

Date of Hearing: May 3, 2011

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE
ECONOMY

V. Manuel Pérez, Chair

AB 700 (Blumenfeld) – As Introduced: February 17, 2011

SUBJECT: California Infrastructure and Economic Development Bank

SUMMARY: Establishes an independently administered California Infrastructure and Economic Development Bank (I-Bank) and removes the Secretary of the Business, Transportation and Housing Agency (BTH) as chairperson.

EXISTING LAW:

- 1) Creates the I-Bank, within BTH, to promote economic revitalization, enable future development, and encourage a healthy climate for jobs in California. The I-Bank is authorized to offer a variety of financial undertakings including, but not limited to, the issuance of tax-exempt and taxable revenue bonds to underwrite the cost of infrastructure development that meets a specified public purpose.
- 2) Provides that the board of directors is comprised of five specified people, defines a quorum at three people, and specifies that an affirmative vote of three people is required on any action taken by the board. The I-Bank board of directors consists of the following:
 - a) The Director of Finance or designee;
 - b) The Treasurer or designee;
 - c) Secretary of Business, Transportation and Housing or designee (Chair);
 - d) Governor's appointee; and
 - e) Secretary of State Consumer Services Agency or designee.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Purpose: According to the author's statement: "AB 700 will improve the organizational structure of the Infrastructure and Economic Development Bank of California (I-Bank) in order to enhance its efficiency and bring the Bank in line with California's top infrastructure priorities. By establishing the I-Bank as an independent agency, the I-Bank will work more directly with the Governor, develop its annual budget and submit it to the I-Bank board, the Governor's Office and then to the Legislature, thus ensuring maximum efficiency and expertise. By making these organizational changes the I-Bank will be better able to assist the state in advancing infrastructure projects of state and regional significance.

The most recent state infrastructure plan estimates that it will cost \$500 billion to rebuild California's infrastructure including transportation, water, schools and other systems. The California Infrastructure and Economic Development Bank (I-Bank) is one of the most effective ways to finance targeted investments that support California's top priorities. The goal of AB 700 is to ensure that the I-Bank functions effectively and efficiently so that it is able to develop innovative financing mechanisms and participate in other programs to assist the state with these important goals. In addition, AB 700 will help provide the I-Bank with a unique opportunity to position itself to leverage resources to achieve maximum return on federal infrastructure dollars."

2) Structure and operation of BTH and the I-Bank: BTH is the state agency responsible for the oversight and coordination of the activities of various departments, offices, and economic development programs, with responsibility for maintaining the strength and efficiency of California's infrastructure and financial markets. These programs provide financial and programmatic regulation important to the economic marketplace, community development, and the safe and efficient flow of commerce. Among the key economic development programs overseen by BTH are:

- The Small Business Direct Loan and Guarantee Programs;
- The I-Bank;
- Technology-related programs;
- California International Trade Promotion Activities; and
- Community Development Block Grant Program.

The I-Bank was established in 1994 to promote economic revitalization, enable future development, and encourage a healthy climate for jobs in California. Among other duties, the I-Bank has the authority to issue tax-exempt and taxable revenue bonds.

I-Bank activities are governed by a five-member board of directors comprised of the BTH Secretary (chair), State Treasurer, Director Department of Finance, Secretary of the State and Consumer Services Agency, and a Governor's appointee. The day-to-day operations of the I-Bank are directed by the Executive Director who is an appointee of the Governor and is subject to confirmation by the California State Senate. Currently, the I-Bank has authority for 24 staff members.

The I-Bank is financed through the California Infrastructure and Economic Development Bank Fund (CIEDB Fund) and the California Infrastructure Guarantee Trust Fund, into which fees, interest income and other revenues are deposited and from which I-Bank expenses are paid. The cost of administering the programs of the I-Bank is off-set by these types of program income. Monies in these Funds are held within the California State Treasury or by the bond trustee for The Infrastructure State Revolving Fund (ISRF) bonds.

The I-Bank is operated on a revolving fund basis and thereby generates continuous funding for new project investments. The I-Bank does not receive any ongoing General Fund support for loan or bond financing, and according to its 2009-10 independent audit, its program continues to provide sufficient revenues to support all operating expenses.

The I-Bank administers two categories of programs: (1) The ISRF which provides direct low-cost financing to public agencies for a variety of public infrastructure projects; and (2)

Bond Financed Programs which provide financing for manufacturing companies, nonprofit organizations, public agencies and other eligible entities. There is no commitment of I-Bank or state funds for any of the conduit revenue bonds. Even in the case of default, the state is not liable.

Since its creation in 1994, the I-Bank has loaned over \$400 million to local agencies and has developed a high-level of expertise in the implementation of public infrastructure and financing programs. In addition, over \$30 billion in conduit revenue bonds have been issued by the I-Bank since 2000.

- 3) Management and internal control: AB 700 proposes to remove the I-Bank from the administrative oversight of BTH in order to streamline its administrative functions for a more efficient and effective financing entity. State departments and boards often express concerns of what appears to be duplicative, overly restrictive, and seemingly useless policies and procedures required by state agencies. For smaller size government boards, such as the I-Bank, these additional layers of administration can be particularly impactful on the entities ability to carry out its primary program function.

Internal controls are, however, part of public sector good governance practices, and are essential to ensuring proper accountability and transparency of government activities. Seeking the proper balance between oversight/good governance and administrative flexibility can be challenging. As an already highly rated financial entity, it may be reasonable to assume that the I-Bank has a clear understanding of any changes that would be necessary to operate its program-related activities as a free-standing entity. In the area of administrative and management practices, however, it may be judicious to take a more specific review of current authorities and capacity to address the higher levels of responsibility associated with a free-standing government entity.

One way to cost-effectively add management capacity is to contract for certain services with another state entity. The I-Bank currently has broad contracting authority for any activity or need related to the development of a project and/or the issuance of bonds or other financial instruments. Perhaps these authorities may be sufficient to cover contracting for administrative activities; however, it may be prudent to provide direct authority for such administrative responsibilities as accounting, purchasing, human resources, property management, information security, and cash management, among others. In addition, it may be necessary to add one or more staff to ensure that there is a proper separation of authority so that, due the small size of the I-Bank staff, one person is not directly responsible for areas or issues that could result in a conflict of interest violation and/or a poor internal control practice.

Further, the Committee may want to consider placing certain prerequisites on the implementation of the bill including a requirement that:

- The development and approval of a business and management practices transition plan by the Office of State Audits and Review at the Department of Finance;
- The contracts for necessary administrative activities are in-force and updated management practices manuals and policies are in-place at the I-Bank, prior to the transfer of authority;

- The I-Bank is granted an exemption from the state hiring freeze and it is staffed up to meet current workload and management practices;
 - Modifications have been made to existing I-Bank positions, consistent with workload and good internal controls; and
 - A review is undertaken by the Office of State Audits and Review at least three months prior to its new organizational structure becoming effective and then an audit six months later.
- 4) The state's all-purpose financing authority: In addition to the programs discussed above, the I-Bank also serves as the state's only general purpose financing authority with broad statutory powers to issue revenue bonds and act on the state's behalf in certain statutorily authorized circumstances. Below is a list of examples of the types of financing by the I-Bank in support of various State entities and programs.
- a) *Energy Efficiency Bonds*. In April 2003, the California Consumer Power and Conservation Financing Authority (CPA) issued \$28,005,000 in energy efficiency bonds on behalf of the California Energy Commission (CEC). On October 25, 2004, the CPA assigned its rights and responsibilities for these bonds to the I-Bank when the CPA's operations were closed down as a result of budget elimination. In May 2005, the I-Bank issued a second series of revenue bonds in the amount of \$37 million to provide additional funding for the CEC's Energy Efficiency Financing (EEF) Program, which provides low-cost loans up to \$3 million to schools, hospitals and local governments for the installation of energy-saving measures. The bonds are repaid from previously approved EEF loans. Eligible projects include heating, ventilation, air conditioning, equipment control, small co-generation and photovoltaic systems.
 - b) *California Insurance Guarantee Association Bonds*. In August 2004, the I-Bank issued \$750 million of revenue bonds for the California Insurance Guarantee Association (CIGA) pursuant to authorization contained in Chapter 645, Statutes of 2003 (AB 227). CIGA is an organization created by the California Legislature in 1969 to pay claims of insolvent insurance carriers that are licensed to do business in the State of California. The proceeds of the bonds were used by CIGA to pay claims and related expenses that arose as a result of the insolvencies of insurance companies providing workers' compensation insurance. The bonds are repaid solely from special and regular premium assessments on worker's compensation premiums paid by insurance companies to CIGA.
 - c) *Toll Bridge Seismic Retrofit Bonds*. In August 2003, the I-Bank issued \$1.16 billion of long-term fixed rate revenue bonds for Caltrans pursuant to authorization in Chapter 907, Statutes of 2001 (AB 1171). The bonds were rated in the "AA" category by all three rating agencies and were repaid solely from revenues and related interest earnings generated by the \$1 per vehicle seismic retrofit surcharge collected on the seven Bay Area State-owned toll bridges. Caltrans used the bond proceeds to fund a portion of the construction of the new East Span of the San Francisco-Oakland Bay Bridge.
 - d) *Clean Water State Revolving Fund (CWSRF) Bonds*. In August 2002, the I-Bank issued \$300 million of fixed-rate revenue bonds to provide additional funding for the CWSRF Program. The CWSRF, which is administered by the State Water Resources Control Board (SWRCB), provides low-cost loans up to \$25 million per year to local agencies,

throughout the State, for the construction of wastewater treatment and water recycling facilities. The bonds, which are repaid by 98 previously-approved CWSRF loans from 50 different borrowers, received natural "AAA" ratings from all three rating agencies. The bond issuance represented the first time the State leveraged a federally funded state revolving fund program, and joined over 20 other states that have utilized this innovative financing technique to expand lending capacity.

In addition to the above programs, the I-Bank has also been involved in other unique financings including Tobacco Securitization Bonds, Tribal Compact Asset Securitization Bonds, and Imperial Irrigation District Preliminary Loan Guarantees.

- 5) Infrastructure and the post-recession economy: World class infrastructure plays a key role in business attraction, as multinational companies consistently rank the quality of infrastructure among their top four criteria in making investment decisions.

As California moves slowly toward economic recovery, growth in the post-recession economy will likely be more resource and capital constrained, placing even greater pressure on the state's infrastructure to support higher levels of service at a smaller per unit price. In addition, some analysts believe the global economy is experiencing a great "rebalancing of economic power," whereby the U.S.' dominant economic position will be challenged by other large economies like those in Japan, China and the European Union.

The Brookings Metropolitan Policy Program has published its own assessment of how this rebalancing will be experienced in the U.S. and has noted four key trends to watch in the post-recession economy. The first trend is that the economy will be more export oriented and second, it will be fueled by new, lower-carbon energy sources. The third trend identified is that the next economy will be based on a higher level of global innovation, which will require "a relentless pace of innovation, adaptation, and embracement of new markets and processes." The fourth key trend is that next economy will be led by major metropolitan areas – not nations and not states.

California's historical comparative advantage in innovation-based industries, networked global supply chains and strong regional economies should give instate businesses certain advantages in the post-recession economy. Other components of the California economy, including the quality of the state's infrastructure and the preparedness of its workforce, are not as strong and could limit the state's overall economic growth.

Research shows that as U.S. infrastructure has been in a decline, infrastructure in other countries is rapidly increasing. The 2010-11 Global Competitiveness Report by the World Economic Forum places U.S. infrastructure 23rd in the world, a drop from its rank of seventh in 2000.

The I-Bank has been monitoring these and other types of trends, and with funding from a Rockefeller Foundation grant, has been meeting with investors, builders and policy makers engaged in infrastructure development to discuss innovative financing techniques and ways in which to remove unnecessary impediments to infrastructure development.

- 6) Oversight hearing: With California workers and businesses facing some of the harshest economic conditions since the Great Depression, the Chairman of the Assembly Committee

on Jobs, Economic Development and the Economy (JEDE) has focused the Committee's efforts during the prior and current legislative sessions on engaging the public in the recovery dialogue. Through these events JEDE has found that one of California's challenges in moving forward is the state's aging infrastructure and its inability to support the innovation economy that is fundamental to retaining the state's global competitiveness. In fact, research shows that California's historical position as a leader in innovation and technology is being challenged not only from abroad, but also by other states that are investing in a range of infrastructure and technology supporting activities.

On March 30, 2011, JEDE held an oversight hearing to examine how infrastructure development impacted local, state and federal economic recovery efforts and California's economic position in post-recession economy. During the course of the hearing, testimony was provided by senior staff of the I-Bank and key stakeholder groups. A white paper was prepared for the hearing and later revised to include information learned at the hearing, identification of follow-up actions and a summary of key program-level recommendations. The white paper is available through the JEDE Committee Office and will soon be hosted on the committee website at www.assembly.ca.gov.

At the May 3, 2011 hearing of JEDE, four bills will be presented related to the I-Bank, including legislation to: reorganize the I-Bank as an independent agency (AB 700 by Assemblymember Blumenfield); require public infrastructure moneys be awarded based on minimum economic and land use criteria (AB 696 by Assemblyman Hueso); expand the membership of the I-Bank board and functions to more broadly reflect its development and business creation potential (AB 893 by Assemblyman V. M. Pérez and AB 1094 by Speaker John Pérez). Amendments will be proposed by the Chairman reflecting the recommendations from the oversight hearing.

- 7) Amendments: Staff understands the following amendments will be offered in committee:
 - a) Change the title of the Executive Director to Chief Executive Officer and make other related changes;
 - b) Require the I-Bank website maintain a web link to the website of the Governor's Office of Economic Development and/or other state website developed to be the state's primary location for business assistance, retention and attraction information;
 - c) Require I-Bank to establish a process for setting two-year program goals consistent with the Environmental Goals and Policy Report, state infrastructure plans and the state economic strategy;
 - d) Require I-Bank to adopt an annual work plan to drive the I-Bank's activities; and
 - e) Authorize the I-Bank to serve as a facilitator of regionally significant infrastructure development projects.
- 8) Related legislation: Below is a list of related legislation.
 - a) Current Session

- i) AB 696 (Hueso): This bill requires projects selected for funding under the Infrastructure State Revolving Fund Program to only be funded if the project meets specified land use and economic development criteria. Status: Scheduled to be heard in the Assembly Committee on Jobs, Economic Development, and the Economy on May 3, 2011.
 - ii) AB 1094 (John A. Pérez): This bill expands the membership of the board of directors of the I-Bank from five to seven members. Status: Scheduled to be heard in the Assembly Committee on Jobs, Economic Development, and the Economy on May 3, 2011.
 - iii) AB 893 (V. Manuel Pérez): This bill modernizes the operations of the I-Bank, such as the inclusion of the economic development community on the Board, mandating outreach to communities, and adding new reporting requirements about the number of jobs created and retained, and the industries served. Status: Scheduled to be heard in the Assembly Committee on Jobs, Economic Development and the Economy on May 3, 2011.
- b) Prior Sessions:
- i) AB 1047 (V. Manuel Pérez): This bill would have established a local assistance program, within the I-Bank, to assist small and rural communities obtain bond financing for infrastructure projects. Status: Held in the Assembly Committee on Appropriations in 2009.
 - ii) AB 1380 (Bass): This bill would have expanded the membership of the board of directors of the I-Bank from five to seven members. Status: Held in the Senate Rules Committee in 2010.
 - iii) AB 1272 (Arambula): This bill would have established a local assistance program, within the I-Bank, to assist small and rural communities obtain bond financing for infrastructure projects. Status: Status: Held in the Assembly Committee on Appropriations in 2008.
 - iv) AB 1410 (Bass): This bill would have authorized the I-Bank to use certain federal Community Development Block Grant moneys provided through the federal American Recovery and Reinvestment Act to create credit enhancements, loan guarantees, low-interest loans. Status: Remained with Assembly Committee on Jobs, Economic Development and the Economy in 2010.

REGISTERED SUPPORT / OPPOSITION:

Support

Biz Fed Los Angeles County Business Federation

Opposition

None received

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