

SENATE THIRD READING
SB 138 (Committee on Budget and Fiscal Review)
As Amended August 26, 2022
Majority vote

SUMMARY

This trailer bill contains changes necessary to implement the 2022 Budget Act relating to state administration.

Major Provisions

Infrastructure and Economic Development Bank

- 1) Applies the exemption that specified information and records of I-Bank are exempt from disclosure, to the administration by I-Bank of the Climate Catalyst Revolving Loan Fund Act of 2020, the Venture Capital Program, and the financing of economic development facilities and public development facilities under certain circumstances.
- 2) Applies the exemption to documents and information provided to I-Bank on and after August 1, 2022, and prior to July 1, 2025.

CA Small Agricultural Business Drought Relief Grant Program

- 3) Creates the California Small Agricultural Business Drought Relief Grant Program within the Office of Small Business Advocate (office) to provide grants to qualified small agricultural businesses that have been affected by severe drought conditions.
- 4) Provides that the office may contract with a fiscal agent to carry out the program, at a rate of no more than 5% of the funds.
- 5) Provides that grants to qualified small agricultural businesses may be administered in one or more rounds and requires the office to conduct marketing and outreach for equitable awareness and the distribution of grants, as specified.
- 6) Defines "qualified small business" as a business that meets all of the following, as confirmed by the office or fiscal agent through review of revenue declines, other relief funds received, credit history, tax returns, payroll records, and bank account validation:
 - a) Is a sole proprietor, independent contractor, C-corporation, S-corporation, cooperative, limited liability company, partnership, nonprofit, or limited partnership, with 100 or fewer full-time employees in the 2022 taxable year.
 - b) Experienced a decline in annual gross receipts or gross profits of 10% or more.
 - c) Began operating in the state prior to January 1, 2020.
 - d) Is currently active and operating.
 - e) Has been affected by severe drought according to the United States Department of Agriculture drought monitor.

- f) Provides organizing documents, including a federal tax return or Internal Revenue Service Form 990, and a copy official filings with the Secretary of State or with local municipality, as applicable, including, but not limited to, articles of incorporation, certificate of organization, fictitious name of registration, or government-issued business license.
- 7) Specifies that "qualified small business" shall not include:
- a) Businesses without a physical presence in the state.
 - b) Governmental entities, other than Native American tribes, or elected officials offices.
 - c) Businesses primarily engaged in political or lobbying activities, regardless of whether the entity is registered as a 501(c)(3), 501(C)(6), or 501(c)(19) nonprofit entity or other nonprofit entity.
 - d) Passive business, investment companies, and investors who file a Schedule E on their tax returns.
 - e) Financial institutions or businesses primarily engaged in business of lending, such as banks, finance companies, and factoring companies.
 - f) Businesses engaged in any activity that is unlawful under federal, state, or local law.
 - g) Businesses that restrict patronage for any reason other than capacity.
 - h) Speculative businesses.
 - i) Businesses with any owner of greater than 10% of the equity interest in it as specified.
 - j) Affiliated companies, as described in Section 121.103 of Title 13 of the Code of Federal Regulations, as it read on August 1, 2022.
 - k) Other businesses to be determined by the office consistently with requirements and intent of this subdivision.
- 8) Provides grants to be awarded as follows:
- a) 10% of the grant funds shall be held for qualified small agricultural businesses that do not file 2022 tax year returns until 2024.
 - b) 20% of the grant funds shall be allocated in one or more rounds for small and socially disadvantaged farmers who are qualified small agricultural businesses as specified.
 - c) Remaining percentage of grants funds shall be allocated to qualified small agricultural businesses most impacted by severe drought, including, but not limited to, those identified in the 2022 North American Industry Classification System codes, as specified.
- 9) Provides that grants be awarded as follows:

- a) \$60,000 for applicants with a decline in annual gross receipts or gross profits of 30% or more and less than 40%.
 - b) \$80,000 for applicants with a decline in annual gross receipts or gross profits of 40% or more and less than 60%.
 - c) \$100,000 for applicants with a decline in annual gross receipts or gross profits of 50% or more.
- 10) Requires that grant money awarded shall be used for costs to maintain the recipient business through the drought including:
- a) Employee expenses, including payroll costs, health care benefits, paid sick, medical, or family leave, and insurance premiums.
 - b) Working capital and overhead, including rent, utilities, mortgage principal, and interest payments, but excluding mortgage prepayments, and debt obligations, including principal and interest, incurred before the onset of severe drought.
 - c) Any other drought-related expenses not already covered through grants, forgivable loans, or other relief through state, county, or city programs.
- 11) Requires the office to report to the Legislature about diversity on or before December 31, 2024.
- 12) Allows the office and the Franchise Tax Board to adopt regulations to implement this program.

Governor's Office of Business and Economic Development

- 13) Authorizes the Governor's Office of Business and Economic Development (Go-Biz), until July 1, 2025, to undertake measures that are necessary or useful to prepare and submit an application to receive funding and participate in a regional clean hydrogen hubs program established by the Secretary of Energy.
- 14) Specifies that grants received from the regional clean hydrogen hubs program may only be provided to projects that create hydrogen using Renewable Portfolio Standard (RPS) resources eligible for procurement by investor-owned electric utilities (IOUs).
- 15) Requires GO-Biz to submit an annual report on participation in the regional clean hydrogen hubs program.

Customer Facility Charge

- 16) Extends the authorization for one year, from January 1, 2023, to January 1, 2024, for an airport to impose a customer facility charge when the bonds used for financing are paid.

Foreclosure Intervention Housing Preservation Program (FIHPP)

- 17) Makes technical changes to the FIHPP enacted in the 2021 Budget Act including:

- a) Clarifies that the Department of Housing and Community Development may provide grants in addition to loans to eligible borrowers.
- b) Removes the date limit for returned funds and requires uncommitted or returned funds to be additionally made available for the Multifamily Housing Program.
- c) Requires fund managers to deposit unused programs funds into separately maintained reuse accounts, instead of just one fund, for purposes of the program.
- d) Requires fund managers to use funds held in the reuse accounts to administer loans and grants to pay for repairs, maintenance, or improvements on properties acquired pursuant to the program.
- e) Removes the authority to use the funds for providing technical assistance.
- f) Clarifies that a borrower or grantee may receive funds from a grant in addition to a loan made pursuant to the program.

Accessory Dwelling Units

- 18) Requires the California Housing Finance Agency (CalHFA) to convene a working group to develop recommendations to assist homeowners in qualifying for loans to construct accessory dwelling units (ADUs) and junior ADUs on their property and increase access to capital for homeowners interested in building ADUs and develop recommendations by July 1, 2023, for the agency to consider.

Adaptive Reuse within the Infill Infrastructure Grant Program

- 19) Creates the catalytic qualifying infill areas (CQIA) within the Infill Infrastructure Grant Program and requires grants for small and large jurisdictions to be provided using a selection process established by the Department of Housing and Community Development (department) consistent with the following requirements:
 - a) Applicants shall meet both the minimum threshold requirements:
 - i) Readiness, which includes the following
 - (1) A demonstration that the CQIA developed can complete environmental review and secure necessary entitlements from the local jurisdiction within a reasonable period of time following the submission of a grant application.
 - (2) A demonstration that the eligible applicant has a viable plan to secure sufficient funding, derived from sources other than this part for the timely development of housing within a CQIA.
 - ii) A demonstration of the CQIA location's consistency with an adopted sustainable communities strategy or alternative planning strategy pursuant to Section 65080 of the Government Code.
 - b) Requires the department, at a minimum, to rank the affected CQIA applications for small jurisdictions and large jurisdictions based on the following:

- i) The number of housing units, including affordable units, as specified, to be developed within the CQIA.
 - ii) The depth and duration of the affordability of the housing proposed for within the CQIA.
 - iii) The extent to which the average residential densities on the parcel or parcels to be developed exceeds the density standards, as specified.
 - iv) The CQIA's inclusion of, or proximity or accessibility to, a transit station, major transit stop, or other areas yielding significant reductions in vehicles miles traveled.
 - v) The proximity of planned housing within the CQIA used in the calculation of the eligible grant amount to existing or planned parks, employment or retail centers, schools, or social services.
 - vi) Existing or planned ordinances and other zoning or building provisions that facilitate adaptive reuse, including, but not limited to, demonstration that, if the existing commercial, office, or retail structure intended for reuse as housing does not occupy the entirety of the underlying parcel, the adaptive reuse project will be permitted to add to the existing building or structure provided that the addition is consistent with the existing or planned zoning of the parcel.
 - vii) The extent to which local strategies or programs are in place to prevent the direct or indirect displacement of local community residents or businesses from the area within and surrounding the CQIA.
 - viii) The level of community outreach and engagement in project planning, including efforts to involve disadvantaged communities and low-income residents particularly local community residents and businesses from the area within and surrounding the CQIA.
 - ix) Inclusion of any publicly owned lands within the designated CQIA.
 - x) Streamlining provisions related to the California Environmental Quality Act (CEQA), as specified, including, but not limited to, establishment of streamlined, program-level CEQA analysis and certification of general plans, community plans, specific plans with accompanying environmental impact reports, and related documents and streamlining proposed projects, such as enabling a by-right approval process or by utilizing statutory and categorical exemptions as authorized by applicable law.
- c) Requires eligible applicants to submit specified information in the application request for funding.
- d) Requires the department, to the maximum extent feasible, to ensure a reasonable distribution of funds, including consideration of differing population sizes of localities and geographic location. Requires applications be considered and ranked against applications of localities of similar size and scope.

- e) Requires the department to report specified information to the relevant fiscal and policy committees of the Legislature by January 1, 2024.
- f) Defines "adaptive reuse" as the repurposing of building structures for residential purposes, such as former office use, commercial use, or business parks. When referring to building structures, adaptive reuse means retrofitting and repurposing of existing buildings that create new residential rental units, and expressly excludes a project that involves rehabilitation of any construction affecting existing residential units that are, or have been, recently occupied.
- g) Defines "catalytic qualifying infill area" as a contiguous area or multiple noncontiguous parcels located within an urbanized area that meet specified criteria.

Best Value Procurement

- 20) Defines "best value procurement" to mean a contract award determined by objective criteria related to price, features, functions, and life-cycle costs, as specified.
- 21) Provides that Caltrans may purchase and equip heavy mobile fleet vehicles and special equipment for use by Caltrans by means of best value procurement, using specification and criteria developed in consultation with the Caltrans. Omits the annual cap for the best value procurements.
- 22) Provides that the solicitation document specify what business performance measures in addition to price shall be given weighted value, in addition to disclosure of the minimum requirements for qualification. Requires the Caltrans to use a scoring method based on those factors and price in determining the successful bid. Requires any evaluation and scoring method to ensure substantial weight is given to the contract price. Requires the solicitation document to provide for submissions of a sealed price information. Provides that evaluation of all criteria other than price be completed before the opening price information.
- 23) Requires the department to post on its website a report by March 1, 2024.
- 24) Makes its provisions inoperative on June 30, 2025, and repeals the provisions on January 1, 2026.

Department of Motor Vehicles (DMV): Private Industry Partner Fees

- 25) Requires the DMV, on or before September 1, 2022, and annually thereafter, to adjust the amount in accordance with the most recent available data on growth in the California Consumer Price Index for all Urban Consumers.
- 26) Provides that the initial adjustment made on or before September 1, 2022, be based on growth in the California Consumer Price Index for All Urban Consumers in the period since the end of the 2021 calendar year.

COMMENTS

This is a budget bill within the overall 2022-23 budget package necessary to implement actions related to state administration.

According to the Author**Arguments in Support**

None on file.

Arguments in Opposition

None on file.

FISCAL COMMENTS

The appropriations for these programs are contained in the Budget Act of 2022.

VOTES**SENATE FLOOR: 29-8-2**

YES: Allen, Archuleta, Atkins, Becker, Bradford, Caballero, Cortese, Dodd, Durazo, Eggman, Glazer, Gonzalez, Hertzberg, Hueso, Hurtado, Laird, Leyva, McGuire, Min, Newman, Pan, Portantino, Roth, Rubio, Skinner, Stern, Umberg, Wieckowski, Wiener

NO: Bates, Dahle, Grove, Jones, Melendez, Nielsen, Ochoa Bogh, Wilk

ABS, ABST OR NV: Borgeas, Limón

UPDATED

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