Office of Senate Floor Analyses
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THIRD READING

Bill No: AB 726
Author: Eduardo Garcia (D)
Amended: 6/21/21 in Senate
Vote: 21

SENATE GOVERNANCE & FIN. COMMITTEE: 5-0, 6/17/21
AYES: McGuire, Nielsen, Durazo, Hertzberg, Wiener

ASSEMBLY FLOOR: 74-0, 4/8/21 - See last page for vote

SUBJECT: Capital investment incentive program: qualified manufacturing facility

SOURCE: Author

DIGEST: This bill allows cities and counties to offer Capital Investment Incentive Program incentives to businesses engaged in the manufacturing of fuels, electrical parts, or components used in clean transportation or the production of alternative fuel or electric vehicles.

ANALYSIS:

Existing law:

1) Creates the Capital Investment Incentive Program (CIIP), which allows counties and cities to pay a capital investment incentive amount for 15 years to a proponent of a qualified manufacturing facility making an initial investment that exceeds $150 million.

2) Requires manufacturing facility proponents to file a request to the city or county, which must be approved by majority vote of the city or county governing body to receive CIIP payments.

3) Provides that, if the city or county approves the request, the 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.

4) Requires a proponent receiving CIIP payments to 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.

5) Allows a city or special district to 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.

6) Requires that the city or county 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.

7) Limits CIIP to manufacturing facilities engaged in commercial production, the perfection of the manufacturing process, or the perfection of a product intended to be manufactured, that also meets the following criteria:

   a) Have an initial investment in real and personal property over $150 million, certified GO-Biz;

   b) Be located within the county or city offering the capital incentive program; and

   c) Be operated by a business within specified North American Industrial Classification System (NAICS) codes, which includes firms engaged in various types of manufacturing, research and development, recovery of minerals from geothermal resources, and components related to electricity production.

This bill:

1) Allows cities and counties to offer CIIP incentives to businesses engaged in the manufacturing of fuels, electrical parts, or components used in the field of clean transportation or the production of alternative fuel vehicles or electric vehicles.

2) Clarifies that special districts do not include school districts for the purposes of CIIP.

Background

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, Chapter 24, Statutes of 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, Chapter 486, Statutes of 2009). In 2012, the Legislature expanded the program (SB 1006, Committee on Budget and Fiscal Review, Chapter 32) 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, Chapter 116, Statutes of 2014) and SB 718 (Roth, Chapter 189, Statutes of 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 EnergySource Minerals, a firm seeking to extract lithium from a location near the Salton Sea (AB 755, E. Garcia, Chapter 709, Statutes of 2017). A couple years ago, the Legislature extended the program once again from January 1, 2019, to January 1, 2024 (AB 1900, Brough, Chapter 382, Statutes of 2018).

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 24-year life. GO-Biz has not received notifications of new CIIP agreements from local governments since 2015, despite receiving several inquiries from local governments and interested manufacturer proponents.

Comments

1) *Purpose of the bill.* According to the author, "The Imperial County, recently coined as The Lithium Valley due to its significant amount of underground lithium deposits, has a unique opportunity to attract battery manufacturers as a result of this natural resource as well as an opportunity to develop other renewable and clean transportation projects. In the past, the County has additionally looked to the CIIP program to attract a significant number of jobs to the region in a county with the highest unemployment rate in the nation. However, currently the CIIP does not incentivize the investment of these clean transportation projects. In order to expand on possible investments into local regions of California and to help meet our clean transportation and air quality goals, the CIIP program needs to include incentives for the manufacturing of fuels, electrical parts, or components in the field of clean transportation or the production of alternative fuel vehicles or electric vehicles."

2) *Right way*? AB 726 expands CIIP to additional 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. The state foregoes almost $75 billion annually in tax expenditures, some for economic development purposes. The CIIP program gives local agencies the option to do so as well. Without the revenue diverted for these incentive payments, local agencies have less funding to pay for important public services such as public health safety. AB 726 expands the program in the hopes that the economic benefits outweigh the foregone revenue. However, these incentives may reward some manufacturers that planned to locate their facility in a particular jurisdiction regardless of the incentive. In these instances, the local agency receives no marginal benefit, and provides a windfall benefit to the manufacturer. No state tax expenditure has yet conclusively demonstrated that its benefits outweigh its costs. Is there any reason to believe that when local agencies offer the incentives, the benefits will prove more conclusive?

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 less the community service fee. 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. Will AB 726 sufficiently influence manufacturers' decisions regarding where to locate their facilities?

4) *Sure, but will it work?* Since CIIP's creation in 1997, various local agencies have sought to use the program, but none have done so successfully. According to GO-Biz, while some local agencies and companies have expressed interest, the office has not received notifications of new CIIP agreements from local governments since 2015. Despite the program's challenges, AB 726 expands the program to cover additional manufacturers. This bill's supporters note that Imperial Valley has come close to executing a successful CIIP program in the past, and that companies have already expressed interest in locating lithium facilities in the Imperial Valley if these incentives materialize. Will expanding CIIP to additional manufacturers make the program more effective?

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 6/19/21)

EnergySource Minerals
Imperial Valley Economic Development Corporation

OPPOSITION: (Verified 6/19/21)

None received

ASSEMBLY FLOOR: 74-0, 4/8/21
AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Wicks, Rendon

NO VOTE RECORDED: Holden, Mullin, Quirk, Wood

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