

Date of Hearing: April 23, 2019

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY
Sabrina Cervantes, Chair
AB 23 (Burke) – As Amended March 26, 2019

SUBJECT: Office of Small Business Advocate: Deputy of Business and Workforce Coordination

POLICY FRAME: Small business plays a central role within the California economy, representing over 95% of all businesses and employing nearly half of all private sector workers. The mission of the Office of the Small Business Advocate (OSBA), located within the Governor’s Office of Business and Economic Development (GO-Biz), is to assist small businesses in navigating the challenges of a globally integrated economy. AB 23 enhances OSBA resources by providing additional staff and mandate related to the workforce development needs of small businesses.

The policy committee analysis includes information on the California economy, the evolving role of small businesses, the OSBA, California Workforce Development Board (CWDB), and the state workforce plan. Suggested amendments are included in Comment 5.

SUMMARY: AB 23 establishes the position and sets the duties of the Deputy Director of Business and Economic Development (Deputy Director) within the OSBA at the Governor’s Office of Business and Economic Development (GO-Biz). Specifically, **this bill:**

- 1) Makes findings and declarations, including, but not limited to:
 - a) Small businesses serve as economic engines to the California economy by being the most effective net new job generators, supporting California’s access to global markets, serving as a key tool for supporting upward mobility, and helping to distribute economic benefits throughout the state.
 - b) In order to advocate the causes of small business and to provide small businesses with the information they need to survive in the marketplace, there is created within GO-Biz the OSBA, which shall be led by the Advocate.
 - c) The Advocate shall be considered an advisor on key issues before the state, and the inclusion of the Advocate in cabinet- and department-level discussions that potentially impact small businesses is encouraged.
- 2) Establishes the position of the Deputy Director within the OSBA.
- 3) States that the duties of the Deputy Director is to do both of the following:
 - a) Collaborate and coordinate with the Labor and Workforce Development Agency, State Department of Education, and Office of the Chancellor of the California Community Colleges on workforce related activities.
 - b) Engage industry and business to better align career technical education courses, workforce training programs, and pre-apprenticeship and apprenticeship programs with regional and local labor market demand.
- 4) Requires the Deputy Director to establish a team to cover all industry sectors across all regions in the state.

- 5) Requires the Deputy Director to prepare and submit to the Legislature, on a biennial basis, a report on outreach efforts and progress towards aligning career technical education courses, workforce training programs, and pre-apprenticeship and apprenticeship programs within regional and local labor market demand. This report requirement sunsets on January 1, 2024.
- 6) Defines “industry sectors” as those firms that produce similar products or provide similar services using somewhat similar business processes, as specified.
- 7) Defines “region” as a geographic area of the state defined by economic and labor market factors containing at least one industry cluster and the cities, counties, or community college districts, or all of them, in the industry cluster’s geographic area, as designated by Community College Board of Governors, as specified.

EXISTING LAW:

- 1) **GO-Biz:** Establishes GO-Biz to serve the Governor as the lead entity for economic strategy and the marketing of California on issues relating to business development, private sector investment, and economic growth. Among other duties, GO-Biz is authorized to make recommendations to the Governor and the Legislature on new state policies, programs, and actions, or amendments to existing programs in order to advance statewide economic goals, respond to emerging economic problems, and to ensure that all state policies and programs conform to the state’s economic and business development goals.
- 2) **Office of the Advocate:** Establishes the OSBA within GO-Biz and establishes the duties and functions of the Small Business Advocate (Advocate), who also serves as the director of OSBA, including representing the views and interests of small businesses before other state agencies whose policies and activities may affect small businesses. More specifically, the Advocate is required to:
 - a) **Advocacy before State Agencies:** Serve as the principal advocate in the state on behalf of small businesses, including, but not limited to:
 - i) Advising on all legislation and administrative regulations that affect small businesses;
 - ii) Advocating on state policy and programs related to small businesses; and
 - iii) Representing the views and interests of small businesses before other state agencies whose policies and activities affect small business.
 - b) **Resource Assistance:** Enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by state government that are of benefit to small businesses, and information on how small businesses can participate in, or make use of, those programs and services.
 - c) **Disaster Preparedness:** Be prepared for designation by the Office of Emergency Services to serve as an official liaison between small businesses impacted by a state-declared state of emergency and other government and nonprofit service providers. In addition, the Advocate is:
 - i) Authorized to assist in the state emergency recovery, response, and preparedness efforts related to small businesses, including microenterprises.
 - ii) Required to conduct at least one public meeting every year, in coordination with the appropriate public and private entities, to share best practices for small business disaster preparedness.

- d) **Access to Capital:** Consult with experts and authorities in the fields of small business investment, venture capital investment, commercial banking, and other comparable financial institutions involved in the financing of business, and with individuals with regulatory, legal, economic, or financial expertise, including members of the academic community, and individuals who generally represent the public interest.
 - e) **Regulatory Assistance:**
 - i) Seek the assistance and cooperation of all state agencies and departments providing services to, or affecting, small business, including the department-level small business liaisons to ensure coordination of state efforts.
 - ii) Receive and respond to complaints from small businesses concerning the actions of state agencies and the operative effects of state laws and regulations adversely affecting those businesses.
 - f) **Program Assistance:** Counsel small businesses on how to resolve questions and problems concerning the relationship of small business to state government.
 - g) **State Procurement Participation:** Collaborate with the Office of Small Business and Disabled Veteran Business Enterprise Services in their activities under the Small Business Procurement and Contract Act, including, but not limited to, promoting small business certification and undertaking reasonable means to assist state agencies in improving small business participation.
 - h) **Website:** Establish a website to assist small and minority-owned businesses in their operations, including governmental requirements, such as taxation, accounting, and pollution control, and to provide information concerning the agency from which more specialized assistance may be obtained.
- 3) **Small Business Liaisons:** Requires each state agency that significantly regulates or impacts small business to designate at least one person to serve as a small business liaison.
- a) Requires that the name and contact information of that agency's small business liaison be prominently displayed on the agency's website.
 - b) Requires notification to the OSBA of the name and contact information of the person or persons who have been designated as the agency's small business liaison.

FISCAL EFFECT: Unknown

COMMENTS & CONTEXT:

- 1) **The California Economy in the Future:** As California continues to transition into the fourth industrial revolution, businesses and workers face an economy comprised of highly integrated industry sectors that are also more geographically dispersed. Advances in technology and processes are occurring more rapidly, resulting in competitiveness being increasingly defined in terms of speed, flexibility, specialization, and innovation.

Economists have identified nine key trends (*see chart on next page*) that are anticipated to significantly influence the U.S. and California economies. Collectively, these trends place new and demanding challenges on California's training and workforce system.

Key Economic Trends Affecting the U.S. and California Economies	
1	Cities and regions will become increasingly dominant economic players.
2	Advanced information and transportation technologies will continue to expand and strengthen global networks.
3	Barriers to trade will continue to decline among both developed and emerging economies.
4	The world's largest companies will increasingly shift headquarters to emerging foreign markets.
5	Global and more diversified markets will offer new opportunities for entrepreneurs and smaller size businesses.
6	Scarcity and rising prices will increase pressure on the development and deployment of cleaner technologies.
7	Deepening income inequality will result in costly outcomes, most adversely affecting women, minorities, immigrants, the disabled, and the formerly incarcerated, and thus require the diversion of public resources to address unemployment, poverty, and social unrest.
8	The retirement of Boomers is creating an even greater need for middle- and high-skilled workers.
9	The size of the U.S workforce is becoming smaller and more ethnically diversified, and is facing new challenges in a rapidly evolving workplace.
Compiled by: Assembly Committee on Jobs, Economic Development, and the Economy	

Advances in information technology, advanced manufacturing, expanded logistical networks, and the need to have more environmentally sustainable products are just a few of the new workplace realities. The nature of work is also substantially changing such that new skill sets, including the ability to continually upgrade one's skill set, are necessary to be successful.

Even entry-level workers will be expected to have soft-skills, such as the ability to work in teams, actively listen, communicate effectively with co-workers and bosses, and be able to negotiate workplace needs in a positive manner. Unlike hard skills, which are about a person's ability to perform a certain task or activity, soft skills provide foundational tools that allow workers to learn and advance in the state's continually evolving workplace environment. The lack of soft-skills is one of the most common challenges employers mention when talking about hiring employees who are new to the workforce.

The modern economy has also given rise to a growing need for smaller businesses because of their ability to provide innovative technologies and help other businesses access global markets. As discussed in a later comment, small businesses have become an important workplace entry point for individuals of color, including millennials. While vital economic players, small businesses and entrepreneurs also face unique challenges in competing in an increasingly global and interconnected marketplace.

Programs and regulations which may have been designed to serve large companies will need to be retooled to better serve the nearly 90% of businesses that have less than 20 employees. These small and adaptable businesses will have an inherent advantage in the post-recession economy, provided they are able to obtain the skillsets necessary to run a successful business and have access to appropriately trained workers.

Changes in the workplace are also impacted by the competitiveness of the regional economies in which they and their customers are located. The economic foundation of many of California's strong regional economies are innovation-based industry clusters which have the ability to support high-paying jobs, lucrative career ladders, and longer term job stability. Research shows that there are specific characteristics that support the rise and success of these industry clusters, including proximity

to high quality universities, research labs, businesses within the same industry, and attracting a critical mass of skilled workers are all important components.

All these changes are occurring at the same time that California and the U.S. confront the social, cultural, and economic impacts of demographic change. The U.S. Census Bureau projects that by 2043 a majority of the U.S. population will be comprised of people of color. In 2014, people of color were already the majority in California, Hawaii, New Mexico, and Texas, with another nine states close to 50%. The growing diversity within the workforce also represents a significant generational shift of the predominantly white baby boomers rapidly aging-out of the workplace. 2014 also marked the year millennials became the largest segment of the workforce, further disrupting traditional business structures and workplace expectations.

- 2) **Office of the Small Business Advocate:** The OSBA was codified in 2004. Prior to then, the position of the Advocate existed through executive order of the Governor. Over the years, the OSBA has moved from the Governor's Office of Planning and Research to the Business, Transportation, and Housing Agency, and currently resides under the administrative structure of GO-Biz.

The OSBA oversees a number of programs and services, including advocacy on small business regulatory and legislative issues; administering the Made in California Labeling Program and a small business capital access program; maintaining an informational website; and providing advisory assistance to small businesses in the areas of regulatory compliance, business start-up and expansion, capital formation, and disaster preparedness.

During 2016-17, the Advocate and the OSBA also completed a second year of regional issue forums, including events in Los Angeles, Riverside, and Orange Counties. In total, the OSBA hosted or participated in 77 events during the fiscal year. In addition to the more general small business forums, the OSBA also:

- Organized and led California's celebration of Small Business Month, including free webinars on access to capital, business incentives, international trade, and starting a business;
- Co-hosted a "Cybersecurity for Your Business" workshop in Los Angeles with the U.S. Secret Service, Bixel Exchange, and Scale LA;
- Co-hosted a "Disaster Preparedness for Your Small Business" event in Oakland in partnership with state and federal disaster planning and preparedness entities;
- Co-hosted a "Small Business American Disabilities Act Compliance" workshop in Modesto; and
- Participated in small business events hosted by Members of the Board of Equalization, Members of the Legislature, local governments, and nonprofit business and economic development organizations.

The OSBA and the GO-Biz Permit Assistance Unit manage an Interagency Working Group that convenes agency- and department-level small business advocates and liaisons. The Interagency Working Group has four subcommittees: Procurement; Workforce; Incentives; and Regulations, Permits, and Compliance. Each subcommittee works to update and maintain content on the California Business Portal, GO-Biz's online platform for accessing economic and business development.

The OSBA participates on a number of other interagency groups, including, but not limited to, the Small Business Council, convened by DGS; the CalTrans Small Business Council; and the Taxpayer

Advocates Quarterly Meeting, convened by the Franchise Tax Board, California Department of Fee and Tax Administration, Employment Development Department, and the Internal Revenue Service.

AB 23 expands the OSBA-related statutes to include assisting small businesses in connecting to workforce development and training resources that meet their unique needs.

- 3) **Workforce Innovation Opportunity Act and California Workforce Board:** Enacted in 2014, WIOA provides states with federal funding for job training and employment investment activities and programs, including work incentive and employment training outreach programs. Distribution of the funds is based on a set formula which includes specified economic and demographic data and flows to the state through three primary programs: Adult, Youth, and Dislocated Worker.

California's workforce development funding from the U.S. Department of Labor has declined over the years from a high of \$630 million in 2000-01 to \$411 million in 2012-13. Federal law dictates that 85% of Adult and Youth formula funds, and 60% of Dislocated Worker formula funds, are distributed to local workforce development boards. Funding for the state's discretionary activities is derived from the 15% discretionary funds.

California received approximately \$421.6 million for program year 2016-17, with \$358.4 million being allocated to local workforce development boards to provide services for adults, laid-off workers, and youth, and \$63.2 million remaining at the state-level for program oversight and discretionary programs.

California's WIOA dollars are overseen by the 49-member CWDB, of which 51% of the members represent the private sector, as required by federal law. The CWDB has 22.9 authorized positions and is currently led by Executive Director Tim Rainey. In 2008, a Green Collar Jobs Council was established to address the workforce development needs of the emerging clean and green economy.

Among its primary duties, the CWD provides guidance to local workforce boards and is responsible for the development of a unified, strategic plan to coordinate various education, training, and employment programs that result in an integrated workforce development system that supports economic development. The plan is required to be updated at least every 2 years in order to address the state's changing economic, demographic, and workplace needs.

The CWD submitted its first plan under WIOA to the U.S. Labor Department in 2016, which set three policy objectives: fostering "demand-driven skills attainment;" enabling upward mobility for all Californians; and aligning, coordinating, and integrating programs and services. These objectives support the accomplishment of the state goals of producing a million "middle-skill" industry-valued and recognized postsecondary credentials between 2017 and 2027, while also doubling the number of people enrolled in apprenticeship programs.

There are 49 local workforce development boards that plan for and oversee the workforce system at the local and regional levels. Local workforce boards are comprised of a range of workforce stakeholders, a majority of which are required to be representatives from business. Each local workforce development board has one or more One-Stop Career Centers, called American Job Centers under WIOA, which provide access to career information, counseling, and funding for education, training, and supportive services.

- 4) **Evolving Roles:** State workforce development and training policies have been evolving to adapt to these new workplace realities. Over the past decade, California has been a national leader in driving

state workforce and economic development policy to becoming more evidence-based and having a greater alignment between federal workforce training dollars, state education funding, and regional economic and workforce development activities.

The first of these bills was SB 1402 (Lieu), Chapter 361, Statutes of 2012, which recasts and revises the Economic and Workforce Development Program at the California Community Colleges to more closely align with economic and workforce best practices, including:

- Collaboration with other public institutions in order to align resources. This alignment is designed to foster cooperation across workforce education and service delivery systems and build well-articulated career pathways.
- The use of data driven and evidence based decisions to ensure investments are being made in practices that work.
- The development of strong partnerships with the private sector, ensuring industry involvement in needs assessment, planning, and program evaluation.
- Becoming more outcome oriented and accountable, measuring results for program participants, including students, employers, and workers.

In the following year, SB 118 (Lieu), Chapter 562, Statutes of 2013, was enacted requiring the CWDB to incorporate similar principles into the state's strategic plan. The following year, U.S. Congress reauthorized the federal workforce development act, this version called WIOA. California's conformity to the new federal act passed the Legislature easily [*AB 1270 (E Garcia), Chapter 94, Statutes of 2015*] as WIOA's core principles closely paralleled recently enacted state policy, especially as it called for better alignment and integration of education and workforce investment systems to address the 21st century economy and businesses' need for a well-educated and highly skilled workforce.

California's state plan to meet federal WIOA requirements identified GO-Biz as a key implementation partner. Among other provisions, the state plan states, "The State Board, working alongside other state agencies such as CCCCO, CDE, EDD, and GO-Biz will provide technical assistance to regional partnerships, comprised of industry leaders, workforce professionals, and regional training and education providers to help align programs and services delivered with industry sector workforce needs."

Relative to the work of GO-Biz and the actions proposed in AB 23, the WIOA state plan states the following:

Strengths: "Through its direct interactions with California businesses of all sizes and industry sectors, GO-Biz helps California businesses communicate their workforce development needs to ETP, Local Boards, educational institutions and training providers. In conjunction with its local, regional and state partners, GO-Biz connects businesses with workforce needs to applicable resources. These partner organizations often possess unique knowledge of emerging economic sectors, entrepreneurial activity, strategic industry partnerships, and overlapping skills requirements across multiple industry sectors. In addition, GO-Biz provides businesses and workforce development partners with information on a variety of business incentive programs that encourage hiring and/or training.

Weaknesses: "GO-Biz has the opportunity to increase its reach to a wider audience of business, education and training partners and to coordinate business assistance activities with state, regional

and local partners. Under the state plan, GO-Biz will engage workforce development partners at the state and regional level to help align workforce development programs with employer needs.”

- 5) **Proposed Amendments:** Below is a list of amendments the committee members may wish to review when considering the bill.
- a) Clarify that the role of GO-Biz is to collaborate and work with traditional workforce development partners on issues impacting small businesses.
 - b) Expand the specific types of workforce development partners to include local workforce development boards, the Employment Training Panel, and other public and private entities engaged in education and workforce issues.
 - c) Modify the work of the office by eliminating the requirement for GO-Biz to establish its own teams to cover all industry sectors and, instead, require GO-Biz to collaborate and coordinate with agencies and stakeholders to determine the extent to which existing workforce development efforts and programs address the labor needs of small businesses. Additionally, in dominant and emerging industry sectors and regions that are determined to be underserved or unserved, GO-Biz is authorized to augment and support existing workforce efforts.
 - d) Strike the definitions of “region” and “industry sectors” as different workforce entities and use different definitions.
 - e) Strike the new report requirement and instead consolidate the reporting into the existing annual report of the Office of the Small Business Advocate.
- 6) **Related Legislation:** Below is a list of bills from the current and prior sessions.
- a) **AB 29 (John A. Pérez, Feuer, and V. Manuel Pérez) Office of Business and Economic Development:** This bill establishes the Governor’s Office of Business and Economic Development (GO-BIZ) to be administered by a director appointed by the Governor. The bill also transfers the Office of the Small Business Advocate from the Business, Transportation, and Housing Agency to GO-Biz. Status: Signed by the Governor, Chapter 475, Statutes of 2011.
 - b) **AB 1270 (E. Garcia) California Workforce Innovation and Opportunity Act:** This bill aligns California statute with the new requirements of the federal Workforce Innovation and Opportunity Act of 2014. The bill sets the foundation for policy changes in 2016 through SB 45 (Mendoza). Status: Signed by the Governor, Chapter 94, Statutes of 2015.
 - c) **AB 1310 (Furutani) Career Technical Education and Workforce Development:** This bill would have required the Secretary of Labor and Workforce Development, in conjunction with the California Workforce Investment Board, the California Community Colleges, the State Department of Education, and the California Postsecondary Education Commission, to develop a strategic plan for connecting the delivery of education and workforce development in the state. Status: Vetoed by the Governor, 2011.
 - d) **AB 2330 (Arambula) Impact of Regulations on Small Businesses:** This bill requires the Office of the Small Business Advocate to have a study prepared by October 1, 2007, regarding the costs of state regulations on small businesses, as specified. Status: Signed by the Governor, Chapter 232, Statutes of 2006.
 - e) **AB 2687 (Quirk-Silva and Limón) Small Disaster Preparedness:** This bill integrates the Small Business Advocate (Advocate) within the state’s existing disaster preparedness, response, and

recovery activities and updates the role of the Advocate within the small business procurement and regulatory assistance activities. Status: Signed by the Governor, Chapter 266, Statutes of 2018.

- f) **AB 3058 (Assembly Committee on Jobs, Economic Development, and the Economy) Small Business Disaster Preparedness:** This bill requires the Office of the Small Business Advocate, in cooperation with the Office of Emergency Services and the Department of Industrial Relations, to develop a web-based handbook for small businesses on emergency preparedness, emergency response, and recovery strategies. This bill also requires at least three meetings be held in different locations in the state to share best practices for disaster preparedness for small businesses. Status: Signed by the Governor, Chapter 233, Statutes of 2006.
- g) **SB 118 (Lieu) Workforce Investment Board:** This bill requires the California Workforce Investment Board to incorporate specific principles into the state's strategic plan that align the education and workforce investment systems of the state with the needs of the 21st century economy and promote a well-educated and highly skilled workforce to meet the future workforce needs. Status: Signed by the Governor, Chapter 562, Statutes of 2013.
- h) **SB 1402 (Lieu) California Workforce and Economic Development Program:** This bill recasts and revises the California Community Colleges Economic and Workforce Development Program to more closely align with economic and workforce practices and extends the program's sunset date from January 1, 2013, to January 1, 2018. Status: Signed by the Governor, Chapter 361, Statutes of 2012.

REGISTERED SUPPORT / OPPOSITION:

Support

California Manufacturers & Technology Association (sponsor)
California Business Roundtable
California Chamber of Commerce
California Construction and Industrial Materials Association
California Cotton Ginners and Growers Association
California Fresh Fruit Association
California League of Food Producers
California Professional Association of Specialty Contractors
California Rice Commission
California Workforce Association
Computing Technology Industry Association
El Dorado County Joint Chambers Commission
Elk Grove Chamber of Commerce
Far West Equipment Dealers Association
Folsom Chamber of Commerce
Grow Manufacturing Initiative of Northern California
Northern Rural Training and Employment Consortium
Orange County Business Council
Rancho Cordova Chamber of Commerce
Roseville Area Chamber of Commerce
Torrance Area Chamber of Commerce
United Chamber Advocacy Network
Western Agricultural Processors Association

Opposition - None on File

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