Date of Hearing: April 22, 2014

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE ECONOMY
Jose Medina, Chair
AB 2729 (Medina) – As Amended: April 9, 2014

SUBJECT: California Infrastructure Development Center

SUMMARY: Establishes the California Infrastructure Finance Center (Finance Center) within the California Infrastructure and Economic Development (I-Bank) for the purpose of designating one or more private entities as a California Infrastructure Development Corporation (CIDC). A CIDC is entitled to specified participation rights related to the joint development of infrastructure projects within the state. Specifically, this bill:

1) Makes findings and declarations relative to the importance of engaging with the private sector in building infrastructure to support state economic growth, while still ensuring that workers, residents, and small businesses are not negatively impacted.

2) Establishes the Finance Center at the I-Bank, consistent with its existing expertise in public and private finance including, as a financier, project advisor, and project facilitator.

3) Sets the process, criteria, and conditions under which the I-Bank may designate a CIDC.

4) Authorizes the I-Bank Board to designate one or more private entities which meet specified criteria as a CIDC, which entitles the entity to deliver infrastructure projects that have been determined by statute as appropriate for financing through a public-private partnership (P3).

5) Specifies that, among other rights, responsibilities, and conditions laid out in the agreement between the CIDC and the I-Bank, is the right of first refusal for future P3 infrastructure projects. The bill sets the maximum term of each agreement at five years. The I-Bank may cancel the contract for fraudulent behavior.

6) Provides that the award of the CIDC designation be reflected as an equity investment in either an individual project of the CIDC or in the CIDC, in general.

7) Authorizes the charging of fees to cover the costs of the designation and hiring of consultants and advisors to assist the I-Bank Board in overseeing the provisions of the bill.

8) Exempts contracts for goods and services related to this bill from oversight of the Department of General Services.

9) Modifies, expands and establishes definitions related to economic development related infrastructure, goods movement, and port facilities.

10) Contains a crimes and infraction disclaimer.

EXISTING LAW:

1) Establishes the I-Bank within the Governor's Office of Business and Economic Development (GO-Biz) and authorizes it to undertake a variety of infrastructure related financial activities including, but not limited to, the administration of a revolving loan fund, the issuance of tax-exempt and taxable revenue bonds, and the administration of the Small Business Finance Center.
2) Establishes the California Transportation Financing Authority to assist transportation agencies in obtaining financing, primarily through issuing bonds backed by specified sources of revenue, to develop transportation projects. In doing so, this bill allows the authority to permit agencies to impose tolls for use in these constructed facilities.

3) Authorizes local governments to solicit proposals and enter into agreements with private entities for the design, construction and re-construction of infrastructure including, but not limited to drainage, harbors, highways and bridges, air ports, and sewage treatment.

FISCAL EFFECT: Unknown

COMMENTS:

1) Author's Purpose: Maintaining a modern and efficient infrastructure network is fundamental to the long term growth of the state. With global supply chains and international distribution and consumer bases, it is necessary and appropriate that the private sector help finance and develop economic development related infrastructure.

   For years, public policy makers have struggled to find a joint development model that meets all the stakeholders requirements. And, while significant work has been done on the side of public finance evidenced by the establishment of the California Transportation Finance Authority in 2009 and the approval of Proposition 1B in November 2006, the model for bringing in the private sector has been challenging.

   AB 2729 proposes the establishment of a pre-certified group of private developers that are qualified to do business with the state. In exchange for applying and being reviewed by the state, these certified entities will have the right of first refusal on future infrastructure projects. By placing the responsibility for overseeing pre-certification, the state benefits from the I-Bank's private market and infrastructure development expertise.

2) Framing the Policy Issue: This bill proposes a pre-certification process for private infrastructure developers who are interested in jointly developing goods movement related infrastructure projects with the state. Once designated as a CIDC, certain rights and responsibilities are conveyed that materially reduce the project risk and establish an equity interest in the firm by the state.

   In deliberating the merits of the measure, Members may wish to consider the challenges the Administration and the Legislature have faced in developing a successful path forward in engaging the private sector in infrastructure

California's Infrastructure Report Card

According to the 2013 Report Card on America's Infrastructure, California's overall infrastructure scored a "C" in 2012, up from a "C-" in 2006. At a more granular level, California scored:

- B- in Ports (down from B+ in 2010)
- C+ in Aviation
- C- in Transportation
- D in Levees/Flood Control
- B- in Solid Waste (down from B in 2010)
- D+ In Urban Runoff
- C+ in Wastewater
- C in Water

California's infrastructure investment gap is estimated at $97.9 billion over the next 20 years. For comparison, the U.S. infrastructure received a D+ with an estimated $3.6 trillion investment gap.

Source: American Society of Civil Engineers development that benefits the overall economy of the state. The analysis includes information on California's infrastructure economy, traditional forms of finance and possible alternative infrastructure financing models.

3) Infrastructure and the California Economy: World-class infrastructure plays a key role in business attraction, as multinational companies consistently rank the quality of infrastructure among their top four criteria in making investment decisions. U.S. global competitiveness has suffered as the nation's infrastructure has declined. The 2012-13 Global Competitiveness Report by the World Economic Forum places U.S. infrastructure 25th in the world, down from 23rd in 2010 and 7th in 2000.

A recent report by the American Society of Civil Engineers (ASCE), shows that California's infrastructure is in a similar state. In 2006, the annual infrastructure investment need was projected to be $37 billion and it has now risen to $65 billion for 2012. The Chart (on the prior page) shows the grades from California's 2013 Infrastructure Report Card, which includes an ASCE estimated $97.9 billion investment gap in infrastructure over the next 20 years. In January 2014, the Governor estimated that state infrastructure, alone, has a backlog of $765 billion. The impact of this lack of investment is compounded by the substantial new infrastructure investments made in other states and nations, including the expansion of the Panama Canal.

As the world has globalized and transportation and communication times and costs have shrunk, new business paradigms have evolved. Industry clusters remain important, however, their relationship to other clusters within a region and across borders is becoming increasingly important. Even small businesses can now access foreign markets and participate within global supply chains. In order to remain competitive, regions must demonstrate their external connectivity to other centers of innovation and consumers around the world.

Unfortunately, this increased demand for a high quality and deeply networked infrastructure is occurring at a time of constrained public budgets. Issuing more bonds or even simply adding capacity isn't a realistic answer. New approaches to infrastructure are necessary including new financial structures, more collaborative planning, and an enhanced use of technology.

4) Traditional Methods of Infrastructure Finance: In the past five decades, capital investment in California infrastructure has declined dramatically. In the 1950s and 60s, California spent 20 cents of every dollar on capital projects. That figure dropped to less than five cents on the dollar by the 1980s. Current estimates put infrastructure investment at around a penny on the dollar.

The Legislative Analyst's Office (LAO) estimates that between 2000 and 2010, California spent $102 billion from state funds on infrastructure. The state uses two methods for paying for infrastructure development: (1) Direct "pay-as-you-go" spending, where the state funds infrastructure upfront through appropriations from the General Fund or Special Funds accounts, and (2) Debt or leverage, where the state finances infrastructure through the use of bonds.

Between 2000 and 2010, the state appropriated $35.7 billion in pay-as-you-go financing, including $1.9 billion from the General Fund (2% of all infrastructure spending) and $33.8 billion from Special Funds (35% of all infrastructure spending). During the same period the state spent $66.6 billion in bond financing, including $59.1 billion from general obligation bonds (representing 58% of total infrastructure spending), $5.5 billion from lease-revenue bonds (representing 5% of total infrastructure spending), and $2 billion from traditional revenue bonds (representing 2% of infrastructure spending). For the 2013-14 fiscal year, the LAO estimates General Fund costs for debt service on infrastructure bonds will be $5.4 billion.

Transportation spending represented the largest infrastructure spending category with $56 billion of the $81 billion going toward highway infrastructure between 2000 and 2010. California cities and counties own and operate 81% of the state's roads. Almost three-fifths of the state's total infrastructure spending between 2000 and 2010 was distributed to and administered by local agencies.

The LAO estimates that in 2013-14, statewide transportation funding will be about $27 billion coming from a combination of federal highway funding ($3.3 billion), base gasoline excise tax ($2.6 billion), and base diesel excise tax ($330 million). Self-Help Counties, which include all Southern California counties, have passed county-wide initiatives to tax themselves to raise local revenues for transportation funding. Statewide, Self-Help Counties have expended over $980 million.

One of the challenges of relying on base gasoline and diesel taxes for transportation funding is that fuel efficiencies and inflation are, in real terms, turning 18¢ for every dollar spent on a gallon of gasoline to be worth only 9¢. With relatively no more Prop 1B moneys left, gas tax revenues declining, and federal transportation contributions to states decreasing, there are important policy questions about how to keep the state's economy competitive without adding funding. A world class transportation network is critical to California's long term economic growth.

5) Alternative Financing Models: In order to obtain world class goods movement infrastructure there is a need to consider alternative financing models. One such model is seeking infrastructure investment funding through the West Coast Infrastructure Exchange.

Launched in 2012 with the support of the California State Treasurer and the California Public Employees Retirement System (CalPERS), the West Coast Infrastructure Exchange was designed to overcome some of the challenges private investors were having in identifying viable infrastructure projects. In the last decade, private investment and public pension fund investments have increasingly diversified their portfolios to include infrastructure investments. Kearsarge Global Advisors reported that as of 2010 over $190 billion of global equity capital had been committed for infrastructure investment – up from only $60 billion in 2007.

In November 2013, the California State Treasurer, the President Pro Tempore of the Senate, and the Chair of JEDE Committee attended the California Economic Summit where they discussed, among other things, alternate methods for financing infrastructure including the West Coast Infrastructure Exchange and the need for a new P3 model that would remove barriers to private investors engagement.

6) Background on I-Bank: The I-Bank was established in 1994 to promote economic revitalization, enable future development, and encourage a healthy climate for jobs in California. Housed within GO-Biz, it is governed by a five-member board of directors comprised of the Director of GO-Biz (chair), the State Treasurer, the Director Department of Finance, the Transportation Agency, and a Governor's appointee. The day-to-day operations of the I-Bank are executed by the Executive Director, who is an appointee of the Governor and is subject to confirmation by the California State Senate. Currently, the I-Bank has authority for 25 staff members.

The I-Bank does not receive any ongoing General Fund support, rather it is financed through fees, interest income, and other revenues derived from its public and private sector financing activities.

According to its Comprehensive Annual Financial Report for the fiscal year ended June 2013, its programs continued to provide revenues sufficient to cover operating expenses.

The I-Bank administers three programs: (1) The Infrastructure State Revolving Fund which provides direct low-cost financing to public agencies for a variety of public infrastructure projects; (2) The Conduit Bond Program which provides financing for manufacturing companies, public benefit nonprofit organizations, public agencies, and other eligible entities; and (3) The Small Business Finance Center which helps small businesses access private financing through loan guarantees, direct loans, and performance bond guarantees . There is no commitment of I-Bank or state funds for any of the conduit revenue bonds. Even in the case of default, the state is not liable.

Since its creation in 1994, the I-Bank has loaned, financed, or participated in over $344 billion in infrastructure and economic expansion projects. This includes over $400 million to local and state agencies, developing a high-level of expertise in the financing of public infrastructure. The I-Bank also serves as the state's only general purpose financing authority with broad statutory powers to issue revenue bonds, make loans, and provide guarantees. Over $33 billion in conduit revenue bonds have been issued by the I-Bank since 2000.

The seismic upgrade of the Bay Bridge is an example of how conduit revenue bonds can be used to raise capital for infrastructure projects without impacting the state General Fund. In this example, the repayment of the bonds was based on a $1 per vehicle surcharge collected on seven Bay Area state-owned toll bridges. In addition to this type of bonding activity, the I-Bank has also been involved in other unique financings including Tobacco Securitization Bonds, Tribal Compact Asset Securitization Bonds, and Imperial Irrigation District Preliminary Loan Guarantees.

7) Related Legislation: Legislation related to this measure includes the following:

a) *AB 14 (Lowenthal) State Freight Plans*: This bill requires the state's Transportation Agency to prepare a state freight plan and establish a freight advisory committee. Status: Signed by the Governor, Chapter 223, Statutes of 2013.

b) *AB 311 (V. Manuel Pérez) I-Bank California-Mexico Border Assistance*: This bill expands the role of the I-Bank to include facilitating infrastructure and economic development financing activities within the California and Mexico border region. Status: Pending in the Assembly Committee on Appropriations.

c) *AB 337 (Allen) Port of Entry Evaluation*: This bill requires an evaluation of the ports of entry to the state and their capacity for handling international trade, including industrial and postconsumer secondary materials, originated in or destined for other states, as part of California's international trade and investment strategy. Status: Pending in the Assembly Committee on Jobs, Economic Development, and the Economy.

d) *AB 1081 (Medina) Goods Movement-Related Infrastructure*: This bill would have required the state's five-year infrastructure plan to include goods movement-related infrastructure. Status: Held on the Suspense File of the Senate Committee on Appropriations, 2013.

e) *AB 1272 (Medina) Infrastructure Financing Consortiums*: This bill would have authorized the I-Bank to join regional, state, national, or international organizations related to infrastructure financing in order to facilitate infrastructure financing projects in California. Status: Held on the Suspense File of the Assembly Committee on Appropriations, 2013.

f) *AB 2008 (Quirk) Goods Movement Projects*: The bill requires the Governor's Office of Planning and Research to modify the in-fill guidelines for implementing the California Environmental Quality Act to minimize the impact of goods movement on air quality, traffic, and public safety through the provision of dedicated loading and unloading of facilities for commercial space. Status: Pending in the Assembly Committee on Natural Resources.

g) *AB 2036 (Mansoor) Toll Facilities*: This bill authorizes the creation of toll roads on public highways if the facility was approved by a 2/3 rds vote of the electorate in the area served by the highway. Status: Pending in the Assembly Committee on Transportation.

h) *AJR 4 (Hueso and V. Manuel Pérez) United States-Mexico Border Infrastructure*: This resolution states the Legislature's support for federal funding of necessary infrastructure improvements to the San Ysidro, Calexico, and Otay Mesa Ports of Entry. Status: Adopted, Chapter 24, Statutes of 2013.

i) *SB 1228 (Hueso) Trade Corridors*: Continues the Trade Corridor Improvement Fund for the purpose of receiving other funds, including for infrastructure improvements from the Trade Corridors of National and Regional Significance. Status: Pending the Senate Committee on Transportation and Housing.

8) Double Referral: The Assembly Committee on Rules referred this measure to two policy committees for review. Should AB 2729 pass JEDE it will be referred to the Assembly Committee on Banking and Finance for further policy consideration.

REGISTERED SUPPORT / OPPOSITION:

Support

None received

Opposition

None received

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