
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

SB 713 (Valladares) - Employee stock ownership plans: contractors: certification: bid preferences

Version: April 23, 2025

Policy Vote: B., P. & E.D. 11 - 0, TRANS.
15 - 0

Urgency: No

Mandate: No

Hearing Date: May 12, 2025

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Bill Summary: SB 713 establishes an Employee Stock Ownership Plan (ESOP) certification process to be administered by the Department of General Services (DGS) and, beginning January 1, 2027, requires the Department of Transportation (Caltrans) to provide a bid preference for state-funded construction projects of up to four percent to contractors that receive an ESOP certification. SB 713 additionally requires the Office of Small Business Advocate (OSBA), in its responsibilities in administering the Employee Ownership Hub, to compile and maintain a comprehensive bidders list of qualified contractors that have received an ESOP certificate.

Fiscal Impact:

- DGS reports significant start-up and ongoing costs of up to \$1 million annually (General Fund). Applicant fee revenue may offset DGS's ongoing costs to administer the certification program to some extent; however, DGS will still likely incur significant start-up costs. Ongoing costs to DGS after the certification program is established will depend on the number of ESOP applications the department receives and the number of qualifying construction projects that go to bid. It is unknown how many contractors will qualify or apply for an ESOP certificate.
- The Governor's Office of Business and Economic Development (GO-Biz) reports significant ongoing administrative cost pressures ranging in the mid- to high-hundreds of thousands of dollars to address the expanded scope of responsibilities proposed in this bill and for OSBA's continued administration of the Employee Ownership Hub.
- Unknown, potentially significant costs to Caltrans to update its internal contracting processes and the Contract Administration & Tracking System II, as well as incorporate an additional tracking system to monitor the percentage of state-funded construction contracts and construction-related procurements. Caltrans notes this implementation workload may necessitate additional limited-term or permanent staff.
- Unknown, potentially significant increased state contracting costs, to the extent awarding contracts to ESOP certified bidders reduces competition in the bid pool and results in higher contracting costs (General Fund and special fund). Actual increases in project costs will vary and depend on, among other things, the number of ESOP certified contractors, frequency of use, and the cost of the contracts awarded. Caltrans notes this bill would cover all state-funded contracts it enters into.

Background: *ESOPs.* An employee-owned company is one where employees own part or all shares in a business. While the forms of employee ownership may be different (such as stock grants, worker cooperatives, and stock options), the goal is the same: to promote employee ownership in a business.

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.

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:

- Be independently owned and operated;
- Not dominant in field of operation;
- Principal office located in California;
- Owners, Officers, Members/Managers, Partners must be domiciled in California;
- 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,
- A business with 200 or fewer employees (including affiliates).

OSBA Employee Ownership Hub. SB 1407 (Becker, Chapter 733, Statutes of 2022) 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.

Proposed Law:

- Additionally requires OSBA, in its responsibilities in administering the Employee Ownership Hub, to compile and maintain a comprehensive bidders list of qualified contractors that have received an ESOP certificate.
- Requires the Director of DGS to issue an ESOP contractor certificate to a qualified contractor that present a valid and favorable ESOP determination letter from the Internal Revenue Service (IRS).
 - Provides the certificate will be valid for three years.
- Requires the Director of DGS to determine the percentage of ESOP ownership for an applicant based on its current and valid IRS Form 5500 and indicate that percentage on the certificate.
 - Authorizes an applicant to request a revision to the percentage indicated on the certificated no more than once per year.
 - Authorizes DGS to establish a fee for an applicant that covers the costs to administer the certification program.
- For state-funded construction contracts, requires Caltrans to provide a bid preference to a qualified contractor with an ESOP certificate as follows:
 - If 30 to 74 percent, inclusive, of the qualified contractor is owned by its ESOP, one of the following may apply:
 - In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, the preference to the qualified contractor shall be two percent of the lowest responsible bidder meeting specifications.
 - In solicitations where an award is to be made to the highest scored bidder based on evaluation factors in addition to price, the preference to the qualified contractor shall be two percent of the highest responsible bidder's total score.
 - If 75 to 99 percent, inclusive, of the qualified contractor is owned by its ESOP, one of the following may apply:
 - In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, the preference to the qualified contractor shall be three percent of the lowest responsible bidder meeting specifications.
 - In solicitations where an award is to be made to the highest scored bidder based on evaluation factors in addition to price, the preference to the qualified contractor shall be three percent of the highest responsible bidder's total score.

- If 100 percent of the qualified contractor is owned by its ESOP, one of the following may apply:
 - In solicitations where an award is to be made to the lowest responsible bidder meeting specifications, the preference to the qualified contractor shall be four percent of the lowest responsible bidder meeting specifications.
 - In solicitations where an award is to be made to the highest scored bidder based on evaluation factors in addition to price, the preference to the qualified contractor shall be four percent of the highest responsible bidder's total score.
- Provides that an additional one percent to the bid preferences specified above for a qualified contractor with an ESOP certificate shall be provided to a qualified contractor that include employees covered by a collective bargaining agreement or master labor agreement.
- States the Caltrans bid preference provisions of the bill become operative on January 1, 2027.

Related Legislation: SB 1407 (Becker, Chapter 733, Statutes of 2022) established the Employee Ownership Program within OSBA, with the goal of supporting businesses transitioning to employee ownership in a variety of aspects including, but not limited to, education and outreach, technical assistance, and policy development.

Staff Comments: GO-Biz notes that this bill builds on the Employee Ownership Program established by SB 1407. SB 1407 required OSBA, upon appropriation by the Legislature, to establish the California Employee Ownership Hub, to be administered by an Employee Ownership Hub Manager. Although SB 1407 requirements were subject to a legislative appropriation, at the time of implementation an appropriation was not made to OSBA. Instead, OSBA leveraged existing staff and resources to support businesses' ESOPs and never received the budget authority or resources to hire an Employee Ownership Hub Manager to administer the program.

GO-Biz notes that the expanded scope of responsibilities in administering the Employee Ownership Hub as required in this bill is likely absorbable; however, OSBA does not currently have the dedicated staff to continue to support the goals established in SB 1407. A previous fiscal analysis of SB 1407 by GO-Biz noted administrative costs could run between \$430,000 and \$700,000 annually (General Fund). GO-Biz notes that it would also require these resources to meet the requirements of this bill.

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