

Date of Hearing: April 17, 2018

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY

Sharon Quirk-Silva, Chair

AB 2687 (Quirk-Silva and Lemón) – As Introduced February 15, 2018

SUBJECT: Office of Small Business

SUMMARY: Integrates the Small Business Advocate (Advocate) within the state's existing disaster preparedness, response, and recovery activities and clarifies the role of the Advocate within the small business procurement and regulatory assistance activities. Specifically, **this bill:**

- 1) Expresses legislative intent that small businesses serve as economic engines to the California economy by being the most effective net new jobs 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.
- 2) Renames the Office of the Small Business Advocate (OSBA) to the Office of Small Business and revises the title of the individual who oversees the OSBA from Director to Deputy Director for consistency with GO-Biz's existing administrative structure.
- 3) Expands the role of the Advocate from maintaining a list of agency-level small business ombudsmen to requiring the Advocate to 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.
- 4) Expands the role of the Advocate in the case of state declared emergencies by requiring the Advocate to:
 - a) Be prepared for designation by the Governor to serve as an official liaison between small businesses impacted by a state-declared state of emergency and other government and nonprofit service providers; and
 - b) Assist in emergency recovery, response, and preparedness efforts related to small businesses, including microenterprises. The advocate's efforts are required to be consistent with the California Emergency Services Act and the State of California Emergency Plan.
- 5) Consolidates and expands the information the Advocate is required to provide through an internet platform, as follows:
 - a) Information on how a business can receive assistance in identifying and understanding the state's regulatory requirements. This information is required to include contact information for the agency-level small business liaison and the already required website maintained by GO-Biz to assist small businesses identify licensing, permitting, and registration requirements.
 - b) Information on how a business can receive assistance in certifying as a small business and identifying and participating in state procurement opportunities. This information is required to include contact information for the agency-level small business ombudsman and the contact information for the DGS Office of Small Business and Disabled Veteran Business Enterprise Services.

- c) Information on how a business can access information about emergency preparedness, responses to emergencies, and recovery strategies. This information is developed and updated in consultation with relevant state agencies and emergency responders.
- d) Link to the Energy Upgrade California Internet website to assist small business owners in accessing information on the availability of various programs promoting the efficient use of energy.
- e) Information on programs administered through the statewide network of small business financial development corporations. Programs covered are required to include loan guarantees, direct lending, surety bond guarantees, and disaster loans. The presentation of the information is to be in a manner appropriate to address the needs of both small businesses and existing and potential financial institutions.
- f) Information on how to identify and access services provided through the statewide network of small business technical assistance centers, including, but not limited to, small business development centers, women business centers, veteran business outreach centers, procurement technical assistance centers, and the Manufacturing Extension Partnership.

EXISTING LAW:

- 1) 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 economic and business development goals.
- 2) Establishes the OSBA within GO-Biz and establishes the duties and functions of 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.
- 3) Requires the Advocate to develop and post information on the Advocate's website about emergency preparedness, responses to emergencies, and recovery strategies for small businesses.
 - a) Requires the Advocate to conduct at least one public meeting every year in coordination with the appropriate state agencies, to share best practices for small business disaster preparedness.
 - b) Requires that these meetings be held in consultation with regional and statewide small business organizations and shall take place in different locations throughout the state.
- 4) 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, as well as the Department of General Services (DGS), of the name and contact information of the person or persons who have been designated as the agency's small business liaison.

- 5) Requires the Advocate to maintain, publicize, and distribute an annual list of persons serving as agency- and department-level small business ombudsmen, who are the individuals designated to assist small businesses in pursuing state procurement opportunities with their respective agencies.

FISCAL EFFECT: Unknown

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 Advocate, located within GO-Biz, is charged with assisting small businesses navigate the public and private sector challenges of a globally integrated economy. AB 2687 updates and streamlines the role and responsibilities of the Advocate to reflect these evolving needs, including disaster recovery, regulatory compliance, and state procurement.

The analysis includes information on the California small business economy, the OSBA, and disaster preparedness and recovery. Suggested amendments are included in Comment 6.

COMMENTS:

- 1) **The Role of Small Businesses within the California Economy:** California's dominance in many economic areas is based, in part, on the significant role small businesses play in the state's \$2.6 trillion economy. Two separate studies, one by the U.S. Census Bureau and another by the Kaufman Foundation, found that net job growth was strongest among businesses with fewer than 20 employees. Among other advantages, small businesses are crucial in the state's international competitiveness and are an important means for dispersing the positive economic impacts of business and trade within the California economy.

Sole proprietorships comprise the single largest component of businesses in California, with more than 4.7 million sole proprietorships being reported for 2015. Excluding sole proprietorships, businesses with fewer than 20 employees comprise over 87% of all businesses and employ approximately 18% of all workers. Businesses with fewer than 100 employees represent 97% of all businesses and employ 31% of the workforce. These non-employer and small employer firms create jobs, generate taxes, support important industry sectors, and revitalize communities. Since the recession, these businesses have become increasingly important because of their ability to be more flexible and adaptive to both foreign and domestic market needs.

Reflective of their important role within the economy, the JEDE Committee Members regularly hear from small businesses. Among other challenges and areas of need, small businesses have requested assistance in understanding and complying with state, local, and federal regulations; accessing capital; preparing and recovering from disasters; participating in state procurement opportunities; cybersecurity threats and attacks; and expanding into foreign markets. The position of the Advocate was established to serve as a point person for issues of importance to small business and to advocate on their behalf before state agencies.

- 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 US 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 2687 updates OSBA-related statutes to more effectively define the role and responsibilities of the Advocate to reflect the current and changing needs of small businesses.

- 3) **Disaster Preparedness:** The OSBA is currently required to develop and post information on the Advocate's website about emergency preparedness, responses to emergencies, and recovery strategies for small businesses.

Each year, the OSBA is required to conduct at least one public meeting to share best practices for small business disaster preparedness. These meetings are required to be held in consultation with regional and statewide small business organizations and take place in different locations throughout the state. As noted above, in 2016-17, the "Disaster Preparedness for Your Small Business" workshop was held in Oakland.

When the wildfires hit Northern and Southern California in fall of 2017, the Advocate and his team were in the first wave of recovery staff at the local disaster centers. The OSBA spent days in all three disaster regions, supporting local efforts and addressing small business needs. From these experiences, a policy gap was identified. As the Advocate has a role in preparedness, no similar role has been designated for recovery. In some instances, there could even be a need to use the resources of the OSBA in disaster response, such as crisis communications.

AB 2687 upgrades the role of the Advocate to assist in emergency recovery, response, and preparedness. The authors believe that having the Advocate and OSBA become a more effective utility player can benefit small businesses, while being cognizant of the need to integrate the position and be consistent with the State of California Emergency Plan and actions taken in response to individual disasters under the California Emergency Services Act.

- 4) **California's Emergency Response Plan:** The California Office of Emergency Services (OES) is the state entity tasked with the development and maintenance of state-level emergency plans and guidance that engage communities by using an "all-hazards planning process."

Among other responsibilities, OES develops and maintains the State of California Emergency Plan, administers the Standardized Emergency Management System (SEMS), and coordinates the state's activities within the federal National Incident Management System (NIMS), while also providing technical assistance in Radiological-Nuclear and Homeland Security areas.

Local governments and other state agencies can be assisted by OES in developing their own emergency preparedness and response plans in accordance with the SEMS, NIMS, and State Emergency Plan. OES also supports the Disaster Service Worker Volunteer and Disaster Council Accreditation programs.

The State of California Emergency Plan was updated in October 2017 to address a range of hazards and vulnerabilities including incidences involving a flood, earthquake, fire, volcanic eruption, dam and levee failure, severe weather, tsunami, hazardous materials emergency, energy disruption, food and agriculture emergency, civil unrest, pandemic and epidemic, terrorist attack, and cyber-attack.

When responding to emergencies, the Governor may call upon over 125 state agencies, departments, offices, boards, commissions, council, and authorities. Within this framework, GO-Biz is specifically identified in the State of California Emergency Plan as a key agency with a specific support role in an emergency. State agencies not specifically listed may also be called up to carry out functions designed to mitigate the impact of an emergency, consistent with the California Emergency Services Act.

Key elements of the 2017 plan, as it relates to GO-Biz include:

- **Recovery:** Hosts annual disaster readiness workshops for small businesses. Facilitates introductions to local and regional economic development partners that could assist businesses after an emergency, including small business development centers, economic development corporations, and city economic development departments. Serves as liaison with state economic and workforce development partner organizations, including Employment Training Panel, Employment Development Department, and California Workforce Investment Board.

- **Public Information:** Coordinates interviews with business community. Works with local and regional partners, including small business development centers and economic development corporations, to support the accurate, coordinated, timely, and accessible transmission of information to the California business community.
 - **Volunteer and Donations Management:** Works with local and state partners, including the Employment Development Department and regional economic development organizations, to identify companies that can assist with volunteer donations and management activities.
- 5) **How Small Businesses Can Prepare:** Preparedness is essential to the successful recovery from an emergency. Without appropriate documentation and understanding of the business' risk in the case of an emergency, assistance can be substantially delayed. Disaster preparedness is one of the important roles of the Advocate and the OSBA.

Below is a summary, prepared with information from the OSBA's webpage, of five key steps businesses are encouraged to take to prepare for a disaster:

1. **Program Management:** Take control and develop a preparedness plan.
 2. **Assessment:** Identify regulations that set minimum filing, reporting, and maintenance requirements for the business. Gather information about general and specific hazards and assess risks. Conduct a business impact analysis. Consider how an emergency and business interruption would impact customers, suppliers, and employees. Identify key documents and determine where a copy or original could be safely stored and be retrievable to verify identify and gain access to financial and legal resources. Learn about the local community disaster plan, including high risk and potential evacuation areas. Determine what resources are needed in order to work remotely.
 3. **Write a Preparedness Plan:** Based on the assessment, draft an emergency preparedness plan. At its core, a preparedness plan should be designed to protect your and your workers' safety and ensure the continuance of your company. It should include information and strategies about issues such as emergency response, resource management, crisis and initial recovery communications, information technology, employee assistance, incident management; and training.
 4. **Testing and Exercises:** Test and evaluate the plan.
 5. **Program Improvement:** Using the testing results, modify the plan. Periodically review the plan to be sure it meets the company's needs and is current with local and state emergency plans.
- 6) **Proposed Amendments:** Below is a list of amendments staff understands the author will be presenting for Committee approval at the hearing.
- a) Add legislative intent that the Small Business Advocate be considered an advisor on key issues before the state and their inclusion in cabinet- and department-level discussions that potentially impact small businesses is encouraged.
 - b) Revise and state that the emergency preparedness, response, and recovery work of the Small Business Advocate and OSBA is to be coordinated through the Governor's Office of Emergency Services.
- 7) **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 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.

REGISTERED SUPPORT / OPPOSITION:**Support**

None on File

Opposition

None on File

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