



GOVERNOR'S OFFICE OF BUSINESS
AND ECONOMIC DEVELOPMENT



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**MINUTES OF THE
CALIFORNIA COMPETES
TAX CREDIT PROGRAM
COMMITTEE MEETING**

For the meeting held on
November 10, 2015

Sacramento City Hall
Council Chambers
915 I Street
Sacramento, CA 95814

And (via teleconference)
Fontana City Hall
Flex Conference Room
8353 Sierra Avenue
Fontana, CA 92335

MEMBERS:

Michael E. Rossi, Chair
*Senior Advisor to the Governor
of California,
Delegate of the Director,
Governor's Office of Business
and Economic Development*

John Chiang
State Treasurer

Michael Cohen, Director
Department of Finance

Denise Zapata, Appointee of
the Senate Committee on Rules

Madeline Janis, Appointee of
the Speaker of the Assembly

A. Call to Order and Roll Call

Chairman Rossi called the meeting of the California Competes Tax Credit Committee (Committee) to order at 9:33 a.m.

Members Present: Michael Rossi, Alan Gordon (representing the State Treasurer), Eraina Ortega (representing the Director of the Department of Finance), Madeline Janis, and Denise Zapata via teleconference.

Members Absent: None

B. Approval of Minutes from June 18, 2015, Committee Meeting

Chairman Rossi called for any questions or comments from the Committee or the public regarding Agenda Item B. Hearing none, he requested a motion to approve Agenda Item B.

Action: Moved/Seconded: Member Gordon/Member Ortega

Yes: Members Rossi, Gordon, Janis, Ortega, and Zapata

No: None



C. Chief Deputy Director's Report

Chief Deputy Director Will Koch provided the Committee with the following updates:

- In July and August of 2015, GO-Biz staff conducted 27 in-person workshops across the state and 2 webinars. In December and January, GO-Biz will be visiting various cities and regions throughout California for another round of workshops.
- The next application period opens up on January 4, 2016, and the next Committee meeting is scheduled for April 14, 2016.
- There are 89 agreements before the Committee representing a net increase of approximately 7,000 full-time jobs and \$600 million of investments in California and the total recommended tax credits is \$43.7 million.
- Agenda Item F contains three previously approved agreements that are recommended for termination by GO-Biz. Each of the three businesses associated with these agreements voluntarily requested termination due to reasons referenced in the agenda.

At the request of Chief Deputy Director Koch and in response to questions that were asked by committee members at the prior committee meeting, Van Nguyen, California Competes Legal Counsel, reviewed the applicable California Revenue and Tax Code sections to provide the Committee with an overview of the roles and responsibilities of this Committee, GO-Biz, and the Franchise Tax Board, as it relates to administration of this program.

First, Mr. Nguyen reported that the statutes make clear that the sole function of the Committee is to approve or reject the agreements GO-Biz recommends for approval or termination. Second, Mr. Nguyen reviewed the statutes that assign GO-Biz the sole authority and responsibility for all actions that lead up to the Committee's decision to approve or reject agreements and recapture recommendations. Third, Mr. Nguyen stated that the Franchise Tax Board is responsible for the review of the business' books and records to ensure agreement compliance. In addition, Mr. Nguyen addressed the legality of adopting regulations that require CCTC applicants to provide demographic information of their employees and concluded that the CCTC statutes contain no provisions authorizing the collection of demographic information of the applicants' employees. Mr. Nguyen indicated that GO-Biz also lacks statutory authority to promulgate regulations pertaining to the collection of employee demographic information from CCTC applicants. Finally, Mr. Nguyen indicated that the Committee cannot direct the Franchise Tax Board to conduct a review of the books and records of all small businesses because the statutes provide the Franchise Tax Board with the sole discretion to determine when such a review is appropriate or necessary in the best interests of the state.

Member Janis requested to have a written copy of Mr. Nguyen's legal analysis and encouraged him to look at the intent of the law to determine if there are other underlying goals of the CCTC program.



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Mr. Nguyen agreed to provide the Committee with a written copy of his legal analysis and encouraged the members to use the factors identified in statute as guidance for their decision-making process.

Member Gordon asked if GO-Biz staff reviews a company's compliance with the law. Chief Deputy Director Koch explained that the CCTC application includes a section on litigation and violations that requires applicants to disclose to GO-Biz the existence of prior violations, tax liens and material litigation. In addition, GO-Biz subscribes to a public records database that provides additional background information on the applicant, as a measure of due diligence. If GO-Biz staff discovers a lien or violation, GO-Biz will request an explanation and ask if it has been resolved. GO-Biz has this process in place to ensure the credit is distributed effectively.

Member Zapata stated that GO-Biz staff has been prompt and thorough in responding to her questions and commented that the Committee members may ask staff questions regarding agenda items prior to the committee meeting. She also recommended that GO-Biz partner with underserved communities for outreach workshops to improve awareness of the CCTC program.

D. Discussion and Approval of CCTC Agreements with Businesses other than Small Businesses

Chairman Rossi called for any questions or comments from the Committee or the public regarding Agenda Item D. Chief Deputy Director Koch stated Member Janis had requested that Agenda items D-5, D-7, D-10, D-13, and D-15 be moved for further discussion after Agenda Item D.

Chairman Rossi moved forward with the request and asked for a motion to approve Agenda Items D-1 through D-59, excluding D-5, D-7, D-10, D-13, and D-15.

Action: Moved/Seconded: Member Gordon/Member Janis

Yes: Members Rossi, Gordon, Janis, Ortega, and Zapata

No: None

The following agenda items were discussed further:

D-5. CHC Consulting, LLC

At the request of Chairman Rossi, Chief Deputy Director Koch elaborated on Agenda Item D-5. Chief Deputy Director Koch stated CHC Consulting, LLC (CHC) is a telecommunications, engineering, and consulting firm whose services include planning, design work, and productivity analysis. In exchange for a \$2 million CCTC, CHC has committed to a net increase of 211 full-time employees and an investment of \$740,000. The jobs CHC is committing to create are in classifications such as engineer, engineering assistant, quality assurance, manager, and computer-aided-design drafter. CHC has indicated it typically hires non-degreed engineers and trains them to become technically proficient managers of their telecom design projects. The jobs CHC is creating in California could be located in other states or countries. The CCTC will incentivize CHC to expand its operations in California.

Member Janis commented that the annual wages for the engineer classification appeared low, ranging from \$31,000 to \$48,000. Jerry Collazo, CHC's CFO, who participated via teleconference,



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explained their company has broken down the engineering process into various phases to train entry level employees who do not have a technical background or an engineering degree. Each employee is vigorously trained in a specific phase and then over time rotates to different phases in the process. The company provides an opportunity for undereducated and inexperienced individuals to become full-fledged engineers.

Chairman Rossi called for any questions or comments from the Committee or the public regarding Agenda Item D-5. Hearing none, he requested a motion to approve Agenda Item D-5.

Action: Moved/Seconded: Member Janis/Member Gordon

Yes: Members Rossi, Gordon, Janis, Ortega, and Zapata

No: None

D-7. Cerner Corporation

At the request of Chairman Rossi, Chief Deputy Director Koch elaborated on Agenda Item D-7. Chief Deputy Director Koch stated Cerner Corporation (Cerner) provides information technology solutions and revenue management services for the healthcare industry. In addition to designing electronic healthcare records systems, Cerner also provides billing and customer relations services for healthcare providers. Cerner is in the process of taking over these revenue management functions for a third party with facilities throughout California. While the job creation in this agreement only reflects the new jobs being created by Cerner in California, the agreement also requires Cerner to keep the 1,300 third-party jobs in California instead of potentially moving these positions to its Missouri facility. In exchange for a \$1.5 million CCTC, Cerner has committed to a net increase of 108 full-time employees and an investment of \$3.9 million. The jobs Cerner is committing to create are in classifications such as engagement leader, application architect, software architect, software engineer, and systems analyst. The CCTC will incentivize Cerner to expand its operations in California instead of facilities in other states.

Member Janis inquired about Cerner's involvement in recent litigation, including allegations of fraud. In addition, she asked Cerner to justify why it needs the credit in light of its recent defense contract.

Chief Deputy Director Koch stated that this industry is highly litigious and after review of the litigation GO-Biz concluded it was not material. Dan Devers, Chief Intellectual Property Officer, who participated via teleconference, confirmed Chief Deputy Director Koch's statements and clarified for Member Janis that the clients involved in the litigation are still clients, and the issue has since been resolved. Lastly, Mr. Devers stated that California is critical to the company's operations and the previously settled litigation will not impact Cerner's ability to create jobs in California.

Chairman Rossi concurred that lawsuits do not necessarily equate to a systemic problem for the company as a whole. Mr. Rossi inquired if the company's financials had received an unqualified opinion or clean audit from a third party. Mr. Devers confirmed that Cerner's most recent audit was clean.



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Member Ortega stated it is clear that GO-Biz staff takes the discovered information seriously, and that nothing that has been presented thus far is grounds for disqualification.

Chairman Rossi called for any questions or comments from the Committee or the public regarding Agenda Item D-7. Hearing none, he requested a motion to approve Agenda Item D-7.

Action: Moved/Seconded: Member Ortega/Member Gordon

Yes: Members Rossi, Gordon, and Ortega

No: Member Janis

Abstain: Member Zapata

D-10. TriWest HealthCare Alliance Corp.

At the request of Chairman Rossi, Chief Deputy Director Koch elaborated on Agenda Item D-10. Chief Deputy Director Koch stated TriWest HealthCare Alliance Corp. (TriWest) administers federal programs that make civilian healthcare provider networks available to supplement the Veterans Administration (VA) Medical Centers. If the VA cannot provide healthcare service to a veteran, TriWest works with its network of civilian healthcare providers to schedule the medical appointment and is responsible for transmitting the medical data between the VA and the non-VA healthcare provider. In exchange for a \$1 million CCTC, TriWest has committed to a net increase of 488 full-time employees and an investment of \$2.6 million. The jobs TriWest is committing to create are in classifications such as medical clerk, patient service representative, care coordinator, quality assurance analyst, and manager. Because TriWest is a healthcare administration company, these jobs do not have to be in California and could be in one of TriWest's facilities in others states. The CCTC will incentivize TriWest to continue to expand its operations in Rancho Cordova and San Diego.

Member Janis requested a response to recent fines levied against TriWest from the Pentagon and allegations of fraud. Robert Wolpert, TriWest's VP & Controller, elaborated that there was an error in the company's automated claims generator. Once the error was discovered, TriWest brought in outside auditors to ensure that all claims were properly billed. Mr. Wolpert clarified that the TriWest has since resolved the issue and has not had any other problems with the Pentagon. In addition, TriWest has recently been awarded contracts with the Department of Veteran Affairs.

Chairman Rossi called for any questions or comments from the Committee or the public regarding Agenda Item D-10. Hearing none, he requested a motion to approve Agenda Item D-10.

Action: Moved/Seconded: Member Ortega/Member Gordon

Yes: Members Rossi, Gordon, Janis, Ortega, and Zapata

No: None

D-13. rPlanet Earth Los Angeles, LLC

At the request of Chairman Rossi, Chief Deputy Director Koch elaborated on Agenda Item D-13. Chief Deputy Director Koch stated rPlanet Earth Los Angeles, LLC (rPlanet) will establish a recycling and manufacturing facility to produce bottles, clamshells, and beverage cups with high-recycled



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content. rPlanet's manufacturing process is expected to utilize about 80% less energy and about 90% less water than the original manufacturing process of similar packaging products. In exchange for an \$875,000 CCTC, rPlanet has committed to a net increase of 122 full-time employees and an investment of \$74 million. The jobs rPlanet is committing to create are in classifications such as technician, marketing and sales representative, accountant, and engineer. All of the growth and investment will take place in Vernon, California, which is where the company is going to build its first state-of-the-art recycling and manufacturing facility.

Member Janis commended this business's mission and GO-Biz staff for their recommendation. She believes this company is a wonderful investment – helping the environment and creating more jobs. She also stated that this is the direction the CCTC program should be heading.

Chairman Rossi called for any questions or comments from the Committee or the public regarding Agenda Item D-13. Hearing none, he requested a motion to approve Agenda Item D-13.

Action: Moved/Seconded: Member Janis/Member Gordon

Yes: Members Rossi, Gordon, Janis, Ortega, and Zapata

No: None

D-15. Aetna Health of California, Inc.

At the request of Chairman Rossi, Chief Deputy Director Koch elaborated on Agenda Item D-15. Chief Deputy Director Koch stated Aetna Health of California, Inc. (Aetna) provides medical, pharmacy, dental, behavioral health, group life, and disability insurance plans. In exchange for a \$700,000 CCTC, Aetna has committed to expand its operations in Fresno, California with a net increase of 225 full-time employees and an investment of over \$29 million. The jobs Aetna is committing to create are in classifications such as customer service, appeals, and grievance agents. With offices throughout the country, Aetna has numerous options when deciding where to hire additional employees in customer service functions. The full-time back office jobs Aetna is proposing to create do not need to be in California, let alone Fresno. The CCTC will incentivize Aetna to expand its operations in California instead of facilities in other states.

Larry Westerland (City of Fresno) thanked GO-Biz staff for the continued outreach in the area – four workshops were hosted in Fresno over the first three application periods, and in this application period 12 Fresno businesses are recommended for an award. Mr. Westerland expressed support for Aetna's approval on behalf of the city and mayor of Fresno. Given, Fresno's high unemployment at 10.3%, the creation of 225 jobs by Aetna would be extremely beneficial.

Member Janis stated she was surprised to see a multi-billion dollar company on the agenda, especially when the healthcare industry is doing so well. She inquired why Aetna needed the CCTC.

Aetna's representatives Susan Beers and Lisa Burke, who participated via teleconference, stated that the company is creating jobs and service centers all over the nation, Fresno being one of those locations. California is a higher cost labor market and this credit would make Fresno a more desirable location for expansion.



Chairman Rossi called for any questions or comments from the Committee or the public regarding Agenda Item D-15. Hearing none, he requested a motion to approve Agenda Item D-15.

Action: Moved/Seconded: Member Ortega/Member Gordon
Yes: Members Rossi, Gordon, Ortega, and Zapata
No: Member Janis

E. Discussion and Approval of CCTC Agreements with Small Businesses

Chairman Rossi called for any questions or comments from the Committee or the public regarding Agenda Item E. Chief Deputy Director Koch stated Member Janis had requested that Agenda item E-5 be moved for further discussion after Agenda Item E. Chairman Rossi moved forward with the request and asked for a motion to approve Agenda Items E-1 through E-30, excluding E-5.

Action: Moved/Seconded: Member Gordon/Member Janis
Yes: Members Rossi, Gordon, Janis, Ortega, and Zapata
No: None

The following agenda items were discussed further:

E-5. Katie May, LLC

At the request of Chairman Rossi, Chief Deputy Director Koch elaborated on Agenda Item E-5. Chief Deputy Director Koch stated Katie May, LLC (Katie May) is a small business that designs, manufactures, and sells wedding gowns. The company sells gowns to boutiques across the nation and directly to brides via its in-house showroom in Los Angeles, California. In exchange for a \$250,000 CCTC, Katie May has committed to a net increase of 26 full-time employees and an investment of \$700,000. The jobs Katie May is committing to create are in classifications such as quality control staff, office manager, sewer, production manager, pattern maker, sales manager, and quality control manager. This credit will help Katie May accelerate its growth plan to create more jobs sooner than it would otherwise be able to.

Member Janis stated that this is the only company on the agenda that has a starting salary less than \$30,000 and that she was happy to see this change. Member Janis expressed concerns about companies that have both low wages and provide no benefits, and questioned whether awarding them a tax credit is a valuable investment for the state. Chief Deputy Director Koch explained the definition of a small business for purposes of the CCTC program and stated that Katie May's minimum wages do grow overtime and the average wage is at \$34,000. Chief Deputy Director Koch also stated that Katie May provides benefits to its employees and covers 60% of the medical premiums for all of its full-time employees.

Chairman Rossi called for any questions or comments from the Committee or the public regarding Agenda Item E-5. Hearing none, he requested a motion to approve Agenda Item E-5.



Action: Moved/Seconded: Member Gordon/Member Ortega
Yes: Members Rossi, Gordon, Janis, Ortega, and Zapata
No: None

F. Discussion and Approval of Recommendations for CCTC Termination and Credit Recapture

Chairman Rossi called for any questions or comments from the Committee or the public regarding Agenda Item F. Hearing none, he requested a motion to approve Agenda Items F-1 through F-3.

Action: Moved/Seconded: Member Gordon/Member Janis
Yes: Members Rossi, Gordon, Janis, Ortega, and Zapata
No: None

G. Public Comment

Member Gordon asked Chief Deputy Director Koch to review the compliance procedure for businesses awarded the CCTC. Chief Deputy Director Koch stated that the tax credits are earned as the milestones outlined in the CCTC agreement are achieved. Businesses are provided with a worksheet to help determine if the milestones have been achieved. The Franchise Tax Board is responsible for reviewing the books and records of businesses awarded the CCTC to verify agreement compliance. The agreements specify that employment and investments goals must both be satisfied. If a business is unable to claim the credit because it cannot achieve the milestones, then the CCTC may be recaptured and then added to the amount of available CCTC in the next fiscal year.

Member Janis wanted to know if a member of the community has information that a company has falsely claimed the credit, how a complaint can be filed. Chief Deputy Director Koch instructed that any complaints can be sent to GO-Biz or the Franchise Tax Board.

H. Adjournment

After asking if there were any additional comments from members of the public or the Committee, and seeing none, Chairman Rossi asked for a motion to adjourn the meeting.

Action: Moved/Seconded: Member Gordon/Member Ortega
Yes: Members Rossi, Gordon, Janis, Ortega, and Zapata
No: None

Chairman Rossi adjourned the meeting at 10:43 a.m.