ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY

FINAL AGENDA

Tuesday, May 12, 2020

Economic Policies and Strategies that Support Upward Mobility and Inclusive Prosperity

Item 1. AB 3101 (Blanca Rubio, Cervantes) California New Markets Tax Credit (page 3)

Item 2. AB 3205 (Salas) Regions Rise Grant Program (page 17)

Item 3. AB 3307 (Eduardo Garcia) California Manufacturing Competitiveness (page 27)

Engaging Global Markets to Support Economic Growth

Item 4. AB 2135 (Muratsuchi) Japan Trade and Investment Office (page 39)

Impact of Regulations on Business

Item 5. AB 3368 (JEDE) 2020 Small Business Reform Act (page 52)

We encourage the public to provide written testimony before the hearing by visiting the committee website at https://ajed.assembly.ca.gov/ and following the web portal submission instructions. Please note that any written testimony submitted to the committee is considered public comment and may be read into the record or reprinted.

Due to the statewide stay-at-home order and guidance on physical distancing, seating for this hearing will be very limited for press and for the public. All are encouraged to watch the hearing from its live stream on the Assembly's website at https://www.assembly.ca.gov/todaysevents.

The Capitol will be open for attendance of this hearing, but the public is strongly encouraged to participate via the web portal or telephonically.

Information regarding a call-in option for testimony will be made available on the committee website closer to the hearing date. We encourage the public to monitor the committee website for updates.

Date of Hearing: May 12, 2020

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY
Sabrina Cervantes, Chair
AB 3101 (Blanca Rubio, Cervantes) – As Amended March 16, 2020

SUBJECT: Income taxes: credits: California New Markets Tax Credit

POLICY FRAME: Responding to the coronavirus pandemic has required the state to take extreme and rapid steps to protect the health and safety of Californians. Within one week in March 2020, the state went from open-for-business to implementing a strict stay-at-home order for everyone not directly engaged in what government considered an essential and critical business activity. Since March 12, 2020, 3.6 million unemployment insurance claims have been filed with the state's Employment Development Department.

Even before the coronavirus emergency, however, when California enjoyed 120 straight months of economic growth, there were significant economic forces driving income inequality. Between 1979 through 2017, earnings for the top 0.1% of households increased by 343.2%, as compared to the earnings of the bottom 90% of households, which experienced an increase of only 22.2%. Given these divergent income outcomes, it is not surprising that California ranks within the top tier of states relative to household poverty.

In the next few weeks, the Legislature and Governor will discuss how to construct a balanced budget given the dramatic drop in state revenues and potential of a slow recovery. It is because of these financial challenges that California should squarely commit to addressing these historic economic disparities. If the state does not, the economic dislocation will spread and drag down the recovery. AB 3101 establishes a California New Market Tax Credit (C-NMTC), which uses a community development model proven to be successful in the lowest income areas of the nation. Research shows that the federal New Market Tax Credit (F-NMTC) is able to leverage $8 dollars for every $1 dollar of credit provided. Further, the US Treasury reports that of the F-NMTC moneys deployed, more than 75% were in severely distressed areas of which 55% had unemployment rates 150% above the statewide average.

The policy committee analysis includes a discussion of how a C-NMTC may address the state's increasing income disparities and the challenges faced by small businesses in the post-coronavirus economy. The analysis also provides information on the F-NMTC Program, reports and assessments of the federal program, and examples of NMTC programs in other states. Comment 3 discusses opposition from the California Teachers Association, who raise concerns about establishing a new tax credit when Proposition 98 General Fund revenues are at risk.

SUMMARY: AB 3101 establishes the C-NMTC Program and authorizes the awarding of $50 million in tax credits annually for five years, beginning in the 2021 tax year. The purpose of the C-NMTC Program is to attract new private capital to very low-income neighborhoods in California. In general, the new state credit parallels the F-NMTC Program. Specifically, **this bill**:

1) **Purpose of the Credit**: Establishes the C-NMTC Program, administered by the Governor's Office of Business and Economic Development (GO-Biz), for the purpose of stimulating private sector investment in lower-income communities, as specified.

2) **Annual Credits Awards**: Authorizes GO-Biz, beginning in 2021 and concluding in 2026, to award authority to designate qualified equity investments up to $50 million per tax year to qualified community development entities (CDEs) and other entities authorized to participate in the federal

program, including qualified community development financial institutions (CDFIs) and small business investment corporations (SBICs). [*In order to finalize the designation of the qualified equity investment, the qualified CDE obtains cash from a taxpayer in the form of a qualified equity investment. Once the investment moneys are raised, the CDE submits documentation to GO-Biz, verifying that the investment funds have been obtained. This process is referred to as the "issuance of the qualified equity investment" by the CDE. Following the issuance, the qualified equity investment is available for deployment in qualified low-income communities to qualified active low-income community businesses. Most commonly, funds are deployed in the form of low-cost debt instruments.*]

3) **Value of Individual Credits**: Authorizes a 39% tax credit to a taxpayer who makes a qualifying deposit with a CDE for a minimum of seven years **and** the CDE uses those funds in a manner consistent with the NMTC requirements. The credit may be applied against the taxpayer's personal or corporate tax liability. A 6% credit may be applied in the first two tax years of the investment. In tax year three, a 3% credit may be applied, and in years four through seven, a 6% credit may be applied. [*The federal credit allows taxpayers to apply the credit in the first year, as follows: 5% in the first three years and 6% in the final four years.*]

4) **Program Guidelines**: Requires GO-Biz to adopt guidelines as necessary and appropriate to meet its responsibilities related to the allocation, monitoring, and management of the C-NMTC. Below is a list of required elements of these guidelines.

   a) ***Allocation Process***: The tax credit allocation process is required, at a minimum, to include or address the following:

      i) The first applications are required to be accepted by GO-Biz on or before January 1, 2021, to the extent the C-NMTC is authorized for that year, as specified.

      ii) The application process results in low-income community populations across the state having an opportunity to benefit from the program.

      iii) Applicants are required to demonstrate they can meet organizational capacity standards, including business strategy, targeted community outcomes, capitalization strategy, and management capacity. [*These standards are consistent with the F-NMTC allocation process.*]

      iv) Consideration is given in the awards process of an applicant's prior experience in making investments in low-income areas, as specified.

      v) Priority is provided to applications that:

         (1) Commit to addressing the hardest to serve and undercapitalized lower-income populations.

         (2) Support neighborhood revitalization strategies driven by local grassroots stakeholders.

      vi) Applicants are provided a five-day cure period for applications GO-Biz determines to have a minor, nonsubstantive error or omission.

      vii) Members of the application review committee are prohibited from having any financial conflicts of interest, as specified.

   b) ***Operating Costs***: GO-Biz is required to set fees to cover the costs for administering the program, including one fee to cover the costs associated with the allocation process and a separate fee to cover program-monitoring costs, which are only paid by successful applicants, as specified. All fees are required to be deposited in the California New Markets Tax Credit Account, which is established by this bill.

c) ***Raising Investment Capital***: After receiving certification from GO-Biz of an award, the qualified CDE has 200 calendar days to obtain equity investments from taxpayers up to the value of the certified award and to notify GO-Biz that the CDE has successfully issued the qualified equity investment.

d) ***Reversion of Unused Investment Authority***: Any portion of the certified award that is not covered by a qualified equity investment at the end of 200 days lapses and the value of the unused award reverts to GO-Biz.

e) ***Recording Tax Payer IDs***: A qualified CDE that issues a qualified equity investment is required to notify GO-Biz of the names of taxpayers that are eligible to utilize tax credits pursuant to this program.

f) ***Deploying Capital***: A qualified CDE that issues a qualified equity investment is required to submit a report to GO-Biz that includes documentation demonstrating that at least 85% of the qualified low-income community investments has been deployed within one year in qualified active low-income community businesses.

g) ***Ongoing Reporting on Deployed Capital***: In years two through seven following the issuance of the qualified equity investment, the qualified CDE is required to annually document to GO-Biz the investment of the funds being deployed within the reporting period in qualified low-income community investments, as specified.

h) ***Process for Recapturing Credits***: GO-Biz is required to work with the Franchise Tax Board (FTB) on establishing a process for recapturing tax credits when the conditions of the C-NMTC are not met during the mandated seven years of compliance. Enforcement of the recapture provisions are subject to a six-month cure period.

i) ***Reallocation of Undesignated or Recaptured Credits***: Specifies that the value of any undesignated qualified equity investments and recaptured credits may be re-awarded by GO-Biz without affecting the $50 million per year allocation limit, as specified.

5) **Franchise Tax Board Authority**: Requires the Franchise Tax Board (FTB) to adopt any rules or regulations that may be necessary or appropriate to implement the C-NMTC. The FTB is authorized to have access to any documentation held by GO-Biz relative to the application and reporting of the qualified community development entity.

6) **Annual Reporting Details**: Requires annual reporting on all of the following in the second through seventh years following the issuance of the qualified equity investment:

a) The social, environmental, and economic impact of tax credit on qualified low-income communities during the report period and cumulatively.

b) The amount of money invested in qualified active low-income community businesses.

c) The number of employment positions created and retained, and the average annual salary of such positions.

d) The number of operating businesses assisted by industry and number of employees.

e) The number of owner-occupied real estate projects.

f) The geographic locations of the assisted businesses.

g) Any other information requested by GO-Biz, as specified.

7) **Use of Tax Credits by Taxpayers**: Specifies the following provisions relative to the application of tax credits to a taxpayer's tax liability:

   a) Limits the allocation of a tax credit to only those calendar years in which the Legislature appropriates funds in the California New Markets Tax Credit Fund to pay for the cost of administering the C-NMTC program.

   b) Prohibits a taxpayer from taking another state tax credit for the same investment.

   c) Allows the C-NMTC to be taken in addition to the F-NMTC.

   d) Authorizes a taxpayer to carry forward excess credits up to seven years.

8) **Transfer of Investment Authority**: Authorizes a qualified CDE to transfer all or a portion of its certified qualified equity investment authority to its controlling entity or any subsidiary qualified community development entity of the controlling entity, as specified. GO-Biz is required to be notified within 30 days of the transfer, and the transferee is subject to the same rules, requirements, and limitations applicable to the transferor.

9) **Definition of Qualifying Business**: Defines a qualified active low-income community business as meeting the requirements of federal law, including having the business organized under a nonprofit or for-profit tax structure, with several modifications.

   a) The qualified active low-income community business shall:

      i) Have less than 250 employees, with one exception. This requirement does not apply to a business located in a tribal trust land held communally by a federally recognized tribe and managed by the tribal government, as defined. [*There are no size limitations in F-NMTC.*]

      ii) Derive less than 15% of its annual revenue from rental or sale of real estate, as specified. [*There are no similar limitations in F-NMTC. However, reports by the Congressional Budget Office suggest that land development and property management companies may not be the highest and best use of the credits.*]

      iii) Be physically located in a census tract that meets one of the following criteria: a poverty rate above 30%, a median income less than 60% of California median income, or an unemployment rate 1.5 times the national average. [*This is the federal definition for severely distressed and is more stringent than the general eligibility of the F-NMTC, which is 20% poverty or 80% median income.*]

   b) Excluded from the definition of a qualified active low-income community business are any businesses that:

      i) Operate or derive revenues from the operation of a charter school. [*There are no similar exclusions in the F-NMTC. Removal of this activity from the California credit focuses the use of the credit on economic development-based investments.*]

      ii) Operate or derive revenues from the operation of a country club or golf course from C-NMTC funding.

      iii) Operate or derive revenues from the operation of gaming establishments, massage parlors, liquor stores, and sexually oriented businesses, as defined. [*There are no similar exclusions in the F-NMTC. There are, however, other state tax credits which have similar limitations, including the California Competes Tax Credit.*]

10) **Measuring Success of C-NMTC**: Provides the following metrics for evaluating the success of the C-NMTC program:

a) Sets the goal, purpose, and objective of the C-NMTC as attracting private sector investment in lower-income communities in California.

b) Sets the performance indicators as the:

   i) Amount of qualified low-income community investments issued.

   ii) Amount of dollars deployed in qualified low-income community investments.

   iii) Number of operating businesses assisted as a result of qualified low-income community investments. This data shall be compared to business development, including startups, tax revenues, and new investments within the most immediate geographic area for which data is reasonably available for the 12 and 24 months prior to the use of the C-NMTC in that area.

   iv) Number of employment positions created and retained as a result of qualified low-income community investments and the average annual salary of those positions. These numbers shall be compared to the area median income and unemployment and poverty rates for the most immediate geographic areas for which data is reasonably available for the 12 and 24 months prior to the use of the C-NMTC in that area.

c) Sets the following baseline measurements and data collection requirements:

   i) The baseline measurements include:

      (1) The amount of tax credits issued in the year.
      (2) The unemployment rate of the area.
      (3) The poverty rate of the area.

   ii) Data to collect includes:

      (1) The amount of tax credits issued in the year.
      (2) The number of operating businesses located in a low-income community that are assisted.
      (3) The number of jobs created and retained as a result of qualified low-income community investments.

11) **Sunset**: Contains a sunset of December 1, 2026.

12) **Severability**: Contains a severability clause.

13) **Tax Levy**: Takes immediate effect as a tax levy.

EXISTING FEDERAL LAW

1) **F-NMTC**: Authorizes a taxpayer to claim a federal tax credit for qualified investments made to qualified CDEs, as specified. The value of the federal NMTC is 39% of the qualified equity investment. The credit is applied by the taxpayer over a seven-year period.

2) **F-NMTC Applicants**: Limits applications under the F-NMTC program to only federally certified CDEs, CDFIs, and small business investment companies.

   a) **Community Development Entity**: The F-NMTC program defines a qualified CDE as any domestic corporation or partnership that meets the following three requirements:

      i) The entity has as its primary mission the serving or providing of investment capital for low-income communities or low-income persons.

ii) The entity maintains accountability to residents of low-income communities through representation on its governing board or an advisory board sponsored by the entity.

iii) The entity has been certified by the CDFI Fund at the US Treasury as meeting the requirements of (i) and (ii).

b) **Community Development Financial Institution**: The F-NMTC program has a special rule that allows certified CDFIs to apply for an award. A certified CDFI:

i) Is a legal entity at the time of certification application;

ii) Has a primary mission of promoting community development;

iii) Is a financing entity;

iv) Primarily serves one or more target markets;

v) Provides development services in conjunction with its financing activities;

vi) Maintains accountability to its defined target market;

vii) Is a non-government entity and not under the control of any government entity (Tribal governments excluded); and

viii) Is certified by the CDFI Fund at the US Treasury as meeting the requirements of (i) through (vii).

c) **Small Business Investment Company**: A SBIC is a type of privately-owned and -managed investment fund that is licensed and regulated by the Small Business Administration. An SBIC uses its own capital, plus funds borrowed with an SBA guarantee, to make equity and debt investments in qualifying small businesses.

3) **Definition of Qualified Investment**: Defines a qualified low-income community investment to mean:

a) Any capital or equity investment in, or loan to, a qualified low-income business, as defined;

b) Any capital or equity investment in, or loan to, a real estate project in a low-income community;

c) The purchase of a loan from another CDE that meets the other requirements for a low-income community investment;

d) Financial counseling and other services in support of business activities to businesses and residents of a low-income community; or

e) Any equity investment in, or a loan to, a CDE. [*An equity investment includes any stock, other than nonqualified preferred stock, in a corporation or any capital interest in any partnership.*]

FISCAL EFFECT: Unknown

COMMENTS & CONTEXT:

1) **Economic Justice and Building an Equitable Economy**: Those individuals and communities most impacted by the coronavirus emergency are California's most vulnerable and historically underinvested neighborhoods and groups of individuals.

This is not a new trend. Research clearly shows that the inequality between the residents in low-income communities and those that reside in California's most affluent communities has dramatically increased in the past several decades. For example, the pretax income among the highest 1% of California taxpayers increased from 9.82% in 1980 to 25.1% of total income in 2013. During the last seven years, the pace of these disparities has only increased. This rise in economic disparity has significant social and economic ramifications for everyone in the state.

As the coronavirus pandemic unfolded, the federal Centers for Disease Control and Prevention (CDPC) began reporting that "current data suggest a disproportionate burden of illness and death among racial and ethnic minority groups." In identifying factors that may be related to these findings, the CDCP noted that "[h]ealth differences between racial and ethnic groups are often due to economic and social conditions that are more common among some racial and ethnic minorities than whites."

PolicyLink, in its COVID-19 economic recovery strategy, calls for "sustained and race-conscious policies and investments to stabilize people during the crisis and bridge to a more equitable future." In taking actions to respond and economically recover from the pandemic, PolicyLink recommends that policymakers be guided by three principles:

- Ensure economic security during the crisis.
- Use stimulus funds to build the next economy.
- Forge a new social contract that enables shared prosperity.

PolicyLink is not an outlier in calling for targeted investment is communities of color and focusing on building a more equitable economy. Addressing the systemic and complex challenges faced by California's low-income neighborhoods of color will require deep economic and community development work over a sustained period of time.

Programs like the NMTC program proposed in AB 3101 are based on the economic principle that targeting significant incentives to lower-income communities allows these communities to more effectively compete for new businesses and retain existing businesses, which results in increased tax revenues, less reliance on social services, and lower public safety costs. Residents and businesses also directly benefit from these more sustainable economic conditions through improved neighborhoods, business expansion, and job creation.

2) **Challenges to Accessing Capital**: Access to debt and equity financing is critical for promoting the efficient operation and expansion of small businesses. Small businesses rely on adequate short-term debt (working capital) and long-term debt as well as equity financing to purchase new equipment, replenish inventories, fund ongoing operations, and market their services long before those activities generate revenue. While financial institutions routinely extend working capital and long-term debt products to established, larger businesses, smaller businesses are often bypassed because they lack the collateral or establishment history, or need too small of a loan.

The same dynamic occurs when small businesses attempt to access equity financing, with investment funds often bypassing smaller businesses because they lack the operating history and revenue generating track record of larger businesses. The situation often results in a "chicken or the egg" scenario whereby businesses are told they need to grow in order to access financing, while simultaneously being denied access to the financing they need to grow.

AB 3101 supports the development of new capital resources for businesses in low-income neighborhoods. According to the US Treasury report on the F-NMTC program, from inception through 2016, over 90% of investments were made at below market interest rates, 50.9% had more flexible borrower credit standards, 47.3% had lower than standard debt service coverage ratios, and

30.0% had subordinated debt.

3) **Opposition to Tax Credits**: The California Teachers Association, opposed to the bill, raises a concern about the use of tax credits due to their impact on General Fund revenues.

   The CTA cites a January 2020 report by the California Budget and Policy Center which states "California lost approximately $64 billion in state revenue in 2019-20 due to personal income and corporate income tax breaks. This revenue would have otherwise gone to the General Fund, of which approximately 40 percent would have gone toward the Proposition 98 minimum guarantee for K-14 education." Given that California public schools are already underfunded, the CTA advocates for protecting Proposition 98 from reductions brought by the creation of new or existing tax credits. Further, CTA writes that it is part of an education tax coalition "which is asking the state to pause the creation of any additional tax credits until a comprehensive evaluation, including broader transparency and accountability can be created for all existing tax credits." The letter arrived past the deadline for submitting letter to be reflected on the bill analysis. It will appear on the Supplemental List of Support and Opposition.

4) **Federal New Markets Tax Credit Program**: Congress enacted the NMTC as part of the Community Renewal Tax Relief Act of 2000 to stimulate equity investments in low-income communities. Under the program, CDEs apply to the US Treasury's CDFI Fund for an allocation of federal tax credits which the CDE can then offer to individual and corporate investors in exchange for making an equity investment in the CDE or its subsidiary.

   In this way, the CDE serves as a community and financial intermediary between sources of private capital and low-income communities. The value of the federal credit to the investor is 39% of the original investment amount, claimed over a period of seven years (5% for each of the first three years, and 6% for each of the remaining four years). The investment in the CDE cannot be redeemed before the end of the seven-year period.

   Through 15 competitive application rounds (2003 to 2018, inclusive), the CDFI Fund has made over 1,178 F-NMTC awards for a total of $57.5 billion in tax credits. This $57.5 billion includes $3 billion in Recovery Act Awards and $1 billion of special allocation authority to be used for the recovery and redevelopment of the Gulf Opportunity Zone.

   New Markets Tax Credits are uniquely designed to attract private capital to very low-income neighborhoods, including by drawing money from national investment pools. Since its inception, the federal CDFI Fund has allocated tax credit authority to 413 CDEs headquartered in 45 states, the District of Columbia, Puerto Rico, and Guam. Of the qualified equity investments deployed, more than 75% were in severely distressed areas and 55% with unemployment rates 150% above the statewide average. The federal General Accounting Office (GAO) reports that the presence of the federal credit attracts capital for projects that may otherwise be overlooked.

   Since the inception of the program, allocations recipients have reported making nearly $52.5 billion in cumulative qualified low-income community investments, which have created 314,000 jobs and over 522,000 construction jobs. Based on program activities reported through federal fiscal year (FFY) 2016, the largest amount of investments by industry sectors went to single and mixed-use real estate (29.0%), followed by health care and social services (19.2%), manufacturing (11.2%), and educational services (9.5%). These investments supported the construction of 32.4 million square feet of manufacturing space, 74.8 million square feet of office space, and 57.5 million square feet of retail space. The U.S. Department of the Treasury reports that a secondary benefit of the program is that as these communities develop through F-NMTC investments, they become more attractive to other investors, catalyzing a ripple effect that spurs further investments and revitalization.

According to the US Treasury, for every $1 invested by the federal government, the NMTC Program generates over $8 of private investment. Over 80% of NMTC investments have been made in highly distressed areas, meaning the household income was less than 60% of statewide median income and the poverty rate was higher than 30%.

In FFY 2019, the US Treasury allocated $3.5 billion in New Markets Tax Credits. As of April 2020, there is $2.2 billion in outstanding F-NMTC moneys still available from allocation rounds in 2015 through 2018. Allocation recipients in FFY 2019 reported making more than $3.8 billion in loans and investments, created an estimated 9,172 jobs, and funded 26,710 construction-related jobs. Of these FFY 2019 investments, 64% were in operating businesses and 36% of the dollars invested were invested in businesses that develop or lease real property for use by others.

5) **California New Markets Competiveness**: Community and economic developers have expressed concern that California communities are not receiving a greater benefit for the F-NMTC program. The New Markets Tax Credit Coalition, a nonprofit organization of CDEs, reports that states that regularly receive the largest shares of the federal credits are often the same states that offer parallel state tax credit programs or other resources that encourage community development within lower-income communities.

Since inception to 2018, California-based CDEs, CDFIs, and SBICs received 119 F-NMTC awards, and 201 awards went to a CDE, CDFI, or SBIC that serves California. Total qualified equity investments that were expended in California were $3.9 billion of the $54 billion available through 2017. While that may seem like a considerable amount of money, it represents less than 10% of funds. California ranks 33rd among states in terms of per capita income and represents over 12% of the US population. The state has 14.3% of individuals living under the federal poverty line, and 19% of individuals living below the supplemental poverty rate that includes, among other things, the cost of shelter.

In 2017, 73 F-NMTC awards were made for a total of $3.5 billion. California's share is as follows:

- Five F-NMTC applicants serving California received $225 million; and
- Two F-NMTC applicants serving multiple states including California received $120 million.

Compounding the impact of less than equitable F-NMTC allocations is that not every California-based CDE, CDFI, or SBIC uses the money raised through the federal credit in the state where they are headquartered. In fact, there are over 100 CDEs that have national service areas. In the 2013 and 2014 funding rounds, $3.7 billion in tax credit authority was awarded to 78 CDEs and CDFIs with a national service area. Of these 78 national awards, only 35% stated in their application that California would be a preference area. Relative to award level, of the $3.7 billion awarded, $1.3 billion (35%) went to national CDEs and CDFIs that were committed to projects in California.

6) **Other State New Markets Tax Credits**: Since the inception of federal NMTC, more than one dozen other states have enacted matching programs to help leverage more federal dollars in NMTC investments, including Ohio, Florida, Missouri, Louisiana, Mississippi, Kentucky, Illinois, Oklahoma, and Connecticut. According to information provided by the offices of authors of similar bills previously introduced, several of these states have experienced a return on investment of 13 to 1. More details on state programs are provided below:

a) In Missouri, the state New Markets Tax Credit paid for itself during its first two years of operation, bringing in more in additional investment dollars than was allocated in state funds for the entire seven-year period.

b) In Illinois, federal allocations of NMTC funds more than doubled after the Legislature implemented a matching state program in 2008. In the first year of implementation, allocations jumped to $875 million. Prior to the 2008 law, federal allocations never exceeded $400 million.

c) The Ohio NMTC program awards $10 million annually to CDEs with federal allocations or who anticipate federal allocations. The award cycles are synced so that a CDE could co-apply at the time they are applying for the federal credit.

7) **Impact of the Recession on F-NMTC Program**: The 2014 GAO report covers F-NMTC investments made between 2010 and 2012. While this represents the most recent program data available at the time, it also represents the deployment of F-NMTCs at the height of the global recession. With global capital markets frozen, public policy makers, including the President and the US Congress, were taking drastic actions to substitute public moneys where previously there would have been private funds. Most notably, the federal government passed the Stimulus Package (2009) and the Small Business Jobs Act (2011). It may have been useful if the GAO, among its other findings and recommendations, would have also addressed the potential impact of the assessment period on the complexity of the financial structures and the increase in the use of other government programs.

8) **Federal Tax Cut and Jobs Act of 2017**: The federal Tax Cuts and Jobs Act of 2017 (Federal Act) made a number of enhancements to federal community development tools. Among other actions, the Federal Act extended the NMTC and created Opportunity Zones (OZs), a new incentive for investors to deploy capital in lower-income neighborhoods.

   Under the new Federal Act, Governors were authorized to nominate up to 25% of their respective states' eligible low-income census tracts for designation. Up to 5% of the 25% of the nominated census tracts could be from census tracts adjacent to the eligible low-income census tracts. Once approved by the US Treasury, census tracts remain designated for a term of 10 years.

   - ***Eligible Census Tracts***: An Opportunity Zone is defined as any census tract that has either: (1) a poverty rate of at least 20%, or (2) a median family income that does not exceed 80% of statewide median income.
   - ***California Eligible Areas***: Based on guidance from the U.S. Treasury, California had 3,516 eligible low-income census tracts, meaning California was able to nominate up to 879 census tracts. As census tracts are designed to capture geographic areas of approximately 4,000 people, more than 3 million Californians are potentially living within an Opportunity Zone. Link to online resources related to designated census tracts: http://www.dof.ca.gov/Forecasting/Demographics/opportunity_zones/index.html

   Most significantly, the geographic specifications of the Opportunity Zone align with those in the NMTC program. The target areas also align with another federal tax credit program, the Workforce Opportunity Tax Credit, which provides credits to businesses who hire and retain workers who have historically faced barriers to employment.

   Federal law authorizes a broad range of Opportunity Zone business investments, including investments in stock, partnership interest, and business property. A qualified Opportunity Zone business property investment may include new and substantially improved tangible property, including commercial buildings, equipment, and multifamily housing complexes. The essential eligibility requirement of the tax incentive is that the investment must be made through a qualified Opportunity Fund. For investors who properly place moneys in a qualified Opportunity Fund, they will receive:

- A temporary deferral of inclusion in taxable income for capital gains reinvested in an Opportunity Fund. The deferred gain must be recognized on December 31, 2026, or earlier if the Opportunity Zone investment is disposed;
- A step-up in basis for capital gains reinvested in an Opportunity Fund. The basis is increased by 10% if the investment in the Opportunity Fund is held by the taxpayer for at least five years and is increased by an additional 5% if held for at least seven years, thereby excluding up to 15% of the original gain from taxation; and
- A permanent exclusion from taxable income of capital gains from the sale or exchange of an investment in an Opportunity Fund if the investment is held for at least 10 years. This exclusion only applies to gains accrued after an investment in an Opportunity Fund.

It is difficult to accurately identify the scope of new investment dollars Opportunity Funds represent. The Economic Innovation Group, one of the early sponsors of the Opportunity Zone Program, estimates that there are up to $6.1 trillion in unrealized capital gains, including investments headed by US households and corporations.

AB 3101 builds on these efforts by providing another financial resource to help lower the risk of development and to help California communities attract Opportunity Zone investors.

9) **NMTC Research Findings**: Over the years the F-NMTC Program has been reviewed and evaluated by a number of sources, including the GAO, Pacific Community Ventures, and the Urban Institute.

In 2010, the GAO released one of several statutorily mandated reports on the New Markets Tax Credit program that found:

a) Since 2003, NMTC investments totaling $26 billion have been made in all 50 states, the District of Columbia, and Puerto Rico;

b) NMTCs are often used as "gap financing," accounting for a portion of total project costs; and

c) NMTC investments in low-income community businesses generally use leveraged structures, where equity is left in the businesses, or subsidized loan structures, where below market interest rate loans are offered.

According to a January 2011 case study prepared by Pacific Community Ventures on the NMTC program, *Impact Investing: A Framework for Policy Design and Analysis*:

"Through 2009, CDEs made more than $16 billion in NMTC investments in low-income communities. Approximately 95% of NMTC funds are invested in designated areas of distress. For every dollar of forgone tax revenue, NMTC leverages $12-$14 of private investment."

In 2013, the Urban Institute released a report on the first four years of the program (2002-2006). This was the first independent evaluation of the F-NMTC program requested by the CDFI Fund. Findings include:

a) The vast majority of qualified active low-income community businesses (93%) either could not otherwise have obtained financing or, compared with other available financing, received better rates and terms in conjunction with F-NMTCs.

b) 77% of projects increased payroll, property, sales, corporate, or other taxes to the benefit of the local community.

c) 60% of projects saw an increase in their employment levels of more than 33% compared with pre-NMTC levels.

10) **July 2014 Report from the Government Accountability Office**: In the summer of 2014, the GAO issued a special report at the request of US Senator Tom Coburn (R-OK) regarding the F-NMTC Program. The report was critical of the complexity of the projects and the lack of consistent reporting. More specifically, the report made the following findings:

a) Investments have become more complex and less transparent over time. One reason is the practice of combining New Markets Tax Credits (NMTCs) with other government assistance. While the GAO agrees that this can help finance projects that would not otherwise be economically viable, it raises questions about whether some amount of these additional subsidies are unnecessary.

b) The increasingly complex financial structures may also be masking investors' actual rates of return. The GAO is concerned that the return on investment (ROI) may be above market and cite a 24% ROI reported by one investor. The GAO reports that the IRS and US Treasury have the authority to request information on other government resources but have not updated guidance to reflect the inclusion of that information.

c) GAO also recommends that the CDFI Fund collect additional data on fees and other charges collected by the CDEs. Finally, the GAO report expresses concern over the lack and quality of data on equity remaining with the business in low-income areas and failure rates of NMTC projects.

In conclusion, the GAO recommended the US Treasury issue further guidance to ensure:

a) Appropriate means for combining the F-NMTC with other government programs;

b) Adequate controls to limit the risks of unnecessary duplication and above-market rates of return;

c) That more complete and accurate data are collected on fees and costs, the equity remaining in the business after 7 years, and loan performance; and

d) That the CDFI Fund issues instructions to clarify the reporting of loan performance and makes the reporting of that data mandatory.

The US Treasury agreed with GAO's recommendations to improve data collection on loan performance and equity remaining with the low-income business. The GAO also established a working group in response to the report to consider the other recommendations. Many changes have been made to the program since this 2014 report.

11) **Related Legislation**: Below is a list of bills from the current and prior sessions.

a) ***AB 185 (E. Garcia and Medina) State New Markets Tax Credit***: This bill would have authorized the creation of a New Markets Tax Credit for qualified investments made in low-income communities beginning in the 2016 tax year. The NMTC Program would have been administered through the Governor's Office of Business and Economic Development. The bill would have authorized $40 million in tax credits over a five-year period for a total program of $200 million in credits. Total private investment raised was estimated at $512 million. Tax credit authority would have come from the reallocation of the unused portion of the State Sales and Use Tax Exclusion Program. Status: Returned to the Desk without action by the Assembly Committee on Appropriations, 2016.

b) ***AB 305 (V. Manuel Pérez) State New Markets Tax Credit***: This bill would have authorized the creation of a New Markets Tax Credit for qualified investments made in low-income communities beginning in the 2013 tax year. The NMTC Program would have been administered through the California Tax Credit Allocation Committee. The bill would have authorized $30 million in tax credits over a seven-year period for a total program of $200 million. Tax credit authority would have come through the elimination of the underutilized Small Business New Hire Credit. Status: Held in the Assembly Committee on Appropriations, 2013.

c) ***AB 643 (Davis and V. Manuel Pérez) California New Markets Tax Credit***: This bill would have created a New Markets Tax Credit for qualified investments made in low-income communities beginning in the 2012 tax year. The State Treasurer's Office would have administered the new credit program and allocated credits of up to $50 million per year for a total amount equal to $300 million over six years. Status: Held in the Assembly Committee on Appropriations, 2012.

d) ***AB 1259 (L. Rivas, Cervantes, and E. Garcia) New Market Tax Credit***: This bill would have authorized the creation of a New Markets Tax Credit for qualified investments made in low-income communities beginning in the 2020 tax year. The NMTC Program would have authorized $100 million in tax credits per year for five years. Status: Held in the Assembly Committee on Appropriations, 2019.

e) ***AB 1399 (Medina and V. Manuel Pérez) State New Markets Tax Credit***: This bill would have authorized the creation of a New Markets Tax Credit for qualified investments made in low-income communities beginning in the 2015 tax year. The NMTC Program would have been administered through the Governor's Office of Business and Economic Development. The bill would have authorized $40 million in tax credits over a five-year period for a total program of $200 million in credits. Total private investment raised was estimated at $512 million. Tax credit authority would have come from the reallocation of the unused portion of the State Sales and Use Tax Exclusion Program. Status: Vetoed by the Governor, 2013. The veto message states, "*This bill creates a New Markets tax credit that will cost – over time - $200 million. I certainly endorse programs that result in private investments to help low-income areas, but a bill to spend this much should be considered with other priorities during the annual budget.*"

f) ***AB 1715 (JEDE Committee) California New Markets Tax Credit***: This bill would have authorized the creation of a New Markets Tax Credit for qualified investments made in low-income communities beginning in the 2018 tax year. Funding for the credit would have come from the renegotiation of the Governor's Economic Development Initiative (GEDI), an underperforming initiative which was created to replace the California Enterprise Zone Program. Status: Following discussions with Assembly Budget Subcommittee Four regarding the reworking of GEDI tax incentives, the bill was used for another purpose, 2017.

g) ***AB 2037 (Davis and V. Manuel Pérez) California New Markets Tax Credit***: This bill would have authorized the creation of a New Markets Tax Credit for qualified investments made in low-income communities beginning in the 2011 tax year. The NMTC Program would have been administered through the California Tax Credit Allocation Committee. Tax credit authority would have come through the elimination of the underutilized Small Business New Hire Credit. Status: Held in the Assembly Committee on Appropriations, 2011.

h) ***AB 2647 (E. Garcia and Medina) California New Markets Tax Credit***: This bill would have established a $40 million tax credit program for five years for the purpose of attracting new private capital to very low-income neighborhoods in California. In general, the new state credit would have paralleled the federal New Markets Tax Credit (F-NMTC) Program. Status: Held in the Assembly Committee on Appropriations, 2016.

i) ***SB 1316 (Romero) California New Markets Tax Credit***: This bill would have authorized the creation of a New Markets Tax Credit for qualified investments made in low-income communities beginning in the 2011 calendar year. The State Treasurer's Office would have administered the new credit program and allocated credits in an amount equal to the estimated revenue gains resulting from the temporary elimination of specified like-kind property exchanges. Status: Died on the Senate inactive file, 2010.

REGISTERED SUPPORT / OPPOSITION:

Support
California Association of Manufacturers and Technology Association

Opposition
None filed within the hearing deadlines.

Analysis Prepared by: Toni Symonds / J., E.D., & E. / (916) 319-2090

Date of Hearing: May 12, 2020

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY
Sabrina Cervantes, Chair
AB 3205 (Salas) – As Amended May 4, 2020

SUBJECT: Regions Rise Grant Program

POLICY FRAME: Those individuals most impacted by the coronavirus emergency are also California's most economically vulnerable. As income disparities have grown, these individuals from historically underinvested communities face even greater social-economic challenges. Research shows that the inequality between the residents in low-income communities and those that reside in California's most affluent communities has dramatically increased in the past several decades. For example, the pretax income among the highest 1% of California taxpayers increased from 9.82% in 1980 to 25.1% of total income in 2013. During the last seven years, the pace of these disparities has only increased.

AB 3205 establishes a competitive grant program to support regional collaboration among public and private sector stakeholders to address and resolve significant community development issues which currently impede inclusive economic growth and upward mobility for historically marginalized groups.

The analysis includes information on the growing income disparities among Californian regions and population groups, regional approaches to increasing economic security, and related legislation. Concerns were initially raised by some stakeholders that the bill appeared to designate official spokespeople for region by virtue of receiving a grant. As this was not the intention of the author or sponsor, amendments have been developed to clarify the role of regional collectives and better align their work with local governments. The recommended amendments are outlined in Comment 5.

SUMMARY: AB 3205 establishes the Regions Rise Grant Program, administered by the Governor's Office of Business and Economic Development (GO-Biz), for the purpose of supporting inclusive, cross jurisdictional, and innovative processes that lead to inclusive strategies to address barriers and challenges confronting communities in creating economic prosperity for all. Specifically, **this bill**:

1) Makes legislative findings and declarations:

   a) California's regional economies compete in an increasingly connected and complex global market driven by changes in technologies, demographics, and geopolitics.

   b) Growing inequality and the erosion of upward mobility in California call for state policy to be intensely focused on increasing economic opportunity and security for all Californians.

   c) Public policy plays a critical role in creating the conditions that attract private capital investment, while encouraging equitable and sustainable economic growth.

   d) Yet California lacks a process to help inform the future creation of a coherent strategy that explicitly links state and regional priorities with goals and metrics, investments, and programs. A process should integrate the values of equity, resiliency, and collaboration around issues of shared importance including transportation, housing, homelessness, workforce, sustainability, and governance.

   e) California policy to advance triple-bottom-line goals should motivate, create capacity for, and invest in regionally driven strategies. This approach will empower and align behind regions, leverage business and civic contributions, and ensure that funds follow strategic decisions rather than decisions being made to chase funds.

f) Regional triple-bottom-line prosperity strategies should be predicated on partnerships among state and local governments, and among public, private, and civic organizations, through which projects can integrate legal authorities, financial resources, and organizational expertise, creating longevity and generating prosperity for all.

g) The philanthropy community, both in and outside of California, are seeking avenues to invest in communities across California in a strategic, yet transformative manner that includes opportunities to leverage or pool additional dollars to deepen impact.

h) There is a need to create a state program that provides competitive grants for multijurisdictional organizations that involve local governments, and private and civic organizations covering locally defined economic regions to adopt a comprehensive shared prosperity strategy focused on the priority challenges of the respective region.

i) There is a need to create pathways for private business, philanthropy, and others to financially support inclusive planning and decision-making processes reflective of a shared vision of a California for all, across the state's underserved regions for investment.

2) Establishes the Regions Rise Grant Program, administered by the Governor's Office of Business and Economic Development (GO-Biz), for the purpose of achieving the following:

   a) To enable local governments, community-based nonprofit organizations, businesses, and other key local stakeholders to establish regional groups tasked with identifying and developing strategies to address key regional barriers to prosperity for all.

   b) To build the capacity at the local level for inclusive collaboration and planning with the active engagement of representatives from disenfranchised or disadvantaged communities.

   c) To create interdisciplinary and cross-sector regional strategies for addressing key regional challenges.

   d) To establish pathways to implement strategies developed by the regional groups established pursuant to this part.

3) Conditions the making of grant awards to an appropriation for this purpose.

4) Defines the following term:

   a) "Director" means the Director of the Governor's Office of Business and Economic Development.

   b) "Office" means the Governor's Office of Business and Economic Development.

   c) "Program" means the Regions Rise Grant Program created pursuant to Section 12100.71 and administered in accordance with this article.

   d) "Region" means a collective of counties, cities, local agencies, private businesses, educational entities, and nonprofit organizations that organize themselves around a functional economy, as established by this bill.

5) Requires an applicant to establish a region, pursuant to requirements of the bill, before submitting an application to the program. The bill requires a region to either meet the requirements in a) OR b):

   a) The region meets both of these criterion:

      i) Consists of at least one government agency, one local business, one educational or workforce entity, and one nonprofit organization.

ii) The region must be comprised of a geographic area that experiences common regional issues and challenges that are larger than a single community, including, but not limited to, workforce development, educational pathways, land use, climate planning, transportation, housing, homelessness, economic mobility, equity gaps, and economic development.

b) The region is a geographic location delineation by a metropolitan statistical area, as established by the United States Office of Management and Budget.

6) Requires each region to designate a lead principal agency or organization. The principal agency or organization is required to be identified in the application and serve as GO-Biz' main program contact.

7) Requires each member of the proposed region to submit a letter of support to the principal agency or organization. These letters are to be included with the grant application, as specified.

8) Requires a region that receives grant funding to establish a steering committee to achieve the goals and purposes of the program. The steering committee is required to be representative of the membership of the region.

9) Requires GO-Biz to develop an application for regions to apply for competitive grants that can be spent over a period of three years. GO-Biz is to give priority to regions that can demonstrate **all** of the following:

a) The partners of the region are representatives of the region's demographic make-up, key industries, city and county governments, private businesses, educational and workforce partners, and nonprofit and philanthropic organizations.

b) The need for cross-sectoral, multipartnership solutions to key regional challenges.

c) The readiness and capacity to support rural or disadvantaged areas.

d) The assessment of key deliverables and the potential of the initiative to make system changes that can be operationalized based on success stories and best practices.

e) A commitment to match nonstate funds.

f) Letters of support from local government agencies, nonprofit organizations, private businesses, education partners, ethnic communities, and philanthropic organizations that indicate a significant threshold of community involvement.

g) A commitment to collect and share data, as required by the office, that can help inform the effectiveness of the grant dollars in building strategies for regional prosperity and to hold partners accountable for progress through the use of tools, including the California Dream Index.

10) Requires GO-Biz to act as an informal advisor to regions that receive funding by providing best practices and informing regional organizations of the state's initiatives in areas including workforce development, educational pathways, land use, climate planning, and the other regional issues identified by regions.

11) Requires an annual report detailing the regional issues analyzed, priorities identified, strategies developed to address regional issues, and plans to implement priority efforts.

12) Requires GO-Biz to create a process for regional priorities to be brought forward to the Governor, the Legislature, and any other relevant agency, including the Office of Planning and Research. These

regional priorities are to serve as a guide for the development and recommended action of related state functional plans, strategies, and investments.

EXISTING LAW establishes GO-Biz within the Governor's Office for the purpose of serving as the lead state entity for economic strategy and marketing of California on issues relating to business development, private sector investment and economic growth.

FISCAL EFFECT: Unknown

COMMENTS & CONTEXT:

1) **Growing Income Inequality**: In the pre-coronavirus economy, California's dominance in innovation-based industries was unquestionable, however, even with 120 months of uninterrupted economic growth, the divide between the middle and lower income households and the top income earners was accelerating. The Coronavirus has only deepened California's income inequality, with the state's most vulnerable being at the greatest risk for poor health outcomes, having the least amount of savings to survive the economic impacts of the Stay-at-Home Order, and being most likely to work in low-paid and least protected essential businesses.

   According to April 2020 research by the McKinsey Institute, 57 million jobs are at risk in the US due to the necessary, but extreme, steps that are taking place to stop the spread of the coronavirus. In California, McKinsey estimates that certain sectors will be more severely impacted than others. As examples of sectors with the highest vulnerability, in the accommodation and food service sector, an estimated 1.6 million jobs are at risk (95% of all jobs in the sector), and, in the arts and entertainment sector, 287,000 jobs (87% of all jobs) are at risk. The economic impacts are, however, much more widespread. The McKinsey Institute reports that 48% of jobs in the construction sector, 49% of jobs in real estate, and 37% of jobs in manufacturing are at risk, to name only a few sectors identified as having more than 30% of their jobs at risk.

   In addition to losing their jobs, many of these impacted workers have little formal education beyond high school and possibly a few additional years of higher education course work and/or occupational training. In the last recession, individuals without four-year degrees faced the greatest challenges in becoming reemployed and remained unemployed for significantly longer time periods.

   As of April 25, 3.4 million people had filed for unemployment in California. Current federal actions have extended unemployment insurance benefits by 13 weeks and added a supplemental $600 per week until July 1, 2020. Unemployment benefits have also been authorized for independent contractors, the self-employed, and individuals who do not otherwise qualify for unemployment insurance due to part-time work. These are extremely important moneys to workers in highly vulnerable occupations.

   A review of the March 2020 unemployment numbers illustrates this expanding pattern of economic disparity between regions and population groups in California. It is important, however, to recognize that these numbers only reflect the initial few weeks of California's response to the coronavirus epidemic. ***Chart 1*** shows unemployment-related information by selected counties and population groups.

Chart 1 – Selected Data on Unemployment

	Unemployment Rate March 2020 (not seasonally adjusted)	Unemployment Rate March 2019 (not seasonally adjusted)			Unemployment Rate March 2020 (12-month moving average)	Unemployment Rate March 2019 (12-month moving average)
California	5.6%	4.5%		California	4.1%	4.3 %
Colusa County	22.4%	20.0%		Blacks	5.2%	6.3 %
Imperial County	20.5%	16.4%		Hispanics	4.7%	5.2%
Los Angeles County	6.4%	4.5%		Whites	4.0%	4.2 %
Riverside County	5.3%	4.4%		16 to 19 year olds	15.1%	15.0%
Sacramento County	4.7%	4.0%		20 to 24 year olds	7.6%	7.6 %
San Bernardino County	4.9%	4.1%		25 to 34 year olds	4.1%	4.5%
San Luis Obispo County	3.8%	3.1%		**The Employment Development Department reports a March 2020 labor participation rate (LPR) of 61.8%, representing 11.8 million people in California who were not participating in the workforce.		
San Mateo County	2.8%	2.2%				
Tulare County	14.5%	11.7%				

Source: www.edd.ca.gov

The data shows income disparities are increasing, which is impacting a range of economic and societal issues. California is not unique in experiencing a rise in income inequality. National data show that while the top 1% of income households were significantly impacted by the recession, by 2017, annual revenues had risen to the highest levels ever. Between 1979 and 2017, the income for the top 1% of income households cumulatively rose by 157%.

In March 2020, California's seasonally adjusted unemployment rate was 5.3%. For comparison purposes, ***Chart 1*** uses not seasonally adjusted for county data and a 12-month moving average for demographic data. While the state's not seasonally adjusted unemployment rate for March 2020 was 5.6%, some areas of the state had lower rates and others had considerably higher. San Mateo County recorded the lowest at 2.8%, while Colusa County experienced the highest unemployment rate at 22.4% and Imperial County the second highest at 20.5%. Under the provisions of the federal Workforce Innovation and Opportunity Act, an area of substantial unemployment is considered to be any contiguous area within a state with an unemployment rate above 6.5%. California had 28 counties which experienced unemployment rates at or above 6.5% in March 2020. There were three counties in the state, each in the Bay Area, with unemployment rates at or below 3%.

Looking more specifically at different population groups, the data also show the disparities between the statewide rate of 4.1% and the rates of key subgroups, including unemployment among Blacks and Hispanics being 5.2% and 4.7% respectively. For the youngest members of the workforce, obtaining quality jobs remains a significant issue, with unemployment among 16 to 19 year olds and 20 to 24 year olds being well above the state average, ranging from 15.1% to 7.6% respectively. According to the March 2020 figures, 11.8 million people in California are not participating in the labor force, an increase of 100,000 individuals during a 12-month period.

2) **Helping Communities become Investment Ready**: The geographic targeting of economic and community development programs is based on the development principle that focusing significant incentives and other resources to lower income communities allows these communities to more effectively compete for new businesses, retain existing businesses, and stop or slow the spiraling effects of poverty and unemployment. Geographically targeted approaches to economic and community development are designed to result in increased tax revenues, higher rates of private investment, less reliance on public health and social services, and lower public safety costs.

   A central component of the state/region partnership model funded through the Regions Rise Grant Program is its potential to assist at-risk communities in stopping the downward spiral of poverty and (re)build communities with economic and social promise. In the last decade, there has been a renewed interest by institutional investors in identifying communities which have turned the corner and now represent unique economic opportunities. These communities are sometimes referred to by investors as emerging domestic markets (EDMs).

   EDMs are people, places, or business enterprises with growth potential that face capital constraints due to systematic undervaluation as a result of imperfect market information. While not every low income neighborhood in California is ready for private sector investment, many neighborhoods can become investment ready through effective partnerships between the nonprofit, private, and public sectors.

   The demographics of EDMs include minority- and women-owned firms, urban and rural communities, companies which serve low-to-moderate-income populations, and other small and medium-sized businesses. The increase in investor interest is driven, in part, by the recognition of the changing demographics in the U.S. which are resulting in a significant increase in minority purchasing power and business development by minority-owned firms.

   Both the California Public Employees Retirement System (CalPERS) and the California State Teachers Retirement System adopted EDM investment goals for their entire portfolios. Under its California Initiative, which began in 2001 and focuses on historically underserved areas, CalPERS has directed and invested over $1 billion in 569 companies primarily located in California. California has no other similar program that could possibly outpace the volume of investments large institutional investors can make. Experience is showing that adopting policies and programs that support investment by institutional investors is sound economic policy.

3) **Examples of Regional Approaches to Upward Mobility**: In February 2019, the Assembly Committee on Jobs, Economic Development, and the Economy (JEDE) began a series of hearings examining how public and private sector initiatives were being used or could be used to support upward mobility, reduce racial disparities, and address climate change. Three primary themes emerged from these hearings, being the need to:

   - Upskill individuals to meet market challenges;
   - Establish integrated and accountable governance structures to better support businesses, program and service providers, and individuals; and
   - Remove barriers for start-ups, entrepreneurs, and expanding businesses, including manufacturers.

   In order to advance the JEDE Committee's understanding of how sustainable and inclusive economic strategies can actually be implemented in the real world, a field hearing was conducted outside of the confines of the State Capitol, which highlighted regional initiatives in the Inland Empire. The keynote presentation by Dr. Karthick Ramakrishnan, Chair of the Center for Social Innovation at the

University of California, Riverside, highlighted a number of regional initiatives being conducted within the Inland Empire. Among other initiatives presented, Dr. Ramakrishnan discussed Inland California Rising, an initiative he co-launched in February 2019 and which hosted summits in both of its partner regions, the Inland Empire and the San Joaquin Valley. The following is a selection of other initiatives discussed in the course of the hearing:

- ***GenerationGO/Vision2Succed***: An initiative of San Bernardino County using its local workforce board as the facilitator. The purpose of GenerationGO is to connect K-12 schools, community colleges, and businesses to create and enhance career pathways and provide hands-on training. After several successful years, both the scope and geographic footprint are being expanded.
- ***Consortium for Excellence in Logistics***: The mission of this initiative, facilitated by the Inland Empire Economic Partnership, is to leverage the region's large number of warehouses and strategic location to position the Inland Empire as a supply chain and logistics hub. By fully embracing the leadership role, the consortium believes the Inland Empire can drive innovation within the sector resulting in economic growth and better paying jobs, while still providing environmental and societal benefits.
- ***Inland Economic Growth & Opportunity (IEGO)***: This initiative, supported through the Community Foundation, is a network of business, government, educational, and nonprofit institutions, working to better align workforce and economic development efforts. Their objective is to increase high-paying quality jobs, increase opportunities for advanced manufacturing, and accelerate the growth of promising emerging industries (such as IT, cybersecurity, and battery storage).

JEDE's hearing aligned with Governor Newsom's Region's Rise Together, which was led by GO-Biz and supported by California Forward, the sponsor of this bill.

4) **Roadmap to Shared Prosperity:** This bill is an outgrowth of the California Economic Summit, a year-round collaboration of over 750 public and private stakeholders who annually meet to share their work, be inspired, and make plans for the following year's activities. This important work is supported and facilitated by California Forward and the Roadmap to Shared Prosperity. The 2019 Roadmap to Shared Prosperity outlined the California Economic Summit's plans for a comprehensive agenda to address the state's biggest challenges with a triple bottom line approach.

- Creating the California Dream Index, a new scorecard for tracking the state's progress toward improving economic mobility.
- Developing a poverty prescription through innovative "two generation" strategies and system change efforts that can improve results with adequate investments in a smarter safety net and put the California Dream within reach of every child.
- Encouraging early childhood strategies that support community, regional, and state efforts to coordinate and expand high quality learning and nurturing for all children ages 0 to 5 through system change strategies, partnerships, and adequate investments.
- Continuing the Summit's "One Million Challenges," ongoing initiatives to close gaps in skilled workers, livable communities, and well-paying jobs.

A key issue in moving forward on this work was the limited capacity of regional collectives to sustain their valuable work. AB 3502 establishes a grant program that would both help fund and elevate this work.

5) **Proposed Amendments**: Below is a list of amendments the committee members may wish to review when considering the bill.

   a) Add legislative intent and program objectives that demonstrate how the grant program relates to the current coronavirus emergency.

   b) Set a specific overall purpose for the program that more clearly encompasses the goals and objectives already articulated in the bill. Use the existing purpose to set the program's goals.

   c) Mandate the inclusion of historically underrepresented voices within the regional collectives funded through the program, including project steering committees.

   d) Shift the drafting of the bill from setting regional boundaries to funding regional collectives comprised of public and private stakeholders who organize themselves around one or more community challenges impacting multiple government jurisdictions.

   e) Allow applications with overlapping geographic boundaries to be funded to the extent that regional collectives' work is distinctly different, e.g. one collective is focusing on maternal health in lower income neighborhoods, while another collective is working on aligning education and workforce training opportunities with an emerging high tech industry sector.

   f) Clarify the sustainable development principles that are intended to drive the work of the regional collectives funded through the grant program.

   g) Set threshold criteria for evaluating grant applications, including requirements for reporting outcomes annually and providing letters of support from local government agencies, ethnic chambers, and other public and private stakeholders.

   h) Modify the matching funds provision to reflect that some of the most important issues that need to be addressed may also be in areas that do not have access to matching funds.

   i) Clarify that grants may be awarded to regional collectives in a range of development stages, including those initiating and expanding regional convening, those sustaining regional engagements, and those that are ready to implement recommended strategies.

   j) Expand the list of mandatory regional partnership members to include at least one economic development entity.

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 established GO-Biz to include the newly codified California Business Services and the existing Office of the Small Business Advocate. Status: Signed by the Governor, Chapter 475, Statutes of 2011.

   b) ***AB 27 (Parra) California Partnership for the San Joaquin Valley***: This bill would have codified the establishment and operation of an up to 64-member California Partnership for the San Joaquin Valley for the purpose of improving the economic, social, and environmental conditions of the San Joaquin Valley. Status: Held on the Suspense File of the Assembly Committee on Appropriations, 2008.

   c) ***AB 31 (Parra) California Partnership for the San Joaquin Valley***: This bill would have created a 24-member California Partnership for the San Joaquin Valley (SJV) for the purpose of coordinating and improving state and federal efforts in the SJV, in concert with locally led efforts to improve the living standards and overall economic performance of the region. Status: Died on the Senate Floor, August 2006.

d) ***AB 119 (Assembly Budget Committee) Elimination of State Economic Strategy***: This bill eliminated, commencing January 1, 2012, the responsibility of the Secretary of Labor and Workforce Development Agency to lead the preparation of a biennial California Economic Development Strategic Plan and to biennially convene an Economic Strategy Panel to provide recommendations regarding the plan. Status: Signed by the Governor, Chapter 31, Statutes of 2011.

e) ***AB 358 (Greyson) Regional Economic Development Areas***: This bill would have enacted the Regional Economic Development Area Act for the purpose of certifying regional economic development areas that include, but are not limited to, active and inactive military bases. Status: Died without action in Assembly Committee on Jobs, Economic Development, and the Economy, 2018.

f) ***AB 742 (Cervantes) Office of Place-Based Strategies***: This bill would have established the Office of Place-Based Economic Strategies within GO-Biz for the purpose of supporting local and regional economic development entities to access programs and implement place-based and other community- and neighborhood-level strategies. Status: Held in the Assembly Appropriations Committee, 2019.

g) ***AB 906 (Cooley, Cervantes, Kiley) State Action Plan***: This bill would have required the Governor's Office of Business and Economic Development to take the lead in preparing a California Economic Development Strategy based on regional priorities. Status: Held in the Assembly Committee on Appropriations, 2019.

h) ***AB 1233 (V. Manuel Pérez) State Economic & Workforce Development Strategy***: This bill would have required GO-Biz to prepare a five-year Economic and Workforce Development Strategy. The blueprint will help the state set a strategic path forward by prioritizing and coordinating state activities, supporting local and regional economic development activities, and better leveraging private and public sector resources. Status: Held in the Assembly Committee on Appropriations, 2012.

i) ***AB 2596 (Cooley, Kiley, Quirk-Silva) State Action Plan***: This bill would have required the Governor's Office of Business and Economic Development to take the lead in preparing a California Economic Development Strategy based on regional priorities. Status: Vetoed by the Governor. The veto message stated: "*Since its inception, GO-Biz has expanded direct foreign investment, created opportunities for small businesses, identified incentives for growth, and helped resolve barriers for businesses navigating the government. These successes are due, in part, to the ability of GO-Biz to nimbly respond to rapidly changing economic factors including unpredictable federal decisions, natural disasters and more. I don't believe an ongoing costly study and report will provide any additional benefit to these efforts*."

j) ***SB 1230 (Umberg and Caballero) CDFI Grant and Tax Credit***: This bill establishes the Community Development Financial Institutions Grant Program, administered by GO-Biz, and authorizes a CDFI Tax Credit, as specified. Status: Pending in the Senate Committee on Business, Professions, and Economic Development.

REGISTERED SUPPORT / OPPOSITION:

Support
California Forward (sponsor)
3core
Bay Area Council
CA Economic Summit

CA Stewardship Network
Cal Asian Chamber of Commerce
California Hispanic Chambers of Commerce
California Partnership for The San Joaquin Valley
Caloz
Central Valley Community Foundation
Coalition for Small and Disabled Veteran Businesses
CSU Fresno, Office of Community and Economic Development
Economic Development Collaborative, Ventura County
Economic Vitality Corporation, San Luis Obispo County
Fresno Business Council
Fresno County Economic Development Corporation
Fresno Metro Black Chamber of Commerce
Greater Bakersfield Chamber of Commerce
Imperial County Transportation Commission
Inland Empire Community Foundation
Inland Empire Economic Partnership
Kern Community Foundation
Los Angeles County Economic Development Corporation
Monterey Bay Economic Partnership
North Bay Leadership Council
Orange County Business Council
Reach
Reading and Beyond
Redwood Coast Rural Action
Sacramento Area Council of Governments

Opposition - None on File

Analysis Prepared by: Toni Symonds / J., E.D., & E. / (916) 319-2090

Date of Hearing: May 12, 2020

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY
Sabrina Cervantes, Chair
AB 3307 (Eduardo Garcia) – As Amended May 4, 2020

SUBJECT: California Manufacturing Competitiveness Act of 2020

POLICY FRAME: California faces many hurdles in meeting the challenge of the coronavirus emergency. Extended global supply chains have hampered the state's ability to meet the basic needs of its health care system and food supply chain, and have fundamentally impaired the state's ability to develop and follow evidence-based policies. While California's disaster response capabilities are some of the best in the world, in the last few months the state has learned the serious downsides to global supply chains for crucial goods, such as the lack of personal protective gear and swabs for testing kits.
Manufacturing is so important to the US, the President has the authority to invoke the Defense Production Act (DPA) in order to expedite, assure, and expand the supply of resources to meet the nation's emergency needs. During the coronavirus emergency, the DPA has been used or threatened to be used serval times, including most recently to address a potential meat shortage.

AB 3307 establishes a new loan and loan guarantee program to support manufacturing facilities in retooling, repurposing, and expanding. The bill was initially introduced prior to the coronavirus state of emergency. Amendments, suggested in Comment 5, recommend modifying the new program authority to only apply in the case of a state of emergency. The analysis includes information on the California manufacturing economy, the manufacturing challenges of the COVID-19 emergency, and the California Infrastructure and Economic Development Bank (IBank).

SUMMARY: The bill establishes the California Manufacturing Competitiveness Act of 2020 for the purpose of strengthening the manufacturing capacity of California by providing the framework to retool and expand California's manufacturing facilities, support a vibrant logistics network, and retain and create more quality jobs. Specifically, **this bill**:

1) Requires the IBank to establish the California Manufacturing Competitiveness Loan and Loan Guarantee Program (LLG Program) for the purpose of attracting, retaining, and expanding manufacturing facilities and other companies in the state. In undertaking this duty, the IBank is required to:

   a) Establish guidelines for the implementation of this LLG Program, including, but not limited to:

      i) Procedures and criteria to evaluate and certify the participating financial institutions that may make loans, loan guarantees, or extend lines of credit on its behalf or directly to companies pursuant to the IBank's program.

      ii) Minimum standards for the documentation, underwriting, and servicing of loans, loan guarantees, or lines of credit. The IBank is required to provide technical assistance to participating financial institutions in order to increase utilization of the minimum documentation, underwriting, and servicing standards.

      iii) Procedures and criteria to evaluate and approve loans, loan guarantees, or lines of credit, including the assessment of the applicant's creditworthiness and the valuation of guarantees and collateral. This criteria is required to include:

(1) Whether employment benefits arising out of the use of the financing secures the employment of existing employees or increases the overall number of full-time employees of the company.

(2) Whether the company provides compensation for employees at the project facility which exceeds the average compensation for similar employment within the company's jurisdiction or within the state.

(3) Whether the company provides health benefits to employees employed at the project facility or contributions to employee retirement benefits.

(4) Whether the project will provide energy, mineral or natural, or cultivated resource conservation benefits.

(5) Whether the project will include building certified environmentally beneficial facilities, bringing existing facilities up to certified environmentally beneficial status, implementing greenhouse gas reduction technologies or energy efficiency measures, or installing renewable energy equipment.

(6) Whether the company purchases raw materials or other products from California-based companies.

iv) Procedures to guide the development and administration of the application, review, and evaluation process for the LLG Program, including, but not limited to, defining the eligibility standards, rating and ranking criteria, and other appropriate policies and procedures for implementing and overseeing the program pursuant to this article.

v) Procedures for the ongoing monitoring of current and outstanding loans, loan guarantees, and lines of credit, as specified.

b) Design a LLG Program that meets all of the following objectives:

i) Encourage the development of the state's long-term manufacturing capacity.

ii) Create jobs through the support of retooling and expansion of manufacturing facilities.

iii) Support quality manufacturing jobs that provide high wages, including benefits.

iv) Allow manufacturers to access funds under terms and conditions which would not otherwise be available in the private market.

v) Strengthen the supply chain of small businesses that support this state's manufacturing competitiveness.

vi) Assist manufacturers in cost effectively responding to energy efficiency regulations and new technologies.

c) Not commence operation of the program before adopting a resolution finding that there is sufficient money in the Manufacturing Program Account to cover the costs of implementing the program, including, but not limited to, appropriate oversight costs.

2) Requires that the loan, loan guarantee, and line of credit be subject to all of the following provisions:

a) Applicants demonstrate they are in compliance with applicable federal, state, and local laws and regulations.

b) Applicants commit to having all outstanding loans paid in full six months before the relocation of a facility outside of California. If the loan or loan guarantee included a subsidized amount, that amount must also be repaid subject to a sliding scale adopted by the bank.

c) Applicants demonstrate that the facility or facilities where the moneys will be expended and where the direct benefits of the assistance will be realized are in the state.

d) Applicants demonstrate that wages the applicant pays its employees in the state shall, on average, be equal to or more than the average monthly wage rate for similar workers in the same industry subsector.

e) Upon the request of the IBank, each applicant agrees to report to the IBank in the year the funding was provided, and the following years, on total capital investments made by the company, the total employment at the project facility, and the wage levels by type of work. The applicant also agrees to estimate the number of jobs created or retained through the provision of the state assistance, as well as provide other appropriate performance data, as determined by the IBank.

3) Requires priority for loans, loan guarantees, or lines of credit to be given to companies that do all of the following:

a) Retain or create the greatest number of jobs compensated at a wage rate above the average monthly wage rate for a similar company in the project jurisdiction or in the state.

b) Have the greatest beneficial economic impact on the state and local economies as a result of the financing.

c) Have the greatest negative economic impact on the state and local economies and on other businesses in the state if it moved its operations to another state or otherwise ceased operations within the state.

4) Requires each applicant to pay a nonrefundable application fee to cover the costs of administering the program, including a proportional share of the costs of developing the program, reviewing applications, and monitoring and overseeing the program. Fee moneys collected are required to be deposited into the Manufacturing Program Account for the purpose of ensuring that funds are available to the state for the sole purpose of administration of the program.

5) Establishes the Manufacturing Program Account within the Economic Development Bank Fund for the purpose of receiving funds to administer the California Manufacturing Competitiveness Loan and Loan Guarantee Program, as specified.

a) Specifies that moneys in the account may be expended to pay for direct loans and defaulted loan guarantees issued pursuant to this article, administrative costs of the bank, and those costs necessary to protect a real property interest in a defaulted loan or guarantee.

b) Provides that no moneys other than those moneys in the Manufacturing Program Account may be used to pay for the direct loans and defaulted loan guarantees issued pursuant to this article.

6) Requires, beginning October 1, 2021, and annually thereafter, that the IBank post on its internet website or provide the Legislature with a report, whichever is more cost effective, on the program's activities during the prior fiscal year and impact on the manufacturing industry and on the state's economy, in general. Information on publicly held companies is required to be reported separately from privately held firms. At a minimum, the information provided in the report shall include all of the following:

a) The total amount of moneys in the Manufacturing Program Account, at the beginning of the fiscal year and at the end of the fiscal year.

b) The number of projects funded and the number of manufacturers and other businesses assisted.

c) The number of jobs created and the number of jobs retained through program assistance in each of the fiscal years.

d) The amount of investments made by the manufacturer in the prior year to their assistance and next two years.

e) The amount of federal, state, and local taxes paid by the companies in aggregate.

7) Defines a number of terms related to the administration of the LLG Program, including, but not limited to, the following terms:

a) "Administration expenses" means the reasonable and necessary expenses incurred by the bank in the administration of this article, including, without limitation, the fees and costs of paying agents, trustees, attorneys, consultants, and others.

b) "Applicant" means a company, or a participating financial institution on behalf of a company, that applies to the bank for a loan, a loan guarantee, or a line of credit to finance a project undertaken or proposed to be undertaken pursuant to this article. "Applicant" may be comprised of more than a single entity.

c) "Company" means a person, partnership; corporation; whether for profit or not; limited liability company; trust; or other private enterprise of whatever legal form, for which a project is undertaken or proposed to be undertaken pursuant to this title. "Company" may include more than a single enterprise.

d) "Cost" as applied to any project, may include all of the following:

i) The cost of construction, improvement, repair, rehabilitation, and reconstruction.

ii) The cost of acquisition, including rights in land and other property, both real and personal and improved and unimproved; franchises; and disposal rights.

iii) The cost of demolishing, removing, or relocating any building or structures on lands so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved or relocated.

iv) The cost of machinery, equipment, and furnishings, of engineering and architectural surveys, plans, and specifications, and of transportation and storage until the facility is operational.

v) The cost of agents or consultants, including, without limitation, legal, financial, engineering, accounting, and auditing costs, necessary or incident to a project and the determination as to the feasibility or practicability of undertaking the project.

vi) The cost of acquiring or refinancing existing obligations incident to the undertaking and carrying out, including the financing, of a project, and the reimbursement to any governmental entity or agency, or any company, of expenditures made by or on behalf of the entity, agency, or company that are costs of the project, without regard to whether or not the expenditures may have been made before or after the adoption of a resolution of intention with respect to that project by an authority.

vii) The cost of making relocation assistance payments as provided by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

viii) The cost of procuring raw materials and finished goods that become integral to the property as a result of construction, improvement, repair, rehabilitation, or reconstruction.

ix) In the case of taxable bonds, loans, loan guarantees, or lines of credit, the cost of refunding or refinancing any outstanding debt or obligations with respect to any facilities, or the cost of working capital.

e) "Loan" means a loan, a portion of a loan, a loan guarantee, or a line of credit or portion of a line of credit made or extended by the bank, or by a participating financial institution on behalf of the bank, or by a participating financial institution pursuant to the bank's program, to a company for a project or for a portion of a project encompassing one or more of the activities or uses set forth in this article.

f) "Project" means the acquisition, construction, improvement, repair, rehabilitation, and reconstruction of facilities and the acquisition and rehabilitation of machinery, equipment, and furnishings, and the acquisition of engineering and architectural surveys, plans, and specifications, and all other necessary and related capital expenditures. For purposes of this article and the bank loan, loan guarantee, and line of credit program, a project may also consist of working capital expenditures.

g) "Property" means any land, air rights, water rights, disposal rights, improvements, buildings or other structures, and any personal property, tangible or intangible, and includes, but is not limited to, machinery and equipment, whether or not in existence or under construction, and interests in any of the foregoing, or promissory notes or other obligations of any kind respecting such interests.

i) "Property" also means property suitable for one or more of the following activities or uses:

(1) Industrial uses, including, without limitation, assembling, fabricating, manufacturing, or processing activities with respect to any products of agriculture, forestry, mining, or manufacturing, if these activities have demonstrated job-creation or retention potential.

(2) Energy development, production, collection, or conversion from one form of energy to another.

(3) Research and development activities relating to commerce or industry, including, without limitation, professional, administrative, and scientific office and laboratory activities or uses.

(4) Processing or manufacturing recycled or reused products and materials by manufacturing facilities.

(5) Business activities with the purpose of creating or producing intangible property.

(6) Airport, dock, wharf, or mass commuting activities, or storage or training activities related to any of those activities, are prohibited unless the property acquired is suitable for one or more of the activities described in subparagraphs (1) to (5), inclusive.

(7) Sewage or solid waste disposal activities or electric energy or gas furnishing activities are prohibited unless the property acquired is suitable for one or more of the activities described in subparagraphs (1) to (5), inclusive.

(8) Water furnishing activities shall be prohibited unless the property acquired is suitable for one or more of the activities described in subparagraphs (1) to (5), inclusive.

h) "Public agency" means any city, county, or city and county.

i) "Revenues" means all rents, purchase payments, and other income derived from, or with respect to, the sale, lease, or other voluntary or involuntary disposition of, or repayment of loans with respect to, property, bond proceeds, repayment of loans and lines of credit, moneys received in recovery of defaulted loans, loan guarantees, or lines of credit, and any receipts derived from the deposit or investment of any income or proceeds in the account, but does not include receipts designated to cover administration expenses or expenses associated with the recovery activities on defaulted loans, loan guarantees, and lines of credit.

8) Sunsets the provisions of this bill on January 1, 2026.

EXISTING LAW:

1) Establishes the IBank 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 the Infrastructure State Revolving Fund (ISRF), oversight of the Small Business Finance Center, and the issuance of tax-exempt and taxable revenue bonds.

2) Establishes the ISRF for the purpose of providing financing to public agencies and non-profit corporations, sponsored by public agencies, for a wide variety of infrastructure and economic development facilities. Development of housing infrastructure is an eligible project; financing of the building or mortgage of a house is not eligible.

FISCAL EFFECT: Unknown

COMMENTS & CONTEXT:

1) **The Role of Manufacturing in a Disaster**: As noted previously in the analysis, California's response to the coronavirus pandemic has been hindered by the state's access to sanitizing agents, personal protective gear, ventilators, and key component parts of essential products, such as swabs for testing kits. With limited domestic capacity, California pursued contracts with out-of-state and foreign producers. News sources have frequently reported on the high cost, poor quality, and unreliable delivery of these products. What is less known is the targeted and fast-paced actions of state agencies, like GO-Biz; state trade associations, like the California Manufacturing and Technology Association (CMTA); and state-and-federally-funded business assistance centers, including the California Manufacturing Technology Corporation (CMTC). Over a matter of weeks, these entities collectively and individually reached out to California's dynamic manufactures to assess how these businesses could contribute to the state's emergency response efforts.

   Governor Newsom established a website, https://covid19supplies.ca.gov/, where businesses holding inventories of or with the capacity to produce heath care-related products could directly connect with state contracting staff. Top priority products included ventilators, surgical masks, hand sanitizers, and hospital exam gowns. CMTA contributed by polling its membership to identify current production and repurposing capacity. CMTA's manufacturer repurposing list can be found at: https://cmta.net/multimedia/10th_list_of_mfg_repurposing_for_covid_19_cmta_w:o_contact_info_copy.pdf

   The CMTC, working under repurposed funding from the GO-Biz Small Business Technical Assistance Expansion Program, worked one-on-one with small and medium-size manufacturers to shift their production to meet the state's top emergency supply needs. This pivot in manufacturing has required retooling of facilities, reworking of staffing, and establishing new supply sources, to name only a few of the required innovations. Below are examples how CMTC's clients evolved to meet California's COVID-19 challenge.

a) ***Allett, National City***: Allett is a family-run slim wallet company established in 1995. By rethinking their production line, the company is transforming their warehouse in National City from making wallets to face masks. This project that began as a small one-time donation has become a business model. For anyone that purchases two masks, the company donates mask. Most recently the company reported that it has donated over 3,500 masks, which has also allowed the small business to double its workforce.

b) ***Armenco Truck Company, Chatsworth***: Since 1977, Armenco Truck, a family run company, has designed and delivered mobile trucks for food and other industries. For the COVID-19 pandemic, Armenco has the capabilities to supply mobile hand wash stations, mobile kitchens, and triage units for parks, homeless encampments, and other applications. Armenco is also supplying plastic partitions and guard stations which are being installed between manufacturing equipment stations and office areas.

c) ***Dermaestheitcs, Inc., Anaheim***: Dermaesthetics is a global skincare company, primarily selling to beauty professionals for over 30 years. When the call for hand sanitizers, the company pivoted its production line and shipped at no-charge to California clinics, hospitals, senior care centers, etc. In addition, Dermaesthetics is selling its FDA and WHO compliant product in various sizes to the companies and the general public.

d) ***Able Industrial Products, Ontario***: Able Industrial Products is a second generation family owned business, which pivoted to manufacture face shields from manufacturing automotive and aerospace gaskets. The company now provides 2,500+ face shields daily to St. Jude Medical Center in Fullerton and other medical centers in Southern California.

The CMTC supported these companies in pivoting their existing production capacity to contribute to the state's coronavirus pandemic response and sustain a portion of their workforce. If enacted, AB 3307 would provide a new funding mechanism to assist manufacturers in making these transitions.

2) **Role of Manufacturing in the California Economy**: Manufacturing plays an important role within the California economy, supporting international trade and small businesses within the global supply chain while providing high-paying jobs. Manufacturing in California accounted for 10.67% of total state economic output in 2018, representing $316.76 billion of production. By most indicators, California is the largest manufacturing state in the nation.

Manufacturing is California's most export-intensive activity, with $149.5 billion in manufactured goods exported in 2019, accounting for 86.2% of California's annual exports. The two largest exports by aggregate dollar value in 2019 were computers and electronic products valued at $40.2 billion (23.2% of all exports) and transportation equipment at $22.6 billion (13.1%).

Manufacturing employed 1.3 million workers in California in 2018, accounting for 7.72% of the state's non-farm employment. California has the largest manufacturing workforce in the nation, followed by Texas, with an average annual compensation within the manufacturing sector of just over $105,000 in 2017.

In addition to paying higher wages than many economic sectors, manufacturing jobs also have one of the highest multiplier effects. According to the Milken Institute, each manufacturing job supports roughly 2.9 other jobs in the overall state's economy. In some specialized manufacturing sectors, such as electronics and computer manufacturing, the multiplier effect is as high as 16 to 1. One of the reasons for the large multiplier effect is the extended supply chains that are needed to support manufacturing and the export of goods, including small businesses and logistic companies.

3) **Manufacturing in the Future:** EDD currently projects that, between 2016 and 2026, total employment in California will rise by 16.3%, with total employment in the manufacturing sector in California rising by only 0.1%, as shown in ***Chart 1*** below.

Chart 1 – Net Employment Growth in California				
	Annual Average Employment 2016	**Estimated Employment in 2026**	**Numerical Change**	**Percent Change**
Total Employment	18,089,600	20,022,700	1,933,100	10.7%
Manufacturing	1,311,200	1,312,500	1,300	0.1%
Source: "Projections of Employment by Industry and Occupation, Long-Term (Ten Years) Projections," EDD, 2018				

While the aggregate employment growth is low, some subsectors are anticipated to have more significant increases, including motor vehicle manufacturing (103.1%) and industrial machinery manufacturing (12.6%). Chart 2 provides a more detailed look at selected job growth in the manufacturing sector.

Chart 2 – Selected Net Job Growth in Manufacturing				
	Annual Average Employment 2016	**Estimated Employment in 2026**	**Numerical Change**	**Percent Change**
Manufacturing	1,311,200	1,312,500	1,300	0.1%
Durable Goods Manufacturing	820,800	829,500	8,700	1.1%
Wood Product Manufacturing	23,800	25,400	1,600	6.7%
Other Wood Product Manufacturing	16,800	18,000	1,200	7.1%
Primary Metal Manufacturing	17,300	15,200	-2,100	-12.1%
Fabricated Metal Product Manufacturing	130,500	126,500	-4,000	-3.1%
Machinery Manufacturing	74,200	75,000	800	1.1%
Motor Vehicle Manufacturing	9,600	19,500	9,900	103.1%
Aerospace Product and Parts Manufacturing	76,600	75,100	-1,500	-2.0%
Ship and Boat Building	9,400	8,000	-1,400	-14.9%
Furniture and Related Product Manufacturing	35,800	34,800	-1,000	-2.8%
Medical Equipment and Supplies Manufacturing	52,600	56,300	3,700	7.0%
Nondurable Goods Manufacturing	490,400	483,000	-7,400	-1.5%
Food Manufacturing	160,500	166,600	6,100	3.8%
Beverage and Tobacco Product Manufacturing	57,500	69,300	11,800	20.5%
Apparel Manufacturing	47,700	37,200	-10,500	-22.0%
Paper Manufacturing	22,000	20,400	-1,600	-7.3%
Petroleum and Coal Products Manufacturing	13,900	12,400	-1,500	-10.8%
Chemical Manufacturing	84,400	85,800	1,400	1.7%
Pharmaceutical and Medicine Manufacturing	51,400	54,000	2,600	5.1%
Plastics and Rubber Products Manufacturing	44,500	41,200	-3,300	-7.4%

4) **Background on the IBank**: The IBank was established in 1994 to finance public infrastructure and private development that promote a healthy climate for jobs, contribute to a strong economy, and

improve the quality of life in California communities. 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 of the Department of Finance, the Secretary of the Transportation Agency, and an appointee of the Governor. The day-to-day operations of the IBank are directed by the Executive Director who is an appointee of the Governor and is subject to confirmation by the California State Senate.

The IBank 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. State contracts to small business financial development corporations are supported through an annual General Fund appropriation of approximately $860,000.

The IBank administers four core programs: (1) the ISRF which provides direct low-cost financing for public infrastructure projects and economic development facilities; (2) the Revenue Bond Financing Program which provides tax exempt and taxable bond financing for manufacturing companies, public benefit nonprofit organizations, public agencies, and other eligible entities; (3) the California Small Business Finance Center which assists small businesses (up to 500 employees) in accessing private financing through credit enhancements – including loan guarantees, direct loans, and performance bond guarantees; and (4) the California Lending for Energy and Environmental Needs Center (CLEEN Center), which provides financing for municipal governments, public universities, schools, and hospitals (MUSH).

Since its inception through March 2017, the IBank has loaned, financed, or participated in over $40 billion in infrastructure and economic expansion projects, including $426.9 million in industrial development bonds. This includes over $600 million to local and state agencies, developing a high-level of expertise in the financing of public infrastructure.

The IBank also serves as the state's only general purpose financing authority with broad statutory powers to issue revenue bonds, make loans, and provide guarantees. There is no pledge of IBank or state general funds for any of the conduit revenue bonds. Over $38 billion in conduit revenue bonds have been issued by the IBank since 2000.

The IBank estimates that, since inception, it has supported the creation and retention of over 100,000 jobs, including over 22,000 from the ISRF program; 37,000 from bond financing activities; and 41,000 through the Small Business Finance Center.

5) **Proposed Amendments**: Below is a list of amendments the committee members may wish to review when considering the bill.

   a) Narrow the bill to a program the Governor activates in times of an emergency. This would place the AB 3307 manufacturing program in a similar position as the existing Small Business Disaster Loan Guarantee Program, which the Governor recently activated to guarantee microloans for businesses that did not otherwise qualify for one of the two federal small business disaster programs.

   b) Remove some of the program details in order to provide the IBank with the ability to develop a program that best meets the needs of manufacturers in the post-COVID-19 era.

   c) Add legislative intent as to how the program assists the state in meeting the current emergency.

6) **Related Legislation**: Below is a list of bills from the current and prior sessions.

a) ***AB 245 (Muratsuchi) California Aerospace and Aviation Commission***: This bill enacts the California Aerospace and Aviation Act of 2019 (Act), which establishes a 15-member California Aerospace and Aviation Commission (Commission) for the purpose of serving as a central point of contact for related industries and supporting the health and competitiveness of these industries in California. The Commission is placed within the administrative control of the Governor's Office of Business and Economic Development. Authority for the operation of the Commission sunsets on January 1, 2025. Status: Pending in the Senate Committee on Governmental Organization, 2019.

b) ***AB 755 (E. Garcia) Capital Investment Incentive Program***: This bill extends the authorization for cities and counties to establish a Capital Investment Incentive Program (CIIP) from January 1, 2018, to January 1, 2019. Existing law authorized a local government to offer a partial property tax abatement incentive for qualified manufacturing facilities for assessed property taxes. In order to qualify for the partial tax abatement, the manufacturer is required to have made an investment of at least $150 million. The incentive may only be offered after the proponent and the local government agree to a "Community Services Agreement" that requires the proponent to meet certain criteria, such as job creation numbers, wages paid at least to the state average weekly wage, and local fees. Should the manufacturer fail to meet these requirements, the local government is entitled to repayment of any amounts paid. Status: Signed by the Governor, Chapter 709, Statutes of 2017.

c) ***AB 894 (V. Manuel Pérez) California Manufacturing Competitiveness Act of 2011***: This bill would have authorized the establishment of a loan and loan guarantee program, administered through the California Industrial Development Financing Advisory Commission, for the purpose of financing the retooling and expansion of California's manufacturing facilities, enhancing the state's logistics network, and retaining and creating jobs. Status: Vetoed by the Governor, 2011. The veto message states: "*This bill creates the California Manufacturing Competitiveness Loan and Loan Guarantee Program to be administered by an advisory commission within the State Treasurer's office. The objectives of this bill are excellent. However, the loan programs it creates can be run by the state's Infrastructure Bank, which already has authority and experience lending directly to businesses.*"

d) ***AB 1027 (Burke) California Competes Tax Credit and Private Ownership Share Agreements***: This bill would have authorized a taxpayer to offer the state an ownership interest in the taxpayer's business as part of the California Competes Tax Credit application process, and allowed the Governor's Office of Business and Economic Development to consider the amount of ownership being offered in determining the amount of credit allocated to the taxpayer. If a court had found that the state's ownership interest in a taxpayer's business to be prohibited by the California Constitution, the credit would have been recaptured and unused carryover credit canceled. Status: Held in the Senate Committee on Appropriations, 2019.

e) ***AB 1259 (L. Rivas, Cervantes, E. Garcia) California New Markets Tax Credit***: This bill would have authorized a New Market Tax Credit for qualified business investments in low-income communities beginning in year 2020. The Governor's Office of Business and Economic Development would have been tasked to administer the program. The bill would have authorized $100 million to be awarded annually. This was part of the JEDE Chair's four-bill package related to Opportunity Zones. Status: Held in the Assembly Committee on Appropriations, 2019.

f) ***AB 1479 (Cervantes) Opportunity Zone Credit Enhancement***: This bill would have established a credit enhancement program through the California Infrastructure and Economic Development Bank for projects located in an Opportunity Zone that met certain social, economic, and environmental criteria, including creating wealth and asset building within the local community.

This was part of the JEDE Chair's four-bill package related to Opportunity Zones. Status: Held in the Assembly Committee on Appropriations, 2019.

g) ***AB 1716 (Committee on Jobs, Economic Development, and the Economy) California Competes Tax***: This bill would have extended the California Competes Tax Credit for five years. The Assembly Committee on Jobs, Economic Development, and the Economy was the sponsor of this bill. Budget actions supported by JEDE implemented similar provisions as part of the 2017-18 Budget. Status: Died in the Assembly Committee on Appropriations, 2018.

h) ***AB 1900 (Brough) Extension of the Capital Investment Incentive Programs***: This bill extends the Capital Investment Incentive Program (CIIP) from January 1, 2019, to January 1, 2024. Existing law authorized a local government to offer a partial property tax abatement incentive for qualified manufacturing facilities for assessed property taxes. In order to qualify for the partial tax abatement, the manufacturer is required to have made an investment of at least $150 million. The incentive may only be offered after the proponent and the local government agree to a "Community Services Agreement" that requires the proponent to meet certain criteria, such as job creation numbers, wages paid at least to the state average weekly wage, and local fees. Should the manufacturer fail to meet these requirements, the local government is entitled to repayment of any amounts paid. Status: Signed by the Governor, Chapter 382, Statutes of 2018.

i) ***AB 2437 (V. Manuel Pérez) California Manufacturing Competitiveness Act of 2010***: This bill would have authorized the establishment of the California Manufacturing Competitiveness Act of 2010 for the purpose of supporting the retooling and expansion of California's manufacturing facilities, enhancing the state's logistics network, and retaining and creating jobs. Status: Vetoed by the Governor, 2010. The veto message states: "*While I am supportive of providing California's manufacturers with greater borrowing opportunities to make capital investments, I believe the proper location of this economic development program is in the Governor's Office of Economic Development. In addition, this bill would create new higher costs to employers as a result of the prevailing wage requirements on projects financed under this bill*."

j) ***SB 1293 (Allen) Sea Level Rise Loan Program***: This bill creates the Sea Level Rise Revolving Loan Program within the I-Bank to provide low-interest loans to local jurisdictions for the purchase of coastal properties in their jurisdictions identified as vulnerable coastal property. The bill would require the California Coastal Commission, before January 1, 2022, in consultation with the California Coastal Commission, the State Lands Commission, and any other applicable state, federal, and local entities with relevant jurisdiction and expertise, to determine criteria and guidelines for the identification of vulnerable coastal properties eligible for participation in the program. Status: Pending in the Senate Committee on Rules, 2020.

REGISTERED SUPPORT / OPPOSITION:

Support

None on File

Opposition

None on File

Analysis Prepared by: Toni Symonds / J., E.D., & E. / (916) 319-2090

Date of Hearing: May 12, 2020

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY
Sabrina Cervantes, Chair
AB 2135 (Muratsuchi) – As Introduced February 10, 2020

SUBJECT: Japan Trade and Investment Office

POLICY FRAME: As a result of the coronavirus emergency, the International Monetary Fund (IMF) is forecasting a -3% contraction in the global economy in 2020, which is significantly worse than during the 2008–09 financial crisis. This baseline scenario assumes a "hockey stick" shaped recovery where the significant drops in productivity in the second quarter of 2020 is followed by a gradual increase in economic activity in the second half of 2020 and ending 2021 with a 5.8% growth in GDP as economic activity normalizes. This analysis assumes substantial financial policy supports by governments.

Some California economic analysis firms, including Beacon Economics, see the possibility of a more "V" shaped recovery, but similarly identify the risks of more severe economic outcomes should California not be able to successfully re-open and stay open due to lingering COVID-19 flare-ups. Many economic advisors generally recommend that policymakers implement substantial targeted fiscal, monetary, and financial market interventions to support affected households and businesses domestically.

As a highly integrated global economy with 5.5 million workers engaged in economic activities linked to foreign trade and investment, it is appropriate that California include export support and foreign investment attraction to its primary list of economic recovery initiatives. Trade-based strategies offer many advantages, including, but not limited to, trade-based industry sectors paying higher wages than other nontrade-related employment, expanded supply chains and other multiplier effects spreading benefits to many business and multiple communities, and the significant number of small and medium-sized businesses participating within trade-based industries.

AB 2135 proposes the establishment of a new California presence in Japan, the state's fourth largest trade partner, representing over $36.9 billion in two-way goods exchanged in 2019. The new trade and investment office will provide California businesses greater access to the Japanese marketplace and encourage new private investment to California. California currently has no official presence in Japan. The analysis includes information on the California and Japan trade relationship, the current duties and activities of the Governor's Office of Business and Economic Development, and the reported impacts of the coronavirus on the state economy. Suggested amendments are included in Comment 8.

SUMMARY: AB 2135 requires the establishment of an international trade and investment office in Japan by January 1, 2023, subject to appropriation of sufficient funding for this purpose. Specifically, **this bill**:

1) The Legislature finds and declares all of the following:

   a) California continues to be one of the top exporting states to Japan, accounting for over 17% of total US exports.

   b) Japan has remained California's fourth largest export market since 2010.

   c) California exports to Japan totaled $13 billion in 2018.

   d) Japan ranks first in all aspects of direct foreign investments to southern California.

e) California is currently the top importing state in the United States for products from Japan. In addition, California buys more products from Japan than any other country besides China and Mexico.

2) Requires, no later than January 1, 2023, and upon appropriation of sufficient funds for this purpose, the Governor's Office of Business and Economic Development (GO-Biz) to establish an international trade and investment office in Tokyo, Japan (Japan Trade Office).

3) Requires that the Japan Trade Office be under the control of GO-Biz.

4) Requires that the Japan Trade Office have those powers and duties prescribed by the Director of GO-Biz as being necessary to promote and facilitate the state's international trade activities.

5) Requires the Japan Trade Office to do all of the following:

   a) Facilitate access to educational exchange programs between California and Japan.

   b) Promote the export of California goods and services into Japan.

   c) Encourage and facilitate capital investment from Japan into California.

6) Requires the Director of GO-Biz to include information regarding the Japan Trade Office within existing annual reports prepared by GO-Biz.

EXISTING LAW:

1) Establishes GO-Biz within the Governor's Office for the purpose of serving as the state's principal entity for issues relating to international trade and foreign investment, excluding agricultural issues. GO-Biz is led by a director, which is appointed by the Governor.

2) Authorizes the GO-Biz Director to establish and terminate foreign trade offices as the Director determines appropriate, if certain conditions are met, including:

   a) The GO-Biz Director is able to make a determination that the country where a foreign trade office would be located is among those with the greatest potential for direct foreign investment in California, export growth, or both.

   b) GO-Biz prepared and published a separate budget for the foreign trade office, which includes a description of how funding will be obtained and the positions and staffing levels necessary to operate the office.

   c) GO-Biz has included certain specified information in its annual review of the overall International Trade and Investment Program and proposed budget, strategy, and business plan for the following year. Information on the proposed foreign trade office is required to include a description of how the office will facilitate an increase of direct foreign investment in California or an increase in California exports, or both.

3) Authorizes foreign trade offices to be funded in whole or in part by non-state funds.

4) Authorizes GO-Biz to contract with a nonprofit entity to operate a foreign trade office. The contract is required to include, among other provisions, the requirement that the nonprofit entity is to provide GO-Biz with information sufficient to satisfy the donor reporting requirements, as specified. Each donation is required to be reflected on a donor disclosure list maintained by GO-Biz within 30 days of receipt.

5) Requires that the International Trade and Investment Program's annual budget, strategy, business plan, and review of the prior year's activities be submitted to specified legislative offices in the Assembly and the Senate, as specified.

FISCAL EFFECT: Unknown

COMMENTS & CONTEXT:

1) **Coronavirus and the Economy**: The extreme and abrupt steps which have had to be taken to protect the health and safety of Californians are having a significant impact on the California economy. Within one week in March 2020, the state went from open-for-business to implementing a strict stay-at-home order for everyone not directly engaged in what government considered an essential and critical business activity. Since March 12, 2020, 3.6 million unemployment insurance claims have been filed with the state's Employment Development Department.

   In early April 2020, the Pacific Merchant Shipping Association released its West Coast Trade Report showing a significant drop in seaport activity across the US, including California, as compared to the prior year. In-bound activity at the Northwest Seaport Alliance (Seattle/Tacoma) was down 28.8%, the Port of Los Angeles down 25.6%, Savannah down 21.1%, Houston down 19.4%, Charleston down 18.1%, Oakland down 10.0%, and Long Beach down 5.0%.

   California March 2020 export records show comparable reductions with aggregate business shipments being down 12.7% from the prior year and shipments of manufactured products by California firms being down 11.8%. Similarly, exports of non-manufactured goods (primarily agricultural products and raw materials) were down by 6.1%. With a majority of Stay-at-Home Orders being announced in mid-March, the full impact of the economic contraction is not expected to be reported until at least May when the April 2020 numbers become available.

2) **Establishment of Foreign Trade Offices**: Over the past several decades, the state has used a variety of methods for establishing trade offices. In 2003, when the Legislature and the Governor agreed to eliminate the Technology, Trade, and Commerce Agency (TTCA), the state directly operated or contracted for the operation of 12 trade offices, including offices in Shanghai, Mexico City, Buenos Aires, London, Frankfurt, Jerusalem, Johannesburg, Seoul, Tokyo, Hong Kong, Taipei, and Singapore. With the closure of TTCA, nearly all related programs were removed from statute, including the authority to engage in international trade activities and operate trade offices. One trade office remained, that being a "self-supporting" office in Armenia, which had been established through a separate statute, *SB 1657 (Scott), Chapter 863, Statutes of 2002*, and later extended through *SB 897 (Scott), Chapter 604, Statutes of 2005*. In 2008, the authority to operate a trade office in Armenia lapsed.

   It was not until 2006 that the Governor and Legislature were able to come to agreement about a new trade framework, which was included in *SB 1513 (Romero), Chapter 663, Statutes of 2006*. As a condition for re-granting the Governor's authority to open trade offices, the Legislature required the Governor to obtain its pre-approval in the form of a resolution or statute and that the five-year International Trade Investment Strategy remain current. Should the Administration fail to submit a five-year International Trade Investment Strategy in a timely fashion, the State Controller was directed to withhold funds from the agency assigned to undertake trade activities.

Governor Brown, however, did not believe it was appropriate for the Legislature to be directly involved in the establishment of foreign trade offices. With the enactment of *AB 2012 (John A. Pérez), Chapter 294, Statutes of 2012*, the Legislature's pre-approval authority was eliminated.

In April 2013, Governor Brown opened a trade office in Shanghai, China, which is the first trade office opened under the AB 2012 rules. The California-China Office of Trade and Investment (China Trade Office) utilized a public-private partnership agreement between the state and the Bay Area Council to operate. Over time, the private nonprofit partners have expanded to become a network of organizations that support California and China trade activities.

As of September 2019, the China Trade and Investment Network is comprised of the Bay Area Council (founding member), the Los Angeles County Regional Economic Development Corporation, the California Asian Pacific Chamber of Commerce, the City of Sacramento Amcham Shanghai, GlobalSF, and Fresno EDC. The operation of the China Trade Office is dependent on private donations, and the collection of those donations is the responsibility of the Bay Area Council and other nonprofit partners.

3) **California Trade Agreements with Japan**: California's international trade and investment activities are mandated by statute to be guided by a published trade and investment program, which is reviewed and updated at least every five years. Statute further requires the state's trade and investment program to be focused on attracting employment producing direct foreign investment; to support California businesses' access to foreign markets; and to engage in other trade and foreign investment activities assigned by the Governor. One of the ways in which GO-Biz implements its current trade program is through the development and enactment of MOUs between California and foreign governments.

Governor Brown recognized the importance of developing strong economic and foreign relationships with Japan. Among other activities, California focused its attention on sharing technologies and insights related to climate change and especially zero emission vehicles. ***Chart 1*** summarizes these MOUs and includes links for additional information.

Chart 1 – California Agreements with Japan		
Government of Japan	• Memorandum of Cooperation on Climate Change, Renewable Energy, Trade and Investment, Vehicles, High Speed Rail, and Water Between California, the US and Japan. • Designates GO-Biz as one of four state agencies responsible for implementing the agreement. • Primary areas of cooperation: climate change; renewable energy; trade and investment; vehicles, including electric vehicles (EV); high speed rail; and water conservation and management.	Entered into on September 5, 2014, and remained in effect until 2018: https://s3-us-west-1.amazonaws.com/gobiz-iaas/gobiz-business-ca-wp-content-media/wp-content/uploads/2019/10/CA-Japan-MOC-20160905.pdf
Osaka Prefecture, Japan	• Memorandum of Understanding and Cooperation Between California, the US, and the Osaka Prefecture, Japan. • Designates GO-Biz as California's lead agency. • Primary areas of cooperation: clean energy, environmental protection, information technology, bio-technology, manufacturing, and tourism.	Entered into on June 11, 2013: https://s3-us-west-1.amazonaws.com/gobiz-iaas/gobiz-business-ca-wp-content-media/wp-content/uploads/2019/10/MOU-Osaka_Japan.pdf
New Energy and Industrial		Entered into on

Technology Development Organization of Japan (NEDO)	• Memorandum of Understanding between NEDO and GO-Biz. • Designates GO-Biz as California's lead agency. • Purpose: Demonstrate that it is possible to change EV driving behavior and that EVs are suitable for long-distance trips in order to promote EV use and thereby reduce greenhouse gas emissions, criteria pollutants, and fossil fuel use.	September 10, 2015, and remained in effect until June 30, 2020: https://s3-us-west-1.amazonaws.com/gobiz-iaas/gobiz-business-ca-wp-content-media/wp-content/uploads/2019/10/NEDO-MOU-Japan-CA-09-10-15.pdf
NEDO Redox Flow Battery	• Memorandum of Understanding between NEDO and GO-Biz. • Designates GO-Biz as California's lead agency. • Purpose: Demonstrate that a redox flow battery can be used for both fast response and long duration applications, which would provide significant assistance for issues caused by increased use of renewable energy resources. For purposes of this MOU a redox flow battery is a megawatt scale energy storage device that acts as a grid asset by storing and disbursing electricity at optimal times.	Entered into on September 10, 2015, and remains in effect until June 10, 2020: https://s3-us-west-1.amazonaws.com/gobiz-iaas/gobiz-business-ca-wp-content-media/wp-content/uploads/2019/10/MOU-Japan-CA-Redox-Flow-Battery2017.pdf
		Source: GO-Biz website accessed 5/2/20

4) **California's Interagency Committee on International Affairs**: In February 2019, Governor Newsom issued executive order (N-19-08) designating Lieutenant Governor Eleni Kounalakis as the Governor's top representative for international affairs and trade development.

As part of those duties, Lieutenant Governor Kounalakis, who formerly served as the United States Ambassador to Hungary, chairs a cabinet-level International Affairs and Trade Development Interagency Committee (Interagency Committee). The Interagency Committee is vice chaired by the Governor's Chief Economic and Business Advisor (position currently vacant).

The executive order charges the Interagency Committee with advising the Governor and facilitating the coordination of state activities relating to the promotion and expansion of trade, investment, and international relations. Other members of the Interagency Committee include representatives of the California Energy Commission, California Department of Food and Agriculture, Governor's Office of Emergency Services, California Environmental Protection Agency, California Natural Resources Agency, California Transportation Agency, Visit California, and GO-Biz.

The California Trade and Service Office Advisory Group, consisting of private sector and nongovernmental leaders, is also required to be established under the provisions of the executive order for the purpose of exploring options to establish trade promotion offices using non-state funds.

A review of the minutes of the Interagency Committee found that Japan was substantively discussed at two-out-of-four of its meetings. At each of the four meetings, however, Japan's important trade relationship, in general, was stated. As an example, at the March 2020 meeting of the Interagency Committee, Lieutenant Governor Kounalakis reported that her office is continuing to enhance and focus on California's strong relationships with Canada, Japan, and the European Union. She noted that she recently spoke at the Japanese Consulate General's National Day celebration to underline the historic relationship between California and Japan. She also said she welcomed the opportunity to increase the California-Japan relationship and noted that she would meet with the Japanese Ambassador to the U.S. the following week.

In addition, Helen Lopez, International Liaison at the Governor's Office of Emergency Services (CalOES) reported at the March 2020 meeting that CalOES had hosted a delegation from Japan that included two members of the cabinet. The visit's focus was discussing Japan's resiliency plan given the 2011 tsunami.

5) **GO-Biz Administration of Trade Activities**: In implementing its trade and foreign investment activities, GO-Biz relies on a "service desk" model, which is described by GO-Biz as partnering with local organizations to make physical space available to California Trade and Investment Specialists at no cost to the state. The state currently operates three service desks: Mexico, opened in October 2019; Armenia, opened in September 2019; and China, the state's initial foreign trade office under the AB 2012 model, opening in 2013.

In addition to the foreign service desks, GO-Biz maintains an International Trade and Investment Office. The GO-Biz Office is led by a Deputy Director and staffed by a foreign direct investment (FDI) specialist, three regional trade and investment representatives (regional representatives), and a special advisor for international affairs and trade. GO-Biz hosts a monthly conference call and publishes a monthly newsletter to keep connected to economic developers, businesses involved in trade, foreign investment professionals, and members of the consular corp.

The three regional representatives each cover one or more of the major trade regions in the world. Trade activities in Asia are assigned to one regional representative; another trade representative covers Europe, the Middle East and Africa; and the third trade representative oversees Mexico, and Central, and South America. While based in California, the regional representatives have the authority to travel in order to solicit investment leads, support California businesses on regional trade shows, and undertake other activities designed to increase export opportunities and FDI. Total funding for the three positions is $592,000: $427,000 in wages and benefits and $165,000 in operating expenses, including $72,000 for travel.

According to GO-Biz' 2019 report on its trade and investment activities, the regional representatives have access, at no charge, to the foreign service desks. The Armenia Desk is used to support trade activities in Europe, the Middle East and Africa and the Mexico Desk supports the trade representative serving the Americas. Trade and investment leads in Asia may be supported through the China Desk in Shanghai. The trade and investment network of nonprofits that support the state's work in China, discussed above, does not support export activities with other Asian countries.

The federal Small Business Administration supports California's trade and investment program through its State Trade Expansion Program (STEP). In federal fiscal year 2019-20, California received $600,000 in STEP, which required a committed match of $323,076. There were six STEP-supported international activities in 2019, including three in Asia:

- China Medical Equipment Fair (April 2019) $22,000 in STEP funding
- Cosmoprof India (June 2019) $35,000 in STEP funding
- Hong Kong Food Expo (August 2019) received $44,000 in STEP funding.

Overall, the STEP program supported 63 small business export expansion efforts, recording projected sales of more than $2.2 million. Individual outcomes for STEP events are not included in GO-Biz' annual report on international trade and investment activities.

In January 2020, GO-Biz joined other trade and investment partners to launch the California Export Training Network (Training Network) to expand the state's exports and export training efforts. With a goal of promoting, supporting, and increasing the number of California exporters in all regions of California, the Training Network includes over 14 organizations, including, but not limited to: California Manufacturing Technology Consulting (CMTC), Fresno Center for International Trade Development, GlobalSF, Inland Empire Center for Entrepreneurship, CSU San Bernardino, International Trade Center powered by the California Community Colleges, and the Los Rios CCD Center for International Trade Development. The Training Network is supported by a number of business development partners, including: US Commercial Service, US Department of Commerce, US Small Business Administration Office of International Trade, Export Import Bank of the United States, California Department of Food and Agriculture, California Office of the Small Business Advocate, and the California Small Business Development Centers.

In addition to the International Trade and Investment Office, GO-Biz has historically used a service delivery model that flows across and through different GO-Biz units, depending on the business' needs. As an example, a foreign company planning to expand in California may have initially become acquainted with GO-Biz through an in-bound trade mission hosted by the International Trade and Investment Office, but may ultimately also be assisted by the California Business Investment Program, and the Permit Assistance Office.

6) **Profile on Japan**: Japan is located within eastern Asia on a chain of islands that lie between the Pacific Ocean and the Sea of Japan, and east of the Korean Peninsula. With a total land mass of 364,400 square kilometers, Japan is just slightly smaller than California with unique contrasts of highly population-dense cities and open, rugged, and mountainous rural areas. Forests occupy a majority (68.5%) of the land. One-third of Japan's 125.5 million people reside in and around Tokyo on the central plain. Japan is the 11th most populous country in the world with over 41% of the population over the age of 55.

Japan is led by Prime Minister Shinzo Abe, who was elected to office in December 2012 and in November 2019 became Japan's longest-serving post-war prime minister.

Japan has the 3rd largest economy among nations with a 2019 GDP of $5.1 trillion. For comparison, 2019 GDP for the US is $21.4 trillion, $14.3 trillion for China, and $3.1 trillion for California. The primary drivers of Japan's GDP are services, comprising 68.7% by sector origin, and household consumption, comprising 55% based on the end user. There were 65 million workers in Japan's labor force in 2017 (most recent) with 70.9% of workers having service-related occupations.

Japan exported $688.9 billion of products in 2017 (most recent) with the US receiving 19.4%, China 19%, and South Korea 7.6% of goods. The most common export of goods were motor vehicles, iron and steel products, semiconductors, and auto parts. Japan imported $644.7 billion in goods in 2017 with 24.5% of imports being from China, 11% from the US, 5.8% from Australia, and 4.2% from South Korea. The most common imported goods were petroleum, liquid natural gas, clothing, and semiconductors.

Chart 2 – US Exports to Japan in 2019	
336–Transportation Equipment	$11,411,744,992
325–Chemicals	$10,644,870,374
334–Computer and Electronic Products	$7,816,879,927
211–Oil and Gas	$7,021,943,404
311–Food Manufactures	$6,105,845,773
111–Agricultural Products	$5,206,690,002
339–Miscellaneous Manufactured Commodities	$4,941,932,991
333–Machinery, Except Electrical	$4,730,975,135
335–Electrical Equipment, Appliances and Components	$2,460,592,749
All Other Products	$14,311,270,091
Total	$74,652,745,438
Source: International Trade Administration accessed 5/2/20	

Japan is the US' 4th largest export market, exporting $74.6 billion in 2019. ***Chart 2***, above, shows 2019 exports from the US to Japan by product type. In 2019, the US imported $143.6 billion in products from Japan.

7) **California's Pre-Coronavirus Global Economy**: International trade and foreign investment are important components of California's $3.1 trillion economy supporting over 5.5 million California jobs. The importance of trade to the California economy is increasing, as reflected in the percentage of California jobs tied to trade having more than doubled from 1992 to 2018: 10.6% vs. 28.9%.

California's largest industry sector by employment is Trade, Transportation, and Utilities, which encompasses everything from major retail outlets, to import-export businesses, to transportation and warehousing. Workers in trade-related jobs earn on average 10% to 28% higher wages than the national average. California leads the nation in the number of export-related jobs.

Advances in transportation and communication technologies are encouraging the development of previously undeveloped markets and expanding multinational business opportunities for California firms. With more than 95% of consumers located **outside** the US and emerging economies experiencing a growing middle class, accessing these global markets is key to California's continued economic growth. Today, four of California's top five exports include component parts, which leave the state to be combined and assembled into final products in foreign countries.

Chart 3, on the following page, shows data of the export of goods to the state's top six trade partners, based on origin of movement. [*Please note that federal reporting separates data from China and Hong Kong.*] California's largest export market in 2019 was Mexico, who received over $27.8 billion in California products. Top-ranking export destinations not shown on the chart include Germany, the Netherlands, and the United Kingdom.

Chart 3 - California Exports of Goods 2012-2019 (billions of dollars)									
	Partner	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**	**2018**	**2019**
	World	$161.7	$168.0	$174.1	$165.3	$163.5	$171.9	$178.4	$173.3
1	Mexico	$26.3	$23.9	$25.4	$26.7	$25.2	$26.7	$30.7	$27.8
2	Canada	$17.4	$18.8	$18.2	$17.2	$16.1	$16.7	$17.7	$16.6
3	China	$13.9	$16.2	$16.0	$14.3	$14.3	$16.4	$16.3	$15.8
4	Japan	$13.0	$12.7	$12.2	$11.7	$11.7	$12.8	$13.0	$11.8
5	Hong Kong	$7.8	$7.7	$8.5	$8.7	$9.6	$12.1	$9.9	$8.4
6	South Korea	$8.2	$8.3	$8.6	$8.6	$8.2	$9.6	$9.9	$9.1
Source: International Trade Administration, accessed 5/2/20									

Japan is consistently one of California's top export markets. In 2019, California exported $11.8 billion in goods to Japan, making California the top exporting state into Japan. ***Chart 4*** shows that more than 50% of California goods exports to Japan are comprised of technology-based products, including electronics, machinery, and transportation equipment.

Chart 4 - California Exports to Japan 2019		
	Value	**Percent**
Computer and Electronic Products	$2.2 billion	18.8%
Transportation Equipment	$1.6 billion	14.2%
Miscellaneous Manufactured Commodities	$1.1 billion	9.9 %
Machinery, Except Electrical	$1.1 billion	9.9%
Food Manufacturers	$1.1 billion	9.4%
Chemicals	$988 million	8.3%
All Others	$3.4 billion	29.5%
Grand Total	$ 11.8 billion	100%

8) **Proposed Amendment**: The committee may wish to amend the legislative intent to update the export data for 2019 ($11.8 billion or two-way trade of $36.9 billion) and to include information on the importance of investing in a trade strategy during an economic downturn.

9) **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 moves the Office of the Small Business Advocate to the Office of Economic Development. Status: Signed by the Governor, Chapter 475, Statutes of 2011.

   b) ***AB 337 (Allen) Economic Development: International Trade and Investment Strategy***: This bill adds specificity to the development and content of the state international trade and investment strategy (ITI Strategy), which is an existing report requirement of the Governor's Office of Business and Economic Development (GO-Biz). This bill requires the ITI Strategy to be based on current and emerging market conditions and the needs of investors, businesses, and workers. Specific new content requirements include the addition of a framework, which can be used by GO-Biz to evaluate the changing needs of business during the five-year term of the ITI Strategy. Status: Signed by the Governor, Chapter 776, Statutes of 2014.

   c) ***AB 1137 (V. Manuel Pérez) Small Business Assistance and Attracting Private Investment***: This bill would have facilitated local economic development and job creation by assisting small businesses to access new export markets for their goods and services, updating the law relating to free trade zones, and authorizing the use of new federal funds under the Small Business Jobs Act of 2010. Status: Held in the Senate Committee on Appropriations, 2012.

d) ***AB 1409 (Jobs, Economic Development, and the Economy Committee) International Trade and Investment Strategy***: This bill, as it passed JEDE, would have required the next update by the Business, Transportation, and Housing Agency of the international trade and investment strategy to include policy goals, objectives, and recommendations from the state Goods Movement Action Plan. The measure was amended in the Senate to relate to other subject matter. Status: Held in the Senate Committee on Rules, 2012.

e) ***AB 1696 (Chau and Cervantes) Process for Establishing Foreign Trade Offices***: This bill establishes a process and timeline for submitting proposals to the Governor's Office of Business and Economic Development (GO-Biz) on the establishment of a partnership agreement to operate an international trade and foreign investment office. Status: Pending in the Senate Committee on Business, Professions, and Economic Development.

f) ***AB 1715 (Quirk-Silva, Berman, Cervantes, and Rodriguez) Process for Establishing Foreign Trade Offices***: This bill would have established a process and timeline for submitting proposals to the Governor's Office of Business and Economic Development (GO-Biz) on the establishment of a partnership agreement to operate an international trade and foreign investment office. Status: Vetoed by the Governor, 2018. The veto message stated: "*This bill establishes a process for the Governor's Office of Business and Economic Development to accept proposals from public and private entities that are interested in collaborating with the state to operate an international trade and investment office in a foreign country. Nothing prohibits any public or private entity from submitting a letter of interest for establishing an international trade and investment office in a foreign nation. I am not convinced the legislatively mandated process sought by this bill to establish trade offices will improve the state's ability to pursue successful partnerships with other countries.*"

g) ***AB 1727 (JEDE) Trade Omnibus Bill***: This bill makes technical changes to update the content and the statutory placement of the codes relating to Foreign Trade Zones and the California Foreign Investment Program. Status: Signed by the Governor, Chapter 13, Statutes of 2017.

h) ***AB 2012 (John A. Pérez) Economic Development Reorganization***: This bill transfers the authority for undertaking international trade and foreign investment activities from the Business, Transportation, and Housing Agency to the Governor's Office of Business and Economic Development (GO-Biz). In addition, the bill transfers the responsibility for establishing an Internet-based permit assistance center from the Secretary of the California Environmental Protection Agency to GO-Biz. Status: Signed by the Governor, Chapter 294, Statutes of 2012.

i) ***SB 357 (Hueso and De León) Mexico Trade Office***: This bill would have required the establishment of a California foreign trade and investment office in Mexico City, Mexico. Status: Vetoed by the Governor, 2017. The veto message stated: "*This bill directs the Governor's Office of Business and Economic Development to establish and operate a trade and investment office in Mexico City. California and Mexico have a proven partnership of trade, commerce, and the exchange of culture that runs long and deep. Our relationship with Mexico is fundamental to our mutual prosperity. Through memorandums of understanding, we are directly working with the Mexican government and business community on climate change, trade, transportation, tourism, and education. As I stated in 2014 when I vetoed a nearly identical bill, I remain unconvinced that California needs a legislatively-mandated trade office to continue our ongoing and enduring partnership with Mexico.*"

j) ***SB 460 (Price) International Trade Marketing and Promotion***: This bill would have required the Secretary of the Business, Transportation, and Housing Agency to convene a statewide business partnership for international trade marketing and promotion. Status: Held on the Suspense File of the Assembly Committee on Appropriations, 2011.

k) ***SB 515 (Scott) Armenia Trade Office***: This bill would have extended the sunset date by two years (January 1, 2008, to January 1, 2010) for the operation of the California international trade and foreign investment office in Yerevan, the Republic of Armenia. Status: Vetoed by the Governor, 2007. The veto message stated: "*California is fortunate to be home to one of the largest populations of Armenians outside the Republic of Armenia, and the Armenian-American community contributes much to our state and nation. The creation of an Armenia trade office was prudent in 2002 when the Legislature instituted the office. Since then, the Legislature has closed all other trade offices throughout the world and last year passed legislation mandating the creation of a state international trade strategy. The Business, Transportation, and Housing Agency is required to complete an International Trade and Investment strategy to recommend priorities for state activities by February 1, 2008. Also, the state is prohibited from establishing any new foreign office until the Legislature receives a strategy to guide the operation and activities of the office and provides statutory authority for implementing the strategy. The State's involvement in foreign trade offices should be determined by the process set forth by the Legislature last year. This bill is premature before that process is completed.*"

l) ***SB 897 (Scott) Armenia Trade Office***: This bill extends the sunset date allowing for the creation and operation of an international trade and investment office, on a contractual basis, in Yerevan, Republic of Armenia, from January 1, 2006, to January 1, 2008, and extends the reporting deadline regarding the success of this office from March 1, 2005, to June 1, 2007. Status: Signed by the Governor, Chapter 604, Statutes of 2005.

m) ***SB 928 (Correa and Huff) Mexico Trade Office***: This bill would have required the establishment of a trade and investment office in Mexico City by January 1, 2016. Status: Vetoed by the Governor, 2017. The veto message stated: "*This bill requires the Governor's Office of Business and Economic Development to open a trade and investment office in Mexico City. I agree that trade with Mexico is of significant economic importance which is why I led a trade mission to Mexico City in August and hosted the President of Mexico in Sacramento shortly afterwards. We are working directly with the Mexican government and the business community on increasing bilateral trade and other initiatives. I am not convinced we need a legislatively-mandated trade office to continue our growing partnership with Mexico.*"

n) ***SB 1657 (Scott) Armenia Trade Office***: This bill requires the establishment of an international trade and investment office in the Republic of Armenia; requires the State Technology, Trade, and Commerce Agency to report to the Legislature by March 1, 2005, on specified items; and sunsets on January 1, 2006. Status: Signed by the Governor, Chapter 863, Statutes of 2002.

REGISTERED SUPPORT / OPPOSITION:

Support - None on File

Opposition - None on File

Analysis Prepared by: Toni Symonds / J., E.D., & E. / (916) 319-2090

Date of Hearing: May 12, 2020

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY
Sabrina Cervantes, Chair
AB 3368 (Committee on Jobs, Economic Development, and the Economy) – As Introduced March 5, 2020

SUBJECT: 2020 Small Business Reform Act: petitions to adopt, amend, or repeal regulations

POLICY FRAME: Although the state has a vigorous public process designed to allow a rulemaking agency to fully consider the comments, suggestions, and economic impacts of proposed regulations on all businesses – especially small businesses – these same agencies are often unable to assess the cost and complexity of the proposed implementation method on businesses of different sizes. An intrinsic challenge to California's rule making process is that those businesses that may be most affected have the least ability to monitor the broad range of state rulemaking entities, recommend appropriate alternative implementation models, or engage meaningfully in the often complex and highly technical rule making proceedings.

As a backstop to the regulatory adoption and approval process, existing law allows any individual to file a petition with a rulemaking agency to adopt, amend, or repeal a regulation. This authority, however, is rarely used.

AB 3368 complements this existing petition authority by providing practical assistance to small businesses who want to file petitions. In instances where a small business has already filed a petition, the bill directs the California Small Business Advocate and the small business regulatory liaison to meet with the business to learn more about the problem that prompted the filing of the petition and possibly help resolve this issue without the necessity of changing the law.

The bill further provides explicit authority for the California Small Business Advocate and the small business regulatory liaisons to submit written comments to the agency discussing the merits of the petition. As many businesses face closure due to the economic impact of the coronavirus emergency, providing new tools for regulatory relief is essential. The policy analysis includes information on the California small business economy, reforms to state rulemaking practices, studies on the cost of federal and state regulations, and background on the federal small business regulatory programs. Technical amendments are recommended in Comment 5. Specifically, this bill:

SUMMARY: Authorizes the California Small Business Advocate and the agency-level Small Business Regulatory Liaisons to issue written comments as to the validity of the petition submitted by a small business to a state agency requesting the adoption, amendment, or repeal of a regulation.

1) Makes the following legislative findings and declarations:

    a) California's dominance in many economic areas is based, in part, on the significant role small businesses play in the state's $2.9 trillion economy.

    b) Two separate studies, one by the United States Census Bureau and another by the Kaufman Foundation, found that net job growth was strongest among businesses with less than 20 employees.

c) Supporting small business development has shown to be a successful inclusive economic growth strategy advantaging business throughout the state, including historically underserved business groups, including minority-, woman-, and veteran-owned businesses, and hard to serve areas of the state, including low-wealth, rural, and disaster-impacted communities.

d) In order for the state to fully leverage the economic opportunities represented by supporting small businesses, it is the intent of the Legislature that the Department of General Services and the Office of the Small Business Advocate actively promote small business certification, help small businesses market their products, goods, and services to the state, and promote the use of technologies and other innovative solutions for notifying small businesses of state contracting opportunities.

2) Requires an agency receiving a petition to adopt, amend, or repeal a regulation from a small business to forward a copy of the petition to the California Small Business Advocate and their agency-level small business regulatory liaison.

3) Expands the duties of an agency-level small business regulatory liaison to include providing technical advice and assistance to small businesses in filing petitions to adopt, repeal, or modify a regulation, as specified.

4) Requires the California Small Business Advocate and the agency-level small business regulatory liaison to offer to meet at least once with each small business that files a petition to adopt, repeal, or modify a regulation.

5) Requires each agency that adopts regulations that significantly impact small businesses to post information on its website about how to petition the agency to adopt, amend, or repeal a regulation, as specified.

6) Authorizes the agency-level small business regulatory liaison to issue written comments as to the validity of the petition, or recommend alternative actions to resolve or mitigate issues identified in the petition. The California Small Business Advocate already has general authority to represent the interests of small businesses before agencies; this bill provides specificity as to one element of that authority.

7) Expands the articulated duties and responsibilities of the California Small Business Advocate to include:

a) Providing technical advice and assistance to small businesses in filing petitions with a state agency to adopt, amend, or repeal a regulation.

b) Counseling and offering recommendations to state agencies who receive petitions from small businesses to adopt, amend, or repeal a regulation.

8) Expands the mandatory contents of the previously mandated annual report of the Office of the Small Business Advocate to include:

a) The number and the nature of complaints filed with or referred to the Office of the Small Business Advocate, the agency-level small business regulatory liaisons, and the agency-level small business advocates that support state contracting opportunities for small businesses.

b) The number and nature of regulatory petitions filed with a state agency and subsequently copied to the Office of the Small Business Advocate.

9) Makes a technical correction to a cross reference in a code section related to the California Small Business Advocate.

EXISTING LAW:

1) Finds and declares that there has been an unprecedented growth in the number of administrative regulations in recent years and that correcting the resulting problems requires the direct involvement of the Legislature, as well as that of the executive branch of the state government. Further, statute finds and declares that the complexity and lack of clarity in many regulations put small businesses, which do not have the resources to hire experts to assist them, at a distinct disadvantage.

2) Establishes the Office of the Small Business Advocate (OSBA) within the Governor's Office of Business and Economic Development (GO-Biz), to serve, among other things, as the principal advocate in the state on behalf of small businesses, including, but not limited to, advisory participation in the consideration of all legislation and administrative regulations that affect small businesses. The OSBA is also charged with, among other duties:

   a) Representing the views and interests of small businesses before other state agencies whose policies and activities may affect small business.

   b) Receiving and responding to complaints from small businesses concerning the actions of state agencies and the operative effects of state laws and regulations adversely affecting those businesses.

   c) Counseling small businesses on how to resolve questions and problems concerning the relationship of small business to state government.

3) Establishes the position of the small business liaison within each state agency that significantly regulates small business or that significantly impacts small business. The small business liaison's duties include:

   a) Receiving and responding to complaints received by the agency from small businesses.

   b) Providing technical advice and assisting small businesses in resolving problems and questions regarding compliance with the agency's regulations and relevant statutes.

   c) Reporting small business concerns and, if appropriate, reporting recommendations to the agency secretary or to the agency head, as defined.

   d) Reviewing and updating, on a semiannual basis, the mandated small business content on the agency website, as specified.

   e) Assisting the agency secretary, department director, or executive officer, as applicable, in ensuring that the procurement and contracting processes of the applicable entity are administered in order to meet or exceed the 25% small business participation goal, and developing and sharing innovative procurement and contracting practices from the public and private sectors to increase opportunities for small businesses.

4) Prohibits a small business liaison from advocating for or against the adoption, amendment, or repeal of any regulation or intervening in any pending investigation or enforcement action.

FISCAL EFFECT: Unknown

COMMENTS & CONTEXT:

1) **Cost of Regulations on Business**: There are two major sources of data on the cost of regulatory compliance on businesses, the federal Small Business Administration (SBA) and the OSBA. For the last 10 years, the federal SBA has conducted a peer reviewed study that analyzes the cost of federal government regulations on businesses of different sizes. 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.

   The first study on the impact of California regulations on small businesses was released by the OSBA in 2009. This first-in-the-nation study found that the total cost of regulations to small businesses averaged about $134,000 per business in 2007. Of course, no one would advocate that there should be no regulations in the state. The report, however, importantly identifies that the cost of regulations can provide a significant cost to the everyday operations of California businesses and should therefore be a consideration among the state's economic development policies.

   Regulatory costs are driven by a number of factors, including multiple definitions of small business in state and federal law, the lack of e-commerce solutions to address outdated paperwork requirements, procurement requirements that favor larger size bidders, and the lack of technical assistance to alleviate such obstacles that inhibit small business success.

2) **Small Businesses and Coronavirus**: Economic developers, finance professionals, and even the Office of the Legislative Analyst agree that small businesses have been particularly impacted by the coronavirus pandemic. According to a national survey and separate report on the impacts of COVID-19 on small and medium size businesses, both published by McKinsey in April 2020:

   a) 70% of businesses are delaying purchases, reducing current spending, and holding back on making major investments. [*While not an unexpected outcome, this level of delayed spending has significant multiplier effects as its impacts moves throughout the economy*.]

   b) 50% of workers at small businesses with less than 100 employees are at risk of losing their jobs due to the pandemic. This represents over 2.2 million workers. This is a higher percentage of job losses than those projected for larger private sector employers.

   c) 40% of the vulnerable small business jobs fall within two occupational categories: food service and customer service and sales.

   d) 60% of the vulnerable small business jobs do not require a four-year degrees, meaning that displaced workers will likely not have formally recognized skills to help them get their next job.

   e) 55% of businesses felt that the economic impacts of the coronavirus were going to last over one year, with 29% responding the impacts were going to felt for three years.

   f) 25% of businesses said they would be filing for bankruptcy within six months.

   The McKinsey report ranks California among the top states in which small businesses are and will be impacted by the COVID-19 emergency. The report finds that 92% of workers in small businesses engaged in the accommodation and food sectors are at risk. For workers at small construction firms, the report states that 54% are vulnerable. Regulatory relief is one piece of a broader set of policies to support small businesses. AB 3368 leverages an existing state law to support small businesses as they petition for regulatory changes better suited for their size. Nothing in the bill lowers any regulatory standard or lessens the authority of the rulemaking agency.

3) **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 $3.1 trillion economy. Two separate studies, one by the US Census Bureau and another by the Kaufman Foundation, found that net job growth was strongest among businesses with less than 20 employees. Among other advantages, small businesses are crucial in the state's international competitiveness and are an important means for dispersing the economic positive impacts of trade within the California economy.

- In 2016 (most recent full set of data), of the 4.2 million establishments in California, there were 3.2 million nonemployer establishments as compared to 922,477 employer establishments.
- In 2017, there were 3.3 million nonemployer firms, and 3 million of these were sole proprietorships. The top three industry sectors in 2017 with the largest numbers of nonemployer sole proprietorships included professional, scientific, and technical services (516,883 establishments); transportation and warehousing (347,600); and other services, excluding public administration (476,818).
- Total revenues for nonemployer sole proprietorships, across all industry sectors, were $118 billion in receipts in 2017.

The chart below displays 2016 data (most recent full set of data) on California businesses with employees, including payrolls, employment, and number of firms, which may be comprised of one or more establishments.

California Businesses by Size (2016)

Enterprise Employment Size	Number of Firms	Number of Establishments	Employment	Annual Payroll ($1,000)
0-4	465,078	465,846	731,400	43,110,073
5-9	124,595	125,830	819,252	33,834,977
10-19	76,973	80,213	1,028,048	43,740,209
<20	666,646	671,889	2,578,700	120,685,259
20-99	65,829	81,348	2,509,428	120,108,727
100-499	13,316	38,031	2,041,076	117,356,679
<500	745,791	791,268	7,129,204	358,150,665
500+	6,191	131,209	7,471,145	528,493,258

- An establishment with 0 employment is an establishment with no paid employees in the mid-March pay period but with paid employees at some time during the year.
- This series excludes government establishments except for wholesale liquor establishments (NAICS 4248), retail liquor stores (NAICS 44531), federally-chartered savings institutions (NAICS 522120), Federally-chartered credit unions (NAICS 522130), and hospitals (NAICS 622).

Source: US Census, SUSB Series

Excluding sole proprietorships, businesses with less than 20 employees comprise over 88.6% of all businesses and employ approximately 21.4% of all workers. Businesses with less than 100 employees represent 97.4% of all businesses and employ 42.3% of the workforce.

Businesses with less than five employees are classified as microenterprises. In 2016, California is reported to have had over 465,000 microenterprises which had one or more employees. Microenterprises have many unique features and provide important benefits to local communities, according to a recent study from the Microenterprise Fund for Innovation, Effectiveness, Learning, and Dissemination (FIELD) at the Aspen Institute. These benefits include:

- Providing products and services tailored to meet local and neighborhood needs.

- Stimulating an inflow of revenues to and within local communities.
- Serving as catalysts for neighborhood reengagement.
- Revitalizing neighborhoods that may otherwise have vacant storefronts.
- Providing role models and support for future entrepreneurs.

These non-employer and small employer firms create jobs, generate taxes, support important industry sectors, and revitalize communities. While their small size allows them to be more flexible in meeting niche foreign and domestic market needs, it also results in certain market challenges. These challenges include having difficulty in meeting the procedural requirements of the state's complex regulatory structure and the traditional credit and collateral requirements of mainstream financial institutions. Specialized technical assistance, access to credit enhancements, and targeting of state procurement activities help many small businesses overcome or at least minimize these difficulties.

4) **State Small Business Liaison**: The small business liaison position was established in 2006 to assist small businesses in complying with state regulations. Existing state law requires each agency that significantly regulates or impacts small businesses to designate a small business liaison, who is responsible for receiving and responding to complaints submitted by small businesses, providing technical assistance, and assisting small businesses in resolving problems and questions regarding compliance with the agency's regulations.

   While outreach and technical assistance is useful, the state small business liaison is, however, currently prohibited from advocating for or against any regulation being considered by the agency. The small business regulatory liaison is also prohibited from intervening in any pending investigation or enforcement action. Once an enforcement action is initiated by an agency, the small business is left to their own devices.

   At the federal level, a small business involved in regulatory investigation may call on the Small Business Administration's Ombudsman or ask for relief from a regional Small Business Regulatory Fairness Board. AB 3368 takes a modest step forward in supporting California small businesses as they access their authority to petition a state agency to adopt, amend, or repeal a regulation.

5) **Proposed Amendments**: There are two technical issues that should be addressed if the committee passes this measure.

   a) Existing law prohibits a small business liaison from advocating for or against the adoption, amendment, or repeal of any regulation. This provision needs to be modified in Section 3 of the bill to allow liaisons to engage with small businesses who file, or who are considering filing, petitions pursuant to the changes proposed in this bill.

   b) There is an incorrect cross reference in Section 7 relating to the tracking of petitions filed by small businesses.

   c) Delete one provision in the legislative intent relating to state contracting.

6) **Related Legislation**: Below is a list of bills from the current and prior sessions.

   a) ***AB 19 (Chang) Small Business Regulatory Review***: This bill would have required the Governor's Office of Business and Economic Development, in consultation with the Office of the Small Business Advocate, to establish a process for the ongoing review of existing regulations. The bill would have required the review to be primarily focused on regulations affecting small businesses adopted prior to January 1, 2016, to determine whether the regulations could be less administratively burdensome or costly to affected sectors. Status: Held on the Suspense File of the Assembly Committee on Appropriations, 2015.

b) ***AB 86 (Calderon) Entrepreneurship in Residence***: This bill would have established the Entrepreneurs in Residence Act of 2017 for the purpose of utilizing the expertise of private-sector entrepreneurs to help make state government activities and practices more streamlined and accessible. Status: Held on the Suspense File of the Senate Committee on Appropriations, 2017.

c) ***AB 419 (Kim) Online Regulatory Access***: This bill would have required the Governor's Office of Business and Economic Development to create a web-access point on its Internet website to include information about the state rulemaking process and a web-link to relevant information on the website of the Office of Administrative Law, including, but not limited to, information found in the California Code of Regulations, the California Regulatory Notice Register, and the California Code of Regulations Supplement. Status: Held under submission in the Senate Committee on Business, Professions, and Economic Development. These provisions were implemented administratively.

d) ***AB 582 (Calderon) Entrepreneur-in-Residence Act of 2016***: This bill would have enacted the Entrepreneur-in-Residence (EIR) Act of 2016, including the establishment of a state EIR program within the Government Operations Agency (GOA) for the purpose of utilizing the expertise of private-sector entrepreneurs to help make state governmental activities and practices more streamlined and accessible. Status: Held under Submission in the Senate Committee on Appropriations, 2016.

e) ***AB 657 (Cunningham) State Government Small Business Liaisons***: This bill requires certain state agencies to prominently display the name and contact information of the small business liaison on the agencies' websites and to notify the Governor's Office of Business and Economic Development and the Department of General Services of liaison position vacancies, as specified. Status: Signed by the Governor, Chapter 81, Statutes of 2017.

f) ***AB 767 (Quirk-Silva) California Business License Center***: This bill would have formalized the role of the Information Technology Unit within the Governor's Office of Business and Economic Development (GO-Biz), which is responsible for the design and maintenance of an online Internet platform, called the California Business Development Portal. In addition, the bill would have rebranded the state's permit and licensing application as the California Business License Center and provided dedicated staff to update and expand the California Business Portal. Status: Vetoed by the Governor, 2018.

g) ***AB 866 (E. Garcia) Small Business Regulatory Fairness Act of 1996***: As passed by JEDE, this bill would have expanded the duties of the Small Business Advocate to include the provision of known information to state rulemaking agencies on small business stakeholder groups which the rulemaking agency could use when disseminating information about proposed new or amended rules. This bill would have also required a state agency that develops a small business compliance guide in partnership with federal agencies, under the federal Small Business Regulatory Fairness Act of 1996 (Public Law 104-121), to notify and provide specified information to the Small Business Advocate within 45 days after the guide becomes available to the public. Status: Used for another policy purpose. The measure failed to move from the Senate Floor, 2016.

h) ***AB 912 (Obernolte) California Small Business Regulatory Fairness Act***: This bill would have established the California Small Business Regulatory Fairness Act for the purpose of setting the framework by which a small business could be provided with an opportunity to implement a policy to allow the reduction of certain penalties and fees. Status: Died in the Assembly Committee on Appropriations, 2018.

i) ***AB 1286 (Mayes) California Regulatory Reform Council***: This bill would have established the California Regulatory Reform Council to make reports and recommendations to the Legislature and the Governor related to the structure, organization, operation, and impact of all levels of state and local regulations on industries operating within the state. Status: Held without further action by the Assembly Committee on Appropriations, 2016.

j) ***AB 1545 (Obernolte) California Small Business Regulatory Fairness Act***: This bill would have established the California Small Business Regulatory Fairness Act for the purpose of setting the framework by which a small business could be provided with an opportunity to implement a policy to allow the reduction of certain penalties and fees. Status: Died in the Assembly Committee on Appropriations, 2019.

k) ***AB 1675 (Calderon) Entrepreneurship-in-Residence***: This bill would have established the entrepreneur-in-residence program within the Governor's Office of Business and Economic Development for the purpose of improving outreach and strengthening coordination with the entrepreneur and small business community. Status: Died on the Suspense File in the Senate Committee on Appropriations, 2014.

l) ***AB 2723 (Medina) Small Businesses and Major Regulations***: This bill would have added statutory protections to ensure that the costs of major regulations on the state's smallest size businesses are considered when state agencies undertake their economic impact assessment for major regulations. Status: Vetoed by the Governor, 2014. The veto message states: "*This bill would require the economic analysis for major regulations to include a separate assessment of the impact on sole proprietorships and small businesses. I signed legislation in 2011 to require a comprehensive economic analysis of proposed major regulations. The analysis must assess whether, and to what extent, the proposed regulations will affect all California jobs and businesses. Agencies must also identify alternatives that would lessen any adverse impact on small businesses. I am not convinced that an additional layer of specificity based solely on the legal structure of a business would add value to the comprehensive economic analysis already required*."

m) ***SB 606 (Neilson) Small Business Appeals Board***: This bill would have established the Small Business Appeals Board and authorized the board to grant a hearing and review the order, ruling, action, or failure to act of any state agency upon petition of any small business affected and to grant any remedy or impose any penalty authorized under existing law governing administrative procedures. Status: Died in the Senate Committee on Governmental Organization, 2015.

n) ***SB 617 (Calderon) State Government and Financial and Administrative Accountability:*** This bill revises the state Administrative Procedure Act to require each state agency adopting a major regulation to prepare an economic impact analysis and requires state agencies to implement ongoing monitoring of internal auditing and financial controls and other best practices in financial accounting. Status: Signed by the Governor, Chapter 496, Statutes of 2011.

o) ***SB 828 (Runner) Small Business Appeals Board***: This bill would have established the Small Business Appeals Board and authorized the board to grant a hearing and review the order, ruling, action, or failure to act of any state agency upon petition of any small business affected and to grant any remedy or impose any penalty authorized under existing law governing administrative procedures. Status: Died in the Senate Committee on Business, Professions, and Economic Development, 2011.

p) ***SB 1228 (Runner) California Small Business Regulatory Fairness Act***: This bill would have established the California Small Business Regulatory Fairness Act for the purpose of setting the framework by which a small business could be provided with an opportunity to implement a policy to allow the reduction of certain penalties and fees. Status: Held on the Suspense File of the Senate Committee on Appropriations, 2016.

REGISTERED SUPPORT / OPPOSITION:

Support

None on File

Opposition

None on File

Analysis Prepared by: Toni Symonds / J., E.D., & E. / (916) 319-2090