Date of Hearing: April 24, 2019

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
AB 1248 (Eduardo Garcia) – As Amended March 28, 2019

SUBJECT: Targeted Revitalization Incentive Program: local governments: property tax abatement.

SUMMARY: Creates the Targeted Revitalization Incentive Program to allow cities and counties to offer property tax abatements to small and mid-size manufacturers. Specifically, **this bill**:

1) Allows, commencing in the 2020-21 fiscal year, the governing body of a city or county to, by majority vote of that governing body, establish a Targeted Revitalization Incentive Program (TRIP) and approve, for up to 10 consecutive years, the payment of a targeted revitalization incentive amount (incentive) to the proponent of a qualified manufacturing facility (QMF) upon making the following findings:

    a) The QMF is located within the jurisdiction of the city or county;

    b) The proponent of the QMF enters into a community services agreement (agreement) with the city or county; and,

    c) The city or county has considered the comments, if any, from stakeholders on the economic impact of the QMF on the residents and businesses of the community where the QMF will be located.

2) Requires the consecutive fiscal years during which an incentive is to be paid to commence with the first fiscal year after the date upon which the QMF is certified for occupancy or the first fiscal year commencing after the date the QMF commences operation.

3) Requires the annual payment of the incentive to be contingent on the proponent's compliance with an agreement and the payment of a community services fee (fee), as specified.

4) Requires a city or county that establishes a TRIP to provide the Governor's Office of Business and Economic Development (GO-Biz) with all of the following:

    a) Notice of the city or county's election to establish the program no later than June 30 of the fiscal year in which the election was made;

    b) The amount of any incentive payments made and the proponent of the QMF to whom the payments were made during that fiscal year;

    c) Programs or projects established or funded in part by the agreement; and,

    d) Economic activity generated, directly or indirectly, in the area in which the QMF is located, including, but not limited to, changes in median income, the number of businesses, and the volume or value of exported goods.

5) Requires GO-Biz to compile the information submitted by each city and county and submit a report to the Legislature containing this information on or before October 1, 2025, and no later than October 1 every two years thereafter, as specified.

6) Requires, upon a finding that good cause exists, the city or county to waive any portion of a recaptured incentive amount due under this bill.

7) Provides that no abatement shall be allowed pursuant to the Capital Investment Incentive Program (CIIP) for ad valorem property tax amounts taken into account in calculating the payment authorized by this bill.

8) Provides the following definitions:

    a) "Community services agreement" means an agreement by the proponent that includes, but is not limited to, all of the following provisions:

        i) A job creation plan that specifies the number and types of jobs to be created by the QMF, the compensation ranges for each job type, and the coverage to be provided by an employer-sponsored health benefits plan;

        ii) A requirement that a fee be remitted by the proponent to the city or county, in each fiscal year, in an amount up to or equal to 25% of the incentive amount calculated for that proponent for that fiscal year;

        iii) The dates in each relevant fiscal year upon which payment of the fee is due and delinquent, and the rate of interest to be charged to a proponent for any delinquent portion of the fee amount;

        iv) The procedures and rules for the determination of underpayments or overpayments of a fee, for the appeal of determinations of any underpayment, and for the refunding or crediting of any overpayment;

        v) The procedures and rules for the determination of the proponent's ineligibility to receive an incentive amount if the proponent is delinquent in the payment of any portion of the fee, if the city or county finds the QMF is materially different from the facility as described in building permit application materials, or if the facility is no longer operated as a QMF;

        vi) The procedures and rules for the determination of the proponent's failure to operate the QMF as required by the agreement and for the recapture of any portion of any incentive amount previously paid to the proponent, less all of the fees received from the proponent and less any incentive amounts previously recaptured;

        vii) The procedures and rules for the determination of whether good cause exists for the proponent's failure to operate the QMF as required by the agreement. Good cause includes, but is not limited to:

(1) The sale or lease of the property to a person who has entered into an agreement with the city or county to assume all of the responsibilities of the proponent under the agreement; and,

(2) The QMF has been rendered inoperable or beyond repair as a result of an act of God, civil disorder, failure of power, riots, insurrections, war, acts of terrorism, or any other causes, whether the kind herein enumerated or otherwise, not within the control of the QMF claiming good cause, which restrict or interfere with a QMF's ability to perform in a timely manner, and which by the exercise of reasonable due diligence, such party is or would have been unable to prevent or overcome;

b) "Manufacturing facility" means a facility operated by a business entity with manufacturing as its principal business activity code, as reported on the entity's tax return filed under specified existing law governing franchise and income taxes;

c) "Proponent" means any party that is either the fee owner of the QMF, the lessee of real property constructing the QMF, or the applicant named on a permit to construct a QMF located in the city or county;

d) "Qualified manufacturing facility" means a proposed manufacturing facility where the proponent's investment, in real or personal property, exceeds $5 million dollars;

e) "Targeted revitalization incentive amount" means an amount up to or equal to the amount of ad valorem property tax revenue, not to exceed a total of $50 million, allocated to a city or county that has established a TRIP pursuant to this bill, excluding specified revenue transfers required under existing law, from the taxation of that portion of the total assessed value of that real and personal property described in d), above.

9) Repeals the provisions of this bill on January 1, 2035, but provides that a TRIP established pursuant to this bill before January 1, 2035, may remain in effect for the full term of that program.

EXISTING LAW:

1) Specifies that all property is subject to property tax, unless explicitly exempted by the California Constitution or federal law.

2) Authorizes counties or cities to establish a CIIP, with the following components:

   a) Requires a county or city that creates a CIIP to pay a "capital investment incentive amount" to the proponent of a QMF for up to 15 consecutive years, as specified;

   b) Defines the criteria that a QMF must meet, including (among other specifications) that the proponent's initial investment in the facility exceeds $150 million, the facility is located within the jurisdiction of the county or city that will pay the incentive amount, the facility will be operated by specified types of businesses, and the proponent will be engaged in specified activities;

c) Limits the incentive amount paid to the proponent for a relevant fiscal year to an amount up to or equal to the amount of ad valorem property tax revenue allocated to the participating county or city from the total assessed value of the facility's real or personal property in excess of $150 million;

d) Requires a proponent whose request for payment of the incentive amount is approved to enter into a community services agreement with the county or city and requires the agreement to contain specified provisions, including a specified "community services fee," a job creation plan, and protections for the local government if the proponent fails to meet its obligations under the agreement;

e) Provides that the incentive amount paid to the proponent, as specified above, is contingent upon the proponent's payment of the fee, as specified;

f) Calculates the proponent's fee as an amount equal to 25% of the proponent's incentive amount for each fiscal year, and caps the fee to a maximum of $2 million in any fiscal year;

g) Requires each county or city that elects to create a CIIP to notify GO-Biz each fiscal year, as specified; and,

h) Requires GO-Biz to compile the information submitted by counties and cities and submit a report to the Legislature no later than October 1 every two years, as specified.

3) Repeals the authority of counties and cities to create a CIIP on January 1, 2024, but specifies that a CIIP established before this date may remain in effect for the full term of that program.

FISCAL EFFECT: This bill is keyed fiscal.

COMMENTS:

1) **Background**. SB 566 (Thompson), Chapter 616, Statutes of 1997, enacted the CIIP, and SB 133 (Kelley), Chapter 24, Statutes of 1999, expanded the program to provide local governments with an opportunity to attract large manufacturing facilities to invest in their communities and to encourage industries, such as high technology, energy, environmental, and others to locate and invest in California. CIIP authorizes a local government to offer partial property tax abatement for QMFs for assessed property taxes in excess of $150 million. The program allows a local government to rebate a 'capital investment incentive amount' to a manufacturer proponent that is equal to the taxes owed on the manufacturing property in excess of the first $150 million assessment for up to 15 years.

   The incentive may only be offered if the proponent enters into an 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. If a proponent fails to meet these requirements, the local government is entitled to repayment of any amounts paid.

   In 1999, Imperial County and CalEnergy Operating Corporation attempted to utilize the program for zinc extraction from the Salton Sea, but a collapse in the zinc market caused the project, and thus the program, to cease. The abated property taxes were returned to the

County, as provided under the Community Service Agreement between CalEnergy and the County. Imperial County and EnergySource Minerals, LLC (ES Minerals) were attempting to utilize the program last year. In its November 2017 report on the CIIP, GO-Biz reported that the cities of Palmdale and Long Beach and the County of Los Angeles established programs for their jurisdictions but none had issued any payments and only one proponent, Weber Metals Inc., appeared to be proceeding with its project.

Last year, AB 1900 (Brough), Chapter 382, Statutes of 2018, extended the sunset of the CIIP until January 1, 2024. When AB 1900 was heard by this committee, it modified the CIIP in several ways. It extended the program for 10 years, expanded it to include large-scale retail-trade related facilities, and temporarily reduced the required initial investment amount from $150 million to $25 million. It also temporarily increased the property taxes cities and counties could rebate to the facility over $25 million of assessed value by lowering the threshold from $150 million. This Committee amended AB 1900 to remove all of its provisions, except for the sunset extension.

2) **Author's Statement**. According to the author, "California's manufacturing investments have not kept pace with the rest of the country, capturing a mere 4.5% of capital funding nationwide. Existing incentives, like the CIIP, have not been able to overcome this trend because they are focused on competing for very large manufacturing investment. In the decades since the CIIP was enacted, the engine for job creation and economic expansion in the manufacturing industry has shifted to small and medium investments. Between 2015 and 2017, manufacturers investing between $5 and $55 million in new or existing facilities outpaced the total number of jobs created by projects the CIIP was intended to attract. AB 1248 will provide local governments a tool to incentivize the redevelopment and rehabilitation of abandoned or distressed facilities in their communities by attracting investment from small and mid-size manufacturers."

   This bill is sponsored by the California Manufacturers and Technology Association.

3) **Bill Summary**. This bill establishes the TRIP to allow cities and counties to offer property tax abatements to small and mid-size manufacturers. It is largely modeled after the CIIP, but allows tax abatements for much smaller manufacturers investing as little as $5 million. There are also some additional differences between the programs that are outlined below.

4) **Policy Considerations**. The Committee may wish to consider the following:

   a) **Original Intent of CIIP**. When the Legislature originally approved the CIIP, the intent of the program was made clear: "It is the intent of the Legislature in enacting this chapter to provide local governments with opportunities to attract large manufacturing facilities to invest in their communities and to encourage industries, such as high technology, aerospace, automotive, biotechnology, software, environmental sources, and others, to locate and invest in those facilities in California."

      This bill represents a significant departure from this original intent by focusing on much smaller manufacturing operations with much lower initial investments in a facility – only $5 million as compared to the CIIP investment threshold of $150 million. While the proponent presents arguments for supporting small and mid-size manufacturers with the property tax abatement mechanism crated by the CIIP that would be available to smaller manufacturers under the TRIP, the Committee may wish to consider whether this approach is appropriate, effective, or even attractive to local governments and whether existing incentives available to local agencies (including state programs such as California Competes) offer sufficient tools for local agencies to support these smaller manufacturers.

b) **Investment Threshold**. The initial $150 million threshold in the CIIP was set at a time when a comparable Oregon statute had a $100 million threshold, with proponents noting that a higher threshold would be appropriate for California. This was based in part on the theory that only a substantial investment would generate the kind of economic activity necessary to "pay" for the property tax rebates granted. While the proponent has offered information regarding the broader economic benefits that small and mid-size manufacturing can create in a given community, the Committee may wish to consider whether the initial investment threshold should be reduced so dramatically. A local government subsidy's primary purpose is to encourage specific business operations and other activities in a particular location. This bill's financial incentives will only increase economic activity to the extent one assumes the activity would not otherwise occur in that particular local government's location or another location within this state. The Committee may wish to consider the appropriate threshold level for tax abatements.

c) **Revitalization**. The stated intent of this bill is to encourage small and mid-size manufacturers to locate in areas that support local jurisdictions' efforts to "revitalize their communities." However, there is no requirement in this bill for facilities to be located in any specific area of a city or a county, much less an area targeted for revitalization. The Committee may wish to ask the proponent how this bill would achieve this stated goal.

d) **CIIP as a Model**. The proponent asserts that the components of the TRIP authorized under this bill are modeled after the CIIP. However, there are several requirements under the CIIP that are not included in this bill for the TRIP. These include:

CIIP	TRIP
A CIIP must be approved by the local agency via an ordinance or resolution	TRIP approval requires only a majority vote of the local governing body – no ordinance or resolution is required
A proponent must file a request for participation in the CIIP with the governing body	No such requirement
A proponent's initial investment must be certified by GO-Biz	No such requirement
Application for certification of a QMF must be submitted in writing by the proponent and approved by GO-Biz	No such requirement
A CIIP agreement must include a provision specifying that a proponent is ineligible to receive an incentive if the proponent is not complying with specified requirements of the CIIP	A TRIP agreement must include only the procedures and rules for determining if a proponent is ineligible for incentive payments – it does not specify that that a proponent is ineligible
A CIIP agreement must include a provision requiring the recapture of	A TRIP agreement must include only the procedures and rules for determining the

incentive amounts under specified circumstances	recapture of incentive amounts under specified circumstances – it does not specify that incentive amounts must be recaptured under these circumstances
The CIIP allows a local government to waive any portion of the recapture of investment amounts	The TRIP requires a local government to waive any portion of the recapture of investment amounts
The CIIP provides specific definitions regarding: the types of manufacturing facilities eligible under the program; the activities a proponent must be engaged in; and manufacturing itself	The TRIP defines a manufacturing facility as one operated by a business entity with manufacturing as its principle activity code
The CIIP incentive amount is an amount up to or equal to the amount of ad valorem property tax revenue allocated to the participating agency from the taxation of that portion of the total assessed value of the QMF that exceeds the proponent's initial investment ($150 million)	The TRIP incentive amount is an amount up to or equal to the amount of ad valorem property tax revenue allocated to the participating agency from the taxation of that portion of the total assessed value of the QMF. This incentive amount is not set at an amount that exceeds the proponent's initial investment, and is capped at $50 million

The Committee may wish to consider whether the requirements and parameters of the TRIP are sufficient.

e) **Legislative Review of New Powers**. This bill includes a sunset date of January 1, 2035, and does not require a report from GO-Biz until October 1, 2025. Given the new and substantially different authority this bill would provide, the Committee may wish to consider whether the Legislature should be receiving information about TRIP for the first time nearly six years from its inception, and whether the program itself should be allowed to run for 15 years before there is a mechanism for the Legislature to review it.

5) **Committee Amendments**. In order to address some of the issues raised above, the Committee may wish to include the TRIP in the statutes governing the CIIP.

6) **Arguments in Support**. The California Manufacturers and Technology Association, sponsor of this bill, states, "California's existing economic development incentive to attract manufacturing investment does not align with the state of modern manufacturing. The CIIP is designed to allow local governments to court 'mega' businesses building large manufacturing facilities. Such investment is rare. AB 1248 would create a parallel program, modeled on the CIIP, but that aligns with the state of modern manufacturing. This would allow local government to develop more comprehensive plans to revitalize their communities.

"Manufacturing provides the foundation for developing economically strong and socially mobile communities in California. Throughout the state, manufacturing investment is revitalizing neglected neighborhoods, providing middle-income wages where few jobs once existed, and providing an onramp for employment by allowing workers to transition from unstable jobs in other sectors to a full-time career based in their communities.

"In their 'Advanced Manufacturing Playbook,' the San Francisco Office of Civic Innovation and the Office of Economic and Workforce Development extol the benefits of fostering manufacturing in California's cities: 'Urban manufacturing has a unique ability to bring together diverse neighborhoods, socio-economic groups and disciplines by locating jobs and companies in the neighborhoods that need them most. Manufacturing is an engine for equity, generating and sustaining jobs for a larger variety of skill levels and backgrounds than most industries.' However, many local economic development strategies focus on promoting retail, office, and residential growth. These local governments lack a tool that they can use to make small and mid-size production part of their mixed-use redevelopment portfolio. AB 1248 would empower them to do so.

"Manufacturing's ability to revitalize and uplift communities is anchored in the investment in small and mid-sized production, not large facilities. This transformative power is being driven by technological and economic changes in the manufacturing industry itself: costs of production are lower, space needs are smaller, and goods can be produced and brought to market faster. Growth in the manufacturing industry is anchored in the expansion of facilities reclaiming underused spaces embedded in commercial districts and city centers rather than large, standalone production sites.

"In 2016 and 2017, a third of California's manufacturing investments were between \$5 and \$55 million. In contrast, only 4% of the state's manufacturing investments were over \$55 million during the same period. In those two years, investment over \$55 million created approximately 2,000 jobs. Investment between \$5 and \$55 million created approximately four times as many jobs, totaling 40% of the jobs created from all manufacturing investment. The CIIP – with a threshold level of investment starting at \$150 million – is designed to compete for an ever-shrinking fraction of manufacturing investment, accounting for its sporadic use and limiting its potential effectiveness. In contrast, AB 1248's targeted incentive meets the manufacturing industry where it is.

"AB 1248 incorporates meaningful mechanisms to ensure public scrutiny and good governance. Before a local government may authorize any incentive program, AB 1248 requires that they consider comments 'from stakeholders on the economic impact of the qualified manufacturing facility on the residents and businesses of the community where the qualified manufacturing facility will be located.' This public comment requirement distinguishes the TRIP from both the CIIP and other incentive and subsidy programs offered by local governments, and pushes the program to be used where there is a clear benefit for the community, the local agency, and the manufacturer making the investment. Additionally, AB 1248 also requires local governments to submit data on the incentive programs they create to the Governor's Office of Business and Economic Development and, in turn, requires that office to issue a report on the program's effectiveness every two years, beginning in 2025."

7) **Arguments in Opposition**. None on file.

REGISTERED SUPPORT / OPPOSITION:

Support

California Manufacturers and Technology Association [SPONSOR]

Opposition

None on file

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