70 to 79 percent of the total contract hours.
 - i) Nine-percent preference for hiring eligible persons to perform 80 to 89 percent of the total contract hours.
 - j) 10-percent preference for hiring eligible persons to perform 90 percent of the total contract hours.
- 2) Defines “disadvantaged community” to mean either of the following:
 - a) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation.
 - b) Areas with concentrations of people that are of low income, high unemployment, low income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment.
- 3) Defines “distressed area” to mean 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 (Subsection (b) of Section 4532 of the Government Code).

Background

Author Statement. According to the author's office, "California is home to one of the most diverse populations in the world – communities that are now at risk of losing both job opportunities and economic stability. This bill helps protect and uplift these communities by offering [up to] a 10% bid preference for public infrastructure projects that meet disadvantaged worker equity metrics. This sends a message: diversity, equity, and inclusion are not just priorities, they are essential to the success of California's workforce and economy."

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.

The Inflation Reduction Act of 2022. The IRA Act 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.

The CHIPS and Science Act. The CHIPS and Science Act of 2022 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 create 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's 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.

Target Area Contract Preference Act. The TACPA program was established in 1983 to stimulate economic growth and employment opportunities in designated distressed areas throughout the State of California. Distressed area is defined to mean 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. The Procurement Division, Support Services Unit within DGS oversees the TACPA preference program and evaluates all TACPA applications.

The state agency conducting the competitive solicitations is responsible for including the preference option information and request forms, in any solicitation for a contract in excess of \$100,000. However, DGS recommends that the state agencies include the preference option information and request of forms for any solicitation estimate to be over \$85,000. To qualify for a TACPA preference, the firm must be located directly in a California eligible distresses area(s), located directly adjoining/adjacent, or contagious to a valid TACPA Census Tract.

Whenever the state prepares a solicitation for a contract for goods, the TACPA provides a five percent preference to California-based companies who demonstrate and certify under penalty of perjury that at least 50% of the labor hours required to manufacture the goods and perform the contract, shall be accomplished at an identified worksite or worksite located in, adjacent, or contiguous to a distresses area.

In evaluating proposals for contracts for services, the TACPA provides a five percent preference on the price submitted by California-based companies who demonstrate and certify under penalty of perjury that not less than 90% of the total labor hours requires to perform the contract shall be accomplished at an identified or worksites located in a distressed area.

Bidders may also apply for an additional work-force preference of one to four percent if the bidder certifies under penalty of perjury to hire persons with high risk of unemployment equal to five to 20% of its work force during the period of contract performance. This additional work-force preference works as follows:

- 1) One percent preference for hiring eligible persons to perform five to nine percent of the total contract labor hours.
- 2) Two percent preference for hiring eligible persons to perform 10 to 14 percent of the total contract labor hours.
- 3) Three percent for hiring eligible persons to perform 15 to 19 percent of the total contract labor hours.
- 4) Four percent for hiring eligible persons to perform 20 percent or more of the total contract labor hours.

DGS monitors compliance of all contracts awarded based on the approval of the TACPA work site(s) and workforce preference. Bidders that have requested and

have been given preference shall submit monthly performance reports demonstrating compliance with worksite(s) and workforce requirements (if requested). Bidders who fail to comply may be assessed a penalty fee or may be ineligible to directly or indirectly transact with the state for a period up to 36 months. The TACPA interactive map can be found at <https://tacpa.dgs.ca.gov/>.

This bill will require state agencies, in awarding contracts over \$35 million using funds from the IIJA, the IRA Act, or the CHIPS and Science Act of 2022, to provide a bid preference, up to 10%, depending on the number of total contract labor hours are performed by individuals residing in “distressed areas” or “disadvantaged communities.”

CalEPA Disadvantaged Communities Definition. Disadvantaged communities in California are specifically targeted for investment of proceeds from the state’s Cap-and-Trade Program. These investments are aimed at improving public health, quality of life and economic opportunity in California’s most burdened communities, and at the same time, reducing pollution that causes climate change.

In 2013, SB 535 (De Leon, Chapter 830, Statutes of 2012) established initial requirements for minimum funding levels to “disadvantaged communities.” The bill also gave CalEPA the responsibility for identifying those communities, stating that CalEPA’s designation of disadvantaged communities must be based on “geographic socioeconomic, public health, and environmental hazard criteria.”

After receiving public input at workshops and in written comments, in May 2022, CalEPA released its updated designated of Disadvantaged Communities for the purposes of SB 535. The designation takes into account the latest and best available data and considers factors related to data unavailability. This designation went into effect on July 1, 2022. An interactive map of these communities can be found at:

<https://experience.arcgis.com/experience/1c21c53da8de48f1b946f3402fbae55c/page/SB-535-Disadvantaged-Communities>

This bill requires state agencies, in awarding contracts over \$35 million using funds from the IIJA, the IRA Act, or the CHIPS and Science Act of 2022, to provide a bid preference, up to 10%, depending on the number of total contract labor hours are performed by individuals residing in “disadvantaged communities” or “distressed areas.”

Related/Prior Legislation

SB 150 (Durazo, Chapter 61, Statutes of 2023) embedded workforce and community benefit requirements in procurement and contracting for infrastructure and manufacturing investments related to IIJA, the IRA, and the CHIPS and Science Act.

SB 2019 (Petrie-Norris, Chapter 730, Statutes of 2022) codified, among other things, a 25% small business goal for state procurement and proposed a number of actions to enhance the ability and commitment of state agencies to include small business, including microbusinesses in state contracting, as specified.

AB 1550 (Gomez, Chapter 369, Statutes of 2016) required a minimum of 25% of Greenhouse Gas Reduction Fund moneys be spent on projects located within and benefiting disadvantaged communities, and an additional minimum of 10% of these moneys be spent on projects that benefit low-income household or are within, and benefit, low-income communities, as specified.

SB 535 (De Leon, Chapter 830, Statutes of 2012) required CalEPA to identify disadvantaged communities for investment opportunities, as specified. The bill required the Department of Finance, when developing a specified three-year investment plan, to allocate 25% of the available moneys in the Greenhouse Gas Reduction Fund to projects that provide benefits to disadvantaged communities, as specified, and to allocate a minimum of 10% of the available moneys in the Greenhouse Gas Reduction Fund to projects located within disadvantaged communities, as specified.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee, unknown, potentially significant costs to DGS for additional limited term staff to develop regulations outlining bid preferences as prescribed by the bill (General Fund).

Additionally, 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.

SUPPORT: (Verified 1/22/25)

None received

OPPOSITION: (Verified 1/22/25)

American Council of Engineering Companies of California
Associated General Contractors of California
CA Asphalt Pavement Association
CA Assoc. of Sheet and Metal & Air Conditioning Contractors National Assoc.
CA Legislative Conference of the Plumbing, Heating and Piping Industry
California & Nevada Civil Engineers and Land Surveyors Association
Construction Employers Association
Finishing Contractors Association of Southern California
National Electrical Contractors Association
Northern California Allied Trades
Southern California Contractors Association
Southern California Glass Management Association
United Contractors
Wall and Ceiling Alliance
Western Line Construction Chapter
Western Painting & Coating Contractors Association
Western Wall & Ceiling Contractors Association

ARGUMENTS IN OPPOSITION: According to various construction organizations, “as you know, contractors and subcontractors covered by collective bargaining agreements are obligated to hire workers dispatched from union hiring halls, and there are limited circumstances under which they can reject those workers. Your measure provides that to receive a 10% bid preference, contractors must adopt ‘equity metrics’ that include ‘having a required percentage of the workforce for the contract living in areas below the poverty line, in communities disproportionately affected by environmental pollution, or in regions with high unemployment and low-income concentrations.’ In practice, this means that for signatory contractors and subcontractors to receive the 10% benefit, their labor partners must agree to only dispatch workers from certain communities for state-funded projects. Absent agreement, signatory employers cannot adopt ‘equity

measures.’ Additionally, as a matter of clarity, we assume that by ‘contractors’ you meant to include “subcontractors” as they employ the bulk of the workers on building projects in particular, though the bill does not say this.”

Prepared by: Felipe Lopez/ G.O. / (916) 651-1530
1/23/26 15:39:09

***** **END** *****