

Date of Hearing: April 20, 2010

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE
ECONOMY

V. Manuel Perez, Chair

AB 2714 (V. Manuel Perez) – As Introduced: February 19, 2010

SUBJECT: Office of the Small Business Advocate

SUMMARY: Transfers the Office of the Small Business Advocate (OSBA) from the Governor's Office of Planning and Research (OPR) to the Business Transportation and Housing Agency (BTH). Specifically, this bill:

- 1) Eliminates the OSBA within OPR and reestablishes it at BTH. This change would be effective January 1, 2011.
- 2) Adds the OSBA to the Small Business Board located at BTH.

EXISTING LAW

- 1) Establishes the OSBA, within the OPR, for the purpose of advocating for small business causes. Among other duties, the OSBA maintains a website to provide key information for small businesses, advocates the small business position on legislation and regulations being considered by the Administration, and serves as the state's primary liaison on small business issues.
- 2) Finds and declares that it is in the public interest to aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to maintain a healthy state economy.
- 3) Establishes the California Small Business Board, within BTH, for, among other purposes, advising the Governor, the director of the Small Business Loan Guarantee Program, and the Legislature on issues and programs affecting California's small business community.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Author's purpose: In 2009, the Joint Legislative Budget Committee voted to eliminate OPR and relocate those programs and services that were deemed useful and necessary to other state entities. The Governor's budget for 2010-11 proposes to transfer the OSBA to BTH.

Given the very important role of the OSBA in identifying and supporting the needs of small business, the author states that it is essential that policy makers keep the activities of the OSBA front and center during this legislative session. This bill codifies the Governor's budget recommendation, provides a vehicle for further policy discussions on where best to locate the OSBA, and ensures that the OSBA will not be inadvertently deleted from statute when the OPR statutes are struck as part of some potential future budget deal.

- 2) California small business: California's dominance in many economic areas is based, in part, on the significant role small businesses play in the state's \$1.8 trillion economy. Businesses with fewer than 100 employees comprise nearly 98% of all businesses and are responsible for employing more than 37% of all workers in the state.

As an example, small- and medium-sized businesses are crucial to the state's international competitiveness and are an important means for dispersing the positive economic impacts of trade within the California economy. Of the over 52,000 companies that exported goods from California in 2006, 95% were small- and medium-sized enterprises (SME) with fewer than 500 employees. These SMEs generated nearly half (44%) of California's exports in 2006. Nationally, SMEs generated only 29% of total exports.

Historically, small businesses have functioned as economic engines, especially in challenging economic times. During the nation's economic downturn from 1999 to 2003, businesses with less than five employees created 318,183 new jobs or 77% of all employment growth, while larger businesses with more than 50 employees lost over 444,000 jobs. From 2000 to 2001, microenterprises created 62,731 jobs in the state, accounting for nearly 64% of all new employment growth.

Unfortunately during the current recession, small business in California have been especially hard hit and have been unable to play their previous roles in economic recovery. Equifax Inc. reports that small business bankruptcies are up 81% for the 12 months ending September 2009, as compared to the same period in the previous year. Nationally, bankruptcy filings were up 44%.

Because of their importance in the state economy, small business issues have been a particular focus of the Assembly Committee on Jobs, Economic Development and the Economy (JEDE) for the past several years. In March 2009, JEDE produced a state economic recovery strategy that included several key recommendations on the needs of small business, including helping small businesses meet their short term capital needs, the need for regulatory reforms, and workforce development programs that link to the needs of businesses.

- 3) Small business studies: Beginning in March 2009 and through the summer and fall, the Assembly Committee on Jobs, Economic Development and the Economy held several hearings specifically to hear from small businesses and manufacturing about their economic recovery needs. During these hearings small business prioritized two areas: increasing access to capital and reducing the costs associated with doing business in California, including costs related to business permits and licenses.

The cost of compliance with regulations has also been the subject several of peer reviewed studies at the federal and state levels. For the last 10 years, the federal Small Business Administration has conducted a study that analyzes the cost of federal government regulations on different sizes of businesses. This research shows that small businesses continue to bear a disproportionate share of the federal regulatory burden. On a per employee basis, it costs about \$2,400, or 45%, more for small firms to comply with federal regulations than their larger counterparts.

In September 2009, Governor Schwarzenegger released the state's first assessment on the cost of state regulations on business. The study was requested by Assemblymember Juan Arambula in AB 2330, Chapter 232, Statutes of 2006. Of note was the report's estimated total cost of regulations to the State of California, \$493 billion. Since small businesses constitute 99.2 % of all employer businesses in California and all of non-employer business, the regulatory cost, according to the report, is shouldered substantially by small business (averaging \$134,123.00 per small business in 2007).

How small businesses gain access to capital was the topic of another study, published in April 2009 by Bornstein and Song. The study found that more than 1.5 million Californians are now in immediate risk of losing their jobs, and more than 2.1 million California small business jobs may be lost in the second wave of foreclosures which began in 2009 and will likely see through 2012. A toxic mortgage is an Adjustable Rate Mortgage, Alt-A or a Sub prime loan. Unfortunately, 51.8% of California small business owners used toxic mortgages to fund their business expenses. California Hispanic small business owners were the hardest hit, with a toxic mortgage usage rate of 52.6%. This exceeds the national average of 31.9% by more than 20% points.

4) Related Legislation:

- a) AB 177 (Ruskin and V. Manuel Pérez) - Penalties under the Small Business Act: This bill increases and conforms penalties for persons who falsely engage in activities relating to the Small Business Procurement and Contract Act, including small businesses, microbusinesses, and disabled veteran-owned business enterprises. Status: The bill is pending in Senate Governmental Organization, set hearing on April 4, 2010.
- b) AB 978 (V. Manuel Pérez and Logue) - Streamlined State Licensing: This bill requires the State Chief Information Officer (CIO), in collaboration with other relevant agencies, to develop an online master application for businesses to file for state permits and licenses. This bill will provide guidance to a \$30 million information technology project, which has been approved in a prior budget year. Status: The bill is pending in Senate Governmental Organization.
- c) AB 2330 (Arambula) - Small Business Costs Study: This bill requires the OSBA to commission a study of the costs of state regulations on small businesses that is parallel to the study on the impact of regulatory costs on small firms conducted by the federal Small Business Administration. The OSBA is required to make recommendations on how to reduce the cost of existing and future regulations on small businesses while achieving the same policy and regulatory objectives. This bill also convenes a small business advisory committee to provide advice based on the study and recommendations. Status: Signed by the Governor, Chapter 232, Statutes of 2006.
- d) AB 2854 (Mendoza) - Small Business One-Stop Website: This bill requires, contingent upon funding becoming available, the establishment of a one-stop web site for small business-related announcements and funding opportunities offered by state agencies. The web site is only required to be maintained by the OSBA, until January 1, 2014, when the provisions of this bill sunset. Status: Vetoed by the Governor in 2008.

- e) AB 3058 (JEDE) - Small Business Disaster Preparedness: This bill reduces economic losses attributable to disasters, by providing technical assistance to small businesses on disaster preparedness. Specifically, the bill: (1) enhances the duties of the OSBA to include advocacy on disaster preparedness and recovery, including the provision of technical assistance; (2) requires the OSBA, in cooperation with the Office of Emergency Services, to develop a handbook for small businesses on emergency preparedness, responding in an emergency, and recovery strategies; and, (3) requires the OSBA, with the assistance of Office of Emergency Services, to hold at least three meetings, in different locations in California, to share best practices on disaster preparedness for small businesses. Status: Signed by the Governor, Chapter 233, Statutes of 2006.

- f) SB 1436 (Figueroa) - Small Business Regulatory Standards: This bill requires the Department of Technology Services to create a link to state agency web sites at the State of California Internet Portal so small businesses can access information regarding startup requirements and regulatory compliance. It requires each state agency that significantly regulates or impacts small business to designate at least one individual to serve as a small business liaison for the agency. It also requires each agency to ensure that the state's procurement and contracting processes are administered in order to meet or exceed the 25-percent small business participation goal. Status: Signed by the Governor, Chapter 234, Statutes of 2006.

REGISTERED SUPPORT / OPPOSITION:

Support

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

Opposition

None known

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