

Date of Hearing: January 9, 2018

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY

Sharon Quirk-Silva, Chair

AB 962 (Travis Allen) – As Amended March 28, 2017

**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 the reduction of mobile source emissions. This valuation is used to establish the amount of a future state appropriation.

Specifically, **this bill:**

- 1) **Specifies Purpose:** Specifies that the legislative purpose of this bill is to facilitate seaport infrastructure financing 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.
- 2) **Defines Project and Project Valuation:** Defines certain terms and requires that these definitions be used to interpret the requirements of this act. These terms include, but are not limited to:
  - a) "Proposed project valuation" means the economic impact of the proposed infrastructure development or equipment purchase, as demonstrated through an economic impact report, as determined by the requirements of this chapter and the criteria, priorities, and guidelines adopted by the bank; and
  - b) "Project" has the same meaning as used by the IBank, that being the "designing, acquiring, planning, permitting, entitling, constructing, improving, extending, restoring, financing, and generally developing public development facilities or economic development facilities within the state."
- 3) **Sets Adoption of Rules and Procedures:** Requires the IBank, after consulting with the appropriate state and local agencies, to establish criteria, priorities, and guidelines for the selection of projects to receive assistance under AB 962 provisions. Projects shall comply with the criteria, priorities, and guidelines adopted by the bank. The IBank is required to notify the Governor and related fiscal and policy committees of the Legislature of changes to the criteria, priorities, and guidelines.
- 4) **Requires Finding of Consistency with Charter:** Requires a harbor agency formed pursuant to the Harbors and Navigation Code, to make a finding that the project is consistent with its charter and the statewide interests in the operation of harbors and ports.
- 5) **Outlines Project Valuation Application:** Authorizes the IBank to accept applications for a proposed project valuation consistent with IBank adopted criteria, priorities, and guidelines. At a minimum, the application is required to include all of the following information:
  - a) The proposed infrastructure development or equipment purchases that are the subject of the proposed project valuation;

- b) A copy of the finding adopted by the harbor agency that the project is consistent with state tidelines trust, as specified;
  - c) A copy of the finding adopted by the harbor agency that the project is consistent with its charter, as specified; and
  - d) The state fiscal and economic impacts estimates developed pursuant to the provisions of this bill.
- 6) **Sets Economic Basis of the Project Valuation:** 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 required to be based on an economic impact report which is peer-reviewed and evaluated by an independent party who is without any financial association with the economist who completed the economic impact report and developed the economic methodology. The content of the state fiscal and economic impact 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;
  - 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;
  - c) The total local tax and user fee revenues generated by the infrastructure development or equipment purchase;
  - d) The total jobs created by the infrastructure development or equipment purchase, including the specific impact on the employment of California residents; and
  - e) The total direct and indirect public health savings generated by the infrastructure development or equipment purchase.
- 7) **Formats IBank's Review:** Requires the IBank to approve, require a modification of, or deny the proposed project valuation. In considering the approval of a proposed project valuation, the IBank is required to do the following:
- a) Review the proposed project valuation prepared by the harbor agency;
  - b) Review the economic impact report and the economic methodology prepared for or by the harbor agency; and
  - c) Approve a proposed project valuation if 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, as specified.
- 8) **Defines the Budget Proposal:** Specifies a process for the harbor agency to access moneys associated with the approved project valuation.
- a) The IBank is required to provide notice to the Department of Finance (DOF) within 30 days of approving a proposed project valuation. The notice shall include, at a minimum, the dollar amount of the valuation, and any other information requested by DOF;
  - b) DOF is required to include an amount equal to the approved project valuation in the IBank's budget, as specified;

- c) Funding to the harbor agency is only available upon an appropriation by the Legislature for this purpose; and
  - d) The IBank may condition remittance upon the harbor agency demonstrating it has sufficient resources to complete the project or install the equipment purchase.
- 9) **Mandates Reporting:** Requires the IBank to prepare a report on its related-activities and to post that report on its Internet Website. That report may be included as part of the IBank's annual report.
- 10) **Authorizes Tenant Improvements:** 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.
- 11) **Gives Commission Veto Power:** Prohibits the IBank from approving a proposed project valuation if the commission objects to a harbor agency's finding of consistency with the state tidelands trust and the terms and conditions of any grant of trust lands to the harbor agency.
- 12) **States this is a Discretionary Act:** Specifies the participation in the proposed project valuation program is voluntary on the part of a harbor agency and the submission of an application to the IBank is a discretionary act.
- 13) **Reimburses IBank Costs:** Requires the harbor agency to reimburse the administrative expenses or direct operating expenses that are incurred by the IBank as the direct result of the review and processing of the project valuation.
- 14) **Overrides Conflicts with Financing Districts:** Requires the provisions in this bill to prevail over those in the seaport infrastructure financing district, to the extent that any provision conflicts, as specified.
- 15) **Creates Permanent Trust Assets:** Requires all permanent fixtures and capital improvements to the real property of a harbor agency, as specified, to be a trust asset of the state once completed. This requirement does not apply to fixtures and improvements otherwise agreed as nonpermanent in a lease between the harbor agency and a private tenant.
- 16) **Finding of Consistency with Tidelands Trust:** Requires a harbor agency acting on granted lands to make a finding that the project is consistent with the state tidelands trust and the terms and conditions of any grant of trust lands to the harbor agency.
- a) Prior to making the finding, the harbor agency is required to consult with the commission and reimburse the commission for all reasonable expenses related incurred as a result of this consultation; and
  - b) The harbor agency is required to forward a copy of this finding to the commission.

- 17) **Legislative Findings:** Provides extensive legislative findings and declaration that include, but are not limited to:
- a) The primary purpose of this act is to encourage the development and growth of, and to encourage and help finance the further investment in, and subsequent increased use of, California's public port facilities and the introduction of equipment and supporting infrastructure at California's public port facilities;
  - b) There is a statewide interest in continually investing in California's public port infrastructure is predicated on the fact that California's public seaports and the international trade that they facilitate are critical components of the state economy, directly or indirectly employing millions of Californians, contributing billions of dollars in economic activity, and generating significant local and state tax revenues as a result of this activity. As such, our ports must be given the ability to successfully compete for cargo volume, attract new trade, and continue to grow;
  - c) The development, improvement, expansion, and maintenance of the state's public ports and port infrastructure facilities, and the utilization of public port facilities for the export and import of cargo to or from distribution, manufacturing, fabrication, assembly, processing, transloading, and warehousing sites in California, are matters of statewide significance that are essential to the growth of the state's economic well-being and the ability of those businesses and workers associated with trade-related industries to continue to compete cost-effectively on a regional, national, and global scale; and
  - d) In addition to the vast matters of statewide significance in the economic impacts derived from all of California's public ports, the state's interest in the reduction of mobile source emissions from the freight sector and supply chain, including those emissions from sources that operate at ports, are also matters of statewide significance. In consideration of these environmental matters, the state has a paramount interest in creating incentives that will precipitate early investment by the industry in the newest generation of equipment and supporting infrastructure at marine terminals and port facilities. Due to the costs of those investments over and above the use of traditional equipment, this is an infrastructure need that cannot be met by private investment alone, and therefore public financing mechanisms and the implementation of public-private partnerships are required to support this new investment.

**EXISTING LAW:**

- 1) Establishes the IBank 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 to finance infrastructure, oversight of the Small Business Finance Center, and the issuance of tax-exempt and taxable revenue bonds.
- 2) Requires, prior to the submittal of a project to the IBank 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 by the I-Bank.
- 3) 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
- 4) 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
- 5) 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.

**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 Comment 5.

**COMMENTS:**

- 1) **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*, which was issued July 2016 and identifies 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, harbor craft, 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.

- 2) **Funding Options to Meet Demand:** The Executive Order directed the state agencies, among other things, to initiate work on corridor-level freight pilot projects that integrate advanced technologies, alternative fuels, freight and fuel infrastructure, and provides local economic development opportunities. Caltrans serves as the lead agency for two of the three pilot project models, including the Advanced Technology for Truck Corridors, Advanced Technology Corridors at Border Ports of Entry, and Air Resources Board's Dairy Biomethane for Freight Vehicles. Key freight emission targets include:

- A 25% improvement in freight system efficiency by 2030 by increasing the value of goods and serves produced from the freight sector, relative to the amount of carbon produced.
- Deploy 100,000 freight vehicles and equipment capable of zero emission freight operations and maximize near-zero emission freight vehicles and equipment powered by renewable energy by 2030.

Meeting these targets 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 in 2016, which was developed at the behest of the Pacific Merchant Shipping Association.

<b>Chart 1 - Capital and Operational Costs for Los Angeles, Long Beach, and Oakland Ports Achieving Zero and Near Zero Emissions</b>			
<b>Action</b>	<b>Term</b>	<b>Funding</b>	<b>Increased Funding</b>
<b>Zero/Near Zero Emission Technology Capital Cost Comparison</b>			
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.	<i>Not Set</i>	\$23 billion	\$16 billion
Replacement of current equipment with electrified high-density stacking equipment and supporting infrastructure.	<i>Not Set</i>	\$35 billion	\$28 billion
<b>Zero/Near Emission Technology Operational Expenditure Comparison</b>			
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 962 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 962 process is the development of the economic impact report. This is the document that establishes project valuation. After reviewing the economic impact report, the IBank 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. Amendments suggested in Comment 5, require the

IBank board to adopt a resolution that sets the amount of the appropriation to be 75% of the valuation of 50% of the project cost, whichever is less.

Key elements of the future economic value are 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 purchase;
- Jobs created in by the development or through the equipment purchase; and
- Public health savings generated by the project or through the instillation of the equipment.

The bill requires that the economic impact analysis be peer reviewed and based upon a nationally recognized methodology.

- 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 2016, this diverse group of business owners and workers produced \$2.6 trillion in goods and services; \$163.6 billion of which were exported to over 220 countries around the world.

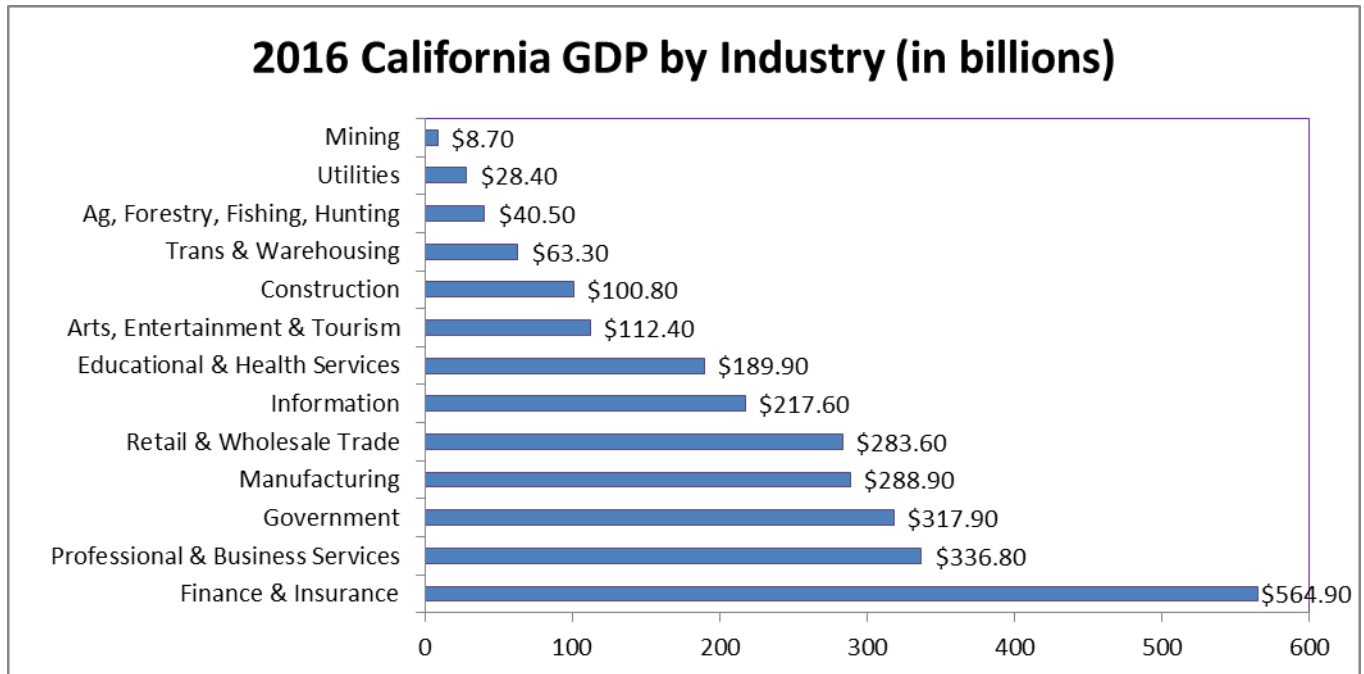
If California were a country, its 2016 GDP would place it 6th among nations, ranking as follows: United States (\$18.56 trillion); China (\$11.22 trillion); Japan (\$4.94 trillion); Germany (\$3.47 trillion); United Kingdom (\$2.62 trillion); California (\$2.60 trillion); France (\$2.46 trillion); India (\$2.26 trillion), and Italy (\$1.85 trillion). Russia ranks 13<sup>th</sup> with GDP of \$1.28 trillion.

Historically, a number of factors have contributed to California's significant position 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.

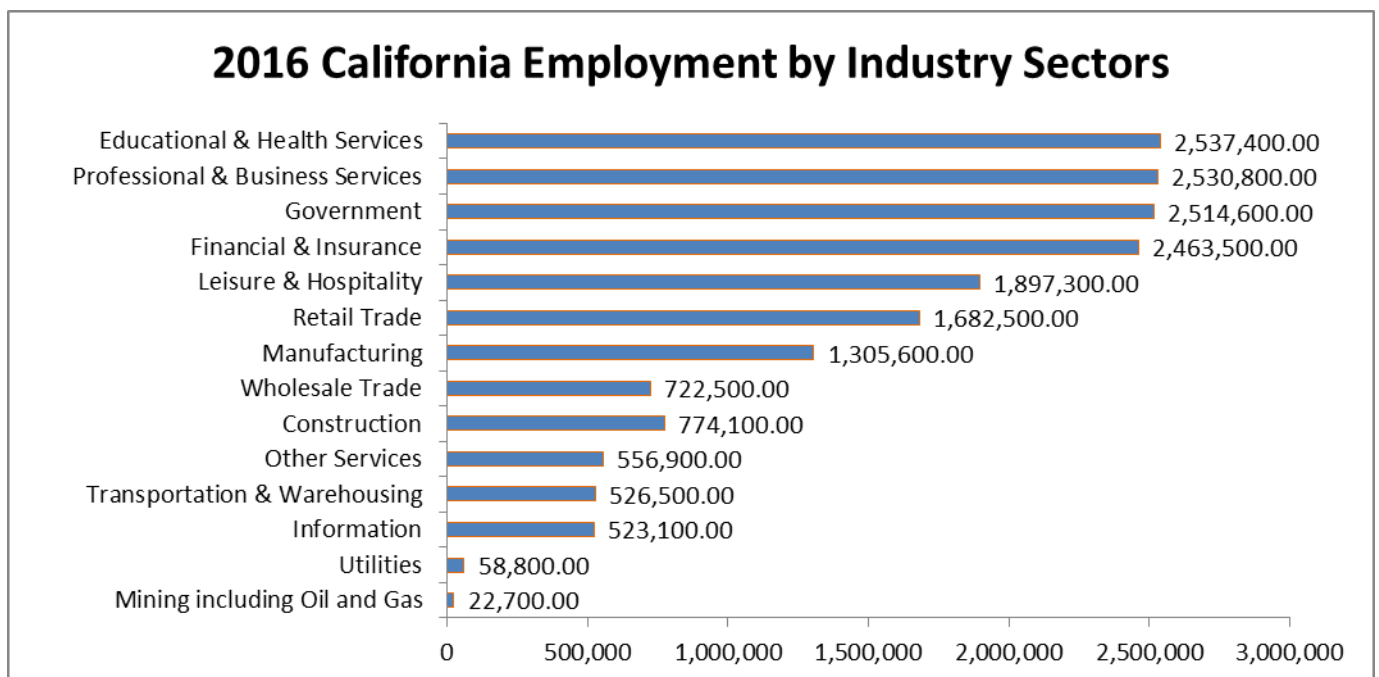
Many policy makers and economists describe California as having not a single economy, but having a highly integrated network of a dozen or so regional economies. While biotech has a comparative advantage in some regions, information technology drives growth in others. This economic diversity contributed 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 2016, the finance and insurance sector provided the largest economic contribution to the state's overall GDP, \$565 billion of the \$2.6 trillion. Firms in this industry sector include entities that raise funds, pool risk, and facilitate financial transactions including real estate.





*Chart 2*, on the following page, developed using data provided by the California Employment Development Department, shows California's largest industry sectors based on employment. In 2016, the **trade, transportation, and utilities sector was largest**, employing nearly 3 million people (18.4% of California jobs). For the purposes of the chart, the trade, transportation and utility sector have been segmented to more clearly illustrate major employment parts. 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 36% of the state's projected growth between 2014 and 2024.

- 5) **Suggested Amendments:** Committee staff have developed amendments, which due to the House of Origin Deadlines and the double referral of AB 962 to Local Government, are recommended to be taken in the next committee. These proposed amendments:
- a) Remove supplemental legislative findings and declarations;
  - b) Delete language in legislative findings that refer to provision that are no longer in the bill;
  - c) Modify the funding amount to be 75% of the project valuation of 50% of the project cost, whichever is less; and
  - d) Specify that Department of Finance is required to submit the funding proposal to the Legislature in the most expedient process possible.
- 6) **Related Legislation:** This bill is substantially identical to AB 2841 (Allen) from the 2015-16 Session, which passed JEDE on a bipartisan, unanimous vote in April 2016, prior to the bill being held on the Suspense File of the Assembly Committee on Appropriations. Below is a list of other the related bills.
- a) **AB 886 (Allen and Ian Calderon) Importer-Exporter Tax Credit:** This bill would have authorized a five-year \$500 million tax credit program for importers and exporters that increase cargo through in-state airports and seaports, hire additional staff, or incur capital costs at a California cargo facility. Status: Held on the Suspense File of the Assembly Committee on Appropriations, 2013.
  - 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**: The Assembly Rules Committee has referred this measure to the Assembly Committee on Local Government (LG) and the Assembly Committee on Jobs, Economic Development and the Economy. In order to expedite the scheduling of hearings between the two committees, JEDE is hearing the measure first, and, if passed, will refer AB 962 to Local Government for further policy review.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

Pacific Merchant Shipping Association

##### **Opposition**

None on File

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