

Date of Hearing: April 23, 2013

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE ECONOMY

Jose Medina, Chair

AB 1247 (Medina) – As Amended: April 17, 2013

SUBJECT: Business investments: Small Business Financial Assistance Act of 2013

SUMMARY: Transfers the administration of the small business financial development corporation (FDC) managed programs from the Business, Transportation and Housing Agency (BTH) to the California Infrastructure and Economic Development Bank (I-Bank) within the Governor's Office of Business and Economic Development (GO-Biz), as well as clarifying a number of administrative and programmatic elements to improve program delivery. Specifically, this bill:

- 1) Repeals and recasts the statutes related to the establishment, operations and oversight of the FDC managed programs from BTH to the I-Bank, which is relocated to GO-Biz. No additional substantive changes are proposed.
- 2) Repeals and recasts the statutes related to the small business finance programs administered by the FDCs from the Corporations Code, as overseen by BTH to the Government Code, as overseen by the I-Bank.
- 3) Changes the name of the lead person overseeing the FDC administered finance programs from a director at BTH to a program manager at the I-Bank.
- 4) Transfers and modifies the membership of the California Small Business Board from a free-standing board at BTH to a subcommittee of the I-Bank board of directors.
- 5) Expands the list of eligible financial institutions and entities, that an FDC may offer a loan guarantee to include credit unions, community development financial institutions and microlenders.
- 6) Clarifies that FDCs have the authority to offer direct loans.

EXISTING LAW

- 1) Authorizes the approval of 11 FDCs by BTH for the purpose of administering a number of small business finance programs including the Small Business Loan Guarantee Program (SBLGP), direct loans, disaster assistance loans and surety bond guarantees.
- 2) Establishes the SBLGP for the purpose of assisting small businesses in obtaining long-term loans or lines of credit from conventional financial institutions, which small businesses would not otherwise qualify for without the guarantee. Under this program, FDCs act as financial intermediaries between the state, the small business, and the financial institution.
- 3) Establishes the California Small Business Expansion Fund (Expansion Fund) for the purpose of retaining the moneys which separately capitalize the SBLGP and paying out defaulted loan guarantees issued under the SBLGP. Each account within the Expansion Fund is legally separate and is prohibited from securing loan guarantees or other obligations of another FDC. The state is not liable

or obligated beyond the funds allocated and deposited in an individual trust fund account within the Expansion Fund.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Framing the Policy Issue: This measure transfers the authority for the FDC programs to the I-Bank, which is then moving under the auspicious of GO-Biz. These transfers further consolidate the state's economic development programs into a single location and strengthen the I-Bank's business development tool kit.

The bill also separates the FDC-managed programs from the FDC- incorporation provisions to more effectively leverage the programs within the state's existing network of programs. The analysis includes information on California's small business economy, the SBLGP, the federal Small Business Jobs Act, and related legislation.

- 2) California Small Business: California's dominance in many economic areas is based, in part, on the significant role small businesses play in the state's \$1.9 trillion economy. Businesses with less than 100 employees comprise nearly 98% of all businesses, and are responsible for employing more than 37% of all workers in the state.

Among other advantages, small businesses are crucial to the state's international competitiveness and are an important means for dispersing the positive economic impacts of trade within the California economy. California small businesses comprised 96% of the state's 60,000 exporters in 2009, which accounted for over 44% of total exports in the state. Nationally, small businesses represented only 31.9% of total exports. These numbers include the export of only goods and not services.

Historically, small businesses have functioned as economic engines, especially in challenging economic times. During the nation's economic downturn from 1999 to 2003, microenterprises (businesses with fewer than five employees) created 318,183 new jobs or 77% of all employment growth, while larger businesses with more than 50 employees lost over 444,000 jobs. From 2000 to 2001, microenterprises created 62,731 jobs in the state, accounting for nearly 64% of all new employment growth. More recently, the federal Small Business Administration's Small Business Economy 2011 report stated that small businesses nationally outperformed large firms in net job creation nearly three out of four times from 1992 through 2010 when private-sector employment rose.

During the recent economic downturn, however, small business owners were been especially hard hit. Equifax reported that bankruptcies in California rose by 81% in 2009, as compared to 44% nationally. This trend continued in 2010 where the Equifax report stated that while in general bankruptcies were down across the nation including some regions in the west, small business bankruptcies in California accounted for almost 20% of all small business bankruptcies in the nation.

- 3) Small Business Loan Guarantee Program: The SBLGP enables a small business to obtain a term loan or line of credit when it cannot otherwise qualify for a loan on its own. The state, working through 11 FDCs, offers direct loans or loan guarantees that a qualifying small business borrower could not otherwise obtain.

Applicants must meet the definition of a small business (100 or fewer employees) with the specific market rate loan terms and interest rates being negotiated between the borrower and the lender. Proceeds of the loan must be used primarily in California for any standard business purpose applicable to the applicant's business. The guarantee program provides guarantees covering up to 90% of the loan, but not exceeding \$500,000. The guarantee program allows a business to not only obtain a loan but to also establish credit with a lender. The business is then more likely to obtain additional future financing on its own.

In 2011-12, approximately \$5.7 million was made available for loan guarantees under the state SBLGP, which leveraged \$9.9 million in small business loans from financial institutions. During this period 178 guarantees were provided, creating and/or retaining over 1,200 jobs. There are currently 1,046 loans being guaranteed under the state program.

- 4) Small Business Jobs Act and Federal Guarantee Program: In October 2010, Congress passed and the President signed the Small Business Jobs Act (Act). Among other things, the Act created the State Small Business Credit Initiative (SSBIC), which is authorized to expend up to \$1.5 billion for state sponsored small business finance programs. Over the life of the program, every federal dollar must be matched by \$10 private sector dollars. September 2017 is the deadline for using the funds. Funding for the administration, outreach, and oversight of the program is primarily the responsibility of the state.

Under the funding formula, California is eligible to receive up to \$168 million, which is the largest amount of any state. The next highest award is \$97 million for Florida, with every state that applies receiving a minimum of \$13.1 million. California uses its moneys to capitalize the SBLGP administered through BTH and a loss reserve program and collateral support program administered through the California Pollution Control Financing Authority at the state Treasurer's Office.

Funding is awarded to states in three tranches with participating jurisdictions allowed to apply for the next round of funding when 80% of their current funds are expended. Nine of the 57 participating jurisdictions have received second round funding and three states are into their third and final round.

Of the \$68 million California received in the first round, California has encumbered \$16.6 million, with approximately \$13.4 million set aside to cover loan guarantees under the federal portion of the SBLG Program. Over 18, 600 jobs have been created or retained by the close of 2012.

In 2011-12, approximately \$36.2 million in guarantees were made under the federal SBLGP, which leveraged \$58.2 million in small business loans from financial institutions. During this period, 203 guarantees were provided, creating or retaining 6,000 jobs through guarantee activities.

There are currently 297 loans being guaranteed under the federal program, 85% have been to businesses in low- and moderate-income areas. Approximately 19% of the loans since inception have been in the accommodation and food services, 15% in construction, 9.5% in real estate and leasing, and 9.2% in retail trade. Relative to size of business, 46.7% have had 11 to 50 employees and 36.8% have had less than 10 employees.

According to the FDCs, one impediment to getting the SBLGP portion out is the lack of state administrative support. Repeated budget actions have severally limited ongoing management funds and crippled the state portion of the program, which allowed greater programmatic flexibility in serving the needs of small businesses.

JEDE will hear three measures which are designed to enhance the program and help to facilitate the drawdown of additional federal dollars. AB 201 (Holden) encourages greater private financial institution participation; AB 1247 (Medina) makes programmatic changes to streamline the program; and, AB 780 (Bocanegra) appropriates \$2 million for FDC administrative costs.

- 5) Governor's Office of Business and Economic Development: GO-Biz was established in 2010 to provide a one-stop-shop for serving the needs of businesses and economic developers. While initially established through Executive Order S-01-10, the office was later codified and renamed as GO-Biz, in AB 29 (John A. Pérez), Chapter 475, Statutes of 2010. In 2012, GO-Biz directly assisted 5,308 companies, resulting in the creation and/or retention of 9,050 jobs and \$1.45 billion in investments.

Among other programs, GO-Biz provides permit and other business assistance for new and expanding businesses, as well as administering the California Innovation Hub Program under an initial partnership with the statewide network of small business development centers. GO-Biz also oversees the Office of the Small Business Advocate.

In March 2012, the Governor initiated a reorganization process to realign the state's administrative structure. Key changes include the dismantling of the BTH and the shifting of a number of key programs and services to GO-Biz including:

- The SBLGP;
- The California Travel and Tourism Commission;
- The California Film Commission;
- The Film California First Program; and
- The Infrastructure and Economic Development Bank.

Programmatic approval of the reorganization was granted in July 2012 and will become effective July 2013. Legislation is also necessary to statutorily reflect the reorganization changes. AB 1317 (Frazer) is pending on the Assembly Floor. The changes AB 1247 would make further programmatic enhancements to the reorganization.

- 6) Related Legislation: Below is a list of related legislation.
- a) AB 29 (John A. Pérez) Codification of GO-Biz: This bill establishes GO-Biz within the Governor's Office for the purpose of serving as the lead entity for economic strategy and marketing of California on issues relating to business development, private sector investment and economic growth. The bill also transfers the Office of the Small Business Advocate from BTH to GO-Biz. Status: Signed by the Governor, Chapter 475, Statutes of 2011.
- b) AB 201 (Holden) Financial Institution Participation in FDC Programs: This bill requires the names of the financial institutions and financing companies that make direct loans that include credit enhancements offered by FDCs be posted on the website of the Business and Consumer Services Agency. Status: Pending in the Assembly Committee on Jobs, Economic Development and the Economy.
- c) AB 780 (Bocanegra) FDC Administrative Funds: This bill Appropriates \$2 million from the General Fund for the purpose of providing administrative funding to the FDCs. Each FDC is

eligible to receive \$150,000. The bill also states that it is the Legislature's intent that the FDCs are to be under the jurisdiction of GO-Biz Status: Pending in the Assembly Committee on Jobs, Economic Development and the Economy.

- d) AB 2523 (Hueso) Loan Participation Agreements and Syndications: This bill would have authorized the I-Bank to enter into participation and syndication loan agreements with financial institutions for the purpose of expanding capital opportunities for small businesses. Status: Held in the Senate Appropriations Committee, 2012.
- e) AB 2619 (V. Manuel Pérez) Start-Up California: This bill would have established the Start-Up California Impact Investment Venture Fund Program, administered through the I-Bank, for the purpose of providing equity investments to start-ups and small businesses. Status: Held in the Assembly Committee on Appropriations, 2012.

REGISTERED SUPPORT / OPPOSITION:

Support

None received

Opposition

None received

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