



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
April 16, 2015

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

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

MEMBERS:

Michael E. Rossi, Chair
*Senior Advisor to the Governor
of California,
Delegate to the Director,
Governor's Office of Business &
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 1:38 p.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

Chairman Rossi welcomed the newest member, Madeline Janis.

B. Approval of Minutes

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 Michael Rossi, Alan Gordon, Madeline Janis, Eraina Ortega, Denise Zapata

No: None



GOVERNOR'S OFFICE OF BUSINESS
AND ECONOMIC DEVELOPMENT



C. Deputy Director's Report

Deputy Director Will Koch provided an update on outreach efforts across the state. Specifically, since January 2015, California Competes staff conducted 27 in person workshops, including workshops in Chico, Salinas, Fresno, Bakersfield, and Indio, and two online webinars. Within the last year, over 2,000 businesses and economic development professionals have attended these workshops with more to come in mid-to-late July. Deputy Director Koch announced the next Committee meeting is scheduled for June 18, 2015, for the application period that ended on April 6, 2015, and that GO-Biz will announce application periods for fiscal year 2015-16 by the end of June 2015. Deputy Director Koch also stated that the agreements before the Committee represent over 13,000 jobs and over \$3 billion in investments in California and the total recommended tax credits are over \$71 million.

Deputy Director Koch concluded by requesting from the Chair that agenda Item D-5 (National Steel and Shipbuilding Company) be moved for further discussion after Agenda Item F-1.

Chairman Rossi granted the request and called for any questions or comments from the Committee regarding Agenda Item C and Member Janis indicated she had some clarifying questions and additional commentary.

Member Janis wanted clarification regarding how California Competes staff analyzes applicants that certify that "but for" the credit, they would move out of the state. She wanted to ensure that staff avoid responding to threats and focus on applicants that truly are at risk of leaving the state.

Deputy Director Koch addressed Member Janis' concerns, explaining that California Competes staff does assess the validity of these assertions in the application review process. As part of the initial outreach for this program, there was overwhelming support from stakeholders to ensure retention of businesses within the state. Allowing businesses to bypass Phase I and enter Phase II automatically allows California Competes staff to enter into a dialogue with the applicant to determine if the extent to which the applicant's intent to leave the state is true. In addition to staff analysis, a CEO, President, or other authorized representative of the business must submit a signed declaration verifying that this information is correct.

Member Janis also inquired if the applications can be submitted under penalty of perjury. Deputy Director Koch explained that businesses, when making a declaration with regards to their status as a "retention" applicant that will or may reduce a portion of its California employees, have to attest to the Franchise Tax Board (FTB) under penalty of perjury that the information is true. Furthermore, part of FTB's post-award role is to review the credit recipient's records to determine the validity of the information submitted in the application and whether a breach of contract has occurred.



GOVERNOR'S OFFICE OF BUSINESS
AND ECONOMIC DEVELOPMENT



Member Janis requested clarification on how California Competes staff verifies that applicants meet minimum salary milestones and if professional development is considered during the evaluative process. She also asked how disadvantaged or unemployed workers are addressed through the process. Deputy Director Koch explained that the FTB reviews and verifies if the minimum salary milestones are met and during the application period, the California Competes staff determines if the proposed minimum salaries are realistic for that industry. Additionally, he confirmed that professional development and nature of employees is considered in the evaluation process.

Member Gordon inquired if the application also asks for violations or any material litigation that applicants may be involved in. Deputy Director Koch confirmed that this information is requested during the Phase I application process.

Member Ortega expressed concerns about the drought in California and wanted to know if there will be any restrictions on some of the proposed projects and if this will be a factor going forward. Deputy Director Koch responded to Member Ortega that this could be looked at moving forward.

Member Zapata requested more attention be paid to applicants from the Coachella and Imperial Valley.

D. Discussion and Approval of Applications for the California Competes Tax Credit from Businesses other than Small Businesses

Chairman Rossi called for any questions or comments from the Committee or the public regarding Agenda Item D. Hearing none, he requested a motion to approve Agenda Items D-1 through D-67, excluding D-5 to be heard following Agenda Item F-1.

Action: Moved/Seconded: Member Gordon/Member Ortega

Yes: Members Michael Rossi, Alan Gordon, Madeline Janis, Eraina Ortega, Denise Zapata

No: None

E. Discussion and Approval of Applications for the California Competes Tax Credit from Small Businesses

Chairman Rossi called for any questions or comments from the Committee or the public regarding Agenda Item E. Hearing none, Chairman Rossi requested a motion to approve Agenda Items E-1 through E-27.

Action: Moved/Seconded: Member Ortega/Member Gordon

Yes: Members Michael Rossi, Alan Gordon, Madeline Janis, Eraina Ortega, Denise Zapata

No: None

F-1. Discussion and Approval of California Competes Tax Credit Novation Agreement

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



GOVERNOR'S OFFICE OF BUSINESS
AND ECONOMIC DEVELOPMENT



Action: Moved/Seconded: Member Gordon/Member Ortega

Yes: Members Michael Rossi, Alan Gordon, Madeline Janis, Eraina Ortega, Denise Zapata

No: None

Chairman Rossi asked if there were any other comments from members of the public and one individual came forward to speak.

Jim Zortman, Northrup Grumman Systems Corporation, stated he was thankful for the California Competes Tax Credit and believes it will significantly help the company in the future. He further explained that the credit will support the company's continued investment in areas that need jobs.

D-5. Discussion of National Steel and Shipbuilding Company

At the request of Chairman Rossi, Deputy Director Koch elaborated on Agenda Item D-5. Deputy Director Koch stated National Steel and Shipbuilding Company (NASSCO) is the largest, full service shipyard on the West Coast, capable of maintaining and repairing any sized ocean-going vessel. NASSCO is also a Master Ship Repair contractor for the US Navy and serves as a principal repair facility for the ships of the Pacific Fleet. In exchange for \$2 million in California Competes Tax Credit, NASSCO has committed capital investments of more than \$100 million for upgrades and modernization of its floating dry docks, cranes, and the purchase of computer equipment and software and other manufacturing equipment.

Additionally, NASSCO will not only retain its California workforce of 3,043 full-time employees, it will increase its workforce by 384 full-time California employees over the next five years, largely comprised of welders, electricians, engineers, and pipefitters. These employees will have an average annual salary of approximately \$40,000 per year. Deputy Director Koch further elaborated that the California Competes program does not count overtime and these types of skilled labor jobs often involve overtime, which could boost those salaries well over 40K per year.

GO-Biz received letters of support from the following:

- San Diego Mayor, Kevin Faulconer
- San Diego County Board of Supervisors, Greg Cox
- San Diego Regional Economic Development Corporation
- California State Senator, Joel Anderson
- California State Senator, Marty Block

GO-Biz received letters of concern from the following:

- California Labor Federation
- California Conference of Machinists

Deputy Director Koch addressed the letters of concern by clarifying that the California Competes program only considers W2 employees and NASSCO's net increase of 384 full-time employees will



GOVERNOR'S OFFICE OF BUSINESS
AND ECONOMIC DEVELOPMENT



be W2 employees. 1099 contractors or subcontractors are not counted towards achievement of the employment milestones. Regarding the concern expressed around NASSCO's compliance with the new paid sick leave law that goes into effect July 1, 2015, Deputy Director Koch has spoken to NASSCO and the company asserts that it is currently bargaining in good faith with its unions on this issue.

Chairman Rossi called for any additional comments from the Committee or the public on Agenda Item D-5 and three individuals came forward to speak.

Sara Flocks, California Labor Federation, stated she has the utmost respect for the California Competes Tax Credit program. She applauded the program's transparency and the efforts of the staff to reach out to stakeholders and businesses throughout the state. Flocks informed the Committee that the labor unions are concerned about NASSCO's labor practices. Specifically, NASSCO has told employees that it will not implement the new paid sick leave law (AB 1522). In addition, the unions communicated that NASSCO is using subcontractors for extended periods of time. Flocks would like to see additional information from the company certifying that none of these subcontractors were included as new full-time jobs in the California Competes Tax Credit Agreement.

Shane Gusman, California Conference of Machinists, supports Flocks' comments and stated local workers have communicated the same concerns. The California Conference of Machinists does not oppose the approval of the agreement for NASSCO, but is requesting additional information be provided.

Mark Aprea, (a partner with Aprea and Micheli) representing NASSCO, thanked the staff for providing a summary of company and its proposed project. He stated that while NASSCO may use temporary subcontractors on occasion, this is only in response to unexpected spikes in demand. In general, the company uses its permanent employees and has many training programs in place to support employee development. NASSCO is currently in active negotiations with California's labor unions to ensure full compliance with the paid sick leave law. Lastly, he emphasized that the California Competes Tax Credit would ensure new jobs and competitiveness within the industry.

Member Zapata requested to see the information about the number of subcontractors employed at the company, with a breakdown of subcontractors versus full-time employees.

Member Janis had additional commentary and concerns about the types of employees included in the California Competes Tax Credit Agreement for NASSCO. Specifically, she inquired about the following:

- Does this project meet our standards?
- In the last few years, has the company moved jobs from San Diego to its related legal entity located in Mexico? What are the employees doing in Mexico and are they related to the jobs in San Diego?



GOVERNOR'S OFFICE OF BUSINESS
AND ECONOMIC DEVELOPMENT



- What is the minimum wage that the company is proposing? What are most of the workers making, exclusive of overtime?
- What percentage of the base year and proposed new full-time employees are subcontractors versus directly employed by the company?

Member Janis also inquired about how California Competes staff reviews proposals with minimum wage employees and to what extent staff is factoring out these employers creating minimum wage jobs.

Deputy Director Koch explained that this program measures the applicant's state-wide employment on an annual full-time equivalent basis. He explained that this will include some minimum wage jobs, especially as applicants account for attrition and replacement of lower-wage employees. In Phase II of the application process, employee compensation and benefit information for each employee classification is requested to fully understand the true average and minimum salaries of the proposed full-time employee positions. Furthermore, every applicant awarded a credit must certify to GO-Biz annually that it has achieved its contractual milestones. If an applicant fails to meet its contractual milestones, then the applicant will not receive the tax credit. In addition, the FTB will review the minimum and average salaries via payroll records as part of the compliance aspect of the program.

Member Janis requested a response from California Competes staff and NASSCO to all of her questions at the next committee meeting.

Member Gordon commented that California Competes staff does a wonderful job providing the agenda and relevant information to the Committee ten days prior to the Committee Meeting. He also expressed concern at the late objections brought forward and encouraged members of the public to please avoid late objections if possible to allow the members of the Committee an appropriate amount of time to review the concerns.

Chairman Rossi moved to have California Competes staff verify the statements made by NASSCO and to address the concerns brought up by the Committee and members of the public.

Action: Moved/Seconded: Chairman Rossi/Member Gordon

Yes: Members Michael Rossi, Alan Gordon, Madeline Janis, Eraina Ortega, Denise Zapata

No: None

G. Public Comment

Chairman Rossi called for any other questions or comments from the public or the Committee and one individual came forward to speak.

Audrey Taylor, Chabin Concepts, complimented the staff for their hard work and efforts. She commented that, in her experience of representing companies from rural areas, the economic



GOVERNOR'S OFFICE OF BUSINESS
AND ECONOMIC DEVELOPMENT



impact of low paying jobs can be significant to communities with traditionally high unemployment. Taylor also supports the Committee's initiative to favor drought conscious businesses.

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 Michael Rossi, Alan Gordon, Madeline Janis, Eraina Ortega, Denise Zapata

No: None

Chairman Rossi adjourned the meeting at 2:18 p.m.