

AMENDED IN ASSEMBLY MAY 19, 2014
AMENDED IN SENATE JANUARY 22, 2014
AMENDED IN SENATE JANUARY 6, 2014
AMENDED IN SENATE APRIL 30, 2013
AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 511

Introduced by Senator Lieu

February 21, 2013

An act to add Chapter 2.6 (commencing with Section 13996.85) to Part 4.7 of Division 3 of Title 2 of, *and to add Chapter 7 (commencing with Section 63090) to Division 1 of Title 6.7 of*, the Government Code, relating to state ~~government~~. *government, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 511, as amended, Lieu. Trade promotion of California ~~ports~~. *ports: California Export Finance Office.*

Existing

(1) *Existing* law requires the Director of the Governor's Office of Business and Economic ~~Development~~ *Development, known as GO-Biz*, to provide to the Legislature, not later than February 1, 2014, a strategy for international trade and investment that, at a minimum, includes specified information, goals, objectives, and actions related to the promotion of trade.

The bill would require the director to convene, no later than February 1, 2015, a statewide business partnership for the promotion of trade for California ports and to explore greater utilization of California ports,

that would be required to advise the director for those purposes, as prescribed.

(2) The Bergeson-Peace Infrastructure and Economic Development Bank Act authorizes the California Infrastructure and Economic Development Bank, within GO-Biz, to make loans and provide other assistance to public and private entities for various types of economic development projects, among other things. The bank is governed by a board of directors and under the direction of an executive director. The activities of the bank under these provisions are funded from the California Infrastructure and Economic Development Bank Fund, which is continuously appropriated for these purposes.

This bill would establish the California Export Finance Office (office) within the bank, to be headed by the executive director, for the purpose of expanding employment and income opportunities for Californians through increased exports of California goods, services, and agricultural commodities. The bill would authorize the office to insure, coinsure, and guarantee loans for qualified export transactions, disseminate information to California exporters, and act as an agent for creditworthy California growers, manufacturers, and other exporters.

The bill would establish the Export Finance Fund as a continuously appropriated fund, to receive, among other moneys, state, federal, and private funds, fees and collections made by the office, and the returns on investments made pursuant to these provisions. By establishing a continuously appropriated fund and authorizing deposits into that fund, the bill would make an appropriation.

The bill would also establish within the office an 11-member California Export Finance Board (finance board), composed of specified state officers and individuals appointed by the Governor and the Legislature, to serve 2-year terms at the pleasure of their appointing authority, as specified. The bill would require the finance board, among other duties, to oversee the program authorized by these provisions, including, but not limited to, promulgating regulations establishing programs to insure, coinsure, and provide loan guarantees to support expert transactions. The bill would authorize the finance board to delegate the approval or extension of insurance, coinsurance, or loan guarantees, as specified.

The bill would require the office to comply with existing laws relating to open and public meetings and access to public records, except, under certain circumstances, for records containing the financial data of applicants seeking financial assistance from the board, and telephone

or cellular phone conferences or meetings of the board relating to its approval of an application for that financial assistance in the form of loan guarantees, as specified.

(3) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest. This bill would make legislative findings to that effect.

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~^{yes}. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Trade is critical to California’s prosperity by fueling
4 economic growth, supporting and creating jobs, and raising living
5 standards. In 2012, California’s three customs districts led the
6 nation by processing \$579 billion in two-way trade value. Exports
7 have been the second largest contributor to our nation’s gross
8 domestic product since the recession ended.

9 (b) California’s success as a trade leader cannot be taken for
10 granted, given the weakening of the national and global economies,
11 the European debt crisis, and the increased competition of Gulf,
12 East Coast, and Mexican ports preparing to compete with
13 California’s market share as the expanded Panama Canal becomes
14 operational in 2015.

15 (c) There are substantial opportunities that can strengthen and
16 grow California’s trade sector and increase jobs. As the gateway
17 to China, India, and emerging countries, California is well
18 positioned to access China, India, and emerging nations that are,
19 or are becoming, large markets for exported goods and services.

20 (d) Exports support jobs for California workers and more than
21 one million direct and indirect jobs. Exports sustain nearly 60,000
22 businesses in the state, of which 96 percent are small- to
23 medium-sized businesses.

24 (e) Many small- and medium-sized California businesses and
25 agricultural enterprises, both those that are already exporting and
26 want to expand their business and those that are new to exporting,
27 would benefit from financing and technical assistance.

1 (f) *California-based small- and medium-sized exporters were*
 2 *assisted from 1985 to 2003, inclusive, under a state program*
 3 *designed to work with federal, state, and private institutions to*
 4 *provide California exporters with information, technical assistance,*
 5 *and financial resources, but the state program ceased when the*
 6 *Technology, Trade and Commerce Agency was eliminated for*
 7 *budgetary reasons in 2004 by Chapter 229 of the Statutes of 2003.*

8 (g) *Reestablishing the state program will expand job*
 9 *opportunities for California’s workforce by increasing exports of*
 10 *California goods, services, and agricultural commodities through*
 11 *the provision of information, technical assistance, and financial*
 12 *support to California exporters.*

13 **SECTION 1.**

14 *SEC. 2. Chapter 2.6 (commencing with Section 13996.85) is*
 15 *added to Part 4.7 of Division 3 of Title 2 of the Government Code,*
 16 *to read:*

17
 18 **CHAPTER 2.6. TRADE PROMOTION OF CALIFORNIA PORTS**

19
 20 13996.85. The Director of the Governor’s Office of Business
 21 and Economic Development shall convene, no later than February
 22 1, 2015, a statewide business partnership for promotion of trade
 23 for California ports and to explore greater utilization of California
 24 ports, as follows:

25 (a) The business partnership shall include, but is not limited to,
 26 representatives from ports of entry, ocean carriers, marine terminal
 27 operators, warehouse operators, railroads, trucking companies,
 28 labor representatives, and foreign trade zones, representatives of
 29 environmental groups, and shippers, specifically including
 30 agricultural exporters, manufacturers, postconsumer secondary
 31 material handlers, and retailers.

32 (b) The business partnership shall advise the Director of the
 33 Governor’s Office of Business and Economic Development on
 34 promoting trade for California ports while increasing the use of
 35 California ports of entry, and ways to increase the opportunity for
 36 growth and trade activity.

37 *SEC. 3. Chapter 7 (commencing with Section 63090) is added*
 38 *to Division 1 of Title 6.7 of the Government Code, to read:*

CHAPTER 7. CALIFORNIA EXPORT FINANCE

63090. As used in this chapter:

63090. (a) “California Export Finance Board” or “finance board” means the California Export Finance Board established by 63090.7.

(b) “California Export Finance Office” or “office” means the entity created by Section 63090.1.

(c) “Financial institution” means a bank or savings and loan association regulated by the state or federal government, an insurance company authorized to transact business in California, a personal property broker or industrial loan company that is regulated by the state, and a person whose primary business is lending money and is regulated by the state.

63090.1 (a) The California Export Finance Office is hereby created within the bank.

(b) The purpose of the office is to expand employment and income opportunities for Californians through increased exports of California goods, services, and agricultural commodities by providing actual and potential California exporters, specifically small- and medium-sized exporters, with information and technical assistance on export opportunities, exporting techniques, and financial assistance in support of export transactions.

63090.2. The executive director, or his or her designee, shall be the director of the California Export Finance Office and shall administer the programs of the California Export Finance Office and perform any duties delegated by the finance board.

63090.3. The executive director, or his or her designee, upon approval of the finance board, may do all of the following:

(a) Contract for services.

(b) Hold public hearings.

(c) Call upon and reimburse for services any state agency or department for assistance in carrying out the objectives of this chapter.

(d) Participate with government or private industry in programs for technical assistance, loans, technology, transfer, or any other programs related to this chapter.

(e) Undertake or commission studies on methods to increase financial resources to expand the exports of California goods, services, and agricultural commodities.

1 (f) Exercise any other power as may be necessary to carry out
2 the purposes of this chapter.

3 (g) Provide export finance training for staff and other
4 individuals involved in export finance assistance, including, but
5 not limited to, training sessions provided by the Export-Import
6 Bank of the United States or other organizations.

7 63090.4. The office is authorized to do all of the following:

8 (a) Insure, coinsure, and guarantee loans related to qualified
9 export transactions pursuant to regulations adopted by the finance
10 board.

11 (b) Coordinate to the maximum extent possible the efforts of
12 the California Export Finance Office with program and goals of
13 the Export-Import Bank of the United States, the International
14 Trade Administration of the United States Department of
15 Commerce, the Foreign Credit Insurance Association, and other
16 public and private programs designed to provide export assistance
17 and export-related financing.

18 (c) Establish a network of contacts among public and private
19 organizations that provide information, technical assistance, and
20 financial support of exporting.

21 (d) Assemble, publish, and disseminate information to California
22 exporters on export opportunities, techniques of exporting, sources
23 of public and private export assistance, and sources of
24 export-related financing.

25 (e) Organize, host, and participate in seminars and other forums
26 designed to disseminate information and technical assistance on
27 exporting and export-related financing to actual and potential
28 California exporters.

29 (f) Provide individual firms and agricultural enterprises with
30 information and technical assistance relating to exporting and
31 export financing.

32 63090.5. (a) The office shall comply with the Bagley-Keene
33 Open Meeting Act (Article 9 (commencing with Section 11120) of
34 Chapter 1 of Part 1 of Division 3 of Title 2) and the California
35 Public Records Act (Chapter 3.5 (commencing with Section 6250)
36 of Division 7 of Title 1), except as specified in subdivision (b).

37 (b) (1) Notwithstanding any other law, if the executive director
38 determines that disclosure of financial data would be competitively
39 injurious to an applicant, the disclosure of financial data contained
40 in applications for financial assistance from the finance board

1 *shall not be required. For this purpose, financial data includes,*
2 *but shall not be limited to, financial statements, details of accounts*
3 *receivable and accounts payable, income tax returns, owner-officer*
4 *compensation records, collateral details, cashflow analysis, orders,*
5 *contracts and letters of credit, and other documents that would*
6 *disclose specific names or addresses of customers or would-be*
7 *customers.*

8 *(2) Notwithstanding any other law, the finance board or a*
9 *subcommittee of the finance board may review and approve loan*
10 *guarantee requests by means of a telephone or cellular phone*
11 *conference or in a meeting not open to the public.*

12 *63090.6. The office may do any of the following:*

13 *(a) Act as agent for creditworthy California growers,*
14 *manufacturers, and other exporters to sell accounts receivable*
15 *that are approved by the office and insured by the Foreign Credit*
16 *Insurance Association or an acceptable private insurer, to qualified*
17 *parties.*

18 *(b) Function as a clearing house for the collection and*
19 *disbursement of funds relative to those sales through the use of a*
20 *segregated bank account.*

21 *(c) Take any other related actions as may be appropriate and*
22 *necessary to facilitate the sale of export accounts receivable for*
23 *California exporters.*

24 *63090.7. (a) The California Export Finance Board is*
25 *established within the bank. The finance board shall consist of 11*
26 *members as follows:*

27 *(1) The Secretary of Food and Agriculture, or his or her*
28 *designee.*

29 *(2) The executive director, or his or her designee.*

30 *(3) One individual appointed by the Governor who shall be*
31 *knowledgeable of, and experienced in, the exporting and export*
32 *needs of California agriculture.*

33 *(4) Three individuals appointed by the Governor and one*
34 *individual appointed by the Speaker of the Assembly, each of whom*
35 *shall be experienced in exporting, knowledgeable of the needs and*
36 *problems of small and entrepreneurial exporters, and actively*
37 *employed with an exporting firm, export trading company, or*
38 *export management company.*

39 *(5) One person appointed by the Governor and one person*
40 *appointed by the Senate Committee on Rules, each of whom shall*

1 *be experienced in export financing, knowledgeable of the export*
2 *financing needs and problems of small and entrepreneurial*
3 *exporters, and actively employed by a financial institution.*

4 *(6) One person appointed by the Controller and one person*
5 *appointed by the Treasurer, each of whom shall be an*
6 *accomplished credit evaluation representative experienced in*
7 *analyzing financial statements, including, but not limited to, loan*
8 *applications, and in evaluating the creditworthiness of firms that*
9 *are likely to seek insurance or loan guarantees from the office.*

10 *(b) The members shall serve two-year terms at the pleasure of*
11 *the appointing authority. Vacancies shall be filled by the appointing*
12 *authority.*

13 *(c) Finance board members who are not employees of the state*
14 *shall receive the per diem authorized in Section 11564.5 for each*
15 *day they attend finance board or finance board subcommittee*
16 *meetings. In addition, these members shall be reimbursed for their*
17 *expenses in accordance with the rules of the Department of*
18 *Personnel Administration when attending finance board and*
19 *finance board subcommittee meetings and conducting finance*
20 *board businesses as determined by the finance board.*

21 *63090.8. The finance board shall do all of the following:*

22 *(a) Elect a chair and vice chair from among its members. The*
23 *chair shall preside at meetings of the finance board.*

24 *(b) Oversee the program authorized by this chapter, promulgate*
25 *rules and regulations that are necessary to carry out the*
26 *responsibilities under this chapter, including, but not limited to,*
27 *establishing programs to insure, coinsure, and provide loan*
28 *guarantees to support export transactions. The finance board shall*
29 *ensure that these programs conform to international trade*
30 *agreements of the United States. The rules and regulations of the*
31 *finance board shall be adopted in accordance with Article 5*
32 *(commencing with Section 11346) of Chapter 3.5 of Part 1 of*
33 *Division 3 of Title 2.*

34 *(c) Adopt bylaws as are necessary to govern the conduct and*
35 *operation of the finance board.*

36 *(d) Provide for the appointment of advisory groups necessary*
37 *to carry out the powers and duties of the finance board.*

38 *(e) Hold regularly scheduled meetings, at least quarterly, in*
39 *order to carry out the objectives and responsibilities of the finance*
40 *board.*

- 1 (f) Issue an annual report critiquing the program, its needs, and
2 recommended changes. The report shall include an evaluation of
3 the program's impact on all of the following:
- 4 (1) Participation of financial institutions in export financing
5 programs.
 - 6 (2) Access of California firms to federal export financing
7 programs.
 - 8 (3) Export volume of California firms.
 - 9 (4) Economic and social benefits of exports to the state.
- 10 (g) Adopt criteria establishing which exports and export
11 transactions are eligible for the insurance, coinsurance, and loan
12 guarantees as may be extended by the finance board. Pursuant to
13 this subdivision, the finance board shall adopt regulations to ensure
14 that all of the following criteria are met:
- 15 (1) Borrowers have a minimum equity interest in the business
16 as determined by the finance board.
 - 17 (2) Loan guarantees, insurance, and coinsurance are extended
18 exclusively to support the export of goods, services, and
19 agricultural commodities produced or grown primarily in
20 California by companies or agricultural enterprises that have
21 California as the principal place from which their trade or business
22 is directed or managed.
 - 23 (3) Financing assistance backed by or using funds from the
24 Export Finance Fund shall be extended only for any of the
25 following circumstances:
 - 26 (A) As part of a state match that may be required to secure
27 participation of California firms or agricultural enterprises in
28 federal, state, or private financing programs.
 - 29 (B) If adequate financing assistance is not readily available
30 from public or private sources in a timely manner.
 - 31 (h) Adopt collateral or security requirements to ensure the full
32 repayment of loan guarantees and solvency of any insurance and
33 coinsurance program extended under this chapter and to assist in
34 evaluating the program authorized by this chapter.
 - 35 (i) Approve any and all extensions of insurance, coinsurance,
36 or loan guarantees under this chapter.
 - 37 (1) The finance board may elect to delegate the approval
38 authority to a committee consisting of at least three members of
39 the finance board.

1 (2) *The finance board may elect to delegate this approval to an*
2 *office loan committee if the financial exposure to a borrower or*
3 *insured does not exceed an aggregate of one hundred thousand*
4 *dollars (\$100,000). The office loan committee shall be composed*
5 *of the director of the office and two others who shall be selected*
6 *by, and who shall be responsible to, the finance board.*

7 (3) *All approvals delegated pursuant to paragraphs (1) and (2)*
8 *shall be reported to, and shall be reviewed by, the finance board*
9 *at the next regular finance board meeting.*

10 (j) *Work with and seek assistance from the Export-Import Bank*
11 *of the United States, the International Trade Administration of the*
12 *United States Department of Commerce, the Foreign Credit*
13 *Insurance Association, and other public and private programs*
14 *designed to provide export assistance and export-related financing.*

15 (k) *Develop a streamlined application and review process.*

16 63090.9. *There is hereby created in the State Treasury the*
17 *Export Finance Fund. The purpose of the Export Finance Fund*
18 *is to receive all of the following moneys for purposes of this*
19 *chapter:*

20 (a) *State, federal, and private funds.*

21 (b) *Insurance premiums and other fees earned by the office.*

22 (c) *Recoveries and collections on claims paid by the office.*

23 (d) *Funds received from the return of investments pursuant to*
24 *this chapter.*

25 63090.10. *Notwithstanding Section 13340, all funds deposited*
26 *in the Export Finance Fund are hereby continuously appropriated,*
27 *without regard to fiscal years, for the purposes of this chapter.*

28 63090.11. *The state shall not be liable or obligated in any way*
29 *beyond the state funds that are allocated and deposited in the*
30 *Export Finance Fund from state funds that are appropriated for*
31 *those purposes.*

32 63090.12. *The Treasurer, with the approval of the finance*
33 *board, may cause funds in the Export Finance Fund to be invested*
34 *and reinvested, from time to time, in the Surplus Money Investment*
35 *Fund as provided in Article 4 (commencing with Section 16470)*
36 *of Chapter 3 of Part 2 of Division 4 of Title 2. Funds in the Export*
37 *Finance Fund and not so invested may be deposited from time to*
38 *time in financial institutions authorized by law to receive deposits*
39 *of public funds. Returns from investments and interest on deposits*
40 *shall be deposited in the Export Finance Fund.*

1 63090.13. *Funds in the Export Finance Fund shall be paid out*
2 *by the Treasurer on warrants drawn by the Controller upon order*
3 *of the finance board in furtherance of the purposes of this chapter,*
4 *including, but not limited to, the payment of operating expenses,*
5 *principal and interest on bonds, claims under loan guarantee and*
6 *insurance and coinsurance programs, payments for reinsurance,*
7 *and payments required by state, federal, or private export*
8 *programs conducted by the finance board.*

9 63090.14. *The office may charge fees for its loan guarantees,*
10 *insurance, coinsurance, and other services, the amount of which*
11 *shall be determined by the finance board.*

12 63090.15. *Loan guarantees and insured export transactions*
13 *made by the office shall be secured by no less than a 25 percent*
14 *reserve in the Export Finance Fund. The finance board may elect*
15 *to require a higher reserve. The finance board shall adopt*
16 *regulations on the terms and limits for loan guarantees, but a loan*
17 *guarantee shall not exceed any of the following:*

18 (a) *Ninety percent of the required financing.*

19 (b) *Nine hundred thousand dollars (\$900,000).*

20 (c) *The lesser of five years or the useful life of the product.*

21 63090.16. *The executive director shall submit an annual*
22 *budget, as part of the budget of the bank, for inclusion in the*
23 *annual budget.*

24 63090.17. *If any provision of this chapter or the application*
25 *thereof to any person or circumstance is held invalid, that invalidity*
26 *shall not affect any other provision or application of this chapter*
27 *that can be given effect without the invalid provision or application,*
28 *and to this end the provisions of this chapter are severable.*

29 SEC. 4. *The Legislature finds and declares that Section 3 of*
30 *this act, which adds Section 63090.5 to the Government Code,*
31 *imposes a limitation on the public's right of access to the meetings*
32 *of public bodies or the writings of public officials and agencies*
33 *within the meaning of Section 3 of Article I of the California*
34 *Constitution. Pursuant to that constitutional provision, the*
35 *Legislature makes the following findings to demonstrate the interest*
36 *protected by this limitation and the need for protecting that*
37 *interest:*

38 *Disclosure of financial data would be competitively injurious*
39 *to California businesses.*

O