

Date of Hearing: April 20, 2010

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE
ECONOMY

V. Manuel Perez, Chair

AB 2443 (V Manuel Perez) – As Introduced: February 19, 2010

SUBJECT: International relations

SUMMARY: Requires the state point of contact (SPOC) to provide the Legislature with copies of any formal position taken or comments made to the U.S. Trade Representative relating to a pending trade agreement.

EXISTING LAW:

- 1) State law recognizes the Governor as the primary state officer representing California's interest in international affairs, to the extent that representation is not in conflict with federal law or the California Constitution. Further, this recognition is declaratory of existing law and does not in and of its self confer any new authority.
- 2) State law specifies that the SPOC acts, in compliance with federal practice, as the liaison between the state and the Office of the United States Trade Representative (USTR) on trade-related matters. State law recognizes that the SPOC receives updates from the federal government on trade policies and is often provided the opportunity to review and comment on ongoing trade negotiations.
- 3) State law requires the SPOC, in addition to any other duties assigned by the Governor, to do both of the following:
 - a) Promptly disseminate information from the USTR to the appropriate state agencies, departments, and legislative committees.
 - b) Work with the Legislature and appropriate state agencies to review the effects of any proposed or enacted trade agreement provisions on California environment, businesses, workers, and general lawmaking authority and to communicate those findings to the USTR.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Author's purpose: In California the SPOC serves, by statute, as the official liaison between the USTR, the Administration, and the Legislature. As the liaison, the SPOC is required to share key correspondence from the USTR to the relevant state agencies, departments, and legislative policy committees and to work with the Administration and Legislature to review and comment to the USTR on the effects of proposed and enacted trade agreements.

The SPOC, however, is not currently required to share a copy of the Administration's comments to the USTR. This includes when the Governor takes a formal position and/or comments on a pending trade agreement. Given the importance of international trade and

foreign investment in the California economy, the free exchange of information between the state's executive and legislative branches is imperative.

- 2) U.S. Trade Policy: The U.S. Constitution grants the federal government the power to enter into treaties and trade agreements and provides that these treaties and agreements are laws of the U.S. and, as such, are supreme over the laws of states. By Executive Order, the Office of the U. S. Trade Representative (USTR) is created as an agency within the Executive Office of the President and is responsible for international trade negotiations.

By Congressional directive, the USTR is required to secure advice from states on trade negotiations through the Intergovernmental Policy Advisory Committee (IGPAC). IGPAC is one of six policy advisory committees established in the Trade Act of 1974. IGPAC is comprised of state and local officials, including members of state legislatures, state trade directors, and related national associations. One Californian serves on IGPAC being selected by the USTR and having no formal relationship to the state government.

The USTR also maintains a SPOC system in which the governor of each state designates a single point of contact within the state that is responsible for transmitting information to the USTR and disseminating information from the USTR to state officials.

In California the SPOC serves as the official liaison between the USTR, the Administration, and the Legislature. As the liaison, the SPOC is required to "promptly disseminate correspondence or information" from the USTR to the relevant state agencies, departments, and legislative policy committees in the Senate and the Assembly. The SPOC is also required to work with the Administration and the relevant state committees to review and comment to the USTR on the effects of proposed and enacted trade agreements.

- 3) Development of the state's new trade program: In 2003, as a result of poor economy and significant management issues within the state's international trade program, the Technology, Trade and Commerce Agency was eliminated, including all authority for the state to undertake international trade and investment activities. After years of debate, in 2006, the Legislature and the Governor began an unprecedented collaboration on the development of a new international trade and investment program. Agreements on the new program including the designation and role of the SPOC were codified in SB 1513, Chapter 663, Statutes of 2006.

Since 2008, the Governor has designated two individuals as the SPOC, however, since the last individual left for another position in August 2009, the position has been vacant.

- 4) Checks and balances: Under the terms of the new trade program agreement, the Legislature and the Governor also agreed that the state's future activities must have certain checks and balances were missing during the state's first efforts in trade development. Some, but not all, of the key provisions are listed below:
 - a) Requiring BTH to annually report to the Joint Budget Committee funding related to the implementation of the international trade and investment Strategy (ITI Strategy);
 - b) Requiring benchmarks and measurable objectives be included in the ITI Strategy to assist the Administration and Legislature in overseeing the program;

- c) Requiring that the SPOC promptly disseminate USTR provided trade agreement information to the Legislature and relevant agencies;
- d) Requiring approval by the Legislature before establishing any foreign trade office; and,
- e) Prohibiting further state funding to the BTH for trade- and foreign investment-related activities should certain statutorily defined oversight requirements fail to be met.

Collectively, the requirements enacted through SB 1513 for establishing state priorities and implementing the state's trade and foreign relations activities set forth a dual role for the Legislature and the Administration in advancing the state's trade activities. AB 2443 furthers this statutorily-defined relationship by detailing how the Legislature and the Administration should inform and consult on trade agreements pending before Congress.

- 5) Protecting California's rights under U.S. Trade agreements: Existing law requires the development of an International Trade and Investment Study (ITI Study) to help guide the trade and foreign investment actions of the state. Among other issues, the 2008 ITI Study found that California faces significant challenges from offshoring, the global redistribution of manufacturing and services, and growing talent pools in other countries.

In addition, the ITI Study raised concerns regarding the impact of global trade arrangements on California businesses. More specifically, the ITI Study identified five key shifts in U.S. and global international trade policy and practice that would likely affect California, including that:

- a) Progress on further multilateral trade negotiations is likely to be limited with the WTO being so fractured by the three distinct interests of the U.S., the European Union, and the developing countries.
- b) The U.S. and other countries will likely accelerate efforts on bilateral and regional trade-related agreements resulting in an increase in one-off trade agreements. This stems, partly, from the lack of progress on multilateral negotiations.
- c) International trade issues will be litigated increasingly in dispute settlement format with the WTO and all U.S. bilateral trade agreements containing mandatory dispute settlement mechanisms. This has already resulted, and will continue to result, in California policies coming under attack in foreign trade tribunals.
- d) Domestic laws and regulations will increasingly be a target of negotiations and disputes. The term used to describe these policies is "behind the border" domestic regulations, which includes such things as environmental protections, labor and human rights, competition policy, investment, consumer rights and product standards.
- e) Trade "leakage" issues such as homeland security, crime, drugs, and illegal immigration will become increasingly salient and linked to trade liberalization.

In response to these issues and other global competitiveness concerns, the follow-up strategy to the ITI Study provided several specific recommendations for advancing California's interests in international trade policies. Several recommendations include, but are not limited to, sharing trade information with the Legislature, participating in IGPAC, and regularly making public reports on pending and enacted U.S. trade agreements.

- 6) California's trade-based economy: International trade is a very important component of California's \$1.8 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 220 foreign destinations in 2009.

California's land, sea, and air ports of entry serve as key international commercial gateways for products entering the country. California exported \$120 billion in goods in 2009, ranking only second to Texas with \$163 billion in export goods. Computers and electronic products were California's top exports in 2009, accounting for 29.3% of all state exports, or \$35 billion.

2009 Exports From California to the World		
Product	Value (\$ in thousands)	Percent
334 _Computers & Electronic Prod.	35,182,767,377	29.3 %
36 _Transportation Equipment	12,826,967,941	10.7 %
333 _Machinery Manufactures	10,709,240,936	8.9 %
325 _Chemical Manufactures	10,233,994,524	8.5 %
339 _Misc. Manufactures	9,130,040,605	7.6 %
111 _Crop Production	7,848,804,565	6.5 %
All Others	34,210,404,051	28.5 %
Total	120,142,219,999	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 \$17.4 billion in goods in 2009. The state's second and third largest trading partners are Canada and Japan with \$14.2 billion and \$10.9 billion, respectively. Other top-ranking export destinations include China, South Korea, Taiwan, the United Kingdom, Hong Kong, Germany, and Singapore. In 2008, 2.7 million people were employed by business related to trade, transportation and utilities.

The economic crisis has had significant effects on top California trading partners. According to the International Monetary Fund's draft 2010 World Economic Outlook, global GDP is expected to be down from earlier estimates in January. Global GDP is forecast to be 4.1%, the US at 3.0%, Euro Area at 0.8% and China at 10.0%.

Overall, the export of California products to other counties was down in 2009 by \$24.8 billion from 2008 (\$120 billion v. \$144.8 billion). Exports to the state's top trading partners were down as follows: Mexico \$3.1 billion, Canada \$3.6 billion, Japan \$2.1 billion and China \$1.2 billion less than the prior year.

The most recent trade numbers coming from the US Department of Commerce, however, indicate that California trade (exports and imports) is continuing to move in a positive direction. In February 2010, \$10.38 billion in products was exported from California. This was a 13.7% increase over the previous year and the fourth straight month increases were reported based on year-to-year gains. Imports through California ports also rose faster in

February reporting a 38.3% increase (\$22.53) over the previous year. The number of loaded shipping containers leaving Long Beach, Los Angeles and Oakland was up by 27% from last year and similar increases were reported for outbound cargo tonnage.

- 7) Related legislation: Below is a list of related legislation, some of which are discussed earlier in the analysis.
- a) AB 1276 (Skinner) – Process for State Binding Itself to Trade Agreements 3: This bill would have prohibited a state official, including the Governor, from binding the state, or giving consent to the federal government to bind the state, to provisions of a proposed International Trade Agreement, including the government procurement rules, unless a statute is enacted that explicitly authorizes a state official to bind the state or to give consent to bind the state to that trade agreement. Status: Vetoed by the Governor in 2009.
 - b) AB 3021 (Nuñez) - California-Mexico Border Relations Council: This bill establishes 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.
 - c) AJR 14 (Jeffries) – Customs Duties: This resolution memorializes 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.
 - d) AJR 27 (Torrico) – Support U.S.-Colombia Trade Promotion Agreement: This resolution memorializes Congress that the California Legislature opposes the United States-Colombia Trade Promotion Agreement. Status: Pending in the Assembly Committee on Jobs, Economic Development, and the Economy.
 - e) 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.
 - f) SB 348 (Figueroa) – Process for State Binding Itself to Trade Agreements 1: This bill would have prohibited a state official, including the Governor, from binding the state, or giving consent to the federal government to bind the state, to provisions of a proposed International Trade Agreement, including the government procurement rules, unless a statute is enacted that explicitly authorizes a state official to bind the state or to give consent to bind the state to that trade agreement. Status: Vetoed by the Governor in 2005.
 - g) SB 1513 (Romero) – New International Trade Program: Final Compromise - California International Trade and Investment Act. This bill provides 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.

- h) SB 1762 (Figueroa) - Process for State Binding Itself to Trade Agreements 2: This bill would have prohibited the Governor from binding California to provisions of international trade agreements without consent from the Legislature. Based on bi-partisan discussions with all authors of international trade related legislation, the provisions of this bill were modified and amended by JEDE into SB 1513. Status: Held in the Assembly Committee on Jobs, Economic Development and the Economy in 2006.

REGISTERED SUPPORT / OPPOSITION:

Support

Assembly Committee on Jobs, Economic Development and the Economy (Sponsor)

Opposition

None known

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