

Date of Hearing: April 9, 2013

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE ECONOMY

Jose Medina, Chair

AB 1067 (Medina) – As Introduced: February 22, 2013

SUBJECT: Economic development: foreign trade

SUMMARY: Codifies the state's participation in the federal investment visa program by establishing the California Foreign Investment Program within the Governor's Office of Business and Economic Development (GO-Biz). Specifically, this bill:

- 1) Specifies that GO-Biz shall serve as the lead state entity for overseeing the state's participation with the U.S. Citizenship and Immigration Services' EB-5 Investment Program (EB-5 Investment Program).
- 2) Provides that, among other duties, GO-Biz shall set the terms and conditions for issuing a state designation letter for Targeted Employment Areas (TEAs).
- 3) Requires an applicant for a regional center operating within the state to register with GO-Biz including the provision of contact information. Each regional center is required to annually provide information to GO-Biz on the number of clients served, location of investments, and the number of direct and indirect jobs created.
- 4) Authorizes GO-Biz to provide a support letter for regional center applications to the EB-5 Investment Program. GO-Biz is required to post on its Internet website a list of contact information for each regional center applicant that receives a support letter.
- 5) Authorizes all applicants for an EB-5 investment visa to register with and, be assisted by, GO-Biz in applying for an EB-5 investment visa. Authorizes GO-Biz to charge a fee for services.
- 6) Authorizes GO-Biz to take all necessary action to assist individuals seeking to invest in California through the EB-5 Investment Program including, but not limited to, collaborating with the U.S. Department of Justice in assisting applicants in obtaining the necessary security background checks.
- 7) Provides that the requirements and authorities in this bill only affect EB-5 related activities that occur on or after January 1, 2014.

EXISTING LAW authorizes GO-Biz to undertake international trade and investment activities and, as a condition of that authority, directs the development and implementation of a comprehensive international trade and investment strategy (ITI Strategy). All international trade and foreign investment activities and funding are required to be consistent with the ITI strategy.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Author's Purpose: According to the author, "According to the author, "California produces more than \$1.8 trillion in goods and services annually, making the state the eighth largest economy in the world.

When it comes to international business, California is the ideal place to be. No other location has the high-tech industries of Silicon Valley, the biotech industries of San Diego and the San Francisco Bay Area, the agricultural technology industry of the Central Valley, and the entertainment industry of Los Angeles. The variety of industries makes the state an ideal place for foreign businesses to operate.

Presently, California leads the nation in attracting and receiving foreign direct investment. Foreign direct investment impacts the California economy in many positive ways, one of which is creating new jobs. In 2010, foreign firms employed almost 6 million Americans, and owned over 33,000 individual business establishments. Today, foreign affiliate employment accounts for over 700,000 jobs in California. While our budget is recovering slowly, our state cannot afford to miss out on the tremendous economic benefits that foreign investment provides. Losing the great opportunity to boost and stimulate our economy through foreign investment is something our state cannot afford. Implementing a robust EB-5 program in the state will continue to create jobs, introduce new technology and research, and contribute to rising productivity within our state."

- 2) Framing the Policy Issue: This bill provides statutory clarity to the state's role in facilitating the federal immigrant investor visa program. Established in 1990, prospective foreign investors who agree to invest \$500,000 in economically distressed areas or \$1 million in other areas are eligible to receive one of 10,000 EB-5 visas.

In making the case for codifying the state's involvement in attracting and facilitating EB-5-based foreign investments, the author sites the existing state responsibilities to issue certification letters, the large number of EB-5 regional centers (over 60) within the state, and the important role private sector investments and business development play in the health of the state's economy. This analysis provides background on how the state's diversity is a trade advantage, the EB-5 Investment Program, and California's globally integrated economy.

- 3) EB-5 Investment Program: Created as a pilot program in 1990, the EB-5 Investment Program is designed to stimulate the U.S. economy through capital investment and resulting in job creation by immigrant investors. As of June 30, 2011, it is estimated that the program has resulted in more than \$1.5 billion in capital investments and created at least 34,000 jobs.

Under the U.S. Citizenship and Immigration Service (USCIS) administered program, permanent-resident status is available to foreign investors who have invested – or are actively in the process of investing – at least \$1million into a new commercial enterprise, which can entail: the creation of an original business; the purchase of an existing business and restructuring or reorganizing the business to the extent that a new commercial enterprise results; or a significant expansion of an existing business.

An applicant seeking status as an immigrant investor must demonstrate that his or her investment will benefit the U.S. economy and create full-time employment for at least ten qualified individuals, or maintain the number of existing employees in a troubled business. For investors who choose to invest in TEAs, the required investment is decreased to \$500,000. A TEA is either a high-unemployment area that has experienced an unemployment rate of at least 150% of the national average rate or a rural area. Investments made in a TEA require certification that the area qualifies as a TEA. GO-Biz currently issues these certification letters. In 2012, over 6,500 TEA-based visas were issued for investors and immediate family, while only 3 visas were issues for non-TEA investments.

Based on 2011 state figures (most current) and a high unemployment rate defined as 13.4% or greater, 58 urban cities, 16 counties, 21 rural areas, and 13 metropolitan statistical areas in California have been identified as eligible TEAs. Some states, such as South Dakota, have specific programs that target foreign investment by those who are looking to apply for visas under the investment provisions.

In addition to individual investors, the federal government can also recognize regional centers which allows for a pooling of investor money. There are over 60 federally-recognized regional centers currently operating in California, significantly more than any other state. These regional centers are based across the state. Their focuses are widely varied and include commercial real estate development, agricultural products, film projects, and high-tech ventures. Information on these centers is limited to the name of the center. AB 1067 will provide transparency as to who are the operators of regional centers, which should result in greater program and investment integration within the state's economic development network.

Among other requirements, applicants of the EB-5 Investment Program must demonstrate that they meet all requirements of the program prior to filing with the USCIS. If it is determined that the investment criteria is met and properly documented, any investor may be granted conditional permanent residence status for a period of two years by USCIS. A permanent green card may be issued at the end of the conditional period.

The U.S. Congress has authorized the approval of up to 10,000 EB-5 visas per year. Historically, the annual allocation is not fully utilized, although usage is growing. In 2009, over 4,200 investors obtained EB-5 visas as compared to only hundreds in 2007.

- 4) EB-5 Success Stories: There are many examples of areas and developments that have benefited from foreign investment through the EB-5 program, most especially as businesses routinely cite access to capital as a roadblock to successful development of new or growth of existing ventures. One example includes the McClellan Business Park, a residential and industrial development at the former McClellan Air Force Base. When the base closed in 2001 approximately 12,000 individuals lost their jobs across the region. Today, nearly 15,000 people work at the McClellan Business Park. This transformation was completed with the help of \$18 million invested by 36 immigrants from China, Mexico and an array of other countries who have applied for EB-5 visas.

Nationally, the state of Vermont is home to one of the largest success stories from EB-5 investment. *The New York Times* and National Public Radio both reported extensively on a ski resort that was able to expand from seasonal winter recreation to a year-round resort after raising nearly \$200 million dollars from foreign investors (South Africa, Sweden, Canada, Mexico and England). The entire state of Vermont is now recognized as a regional center called the Vermont Agency of Community Development, which focuses on bringing foreign investment to the tourism, manufacturing, professional services, education and information publishing industries in the state. The state formally markets and promotes the availability of EB-5 status to gain foreign investment and is a model for state involvement in securing this type of money. On its website, Vermont publicizes a swift approval process for projects, state oversight of projects and activities to assure compliance with U.S. Immigration Law, and hands-on involvement by Vermont's elected officials, including the Governor and Congressional delegation.

- 5) State's Diverse Population as a Trade Advantage: New globally-based models for innovation and technology have brought great changes in how world economies work. The emerging economies of China, India, and Singapore, just to name a few, have been and are committed to continuing massive

investments in research and development. While these dynamics may pose challenges to some existing technology centers, California's diverse population provides the state with a key trade and investment advantage over other states and nations.

Due to strong past in-migration from other nations, more than one-in-four of California's current residents (9.5 million people) were born outside the U.S., compared to just over one-in-ten nationally. About half of foreign-born Californians are from Latin America, and another third are from Asia. Regionally, 36% of the population in Los Angeles is foreign born, as is 27% of the Bay Area. It is estimated that 40% of the entrepreneurs in the Silicon Valley are foreign born. For many immigrant groups, California represents the single largest gathering of their brethren outside their native lands.

- 6) **California's Global Economy:** International trade and foreign investment are very important components of California's \$1.9 trillion economy. California receives more foreign direct investment (FDI) than any other state in the U.S., which is significant since the U.S. is the largest receiver of FDI in the world. The California economy benefits from FDI in many ways, some of which include assisting in the creation of jobs, boosting worker wages, increasing exports, bringing in new technology and skills, and generally strengthening the state's manufacturing base.

The federal International Trade Administration estimates that over 562,700 California workers benefit from jobs with foreign-owned firms, which accounts for 5.1% of all private sector jobs in the state. Approximately 11% of all U.S. workers at foreign-owned firms are located in California, which has had the highest level of employment in foreign-owned firms since at least 1997. Along with employment, foreign-owned firms own more property, plants, and equipment in California than in any other state.

If California were a country, it would be the 11th largest exporter in the world. Exports from California accounted for over 10.5% of total U.S. exports in goods, shipping to over 220 foreign destinations in 2012. California's land, sea, and air ports of entry serve as key international commercial gateways for products entering the country. California exported \$161 billion in goods in 2012 (up from \$159 billion in 2011), ranking only second to Texas with \$265.3 billion in export goods. Computers and electronic products were California's top exports in 2012, accounting for 27.6% of all state exports, or \$44.5 billion.

2012 Exports From California to the World		
Product	Value (\$ billions)	Percent
334 Computers & Electronic Prod.	44.5	27.6 %
333 Machinery (except electrical)	14.8	9.2 %
336 Transportation Equipment	16.1	10 %
325 Chemical Manufactures	12.7	7.9 %
339 Misc. Manufacture Commodities	13.8	8.6 %
111 Agricultural Products	11.9	7.4 %
All Others	47.2	29.3 %
Total	\$161	100 %

Source: Tradestates.com

Manufacturing is California's most export-intensive activity. Overall, manufacturing exports represent 9.4% of California's gross domestic product. More than one-fifth (21.9%) of all manufacturing workers in California directly depend on exports for their jobs.

Small- and medium-sized firms generated more than two-fifths (43%) of California's total exports of merchandise. This represents the seventh highest percentage among states and is well above the 29% national average export share for these firms.

Mexico is California's top trading partner, receiving \$26.3 billion (16%) in goods in 2012. The state's second and third largest trading partners are Canada and China with \$17.3 billion (10.7%) and \$13.9 billion (8.6%), respectively. Other top-ranking export destinations include Japan, South Korea, Taiwan, the United Kingdom, Hong Kong, Germany, and Singapore.

- 7) Amendments: Staff understands that the author will offer the following amendments:
- a) Reduce the requirement for regional centers to register with GO-Biz to providing GO-Biz with relevant contact information and the geographic region and industry sector the U.S. Citizenship and Immigration Services has approved for the center.
 - b) Authorize the regional center to provide GO-Biz with a copy of their federally mandated annual report in lieu of any state reporting requirement.
 - c) Remove an overly broad statement that GO-Biz take all steps necessary to assist individuals interested in investing in California through the EB-5 Investment Program.
 - d) Make related technical and conforming changes.
- 8) Related Legislation:: Below is a list of related legislation from the prior session:
- a) *AB 1137 (V. Manuel Pérez) Small Business Assistance and Attracting Private Investment*: This bill would have facilitated local economic development and job creation by assisting small businesses to access new export markets for their goods and services, codifying the EB-5 investment visa program, updating the law relating to free trade zones, and authorizing the use of new federal funds under the Small Business Jobs Act of 2010. Status: Held in Senate Committee on Appropriations in 2012.
 - b) *AB 1409 (Jobs, Economic Development and the Economy Committee) International Trade and Investment Strategy*: This bill, as it passed JEDE, would have required that the next update by Business, Transportation and Housing Agency, of the international trade and investment strategy to include policy goals, objectives and recommendations from the state Goods Movement Action Plan. The measure was amended in the Senate related another subject matter. Status: Held in Senate Rules Committee in 2012.
 - c) *AB 2012 (John A. Pérez) Economic Development Reorganization*: This bill transfers the authority for undertaking international trade and foreign investment activities from the Business, Transportation and Housing Agency to the Governor's Office of Business and Economic Development. In addition, the bill transfers the responsibility for establishing an Internet-based permit assistance center from the Secretary of the California Environmental Protection Agency to GO-Biz. Status: Signed by the Governor, Chapter 294, Statutes of 2012.
 - d) *SCR 33 (Price) Foreign Investment*: This bill expresses the sentiment of the Legislature that the EB-5 visa program is beneficial to the state's economic development and provides important opportunities for foreign direct investment to California. Status: Chaptered by the Secretary of State- Res. Chapter 60, Statutes of 2011.

REGISTERED SUPPORT / OPPOSITION:

Support

None received

Opposition

None received

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