

AMENDED IN SENATE JUNE 22, 2011

AMENDED IN ASSEMBLY APRIL 26, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1137**

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**Introduced by Assembly Member V. Manuel Pérez**

February 18, 2011

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An act to amend Sections 6300, 13996.45, and 13996.6 of, *and* to add Chapter 4.2 (commencing with Section 6315) and Chapter 4.3 (commencing with Section 6317) to Division 7 of Title 1 of, the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 1137, as amended, V. Manuel Pérez. Economic development: foreign trade.

Existing law authorizes any public corporation, as defined, and specified private corporations to apply for the privilege of establishing, operating, and maintaining a foreign-trade zone in accordance with specified provisions of federal law, and authorizes any public or private corporation whose application is granted pursuant to those provisions of federal law to establish, operate, and maintain the foreign trade zone, subject to specified conditions and restrictions.

This bill would require these provisions of existing law to be known, and would authorize them to be cited as, the California Foreign Free Trade Zone Act.

This bill would establish the California Foreign Investment Program, require the Secretary of Business, Transportation and Housing to serve as the lead state entity under specified provisions of the federal Immigration and Nationality Act, and require the secretary to set the

terms and conditions for issuing a state designation letter within the structure and scope of those provisions of federal law.

This bill would also establish the California Export Promotion and Gap Financing Program, and authorize the secretary to apply for and receive federal funding for the implementation of a state and federal export financing program. The bill would require the secretary, upon receipt of moneys pursuant to that application, to implement a program that meets specified conditions. The bill would require the secretary to report on the program, as specified, and to annually post on the agency’s Internet Web site a summary of the programs, annual activities, and key achievements, and a summary of the information related to the requirements of the program. The bill would authorize the secretary to adopt regulations to implement the program, as specified.

Existing law requires the Secretary of Business, Transportation and Housing to prepare a study on the potential role of the state in global markets. Existing law requires the secretary to utilize that study to develop a strategy for international trade and investment. Existing law requires the secretary to develop a statewide business partnership for international trade and investment. Existing law states that California’s international trade and investment policy is directed through its state strategy.

This bill would require California’s trade and investment policy to be implemented pursuant to the strategy developed by the secretary.

This bill would require the secretary to consult with local and regional governmental entities and associations. This bill would authorize the secretary, as a part of the consultation process, to create an advisory board comprised of representatives from certain entities to provide the secretary on advice on the content of the study, and of the strategy that the secretary is developing. This bill would require the secretary as a part of the consultation to discuss certain issues related to trade and investment. This bill would provide that this consultation may be conducted within the existing business partnership framework or separately, or both.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
 State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 6300 of the Government Code is amended
- 2 to read:

1 6300. (a) This chapter shall be known and may be cited as the  
2 California Foreign Free Trade Zone Act.

3 (b) As used in this chapter, “public corporation” means the state,  
4 any political subdivision thereof, any incorporated municipality  
5 therein, any public agency of the state, of any political subdivision  
6 thereof, or of any municipality therein, or any corporate municipal  
7 instrumentality of this state or of this state and one or more other  
8 states.

9 SEC. 2. Chapter 4.2 (commencing with Section 6315) is added  
10 to Division 7 of Title 1 of the Government Code, to read:

11  
12 CHAPTER 4.2. CALIFORNIA FOREIGN INVESTMENT PROGRAM  
13

14 6315. (a) This chapter shall be known and may be cited as the  
15 California Foreign Investment Program.

16 (b) (1) As used in this chapter, “public corporation” means the  
17 state, any political subdivision thereof, any incorporated  
18 municipality therein, any public agency of the state, of any political  
19 subdivision thereof, or of any municipality therein, or any corporate  
20 municipal instrumentality of this state or of this state and one or  
21 more other states.

22 (2) As used in this chapter, “~~Immigration and Nationality Act~~”  
23 “*EB-5 Program*” means Section 203(b)(5) of the Immigration and  
24 Nationality Act (8 U.S.C. Sec. 1153(b)(5)).

25 6315.1. (a) The Secretary of Business, Transportation and  
26 Housing shall serve as the lead state entity under the ~~Immigration~~  
27 ~~and Nationality Act~~ *EB-5 Program*. The secretary shall set the  
28 terms and conditions for issuing a state designation letter within  
29 the structure and scope of the ~~Immigration and Nationality Act~~  
30 *EB-5 Program*.

31 (b) Any public or private corporation may apply for the privilege  
32 of establishing, operating, and maintaining a regional center in  
33 accordance with the ~~Immigration and Nationality Act~~ *EB-5*  
34 *Program*.

35 (c) (1) Any application for designation as a regional center shall  
36 be accompanied by a letter of support from the secretary attesting  
37 to the legal status of the applicant and that the applicant has agreed  
38 to the reporting and monitoring terms of the Business,  
39 Transportation and Housing Agency.

1 (2) The secretary shall establish reporting and monitoring  
2 requirements, consistent with federal and state requirements, that,  
3 as *at* a minimum, do the following: identify the number of  
4 businesses assisted, the size of those businesses by number of  
5 employees and gross revenues, and the number of jobs created and  
6 retained.

7 (d) The secretary shall not sign any designation letter without  
8 the applicant first entering into an agreement with the agency to  
9 meet the agency’s reporting and monitoring requirements.

10 (e) The secretary shall post on the agency’s Internet Web site  
11 a list with contact information for each regional center applicant  
12 that receives a designation letter from the secretary.

13 6315.2. (a) Any public or private corporation authorized by  
14 this chapter to apply to establish, operate, and maintain a regional  
15 center whose application is granted pursuant to the terms of the  
16 Immigration and Nationality Act may establish, operate, and  
17 maintain the regional center subject to the conditions and  
18 restrictions of the ~~Immigration and Nationality Act~~ *EB-5 Program*,  
19 and any amendments thereto, and any conditions and restrictions  
20 established by the secretary pursuant to this chapter.

21 (b) If authorized to establish, operate, and maintain a regional  
22 center, a public corporation may, in addition to its other powers,  
23 do either of the following:

24 (1) Provide for indemnity or assurance to the federal government  
25 or its agencies as they may request.

26 (2) Deposit moneys with the federal government, as the federal  
27 government or its agencies may request, provided those moneys  
28 are available by direct appropriation or otherwise.

29 (c) *This section shall apply only to EB-5 activities of the state*  
30 *relating to the EB-5 Program occurring on or after January 1,*  
31 *2012.*

32 SEC. 3. Chapter 4.3 (commencing with Section 6317) is added  
33 to Division 7 of Title 1 of the Government Code, to read:

34  
35 CHAPTER 4.3. CALIFORNIA EXPORT PROMOTION AND GAP  
36 FINANCING PROGRAM  
37

38 6317. This chapter shall be known and may be cited as the  
39 California Export Promotion and Gap Financing Program.

1 6317.1. (a) The Secretary of Business, Transportation and  
2 Housing may apply for and receive federal funding for the  
3 implementation of a state and federal promotion or export financing  
4 program. Upon receipt of any moneys pursuant to this application,  
5 the secretary shall cause to be implemented a program that meets  
6 the conditions of the federal program and all of the following  
7 conditions:

8 (1) Development of the program shall include local  
9 governments, economic development organizations, trade  
10 organizations, financial institutions, small business organizations,  
11 the federal Small Business Administration, the federal Rural  
12 Development initiatives administered by the United States  
13 Department of Agriculture, and financial and community  
14 intermediaries that are engaged or could be engaged in trade  
15 development.

16 (2) Among other elements, the program shall also include all  
17 of the following:

18 (A) A clear statement of the program's objectives.

19 (B) A method for establishing a baseline and measurement of  
20 whether the objective was achieved on an annual basis.

21 (C) Reporting requirements for assisted businesses consistent  
22 with the program's objectives.

23 (D) An identification of related federal, state, and local programs  
24 that would add value to the overall program if implemented in a  
25 collaborative fashion.

26 (E) A method for ensuring program resources are available to  
27 all areas of the state.

28 (F) An identification of how the program helps to implement  
29 the state's international trade and foreign investment strategy,  
30 adopted pursuant to Section 13996.55.

31 (3) In reporting on the program, the secretary shall address, but  
32 not be limited to, the number of businesses assisted, the size of  
33 those businesses by number of employees and gross revenues, the  
34 number of jobs created and retained, and an estimate of the  
35 economic impact of the financial assistance.

36 (b) The secretary shall annually, in any year that the program  
37 is active, post on the Business, Transportation and Housing  
38 Agency's Internet Web site a summary of the programs, annual  
39 activities, and key achievements, and a summary of the information  
40 related to the requirements of subdivision (a).

1 (c) The secretary shall, during any year that the program is  
2 active, consult with, on a regular and frequent basis, county and  
3 city governments, particularly those that have foreign trade offices,  
4 in developing or participating in trade missions or promotional  
5 efforts established by counties, cities, or special districts.

6 (d) If the federal requirements prohibit any of the requirements  
7 of this act, the secretary shall notify the relevant policy and fiscal  
8 committees of the Legislature about the federal programmatic  
9 limitation. The secretary may waive any of the requirements of  
10 paragraph (2) of subdivision (a) if the secretary determines doing  
11 so is necessary to fulfill federal requirements for the  
12 implementation of the export financing program.

13 (e) The secretary may adopt regulations to implement the  
14 provisions of this chapter. The secretary may adopt emergency  
15 regulations to implement the provisions of this chapter if necessary  
16 to meet the time lines established by the federal government.

17 (f) *This section shall apply only to agency activities occurring*  
18 *on or after January 1, 2012.*

19 SEC. 4. Section 13996.45 of the Government Code is amended  
20 to read:

21 13996.45. (a) (1) Subject to paragraph (2), and subject to  
22 Section 13996.75, the Business, Transportation and Housing  
23 Agency shall be the primary state agency authorized to do all of  
24 the following:

25 (A) Attract employment-producing foreign investment to the  
26 state.

27 (B) Cooperate in international public infrastructure projects.

28 (C) Provide support for California business in accessing  
29 international markets, including, but not limited to, export  
30 assistance.

31 (D) Engage in other trade or foreign investment related activities  
32 specifically assigned by the Governor.

33 (2) Nothing in this chapter shall be construed to confer powers  
34 or impose duties upon the agency in conflict with any powers  
35 conferred or duties imposed upon the Department of Food and  
36 Agriculture with respect to the promotion of California agriculture,  
37 fish, and forest exports.

38 (b) The international trade and investment activities of the  
39 agency shall be monitored by the Legislature, and all public

1 moneys in its budget expended for those purposes, shall be subject  
2 to approval by the Legislature.

3 (c) The Secretary of Business, Transportation and Housing shall  
4 develop an international trade and investment policy, which shall  
5 be consistent with the economic development strategic plan  
6 prepared by the California Economic Strategy Panel pursuant to  
7 Section 15570, and shall provide guidance to strategies and plans  
8 from other agencies and departments related to workforce and  
9 infrastructure development.

10 (d) California's international trade and investment policy shall  
11 be implemented through the strategy developed pursuant to Section  
12 13996.55, which shall be based on current and emerging market  
13 conditions and the needs of investors, businesses, and workers to  
14 be competitive in global markets.

15 SEC. 5. Section 13996.6 of the Government Code is amended  
16 to read:

17 13996.6. (a) The Legislature finds and declares that the quality  
18 and effectiveness of the state's international trade and foreign  
19 investment programs and activities are highly dependent on  
20 establishing and maintaining an open dialogue with a broad range  
21 of trade-related stakeholders including, but not limited to,  
22 businesses, trade and business assistance programs, worker  
23 organizations, education and workforce training entities, and local  
24 governments.

25 (b) The Secretary of Business, Transportation and Housing shall  
26 convene a statewide business partnership for international trade  
27 and investment no later than March 1, 2007.

28 (1) The business partnership shall include representatives from  
29 small, medium, and large businesses and industries, as well as  
30 nongovernmental organizations and government representatives.

31 (2) The business partnership shall advise the secretary on  
32 business needs and strategy priorities as they relate to international  
33 trade and investment. This information shall be used in establishing  
34 the needs and priorities in the plan developed pursuant to Section  
35 13996.5 and the strategy developed pursuant to Section 13996.55,  
36 and for any other uses as determined by the secretary.

37 (c) (1) The secretary shall consult with local and regional  
38 ~~government~~ *governmental* entities and associations, particularly  
39 those entities and organizations that have foreign trade economic

1 development offices, or develop or regularly participate in trade  
2 missions and other promotional efforts.

3 (2) As part of the consultation process, the secretary may  
4 establish an advisory board comprised of representatives from  
5 counties, cities, and special districts for the purpose of providing  
6 advice on the content of the plan developed pursuant to Section  
7 13996.5, and the strategy developed pursuant to Section 13996.55.

8 (3) Key issues to be discussed include, but are not limited to,  
9 how the state and local entities can work collaboratively on issues  
10 including, but not limited to, target nations or industries for exports,  
11 foreign district investment, and integration of the ~~EB-5 visa~~  
12 ~~program~~ *EB-5 Program*. Participation on the advisory committee  
13 would be without compensation for time or travel.

14 (4) Consultation with local and regional governments may be  
15 conducted within the business partnership framework separately,  
16 or both.