

Date of Hearing: April 25, 2012

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE  
ECONOMY

V. Manuel Pérez, Chair

AB 1646 (Campos) – As Amended: April 11, 2012

SUBJECT: California Demonstration of Emerging Market Opportunities Act

SUMMARY: Establishes the California Demonstration of Emerging Market Opportunities Program (CalDEMO) for the purpose of supporting the testing of innovative products, services and processes that have been developed by private for-profit and non-profit entities.

Specifically, this bill:

- 1) Expresses legislative findings and declarations that California is home to many of the world's leading technology companies and in order to spur growth within these companies the state needs to do more than provide traditional businesses incubators. Rather, the state can support innovation through streamlining the commercialization of innovative products, services and processes.
- 2) Expresses further legislative findings and declarations that a demonstration program can provide businesses and nonprofit organizations with:
  - a) Experience engaging with the state in the process of planning, deploying, demonstrating, and maintaining their innovation;
  - b) High profile public exposure for the business or nonprofit organization;
  - c) Data collection on an innovation's real-time performance in a public setting;
  - d) An opportunity for a business or nonprofit organization to demonstrate successfully that its innovation can be deployed, operated, and maintained in a real-world setting; and
  - e) The creation of new markets for innovative businesses and nonprofit organizations.
- 3) Designates the Governor's Office of Business and Economic Development (GO-Biz) as the administrator of the CalDEMO Program. Projects are to be selected, after being reviewed by an investment advisory committee, from applications submitted by businesses and nonprofit organizations for the use of state resources, including lands, data and state facilities. A preference is provided for California start-up companies. Successful applications are required to be approved by both GO-Biz and all participating state agencies. Each project is to be governed through a demonstration agreement and scope of work, which set the responsibilities of the state and other key terms of the agreement. Further details on each of these elements are described below.
- 4) Provides that the initial request for proposal include, among other things:
  - a) Identification of the problem the innovative product, process, or service is designed to address;

- b) An explanation of how the innovative solution or pilot project can benefit the state;
  - c) A description and set of goals for the project for the purpose of demonstrating that the proposed demonstration agreement will be mutually beneficial to the state and business or nonprofit organization;
  - d) Performance measures that will be used to evaluate the project;
  - e) A list of state resources that will be used to demonstrate the innovative solution or pilot project; and
  - f) A list of relevant industry standards and codes.
- 5) Authorizes GO-Biz to charge a fee to process the application that covers applicable costs.
- 6) Requires the director of GO-Biz to designate a partnership coordinator that shall provide guidance to state agencies on CalDEMO. In addition, the partnership coordinator shall:
- a) Review applications and investment advisory group comments to determine that the application meets threshold, public benefit and feasibility requirements;
  - b) Refer applications that pass the first set of reviews to appropriate state agencies for consideration;
  - c) Coordinate and oversee the development of the demonstration agreement, which sets forth the details of the innovative solution to be demonstrated;
  - d) Track and report approved demonstration agreements. Information is required to be posted on the GO-Biz website and reported to relevant policy committees of the Legislature; and
  - e) Develop guidelines for implementing the program.
- 7) Provides that the demonstration agreement shall, among other things:
- a) Identify the goals and performance measure that can be used to evaluate the project;
  - b) Allow a state agency to discontinue the project if it finds the business or nonprofit has falsified or withheld key information;
  - c) Certify that the project is safe to demonstrate;
  - d) State that the business or nonprofit organization indemnifies the state against any liability or damages that result from the project; and
  - e) State the costs to the state and provide the methodology used to determine those costs.

- 8) Authorizes the state to require the business or nonprofit organization to purchase insurance coverage necessary to cover the state's risk related to the project.
- 9) Provides that in supporting the implementation of a demonstration project, that the state:
  - a) Authorizes the temporary use of state-owned land, facilities, equipment, rights-of-way, or data that are reasonably necessary for the completion of the project;
  - b) Absorbs a portion of the costs to implement the demonstration project, in an amount not to exceed the anticipated benefits to the state of participating in the project;
  - c) Agrees to nondisclosure agreements relating to proprietary information that the state acquires from a business or nonprofit organization during the implementation of a partnership agreement; and
  - d) Performs a safety assessment of the project. The state agency may enter into a memorandum of understanding with a qualified state entity to provide the safety assessment. If the state agency has reason to believe that the project is unsafe or likely to cause any danger, the state agency shall discontinue the project.
- 10) Provides legislative intent that the state shall not seek to co-own or procure any share of the rights in the intellectual property that are developed during the participation period.
- 11) Authorizes GO-Biz to enter into partnerships with foundations and private sector sponsors for funding to implement this measure. GO-Biz may also enter into memorandum of understandings or interagency agreements to obtain technical, scientific or administrative services in furthering the objectives of the CalDemo Program.
- 12) Sunsets the CalDEMO Program on January 1, 2019.

EXISTING LAW establishes GO-Biz within the Governor's Office for the purpose of serving as the lead state entity for economic strategy and marketing of California on issues relating to business development, private sector investment and economic growth. GO-Biz also serves as the administrative oversight for the California Business Investment Service and the Office of the Small Business Advocate.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Author's Purpose: According to the author, "Small business assistance should be a core function of every state agency's mission, given that state agencies are required to have small business liaisons. However, serving small technology businesses requires a different set of tools that this bill will make available. The CalDEMO Act will directly aid small businesses in emerging technology fields by allowing the state to become a partner in the public demonstration of their innovations. Demonstrations will provide demonstrating firms experience engaging with a public agency, high profile public exposure for the innovation and innovator, and promote business development by absorbing some of the costs of demonstrations."

- 2) Drivers in California's Future Economy: For decades, California has been known as a place where innovation and creativity flourishes. A 2007 study on California's global competitiveness identified eight key dominant and emerging industry clusters including high-tech manufacturing, biotech and clean technologies. While the report found that the state was uniquely positioned to be a preferred global partner in the areas of innovation, science, and technology, the study also stated that California was facing significant challenges from a growing talent pool in other countries and the global redistribution of manufacturing abroad.

A number of emerging economies, including China, India, and Singapore, have already made significant investments in research and development, which resulted in attracting 54% of all foreign direct investment (FDI) in Asia. Emerging economies around the world have strived to become leaders in innovation and not merely "copycat" economies of the United States. With software and information technology services receiving the most FDI among all industry sectors, it is clear innovation-based companies will continue to drive local, state and global economies. As one Massachusetts Institute of Technology report states, "It is not out of the question that they [emerging economies] may soon be able to 'leapfrog' developed centers of innovation with new innovations of their own."

While these dynamics pose challenges to current leading technology centers, they also offer California new opportunities for collaboration and cooperation. The state is already engaged in a number of academic and research partnerships including agreements with Canada and Iceland on renewable energy and other clean technologies. AB 1646 proposes to take the state's commitment to its innovation based economy to another level by directly engaging with the business and nonprofit community in the testing and demonstration of new products, services and processes.

- 3) Case Study of Government as a Partner in Demonstrating New Technologies: In June 2008, the City of San Jose (City) adopted a framework for engaging in and evaluating public/private technology partnerships for the purpose of testing and demonstrating innovative products, services and processes. According to the City's website, these demonstration partnerships advance the community's goals related to obtaining a more robust and green economy, as well as making its ongoing operations more cost effective: "Through these partnerships, we hope to create new markets and new jobs or/and support existing local innovators; advance the City's Green Vision and Economic Development Strategy; and educate the public about innovative solutions."

Under the demonstration partnership agreements, the City allows businesses to temporarily utilize City owned land, facilities, equipment, rights-of-way and data in order to test innovative solutions at-scale. In some instances, the City provides financial assistance and/or absorbs some costs for project implementation. Another key program element is the ability for the business to request exemption from City policies.

Examples of the types of projects which the City has approved include street lighting, electrical charging stations and a range of energy efficiency pilots and demonstration projects. According to the City's demonstration program manager, the program has resulted in mutual benefits to both the companies who are able to demonstrate the efficacy of their technologies and the City. During the past few years, the manager reported that the City gained a better understanding of how technologies can be used to manage its operational

costs, lower carbon emissions through its everyday activities and more accurately gauge return on public investment.

One of the City's first demonstration projects provided for the installation of a Colomb electrical charging station across from City Hall. From this first station, installed in 2009, the company currently has stations in over 14 countries. This demonstration project also helped facilitate other key demonstration funding from the federal Department of Energy (approximately \$34 million) and the California Energy Commission (\$4 million) to help with the final installation of the equipment.

Other local governments in the Bay Area have adopted demonstration ordinances including the Town of Los Gatos, the County of Santa Clara and the City of Livermore. AB 1646 would create a similar state program for helping businesses and nonprofit organizations test and otherwise demonstrate innovative products, solutions and processes at scale. Members may want to consider how a similar state demonstration program could be integrated into this growing network of local demonstration programs.

- 4) Technology Commercialization Programs: California faces competition from other countries and states. While previously the state was the clear leader in global innovation and technology, the past decade has seen other regions make significant strides that can now support technology based industries. As an example, China and Germany have both surpassed California as the leaders in equity capital for solar. Below are two examples of programs from other states designed to support a vibrant and continually innovating business sector:
  - a) *The Utah Technology Commercialization & Innovation Program*: The purpose of the Technology Commercialization & Innovation Program (TCIP) is to accelerate the commercialization of promising technologies that have strategic value for Utah. The end goal of the TCIP Program is to help drive economic development and job creation. The program is a state funded grant program initially adopted by the Utah Legislature in 1986 and focuses on accelerating the process of taking university-developed cutting-edge technologies to market.
  - b) *The Massachusetts START Program*: In March 2012, the Massachusetts Technology Development Corporation announced the launch of a \$6 million initiative to help startups commercialize technologies developed under federal Small Business Innovation Research grants. As designed, the START program will provide financial support, as well as coaching, business planning and introductions to potential investors.
- 5) Expansion of GO-Biz and Reorganization: On March 30, 2012, the Governor submitted a reorganization plan to the Little Hoover Commission, which proposes to dismantle the Business, Transportation and Housing Agency (BTH) and the State and Consumer Services Agency (SCS). Existing programs are generally moved to other state entities. Overall, the number of state agencies is reduced from 12 to 10.

The economic development programs at BTH are proposed to be transferred to GO-Biz including: the Small Business Loan Guarantee Program; the California Travel and Tourism Commission; the California Film Commission; the Film California First Program; and the Infrastructure and Economic Development Bank.

The Little Hoover Commission has 30 days to analyze the reorganization plan and submit its recommendations to the Governor and Legislature. The Legislature then has 60 days to consider the plan. The plan goes into effect unless the Legislature takes an action to disapprove the plan with a majority of the Members in each house voting.

- 6) Amendments: Committee staff have proposed technical amendments to the author.
- 7) Related Legislation: The following is a list of bills related to this measure from the current and prior sessions.
  - a) AB 29 (John A. Pérez) – Codification of GO-Biz: This bill establishes the 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. Status: The bill was signed by the Governor, Chapter 475, Statutes of 2011.
  - b) AB 2506 (V. Manuel Pérez) – Innovation and Job Creation Act: This bill authorizes a comprehensive set of enhancements to tax incentive programs and administrative procedures including a manufacturing sales tax exemption, increased R&D credits and secondary education donation credits for the purpose of creating jobs and supporting innovation-based businesses. Status: The bill is pending in the Assembly Committee on Business, Professions and Consumer Protection.
  - c) AB 2711 (Portantino, Arambula, Price and Salas) – State Technology and Innovation Strategy: This bill would have required the Secretary of the Business, Transportation and Housing Agency to develop a comprehensive state technology and innovation strategy to guide future state expenditures and activities. Status: The bill was held under submission in the Assembly Committee on Appropriations in 2008.

#### REGISTERED SUPPORT / OPPOSITION:

##### Support

Silicon Valley Leadership Group  
Switch Lighting  
Tech America

##### Opposition

None Received

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