

Date of Hearing: July 16, 2025

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Juan Carrillo, Chair

SB 781 (Reyes) – As Amended July 14, 2025

SENATE VOTE: 38-0

SUBJECT: Small business

SUMMARY: Requires the Office of the Small Business Advocate (OSBA) to work with local agencies to increase small business participation in procurement opportunities and allows local agencies to create Small Business Utilization Programs (SBUP) to support this goal. Specifically, **this bill:**

- 1) Requires OSBA to collaborate with local agencies on the development and implementation of local strategies to increase small business participation in local procurement opportunities, including facilitating discussions and sharing examples, when known and available, of small business utilization strategies, technical assistance and outreach models, reciprocity agreements, and structures of preferences and other incentives.
- 2) Updates parameters for grants made under the Small Business Technical Assistance Program (TAP) in fiscal years 2025–26 through 2027–28 to allow applicants to remain eligible until June 30, 2029. Further specifies the following:
 - a) Provides that TAP funding may be used for outreach efforts to ensure that small businesses, including those in underserved and rural communities, are aware of, and can access, technical assistance services. Up to 25% of the awarded funds may be used for outreach. No more than 15% of awarded funds shall be used for direct program administration expenses.
 - b) Requires OSBA to review and confirm that applicants continue to meet state performance standards and provide high-quality, equitable technical assistance services. Requires OSBA to report its findings and actions to the Legislature.
- 3) Defines the following:
 - a) “Commercially useful function” means:
 - i) A contractor is deemed to perform a commercially useful function if the contractor, including a subcontractor, does all of the following:
 - A) Is responsible for the execution of a distinct element of the work of the contract.
 - B) Carries out its obligation by actually performing, managing, or supervising the work involved.
 - C) Performs work that is normal for its business services and functions.

- D) Is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment.
 - E) Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.
- ii) A contractor or subcontractor does not perform a commercially useful function if the contractor's or subcontractor's sole role is that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of a small business, a disabled veteran business, or a social enterprise.
- b) "Contract" or "procurement" means the procurement of goods, information technology, or delivery of services.
- c) "Local agency" means a city, county, or city and county, including charter cities and charter counties.
- 4) Authorizes a local agency to establish a SBUP to increase small businesses' participation in local agency procurement opportunities.
- 5) Requires a SBUP, to the extent feasible, to include all of the following:
- a) A small business certification process that considers reciprocity with the state and other local agencies.
 - b) A minimum goal of 25 percent procurement participation for small businesses, including microbusinesses, in local agency contracts.
 - c) A small business preference and a nonsmall business preference for bidders that provide for small business and microbusiness subcontractor participation in the award of contracts for goods, information technology, and services.
 - d) Policies and strategies related to training, technical assistance, and resources available to small businesses to enhance their ability to compete for local agency contracts.
 - e) Policies and strategies that provide specific considerations to be taken in designing and issuing solicitations to increase small business and microbusiness procurement opportunities while also meeting local agency needs and available funding, including, but not limited to:
 - i) Determining when appropriate and how to unbundle larger contracts to allow smaller ones;
 - ii) Reducing the minimum years of experience a business must have to submit a fully compliant bid;
 - iii) Reducing the level of inventory normally required;
 - iv) Streamlining the bidding process.

- f) Policies and strategies to assist departments that fail to meet the small business participation goal.
 - g) Baseline data on local procurement activities and methods that will be used to monitor and report on the participation of small businesses in local agency contracts.
 - h) A process for a nonsmall business prime contractor that receives a preference pursuant to this bill to verify all of the following:
 - i) The small business subcontractors identified in the bid package have been notified that the prime has been awarded the contract;
 - ii) The small business subcontractors identified in the bid package have been paid in full;
 - iii) The amount paid, in the aggregate, to small business subcontractors meets or exceeds the amount committed to in the bid and as modified by the local agency contract;
 - iv) The small business subcontractors serve a commercially useful function.
 - i) A process for a nonsmall business that receives a preference to replace the small business subcontractor identified in the bid for another qualified small business subcontractor after the contract has been awarded.
 - j) To the extent feasible and consistent with state law, incentives to small businesses in the procurement process, including, but not limited to, set-asides, subcontracting opportunities, and mandatory small business participation in certain local agency contracts for qualified small businesses.
 - k) Policies and strategies that support the local agency in continuously expanding the pool of small businesses and microbusinesses participating in the local agency contracts.
 - l) A requirement for the local agency to review the SBUP and update it as needed, but not less than every four years.
- 6) Authorizes a local agency to engage in the activities to facilitate contract awards to small businesses if it establishes an SBUP. However, the value of any preference awarded pursuant to the bill shall not exceed \$200,000 for any single bid.
- 7) Authorizes a local agency to submit information on their small business procurement participation to OSBA.
- 8) Requires OSBA, subject to funding being available, and upon appropriation by the Legislature to issue its first data call to local agencies by November 15, 2027, and every year thereafter, that captures information about the total number and dollar amount of contracting activities entered into by the local agency during the prior fiscal year in dollars and percentages compared to the baseline year identified in the SBUP or set by the local agency through another means.

- 9) Requires OSBA to prepare an annual report and post the report on its internet website within six months after each data call. The report may include the following information:
 - a) A review of the information received from the data call and an accurate display of the data in the form of a table, graph, chart, or other diagram;
 - b) An outline of the best practices of local agencies for small business procurement participation;
 - c) A summary of any substantive changes made to each local agency SBUP during the reporting year.
- 10) Makes related findings and declarations, and technical changes.

EXISTING LAW:

- 1) Establishes the Governor's Office of Business and Economic Development (GO-Biz) within the Governor's Office for the purpose of serving as the lead state agency for economic strategy and marketing of California on issues relating to business development, private sector investment, and economic growth. (Government Code (GOV) §§ 12096-12096.3))
- 2) Authorizes GO-Biz to develop content on its internet website. (GOV § 12097.5)
- 3) Establishes OSBA within GO-Biz in order to advocate the causes of small business and to provide small businesses with the information they need to survive in the marketplace. (GOV § 12098)
- 4) Establishes the Small Business Advocate as the director of OSBA. Establishes the duties and functions of the Small Business Advocate, including representing the views and interests of small businesses before other state agencies whose policies and activities may affect small businesses. (GOV §§ 12098-12098.3)
- 5) Establishes the Small Business Technical Assistance Program (TAP) within OSBA to assist small businesses through free or low-cost one-on-one consulting and low-cost training by entering into grant agreements with small business technical assistance centers. Requires OSBA to administer a grant program and establishes parameters for small business technical assistance centers to apply and to be eligible, among other aspects. Requires OSBA, subject to appropriation of necessary funds, to establish the California Dream Fund Program to provide microgrants through TAP, up to \$10,000 each, to seed entrepreneurship and small business creation in underserved small business groups that are facing capital and opportunity gaps. (GOV §12100.63)
- 6) Requires OSBA to post specified information on the GO-Biz or OSBA's internet website, including how to receive assistance in certifying as a small business and identifying and participating in state procurement opportunities. (GOV § 12098.4)
- 7) Defines, in the Small Business Procurement and Contract Act, "small business" as an independently owned and operated business that is not dominant in its field of operation, the principal office of which is located in California, the officers of which are domiciled in California, and which, together with affiliates, has 100 or fewer employees, and average

annual gross receipts of fifteen million dollars (\$15,000,000) or less over the previous three years, or is a manufacturer with 100 or fewer employees. (GOV § 14837)

FISCAL EFFECT: According to the Senate Appropriations Committee, “GO-Biz reports that, at a minimum, it would incur annual General Fund costs of \$501,000 for workload associated with the expanded scope of responsibilities for the Director of OSBA to collaborate with local agencies as required by this bill.”

COMMENTS:

- 1) **Bill Summary.** SB 781 establishes the Small Business Utilization Act, which authorizes a local agency to establish a Small Business Utilization Program (SBUP) with the goal of increasing small businesses’ participation in local agency procurement opportunities and modifies applicant eligibility criteria under the California Small Business Technical Assistance Program (TAP) for grants administered by the Office of the Small Business Advocate (OSBA). SB 781 additionally requires OSBA to collaborate with local agencies on the development and implementation of local strategies to increase small business participation in local procurement opportunities.

This bill is sponsored by the California Asian Pacific Chamber of Commerce, the California Hispanic Chamber of Commerce, and the California African-American Chamber of Commerce.

- 2) **Author’s Statement.** According to the author, “SB 781 would encourage cities and counties to adopt Small Business Utilization Plans to leverage local contracting activities to promote local economic growth. Small businesses offer personalized products and services tailored to the needs of their community, fostering a sense of belonging and trust among residents. Small businesses could significantly contribute to local economies if they had access to city and county government procurement opportunities. This bill would support small businesses in their local procurement efforts and clarify that the state is able to continue to fund small business programs regardless of federal matching requirements. SB 781 will empower small businesses, invigorate local economies, and cultivate thriving communities for generations to come.”
- 3) **Small Business Advocate.** GO-Biz is the lead state agency for economic strategy and marketing on issues related to business development, private sector investment, and economic growth. Within GO-Biz is OSBA. The Director of OSBA represents the views and interests of small businesses before other state agencies whose policies and activities may affect small businesses. OSBA must post specified information on the GO-Biz or OSBA website, including how small businesses can receive assistance getting certified and identifying and participating in state procurement opportunities.

OSBA directly serves the small business community through hosting summits, forums, and maintaining resources for technical assistance, financing, and state procurement. Some of those technical assistance programs encourage public agencies to contract with small businesses, including:

- a) **The Small Business Technical Assistance Program (TAP).** TAP receives \$23 million annually to support federally-awarded or privately-awarded programs that provide

technical assistance, including assistance for preparing for procurement opportunities, to small businesses and entrepreneurs;

b) **The State Small Business Credit Initiative (SSBCI) Technical Assistance Program.**

In 2023-24, OSBA received \$20.9 million to fund technical assistance providers that support small businesses applying for SSBCI funding and other government small business capital programs.

- 4) **Small Business Procurement.** Existing law generally requires state and local agencies to award public contracts to the lowest responsible bidder. State law also allows local agencies to require that contracts be awarded to the lowest responsible bidder who meets goals for contract participation by minority and women business enterprises. If a bidder does not meet the local agencies' goals, the agency must evaluate the bidder's good faith efforts to meet those goals.
- 5) **Proposition 209 of 1996.** When the voters passed Proposition 209 (Prohibition Against Discrimination or Preferential Treatment by State and Other Public Entities) in 1996, they constitutionally banned discrimination or preferential treatment based on race, sex, color, ethnicity, or national origin in public employment, public education, and public contracting. Lawmakers responded with legislation allowing agencies to engage in public sector outreach programs, including recruitment of minority groups and women [SB 44 (Polanco) of 1999]. Governor Davis vetoed that bill, saying it violated Proposition 209, but appointed a 28-member Governor's Task Force on Diversity and Outreach to examine ways of conducting constitutionally permissible outreach programs. The Task Force's August 2000 report offered a list of legislative, budgetary, and administrative options. According to the Task Force, "most of the businesses adversely impacted by Proposition 209 were minority businesses and women-owned businesses. The vast majority of these businesses are, in fact, small businesses."
- 6) **Small Business Procurement and Contract Act.** Responding to the Task Force's recommendations, the Legislature revised the existing Small Business Procurement and Contract Act in several ways [AB 1084 (Wesson), Chapter 882, Statutes of 2001]. Among other things, the Small Business Procurement and Contract Act permits local agencies to depart from the requirement to award contracts to the lowest responsible bidder by providing a 5% preference for small businesses in contracts for construction, goods, or services. Under this preference, bids from small businesses are reduced by the percentage of the preference multiplied by the lowest bid that the local agency receives—effectively lowering the price of a bid for purposes of awarding a contract. This preference can be extended to bidders that use small business contractors, and local agencies can require bidders to make, and provide evidence of, good faith efforts to meet a subcontracting participation goal for small business contracts, as well as setting additional guidelines for local preference purposes. By focusing the preference on small businesses generally, these laws avoid the constitutional prohibitions from Proposition 209.

The Small Business Procurement and Contract Act also mandates that state agencies offer a similar small business preference of 5%, establish goals for the participation of small businesses in contracting, and offer a preference to disabled veteran business enterprises (DVBES). The Act directs the Department of General Services (DGS) to certify and maintain a list of eligible small businesses and DVBES. In 2012, the Legislature updated the Small

Business Procurement and Contract Act to align local agency procurement programs with the state's certified small business program to ensure small businesses certified by the state under the program would be assured of eligibility to engage in procurement activities with local agencies [AB 1783 (Perea), Chapter 114, Statutes of 2012).

For the purposes of the Small Business Procurement and Contract Act, a small business is a company with 100 or fewer employees and fewer than \$15 million in average annual gross receipts, among other conditions. The DGS director can increase the gross receipts threshold to account for inflation every two years. However, local agencies can also promulgate their own definitions of a small business.

- 7) **Previous Legislation.** AB 2262 (Reyes) of 2024 was very similar to this bill. AB 2262 was held in the Senate Appropriations Committee.
- 8) **Arguments in Support.** According to the California African-American Chamber of Commerce, California Asian Pacific Chamber of Commerce, and California Hispanic Chamber of Commerce, sponsors of this bill, “SB 781 will support small businesses and strengthen the economy of local communities by:
 - a) Providing a framework for the effective development of local Small Business Utilization Programs;
 - b) Authorizing a statewide data call to help focus technical assistance, uplift best practices, and track progress on leveraging small business contracting activity within local and regional economic development strategies;
 - c) Facilitating the development of these local procurement programs by the California Small Business Advocate, located within the Governor's Office of Business and Economic Development;
 - d) Providing short-term programmatic relief for the State Small Business Technical Assistance Program (SB TAP) by allowing use of 2023 federal fiscal year contracts to meet federal center requirements, using 2023 award amounts as funding request caps, and waiving match requirements.

“Every year, cities and counties across California contract millions of dollars in goods, services, and information technology. While civic leaders and residents recognize that public money spent closer to ‘home’ would have the most significant multiplier effect on their community, local companies need help to compete effectively for those contracts. Busy local government staff often have competing priorities for their time, and developing comprehensive Small Business Utilization Programs can take time...

“By directing more local contracting dollars to small businesses in our communities, this legislation will enable these enterprises to grow their operations, create new employment opportunities, and build stronger local economies.”

- 9) **Arguments in Opposition.** None on file.
- 10) **Double-Referral.** This bill is double-referred to the Assembly Economic Development, Growth, and Household Impact Committee, where it passed on a 7-0 vote on July 8, 2025.

REGISTERED SUPPORT / OPPOSITION:

Support

California African-American Chamber of Commerce (co-sponsor)

California Asian Pacific Chamber of Commerce (co-sponsor)

California Hispanic Chamber of Commerce (co-sponsor)

Redlands Chamber of Commerce

San Diego Chamber of Commerce

Opposition

None

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