



GOVERNOR'S OFFICE OF BUSINESS  
AND ECONOMIC DEVELOPMENT



**Edmund G. Brown, Jr**  
*Governor*

**Panorea Avdis**  
*Director*

**Will Koch**  
*Chief Deputy Director*

**Kristen Kane**  
*Deputy Director*  
*California Competes*  
*Tax Credit Program*

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**California Competes Tax Credit Program**

**Committee Meeting**

**Thursday, June 15, 2017**  
**10:30 a.m.**

Department of Food and Agriculture  
Auditorium  
1220 N Street  
Sacramento, CA 95814

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

**MEMBERS:**

**Panorea Avdis**, *Chair*  
*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*

**MINUTES**

**A. Call to Order and Roll Call**

Chair Koch called the meeting of the California Competes Tax Credit Committee (Committee) to order at 10:31 a.m.

**Members Present:** William Koch (representing the Director of Governor's Office of Business and Economic Development), Steve Juarez (representing the State Treasurer), Eraina Ortega (representing the Director of the Department of Finance), and Madeline Janis via teleconference.

**Members Absent:** Denise Zapata

**B. Approval of Minutes from April 13, 2017, Committee Meeting**

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

**Action: Moved/Seconded:** Member Ortega/Member Juarez

**Yes:** Members Ortega, Juarez, Janis

**No:** None

**Abstain:** Chair Koch

**C. Deputy Director's Report**



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- **Agenda Overview – Agreements with 87 Businesses, Total Tax Credits \$62,825,621**

Deputy Director Kristen Kane provided the Committee with the following updates:

- To date, GO-Biz has conducted 133 public workshops across the state and 32 webinars. We will be going back out to do 33 workshops and have another 8 webinars over the summer months. As with previous outreach efforts, the current round will have a particular focus on high need areas of state.
- There are 87 agreements for your consideration today. The agreements represent a net increase of over 6,400 full-time jobs and \$892 million in investments in California. The total in recommended tax credits is \$62.8 million.
- As noted in our previous meeting, our program has new regulations that became effective January 1st of this year. The amendments to the regulations added a new question to our application. Applicants are now required to describe their efforts to recruit and hire a diverse and inclusive workforce, and indicate if 75% of their newly hired employees will work at least 75% of their time in an area of high unemployment or high poverty.
- Additionally, recent changes to our statutes require us to indicate which awardees are in an area of high unemployment or high poverty and which applicants applied as small businesses. These changes have been made to our online postings, resulting in two separate awardee lists: one list for awardees prior to January 1st of this year and one list for all companies awarded after January 1st of this year.

Member Janis asked about the new language on hiring a diverse workforce. She stated her appreciation that more detailed information was given regarding the diversity; however, she indicated that more information could be provided. She asked what applicants were writing on the application besides the standard “we do not discriminate” language, if we are including everything that applicants are saying; and, if not, can we include their complete responses in future staff reports provided to the committee.

Deputy Director Kane stated that this was discussed at the last committee meeting and that the request is being taken under advisement. She further stated that this is something GO-Biz will be considering over the summer and will be in contact with Member Janis for input as to how the responses to the diversity question are presented in the future.

Member Janis asked if it would be feasible to copy and paste what the applicant has stated in the application and give that information to the committee members. She also inquired as to whether GO-Biz asks applicants to report on the actual actions they took with regards to diversity in hiring.

Deputy Director Kane stated GO-Biz does not currently track diversity commitments as part of its compliance process.



Member Juarez indicated that he also would like to see what elements of the program are working through back end reporting, but noted that it should be under reasonable circumstances such as staff availability.

Chair Koch stated that he is certain Deputy Director Kane will engage her team, Member Janis, and any other committee members to come up with ideas on how to proceed.

Chair Koch called for any additional questions or comments from the Committee or public regarding the Deputy Director's Report. Hearing none, he moved on to Agenda Item D.

**D. Discussion and Approval of California Competes Tax Credit Agreements with Businesses other than Small Businesses**

**Total Recommended Tax Credits:** \$49,316,781  
**Total Recommended Tax Credits after Adjusting for S-Corporation Law<sup>1</sup>:** \$52,100,708

Chair Koch called for any questions or comments from the Committee or the public regarding Agenda Item D with the exception of D-12. Hearing none, he asked for a motion to approve all items under Agenda Item D except for item D-12.

**Action Moved/Seconded:** Member Ortega/Member Juarez  
**Yes:** Members Koch, Ortega, Juarez, and Janis  
**No:** None

Chair Koch called for agenda items to be taken out of order. Agenda items E-F were reordered for discussion prior to the discussion of the remaining item under Agenda Item D.

**E. Discussion and Approval of California Competes Tax Credit Agreements with Small Businesses**

**Total Recommended Tax Credits:** \$9,751,580  
**Total Recommended Tax Credits after Adjusting for S-Corporation Law<sup>2</sup>:** \$10,724,913

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

**Action Moved/Seconded:** Member Ortega/Member Juarez  
**Yes:** Members Koch, Ortega, Juarez, Janis  
**No:** None

<sup>1</sup> One-third of the California Competes Tax Credit may be utilized by an S-Corporation to offset the tax on net income at the S-Corporation level (R&TC §23803(a)(1)). The remaining two-thirds is disregarded and may not be used as a carryover for the S-Corporation (R&TC §23803(a)(2)(A)). However, the full amount of the California Competes Tax Credit is also passed through to the S-Corporation's shareholders (R&TC §23803(a)(2)(F)).

<sup>2</sup> One-third of the California Competes Tax Credit may be utilized by an S-Corporation to offset the tax on net income at the S-Corporation level (R&TC §23803(a)(1)). The remaining two-thirds is disregarded and may not be used as a carryover for the S-Corporation (R&TC §23803(a)(2)(A)). However, the full amount of the California Competes Tax Credit is also passed through to the S-Corporation's shareholders (R&TC §23803(a)(2)(F)).



**F. Discussion and Approval of Recommendations for California Competes Tax Credit Agreement Termination and Credit Recapture**

<b>Total Tax Credits Recommended to be Recaptured:</b>	<b>\$1,185,000</b>
<b>Total Tax Credits Recommended to be Recaptured after Adjusting for S-Corporation Law<sup>3</sup>:</b>	<b>\$1,300,000</b>

Chair Koch asked for any comments from the Committee.

Member Janis asked if Franchise Tax Board has recommended termination for any business or if there has been any other non-voluntary recaptures.

Deputy Director Kane stated that all recaptures to date were requested by the businesses. She stated that there have been two annual reports from the Franchise Tax Board with regard to the utilization of the credit as required by law. Deputy Director Kane stated that she plans to have an agenda item at the next Committee meeting to discuss the compliance process. She went on to explain that the reason no business has been presented to the committee for recapture due to noncompliance with or breach of contract is because each company has five years to reach the goals of their contract and no company has reached the five year mark yet. She stated that involuntary recapture is premature at this point in time and that the process will be discussed in further detail at the next committee meeting.

Member Janis asked what happens if a company does not meet its wage goals.

Deputy Director Kane stated that the company is not able to claim the credit until the wage goal is met.

Member Janis asked if anyone checks on whether they met the wage goals.

Deputy Director Kane stated that the Franchise Tax Board is involved in the review and GO-Biz asks for annual self-certification of those goals.

Member Janis asked if she could get a copy of the two annual reports and the self-certifications.

Chair Koch stated that there would be an agenda item the November committee meeting covering the public records request process, so we can have more dialogue on this subject at that time.

Member Janis asked if the committee members are only allowed to see things that are part of the public record.

Chair Koch asked staff to provide a legal analysis of this issue subsequent to this meeting.

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<sup>3</sup> See footnote 2.



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Member Janis stated that she is appreciative of that and as board members under Bagley-Keene, the committee should be given things that are not public records to help with the decision-making process.

Member Ortega stated that the committee can be provided information in closed session, but, you cannot have a closed session to talk about issues in order to keep them from the public. She said that would not be consistent with Bagley-Keene; there would need to be some evaluation of the purpose of the agenda item where confidential information would be discussed. She wants a better understanding of what applicants believe they are sending to us under a confidentiality agreement. She understands that the premise has been that businesses are providing information to the committee as part of their application with the understanding that they are proprietary documents and should not be made public. To balance providing information appropriately, she would like a better understanding of what businesses believe to be confidential information or not. She stated the reports from the Franchise Tax Board are obviously public documents and available to anyone who wants to review them to determine the efficacy of the program.

Member Janis indicated that it does not matter what a company thinks is a public record as the California Public Records Act defines those items that are considered exempt from public disclosure. Also, she indicated that all committee members have legislative privilege which allows them to have information that is not public and they are responsible for protecting those documents; but, she would like more clarity on the issue.

Member Juarez agreed to the extent that more information is needed without violating any confidentiality or privilege. He asked if this committee has ever had a closed session to discuss certain items privately.

Deputy Director Kane responded that there has never been a closed session to her knowledge.

Member Juarez suggested the possibility that a closed session could be used to discuss these sensitive matters without violating confidentiality in the future. He stated that there are limitations to what topics can be discussed in a closed session. He would like to have a discussion about compliance going forward since certain companies will be at the end of their 5-year plan in about 2 years. He suggested that we should be getting ready for that; and, in the November meeting we should discuss some of the items brought up by Member Janis including compliance. Member Juarez asked for clarification as to whether the companies listed under Agenda Item F have come forward and informed the committee that they will no longer need the tax credit.

Deputy Director Kane responded that Member Juarez is correct; these companies for one reason or another, as stated in the agenda, will not be moving forward with their intended project or be able to meet their goals under the contract. She also stated that these companies have relinquished the tax credit of their own decision in order to make the credit available for reallocation.

Chair Koch asked if there were any more questions or comments.

Chair Koch requested a motion to approve Agenda Item F.



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**Action Moved/Seconded:** Member Ortega/Juarez

**Yes:** Members Koch, Janis, Juarez, Ortega

**No:** None

Chair Koch, asked for public comment on this item; hearing none he moved to consideration of the remaining items under agenda item D.

The following Agenda Items were discussed further:

**D-12. GAC Research and Development**

At the request of Chair Koch, Deputy Director Kane elaborated on Agenda Item D-12. Deputy Director Kane stated that GAC R&D Center Silicon Valley, Inc., (GAC) is a company based in China that manufactures automobiles, commercial vehicles, and buses. GAC's project centers on opening a research and development facility in San Jose that will be responsible for car design, creation of various automotive engineering technologies and products, and new material development.

GAC currently has no presence in the United States and intends to staff its new facility with California employees. GAC stated in its application that it has several choices of suitable jurisdictions (including Texas, Michigan, and North Carolina) in which to place its research center. However, it is currently focusing on California, and in particular, the Silicon Valley, because of its highly skilled workforce and ability to support positions in strategic study, prospective design, and prospective technology research. The applicant has stated that the tax credit plays a large part in the decision due to the demands for higher wages in the Silicon Valley. GAC will be providing employment positions with an average employee compensation of \$150,000 that rises to almost \$300,000 per job when including incentive compensation and benefits.

Chair Koch asked if there were any questions.

Member Janis asked if there was a representative from GAC on the telephone.

Tom Bertino, an employee of KPMG representing GAC, stated that Xiaomin Shi, GAC's Finance Director is on the line as well, but will use Ms. Yang, KPMG's translator. Bertino informed the committee members that GAC is a new company in California and that it is formulating its hiring practices and procedures to strive to include employment from all groups.

Member Janis thanked the representatives for making themselves available and asked why this business is in the large category and not in small business category.

Bertino stated that it is based on worldwide group perspective and other affiliated entities that are generating revenue.



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Member Janis asked about those affiliated entities, more specifically who owns them and what they do?

Bertino stated that it would probably be best for Mr. Shi to answer that question.

*Please note: the minutes from this point forward that are attributed to Mr. Shi are as represented by KPMG's translator, Ms. Yang.*

Mr. Shi stated that GAC, Guangzhou Automobile Group Limited, is a Chinese automobile company primarily engaged in diversified businesses including the design of vehicles, auto parts, and sales of cars, mostly in China. He stated that GAC is exploring markets outside of China as well as newer technology related to car industry.

Member Janis asked if the funds were private capital or Chinese government capital.

Mr. Shi stated that the company is a state controlled joint stock company so it is partially owned by the government.

Member Janis stated that the company's plan is to research and develop autonomous vehicle technology and asked for clarification.

Mr. Shi clarified that it is research and development for all types of vehicles that are destined for Asian markets.

Member Janis asked if the business is planning on, once the prototype has been developed, building those vehicles in California.

Mr. Shi stated that during the initial stage, it is more focused on research and development. Then going forward, the eventual manufacturing and other operations may take place in the United States.

Member Janis asked for clarification because she understood it as the research and development is geared towards vehicles for the Asian market.

Mr. Shi stated that for now, it is primarily for the Asian market but they are looking for markets beyond Asia. During the initial stage, the company's focus is on technology for automobiles in China, but it is also exploring the North American market, it will just take some time.

Member Janis asked if the company plans on bringing its own workers on work visas to get started.

Mr. Shi stated that only the Chief Executive Officer and the Chief Financial Officer will be relocated from China. The rest of the employees will be from the local area in California.



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Member Janis asked for clarification about engineers and other technical workers.

Mr. Bertino confirmed that the rest of the employees will be from the San Jose area because the company likes the talent pool in the area.

Member Janis stated that there is an emphasis with public money to encourage companies to hire more women and people of color into the workforce. She asked if they have thought about considering the idea of including more women and people of color and implementing an actual plan in California.

Mr. Shi stated yes, they will do their best.

Member Janis stated that she has no further questions.

Chair Koch called for any additional questions or comments from the Committee or the public regarding Agenda Item D-12. Hearing none, he requested a motion to approve Agenda Item D-12.

Member Juarez asked about the distinction between a large and small business.

Deputy Director Kane stated that it is based on gross receipts. If a company has gross receipts from one penny to \$2 million, it is considered a small business; and, if a company has no gross receipts or over \$2 million, it is considered a large business.

**Action Moved/Seconded:** Member Ortega/Juarez

**Yes:** Members Koch, Janis, Juarez, Ortega

**No:** None

**I. Adjournment**

Chair Koch adjourned the meeting at 11:09 a.m.