Date of Hearing: April 5, 2016

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY
Eduardo Garcia, Chair
AB 2841 (Travis Allen) – As Introduced February 19, 2016

**SUBJECT**: State infrastructure financing for seaports

**SUMMARY**: Establishes a process by which a harbor agency can monetize the future financial value of installing and operating a port using technology and processes that result in zero and near zero emissions. This valuation would be used to establish the amount of a state appropriation that would be used by the harbor agency to pay for part or all of those improvements. Specifically, **this bill**:

1) Includes legislative intent that states, among other things, the following:

   a) The primary purpose of this act is to help finance the infrastructure necessary to support the introduction and expanded use of zero-emission and near-zero-emission equipment at California's public port facilities.

   b) The statewide interest in the need to continually invest in California's public port infrastructure is predicated on the fact that California's public seaports and the international trade they facilitate are critical components of the state economy.

   c) The state's public ports and port infrastructure facilities support the export and import of cargo to or from distribution, manufacturing, fabrication, assembly, processing, transloading, and warehousing sites in California. As such, these facilities are essential to the growth of the state's economic well-being and the ability of businesses and workers associated with trade-related industries to continue to compete cost-effectively on a regional, national, and global scale.

   d) Given the statewide significance of the ports' economic importance, the cost of infrastructure upgrades/replacement, and the state's interest in reducing mobile source emissions from the freight sector and supply chain, the state has a paramount interest in creating incentives that will precipitate early investment by the industry in the newest generation of zero-emission and near-zero-emission equipment at marine terminals and port facilities.

2) The Legislature further finds and declares, among other things, the following:

   a) It is equitable and in the public interest to provide alternative procedures for financing public works and services needed to support new commercial, environmental, and industrial development in the state's seaports and harbors that would generate significant new employment opportunities and economic development, increase state and local tax revenues, enhance seaport competitiveness in the international trade community, reduce congestion and delay in the supply chain, and result in improved environmental quality.

   b) Except as authorized in this bill, seaports and harbors in California generally do not levy or expend any funds generated by local taxes, as most of their operations are funded directly through fees, tariffs, leases, and other revenue the seaports and harbors generate from their users and tenants, in addition to the occasional state or federal grant.

   c) There is significant opportunity for development and investment in our state's seaports and harbors and in their transition to operations that are characterized by the use of new zero-emission and near-zero-emission equipment and supporting infrastructure. However, the state lacks the public infrastructure funding necessary to support all of the new development and investment that are demanded.

d) In addition to a lack of public infrastructure funding, the state's waterfronts have infrastructure and environmental needs that cannot be met by private investment alone, and therefore creative public financing mechanisms need to be developed.

e) The absence of practical and equitable methods for state financing of public works, like the development of seaport infrastructure that is a matter of statewide significance, leads to a declining standard of seaport infrastructure, a failure to construct new public structures and facilities needed to support new commercial and industrial development in our seaports and harbors, increased congestion, and a lack of tools to facilitate environmental improvements, including the transition to zero-emission and near-zero-emission equipment and supporting infrastructure.

3) Specifies that the Legislature further finds and declares, among other things, the following:

a) The ability to capture future tax increment revenues to finance needed seaport and harbor infrastructure projects will provide direct benefits to the state.

b) A seaport frequently generates large state tax benefits directly and indirectly as a result of the economic activity that is generated from its maritime operations and other economic development efforts.

c) Investments by a seaport and its industry partners in environmental improvements generate long-term state benefits and reduction in public costs with respect to the reduction of greenhouse gases, criteria pollutants, projected public health impacts, and overall improvements in the quality of life of Californians.

d) The potential for increases in state tax revenues and decreases in costs to the state that will result from the improvement of seaport and harbor infrastructure and investment in environmental improvements should be incentivized and leveraged through state financing, whenever possible, which supports the state's significant interest in the successful operation of its seaports and harbors.

e) Specifies that it is the further intent of the Legislature, that seaport infrastructure financing be developed pursuant to bill in a manner that improves public port assets, infrastructure, and operations and achieves the public goals of improving the state's waterborne commerce, enhancing economic prosperity, and financing the costs of environmental mitigation and improvement.

4) Authorizes a harbor agency to prepare a proposed financing plan for a project to be submitted to the I-Bank, as specified. The bill requires the legislative body of the project sponsor to adopt findings, by resolution, as those required for funding from the Infrastructure State Revolving Fund (ISRF), as well as including the following information:

a) The type of infrastructure development or equipment purchase to be financed through the proceeds of the proposed financing;

b) The state fiscal and economic impacts forecast, as specified in number 5;

c) A finding that the project to be financed is consistent with the state tidelands trust and the terms and conditions of any grant of trust lands to the harbor agency, if the harbor agency is acting on granted lands. A copy of this finding is required to be forwarded by the harbor agency to the State Lands Commission; and

d) A finding that the project to be financed is consistent with its charter and the statewide interests in the operation of harbors and port, if the harbor agency was formed pursuant to this code.

5) Requires a harbor agency to adopt a resolution which sets forth estimates of the state fiscal and economic impacts that will result from the project. The resolution is to be based on an economic impact report which the harbor agency obtains from a third-party economist, as specified. The content of the resolution is required to include, but not be limited to:

   a) The total direct and indirect state tax revenues generated by the impact of the infrastructure development or equipment purchase to be financed through the bank;

   b) The total direct and indirect state general fund and special fund expenditure savings generated by the impact of the infrastructure development or equipment purchase to be financed through the bank;

   c) The total local tax and user fee revenues generated by the infrastructure development or equipment purchase to be financed through the bank; and

   d) The total jobs created by the infrastructure development or equipment purchase to be financed through the bank, including the specific impact of the financing on the employment of California residents.

6) Prohibits the I-Bank from requiring a harbor agency to prepare a report or adopt a resolution except at its discretion prior to submission of a proposed financing plan for a project.

7) Requires the I-Bank to consider each submitted proposed financing plan and either approve, require a modification of, or deny the proposed financing. When considering approval of financing for a project, the I-Bank is directed to:

   a) Review the proposed financing plan for the project; and

   b) Review the methodology and projections made in the economic impact report, which have become the basis of the resolution submitted as the financing plan.

8) Requires the I-Bank to approve financing for a project if, after conducting its own evaluation of a harbor agency's methodology, it can make the finding that the execution of the project is more likely than not to result in the outcomes projected by the harbor agency.

9) Prohibits the I-Bank to approve financing for a project if the State Lands Commission objects to a finding made by a harbor agency in its resolution, as specified.

10) Requires, for any project approved, that the I-Bank submit a request to the Assembly Budget Committee and the Senate Committee on Budget and Fiscal Review for an appropriation in the following fiscal year in an amount equal to or less than the total estimated state tax revenues and state general fund savings approved by the I-Bank.

11) Limits the I-Bank from underwriting the project financing to only those instances where there has been an appropriation by the Legislature of funds for that purpose.

12) Requires the harbor agency to reimburse the administrative expenses or direct operating expenses that are incurred by the I-Bank as the direct result of the consideration, review, and processing of the proposed financing of a project.

13) Provides that to the extent there are conflicts between a provision of this bill [contained within Chapter 4. The State Infrastructure Financing for Seaports] and any provision of the seaport infrastructure financing district, the provisions of this bill shall prevail.

14) Provides that all permanent fixtures and capital improvements to the real property of a harbor agency that administers public trust tidelands financed through this bill are to be a trust asset once completed. Fixtures and improvements are exempted from this requirement if they are otherwise agreed to be nonpermanent in a lease between the harbor agency and a private tenant.

15) Provides that nothing in this chapter prohibits a harbor agency from submitting a proposed financing plan for a project on behalf of a tenant or for the purchase of equipment to be owned and operated by a tenant, if the assets are owned, maintained, and used exclusively in California and, upon the cessation of the lease, ownership and control of the assets shall revert to the harbor agency on terms enforceable by contract between the harbor agency and the tenant.

**EXISTING LAW**:

1) Authorizes cities and counties to create infrastructure financing districts (IFDs) and issue bonds to pay for community scale public works: highways, transit, water systems, sewer projects, flood control, child care facilities, libraries, parks, and solid waste facilities. To repay the bonds, IFDs can divert property tax increment revenues, which are revenues generated from increases in property values within the IFD above property values in the base-year when the IFD was formed. However, IFDs can’t divert property tax increment revenues from schools

2) Authorizes cities and counties to create Enhanced Infrastructure Financing Districts (EIFDs), which augment the tax increment financing powers that are available to local government under the IFD statutes. City or county officials can create an EIFD, which is governed by a public finance authority, to finance public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community

3) Authorizes cities and counties to establish Seaport Infrastructure Financing Districts, which is similar to an EIFD, for the purpose of financing port or harbor infrastructure, including any capital improvement that improves environmental quality, if the improvement’s primary or predominant use directly benefits a port or harbor..

4) Establishes the I-Bank within the Governor's Office of Business and Economic Development (GO-Biz) and authorizes it to undertake a variety of infrastructure related financial activities including, but not limited to, the administration of a revolving loan fund, oversight of the Small Business Finance Center, and the issuance of tax-exempt and taxable revenue bonds.

5) Requires, prior to the submittal of a project to the I-Bank for consideration, the legislative body of the project sponsor to make specified findings, by resolution, on each of the following:

a) The project is consistent with the general plan of both the city and county, or city and county in the case of San Francisco, or only the county for projects in unincorporated areas in which the project is located.

b) The proposed financing is appropriate for the specific project.

c) The project facilitates effective and efficient use of existing and future public resources so as to promote both economic development and conservation of natural resources. The project develops and enhances public infrastructure in a manner that will attract, create, and sustain long-term employment opportunities.

d) The project is consistent with the criteria, priorities, and guidelines for the selection of projects adopted of the I-Bank.

**FISCAL EFFECT**: Unknown

**POLICY ISSUE FRAME**

While trade related industries play a primary role in California's economy, this important source of jobs and state GDP also results in significant environmental impacts. The state is currently in the process of developing a plan to transition the state's logistic and goods movement network to zero and near zero emissions. Research shows that the state's ports and transportation sector have already made substantial progress toward reducing emissions. Achieving this next level of emission reductions, however, will require a reasonable means to finance and deploy clean and zero emission technologies at a much broader scale than today.

This transition is particularly challenging in that it will require operational and technology changes across a wide array of highly interdependent transportation, logistic, manufacturing, and related business and publically-owned enterprises. The timing and technology shifts will need to be coordinated and provide for interoperability or the production and movement of goods will be jeopardized. Public resources, like California's seaports, play a crucial role in this transition and cannot afford to lag in adaption and upgrade of facilities.

This measure provides an innovative method for financing key infrastructure and operational improvements. The analysis includes background on the state's efforts toward a more sustainable freight movement strategy, costs of the proposed actions, mechanics of the economic impact report, and the importance of trade to the California economy. Amendments are discussed in Comments #5 and #6.

**COMMENTS**:

1) **Author Purpose**: According to the author, “AB 2841 creates a new public financing program to encourage future investments in infrastructure at California’s public seaports to be administered by the state Infrastructure Bank. Incentivizing these infrastructure improvements will lower operating expenses, which in turn will help to preserve our ports’ economic competitive position or usher in new the use of clean technologies sooner than otherwise feasible."

2) **Moving toward a Sustainable Freight Plan**: In July 2015, Governor Brown issued Executive Order B-32-15 which called for the development of an integrated plan to improve freight efficiency, transition to zero-emission technologies, and increase competitiveness of California’s freight system. The mandated new action plan, referred to as the *California Sustainable Freight Action Plan*, is due

by July 2016 and is required to identify state policies, programs, and investments that can be made in order to achieve these zero-emission targets.

According to an Air Resources Board (ARB) policy-related document, a key step toward California achieving its air quality, climate, and sustainability goals, is transiting to a zero emission transportation system. While the state's freight transport system serves as an economic engine, it also accounts for about half of toxic diesel particulate matter (diesel PM), 45% of the emissions of nitrogen oxides (NOx) that form ozone and fine particulate matter in the atmosphere, and 6% of the greenhouse gas (GHG) emissions in California.

Addressing these environmental challenges will require policy and financial solutions that include trucks, ships, locomotives, aircraft, harborcraft, and all types of equipment used to move freight at seaports, airports, railyards, warehouses and distribution centers. This more efficient, zero and near zero emission freight system will demand both new equipment and fuels, but also new transportation infrastructure, communications, and industry operating practices. New technologies will also play an important role in increasing system efficiency, including computerized logistics systems and technologies to physically move containers and trucks.

Current financing options call for substantial new investments in public and private funds, as well as new regulatory and other programs to encourage and mandate zero emission and other clean technology development and deployment. The scale of the currently proposed public funds appears to be nowhere near the anticipated costs. It is also problematic for public and private entities to take on significant new debt or make expenditures for activities that result in no new revenues and potentially result in lower revenues in the short-run.

**Chart 1** displays the estimated capital and operational expenditures for the container terminals at the ports of Los Angeles, Long Beach, and Oakland in order to achieve the zero and near zero emission goals. This data is from a technical memorandum prepared by Moffatt and Nichol, which was developed at the behest of the Pacific Merchant Shipping Association.

**Chart 1 - Capital and Operational Costs for Los Angeles, Long Beach, and Oakland Ports Achieving Zero and Near Zero Emissions**

| Action | Term | Funding | Increased Funding |
|---|---|---|---|
| **Zero/Near Zero Emission Technology Capital Cost Comparison** | | | |
| Replacement of current conventional terminal operating equipment and associated infrastructure in the normal course of business | Over 30 years | $7 billion | -- |
| Replacement of current equipment with zero emission or near zero emission equipment and supporting infrastructure. | *Not Set* | $23 billion | $16 billion |
| Replacement of current equipment with electrified high-density stacking equipment and supporting infrastructure. | *Not Set* | $35 billion | $28 billion |
| **Zero/Near Emission Technology Operational Expenditure Comparison** | | | |

| | | | |
|---|---|---|---|
| Operational Expenditures to maintain and operate current conventional terminal equipment | Over 30 years | $239 billion | -- |
| Maintenance and operation costs for zero and near zero emission electrification equipment. | Not Set | $284 billion | $45 billion |
| Maintenance and operation costs for zero and near zero emission electrification equipment. | Not set | $260 billion | $21 billion |
| Moffatt and Nichol on behalf of the Pacific Merchant Shipping Association | | | |

State agencies and departments assisting the development of the *California Sustainable Freight Action Plan* include the: California State Transportation Agency; California Environmental Protection Agency; Natural Resources Agency California Air Resources Board; California Department of Transportation; California Energy Commission; and the Governor's Office of Business and Economic Development. Meetings and other outreach events are scheduled by the various state entities for this Spring.

It will be challenging to develop and successfully implement a *California Sustainable Freight Action Plan* that can achieve the dual mandates of transitioning to zero-emission technologies, while also increasing competitiveness of California's freight system. AB 2841 could be an innovative tool for front-loading the financing and provide the needed foundation from which other elements of the state's transportation and logistics networks could transition.

3) **Economic Impact Report**: The central feature of the AB 2841 process is the development of the economic impact report. This is the document that establishes project valuation. After reviewing the econmic impact report, the I-Bank will be asked to certify the future economic value to the state for the specified development project and/or equipment purchase to be placed into service. This economic value becomes the basis for a state appropriation.

Key elements of the future economic value is based on the amount of direct and indirect:

- State tax revenues generated by the project or equipment upgrade;
- General Fund and Special Fund savings which accrue to the state;
- Local taxes and user fee revenues generated by the project or equipment upgrade; and
- Jobs created in the development and use of the infrastructure and equipment purchase.

The bill requires that the econmic impact analysis be prepared by a third-party economist, who uses a nationally recognized methodology. Prior to the submittal to the I-Bank, the economic impact report and methodology are required to be peer reviewed by an independent party.

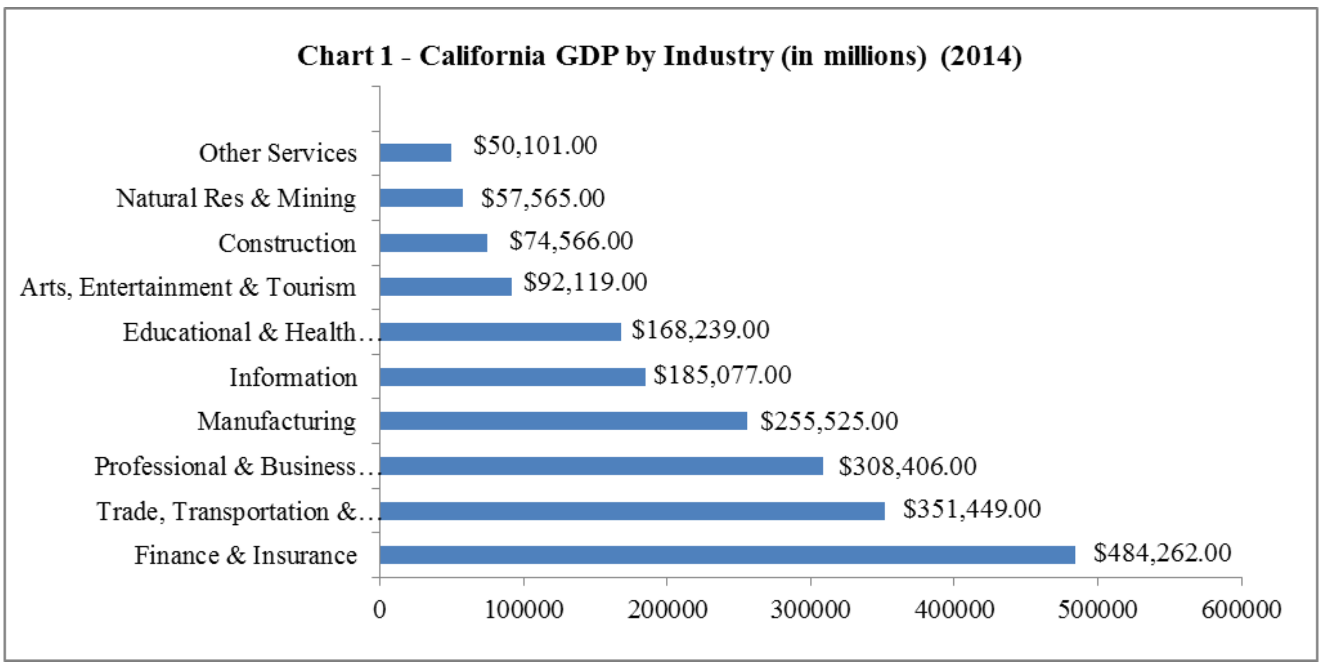
4) **Profile of California's Trade Dominated Economy**: California is home to over 39 million people, providing the state with one of the most diverse populations in the world, often comprising the single largest concentration of nationals outside their native country. In 2014, this diverse group of business owners and workers produced $2.3 trillion in goods and services; $174.1 billion of which were exported to over 220 countries around the world.

If California were a country, its 2014 GDP would place it 8th among nations, ranking as follows: United States ($17.41 trillion), China ($10.38 trillion), Japan ($4.61 trillion), Germany ($3.86 trillion), France ($2.84 trillion), Brazil ($2.35 trillion), California ($2.31 trillion); Italy ($2.14 trillion), India ($2.05 trillion), and Russia ($1.85 trillion). *The Department of Finance will not release 2015 GDP for California until June 2016, so for comparisons 2014 data is being used.*

Historically, a number of factors have contributed to California's significant positon within the global marketplace, including its strategic west coast location, the size of its consumer base, the strength of its dominant industry sectors, its economically diverse regional economies, its skilled workforce, and its culture of innovation and entrepreneurship, particularly in the area of technology. California's 29 million working age individuals comprise the single largest workforce in the nation, are comparatively younger, and have an educational achievement level above the national average.

Many policy makers and economists describe California as having not a single economy, but having a highly integrated network of a dozen or so regional economies. While biotech has a comparative advantage in some regions, information technology drives growth in others. This economic diversity contributed to California's ability to aggressively move out of the recession, ranking number two in the nation by *Business Insider* for fastest growing economy in the nation in August 2014 and being named as having the fourth best overall economy in March 2015.

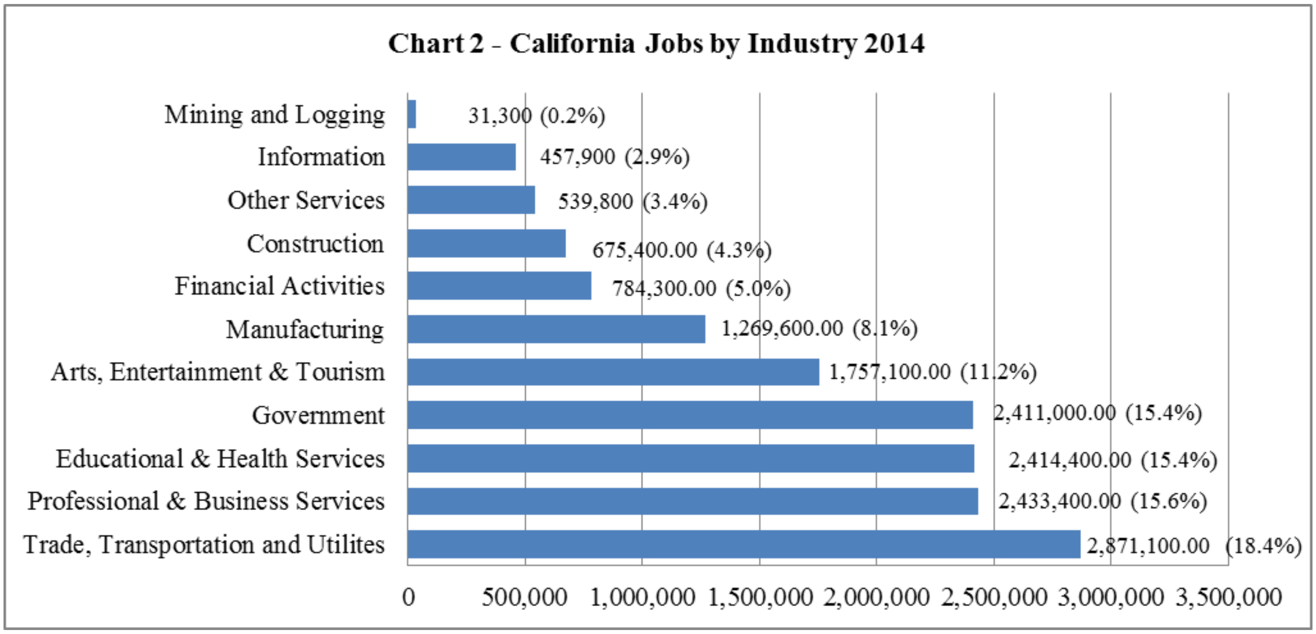
***Chart 1*** displays information from the U.S. Census Bureau on California's private industry sectors based on its contribution to the state's GDP. In 2014, the finance and insurance sector provided the largest economic contribution to the state's overall GDP, $484 billion of the $2.3 trillion. Firms in this industry sector include entities that raise funds, pool risk, and facilitate financial transactions




including real estate.

***Chart 2***, developed using data provided by the California Employment Development Department, shows California's largest industry sectors based on employment. In 2014, the ***trade, transportation, and utilities sector was largest***, employing 2.8 million (18.4% of California jobs). Jobs in this sector also support employment in other industry sectors including Manufacturing (8.1%), Professional Services (15.6%), and Financial Activities (5.0%).

Many of the jobs associated with these major industry sectors are also associated with high wages. Manufacturing is considered the "gold standard" for jobs because of its high wages, inclusion of small businesses within its global supply chains, and having a high multiplier effect on related jobs. The Milken Institute estimates that for every job created in manufacturing, 2.5 jobs are created in other sectors. In some industry sectors, such as electronic computer manufacturing, the multiplier effect is 16:1.




Advances in transportation and communication technologies are encouraging the development of previously undeveloped markets and expanding multinational business opportunities for California firms. Today, four of California's top five exports include component parts, which leave the state to be assembled and/or partially assembled before returning.

These trade related industry sectors comprise a majority of what EDD has designated as the state's "economic base" sectors, which include professional services, manufacturing, and transportation, among others. Employment in these economic base industries represents 37.3% of the state's total employment, and employment growth within these sectors grew at twice the pace of the overall state economy between 2010 to 2012.

5) **Suggested Amendments**: Committee staff have worked with the author and the sponsor on amendments to clarify the purposes of the bill. Amendments will be presented at the hearing, which do the following:

- Clarify that the role of the I-Bank is to establish a project valuation for the purpose of appropriating funds to allow the harbor agency, including their tenants, to undertake infrastructure projects and make equipment purchases that support the operation of the port in a manner that results in zero emission and near-zero emissions.
- Clarify the requirements of the economic impact report and peer review.
- Modify the appropriation process by having the I-Bank refer the valuation to the Department of Finance for inclusion in the Governor's proposed budget for the following fiscal year. The current bill has the I-Bank providing notice to the Legislature.

- Address technical issues raised by the State Lands Commission.

6) **Applying an Equity Application Analysis**: The Assembly Committee on Jobs, Economic Development, and the Economy held a hearing in November 2015 to consider the growing income inequality and to examine ways in which the state could support a more inclusive economy. One of the primary recommendations from the hearing was the application of an Equity Analysis, on new programs and major state expenditures. At this stage in the bill process, it is difficult to fully assess its equity impacts. Committee staff will continue to monitor the bill and provide an Equity Application Analysis when it goes to the Assembly Floor. The bill would, however, be strengthened if public health impacts, particularly those in the very low-income neighborhoods immediately adjacent to the ports, were considered in the economic impact report.

7) **Related Legislation**: Below is a list of the related bills.

   a) ***AB 2 (Alejo and E. Garcia) Community Revitalization and Investment Authorities***: This bill authorizes the establishment of a Community Revitalization and Investment Authority and use of the property tax increment revenues to finance economic development and affordable housing programs within a specified community revitalization and investment area. Eligible areas are limited to those that have an annual median household income that is less than 80% of the statewide annual median income and meet three of the following four conditions:

      i) Nonseasonal unemployment that is at least 3% higher than the statewide median, as defined by a specified labor market report;

      ii) Crimes rates that are 5% higher than the statewide median crime rate, as defined by a specified Department of Justice report;

      iii) Deteriorated or inadequate infrastructure; and

      iv) Deteriorated commercial or residential structures.

      Status: Signed by the Governor, Chapter 319, Statutes of 2015

   b) ***SB 63 (Hall) Seaport Infrastructure Districts***: This bill authorizes cities and counties to establish Seaport Infrastructure Financing Districts and allows these districts to finance certain port or harbor facilities, as specified. Status: Signed by the Governor, Chapter 793, Statutes of 2015.

   c) ***SB 628 (Beall) Enhanced Infrastructure Financing Districts***: This bill authorizes local officials to create Enhanced Infrastructure Financing Districts (EIFDs), which augment the tax increment financing powers that are available to local government under the IFD statutes. City or county officials can create an EIFD, which is governed by a public finance authority, to finance public capital facilities or other specified projects of communitywide significance that provide significant benefits to the district or the surrounding community. Status: Signed by the Governor, Chapter 785, Statutes of 2014.

   d) ***SB 308 (Seymour) Infrastructure Financing Districts***: This bill authorizes cities and counties to create infrastructure financing districts (IFDs) and issue bonds to pay for community scale public works: highways, transit, water systems, sewer projects, flood control, child care facilities, libraries, parks, and solid waste facilities. To repay the bonds, IFDs can divert property tax increment revenues, which are revenues generated from increases in property values within the IFD above property values in the base-year when the IFD was formed. However, IFDs can’t divert property tax increment revenues from schools. Signed by the Governor, Chapter 1575, Statutes of 1990.

7) **Double Referral**: This measure has been double referred to the Assembly Committee on Jobs, Economic Development, and the Economy and the Assembly Committee on Local Government (LG). Should this measure pass JEDE, it will be referred to LG for further policy consideration.

**REGISTERED SUPPORT / OPPOSITION**:

**Support**

Pacific Merchant Shipping Association (sponsor)

**Opposition**

None Received

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