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## SENATE COMMITTEE ON TRANSPORTATION

Senator Dave Cortese, Chair

2025 - 2026 Regular

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<b>Bill No:</b>	SB 713	<b>Hearing Date:</b>	4/28/2025
<b>Author:</b>	Valladares		
<b>Version:</b>	4/23/2025 Amended		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Manny Leon		

**SUBJECT:** Employee stock ownership plans: contractors: certification

**DIGEST:** This bill requires the Department of General Services (DGS) to establish a process for an Employee Stock Ownership Plan (ESOP) qualified contractor to be certified and further requires the State Department of Transportation (Caltrans) to provide bid preferences for qualified ESOP companies beginning January 1, 2027, as specified.

### ANALYSIS:

#### *Existing law:*

- 1) Establishes the California Office of Business and Economic Development (GO-Biz) within the Governor's office for the purpose of serving as the lead state entity for economic strategy and marketing of California on issues relating to business development, private sector investment and economic growth.
- 2) Requires the Governor to appoint a Small Business Advocate who is Director of the Office of Small Business Advocate (OSBA) and outlines the duties and functions of the Small Business Advocate, as specified.
- 3) Requires OSBA to establish the California Employee Ownership Hub (EO Hub), administered by a Program Manager who may be responsible for: working with all California state agencies whose regulations and programs affect employee-owned companies, and businesses with the potential to become employee owned, to enhance opportunities and reduce barriers; partnering with grantee partners, and other relevant private, nonprofit, and public organizations including, but not limited to, professional and trade associations, financial institutions, unions, Small Business Development Centers, economic and workforce development organizations, and nonprofit entities to promote employee ownership benefits and succession models; making available materials regarding employee ownership benefits and succession models;

providing a referral service to help business owners find appropriate legal, financial, and technical employee ownership resources and services; and working with the California Infrastructure and Economic Development Bank, the California Pollution Control Financing Authority, and related entities to shape and implement guidance on lending to broad-based employee ownership vehicles.

- 4) Designates DGS as the lead agency implementing the state Small Business Procurement and Contract Act, and administrator of the Office of the Small Business and Disabled Veteran Business Enterprise (DVBE) Services, which includes certifying and implementing targeted preference programs for certified small businesses, microbusinesses, and DVBEs, as defined. Requires state agencies to set a small business participation goal consistent with guidelines set by the DGS Office of Small Business and DVBE Procurement.
- 5) Establishes the Contractors State License Board (CSLB) under the jurisdiction of the Department of Consumer Affairs (DCA) to license and regulate contractors, as specified.
- 6) Requires a public works contractor to be registered with the Department of Industrial Relations (DIR) to be qualified to bid on, be listed in a bid proposal or engage in the performance of any public work contract and defines qualification for registration as a public works contractor.
- 7) Requires a public works contractor to be licensed by the CSLB, if applicable.
- 8) Establishes Caltrans and provides the Department with various powers and duties, including but not limited to, planning, designing, constructing, operating, and maintaining the State's highway system, as specified.

**This bill:**

- 1) For purposes of the ESOP, modifies the definition of "Qualified contractor" to delete the requirement that a business has a valid license issued by the CSLB and keeps the provision that requires a contractor to be currently registered with DIR as a public works contractor.
- 2) Requires the Director of DGS to issue an ESOP contractor certificate to a qualified contractor with an ESOP that provides a valid and favorable ESOP determination letter from the Internal Revenue Service, as specified, and further requires the certificate to be renewed every three years.

- 3) Requires the Director of DGS to determine the percentage of the ESOP ownership, as specified.
- 4) Requires Caltrans, when it prepares a solicitation for a state funded construction contract, including the alteration, demolition, repair or improvement for state facilities, to provide a bid preference to qualified contractors, as follows:
  - a) Two-percent to a qualified contractor with at least 30 percent of the entity owned by its ESOP.
  - b) Three-percent to a qualified contractor with at least 75 percent of the entity owned by its ESOP.
  - c) Four-percent to a qualified contractor with 100 percent of the entity owned by its ESOP.
  - d) An additional one-percent for qualified contractors that include employees covered by a collective bargaining agreement or master labor agreement.
- 5) Specifies that the total amount of a bid preference shall not exceed five-percent and that the bid preference shall not be awarded to a noncompliant bidder and shall not be used to achieve any applicable minimum requirements.

**COMMENTS:**

- 1) *Purpose of the bill.* According to the author, “California law establishes several programs that provide preferences to several classes of businesses on public works construction. Those programs, however, are fundamentally flawed. They only assess the *owners* of those businesses which, in some cases, could only be one person. SB 713 proposes a more equitable wealth distribution compared to other construction procurement preferences for construction contracting. One way to do that, which the legislature has recognized through the passage of AB 2849 (Bonta) and SB 1407 (Becker) both from 2022, is the promotion of employee-owned businesses. Government Code Section 12100.31(c) perfectly explains the benefits of those entities:

*Employees becoming owners would create opportunities for wealth-building and community stability. It would also help California create a more inclusive, equitable, and stable economy, supported by the studies of employee-owned businesses and their success and resiliency during the Great Recession and the COVID-19 pandemic.*

The most efficient way to achieve California’s policy objective, that is, to diversify ownership to a broader population, is to incentivize shared ownership

through employee stock ownership plans (ESOPs). Rather than requiring each qualified individual to start up their own enterprise, this strategy would allow existing owners to extend ownership rights to employees via grants of stock through ESOP accounts, at no charge to the employee. Given the current demographic breakdown of the California workforce on public infrastructure projects as documented by Caltrans in the [2024 Disparity Study](#), these Plans would directly distribute ownership to the intended populations on a much broader and more inclusive scale than existing policies. According to the study, 65.8% of California construction workers during the period of 2018 to 2022 were people of color.<sup>1</sup> Modelled after California's Small Business Enterprise and Disabled Veterans Business Enterprise programs, SB 713, as proposed to be amended, establishes a scaled bid preference for construction companies that operate an ESOP program. This will build wealth for construction workers.”

- 2) *Employee stock ownership plan.* Ultimately, an ESOP is a retirement plan, in some ways similar to and governed by the same laws and regulations as a 401k plan, which provides a company's workforce with an ownership interest in the company. To establish an ESOP, a firm forms a trust that purchases the shares of a company from the owner and allocates the shares to employees as part of their compensation. ESOP shares are part of an employee's remuneration for work performed. Shares are allocated to employees and may be held in an ESOP trust until the employee retires or leaves the company. Once the employee retires or leaves the company, the shares are then either bought back by the company for redistribution or voided.

Most private U.S. companies operating as an ESOP are structured as S Corporations. S Corporations are corporations that elect to pass corporate income, losses, deductions, and credits through to their shareholders for federal tax purposes. Shareholders of S corporations report the flow-through of income and losses on their personal tax returns and are assessed tax at their individual income tax rates. According to the IRS, to qualify for S corporation status, the corporation must meet a number of requirements, including being a domestic corporation and have no more than 100 shareholders.

- 3) *OSBA.* Under Go-Biz, 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 Networks to expand their one-to-one, no-cost, confidential consulting to small

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<sup>1</sup> 2024 Disparity Study, California Department of Transportation. Chapter 4, Page 4, Figure 4-2. December 2024.

business owners. In 2022, the Governor signed SB 1407 (Becker, Chapter 733, Statutes of 2022) which established the California Employee Ownership Program, within OSBA. The program is designed to support businesses transitioning to employee ownership in a variety of aspects including, but not limited to, education and outreach, technical assistance, and policy development.

- 4) *Caltrans' contracting.* Caltrans currently has in place utilization goals and bid preferences for certified Disadvantaged Business Enterprises (DBE), Small Businesses (SB), and DVBE when soliciting state contracts. Certified Small Businesses and DVBE can receive a 5% bid preference on applicable state solicitations. Additionally, Caltrans has established utilization goals of 25% for SBs, 5% for DVBEs, and 22.2% for DBEs. For federally funded projects, Caltrans applies a DBE goal of 22.2%.

The contractor certification process is managed by DGS. For example, in order to obtain certification as a small business for public works contracts, a company must meet the following requirements:

- a) Be independently owned and operated;
- b) Not dominant in field of operation;
- c) Principal office located in California;
- d) Owners, Officers, Members/Managers, Partners must be domiciled in California;
- e) Average annual gross receipts of forty-three million dollars (\$43,000,000) or less over the previous three (3) tax years, as biennially adjusted in accordance with Government Code section 14837, subdivision (d)(3). If the business or its affiliate(s) has been in existence for less than three (3) tax years, then the GAR will be based upon the number of years in existence); and,
- f) A business with 200 or fewer employees (including affiliates).

The provisions specified in this bill aim to align ESOP companies with a similar bid preference structure afforded to SBs and DVBEs. The author points to ESOP construction companies as businesses that provide more equitable wealth distribution for its employees in comparison to its DBE, SB, DVBE counterparts that are currently eligible for bid preferences. As a result, the author and sponsors of this bill assert that by offering similar bid preferences for ESOP companies, these companies will be incentivized to grow and in turn, provide greater financial opportunities for its shareholder employees. On the other hand, it's important to note that providing a 2%-5% bid preference for ESOP construction companies may lead to increase project costs for Caltrans.

However, at this time, as the total number of ESOP construction companies that may participate if this measure were to go into effect is unknown, an approximation of the fiscal impact is unclear.

- 5) *Double Referral*. This bill was double referred to Senate Businesses, Professions, and Economic Development Committee where it passed out of that committee on an 11-0 vote at their April 21<sup>st</sup> hearing.

**RELATED/PREVIOUS LEGISLATION:**

**SB 1407 (Becker, Chapter 733, Statutes of 2022)** – Established the California Employee Ownership Hub and a Hub Manager within the Office of Small Business Advocate within GO-Biz aimed at increasing awareness and understanding of employee ownership of businesses, assisting business owners and employees in navigating available resources, and streamlining and reducing barriers to employee ownership.

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

**POSITIONS:** (Communicated to the committee before noon on Wednesday, April 23, 2025.)

**SUPPORT:**

Employee-owned S Corporations of America  
Marina Landscape, INC.  
Mcguire and Hester  
Murray Plumbing & Heating Corporation  
Riverside Construction Company Inc.  
Southern California Contractors Association  
The Esop Association  
375 Individuals

**OPPOSITION:**

None received

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