Date of Hearing: May 9, 2018

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Cecilia Aguiar-Curry, Chair
AB 1900 (Brough) – As Amended April 30, 2018

SUBJECT: Capital investment incentive programs: qualified manufacturing facility: capital investment incentive amount.

SUMMARY: Modifies and extends the authorization for cities and counties to establish a capital investment incentive program (CIIP). Specifically, **this bill:**

1) Extends the sunset of the CIIP from January 1, 2019, to January 1, 2029.

2) Modifies the CIIP, which authorizes cities and counties to establish a CIIP, whereby the city or county pays a "capital investment incentive amount" (i.e., property tax rebate) to the proponent of a "qualified manufacturing facility" for up to 15 consecutive fiscal years, as follows:

   a) Expands the definition of a "qualified manufacturing facility" to include a facility operated by any of these businesses:

      i) A business described in unspecified codes of the 2012 North American Industry Classification System (NAICS) Manual that relate to retail trade; and,

      ii) A business firm engaged, or proposing to engage, in the business of providing goods, products, or services to businesses or into markets for which national or international competition exists.

   b) Expands the type of qualifying activities the proponent is currently engaged in to include the sale or support of a manufactured product or tangible personal property;

   c) Reduces the proponent's required initial investment in that facility from an amount that exceeds $150 million to $25 million as measured by the assessed value of the real and personal property necessary for full and normal operation of that facility; and,

   d) Increases the amount that a participating city, county, or city and county may pay to a proponent as a "capital investment incentive amount" on the basis of the *ad valorem* property tax revenues derived from the facility by lowering the threshold to $25 million of assessed value from $150 million.

3) Provides that the amendments outlined in 2) become inoperative on July 1, 2024, and repeals the statutory provision on January 1, 2025.

4) Enacts a new section that would remove the amendments proposed in 2) on July 1, 2024, except the new statute continues the expanded definition of a "qualified manufacturing facility" to include a facility operated by any of the specified businesses and the corresponding expanded type of "qualifying activities".

5) Expands the CIIP's intent to also include attracting large facilities related to retail.

6) Provides that any pre-established CIIP may remain in effect for its full term.

7) Takes immediate effect as an urgency measure to allow California to readily recruit and retain large business entities, leading to growth in jobs, income tax, infrastructure development, and quality of life.

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 and requires those that choose to do so to pay a "capital investment incentive amount" (incentive amount) to the proponent of a qualified manufacturing facility for up to 15 consecutive years, as specified.

3) Defines the criteria that a "qualified manufacturing facility" 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.

4) 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.

5) Requires a proponent whose request for payment of the incentive amount is approved to enter into a "community services agreement" (agreement) with the county or city.

6) Requires the agreement to contain specified provisions, including a specified "community services fee," (fee) a job creation plan, and protections for the local government if the proponent fails to meet its obligations under the agreement.

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

8) 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.

9) Requires each county or city that elects to create a CIIP to notify the Governor's Office of Business and Economic Development (GO-Biz) each fiscal year, as specified.

10) 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.

11) Repeals the authority of counties and cities to create a CIIP on January 1, 2019, but specifies that a CIIP established before this date may remain in effect for the full term of that program.

FISCAL EFFECT: None

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 qualified manufacturing facilities 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 after the proponent and the local government agrees to a "Community Services 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) are currently attempting to utilize the program, but may not finalize it before the program sunsets this year.

2) **Bill Summary.** This bill modifies the CIIP in several ways. First, it extends the program for 10 years. Second, it expands the program to include large-scale retail-trade related facilities. Third, it temporarily lowers the required initial investment amount from $150 million to $25 million. Finally, it temporarily increases the property taxes cities and counties can rebate to that facility over $25 million of assessed value by lowering the threshold from $150 million. This bill is sponsored by the author.

3) **Author's Statement.** According to the author, "California must always remember that in today's global economy, location is not permanent, but by choice. Companies, especially those that would avail themselves of the benefits offered in this bill, have many opportunities to locate outside of California. We have to be ready as a state to make that choice easier for them to locate their business, suppliers, contract, and product investment here.

   "Approximately 9,000 California companies moved their headquarters or diverted projects to out-of-state locations in the last seven years for states that offer greater economic opportunities for entrepreneurs and workers alike. The projections for California GDP are to be much slower than previous years, a concern for future year's revenue projections

   "The intent of AB 1900 is to reverse this trend. California has an unmatched workforce, world-class universities and transportation hubs that allow for access to destinations throughout the world; making it the perfect location for companies large and small if given the right tools and resources to aggressively bid and attract employers to locate here."

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

   a) **Program's Original Intent.** By expanding the program to also include retail facilities, AB 1900 represents a vast departure from the original intent of the program. When SB 566 was adopted in 1997, the intent of the program was made clear by saying, "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." By including retail facilities, this bill could potentially lead to sporting goods stores, online retailer warehouse distribution centers, and many others receiving property tax relief with little public oversight and transparency as to the benefit each community will receive. AB 1900 ultimately moves away from the premise of attracting manufacturing plants and instead subsidizes retail companies. The Committee may wish to consider whether this year's bill shifts the character of the program from a property tax subsidy to lure manufacturing, to a program that subsidizes large retail companies that would likely locate in California irrespective of the property tax relief.

   b) **Correct Threshold?** The initial $150 million threshold 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. On the theory that only a substantial investment would generate the kind of economic activity necessary to "pay" for the property tax rebates granted, a high dollar threshold was probably reasonable, and California was courting "mega" businesses.|

      However, 20 years later, few CIIP property tax rebates appear to have been issued. Imperial County issued some property tax rebates to CalEnergy, but the company repaid the funds after its mineral extraction plant did not become operational. The Los Angeles County and the City of Palmdale entered into an agreement with Lockheed Martin, if it was awarded a Department of Defense contract to manufacture the Advanced Strategic Aircraft Program. However, the contract was awarded to another bidder. Most recently, the County of Los Angeles and the City of Long Beach entered into an agreement with Weber Metals, Inc. to forge and manufacture aircraft parts, and the facility is still under construction.

      While a reduction may be warranted, is the proposed $25 million assessed value reduction too steep? A local government subsidy's primary purpose is to encourage manufacturing 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.

   c) **Mixed Messages.** Recent efforts by the Legislature have been to place more scrutiny on the decision-making process that a local government undertakes when providing subsidies to attract business investment. AB 562 (Williams), Chapter 740, Statutes of 2013, established requirements for local agencies to meet before approving any subsidy and during the term of such subsidies. In arguing for the bill, the author noted, "Each year, local governments give out billions of dollars in tax incentives to corporations in hopes of increasing economic growth and drawing jobs for their residents…State requirements for local budgets, annual financial reports, and regular audits allow constituents to review most of the direct fiscal decisions made by local governments. However, local economic subsidies do not receive the same public scrutiny as budgets and regulatory decisions. Additionally, local governments rarely track how many jobs are created and it's impossible to know whether the jobs would have been created without the aid. AB 562 seeks to remedy this shortcoming."

In addition to the requirements established by AB 562 for all subsidies exceeding $100,000, AB 2853 (Medina) from this year establishes additional requirements that local agencies must meet before and during the term of any subsidy exceeding $100,000 for warehouse distribution centers. While the requirements in both AB 562 and AB 2853 would likely apply to any property tax relief granted under the CIIP, AB 1900 proposes to significantly expand the type of facilities that can be granted such a subsidy and considerably increase the amount of property tax that can be rebated. The Committee may wish to consider if it is prudent to both increase the types of facilities and the amount of subsidies that can be granted, in light of the Legislature's recent efforts to place more scrutiny on such local government subsidies.

5) **Committee Amendments.** To address several of the issues raised, the Committee may wish to consider amendments that would do the following:

   a) Remove the reduction of the $150 million threshold;

   b) Remove the expansion of the program to retail facilities; and,

   c) Change the program's sunset date to January 1, 2024.

6) **Prior and Related Legislation.** The CIIP has been expanded on multiple occasions to include new types of facilities. AB 904 (Perez), Chapter 486, Statutes of 2009, included businesses engaged in manufacturing alternative electricity production parts and components. SB 1006 (Committee on Budget and Fiscal Review), Chapter 32, Statutes of 2012, briefly expanded the program to include "qualified research and development facilities" until June 30, 2013. AB 2389 (Fox), Chapter 116, Statutes of 2014, added businesses engaged in research and development in biotechnology, physical engineering, and life sciences and lowered the threshold of annual property tax revenues the taxpayer must pay to be eligible from $150 million to $25 million until July 1, 2015.

   Several times the Legislature has declined to expand the program to other participants, including certain alternative energy electricity plants with AB 2129 (Kelley) in 2002 and AB 1966 (B. Garcia) in 2006. Additionally, the Legislature has declined to repeal the program due to lack of use via SB 360 (Negrete McLeod) in 2007.

   Most recently, AB 755 (Garcia), Chapter 709, Statutes of 2017, was signed into law which extended the capital investment incentive program from January 1, 2018, to January 1, 2019.

7) **Arguments in Support.** Supporters argue that preserving programs like CIIP is crucial to providing manufacturers a solid foundation to continue to reshore their facilities back to America, and to choose California when they do. Reshoring is beginning to outpace

offshoring – manufacturing jobs are returning to the United States, although many are choosing to locate their manufacturing facilities in states other than California.

State tax credits and incentives, such as property tax abatements, offset the costs of moving or building a facility in a new city, hiring California workers, and other investments. The CIIP allows our state to compete with others that are offering hefty economic development incentives.

8) **Arguments in Opposition.** Opponents argue that the goal of the CIIP is to provide local governments with opportunities to attract large manufacturing facilities to locate and invest in their region. There are compelling policy reasons to attract manufacturing, which is an engine of economic growth. Manufacturing jobs have the highest multiplier effect of any job classification in any industry – for every manufacturing job created an additional 2.5 jobs are created in the broader economy. Jobs in manufacturing are also good for working families. The average wage for a manufacturing job in California is $25,000 higher than that of a service sector employee and $35,000 higher than retail trade wages.

   AB 1900 goes against the intent of the CIIP to attract manufacturing by allowing a broad range of businesses to access the incentive. The bill opens up the credit to companies in retail trade, administrative and general management consulting, and to any company involved in the "support" of a manufactured product, which could include Amazon, Wal-Mart, McDonald's or literally any company that buys or sells a product. Allowing retail trade and other industries to access this limited incentive dilutes its effectiveness and creates a tax giveaway to major corporations that already have access to other tax credit programs.

REGISTERED SUPPORT / OPPOSITION:

Support

California Manufacturers and Technology Association

Opposition

California Labor Federation

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