

AMENDED IN SENATE JULY 6, 2012  
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 *Section 12096.25 to, to add* Chapter 4.2 (commencing with Section 6315) and Chapter 4.3 (commencing with Section 6317) to Division 7 of Title 1 of, *and to repeal Section 13997 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.

*Existing law establishes in state government the Governor's Office of Business and Economic Development. The office is under the direct*

*control of the Director of the Governor's Office of Business and Economic Development.*

This bill would establish the California Foreign Investment Program, require the ~~Secretary of Business, Transportation and Housing~~ *Governor's Office of Business and Economic Development* to serve as the lead state entity under specified provisions of the federal Immigration and Nationality Act, and require the ~~secretary~~ *Director of the Governor's Office of Business and Economic Development* 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~~ *director* to apply for and receive federal funding for the implementation of a state and federal export financing program. The bill would require the ~~secretary~~ *director*, upon receipt of moneys pursuant to that application, to implement a program that meets specified conditions. The bill would require the ~~secretary~~ *director* to report on the program, as specified, and to annually post on the ~~agency's office'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~~ *director* 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 instead require that the Governor's Office of Business and Economic Development serve as the state agency primarily responsible for international trade and investment activities in the state, and, in that capacity, authorizes that agency to carry out the powers and duties described above.*

This bill would require California's trade and investment policy to be implemented pursuant to ~~the~~ a strategy developed by the ~~secretary~~ *director*.

This bill would require the ~~secretary~~ *director* to consult with local and regional governmental entities and associations. ~~This~~ *The* bill would

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

*Existing law creates within the Business, Transportation and Housing Agency, the Economic Development and Trade Promotion Account.*

*This bill would transfer this account to the Governor’s Office of Business and Economic Development for the same purposes. The bill would create a new subaccount within the account for purposes of funding the California Export Promotion and Gap Financing Program, subject to appropriation by the Legislature.*

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:

3 6300. (a) This chapter shall be known and may be cited as the  
4 California Foreign ~~Free~~ Trade Zone Act.

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

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

13  
14 CHAPTER 4.2. CALIFORNIA FOREIGN INVESTMENT PROGRAM  
15

16 6315. (a) This chapter shall be known and may be cited as the  
17 California Foreign Investment Program.

18 (b) ~~(1) As used in this chapter, “public~~ *For purposes of this*  
19 *chapter:*

1 (1) “Director” means the Director of the Governor’s Office of  
 2 Business and Economic Development.  
 3 (2) “Office” means the Governor’s Office of Business and  
 4 Economic Development.  
 5 (3) “Public corporation” means the state, any political  
 6 subdivision thereof, any incorporated municipality therein, any  
 7 public agency of the state, of any political subdivision thereof, or  
 8 of any municipality therein, or any corporate municipal  
 9 instrumentality of this state or of this state and one or more other  
 10 states.  
 11 ~~(2) As used in this chapter,~~  
 12 (4) “EB-5 Program” means Section 203(b)(5) of the  
 13 Immigration and Nationality Act (8 U.S.C. Sec. 1153(b)(5)).  
 14 6315.1. (a) ~~The Secretary of Business, Transportation and~~  
 15 ~~Housing~~ office shall serve as the lead state entity under the EB-5  
 16 Program. The ~~secretary~~ director shall set the terms and conditions  
 17 for issuing a state designation letter within the structure and scope  
 18 of the EB-5 Program.  
 19 (b) Any public or private corporation may apply for the privilege  
 20 of establishing, operating, and maintaining a regional center in  
 21 accordance with the EB-5 Program.  
 22 (c) (1) Any application for designation as a regional center shall  
 23 be accompanied by a letter of support from the ~~secretary~~ director  
 24 attesting to the legal status of the applicant and that the applicant  
 25 has agreed to the reporting and monitoring terms of the ~~Business,~~  
 26 ~~Transportation and Housing Agency~~ office.  
 27 (2) ~~The~~ ~~secretary~~ director shall establish reporting and  
 28 monitoring requirements, consistent with federal and state  
 29 requirements, that, at a minimum, do the following: identify the  
 30 number of businesses assisted, the size of those businesses by  
 31 number of employees and gross revenues, and the number of jobs  
 32 created and retained.  
 33 (d) ~~The~~ ~~secretary~~ director shall not sign any designation letter  
 34 without the applicant first entering into an agreement with the  
 35 ~~agency~~ office to meet the ~~agency’s~~ office’s reporting and  
 36 monitoring requirements.  
 37 (e) ~~The~~ ~~secretary~~ director shall post on the ~~agency’s~~ office’s  
 38 Internet Web site a list with contact information for each regional  
 39 center applicant that receives a designation letter from the ~~secretary~~  
 40 director.

1 6315.2. (a) Any public or private corporation authorized by  
 2 this chapter to apply to establish, operate, and maintain a regional  
 3 center whose application is granted pursuant to the terms of the  
 4 Immigration and Nationality Act may establish, operate, and  
 5 maintain the regional center subject to the conditions and  
 6 restrictions of the EB-5 Program, and any amendments thereto,  
 7 and any conditions and restrictions established by the ~~secretary~~  
 8 *director* pursuant to this chapter.

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

- 12 (1) Provide for indemnity or assurance to the federal government
- 13 or its agencies as they may request.
- 14 (2) Deposit moneys with the federal government, as the federal
- 15 government or its agencies may request, provided those moneys
- 16 are available by direct appropriation or otherwise.

17 (c) This section shall apply only to EB-5 activities of the state  
 18 relating to the EB-5 Program occurring on or after January 1, ~~2012~~  
 19 *2013*.

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

22

23 CHAPTER 4.3. CALIFORNIA EXPORT PROMOTION AND GAP  
 24 FINANCING PROGRAM  
 25

26 6317. This chapter shall be known and may be cited as the  
 27 California Export Promotion and Gap Financing Program.

28 *6317.01. For purposes of this chapter:*

29 (a) *“Director” means the Director of the Governor’s Office of*  
 30 *Business and Economic Development.*

31 (b) *“Office” means the Governor’s Office of Business and*  
 32 *Economic Development.*

33 6317.1. (a) ~~The Secretary of Business, Transportation and~~  
 34 ~~Housing~~ *director* may apply for and receive federal funding for  
 35 the implementation of a state and federal promotion or export  
 36 financing program. Upon receipt of any moneys pursuant to this  
 37 application, the ~~secretary~~ *director* shall cause to be implemented  
 38 a program that meets the conditions of the federal program and all  
 39 of the following conditions:

1 (1) Development of the program shall include local  
 2 governments, economic development organizations, trade  
 3 organizations, financial institutions, small business organizations,  
 4 the federal Small Business Administration, the federal Rural  
 5 Development initiatives administered by the United States  
 6 Department of Agriculture, and financial and community  
 7 intermediaries that are engaged or could be engaged in trade  
 8 development.

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

11 (A) A clear statement of the program’s objectives.

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

14 (C) Reporting requirements for assisted businesses consistent  
 15 with the program’s objectives.

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

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

21 (F) An identification of how the program helps to implement  
 22 the state’s international trade and foreign investment strategy,  
 23 adopted pursuant to Section 13996.55.

24 (3) In reporting on the program, the ~~secretary~~ *director* shall  
 25 address, but not be limited to, the number of businesses assisted,  
 26 the size of those businesses by number of employees and gross  
 27 revenues, the number of jobs created and retained, and an estimate  
 28 of the economic impact of the financial assistance.

29 (b) The ~~secretary~~ *director* shall annually, in any year that the  
 30 program is active, post on the ~~Business, Transportation and~~  
 31 ~~Housing Agency’s office’s~~ Internet Web site a summary of the  
 32 programs, annual activities, and key achievements, and a summary  
 33 of the information related to the requirements of subdivision (a).

34 (c) The ~~secretary~~ *director* shall, during any year that the program  
 35 is active, consult with, on a regular and frequent basis, county and  
 36 city governments, particularly those that have foreign trade offices,  
 37 in developing or participating in trade missions or promotional  
 38 efforts established by counties, cities, or special districts.

39 (d) If the federal requirements prohibit any of the requirements  
 40 of this act, the ~~secretary~~ *director* shall notify the relevant policy

1 and fiscal committees of the Legislature about the federal  
2 programmatic limitation. The ~~secretary~~ *director* may waive any  
3 of the requirements of paragraph (2) of subdivision (a) if the  
4 ~~secretary~~ *director* determines doing so is necessary to fulfill federal  
5 requirements for the implementation of the export financing *or*  
6 *promotion* program.

7 (e) The ~~secretary~~ *director* may adopt regulations to implement  
8 the provisions of this chapter. The ~~secretary~~ *director* may adopt  
9 emergency regulations to implement the provisions of this chapter  
10 if necessary to meet the time lines established by the federal  
11 government.

12 (f) *The director may enter into partnership agreements and*  
13 *interagency agreements in order to further the purposes of the*  
14 *program.*

15 (g) (1) *There is hereby created within the Economic*  
16 *Development and Trade Promotion Account, established pursuant*  
17 *to Section 12096.25, a subaccount called the Export Subaccount.*  
18 *Upon appropriation by the Legislature, the subaccount shall be*  
19 *used to pay for trade promotion and export assistance pursuant*  
20 *to this chapter, including, but not limited to, administrative costs*  
21 *of the office.*

22 (2) *All moneys received from the federal government,*  
23 *foundations, and other public or private funding sources for the*  
24 *purpose of implementing the program shall be deposited in the*  
25 *subaccount. All loan repayments and interest shall be deposited*  
26 *back into the subaccount. No General Fund moneys shall be*  
27 *deposited in the subaccount.*

28 (3) *The office may use existing staff to apply for funds from the*  
29 *federal government, foundations, and other public and private*  
30 *funding sources, upon a determination by the director that there*  
31 *is a high likelihood that the application will be successful.*

32 (h) *The office shall not commence operation of the program*  
33 *prior to the director making a determination that there is sufficient*  
34 *money in the account or subaccount to cover the costs of*  
35 *implementing the program, including, but not limited to,*  
36 *appropriate oversight costs.*

37 (i) *Upon appropriation by the Legislature, all or a portion of*  
38 *the funds in the subaccount may be allocated by the office, with*  
39 *the approval of the Department of Finance, to a lending institution*  
40 *or financial company that will act as trustee of the funds.*

1     ~~(f)~~  
 2     (j) This section shall apply only to ~~agency~~ office activities  
 3 occurring on or after January 1, ~~2012~~ 2013.

4     SEC. 4. Section 12096.25 is added to the Government Code,  
 5 to read:

6     12096.25. (a) The director may accept private sector moneys  
 7 in an amount not in excess of ten thousand dollars (\$10,000) per  
 8 donation made to the state for the purposes of promoting  
 9 international trade and investment, subject to Title 9 (commencing  
 10 with Section 81000), and not in excess of a total of ten thousand  
 11 dollars (\$10,000) per quarter per donor. All private sector moneys  
 12 shall be used for these purposes but the donor may specify the  
 13 international trade and investment office or international trade  
 14 or investment event for which the private sector money shall be  
 15 used. The private sector moneys shall be deposited into the  
 16 Economic Development and Trade Promotion Account, which is  
 17 hereby established in the Special Deposit Fund in the State  
 18 Treasury. The director may expend moneys in the account, without  
 19 regard to fiscal years, for the purposes of this section. Moneys in  
 20 the Economic Development and Trade Promotion Account may  
 21 be allocated to an international trade and investment office, and  
 22 if so allocated shall be maintained by that office in an account.  
 23 Notwithstanding any other law, the director may use the private  
 24 sector moneys for expenses incurred to promote international trade  
 25 and investment that will directly benefit California businesses.  
 26 Records of donations received and expenditures made pursuant  
 27 to this section shall be subject to public disclosure.

28     (b) The international trade and investment office using the funds  
 29 shall memorialize the payment in a written record as follows:

30     (1) Identifies the donor and the official or officials receiving or  
 31 using the payment.

32     (2) Describes the official office use and the nature and amount  
 33 of each payment.

34     (3) Is filed with the office that maintains the records of the  
 35 office's statements of economic interests, and the filing is done  
 36 within 30 days of the receipt of the payment by the office.

37     (c) Nothing in this section shall affect any requirement of the  
 38 Political Reform Act (Title 9 (commencing with Section 81000)).

1 ~~SEC. 4.~~

2 *SEC. 5.* Section 13996.45 of the Government Code is amended  
3 to read:

4 13996.45. (a) (1) Subject to paragraph (2), and subject to  
5 Section 13996.75, the ~~Business, Transportation and Housing~~  
6 ~~Agency~~ *Governor's Office of Business and Economic Development*  
7 shall be the primary state ~~agency~~ *entity* authorized to do all of the  
8 following:

9 (A) Attract employment-producing foreign investment to the  
10 state.

11 (B) Cooperate in international public infrastructure projects.

12 (C) Provide support for California business in accessing  
13 international markets, including, but not limited to, export  
14 assistance.

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

17 (2) Nothing in this chapter shall be construed to confer powers  
18 or impose duties upon the ~~agency~~ *entity* in conflict with any powers  
19 conferred or duties imposed upon the Department of Food and  
20 Agriculture with respect to the promotion of California agriculture,  
21 fish, and forest exports.

22 (b) The international trade and investment activities of the  
23 agency shall be monitored by the Legislature, and all public  
24 moneys in its budget expended for those purposes, shall be subject  
25 to approval by the Legislature.

26 (c) The ~~Secretary of Business, Transportation and Housing~~  
27 *Director of the Governor's Office of Business and Economic*  
28 *Development* shall develop an international trade and investment  
29 policy, which shall be consistent with the economic development  
30 ~~strategie plan prepared by the California Economic Strategy Panel~~  
31 ~~pursuant to Section 15570~~, and shall provide guidance to strategies  
32 and plans from other agencies and departments related to workforce  
33 and infrastructure development.

34 (d) California's international trade and investment policy shall  
35 be implemented through the strategy developed pursuant to Section  
36 13996.55, which shall be based on current and emerging market  
37 conditions and the needs of investors, businesses, and workers to  
38 be competitive in global markets.

1     ~~SEC. 5.~~

2     SEC. 6. Section 13996.6 of the Government Code is amended  
3 to read:

4     13996.6. (a) The Legislature finds and declares that the quality  
5 and effectiveness of the state's international trade and foreign  
6 investment programs and activities are highly dependent on  
7 establishing and maintaining an open dialogue with a broad range  
8 of trade-related stakeholders including, but not limited to,  
9 businesses, trade and business assistance programs, worker  
10 organizations, education and workforce training entities, and local  
11 governments.

12     (b) ~~The Secretary of Business, Transportation and Housing~~  
13 *Director of the Governor's Office of Business and Economic*  
14 *Development* shall convene a statewide business partnership for  
15 international trade and investment no later than March 1, 2007.

16     (1) The business partnership shall include representatives from  
17 small, medium, and large businesses and industries, as well as  
18 nongovernmental organizations and government representatives.

19     (2) The business partnership shall advise the ~~secretary~~ *director*  
20 on business needs and strategy priorities as they relate to  
21 international trade and investment. This information shall be used  
22 in establishing the needs and priorities in the plan developed  
23 pursuant to Section 13996.5 and the strategy developed pursuant  
24 to Section 13996.55, and for any other uses as determined by the  
25 ~~secretary~~ *director*.

26     (c) (1) ~~The secretary~~ *director* shall consult with local and  
27 regional governmental entities and associations, particularly those  
28 entities and organizations that have foreign trade economic  
29 development offices, or develop or regularly participate in trade  
30 missions and other promotional efforts.

31     (2) As part of the consultation process, the ~~secretary~~ *director*  
32 may establish an advisory board comprised of representatives from  
33 counties, cities, and special districts for the purpose of providing  
34 advice on the content of the plan developed pursuant to Section  
35 13996.5, and the strategy developed pursuant to Section 13996.55.

36     (3) Key issues to be discussed include, but are not limited to,  
37 how the state and local entities can work collaboratively on issues  
38 including, but not limited to, target nations or industries for exports,  
39 foreign district investment, and integration of the EB-5 Program.

1 Participation on the advisory committee would be without  
2 compensation for time or travel.

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

6 *SEC. 7. Section 13997 of the Government Code is repealed.*

7 ~~13997. (a) The Secretary of Business, Transportation and  
8 Housing may accept private sector moneys in an amount not in  
9 excess of ten thousand dollars (\$10,000) per donation made to the  
10 state for the purposes of promoting international trade and  
11 investment, subject to Title 9 (commencing with Section 81000),  
12 and not in excess of a total of ten thousand dollars (\$10,000) per  
13 quarter per donor. All private sector moneys shall be used for these  
14 purposes but the donor may specify the international trade and  
15 investment office or international trade or investment event for  
16 which the private sector money shall be used. The private sector  
17 moneys shall be deposited into the Economic Development and  
18 Trade Promotion Account, which is hereby established in the  
19 Special Deposit Fund in the State Treasury. The secretary may  
20 expend moneys in the account, without regard to fiscal years, for  
21 the purposes of this section. Moneys in the Economic Development  
22 and Trade Promotion Account may be allocated to an international  
23 trade and investment office, and if so allocated shall be maintained  
24 by that office in an account. Notwithstanding any other provision  
25 of law, the secretary may use the private sector moneys for  
26 expenses incurred to promote international trade and investment  
27 that will directly benefit California business. Records of donations  
28 received and expenditures made pursuant to this section shall be  
29 subject to public disclosure.~~

30 ~~(b) The international trade and investment office using the funds  
31 shall memorialize the payment in a written record as follows:~~

32 ~~(1) Identifies the donor and the official or officials receiving or  
33 using the payment.~~

34 ~~(2) Describes the official agency use and the nature and amount  
35 of each payment.~~

36 ~~(3) Is filed with the Business, Transportation and Housing  
37 Agency that maintains the records of the agency's statements of  
38 economic interests, and the filing is done within 30 days of the  
39 receipt of the payment by the agency.~~

- 1     ~~(e) Nothing in this section shall affect any requirement of the~~
- 2     ~~Political Reform Act (Title 9 (commencing with Section 81000)).~~

O