

Date of Hearing: April 21, 2015

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY

Eduardo Garcia, Chair

AB 826 (Chau) – As Introduced February 26, 2015

**SUBJECT:** Economic development: foreign trade: foreign and domestic investors

**SUMMARY:** Strengthens the statutory framework for Governor's Office of Business and Economic Development (GO-Biz') engagement on issues related to California's position within the global economy. Specifically, **this bill:**

- 1) Expands the role of the California Business Investment Services Program, which is administered through GO-Biz, to include attracting foreign and domestic investors.
- 2) Provides a definition of an EB-5 regional center to mean an entity designated by the U.S. Citizenship and Immigration Services for the purpose of pooling EB-5 capital from multiple foreign investors in economic development projects in a defined geographic region.
- 3) Requires GO-Biz to include a web-link to regional centers operating within the state on its official website. Existing law already requires contract information be provided to the extent available.

**EXISTING LAW:**

- 1) Establishes the GO-Biz to serve as the state's primary agency for issues of economic and business development. Among other entities within GO-Biz' oversight are the California Business Investment Services Program, the Office of the Small Business Advocate, the International Trade and Investment Program, and the California Infrastructure and Economic Development Bank.
- 2) Establishes the California Business Investment Services Program within GO-Biz to serve employers, corporate executives, business owners, and site location consultants who are considering California for a business relocation or expansion.
- 3) 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.
- 4) Establishes the California Foreign Investment Program within GO-Biz to oversee the state's participation in the federal EB-5 foreign investment visa program. Among other things, this office sets the terms and conditions regarding the designation of targeted employment areas, as related to the EB-5 visas.

**FISCAL EFFECT:** Unknown

**POLICY ISSUE FRAMEWORK**

California's \$2.2 trillion economy naturally functions as an independent economic power within the global economy. Compared to other nations, the state's economy consistently ranks in the top 10 in the world. Among other advantages are the state's demonstrated ability to serve as a top-tier trade partner, a

best-in-class investment location, a high quality producer of goods and services, and the home and key access point for a massive consumer-base.

This bill enhances the statutory mission of the California Businesses Investment Services Program by adding investors to the range of economic development stakeholders who are encouraged to seek its services. Under current law, the program's activities have primarily focused on business development. This bill expands that focus and highlights the importance of foreign and domestic investors to the state's continued economic growth.

The Comment section of the analysis includes additional information on the structure and role of GO-Biz, the EB-5 immigrant investor program, and California's role within the evolving global economy.

#### COMMENTS:

- 1) **Author's Purpose:** According to the author's statement, "In recent years, there has been a national growth of EB-5 investment as a source of investment capital for economic development. EB-5 investment accounted for \$6.5 billion in capital investment and contributed to over 131,000 U.S. jobs from fiscal years 2005-2013. With current efforts on Capitol Hill to make the EB-5 program permanent, state and local efforts to attract EB-5 investment is sure to grow as well.

The Governor's Office of Business and Economic Development (Go Biz) has laid out a clear vision in their International Trade and Investment Strategy (2014) to 'expand international trade and foreign investment'. The Strategy noted that while California is leading the nation in attracting foreign investment, we are at risk to losing this investment to other states. The EB-5 program as a tool to induce foreign investment is no exception. States like Vermont, Michigan, Washington, and others are actively seeking to attract EB-5 investment.

The significance of the EB-5 program merits further exploration, analysis, and investment on the part of the legislature and state to realize this opportunity for the future of all Californians."

- 2) **The Governor's Office of Business and Economic Development:** In April 2010, the Governor's Office of Business and Economic Development was established 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. [AB 29 (John A. Pérez), Chapter 475, Statutes of 2010] In 2014, GO-Biz assisted over 7,500 companies. This number includes assistance provided by the six GO-Biz service units: California Business Investment Services, Permit Assistance, the Office of the Small Business Advocate, International Affairs and Business Development, the California Competes Tax Credit Program, and the Innovation and Entrepreneurship Program.

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 and the state international trade investment program. GO-Biz also oversees the Office of the Small Business Advocate, who advocates for and provides key information to small businesses.

The Governor's 2012 reorganization plan (GRP2), further aligned the state's economic development-related administrative structure. Key changes included dismantling of the Business, Transportation and Housing Agency (BTH) and the shifting of a number of programs and services 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 California Infrastructure and Economic Development Bank.

AB 826 expands the role of the Business Investment Services Program, which currently serves as the primary point of contact for businesses looking to relocate or expand their business in California. Services are provided without cost to the business. Working through a statewide network of regional and local entities, GO-Biz is able to develop information packets individualized to the needs of each business. Among other things, businesses can obtain information on available tax credits, financial assistance and loan programs, local workforce skills, transportation and infrastructure, and economic and demographic data.

The seven staff members are available to meet with businesses throughout the state, with Senior Business Development Specialists assigned to the Bay Area and the Sacramento, Los Angeles, and San Diego regions.

AB 826 updates statute to reflect the dual development objectives of investment capital and business development. The purposes of AB 826 are consistent with the growing deployment of EB-5 investment dollars and new investment activities by sovereign wealth funds, institutional investors, and impact investment funds.

- 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. Below is a chart displaying for the top three EB-5 destination states for federal fiscal year 2013.

<b>EB-5 Immigrant Investor Visa Benefits 2013</b>					
	Total EB-5 Investments	State/Local Jobs Supported	GDP Contributed	Federal Tax Revenue Contributed	State/Local tax Revenue Contributed
California	\$ 438 million	6,085	\$572 million	\$84.1 million	\$50.9 million
New York	\$379 million	6,024	\$543 million	\$84.7 million	\$53.8 million
Texas	\$174 million	2,737	\$208 million	\$32.2 million	\$7.2 million
<b>United States</b>	<b>\$1.9 billion</b>	<b>30,167</b>	<b>\$2.2 billion</b>	<b>\$380.9 million</b>	<b>\$199.4 million</b>

Data Source: Economic Impacts of the EB-5 Program Reports, as reported by IIUSA

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 \$1.0 million 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 (40% growth in value or jobs).

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 a Targeted Employment Area (TEA), 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, which is either outside of a metropolitan statistical area or outside the boundary of a town having a population under 20,000. 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 2013 state figures (most current) and a high unemployment rate defined as 11.1% or greater, California has 23 counties, 20 rural areas, 10 metropolitan statistical areas, and multiple cities in 30 counties that GO-Biz has 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 designates regional centers, where capital can be pooled from multiple EB-5 investors and used in larger scale projects. In 2014, nearly 600 new regional centers were certified by the USCIS. According to the USCIS website, there are over 160 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 826 will further link California economic activities with prospective immigrant investors, potentially providing millions of additional dollars for start-ups and business expansion.

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 2014, for the first time, all 10,000 visas were issued. In 2014, there was a 72% increase in the number of new immigrant petitions filed with the USCIS, representing 11,000 immigrant visa applications for \$5.5 billion in potential investment. More than 250 applications for regional centers were filed, representing a 34% increase over the prior fiscal year.

- 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 \$2.2 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 top 5 regions with the highest foreign owned and affiliated businesses are: Gateway Cities (796 establishments), South Bay-LAX (741 establishments), San Fernando Valley (725 establishments), San Gabriel Valley (698 establishments), and West Side (415 establishments). The top 5 cities with the highest concentration of foreign owned and affiliated businesses are Los Angeles (1591 establishments), Torrance (310 establishments), Long Beach (212 establishments), Santa Monica (134 establishments), and Pasadena (127 establishments).

The federal International Trade Administration estimates that in 2012 over 602,800 California workers benefit from jobs with foreign-owned firms, which accounts for 4.8% of all private sector jobs in the state. California has had the highest level of employment in foreign-owned firms in the nation 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 31st largest exporter in the world. Exports from California accounted for over 10.7% of total U.S. exports in goods, shipping to over 220 foreign destinations in 2014. California's land, sea, and air ports of entry serve as key international commercial gateways for products entering the country. California exported \$174.1 billion in goods in 2014 (up from \$168 billion in 2013), ranking only second to Texas with \$289 billion in export

goods. Computers and electronic products were California's top exports in 2014, accounting for 24.5% of all state exports, or \$42.7 billion.

2014 Exports From California to the World		
Product	Value	Percent
334 Computers & Electronic Prod.	\$42.7 billion	24.5 %
336 Transportation Equipment	\$18.7 billion	10.7 %
333 Machinery (except electrical)	\$14.9 billion	8.5 %
339 Misc. Manufacture Commodities	\$14.6 billion	8.4 %
325 Chemical Manufactures	\$14.0 billion	8.1%
111 Agricultural Products	\$13.5 billion	7.8 %
All Others	\$55.5 billion	31.9 %
Total	\$161 billion	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 \$25.4 billion (14.5%) in goods in 2014. The state's second and third largest trading partners are Canada and China with \$18.2 billion (10.4%) and \$16.0 billion (9.2%), respectively. Other top-ranking export destinations include Japan, South Korea, Hong Kong, Taiwan, Germany, the Netherlands, and India.

7) **Related Legislation:** Below is a list of bills from the current and prior sessions.

- a) **AB 337 (Allen) Economic Development: International Trade and Investment Strategy:** This bill adds specificity to the development and content of the state international trade and investment strategy (ITI Strategy), which is an existing report requirement of the Governor's Office of Business and Economic Development (GO-Biz). This bill requires the ITI Strategy to be based on current and emerging market conditions and the needs of investors, businesses, and workers. Specific new content requirements include the addition of a framework, which can be used by GO-Biz to evaluate the changing needs of business during the five-year term of the ITI Strategy. Status: Signed by the Governor, Chapter 776, Statutes of 2014.
- b) **AB 826 (Gipson) California Export Finance Office:** This bill would have re-established the California Export Finance Office within the California Infrastructure and Economic Development Bank. Status: Scheduled to be heard in the Assembly Committee on Jobs, Economic Development and the Economy on April 21, 2015.
- c) **AB 1067 (Medina) EB-5 Immigration Oversight:** This bill establishes the California Foreign Investment Program within GO-Biz to oversee the state’s participation in the federal EB-5 foreign investment visa program. Among other things, this office will set the terms and conditions regarding the designation of targeted employment areas, as related to the EB-5 visas. Status: Signed by the Governor, Chapter 535, Statutes of 2013.
- d) **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, 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, 2012.

- e) ***SB 460 (Price) International Trade Marketing and Promotion:*** This bill would have required the Secretary of the Business, Transportation and Housing Agency to convene a statewide business partnership for international trade marketing and promotion. Status: Held on the Suspense File of the Assembly Committee on Appropriations, 2011.
- f) ***SB 511 (Lieu) California Export Finance Office:*** This bill would have re-established the California Export Finance Office within the California Infrastructure and Economic Development Bank and required the Governor's Office of Business and Economic Development to convene a statewide business partnership to discuss the promotion and greater utilization of California ports. Status: Held on the Suspense File in the Assembly Committee on Appropriations, 2014.
- g) ***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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