

ASSEMBLY BILL

No. 2749

Introduced by Committee on Jobs, Economic Development, and the Economy (Medina (Chair), Campos, Fong, Fox, and V. Manuel Pérez)

March 11, 2014

An act to amend and renumber Sections 13997.2 and 13997.7 of, and to add the heading of Article 6.5 (commencing with Section 12100) to Chapter 1.6 of Part 2 of Division 3 of Title 2 of, the Government Code, and to amend Section 44559.1 of the Health and Safety Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 2749, as introduced, Committee on Jobs, Economic Development, and the Economy. Economic development.

Existing law defines specified terms relating to economic development and authorizes the Business, Transportation and Housing Agency and its secretary to expend specified funds.

This bill would renumber these provisions, and would instead authorize the Governor's Office of Business and Economic Development and its director to expend these funds.

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.** The heading of Article 6.5 (commencing with
- 2 Section 12100) is added to Chapter 1.6 of Part 2 of Division 3 of
- 3 Title 2 of the Government Code, to read:

1 Article 6.5. Local Economic Development

2
3 SEC. 2. Section 13997.2 of the Government Code is amended
4 and renumbered to read:

5 ~~13997.2.~~

6 12100. (a) The Legislature finds and declares all of the
7 following:

8 (1) California’s economic development organizations and
9 corporations are an integral component of the state job creation
10 effort because they are a critical link between state economic
11 development activities and the statewide business community,
12 providing an excellent opportunity to leverage state resources.

13 (2) Economic development corporations and organizations
14 provide broad public benefits to the residents of this state by
15 alleviating unemployment, encouraging private investment, and
16 diversifying local economies.

17 (3) Economic development corporations engage in a wide range
18 of programs and strategies to attract, retain, and expand businesses,
19 including marketing the community, small business lending, and
20 other financial services, a wide range of technical assistance to
21 small business, preparation of economic data, and business
22 advocacy.

23 (4) By using public sector resources and powers to reduce the
24 risks and costs that could prohibit investment, the public sector
25 often sets the stage for employment-generating investment by the
26 private sector.

27 (b) For purposes of this chapter, all of the following definitions
28 apply:

29 (1) “Local economic development organization” means a public
30 or public-private job creation activity recognized by cities and
31 counties as the lead agency within that city or county for planning
32 and implementation of job creation involving business expansion,
33 business retention, and new business development.

34 (2) “Regional economic development organization” means an
35 organization comprised of any of the following:

36 (A) A single county.

37 (B) More than one county.

38 (C) A subregion within a county established by the cities and
39 county within that subregion.

40 (D) An economic development corporation.

1 (3) “Economic development corporation” means a local or
2 regional nonprofit public-private economic development
3 organization recognized in a defined region by the public and
4 private sector as the lead agency for the planning and
5 implementation of job creation involving business retention and
6 new business development.

7 (4) “Regional economic development corporation” means a
8 corporation comprised of any of the following:

9 (A) A single county.

10 (B) More than one county.

11 (C) A subregion within a single county established by a group
12 of cities and counties.

13 (5) “Economic development” means any activity that enhances
14 the factors of productive capacity, such as land, labor, capital, and
15 technology, of a national, state, or local economy. “Economic
16 development” includes policies and programs expressly directed
17 at improving the business climate in business finance, marketing,
18 neighborhood development, small business development, business
19 retention and expansion, technology transfer, and real estate
20 redevelopment. “Economic development” is an investment program
21 designed to leverage private sector capital in such a way as to
22 induce actions that have a positive effect on the level of business
23 activity, employment, income distribution, and fiscal solvency of
24 the community.

25 (6) “Local economic development” is a process of deliberate
26 intervention in the normal economic process of a particular locality
27 to stimulate economic growth of the locality by making it more
28 attractive, resulting in more jobs, wealth, better quality of life, and
29 fiscal solvency. Prime examples of economic development include
30 business attraction, business expansion and retention, and business
31 creation.

32 (7) “Emerging domestic market” means people, places, or
33 business enterprises with growth potential that face capital
34 constraints due to systemic undervaluations as a result of imperfect
35 market information. These markets include, but are not limited to,
36 ethnic-owned and women-owned firms, urban and rural
37 communities, companies that serve low-income or
38 moderate-income populations, and other small- and medium-sized
39 businesses.

1 (8) “Financial intermediary” means an institution, firm,
2 organization, or individual who performs intermediation between
3 two or more parties in a financial context, such as connecting
4 sources of funds with users of funds. A financial intermediary is
5 typically an entity that facilitates the channeling of funds between
6 lenders, investors, foundations, or other entities that have money
7 and are interested in connecting with businesses or communities
8 where their money can be deployed. Financial intermediaries
9 include, but are not limited to, banks, financial development
10 corporations, economic developers, microbusiness lenders, and
11 community development organizations.

12 (9) “Community development intermediary” means an
13 institution, firm, organization, or individual that performs
14 intermediation between two or more parties in a community
15 development context, such as connecting people and organizations
16 that have a stake in the future well-being of communities and
17 individuals who may not easily have access to these stakeholders.
18 A community development intermediary is typically an entity that
19 channels financial and nonfinancial resources between government
20 and foundations and other nonprofit organizations that have
21 resources and are interested in connecting with small- and
22 medium-size businesses and low- and moderate-income households
23 and communities. Community development intermediaries include,
24 but are not limited to, community development corporations,
25 microbusiness lenders, and community development financial
26 institutions.

27 (10) “Triple bottom line” means the economic, environmental,
28 and social benefits arising from a project, investment, or
29 community and economic development activity.

30 (11) “Small businesses” means a business with less than 100
31 employees and with a gross revenue of less than five million dollars
32 (\$5,000,000), or a business that is otherwise targeted by or
33 participating in a federal or state program engaged in programs or
34 services for small businesses. Application of this definition may
35 only be used pursuant to a direct reference.

36 (12) “Community development” means a process designed to
37 create conditions of economic and social prosperity for the whole
38 community, or a targeted subset of the whole community, with the
39 fullest possible reliance on the community’s initiative and active
40 participation.

1 (13) “Financial institution capital” means resources of a financial
2 institution, including, but not limited to, a bank or credit union,
3 that are legally available to be used to generate wealth for the
4 financial institution.

5 (14) “California Council on Science and Technology” means
6 the council established by California academic research institutions,
7 including the University of California, the University of Southern
8 California, the California Institute of Technology, Stanford
9 University, and the California State University, in support of
10 Assembly Concurrent Resolution No. 162 (Res. Ch. 148, Stats.
11 1988).

12 (15) “Microbusiness lender” means a nonprofit or nonbank
13 lender that serves very small businesses in low- and
14 moderate-income communities that experience barriers in accessing
15 capital. These businesses are often owned by minorities,
16 immigrants, women, and persons with disabilities. Microbusiness
17 lenders generally provide loans under fifty thousand dollars
18 (\$50,000) and offer business technical assistance, both preloan
19 and postloan, to improve an applicant’s ability to qualify and
20 successfully repay a loan.

21 SEC. 3. Section 13997.7 of the Government Code is amended
22 and renumbered to read:

23 ~~13997.7.~~

24 ~~12098.7.~~ (a) Notwithstanding any other ~~provision~~ of law,
25 effective January 1, 2008, the Economic Adjustment Assistance
26 Grant funded through the United States Economic Development
27 Administration under Title IX of the Public Works and Economic
28 Development Act of 1965 (Grant No. 07-19-02709 and
29 07-19-2709.1) shall be administered by the ~~Director of the~~
30 ~~Governor’s Office of Business and Economic Development,~~
31 *director*, and, for the purpose of state administration of this grant,
32 the ~~Director of the Governor’s Office of Business and Economic~~
33 ~~Development~~ *director* shall be deemed to be the successor to the
34 *former Secretary of Business, Transportation and Housing and*
35 *the former Secretary of Technology, Trade and Commerce.* The
36 ~~Director of the Governor’s Office of Business and Economic~~
37 ~~Development~~ *director* may assign and contract administration of
38 the grant to a public agency created pursuant to Chapter 5
39 (commencing with Section 6500) of Division 7 of Title 1.

1 (b) On January 1, 2008, all federal moneys held in the Sudden
2 and Severe Economic Dislocation Grant Account within the Special
3 Deposit Fund are hereby transferred to the Small Business
4 Expansion Fund created pursuant to Section 14030 of the
5 Corporations Code for expenditure by the ~~Governor's Office of~~
6 ~~Business and Economic Development~~ *office* pursuant to Article 9
7 (commencing with Section 14070) of the Corporations Code for
8 purposes of the Sudden and Severe Economic Dislocation Grant
9 program, or other purposes permitted by the cognizant federal
10 agency.

11 (c) All loan repayments received on or after January 1, 2008,
12 for the Sudden and Severe Economic Dislocation Grant program
13 loans issued pursuant to former Section 15327 (repealed by Section
14 1.8 of Chapter 229 of the Statutes of 2003 (AB 1757)) and this
15 section, shall be deposited into the Small Business Expansion Fund
16 and shall be available to the ~~Governor's Office of Business and~~
17 ~~Economic Development~~ *office* for expenditure pursuant to the
18 provisions of Article 9 (commencing with Section 14070) of the
19 Corporations Code for the Sudden and Severe Economic
20 Dislocation Grant program, or other purposes permitted by the
21 cognizant federal agency.

22 SEC. 4. Section 44559.1 of the Health and Safety Code is
23 amended to read:

24 44559.1. As used in this article, unless the context requires
25 otherwise, all of the following terms have the following meanings:

26 (a) "Authority" means the California Pollution Control
27 Financing Authority.

28 (b) "California Capital Access Fund" means a fund created
29 within the authority to be used for purposes of the program.

30 (c) "Executive director" means the Executive Director of the
31 California Pollution Control Financing Authority.

32 (d) (1) "Financial institution" means a federal- or state-chartered
33 bank, savings association, credit union, not-for-profit community
34 development financial institution certified under Part 1805
35 (commencing with Section 1805.100) of Chapter XVIII of Title
36 12 of the Code of Federal Regulations, or a consortium of these
37 entities. A consortium of those entities may include a nonfinancial
38 corporation, if the percentage of capitalization by all nonfinancial
39 corporations in the consortium does not exceed 49 percent.

1 (2) (A) “Financial institution” also includes a lending institution
2 that has executed a participation agreement with the Small Business
3 Administration under the guaranteed loan program pursuant to
4 Part 120 (commencing with Section 120.1) of Chapter I of Title
5 13 of the Code of Federal Regulations and meets the requirements
6 of Section 120.410 of Chapter I of Title 13 of the Code of Federal
7 Regulations, a small business investment company licensed
8 pursuant to Part 107 (commencing with Section 107.20) of Chapter
9 I of Title 13 of the Code of Federal Regulations, and a small
10 business financial development corporation, as defined in Chapter
11 1 (commencing with Section 14000) of Part 5 of Division 3 of
12 Title 1 of the Corporations Code, or microbusiness lender, as
13 defined in Section ~~13997.2~~ 12100 of the Government Code, that
14 meets standards that shall be established by the authority. For loans
15 where all or part of the fees and matching contributions are paid
16 by an entity participating in the program pursuant to subdivision
17 (e) of Section 44559.2, “financial institution” also includes
18 financial lenders, as defined in Section 22009 of the Financial
19 Code, making commercial loans, as defined in Section 22502 of
20 the Financial Code.

21 (B) A financial institution described in this paragraph shall be
22 domiciled or have its principal office in the State of California.

23 (3) “Financial institution” also includes an insured depository
24 institution, insured credit union, or community development
25 financial institution, as these terms are defined in Section 4702 of
26 Title 12 of the United States Code.

27 (e) “Loss reserve account” means an account in the State
28 Treasury or any financial institution that is established and
29 maintained by the authority for the benefit of a financial institution
30 participating in the Capital Access Loan Program established
31 pursuant to this article for the purposes of the following:

32 (1) Depositing all required fees paid by the participating
33 financial institution and the qualified business.

34 (2) Depositing contributions made by the state and, if applicable,
35 the federal government or other sources.

36 (3) Covering losses on enrolled qualified loans sustained by the
37 participating financial institution by disbursing funds accumulated
38 in the loss reserve account.

39 (f) “Participating financial institution” means a financial
40 institution that has been approved by the authority to enroll

1 qualified loans in the program and has agreed to all terms and
2 conditions set forth in this article and as may be required by any
3 applicable federal law providing matching funding.

4 (g) “Passive real estate ownership” means ownership of real
5 estate for the purpose of deriving income from speculation, trade,
6 or rental, but does not include any of the following:

7 (1) The ownership of that portion of real estate being used or
8 intended to be used for the operation of the business of the owner
9 of the real estate.

10 (2) The ownership of real estate for the purpose of construction
11 or renovation, until the completion of the construction or renovation
12 phase.

13 (h) “Program” means the Capital Access Loan Program created
14 pursuant to this article.

15 (i) “Qualified business” means a small business concern that
16 meets both of the following criteria, regardless of whether the
17 small business concern has operations that affect the environment:

18 (1) It is a corporation, partnership, cooperative, or other entity,
19 whether that entity is a nonprofit entity or an entity established for
20 profit, that is authorized to conduct business in the state.

21 (2) It has its primary business location within the boundaries of
22 the state.

23 (j) (1) “Qualified loan” means a loan or a portion of a loan
24 made by a participating financial institution to a qualified business
25 for any business activity that has its primary economic effect in
26 California. A qualified loan may be made in the form of a line of
27 credit, in which case the participating financial institution shall
28 specify the amount of the line of credit to be covered under the
29 program, which may be equal to the maximum commitment under
30 the line of credit or an amount that is less than that maximum
31 commitment. A qualified loan made under the program may be
32 made with the interest rates, fees, and other terms and conditions
33 agreed upon by the participating financial institution and the
34 borrower.

35 (2) “Qualified loan” does not include any of the following:

36 (A) A loan for the construction or purchase of residential
37 housing.

38 (B) A loan to finance passive real estate ownership.

39 (C) A loan for the refinancing of an existing loan when and to
40 the extent that the outstanding balance is not increased.

1 (D) A loan, the proceeds of which will be used in any manner
2 that could cause the interest on any bonds previously issued by
3 the authority to become subject to federal income tax.

4 (k) “Severely affected community” means any area classified
5 as an enterprise zone pursuant to the Enterprise Zone Act (Chapter
6 12.8 (commencing with Section 7070) of Division 7 of Title 1 of
7 the Government Code), any area, as designated by the executive
8 director, contiguous to the boundaries of a military base designated
9 for closure pursuant to Section 2687 of Title 10 of the United States
10 Code, as amended, and any other comparable economically
11 distressed geographic area so designated by the executive director
12 from time to time.

13 (l) “Small Business Assistance Fund” means a fund created
14 within the authority pursuant to Section 44548.

15 (m) “Small business concern” has the same meaning as in
16 Section 632 of Title 15 of the United States Code, or as otherwise
17 provided in regulations of the authority.