

Statewide SB/DVBE Advocate Toolkit

LEGISLATION

Chapter IV



February 2012

CHAPTER IV SB/DVBE PROGRAM LEGISLATION

LEGISLATIVE ACTIVITIES

As an advocate for your department or agency, it is important to keep up with new and enacted legislation affecting the Small Business (SB) and Disabled Veteran Business Enterprise (DVBE) programs. Enacted legislation may impact your purchasing and contracting practices as well as policies and procedures. Once enacted, DGS Procurement Division, Office of Small Business and DVBE Services is most frequently the control agency responsible for crafting new regulations and subsequently providing any required forms, training and procedures as a result of the enacted legislation.

You can find out about upcoming legislation through DGS sponsored meetings such as the Customer Forum and the SCAN meetings. New and proposed legislation will be discussed at these meetings and their effects on state contracting.

You can also search the Legislative data base using key phrases to locate potential bills. Yet another way to locate introduced legislation would be to contact your department's legislative representative to find out if they know of SB/DVBE program legislation that has been introduced.

In this section you will find information and/or links to:

- Overview of Legislative Process
- Department of General Services (DGS) Legislation Liaison
- Executive Orders
- How a Bill Becomes a Law
- State of California Official Legislative Website
- Table of enacted Assembly and Senate Bills related to SB/DVBE

Overview of Legislative Process

The California State Legislature is the governmental body that reviews and passes or rejects proposed legislation that may go on to become chaptered and implemented as new State law is the referred to as the legislative process.

There are two sides of the Legislative House – the Assembly and the Senate – and each may propose new laws and regulations. Occasionally each side of the house will have its own version of the same legislation. The Legislature maintains a legislative calendar governing the introduction and processing of the legislative measures during its two-year regular session. For more information on the Legislative Process and other Legislative terms go to www.leginfo.ca.gov/guide.html

Department of General Services (DGS) Legislation Liaison

The DGS Legislative Services Unit coordinates Procurement Division's legislative agenda and its commitment to reforming the laws governing the State of California's acquisition of goods and information technology goods and services. The link Small Business and DVBE Legislation within DGS is <http://www.dgs.ca.gov/pd/Programs/OSDS/legislation.aspx>

Executive Orders

Three Executive Orders have been issued by California Governors since 2001 addressing the SB and DVBE programs, mandated participation, outreach, implementation and corrective action plans and overall program support. Please see the full text of each Executive Order at the end of this chapter.

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They may also be located at: <http://www.dgs.ca.gov/pd/Programs/OSDS/legislation.aspx>

Summary of SB/DVBE Legislation

Links to Small Business Legislation, DVBE Legislation, Related Legislation and the Governor's Executive Orders pertaining to SB and DVBE can be found at: <http://www.pd.dgs.ca.gov/smbus/dvbesbleg.htm>

STATE OF CALIFORNIA OFFICIAL LEGISLATIVE INFORMATION WEBSITE

This is a comprehensive site where you can find current information about legislation including: the progress of assembly and senate bills, contact information for assembly and senate members, existing laws, the legislative calendar and enacted legislation. You can also arrange to be notified regarding any legislation you are following through the legislative *subscription service*. Instructions for getting automatic notification can be found within this site through the Subscription button.

For complete bill information and access, go to: <http://www.leginfo.ca.gov/index.html>

You will find a breakdown of topics as follows:

[Today's Events](#)

Provides information about what sessions are in including committee hearing information, including subcommittees, conference committees, joint and select committees with links to the Daily File

[Bill Information](#)

Provides the SB or AB search tool to look up a bill and once located, you can see where the bill in the process

[California Law](#)

Provides links to California's 29 Code sections, the State Constitution and Statutes. Through this portal you can look up specific Military, Public and Government Codes related to the SB and DVBE programs.

[Your Legislature](#)

Provides links to listings of each of the Assembly and Senate Members; Senate and Assembly Calendar; and Rules of the Legislature

[Legislative Publications](#)

The Legislative Publications website provides access to the following information:

[Daily File](#) is produced by the Assembly and Senate containing the Officers of the respective houses, the Order of Business, the tentative schedule for the entire legislative session, the bills that are scheduled to be heard on the floor and during committee hearings. There are also Daily File publications for Assembly and Senate Extraordinary Sessions.

[Legislative Index](#) provides a subject matter index of all legislative measures for the current legislative session. The index indicates the subject of each bill, constitutional amendment, and concurrent or joint resolution as introduced and as amended. Entries are not removed from the index when the subject matter is deleted from the measure in the course of passage. The Legislative Index is published by the Legislative Counsel.

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[Table of Sections Affected](#) provides an index of each section of the California Constitution, codes and un-codified laws affected by measures introduced. The PDF and HTML documents include links for the measure and chapter number. Though the table is updated regularly, it may not include all legislative actions as of the date indicated on the title page of the document. The Table of Sections Affected is cumulative and is published by the Legislative Counsel.

[Legislative Index and Table of Sections Affected, Prior Sessions](#) are final editions of the Legislative Index and Table of Sections Affected beginning with the 1999-2000 Legislative Session.

[Statutory Record](#) provides an index of each section of the California Constitution, codes and un-codified laws affected by laws enacted by the Legislature or passed by the voters at election. The Statutory Record indicates the year and chapter or proposition number of the affecting measure and is cumulative for a 10-year period. It also includes superior numbers following the effect to show any special rule of operation or effectiveness. The Statutory Record is published in the Summary Digest by the Legislative Counsel.

[Senate Daily Journal](#) contains the proceedings of the Senate. These proceedings include: the title of each measure considered, vote results, messages from the Governor and Assembly, reports from Senate committees and other agencies as required by law, and the contents of petitions, memorials, or other papers presented to and authorized by the Senate.

[California's Legislature](#) is an in-depth introduction to the legislative process and state government. This heavily illustrated book is an excellent resource for students, lobbyists, state employees, and the general public. Topics include state history, constitutional and election law, term limits, state emblems, legislative procedure, the executive and judicial branches, and a legislative glossary.

The book is published by the Office of the Assembly Chief Clerk, and provided to the public on behalf of the Members of the State Assembly. The book is available for \$5.00 per copy or bulk rates are available. An order may be placed by contacting the Legislative Bill Room at (916) 445-2645. Also, orders may be placed via mail by printing the order form from your web browser found at the back of the book, or by [clicking here](#).

[Assembly Daily Journal](#) is the official record of business that has been transacted in the Assembly on a daily basis. This publication shows all roll call votes, notes parliamentary motions, lists bill introductions, and records any other official actions taken by the Assembly.

[2011-12 Legislative Handbook](#) – The Legislative Handbook is published at least once every two-year session pursuant to the Government Code. It contains the biographies of all current legislators and legislative officers; committee names and membership; the Assembly, Senate, and Joint Rules; and lists of State officers, accredited press representatives, legislative sessions and Governors of California.

[California State Assembly](#) is a brief color pamphlet outlining the Assembly's organizational structure. It includes a panoramic photo of the Assembly in session, listings of the house leadership and membership, and includes information on state emblems.

[Agency Reports](#) provides a list of reports by various state and local agencies that are required or requested to be submitted to the Legislature, the Governor or both.

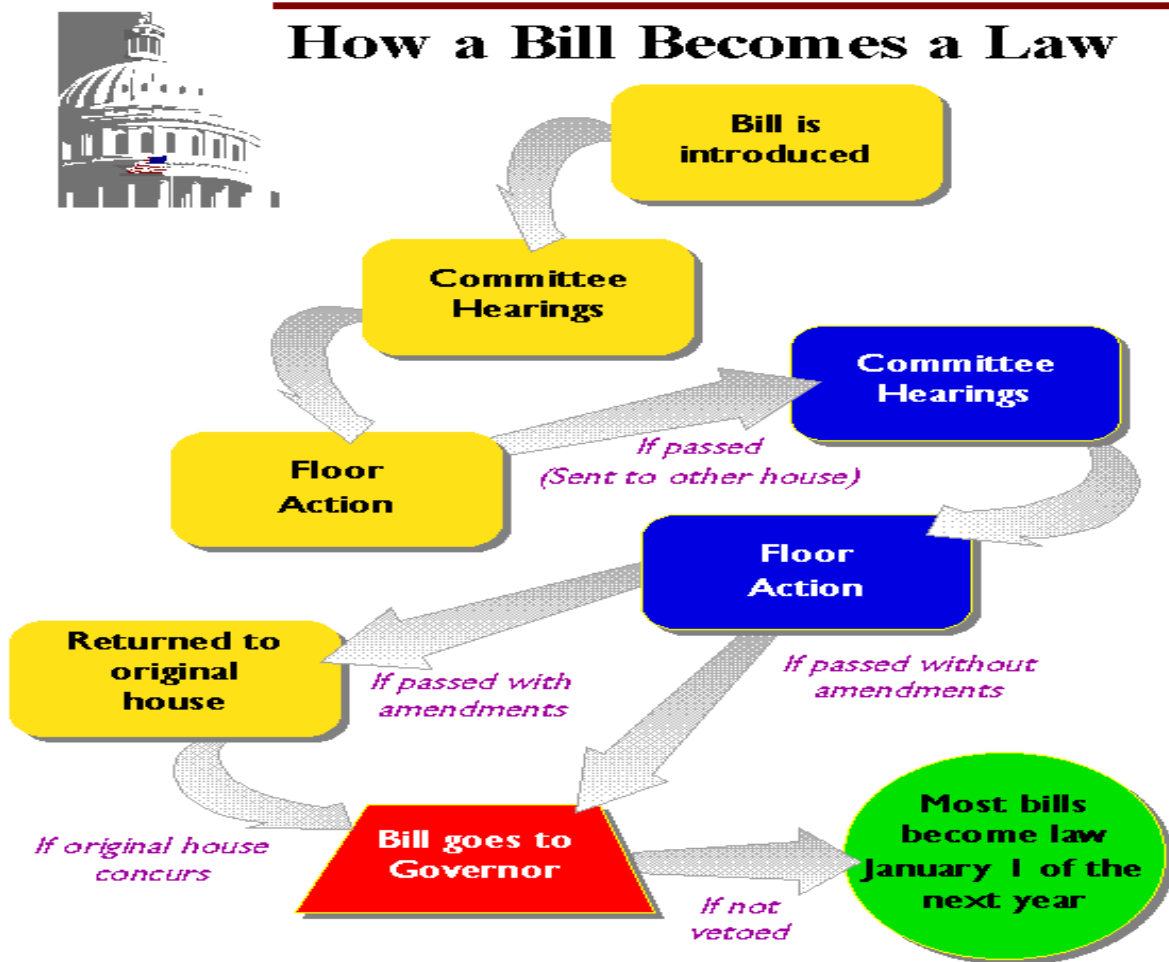
[New Laws](#) – provides a link to the New Laws Report through Bills Enacted Links related to the specific legislative session.

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The *New Laws Report* is a list of all bills enacted in a calendar year during the Regular Session of the Legislature. The list identifies the bill and chapter number, lead author, and the subject of the measure. All bills on the list become effective on January 1 following the year of enactment, unless otherwise noted.

HOW A BILL BECOMES A LAW

The following information is taken from the Legislative website to illustrate in simple terms how a bill becomes law.



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State of California Executive Orders

Two past Governors have addressed the SB and DVBE programs through Executive Orders. Former Governors Gray Davis (D) and Arnold Schwarzenegger (R) both issued EOs acknowledging and expressing:

- The value and importance of small businesses to California's overall economy
- The contribution and sacrifice of California Disabled Veterans and the need to assist them become self-sufficient
- The need for California state departments to meet and exceed SB and DVBE program goals
- The requirements for continued focus and outreach to increase SB and DVBE outreach, certification and participation

Executive Order D-37-01

Governor Gray Davis issued Executive Order D-37-01 in the summer of 2001 mandating state departments and agencies aggressively pursue small business opportunities to enhance and encourage competition and to preserve the free enterprise system. He mandated DGS to streamline the certification process; appoint a Prompt Payment Advocate and implement state-sponsored economic and opportunity fairs to enhance small business contracting opportunities.

Executive Order D-43-01

Also issued under Gray Davis was Executive Order D-43-01 directed at the DVBE program. This EO called for department's to provide implementation plans when failing to meet mandated goals and for departments to do all that is necessary to accomplish DVBE program goals.

Executive Order S-02-01

In the winter of 2006, Governor Arnold Schwarzenegger issued Executive Order S-02-06 reiterating the value and importance of the small and DVBE programs. He charged DGS with the responsibility for monitoring the progress within agencies and departments and for notifying agencies and departments of deficiencies and successes. He called for each agency and department to submit an Implementation and Corrective Action plan when not achieving goals and he mandated using the informal small and DVBE option bid process.

Following is the text of all three Executive Orders.

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EXECUTIVE ORDER D-37-01

WHEREAS, California spends billions each year on goods, information technology, services, construction, and public works contracts; and

WHEREAS, California small businesses comprise nearly 98 percent of all businesses in the state, employing more than 50 percent of California's workforce and generating more than half of the state's gross domestic product; and

WHEREAS, small businesses are the principal source of new jobs in California's economy and are instrumental to the health of California's economy; and

WHEREAS, California should lead the nation in creating an optimum environment which affords all business equal access to state agency contracting opportunities, thereby enhancing and encouraging competition and preserving the free enterprise system; and

WHEREAS, disabled veterans have made incomparable sacrifices while serving and protecting our country and most disabled veteran business enterprises are also certified California small businesses; and

WHEREAS, enhancing opportunities for small business to participate in the state contracting process is "good business" for California;

NOW THEREFORE, I, GRAY DAVIS, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and the statutes of the State of California, do hereby issue this order to become effective immediately:

1. Increased small business participation in state contracting is a priority for my Administration; therefore, each Agency Secretary shall promote the use of small businesses in state contracting activities, review the small business participation levels within their agency and develop a plan for improvement within sixty days when participation levels are low.
2. All state agencies are required to pursue aggressively an annual 25 percent small business participation level in state contracting. Any state agency that does not achieve that level shall examine the reasons and submit to the Governor's Office an explanation for why the level was not achieved. The explanation shall include a plan for improving contracting opportunities for small businesses. The Department of General Services shall provide resources to state agencies in developing a plan for and taking the necessary actions toward achieving the 25 percent participation level.
3. I hereby authorize the Department of General Services to adopt and fully implement its statewide Small Business Plan (Plan). The Plan includes, but is not limited to:
 - * Streamlining the small business certification process;
 - * Increasing the pool of certified small businesses;
 - * Establishing a Prompt Payment Advocate; and
 - * Implementing a state-sponsored economic conference and opportunity fair focusing on enhancing contracting opportunities for small businesses.
4. The Department of General Services shall research and examine the best practices of both the public and private sectors in the utilization of small businesses in their contracting practices and programs. The Department of General Services shall prepare and present findings and recommendations to the Governor detailing changes to the state's business practices that will provide businesses with greater contracting opportunities with the State of California.
5. As required by current law, state agencies are directed to establish and properly utilize a Small Business Advocate or Liaison. Advocates and Liaisons shall be empowered to effect process changes that will improve small business access to contracting opportunities within their state agency.

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6. It shall be the responsibility of each department director or chief executive officer to seek every reasonable means to ensure that state contracting programs are administered in a manner that promotes small business participation in state contracting.
7. State Constitutional Officers, the University of California, the California State University, the Lottery Commission, the Public Employees' Retirement System, the State Teachers' Retirement System, the State Compensation Insurance Fund, and other independent State entities are encouraged to take all necessary actions to comply with the intent and the requirements of this Order.
8. Nothing in this Order shall be construed to require any action that would result in the violation of a court order, or a loss of eligibility for federal funding.

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EXECUTIVE ORDER D-43-01

WHEREAS, the State of California spends billions of dollars each year procuring goods and services, and

WHEREAS, the State of California established the Disabled Veteran Business Enterprise Program in 1989 (Public Contract Code 10115) to promote self-reliance for California's disabled veterans by offering veterans the opportunity to gain experience in business, while sharing their expertise with the citizens of California; and

WHEREAS, existing law establishes the goal of awarding three percent of all state contracts to certified Disabled Veteran Business Enterprises; and

WHEREAS, most State departments and agencies have not met this goal; and

WHEREAS, it is my intent to keep California's promise to our veterans by increasing the participation of disabled veteran businesses in State contracting;

NOW THEREFORE, I, GRAY DAVIS, Governor of the State of California, by virtue of the power and authority vested in me by the Constitution and the statutes of the State of California, do hereby issue this order to become effective immediately:

IT IS ORDERED that each department director or chief executive officer shall take all appropriate action to ensure that the State's contracting programs are administered in a manner that promotes the participation of disabled veteran businesses to the greatest extent possible.

IT IS FURTHER ORDERED that each Agency Secretary shall promote the use of disabled veteran businesses in State contracting and shall review the participation levels achieved by the departments within their agencies. If a department's level of participation by disabled veteran businesses is less than three percent, or its participation rate is not reported, the Agency Secretary shall require the department to develop a plan for improvement.

IT IS FURTHER ORDERED that this review shall be completed, and any required plans shall be submitted to my Cabinet Secretary, no later than August 1, 2001. The review and plans required by this Executive Order shall be coordinated and included with the review and plans required by Executive Order D-37-01.

IT IS FURTHER ORDERED that the Departments of Veterans Affairs and General Services shall provide direction, assistance and resources to State agencies in achieving participation by disabled veteran businesses at the three- percent level.

IT IS FURTHER ORDERED that all State agencies shall make every effort to assure that disabled veteran businesses participate in at least three percent of State contracting annually by June 30, 2002. Any agency that does not meet this level shall report to the Governor by December 1, 2002 on the reasons why the participation was not achieved and options for improving contracting opportunities for disabled veteran businesses.

IT IS FURTHER ORDERED that, because virtually all disabled veteran businesses are small businesses, Agency Secretaries and the Department of General Services shall, to the extent possible, coordinate their efforts under this Executive Order with their efforts for small businesses under Executive Order D-37-01.

IT IS FURTHER ORDERED that the Department of General Services, in cooperation with the Department of Veterans Affairs, shall examine the current contracting programs for disabled veteran and small businesses and make recommendations to my office on how those programs could be improved.

IT IS FURTHER ORDERED that all Constitutional Officers, the University of California, the California State University, the Lottery Commission, the Public Employees' Retirement System, the State Teachers' Retirement System, the State Compensation Insurance Fund, and other independent State entities are encouraged to take all necessary actions to comply with the intent and the requirements of this Order.

IT IS FURTHER ORDERED that nothing in this Order shall be construed to require any action that would violate a court order or statute, or result in a loss of eligibility for federal funding.

I FURTHER DIRECT that as soon as hereafter possible, this order be filed in the Office of the Secretary of State and that widespread publicity and notice be given to this order.

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EXECUTIVE ORDER S-02-06

WHEREAS, California has over one million small businesses which employ more than 6.8 million people, this represents 98 percent of all California enterprises and employs more than 50 percent of our workforce. California's sustained economic prosperity is tied directly to the success of the State's small businesses; and

WHEREAS, it is the State of California's policy to encourage the establishment of new businesses, grow existing businesses and promote more small business contracting with the State of California; and

WHEREAS, in response to business concerns about the difficulty of accessing information related to small business on various websites the Labor & Workforce Development Agency, the Business Transportation & Housing Agency and the Department of Food & Agriculture formed the California Economic Development Partnership (Partnership) to develop a website (calbusiness.ca.gov) to assist businesses. This website provides a single portal for accessing information for starting, growing, and financing, expanding or relocating a business in California. The portal seeks to simplify the path to the resources businesses need which are provided by a myriad of public and private sources, from State and federal agencies to local private non-profit organizations; and

WHEREAS, it is the State of California's policy to promote small business participation in its procurement and contracting processes by requiring all State agencies, departments, boards and commissions to achieve a goal of 25 percent small business participation in state procurements and contracts; and my Administration is firmly committed to meet or exceed this vital goal through the coordinated efforts of all levels of State government; and WHEREAS, the State of California purchases more than \$8.9 billion annually in goods and services (both non-information technology and information technology), construction and public works.

NOW THEREFORE, I, ARNOLD SCHWARZENEGGER, Governor of the State of California by virtue of the power and authority vested in me by the Constitution and the statutes of the State of California, do hereby issue this Order to become effective immediately:

1. Each agency secretary, department director, and executive officer shall ensure that the State's procurement and contracting processes are administered in order to meet or exceed the 25 percent small business participation goal, and identify a Small Business Advocate at the agency, department, board, or commission level, encouraging them to develop and share innovative procurement and contracting practices from the public and private sectors to increase opportunities for small businesses.
2. The Department of General Services (DGS) shall monitor the progress of all agencies, departments, board and commissions towards meeting the 25 percent small business participation goal. The DGS and its California Small Business Advisory Council shall notify each agency secretary, department director, or executive officer, and Small Business Advocate of their individual successes and deficiencies, based on the most recent annual report. The DGS will also share this information with the California Small Business Advocate in the Governor's Office of Planning and Research.
3. State agencies, departments, boards and commissions that have not achieved the small business participation goal must submit an Implementation and Corrective Action Plan to the DGS. The DGS will share these plans with the California Small Business Advocate and together they will explore ways, including Memorandums of Understanding, to work with departments to improve performance.
4. All State agencies, departments, boards and commissions shall use the Statutory Informal Bidding Provisions to contract with small businesses for goods and services contracts under \$100,000 and construction contracts under \$120,000 whenever possible.
5. The DGS shall focus on achieving small business participation by enhancing the approaches pioneered under the California Strategic Sourcing Initiative such as Partnering Workshops as part of Bidders' Conferences. These workshops successfully bring prime vendors and small businesses together to jointly obtain State contracts.
6. California Economic Development Partnership shall continue to facilitate the improved access of information to businesses through its web portal and other technologies. The DGS shall actively promote small business certification and help certified small businesses market their products, goods, and services to the State and

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further promote the use of the California State Contracts Register, Subscription Outreach Service, which notifies potential bidders of bid opportunities advertised in their specific area of interest. All State agencies, departments, boards and commissions are to work with the DGS by providing accessible links to their websites listing current bid opportunities.

7. The California Small Business Advocate is directed to enhance the State's Small Business program, focusing particularly on areas related to regulations and helping small businesses secure needed financing. The Small Business Advocate shall coordinate with the DGS to cooperatively enhance the State's Small Business program and is directed to conduct five regional workshops within the next 12 months focusing on the establishment and growth of small businesses and increased contracting opportunities within the State of California. State constitutional officers, the University of California, the California State University, the Lottery Commission, the Public Employees' Retirement System, the State Teachers' Retirement System, the State Compensation Insurance Fund, and other independent State entities are encouraged to take all necessary actions to comply with the intent and the requirements of this Order.

This Order is not intended to, and does not create any right or benefit, substantive or procedural, enforceable in law or equity, against the State of California, its departments, agencies or other entities, its officers or employees, or any other person. Nothing in this Order shall be construed to require any action that would result in the violation of a court order or a loss of eligibility for federal funding.