



- a) “Control” means exercising the power to make policy decisions and active involvement in the day-to-day management of a business enterprise. Being an officer or director does not alone demonstrate active involvement;
  - b) “Disabled veteran business enterprise” means a business enterprise that is owned at least 51% by one or more disabled veterans, the management and control of the daily business operations are by one or more disabled veterans, and is located in the United States;
  - c) “LGBT business enterprise” means a business enterprise that is at least 51% owned by a lesbian, gay, bisexual, or transgender person or persons; or, in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more lesbian, gay, bisexual, or transgender persons; and whose management and daily business operations are controlled by one or more of those individuals;
  - d) “Minority business enterprise” means a business enterprise that is at least 51% owned by a minority group or groups, or, in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more minority groups, and whose management and daily business operations are controlled by one or more of those individuals, minority includes African Americans, Hispanic Americans, Native Americans, and Asian Pacific Americans;
  - e) “Women business enterprise” means a business enterprise that is at least 51% owned by a woman or women, or, in the case of any publicly-owned business, at least 51% of the stock of which is owned by one or more women, and whose management and daily business operations are controlled by one or more of those individuals.
- 2) Requires CTCAC to develop guidelines to use in preparing a supplier and contractor diversity plan.
    - a) The guidelines must include a requirement that WMDVLGBTBEs be certified by a third party.
    - b) The committee shall post the reports on the committee website.
  - 3) Requires CTCAC to establish supplier and contractor participation goals for WMDVLGBTBEs.
  - 4) Requires housing sponsors who have completed five or more housing projects by January 1<sup>st</sup> 2023 to submit a report to the committee which shall include:
    - a) A plan for increasing procurement opportunities for WMDVLGBTBEs.
    - b) Proposed methods and strategies to increase the diversity of suppliers and subcontractors.

- c) Short and long term diversity goals in the 2<sup>nd</sup> year of reporting.
  - d) Aggregate data for contactors headquartered or having a primary location in a low-income census tract in the state in the 3<sup>rd</sup> year of reporting
  - e) Procurement data of the number and dollar amount of contracts issued to specific owner groups, including WMDVLGBTBEs.
- 5) Requires CTCAC to include in its annual report to the Legislature an aggregation of the information submitted by the housing sponsors

**COMMENTS:**

- 1) *Author's Statement.* "California has an opportunity to grow its affordable housing supply while driving forward racial and economic justice in construction and related professional services led by people of color. AB 2873 will promote supplier diversity in the affordable housing industry by requiring that developers share data on supplier demographic. Under the provisions of this bill, developers who receive funding from the California Tax Credit Allocation Committee (CTCAC or Committee) will provide supplier demographic data to the Committee on an annual basis. AB 2873 requires CTCAC to establish diversity and inclusion goals using the reported information and make it publicly available through an annual report. By nurturing diverse firms, the volume of needed much-needed housing construction, design, and engineering can be increased successfully across the state."
- 2) *Tax Credits for Affordable Housing.* There is a federal and state LIHTC program to incentivize the private development of affordable rental housing for low-income households. TCAC administers the program and awards credits to qualified developers who can then sell those credits to private investors who use the credits to reduce their tax liability. The developer in turn invests the capital into the affordable housing project. This bill will require housing sponsors who completed five or more projects using these tax credits to have a plan to increase the diversity of their contractors and suppliers.
- 3) *Utility Supplier Diversity Program and General Order (GO) 156.* In 1988, the CPUC adopted GO 156 (D. 88-04-057) to implement AB 3678 (Moore, Chapter 1259, Statutes of 1986), which required the CPUC to direct certain utilities to submit plans for increasing diverse business procurement. Under GO 156, the CPUC monitors utilities' procurement from WMDVLGBTBEs. This bill is similar to that program but for affordable housing instead of utilities.

- 4) *Certification of Contractors.* The CPUC also administers a certification clearinghouse, which is a database that identifies firms that have voluntarily obtained certification as a WMDVLGBTBEs. As of now, there are approximately 8000 firms in the database. The Supplier Diversity Program is a tool through which the state can leverage the economic power of the utility sector to address historic structural inequities for economic opportunity and ensure that WMDVLGBTBEs are included in contracting opportunities, including renewable energy contracts. In a similar way, this bill requires the WMDVLGBTBEs to be certified by a third party.
- 5) *Requirement Threshold.* In the CPUC program, there are two thresholds at which the contractor must comply with the order: after \$15,000,000 or \$25,000,000 in revenue. This bill's threshold is for housing sponsors that have completed five or more housing projects. This ensures that emerging developers, typically BIPOC developers, are not hindered by the requirement. Without a certain dollar amount threshold, this bill requirement applies to all developments, regardless of the size of the development, and focuses on developers with experience.
- 6) *The plans.* Guidelines are made by the CPUC and CTCAC, respectively in each program. Contractors will then have to make a plan for increasing procurement from WMDVLGBTBEs. In addition, both contractors and subcontractors are included in the reporting given that much of the money flows to subcontractors.

One difference is that for the LIHTC program some reporting requirements start in the second or third year of the development. This is intended to establish a baseline for the planning required in the second or third year. One issue that may arise is that the work can change from year-to-year which would mean different contracts year-to-year, and the baseline for one year would have no bearing on the planning for the next year. Another difference is that the LIHTC program includes reporting of contractors in low-income census tracts which will help socioeconomically disadvantaged communities. A third difference is that the CPUC program provides measures in statute that businesses can do to increase procurement from WMDVLGBTBEs. This would be useful for the LIHTC program. However, it may take some time to understand what measures would actually improve procurement from these enterprises.

**RELATED LEGISLATION:**

**SB 255 (Bradford, Chapter 407, Statutes of 2019)** — expanded the CPUC program to include contractors with revenues above \$15,000,000, not only contractors with revenues above \$25,000,000

**AB 1678 (Gordon, Chapter 633, Statutes of 2014)** — expanded the targeted business enterprises to include LGBT enterprises

**AB 1358 (Bradford, Chapter 443, Statutes of 2011)** — encouraged television corporations and direct broadcast satellite providers to adopt plans for increasing procurement from women, minority, and disabled veteran business enterprises.

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

**POSITIONS:** (Communicated to the committee before noon on Wednesday, June 8, 2022.)

**SUPPORT:**

California YIMBY (Co-Sponsor)  
LISC Los Angeles (Co-Sponsor)  
Abundant Housing LA  
Asian Business Association of Silicon Valley  
California Community Builders  
California Community Economic Development Association (CCEDA)  
California Forward Action Fund  
California Journal for Filipino Americans  
Community Build, INC.  
Community Coalition  
Culver City for More Homes  
East Bay for Everyone  
East Bay Young Democrats  
Faith & Vision Realty  
Fremont for Everyone  
Inclusive Action for The City  
Initiate Justice  
Innercity Struggle  
LISC San Diego  
Los Angeles Brotherhood Crusade - Black United Fund, INC.  
New Way Homes  
San Diego County Urban League

South Bay YIMBY  
Southeast Asian Community Center  
Southern California Black Chamber of Commerce  
Sustainable Growth Yolo  
SV@home Action Fund  
The Center by Lendistry  
The Central Valley Urban Institute  
United Way of Los Angeles  
West Angeles Community Development Corporation  
Westside for Everyone

**OPPOSITION:**

None received.

**-- END --**