

An act to add and repeal Article 4.4 (commencing with Section 12096.6) of Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government Code, and to amend Section 18410.2 of, and to add Article 8 (commencing with Section 19292) to Chapter 5 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, relating to California Competes Grant Program.

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 4.4 (commencing with Section 12096.6) is added to Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government Code, to read:

Article 4.4. California Competes Grant Program

12096.6. For purposes of this article, all of the following definitions apply:

(a) "Applicant" means any taxpayer, including, but not limited to, an individual, corporation, or partnership, submitting a California Competes Grant Program application to GO-Biz that is a person or entity legally authorized to do business in California or that will incorporate, qualify, or register with the Secretary of State to do business in California prior to the execution of an agreement under this article.

(b) "California Competes Grant Program" means the program that authorizes the grants allowed under this article.

(c) "Committee" means the California Competes Tax Credit Committee established in Section 18410.2 of the Revenue and Taxation Code.

(d) "GO-Biz" means the Governor's Office of Business and Economic Development.

(e) "Qualified grantee" means an applicant for grants under this article that satisfies the requirements of subdivision (b) of Section 12096.6.1.

(f) "Recaptured grant amount" shall mean the amount identified in any recommendation for recapture of a grant approved, in whole or in part, by the committee pursuant to this article and Section 18410.2 of the Revenue and Taxation Code.

12096.6.1. (a) Upon appropriation by the Legislature, GO-Biz shall establish the California Competes Grant Program pursuant to this article.

(b) Upon appropriation by the Legislature, GO-Biz is authorized to provide grants pursuant to this article. GO-Biz shall provide grants only to an applicant that meets at least one of the following criteria:

(1) The applicant will create at least 500 new, full-time jobs in this state, determined on the basis of an annual full-time equivalent, as defined in Section 8000 of Title 10 of the California Code of Regulations, as that section read on January 1, 2021.

(2) The applicant will make a significant infrastructure investment in this state.

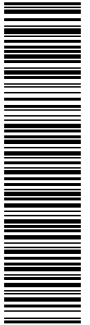
(3) The applicant will create jobs or make the investments in a high-need or high-opportunity area, as those terms are defined by GO-Biz, in this state.

(4) The Director of GO-Biz designates the applicant's application as strategically important to the state.

(c) The committee shall approve or reject grants pursuant to subdivision (b) of Section 18410.2 of the Revenue and Taxation Code.

(d) (1) The amount of a grant shall be set forth in a written agreement between GO-Biz and the qualified grantee, and shall be based on the factors as described in subparagraphs (A) to (L), inclusive, of paragraph (2) of subdivision (a) of Sections 17059.2 and 23689 of the Revenue and Taxation Code, and considerations described in paragraph (2).

(2) When determining whether to enter into a written agreement with a qualified grantee pursuant to this section, GO-Biz shall consider the extent to which the grant



will influence the qualified grantee's ability, willingness, or both, to create jobs in this state that might not otherwise be created in the state by the qualified grantee or any other California business. GO-Biz may also consider other factors, including, but not limited to, all of the following:

(A) The financial solvency of the qualified grantee and the qualified grantee's ability to finance its proposed expansion.

(B) The qualified grantee's current and prior compliance with federal and state laws.

(C) Current and prior litigation involving the qualified grantee.

(D) The reasonableness of the fee arrangement between the qualified grantee and any third party providing any services related to the grant allowed pursuant to this section.

(E) Any other factors GO-Biz deems necessary to ensure that the administration of the California Competes Grant Program allowed pursuant to this article is a model of accountability and transparency and that the effective use of the limited amount of grant funds is maximized.

(e) A qualified grantee shall receive a grant pursuant to this article only if the qualified grantee has not received a tax credit, pursuant to Sections 17059.2 or 23689 of the Revenue and Taxation Code, for the same jobs or investment on which the grant is sought.

(f) The written agreement described in subdivision (d) shall include both of the following:

(1) Provisions indicating whether the grant is to be allocated in full upon approval, or in increments based on mutually agreed-upon milestones, when satisfactorily met by the qualified grantee.

(2) Provisions that allow the committee to recapture the grant, in whole or in part, if the qualified grantee fails to fulfill the terms and conditions of the written agreement.

12096.6.2. (a) A grant may be recaptured, in whole or in part, if the qualified grantee fails to fulfill the terms and conditions of the written agreement entered into pursuant to Section 12096.6.1.

(b) Any recapture, in whole or in part, of a grant approved by the committee pursuant to Section 18410.2 of the Revenue and Taxation Code shall be collected by the Franchise Tax Board pursuant to Article 8 (commencing with Section 19292) of Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(c) Amounts recaptured pursuant to Article 8 (commencing with Section 19292) of Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation Code shall be transmitted to the General Fund, and, if necessary, transferred to the fund from which the appropriation was made, if not the General Fund.

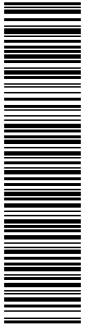
12096.6.4. (a) GO-Biz shall do all of the following:

(1) Negotiate with a qualified grantee the terms and conditions of proposed written agreements that provide the grant allowed pursuant to this article to a qualified grantee.

(2) Provide the negotiated written agreement to the committee for its approval pursuant to Section 18410.2 of the Revenue and Taxation Code.

(3) Post on its internet website all of the following:

(A) The name of each qualified grantee allocated a grant.



(B) The estimated amount of the investment by each qualified grantee.
 (C) The estimated number of jobs created or retained.
 (D) The amount of the grant approved for the qualified grantee.
 (E) The amount of the grant recaptured from the qualified grantee, if applicable.
 (F) The primary location where the grantee has committed to increasing the net number of jobs or making investments. The primary location shall be listed by city or, in the case of unincorporated areas, by county.

(b) The Franchise Tax Board shall do both of the following:

(1) Review the books and records of all qualified grantees allocated a grant pursuant to this section to ensure compliance with the terms and conditions of the written agreement between the qualified grantee and GO-Biz.

(2) Notwithstanding Section 19542 of the Revenue and Taxation Code, notify GO-Biz of a possible breach of the written agreement by a qualified grantee and provide detailed information regarding the basis for that determination.

12096.6.5. (a) The Franchise Tax Board and GO-Biz may prescribe regulations as necessary or appropriate to carry out the purposes of this article.

(b) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1) shall not apply to any regulation, standard, criterion, procedure, determination, rule, notice, guideline, or any other guidance established or issued by the Franchise Tax Board or GO-Biz pursuant to this article.

(c) Except as provided in this article, Section 19542 of the Revenue and Taxation Code shall apply to all information obtained by the Franchise Tax Board and GO-Biz for the purpose of administering the California Competes Grant Program.

(d) Notwithstanding Section 19542 of the Revenue and Taxation Code, the Franchise Tax Board may disclose information to GO-Biz and GO-Biz may disclose information to the Franchise Tax Board for administration of the California Competes Grant Program.

12096.6.6. This article shall be repealed on January 1, 2030.

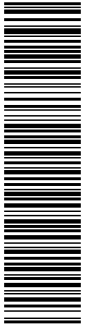
SEC. 2. Section 18410.2 of the Revenue and Taxation Code is amended to read:

18410.2. (a) The California Competes Tax Credit Committee is hereby established. The committee shall consist of the Treasurer, the Director of Finance, and the Director of the Governor's Office of Business and Economic Development, who shall serve as chair of the committee, or their designated representatives, and one appointee each by the Speaker of the Assembly and the Senate Committee on Rules. A Member of the Legislature shall not be appointed.

(b) For purposes of Article 4.4 (commencing with Section 12096.6) of Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government Code and Sections 17059.2 and 23689, the California Competes Tax Credit Committee shall do all of the following:

(1) Approve or reject any written agreement for a tax credit or grant allocation by resolution at a duly noticed public meeting held in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), but only after receipt of the fully executed written agreement between the taxpayer and the Governor's Office of Business and Economic Development.

(2) Approve or reject any recommendation to recapture, in whole or in part, a tax credit or grant allocation by resolution at a duly noticed public meeting held in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with



Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code), but only after receipt of the recommendation from the Governor's Office of Business and Economic Development pursuant to the terms of the fully executed written agreement.

(c) For purposes of Article 4.4 (commencing with Section 12096.6) of Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government Code and Sections 17059.2 and 23689, the Governor's Office of Business and Economic Development shall provide a member of the committee, or their designated representatives, listed in subdivision (a), upon request of that member, with any information necessary to fulfill their duties or otherwise comply with the requirements of this section. Nothing in this subdivision shall be construed to require the Governor's Office of Business and Economic Development to provide information to the member or their designated representative that the applicant considers to be a trade secret, confidential, privileged, or otherwise exempt from disclosure under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

SEC. 3. Article 8 (commencing with Section 19292) is added to Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation Code, to read:

Article 8. Collection of Recaptured California Competes Grants

19292. For purposes of this article, all of the following definitions apply:

(a) "California Competes Grant Program" means the program that authorizes the grants allowed under Article 4.4 (commencing with Section 12096.6) of Chapter 1.6 of Part 2 of Division 3 of Title 2 of the Government Code.

(b) "Committee" means the California Competes Tax Credit Committee established in Section 18410.2.

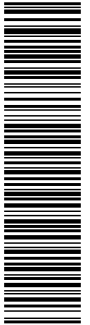
(c) "GO-Biz" means the Governor's Office of Business and Economic Development.

(d) "Qualified grantee" means an applicant for grants the California Competes Grant Program that satisfies the requirements of subdivision (b) of Section 12096.6.1 of the Government Code.

(e) "Recaptured grant amount" shall mean the amount identified in any recommendation for recapture of a grant approved, in whole or in part, by the committee pursuant to the California Competes Grant Program and Section 18410.2 of this code.

19293. (a) GO-Biz shall provide to the Franchise Tax Board a list of qualified grantees and their respective recaptured grant amounts as approved, in whole or in part, by the committee pursuant to Section 18410.2 for collection.

(b) Any recaptured grant amount shall be treated as final and due and payable to the State of California, and shall be collected from the qualified grantee by the Franchise Tax Board in any manner authorized under the law for collection of a delinquent personal income tax liability, including, but not limited to, issuance of an order and levy under Article 4 (commencing with Section 706.070) of Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure in the manner provided for earnings withholding orders for taxes, and any overpayment of any liability imposed under this part or, Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001) shall be credited against any balance due pursuant to this section.



(c) The Controller may, in the Controller's discretion, offset any amount due a qualified grantee by a state agency against any recaptured grant amount pursuant to Article 2 (commencing with Section 12410) of Chapter 5 of Part 2 of Division 3 of Title 2 of the Government Code.

(d) This part and Part 10 (commencing with Section 17001), Part 10.7 (commencing with Section 21001), and Part 11 (commencing with Section 23001) shall apply to amounts provided to the Franchise Tax Board under this section in the same manner and with the same force and effect and to the full extent as if the language of those laws had been incorporated in full into this article, except to the extent that any provision is either inconsistent with this article or is not relevant to this article.

(e) For amounts that GO-Biz provided to the Franchise Tax Board for collection under subdivision (a), interest shall accrue at the greater of the rate applicable to the amount due being collected or the rate provided under Section 19521. When notice of the amount due includes interest and is mailed to the qualified grantee and the amount is paid within 15 days after the date of notice, interest shall not be imposed for the period after the date of notice.

(f) Any information, information sources, or enforcement remedies and capabilities available to GO-Biz or the state with respect to the recaptured grant amount described in subdivision (a) shall be available to the Franchise Tax Board to be used in conjunction with, or independent of, the information, information sources, or remedies and capabilities available to the Franchise Tax Board.

(g) The activities required to implement and administer this article shall not interfere with the primary mission of the Franchise Tax Board to administer Part 10 (commencing with Section 17001), this part, and Part 11 (commencing with Section 23001).

(h) A collection under this article is not a payment of income taxes imposed under Part 10 (commencing with Section 17001) or Part 11 (commencing with Section 23001) of Division 2 this code.

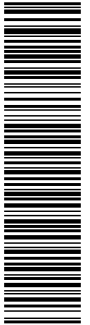
19294. (a) The Franchise Tax Board and GO-Biz may prescribe regulations as necessary or appropriate to carry out the purposes of this article.

(b) The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of the Government Code) shall not apply to any regulation, standard, criterion, procedure, determination, rule, notice, guideline, or any other guidance established or issued by the Franchise Tax Board or GO-Biz pursuant to this article.

(c) Except as provided in this article, Section 19542 shall apply to all information obtained by the Franchise Tax Board and GO-Biz for the purpose of administering the California Competes Grant Program.

(d) Notwithstanding Section 19542, the Franchise Tax Board may disclose information to GO-Biz and GO-Biz may disclose information to the Franchise Tax Board to facilitate the collection of recaptured grant amounts under this article.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes



the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.
General Subject: California Competes Grant Program.

Existing law vests the California Competes Tax Credit Committee (committee) with the authority to approve or reject written agreements between the Governor's Office of Business and Economic Development and a taxpayer related to the California Competes tax credit (office).

This bill would create, until January 1, 2030, and upon appropriation, a California Competes Grant Program. The bill would authorize the office to provide grants to an applicant that meets specified criteria relating to the creation of jobs or investments in the state, following the receipt of a fully executed written agreement containing certain provisions between the office and a qualified grantee, as defined. The bill would provide that the grant is only available for applicants, as defined, that have not received a California Competes tax credit for the same jobs or investments for which the grant is to be allocated. The bill would set forth procedures for recapturing grant amounts if the qualified grantee fails to satisfy the terms of the written agreement and would set forth additional duties of the committee and office in relation to the program.

Existing law makes it a misdemeanor for the Franchise Tax Board or any member thereof, or as specified, who in the course of their employment or duty has or had access to returns, reports, or documents required to be filed under specified laws, to disclose or make known in any manner information as to the amount of income or any particulars, as provided.

This bill would also make this provision applicable to all information obtained by the Franchise Tax Board and office for the purpose of administering the program and recapturing grant amounts. By expanding the scope of a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

