Date of Hearing: April 9, 2013

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE ECONOMY
Jose Medina, Chair
AB 886 (Allen) – As Amended: March 21, 2013

SUBJECT: California Transportation Financing Authority: tax credit certificates for exporters and importers: income tax credit

SUMMARY: Establishes a five-year $500 million tax credit program for importers and exporters that increase cargo through California air and sea ports, hire additional staff, or incur capital costs at a California cargo facility. Specifically, this bill:

1) Makes findings and declarations relative to California's leadership in international trade, the need to do more in order to ensure the state's dominant trade position, and the appropriateness of establishing tax incentives to encourage trade through, and investment in, California ports.

2) Authorizes the California Transportation Financing Authority (Authority) to award a tax credit certificate to an importer or exporter of agricultural or manufacturing goods that demonstrates to the satisfaction of the Authority that, in a taxable year beginning in or after January 1, 2014, and before January 1, 2019, they met any of the following requirements:

   a) They increased the cargo value (airports) or cargo tonnage (all ports) by at least 5% over their cargo tonnage or value through California ports over the prior year, as specified.

   b) For importers or exporters who did not export in California in the prior year, they shipped cargo through California ports in excess of 400,000 tons or through airports of at least $250,000 in value.

   c) They have a net increase, as specified, in the number of qualified full-time employees hired in California during the taxable year.

   d) They incurred capital costs, as specified, for a cargo facility constructed in California during the taxable year.

3) Requires the Authority to develop procedures for awarding credits, administering the program and charging fees to cover administrative costs. Provides that the credit certificates will be awarded on a first-come-first-severed basis and that the credit certificates are nontransferable. For the purpose of receiving the fees, an account is established at the Treasurer's Office. The Authority is authorized to borrow funds to establish the program and use fee revenues for repayment.

4) Allows, for taxable years beginning on or after January 1, 2013 and before January 1, 2018, an import-export cargo tax credit, a hiring tax credit, and a cargo facility tax credit, under both the Personal Income Tax and the Corporation Tax Laws, to a taxpayer that has been awarded a tax credit certificate by the Authority. The carry forward of the credit value is limited to 10 years.

5) Limits the total amount of tax credit certificates to be awarded in each of the five calendar years to $100 million, for a total of $500 million. The bill also limits the aggregate amount of credits to $250,000 to the same taxpayer in the same year. Specifies that any portion of the authorized amount

not awarded in a calendar year may be awarded in a future calendar year ending before January 1, 2019.

6) Provides a specific formula for determining the allowable tax credit, based on either tons of exports or imports through a port, value of exports and imports through an airport, or a number of new employees.

   a) The credit amount certified by the authority would be calculated as $3.125 per ton of increased cargo flowing through the state's ports and $1,000 for each $10,000 increase in value of cargo flowing the state's airports.

   b) Increasing the number of qualified full-time employees hired in California during the taxable year, as specified. The credit amount certified by the authority would be calculated as $3,000 per additional qualified full-time employee.

   c) Capital expenditures to construct a cargo facility in California during a taxable year. The credit amount certified by the authority

7) Require the Authority to provide to the Franchise Tax Board (FTB) an electronic copy of each credit certificate awarded within 30 days of a certificate's issue date. The certificate would be required to include the date of issuance, amount of the credit, the type of credit awarded, and the name and taxpayer identification of the exporter or importer awarded the credit.

8) Requires the Authority to establish and implement audit procedures to verify that tax credit certificates were properly awarded consistent with the terms of this bill, cancel tax credit amounts that were erroneously awarded, and notify the FTB of any cancelled amounts.

9) Takes effect immediately as a tax levy.

EXISTING LAW

1) Allows various tax credits designed to provide tax relief for taxpayers who incur certain expenses or to influence behavior, including business practices and decisions.

2) Allows a depreciation deduction for the obsolescence or wear and tear of property used in the production of income or property used in a trade or business. The amount of the deduction is determined, in part, by the cost (or basis) of the property. Depreciable property includes equipment, machinery, vehicles, and buildings, but excludes land.

3) Allows a New Jobs Tax Credit for taxable years beginning on or after January 1, 2009, to qualified employers equal to $3,000 for each net increase in qualified full-time employees hired during the taxable year. The credit is limited to small businesses (i.e., taxpayers with 20 or fewer employees as of the last day of the preceding taxable year). The credit is capped at roughly $400 million for all taxable years.

FISCAL EFFECT: Unknown

COMMENTS:

1) Author's Purpose: According to the Author, "Due to the number of critical jobs tied to our ports, it is imperative that California position itself to compete with other states and countries as the global economy recovers and international trade begins to escalate. Jobs that may be lost to competitors will not easily be regained because of the impermeable nature of the infrastructure industry.

   California ports are the busiest seaports in the nation, handling approximately 45 percent of all the waterborne containerized cargo coming into the United States. California, however, must do more to ensure that California ports remain competitive, as the Gulf, East Coast, and Mexican ports work to attract business away from California seaports and competition intensifies after the expansion of the Panama Canal in 2015.

   This bill will stimulate the use of California ports by providing tax credits for exporters and importers who increase their cargo through California ports and airports, have a net increase in full-time employees hired in California or incur capital costs for a cargo facility in California. These tax credits will provide an increased incentive for port importation and exportation of goods which will stimulate the economy, create jobs, and keep California internationally competitive."

2) Framing the Policy Issue: This measure proposes a tax credit program for importers and exporters that increase their flow of products through California's ports, hire additional staff, or make capital improvements to port facilities. Given the importance of trade to California's economy, initiatives that support the continuing flow of agriculture and manufacturing products are useful.

   A policy question arises as to the fundamental role of the tax credits to businesses. Some have argued that tax expenditures should incent activities that would not otherwise occur, while others believe that credits allow businesses to retain cash, which can be reinvested in the business. Implementation of this bill advances the state through increased tax revenues, while helping importers and exporters to be able to retain revenues. The analysis provides additional information on California's trade economy, the challenges facing California's ports to remain competitive, and suggestions on improving the implementation of the program.

3) California's Trade Economy: California's $1.9 trillion economy naturally functions as an independent nation and is highly dependent on industry sectors that participate within the larger global economy. In fact, compared to other nations, California has one of the 10 largest economies in the world, due to it being 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. In 2012, California exported $161 billion in products to over 220 foreign countries. While California has been significantly impacted by the recession, exports continued to increase in almost every quarter from 2010 through 2012.

   It is estimated that one in five manufacturing jobs in California is related to trade. Goods movement supports employment, business profit, and state and local tax revenue. The logistics industry is responsible for hiring 73,000 workers. California businesses rely heavily on the state's ports and their related transportation systems to move manufactured goods. Firms rely on fast, flexible, and reliable shipping to link national and global supply chains and bring products to the retail market. Transportation breakdowns and congestion can idle entire global production networks.

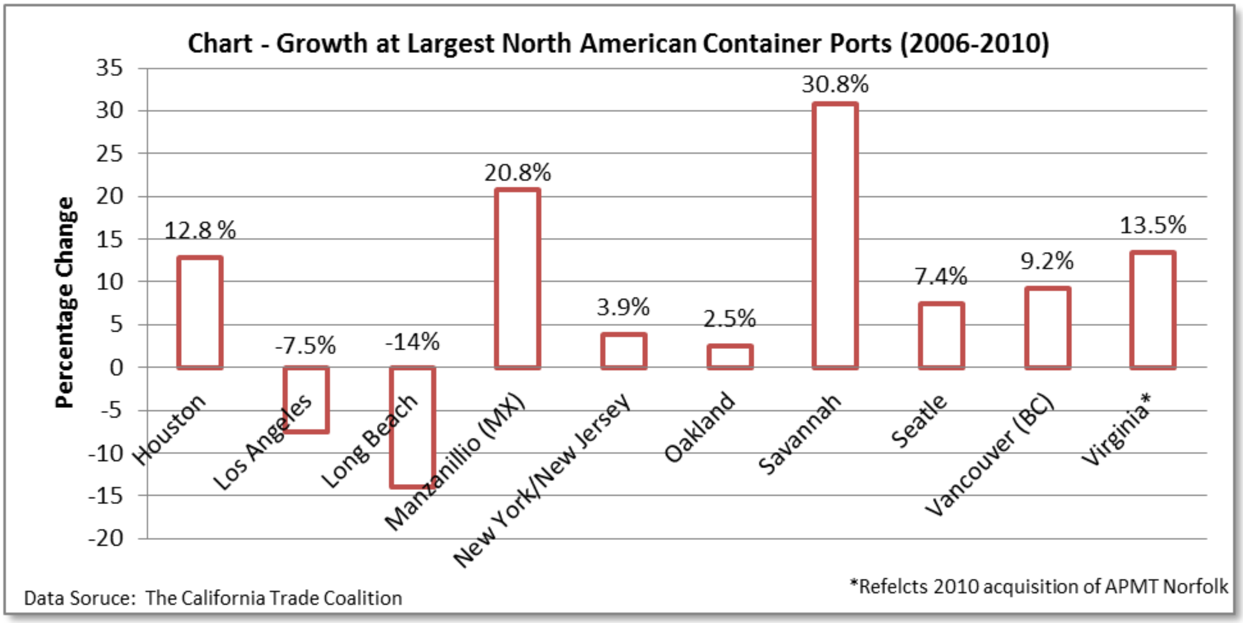
Changes in U.S. and global trade patterns since the enactment of the North American Free Trade Agreement and the continuing development of foreign markets place challenges on California's goods movement logistic network. These challenges are only expected to become greater as the rate of innovation within manufacturing, transportation, the communication technologies gets faster and the ability of multiple geographic locations to successfully use these technologies expands. California's historic and singular dominance is diminishing as the state's infrastructure, particularly as our port of entries fail to keep pace.

4) Doubling exports in five years: In January 2010, the President announced a national goal of doubling U.S. exports within five years, setting a 2015 target for U.S. exports of $3.14 trillion. In accomplishing this goal, the federal government will be proposing new programs, targeting existing trade related activities, and increasing funding and technical assistance within its current programs.

   Since the announcement of the new national goal at the start of 2010, exports from California were up $41 billion over 2009. For California, the second largest exporter of products in the U.S. and the largest receiver of foreign direct investment in the nation, this federal goal could result in significant new economic opportunities. California has already received nearly $4 million in federal funds to administer a state export assistance program for small businesses. In the President's 2013 State of the Union address he announced a trade agreement with the European Union. To the extent the national goal is even partially realized, California ports could face even greater pressure to perform. AB 886 will assist California in meeting this national goal.

5) California Ports: Nationally, the Port of Los Angeles continued to hold the top rank in terms of two-way trade in 2010 (valued at $237 billion). It is followed by JFK International Airport ($162 billion) and the port of Chicago ($135 billion). Data on California's other major ports are as follows: Long Beach ($89 billion, ranked 9th); LAX ($77 billion, ranked 12th); San Francisco International Airport ($50 billion, ranked 18th); Port of Oakland ($40 billion, ranked 25th); Otay Mesa Station ($31 billion); and Calexico-East ($10 billion).

   In terms of container activity, the Los Angeles-Long Beach container port ranked 6th globally, behind Shanghai, Singapore, Hong Kong, Shenzhen and Busan. Dollar value is just one way to look at goods movement in assessing trends; it is also important to look at growth. The chart below – Growth at Largest North American Container Ports, 2006-2010, shows that California ports are actually losing market share.



6) Capped and Allocated Programs: Caped and allocated tax expenditures can be an effective mechanism for controlling state costs, while still assisting targeted business development activities. In implementing a program, however, the state takes on higher level of responsibility. The bill may benefit from adding additional direction to the Authority relative to the administration of the program including, but not limited to, timelines for responding to credit certificate applications, reporting on outcomes, and the use of electronic filing certificate applications, and the issuance of certificates.

7) Related Legislation: Below is a list of related legislation from the current session:

a) *AB 1081 (Medina) Goods Movement-Related Infrastructure*: This bill Requires goods movement-related infrastructure to be included within the state five-year infrastructure plan and international trade and foreign investment strategy. Status: Scheduled to be heard in the Assembly Committee on Jobs, Economic Development and the Economy on April 9, 2013.

b) *AB 1137 (V. Manuel Pérez) Trade Promotion and Export Finance*: This bill makes a number of changes to programs designed to assist local communities and businesses, enhance the local business climate, and create jobs by increasing foreign trade and investment including providing authorizing the establishment of the California Trade Promotion and Export Finance Program, codifying the state's role in the EB-5 Program, and making technical corrections to the international free trade zone program. Held in the Senate Committee on Appropriations in 2012.

c) *AB 2656 (Calderon) Import and Export Tax Credit*: This bill would have authorized the Authority to award $500 million in tax credit certificates to exporters and importers, as defined, for the specified increases in cargo tonnage or value, net increases in the number of qualified full-time employees hired in California, or capital investment in a cargo facility. Status: Held in the Assembly Committee on Appropriations in 2012.

d) *AB 2687 (Bradford) Trade and Investment Credit*: This bill would have created a trade infrastructure investment tax credit and an import-export cargo tax credit for taxpayers that invest in and use public port facilities in California. Status: Held in the Assembly Committee on Appropriations in 2010.

e) *SB 810 (Price) Trade Tax Credit*: This bill This bill would have authorized the Authority to award $500 million in tax credit certificates to exporters and importers, as defined, for the specified increases in cargo tonnage or value, net increases in the number of qualified full-time employees hired in California, or capital investment in a cargo facility. Status: Scheduled to be heard in the Senate Committee on Transportation and Housing on April 16, 2013.

f) *SB 830 (Wright and Bradford) Trade and Investment Credit*: This bill would have created a trade infrastructure tax credit for taxpayers that invest in and use public port facilities in California. Status: Head in the Senate Committee on Governance and Finance in 2011.

2) Double Referral: This measure has been assigned to two policy committees for review by the Assembly Rules Committee. Should AB 886 pass the JEDE Committee, it will be referred to the Assembly Committee on Revenue and Taxation for further consideration.

REGISTERED SUPPORT / OPPOSITION:

Support

None received

Opposition

None received

Analysis Prepared by: Toni Symonds / J., E.D. & E. / (916) 319-2090