



Kammerer & Company, Inc.

Esquire Plaza - 1215 K Street, 17th Floor

SACRAMENTO, CA 95814

(916) 441-5674 - Fax (916) 503-2401

www.kammererandco.com | LoriKammerer@gmail.com

NAWBO-CA November Newsletter Advocacy & Public Policy | November 2021

NAWBO-CA Supported Bills Enacted

News from the Assembly Committee on Jobs, Economic Development and the Economy – New Guidelines for the SSBCI Program

News from the Governor's Office and GO-Biz

We have a month and a half before the legislature returns from its interim recess on January 3, 2022 to resume the second half of the 2021-22 session. The Senate and Assembly are already putting together their bill packages for introduction in the new year.

It is important to note that the Senate and Assembly Members, their staff, and the Committee consultants are in the process of moving their offices across the street from the Capitol to a new building that will house them until the Capitol's Annex renovations have been completed. This is part of a two-year renovation project approved by the legislature several years ago. The new building will house the Members, staff, committee consultants and hearing rooms. The move is expected to be completed by or before January 3rd when session reconvenes.

In the discussions with the Governor's office, his priorities for the new year will include pandemic and wildfire recovery, relief, and resilience for California's small businesses. The Governor's office of Business and Economic Development (GO-Biz) is preparing the protocols for the various grant programs that will be offered to small businesses in the first quarter of 2022 in an effort to assist small businesses as they struggle to build their base to pre-pandemic standards. Additionally, the Governor is also planning to provide new ideas to address our state's increasing homeless crisis.

As reported last month, the legislature sent 836 bills to Governor Newsom's desk, down from the over 2,000 bills he would have received in a non-pandemic year. Of the 836 bills, he signed 770 (92%) and vetoed 66 (7.9%).

Between now and January, the Governor and his staff are working on the 2022-23 budget recommendations that he will present to the legislature when session reconvenes. From there, the legislature will meet with their budget committee consultants to recommend revisions and augmentations and submit their version back to the Governor.

The Senate President Pro Tem and Assembly Speaker have not indicated whether they will enforce the 12-bill limit in 2022. This limit significantly reduced the amount of bills that each member could introduce and with the limited amount of hearing rooms available under the COVID restrictions, only

measures related to the pandemic, wildfires and bills required to clarify existing laws were granted a hearing. The remaining bills were given a two-year status to be taken up in January when the legislature reconvenes.

NAWBO-CA's bill tracking list with a status of all bills of interest to NAWBO-California and its members is included in the newsletter. Included in the bill tracking list are the measures the Governor signed and vetoed. There has been no legislative action on any of the bills listed since the members are on interim recess. The bills indicated as 2-year bills will be taken up on January 3rd when the legislature reconvenes. These carryover bills must be heard in their policy committee no later than January 31st. If the bill fails passage in the policy committee, it will not move forward for the remainder of the session.

One of the most surprising outcomes in 2021 was AB 915's (Chiu) failure to move from the Senate Appropriations Suspense File. This bill would have required the state's departments and agencies to meet or exceed a 25% goal of contracting with small businesses, including women-owned business, LGBTQ-owned businesses, and businesses in underserved communities. There was no opposition to this bill, but due to the costs of implementing the 25% goal, the bill was held. AB 915 would have codified former Governor Schwarzenegger's Executive Order that placed a voluntary "goal" for state agencies to do at least 25% of their contracting with small businesses. As noted above, AB 915 codified the EO and broadened the requirement to include women-owned businesses, the LGBTQ community, and businesses in underserved communities. Sponsored by the Cal-Asian Chamber of Commerce, NAWBO-CA has been asked to co-sponsor this bill in 2022. The author of AB 915, Assemblymember David Chiu, has been appointed as San Francisco's City Attorney and will be leaving the Assembly at the end of this year.

NAWBO-CA Supported Bills Signed by the Governor

Assembly Bill 511 (Muratsuchi) Signed by the Governor. Sponsored by Small Business California and supported by NAWBO-CA, this bill would provide an access to capital option to start-up and small businesses by establishing an equity crowdfunding platform in California. AB 511 would enable investors to directly connect with the start-up or small business via a portal managed by the Department of Financial Protections and Innovation (DFPI), formally the Department of Business Oversight (DBO). The federal JOBS Act of 2012 was approved under the Obama Administration for the purposes of encouraging start-ups and small businesses to seek investment capital through an equity crowdfunding model. Since 2012, securities laws have changed so AB 511 is necessary for California's crowdfunding laws to be compliant with federal securities laws. If enacted, California will join 35 other states who have established crowdfunding as a very viable option for start-up and small businesses to access capital from interested investors.

AB 1574 (Assembly Jobs, Economic Development, and the Economy (JEDE) Signed by the Governor. As the measure states, "The State of California has had an admirable, 30-year history using state contracting to support business development in the micro, small and disabled veteran business communities." California state law has provided a 3% Disabled Veteran Business Enterprise (DVBE) procurement participation goal and a 2006 Executive Order establishing a 25% goal for both small and microbusinesses resulting in thousands of new businesses created job growth.

Despite these incentives that have helped so many micro, small and disabled veteran businesses, our members have struggled to deal with the effects of COVID on their employees and businesses over this past year. Larger companies have been gaming the system utilizing our small and DVBE incentives for

their own gains in using small businesses as a 'pass through' for a fee of 2% or more or using a DVBE as a pass through to show compliance with the DVBE goals. This occurs often on public works projects.

The Department of General Services (DGS) does not have the staff nor the capability within their current infrastructure to actively enforce the existing statutes. Therefore, the provisions contained in AB 1574 are necessary to accomplish the following:

- 1) Requires the Small Business Advocate, in fulfilling specified duties to, among other activities, maintain, publicize, and distribute an annual list of persons serving as small business liaisons throughout the state.
- 2) Requires the Small Business Advocate to collaborate with the DVBE Advocate regarding the implementation of DVBE Program, including, but not limited to, promoting DVBE certification to veteran entrepreneurs and veteran-owned small businesses and undertaking reasonable means to assist state agencies in improving small business and disabled business enterprise procurement participation, as specified.
- 3) Requires the DVBE Advocate to promote implementation of the DVBE Program, support and facilitate the activities of administering agencies and existing and potential DVBEs to achieve state goals, as specified, establish a method of monitoring adherence to the specified goals, and establish and promote a system to track the effectiveness of promotional activities undertaken by state agencies.
- 4) Requires an agency DVBE Program Advocate to meet regularly with the contract and procurement staffs of their departments to disseminate information about the DVBE Program, learn of future contracting opportunities, and identify the types of goods, services, and information technology contracts for which the contract and procurement staff is having or anticipates having difficulty in identifying potential certified DVBE contractors or subcontractors.
- 5) Requires awarding departments to report all alleged violations of the certification as a small business or microbusiness enterprise requirements and prohibitions to the Department of General Services (DGS).
- 6) After any review and investigation it deems necessary, DGS shall subsequently report all allegations that have sufficient grounds to the Attorney General (AG) who shall determine whether to bring a civil action against any person or firm for a violation of certification requirements and prohibitions. DGS may pursue administrative action and administrative penalties irrespective of whether the AG chooses to bring a civil action.
- 7) For alleged violations of knowingly and with intent to defraud, fraudulently representing that a commercially useful function is being performed by a certified DVBE, small business, or microbusiness in order to obtain or retain a bid preference or a state contract, a civil action may be brought by any public prosecutor in the name of the people of the State of California and the penalty imposed shall be enforceable as a civil judgement.
- 8) A person who makes the above violations shall be subject to civil penalties, as specified, including all costs and attorney's fees incurred by the public prosecutor and the costs incurred by the awarding

department and DGS. A public prosecutor, other than the AG, shall not bring an action for a civil penalty if DGS has concluded an administrative action for the same violation.

- 9) For purposes of the Target Area Contract Preference Act, clarifies that the state is required to award both a workforce and a workplace preference for a contract for goods or services, as specified, if the bidder makes both of the required certifications. This provision is urgently needed. Many of our members currently utilize the workplace preference and have requested for many years that the workforce credit be allowed as well. It is important to emphasize, that this is only a credit applied towards a bid and does not cost the state any additional money.
- 10) Expands the definition of “person with high risk of unemployment” to include specified individuals with employment barriers, including among others: displaced homeworkers, low-income individuals; Indians, Alaskan Natives, and Native Hawaiians; individuals with disabilities; older individuals; ex-offenders; transgender and gender-nonconforming individuals; and, any other groups as the Governor determines to have barriers to employment.
- 11) Defines “limited contracting small business enterprise” to mean a certified small business, as specified, that has received fewer than five public contracts from the contracting department in the previous two years or has received public contracts from the department totaling less than \$250,000 in the previous two years.
- 12) Defines “new small business enterprise” to mean a certified small business, as specified, that has not received a public contract from the contracting department in the previous two years. This is an extremely important provision both for small and disabled veteran businesses who aspire to bid to the State of California.
- 13) Provides that no reimbursement is required by this bill, because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction.
- 14) Includes Legislative findings and declarations related to, among other things, the state’s history of using state contracting to support business development within targeted business populations.

Senate Bill 655 (Bradford) Signed by the Governor. This bill is a high priority bill for the Insurance Commissioner. Sponsored by Insurance Commissioner Ricardo Lara, this bill will codify reporting requirements for underrepresented groups on insurance company governing boards, lower the existing California premium reporting threshold value for board and supplier diversity data from \$100 million to \$75 million, and define the term Diverse Investment Managers in the COIN (CA Organized Investment Network) program. This bill will require insurance companies to report their plans for increasing the numbers of women, LGBTQ+ and people of color on their boards to better represent California’s insurance consumers. This bill also codifies Senator Bradford’s recommendation to target insurance investments in affordable housing and environmental projects.

Legislation Moving Ahead in January 2022

Assembly Bill 1072 (Reyes) Two-Year Bill. This bill will assist women-owned businesses by creating and expanding several programs. The author decided to make her bill a two-year bill which means it will not

be taken up again until the legislature returns from its interim recess on January 3, 2022. Supported by NAWBO-CA and 16 other trade associations and organizations that represent small businesses, this omnibus bill creates a more decisive programmatic relationship between the state's small business procurement advocates and the statewide network of 80+ small business technical assistance centers that participate in the Small Business Technical Assistance Expansion (TAEP). It is important to note that NAWBO-CA will be participating in stakeholder meetings to ensure that this bill moves forward in January.

Assembly Bill 1072 accomplishes the following:

- 1) Links Procurement Advocates and Technical Assistance Programs with DGS to assist state agencies to improve small business and disabled business enterprise procurement participation
- 2) Transfers the Small Business Technical Assistance Expansion Program (TAEP) program from the Governor's Office of Business and Economic Development (GO-Biz) to the Office of the Small Business Advocate, which is a division within GO-Biz
- 3) Adds "disadvantaged business enterprise" to the priority list of entities being served by the TAEP program
- 4) Requires state TAEP funds to be used to support a range of programs and services delivered through one or more small business technical assistance centers, including business start-ups, business restructuring, business expansion and retention, accessing capital, participating in government procurement opportunities, becoming, and maintaining competitiveness in foreign markets, regulatory compliance, and emergency preparedness
- 5) Authorizes state TAEP funds to be utilized to support emergent small business technical assistance activities, such as those that are created in response to natural disasters and other state of emergencies, economic crises, and new economic market sectors and factors, such as cyber and technology modalities
- 6) Authorizes state TAEP funds to be applied to costs related to activities that will effectively expand small business technical assistance to priority businesses including marketing, travel, and administrative costs, but limits those costs to five percent of the grant
- 7) Extends the sunset on the TAEP program from January 1, 2024 to January 1, 2027

Assembly Bill 1573 (Assembly Jobs, Economic Development, and the Economy Committee) Two-Year Bill. As a companion bill to AB 1072 (Reyes), this bill has been moved to a two-year status and will be taken up again in January, along with AB 1072. This bill would authorize the establishment of the Small Business Retention Program which would be delivered through the SB TAEP administrative structure, contingent on the approval of supplemental funding. The purpose of the Small Business Retention Program is to support local small business retention programs by providing state matching funds and expand the network of small business technical assistance centers and providers who will collectively contribute their on-the-ground experience to an early warning system to alert the Governor's Office of Business and Economic Development and other state, federal, and local partners of trending business challenges and individual negative business outcomes.

Additionally, AB 1573 would require the Small Business Retention Program to provide a preference to applications that propose new or enhanced services to underserved business groups, including women, minority, and veteran-owned businesses, and businesses in low-wealth, rural, and disaster-impacted communities included in a state or federal emergency declaration or proclamation. This is the same preference as used for other SB TAEP grants.

Women-owned businesses are among the state's top job creators and innovators. Based on prior program experience, technical assistance to women-owned small businesses resulted in many advantages, including lower default rates, higher sales tax revenues, and new hires. The California Small Business Technical Assistance Expansion Program (SB TAEP) was established in 2018 for the purpose of providing direct assistance to small businesses within a statewide network of 80+ federally-designated small business technical assistance centers. During the pandemic, these centers have worked collaboratively with local governments, chambers of commerce, and economic development organizations to meet the needs of small businesses struggling to survive during mandatory shutdowns, partial re-openings, and evolving regulatory obligations.

News from the Assembly Committee on Jobs, Economic Development on Updated Guidelines for the SSBCI Program

The US Treasury released updated guidelines for the State Small Business Credit Initiative (SSBCI). This is the program where CA is eligible to receive a formula allocation of **\$895 million** to operate its own small business capital programs.

There are **other competitive funding options** approved as part of the **\$10 billion federal SSBCI program** where California could receive additional funds.

The California Infrastructure and Economic Development Bank (IBank) is the state's lead agency in preparing and implementing SSBCI. The IBank currently reports that the state will use these funds to re-capitalize the State Small Business Loan Guarantee Program, California Capital Access Program (loan loss guarantees), and a collateral support program. The state's preliminary application is due to the US Treasury by December 11, 2021.

Stakeholders are encouraged to reach out to the IBank (SSBCI@IBank.ca.gov) to share insights and proposals on how California should use these SSBCI funds.

- **US Treasury SSBCI Main Webpage:** <https://home.treasury.gov/policy-issues/small-business-programs/state-small-business-credit-initiative-ssbci>
- **Guidelines:** <https://home.treasury.gov/system/files/256/SSBCI-Capital-Program-Policy-Guidelines-November-2021.pdf>
- **IBank SSBCI Website:** <https://www.ibank.ca.gov/small-business/ssbci/>

See below for additional details provided by the Council of Development Financial Agencies.

Treasury Releases Updated SSBCI Guidance

On November 10, 2021, the U.S. Department of the Treasury (Treasury) issued [Capital Program Policy Guidelines](#) for the State Small Business Credit Initiative (SSBCI). This guidance builds upon the original SSBCI program, first funded in 2010, and updates policy guidelines issued in April 2014. CDFA will provide additional analysis over the coming days.

The updated guidelines provide clarity on a range of program provisions, including:

- Tranching and deployment of funds
- Reallocation and termination of unallocated funds
- Allocations for SEDI-owned Businesses and Very Small Businesses
- Participation of Eligible Jurisdictions (states, the District of Columbia, territories, and Tribal governments)
- Requirements for Capital Access Programs and Other Credit Support Programs
- Other SSBCI program requirements
- Requirements for replenishment and un-enrollment of transactions
- Reporting

The guidelines did not include information about the technical assistance component of the SSBCI program. However, Treasury notes that within the coming weeks it will announce the availability of technical assistance funding and issue separate guidelines regarding technical assistance and instructions on how to apply.

Upcoming Deadlines

In September 2021, Treasury issued a [Notice Regarding Applications for the State Small Business Credit Initiative](#) which outlined the following application deadlines.

- December 11, 2021 - Eligible Jurisdictions must initiate an application in Treasury's online portal (forthcoming).
- February 11, 2022 - Capital program applications must be finalized.
- March 31, 2022 - Technical assistance applications must be submitted.

Tribal Governments are [eligible to submit a Notice of Intent](#) to apply through December 11, 2021. To get engaged, contact [Rachel Reilly](#).

News from the Governor's Office and GO-Biz



Governor Newsom Joins CA FWD's California Economic Summit In Monterey

The Governor joined the CA FWD Economic Summit and sat down with former CA FWD co-Chair and former GO-Biz Director Lenny Mendonca to discuss California's economic resilience and recovery.

"California has no peers... we are world beating in terms of our economic growth. In the last 5 years, no other western democracy has outperformed the state of California... 21% GDP growth over the last 5 years. #1 in innovation and #1 in business start ups... No state in America has created more jobs since January," said Governor Newsom.

View the full fireside chat [here](#).

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CERF Public Comment Period Extended to November 19

The Community Economic Resilience Fund (CERF) Leadership Team – consisting of the Governor’s Office of Planning and Research (OPR), the California Labor and Workforce Development Agency (LWDA), and the Governor’s Office of Business and Economic Development (GO-Biz) – are extending the public comment period of the draft regions for CERF. OPR, LWDA, and GO-Biz welcome written feedback on the geographic boundaries. CERF will fund no more than 13 regions as part of its planning grants and therefore, suggested changes to a region definition should include a strong rationale.

The draft regions and a CERF Program overview can be found on the [Employment Development Division Workforce Services Branch website](#). Public comments are now due by **Friday, November 19, 2021**, and can be submitted electronically via email: WSBCERF@edd.ca.gov

Recent Action by Governor Newsom

- Governor Gavin Newsom announced that California has signed on to a global agreement bringing together nations, states and regions, vehicle manufacturers, businesses, investors and other partners dedicated to rapidly accelerating the transition to zero emission vehicles. Launched by the UK COP presidency, the COP26 Declaration on Zero-Emission Cars and Vans aims to achieve 100% zero emission vehicle sales by 2035 in leading markets, and no later than 2040 globally. [Read more here.](#)
 - Governor Gavin Newsom announced that California has joined the Beyond Oil & Gas Alliance (BOGA) launched at COP26, bringing together national and subnational governments committed to advancing a just transition away from oil and gas production. Led by Costa Rica and Denmark, the first-of-its-kind alliance will help build momentum for states and nations working to phase out oil and gas production and support efforts to build a clean energy economy. [Read more here.](#)
 - Ahead of Veterans Day, Governor Gavin Newsom visited veterans receiving COVID-19 vaccines and flu shots at the West Los Angeles Veterans Affairs Medical Center, where he highlighted the state’s ongoing efforts to increase vaccination rates and promote booster shots for eligible populations and investments to address veterans’ homelessness. [Read more here.](#)
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California Venues Grant Program OPEN

Accepting applications through 11/19/2021

Apply at cavenuesgrant.com

The California Venues Grant Program will support eligible independent live events venues that have been affected by COVID-19 in order to support their continued operation. Eligible independent live events venues must have a physical address and operate in California, which will be validated through submitted business tax returns.

Grants awarded under this Program shall be in an amount equal to the lesser of two hundred and fifty thousand dollars (\$250,000) or 20 percent of the applicant's gross earned revenue in California for the 2019 taxable year.

Additional information can be found at cavenuesgrant.com

Japan World Smart Energy Week Exhibit

California small businesses can participate in one of the world's largest-scale exhibitions focused on renewable energy - apply by November 30

The California STEP program will support up to eight eligible California small businesses to participate at the Japan Smart Energy Week trade show from March 16-18, 2022.

The trade show consists of multiple exhibition pavilions and allows participating businesses to exhibit at a location that best fits business needs: Hydrogen and Fuel Cells, Solar and Photovoltaic Technology, Smart Grids, Batteries, Wind Energy, Biomass, and Thermal power, Resource Circulation, and Decarbonization.

The trade show will be hosted at Tokyo Big Sight, Japan. Learn about remote hybrid and in-person participation options and indicate your interest by completing the registration form. Download the form here <https://bit.ly/3GHqAY7> and send to henan.li@gobiz.ca.gov no later than November 30, 2021. Resources are limited and spots will fill up quickly.