

Date of Hearing: July 1, 2024

ASSEMBLY COMMITTEE ON UTILITIES AND ENERGY

Cottie Petrie-Norris, Chair

SB 1177 (Bradford) – As Amended June 12, 2024

SENATE VOTE: 33-0

SUBJECT: Public utilities: women, minority, disabled veteran, and LGBT business enterprises

SUMMARY: Requires utilities with gross annual Californian revenues exceeding \$25 million and community choice aggregators (CCAs) with gross annual revenues exceeding \$15 million to submit diversity, equity, and inclusion (DEI) employment plans. Also adds specified information that must be included in annual reports from the utilities and CCAs to the California Public Utilities Commission (CPUC) regarding diverse supplier expenditures.

Specifically, **this bill:**

- 1) Requires every electrical corporation, gas corporation, water corporation, wireless telecommunications service provider, electric service provider, and telephone corporation with gross annual California revenues exceeding \$25 million, and their commission-regulated subsidiaries and affiliates, to annually submit a DEI employment plan that includes short- and long-term goals and timetables to promote the employment of women, minority, disabled veteran, and LGBT (WMDVLGBT) individuals at all levels of employment within its organization. Requires these utilities to also submit an annual report to the CPUC on its efforts to implement these DEI plans.
- 2) Requires CCAs with gross annual revenues exceeding \$15 million to annually submit a DEI employment plan to promote inclusive hiring at all levels of employment within its organization, and a report regarding the implementation of the DEI plan.
- 3) Requires each utility and CCA covered by General Order (GO) 156 to include the following information in its annual supplier diversity report to the CPUC:
 - a. The number of unique, new contractors and subcontractors certified pursuant to GO 156 with which it contracted.
 - b. The total dollar amounts expended with in-state contractors certified under GO 156.
 - c. The total dollar amounts expended with in-state subcontractors certified under GO 156.
 - d. The percentage of the total workforce used by contractors and subcontractors that reside in California.
 - e. Data regarding the diversity of contractor or subcontractor workforces, to the extent that the data is provided voluntarily by the employees of the contractor or subcontractor.
- 4) Makes legislative declarations encouraging utility businesses that are not required to file a DEI plan to voluntarily adopt such a plan.

EXISTING LAW:

- 1) Requires the CPUC to direct utilities with gross annual California revenues exceeding \$25 million and CCAs with gross annual revenues exceeding \$15 million to annually submit a plan for increasing procurement from WMDVLGBT businesses across all enterprises, including, but not limited to, renewable energy, energy storage system, wireless telecommunications, broadband, smart grid, vegetation management, and rail projects. Requires utilities with gross annual California revenues between \$15 million and \$25 million to submit data in a simplified format regarding their procurement from WMDVLGBT business enterprises (BEs). (Public Utilities Code §§ 8283 and 366.2)
- 2) Establishes annual legislative reporting requirements for the CPUC, including requirements to report on utilities' progress toward meeting diverse procurement goals. Requires the CPUC to make recommendations to increase procurement with WMDVLGBT business enterprises (BEs). And requires the CPUC to conform its supplier diversity policies and recommendations for disabled veteran BEs to the eligibility and certification requirements for disabled veteran BEs established by the Department of General Services. (Public Utilities Code § 910.3)

FISCAL EFFECT: Unknown. This measure has not received a fiscal committee hearing, due to a determination by the Senate Committee on Appropriations, pursuant to Senate Rule 28.8, that the cost of implementing this bill is not significant.

BACKGROUND:

General Order 156 and the Supplier Diversity Program – 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 the current GO 156, the CPUC's Supplier Diversity Program promotes and monitors utilities' procurement from WMDVLGBTBEs. The CPUC also administers a certification clearinghouse, which is a database that identifies firms that have voluntarily obtained certification as a WMDVLGBTBE. 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 the CPUC's most recent Annual Supplier Diversity Program Report,¹ utilities reported an overall diverse supplier spend of \$14.3 billion and a diverse supplier percentage of 30.6% in 2022. Together, utilities exceeded the overall 22% goal promulgated by GO 156. However, supplier diversity performance varied widely across individual utilities; for example, while Suburban Water Systems spent more than 70% of its total procurement with diverse suppliers, others like Lodi Storage and Pacificorp did not meet the GO 156 goal. The report noted that utilities face ongoing roadblocks to their supplier diversity programs arising from factors such as the nature of utility operations and state-specific certification requirements, among others. Few diverse suppliers, especially in the disabled veteran and LGBT categories, have the capital and technical expertise to comply with utility standards and requirements. Additionally, the pool of

¹ CPUC; *Year 2022 Utilities Procurement of Goods, Services, and Fuel from Women, Minority, Disabled Veteran, LGBT, and Persons with Disabilities Business Enterprises*; September 2023.

eligible diverse suppliers may be constrained by the stipulation that businesses must obtain Supplier Clearinghouse certifications, which is subject to a businesses' willingness to do so.²

COMMENTS:

- 1) *Author's statement.* According to the author, "In 1986, Assemblymember Gwen Moore authored the State's first utility supplier diversity statute. At the time, utilities regulated by the California Public Utilities Commission spent less than \$500,000 per year with diverse businesses. In 2022, utilities' aggregate direct diverse spending exceeded \$14 billion, with an additional \$2.8 billion spent with diverse subcontractors. California's utility supplier diversity law remains one of the larger engines of socioeconomic mobility for historically-disadvantaged people in the State. However, some gaps exist in the data collected by the program. SB 1177 aims to obtain more detailed information about the workforce diversity of contractors and subcontractors as well as gain more standardized and complete information about the in-state economic benefits of the Supplier Diversity Program."
- 2) *Unbundling the data.* Since the implementation of the Supplier Diversity Program, utilities' procurement from diverse businesses, at both the contract and subcontract levels, have dramatically increased. As mentioned above, the CPUC reported that utilities spent \$14.3 billion on procurement from diverse businesses, equating to 30.6% of the total spend on procurement. Additionally, the large utilities' diverse subcontracting totaled \$2.8 billion in 2022, representing 6.1% of total procurement. While most of the large utilities provide separate metrics for prime contractors versus subcontractors, none of the CCAs have reported diverse subcontracting spend. This bill would require CCAs to untangle the data between contractors and subcontractors, and require utilities and CCAs to provide additional clarifying information, including the number of unique, new contractors or subcontractors.

This bill would also require utilities and CCAs to report the dollar amounts expended with in-state contractors and subcontractors and the percentage of the workforce used by these businesses that reside in California, which could help further elucidate how much diverse expenditures are supporting in-state wage growth. The utilities pose concerns that this information may not be readily available to them since it would require disclosure by their contractors and subcontractors. Although the CPUC's most recent GO 156 report to the Legislature states that Clearinghouse certification is only open to businesses that are primarily domiciled in California³ – which might indicate greater ease in collecting information about whether contractors or subcontractors operate primarily in-state – the committee has been unable to verify if this is indeed a CPUC-mandated requirement. However, this bill has no enforcement provision that would penalize utilities or CCAs should they be unable to acquire this information. To the extent that this bill provides greater transparency about contracting with specific diverse supplier groups or enhances information about the workforce for those supplier groups in California, this bill may

² The report notes, "Some diverse suppliers are not willing to obtain Supplier Clearinghouse certifications or are uncomfortable certifying in certain diverse categories." CPUC; *Year 2022 Utilities Procurement of Goods, Services, and Fuel from Women, Minority, Disabled Veteran, LGBT, and Persons with Disabilities Business Enterprises*; Page 34; September 2023.

³ *Ibid*

support better policymaking to address specific barriers to growing a diverse supplier workforce and providing diverse businesses more contracting opportunities.

- 3) *Setting an example.* In addition to expanding data reporting requirements for the Supplier Diversity Program, this bill also expands efforts to diversify utility workforces by requiring certain utilities and CCAs with in-state revenues over \$25 and \$15 million, respectively to file a DEI employment plan with the CPUC on an annual basis. Under this bill, these plans must include short- and long-term goals and timetables to promote the employment of WMDVLGBT individuals at all levels of employment within the company. While some utilities have voluntarily published DEI data and adopted DEI plans and/or programs to support the growth of a diverse workforce within their own corporation,⁴ the content and specificity of these data and plans can vary widely. Bringing more utilities on board and standardizing data across those utilities may help to more clearly measure utilities', and more broadly California's, progress to meeting DEI goals.
- 4) *Prior legislation.*

AB 1198 (Grayson, 2023) would have required the Energy Unit within the Governor's Office of Business and Economic Development to identify non-ratepayer-funded energy resources, work with specified agencies to identify workforce development programs in California, provide recommendations on addressing barriers to access the energy industry resources, and write an annual report on its findings in order to promote minority small businesses in the state. Status: Held – Senate Committee on Appropriations.

SB 255 (Bradford) expanded the Supplier Diversity Program by establishing reporting requirements for utilities and CCAs with gross annual revenues exceeding \$15 million. Status: Chapter 407, Statutes of 2019.

AB 1678 (Gordon) extended provisions of the Supplier Diversity Program to include LGBTBEs and required the CPUC to adopt LGBT certification standards created by the National Gay and Lesbian Chamber of Commerce. Status: Chapter 633, Statutes of 2014.

AB 1386 (Bradford) encouraged cable television corporations and direct broadcast satellite providers to voluntarily adopt plans to increase diverse spending. Status: Chapter 443, Statutes of 2011.

AB 1918 (Davis) clarified certain certification requirements for the Supplier Diversity Program, added wireless telecommunications service providers to the program, and encouraged providers below the \$25 million eligibility threshold to voluntarily report. Status: Chapter 456, Statutes of 2010.

AB 3678 (Moore) established the Supplier Diversity Program by requiring each electrical, gas, and telephone corporation with gross annual revenues exceeding \$25 million to annually submit a detailed, verifiable plan for increasing diverse business procurement in all categories. Status: Chapter 1259, Statutes of 1986.

⁴ Edison International; "The Power of Our People: 2022 Diversity, Equity, & Inclusion Report"; https://www.edison.com/_gallery/get_file/?file_id=644b0875b3aed34bf8e59e86&file_ext=.pdf&page_id=

REGISTERED SUPPORT / OPPOSITION:

Support

California Black Chamber of Commerce

Opposition

None on file.

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