

Date of Hearing: July 6, 2011

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE
ECONOMY

V. Manuel Pérez, Chair

SCR 33 (Price) – As Introduced: April 4, 2011

SENATE VOTE: 33-1

SUBJECT: Foreign investment

SUMMARY: Expresses the sentiment of the Legislature that it is in California's economic interest to promote opportunities for EB-5 visa investments in the state. Among other key findings, the Legislative intent states the following:

- 1) That the economic downturn has led to higher unemployment in California and has limited access to credit and investment for California businesses.
- 2) That greater foreign investment would create jobs and improve the state's economy.
- 3) That many foreign investors see California as a desirable place to invest and reside.

EXISTING LAW specifies that the Business, Transportation and Housing Agency (BTH) is the primary state agency authorized to attract foreign investments, cooperate in international public infrastructure projects, support California businesses in accessing markets, and requires the Secretary to develop an international trade and investment strategy (ITI Strategy).

FISCAL EFFECT: None

COMMENTS:

- 1) Purpose: According to the author, "SCR 33 touts the merits of the EB-5 visa program and the critical role that foreign investment can play in California's economic recovery and economic viability. Promoting EB-5 investment opportunities in the state will bring an influx of money to California projects, which will in turn create job opportunities for thousands of displaced workers seeking employment.

"California's formal trade and trade promotion activities within state government are currently quite limited. With the demise of the Technology Trade and Commerce Agency (TTCA) in 2003, numerous trade related programs and services were eliminated, and the few remaining came under the umbrella of BTH. The former International Investment Division under TTCA had 91 employees and a budget of \$43 million, allowing it to engage in activities like formal marketing. There is now only a very small number of former International Investment Division staff working on trade related issues and activities for the state."

- 2) EB-5 Investment Program: The EB-5 investment program is administered by the U.S. Citizenship and Immigration Service (USCIS) pursuant to the federal Immigration Act of

1990. The name “EB-5” is derived from the fact that it is the fifth category of employment-based visa.

Under the program, permanent-resident status is available to foreign investors who have invested – or are actively in the process of investing – at least \$1million 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.

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 economically targeted employment areas (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.

Based on 2010 state figures and a high unemployment rate defined as 14.4% or greater, 56 cities, 13 counties, 21 rural areas, and 11 metropolitan statistical areas in California have been identified as eligible TEA. 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 can also recognize regional centers which allows for a pooling of investor money. There are at least 31 federally-recognized regional centers currently operating in California, significantly more than any other state. These regional centers are based across the state. Their focuses vary widely, and include commercial real estate development, agricultural products, film projects, and high-tech ventures.

Among other requirements, applicants of the EB-5 visa 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.

Ten thousand EB-5 investment visas are authorized for issuance each year to potential immigrants that make new investments in the U.S. Historically, the annual allocation of 10,000 EB-5 visas is not fully utilized, although usage is growing. In 2009, close to 4,300 investors obtained EB-5 visas as compared to only hundreds in 2007.

- 3) Export promotion also drives high foreign investment: 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 current programs.

The National Export Initiative (NEI), the mechanism by which the federal government manages activities and funds related to increasing U.S. exports, has identified eight priority areas, including the following:

- Increasing exports among small- and medium-sized enterprises including support for trade promotion and export financing;
- Creating more opportunities for U.S. sellers to meet with foreign buyers, especially in the area of green technologies; and
- Increasing the number of U.S. trade missions abroad and those coming to the U.S., as well as improving coordination with state government trade offices and national trade associations.

Since the announcement of the new national goal at the start of 2010, exports from California were up \$20 billion over 2009. As 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 for California. Further, in opening new markets to our domestic products, foreign investors will also be reminded of the economic investment opportunities in the U.S. Policy makers may want to advance the policy objective of SCR 33 to increase foreign investment through an active EB-5 investment program in conjunction with the state's activities to promote export development.

- 4) EB-5 Success Stories: According to information provided by the author, there are many examples of areas and developments that have benefitted from foreign investment through EB-5, most especially as businesses routinely cite access to capital as a roadblock to successful development of new or growth of existing ventures. According to a recent article in the *Sacramento Bee*, there are now close to 15,000 people who work at McClellan Business Park, a residential and industrial development at the former McClellan Air Force Base which closed in 2001, resulting in the loss of some 12,000 jobs in the region. The 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 EB5 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 (NPR) 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 elected officials, including the Governor and Congressional delegation.

- 5) The state's trade and foreign investment strategy: California's international trade and foreign investment activities are required to be directed through the development and implementation

of the ITI Strategy. Prepared every five years, the ITI Strategy is based on current state and regional economic research and a public vetting with the Legislature to ensure the inclusion of jointly agreed upon goals and measurable objectives. The current ITI Strategy was finalized in August 2008, and the next strategy is due in August 2013.

Taking an industry sector approach, the ITI Strategy is based on the state's core and emerging industries. By emphasizing the development of deeper relationships within core and emerging industry sectors and their trade associations, the strategy better aligns with other economic development activities at the local and federal levels, increasing the impact of state activities and investments.

Dominant industry clusters include:

- a) Professional business and information services
- b) Diversified manufacturing
- c) Wholesale trade and transportation
- d) High-tech manufacturing

Emerging industry clusters include:

- a) Life science and services
- b) Value-added supply chain, manufacturing and logistics
- c) Cleantech and renewable energy
- d) Nanotechnology

Many of the industry sectors noted above are expanding rapidly around the globe. While California may have been historically dominant in many of these innovation-based industries, California businesses today are finding competition from other states, as well as from other nations. Keeping California competitive means maintaining capital flows to all sizes of businesses. The EB-5 investment program could strengthen the state's ongoing need for new capital to fuel job creation.

- 6) California's trade economy: International trade is a very important component of California's \$1.9 trillion economy. If California were a country, it would be the 11th largest exporter in the world. Exports from California accounted for over 11% of total U.S. exports in goods, shipping to over 226 foreign destinations in 2010.

California's land, sea, and air ports of entry serve as key international commercial gateways for products entering the country. California exported \$143 billion in goods in 2010 (up from \$120 billion in 2009), ranking second only to Texas with \$163 billion in export goods. Computers and electronic products were California's top exports in 2010, accounting for 30.1% of all state exports, or \$43 billion.

2010 Exports From California to the World		
Product	Value (\$)	Percent
334 Computers & Electronic Prod.	43,075,351,414	30.1 %
333 Machinery (except electrical)	14,486,638,626	10.1 %
336 Transportation Equipment	12,957,683,521	9 %
325 Chemical Manufactures	11,590,683,001	8.1 %
339 Misc. Manufactures	11,502,854,621	8 %
111 Agricultural Products	9,353,709,931	6.5 %
All Others	40,301,943,159	28.1 %
Total	143,268,864,273	100 %

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 \$21 billion (15%) in goods in 2010. The state's second and third largest trading partners are Canada and China with \$16.1 billion (11%) and \$12.4 billion (8.6%), respectively. Other top-ranking export destinations include Japan, South Korea, Taiwan, the United Kingdom, Hong Kong, Germany, and Singapore.

Relative to last year, the value of California products exported to other countries increased significantly in 2010 (\$143 billion v. \$120 billion). In California's highest export category, computer and electronic products, exports in 2010 almost reached their 2006 high (\$43 billion v. \$44.3 billion).

- 7) State's diverse population as a trade advantage: California's diverse population provides the state with a key trade and foreign 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 from Asia. Net foreign in-migration currently totals approximately 200,000 persons annually, representing nearly 40% of California's annual population growth. For many immigrant groups, California represents the single largest gathering of their brethren outside their native lands.

The first ITI Study found that California's economic and social diversity uniquely positioned the state as a preferred partner for certain regions around the world. 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. New globally-based models for innovation and technology have brought great changes in the function of world economies, and California's dominance as a center of innovation is being challenged. The newly emerging economies of China, India, and Singapore, among others, have been and are committed to continuing massive investments in research and development to become leaders in innovation and not merely "copycat" economies.

While these dynamics pose challenges to current leading technology centers, they also offer California new opportunities for collaboration and cooperation. The state's diversity could be a crucial advantage to successful global collaboration and foreign investment attraction. The state is already engaged in academic and research partnerships with China, Canada, and Iceland on renewable energy and other technologies. The University of California at San Diego has a multi-year manufacturing initiative with Mexico supporting economic growth on both sides of the border. These types of partnership efforts, however, have not yet been brought forward into a broader economic development framework and are too often treated as one-off initiatives. Enormous potential exists in research, development, and product manufacturing by capitalizing on cross border initiatives if California can successfully transition to the new and more highly connected economic world of the 21st Century.

- 8) Current session related legislation: Below is a list of related legislation from the current session:
- a) 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. Status: Pending in the Senate Appropriations Committee.
 - b) AB 1409 (JEDE) – Goods Movement Update to the State Economic Strategy: This bill requires that the next update of the international trade and investment strategy include policy goals, objectives and recommendations from the state Goods Movement Action Plan (GMAP), as well as related measurable outcomes and timelines. Status: Pending in the Senate Appropriations Committee.
 - c) AB 1410 (JEDE Committee) – Trade Omnibus Bill: This bill makes technical, non-substantive amendments to the codes relating to international trade and foreign investment. Specifically, this bill reorganizes the statutory placement of the Office of California-Mexico Affairs and the California-Mexico Border Relations Council from a general title within state government to a more specific title on foreign relations within the Government Code. Status: Pending on the Senate Floor.
 - d) SB 460 (Price) – International trade and Marketing Promotion: This bill requires the Secretary of the Business, Transportation and Housing Agency (BTH) to convene a statewide business partnership for international trade marketing and promotion. Status: This bill is pending in the Assembly Committee on Jobs, Economic Development and the Economy.
- 9) Related legislation from prior sessions: Below is a list of related legislation, some of which are discussed earlier in the analysis.
- a) AB 3021 (Nuñez) - California-Mexico Border Relations Council: This bill established the six-member California-Mexico Border Relations Council (Border Council) comprised of all Agency Secretaries and the Director of the Office of Emergency Services for the purpose of coordinating activities of state agencies. The Border Council is required to report to the Legislature on its activities annually. Status: Signed by the Governor - Chapter 621, Statutes of 2006.
 - b) AJR 14 (Jeffries) – Customs Duties: This resolution memorialized the President of the U.S. and Congress to enact legislation to ensure that a substantial increment of new revenues derived from customs duties and importation fees be dedicated to mitigating the economic, mobility, security, and environmental impacts of trade in California and other trade-affected states across the U.S. Status: Approved by both Houses, Resolution Chapter 73, Statutes of 2007.

- c) AJR 27 (Torrico) – Support U.S.-Colombia Trade Promotion Agreement: This resolution memorialized Congress that the California Legislature opposes the United States-Colombia Trade Promotion Agreement. Status: Approved by both Houses, Resolution Chapter 145, Statutes of 2010.
- d) AJR 55 (Villines) – Support U.S.-Colombia Trade Promotion Agreement: This resolution would have memorialized Congress that the California Legislature supports the United States-Colombia Trade Promotion Agreement. Status: Refused adoption in the Assembly Committee on Jobs, Economic Development, and the Economy in 2008.
- e) SB 1513 (Romero) – New International Trade Program: **Final Compromise - California International Trade and Investment Act**. This bill provided new authority for the BTH to undertake international trade and investment activities, and as a condition of that new authority, directs the development of a comprehensive international trade and investment policy for California. This bill reflects extended bi-partisan discussions between the Senate and the Assembly. Status: Signed by the Governor - Chapter 663, Statutes of 2006.

REGISTERED SUPPORT / OPPOSITION:

Support

None known

Opposition

None known

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