SENATE COMMITTEE ON GOVERNANCE AND FINANCE
Senator Mike McGuire, Chair
2019 - 2020 Regular

Bill No:	AB 1248	**Hearing Date:**	6/19/19
Author:	Eduardo Garcia	**Tax Levy:**	No
Version:	4/29/19	**Fiscal:**	Yes
Consultant:	Peterson		

CAPITAL INVESTMENT INCENTIVE PROGRAM: LOCAL GOVERNMENTS: PROPERTY TAX ABATEMENT

Allows cities and counties to offer Capital Investment Incentive Program incentives to small and mid-size manufacturers.

Background

Property tax. Article XIII of the California Constitution provides that all property is taxable at the same percentage of fair market value unless explicitly exempted by the Constitution or federal law. The Constitution limits the maximum amount of any ad valorem tax on real property at 1% of full cash value, and directs assessors to only reappraise property when newly constructed, or ownership changes (Proposition 13, 1978). Proposition 13 additionally limits any inflationary growth of the full cash value base to 2% per year.

Capital Investment Incentive Program. Under the Capital Investment Incentive Program (CIIP), counties and cities can pay a capital investment incentive amount for 15 years to a proponent of a qualified manufacturing facility (QMF) making an initial investment that exceeds $150 million. The proponent must apply to the city or county by filing a request, which must be approved by majority vote of the city or county's governing body for payments to commence. If approved, a proponent receives a payment equal to the amount of property taxes paid and received by that city or county that exceeds $150 million of the facility's value - other agencies' shares of tax revenues from that property are not affected. In return for this property tax rebate, the proponent must then pay a community service fee equal to 25% of the capital incentive amount, up to $2 million a year. The proponent must also sign a community services agreement that spells out the fee, payment conditions, a job creation plan that requires employer-sponsored health care and payment of an average wage not less than the state average, and provisions to recapture the incentive payments if the proponent fails to run the facility as agreed. Additionally, a city or special district may pay the county or city an amount equal to the amount of property tax revenue that the local government receives from the facility's property taxes paid on the facility's value over $150 million. The city or county must submit annual reports on the incentives it approves to the Governor's Office of Business and Economic Development (GO-Biz), which GO-Biz compiles into a report it submits to the Legislature.

To qualify for this tax rebate program, a QMF must be engaged in commercial production, the perfection of the manufacturing process, or the perfection of a product intended to be manufactured. The proponent of the facility must also:

- Have an initial investment in real and personal property over $150 million, certified GO-Biz,
- Be located within the county or city offering the capital incentive program, and
- Be operated by a business within specified North American Industrial Classification System (NAICS) codes, that includes firms engaged in various types of manufacturing, research and development, recovery of minerals from geothermal resources, and components related to electricity production.

The Legislature originally approved the program to help Placer County officials attract an Intel plant, but they never used the law (SB 566, Thompson, 1997). Legislators expanded the definition of a qualified manufacturing facility to include CalEnergy Company's plan to extract minerals from geothermal brine, which did not launch (SB 133, Kelley, 1999.) In 2009, the Legislature further expanded the program to include other manufacturers that produce of electricity using solar, wind, biomass, hydropower, or geothermal resources; shifted the responsibility to certify the investment to the Business, Transportation and Housing Agency; and sunset the program on January 1, 2017 (AB 904, V.M Perez).

In 2012, the Legislature expanded the program to (SB 1006, Committee on Budget and Fiscal Review):

- Include research and development facilities,
- Raise the threshold investment amount from $150 to $250 million,
- Lower from $150 million to $25 million the assessed valuation threshold that trigger capital investment incentive payments equivalent to property taxes paid,
- Revise eligibility criteria, and
- Shift the duty to certify investments to GO-Biz.

SB 1006 sought to entice Samsung Semiconductor to expand its manufacturing facility in San Jose; however, the facility was constructed without the incentive agreement being executed, with the company instead applying for and receiving California Competes tax credits. SB 1006 repealed all of its changes on June 30, 2013.

In 2014, the Legislature again reauthorized the program, expanded the NAICS codes to include additional manufacturers, and lowered the threshold to trigger incentive payments from $150 million in value to $25 million. The bill was part of a package of incentives to attract production of the United States Air Force's new long-range bomber to California (AB 2389, Fox, and SB 718, Roth, 2014). The specific programmatic changes sunset on January 1, 2016, thereby defaulting to the threshold investment amounts and minimum value thresholds to those originally set by the Legislature in 1997. Both bills set the program to sunset entirely on January 1, 2018. However, in 2017, the Legislature extended the program from January 1, 2018, to January 1, 2019, at the request of Imperial County and ES Minerals, a firm seeking to extract lithium from a location near the Salton Sea (AB 755, E. Garcia). Last year the Legislature extended the program once again from January 1, 2019, to January 1, 2024 (AB 1900, Brough, 2018).

GO-Biz report. In November, 2017, GO-Biz submitted a report covering plan activity under the program through June 30, 2017. The report indicated that the following cities had approved a resolution establishing a CIIP:

- The City of Palmdale entered into a 15-year agreement with the Lockheed Martin Corporation, which agreed to invest $385 million in new facilities if it secured the Department of Defense (DOD) contract to manufacture the new strategic aircraft program. The agreement would have paid Lockheed Martin $740,000 annually, with a Community Service Fee of an unspecified amount.
- The County of Los Angeles entered into a 15-year agreement with the Lockheed Martin Corporation if it secured the same contract. The agreement would have paid Lockheed Martin $3.08 million annually, with a community services fee of $1.02 million.

However, DOD awarded the contract to another bidder, so no payments were made. The County of Los Angeles and the City of Long Beach entered into an agreement with Weber Metals, Inc., where the county entered into a 15-year agreement to make a payment of $1.04 million and the city makes one of $709,000, in exchange for annual community service fees of $348,607 and $265,000, respectively. GO-Biz indicated that the facility is currently under construction, so no payments have yet been made. If GO-Biz certifies the investment, it would become the first time the program has been used in its 20-year life. Recently, the City of Riverside and City of El Centro have both adopted CIIP resolutions, and the City of Huntington Beach is considering adopting one, according to GO-Biz. However, no specific project has yet been identified for these jurisdictions. GO-Biz plans to submit its next report later this year.

The author wants to allow cities and counties to offer CIIP incentives to small and mid-size manufacturers.

Proposed Law

Assembly Bill 1248 allows, beginning in the 2020-21 fiscal year, the governing body of a city or county to pay a capital investment incentive amount to the proponent of a qualified targeted manufacturing facility (QTMF), which is defined as a facility that reports manufacturing as its principal business activity on its tax return, and makes an initial investment in the facility of at least $5 million. If the QTMF is located in a jurisdiction that has decided to offer the incentive, the QTMF proponent would receive an amount up to, or equal to, the amount of ad valorem property tax revenue allocated to that particular city or county from the taxation of the facility's total assessed value in excess of $5 million. The bill prevents a facility from receiving more than one QMF or QTMF incentive payment.

AB 1248 requires a city or county that approves payment of an incentive for a QTMF to include the incentives when it submits the approved amount to GO-Biz for inclusion in the CIIP report GO-Biz submits to the Legislature. The bill also requires a city or county to provide the following specifically for QTMFs:

- Programs and projects funded by the community services agreement.
- Economic activity generated in the area where the QTMF is located.

State Revenue Impact

No estimate.

Comments

1. Purpose of the bill. 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. [This bill] 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."

2. Right way? AB 1248 expands CIIP to smaller manufacturers, which allows cities and counties to refund property taxes received solely by that jurisdiction to specified firms, under the assumption that the net economic benefits to that city or county exceed the amounts refunded. While the state foregoes almost $60 billion annually in tax expenditures, some for economic development purposes, is it good public policy for local agencies as well? The Committee may wish to consider the general effectiveness of property tax rebates toward creating economic development.

3. How does this work? If a city council or county board of supervisors approves the proponent's request, he or she pays their property tax as they would normally under current law. The local agency approving the request then sends a payment equal to the amount of the share of the property tax they received on the value of the facility that exceeds $150 million in the case of a QMF or $5 million for QTMF, less the community service fee. Under the existing program for QMFs, a firm that constructs a facility valued at $200 million pays $2 million in tax at a 1% rate. If the local agency approving the request receives a 15% share of the allocated property tax for that property in that specific tax rate area, the payment is $75,000 ($200 million - $150 million = $50 million x 1% rate x the 15% share), less the $18,750 (25%) community service fee, for a net payment of $56,250 annually for up to 15 years. However, since QTMF incentives require a smaller initial investment, the potential benefit to a firm is even less. Under AB 1248, a firm that constructs a facility valued at $10 million, pays $100,000 in tax at a 1% rate. If the local agency approving the request receives a 15% share of the allocated property tax for that property in that specific tax rate area, the payment is $6,000 ($10 million - $5 million = $4 million x 1% rate x the 15% share), less the $1,500 (25%) service fee, for a net payment of $4,500 annually for up to 10 years. The Committee may wish to consider whether AB 1248 will sufficiently impact manufacturers' decisions regarding where to locate their facilities.

4. This just in. Up to this point, no local agency has provided a facility with a CIIP incentive. Los Angeles County continues to work on implementing the program, and the next GO-Biz report will provide an update on their progress. Proponents of expanding the program argue that the initial investment threshold for QMFs is set too high to be effective, but also argue that growth in the manufacturing industry is concentrated between $5 and $55 million in initial investments. The Committee may wish to consider holding off on the expansion of the program until a local agency takes advantage of the existing program and submits information to GO-Biz to evaluate.

5. Reporting requirements. AB 1248 requires cities and counties offering QMTF incentives to not only comply with existing CIIP reporting requirements, but also provide additional reporting information for QMTF recipients. Specifically, the bill requires cities and counties to provide information on the programs or projects established or funded by the community services agreement and the economic activity they generate. However, the larger QMF incentives are not subject to this requirement. The Committee may wish to consider amending the bill to make the reporting requirements consistent for both QMF and QTMF recipients.

6. Subsidies and schools. In addition to counties and cities, special districts can also make incentive payments to manufacturers under the program. However, the underlying law is unclear regarding whether the definition of special districts also includes school districts. If the measure allows school districts to do so, why should school districts shift funds from education purposes to pay for economic development incentives? While current law prohibits special districts from paying the actual property tax allocation to the recipient, likely nullifying any state Proposition 98 backfill for a school district from the state General Fund, the Committee may wish to consider amending the measure to preclude school districts from making incentive payments.

7. Sunset. CIIP, including both subsidies for QMF and QTMF sunsets in 2024. As such, local governments would have four years to offer these incentives before requiring further legislative action.

8. Related legislation. Senate Bill 531 (Glazer, 2019), which this Committee approved on a 5-2 vote, prohibits a local agency from entering into any agreement that results in a rebate of Bradley-Burns local tax revenues to a retailer in exchange for that retailer locating within that agency's jurisdiction.

Assembly Actions

Assembly Local Government Committee:	8-0
Assembly Appropriations Committee:	16-0
Assembly Floor:	77-0

Support and Opposition (6/14/19)

Support: California Manufacturers and Technology Association.

Opposition: Unknown.

-- END --