Date of Hearing: January 6, 2014

ASSEMBLY COMMITTEE ON BANKING AND FINANCE
Roger Dickinson, Chair
AB 495 (Campos) – As Amended: January 6, 2014

SUBJECT: Community investment.

SUMMARY: Establishes the California Community Investment Program (CCIP) with the Governor's Office of Business and Economic Development (GOBiz). Specifically, this bill:

1) Defines "poverty" as the supplemental poverty measure, established by the United States Census Bureau in 2013 to incorporate cost of living in the established rate of poverty.

2) Defines "triple bottom-line investment funds" as including, but not limited to, equity and debt investment vehicles that pursue market and above market rates of financial return while at the same time producing good jobs, affordable housing, and other economic, social and environmental benefits for the residents of the communities where the investments are made.

3) Provides for the following purposes of CCIP:

   a) Encourage private sector investment in low-income neighborhoods to improve the economic, environmental and social conditions for existing residents.

   b) Serve investors, employers, corporate executives, business owners and site location consultants who are considering low-income neighborhoods for business investment and expansion; and

   c) Coordinate state programs and funding resources to be used to address poverty reduction.

4) Requires the director of CCIP to establish and implement a process for establishing public education programs and providing technical assistance to private sector investors.

5) Specifies that CCIP shall be governed by a 14 member California Community Investment Council (Council) comprised of the following:

   a) Six appointees from the Governor, three members from the private sector with business or investment expertise, two members with community development expertise and one representative of organized labor;

   b) Four members of the Legislature, two from the Senate, one from each political party, appointed by Senate Rules Committee and two from the Assembly, one from each political party, appointed by the Speaker. Further specifies that appointed members of the Legislature will be non-voting and only participate to the extent that their participation is compatible with their respective positions as Members of the Legislature;

   c) The Treasurer;

   d) The Controller;

   e) Secretary of the Business, Consumer Servicers and Housing Agency; and

   f) Director of GOBiz, who shall also serve as chair of the Council.

6) Requires the CCIP to conduct the following activities:

   a) Develop and annually update a database of low-income neighborhoods in California by county and city with relevant data about each neighborhood;

   b) Compile and maintain a current inventory of California public sector funding resources and financing mechanisms that may be allocated to or utilized in low income communities. Further requires that in compiling this list the Council shall use the inventory of business incentives, public sector funding resources, and financing mechanism maintained by GOBiz; and

   c) Provides that the inventory shall be used to assess the role and impact of all of the following entities and programs on low income neighborhoods:

      i) California Department of Insurance's California Organized Investment Network;

      ii) Federal and State Low-Income Housing Tax Credit Program;

      iii) California Alternative Energy and Advanced Transportation Financing Authority;

      iv) California Pollution Control Financing Authority;

      v) California Transportation Financing Authority;

      vi) Industrial Development Finance Authority;

      vii) The California Infrastructure and Economic Development Bank;

      viii) Health and Human Services Agency;

      ix) Natural Resources Agency;

      x) Energy Commission;

      xi) Public Utilities Commission;

      xii) Local transportation authorities and the Transportation Agency, including all transportation funding proposed by the Department of Transportation or allocated by the California Transportation Commission for expenditure by state or metropolitan planning organizations;

xiii) Greenhouse Gas Reductions Fund administered by the California Environmental Protection Agency;

xiv) California Pollution Control Financing Authority; and

xv) Recycling Market Development Zone administered by CalRecycle.

7) Communities identified by CCIP will be known as "California Community Investment Neighborhoods."

8) Specifies that CCIP shall coordinate public sector financial investment and public programs to assist low-income communities that are eligible California Community Investment Neighborhoods to become business, development, and investment ready and attract private sector triple bottom-line fund investments. These programs shall include, but not be limited to, the following purposes:

a) Economic development, including research and development, manufacturing, small business, and entrepreneurship growth and real estate development that generates in jobs;

b) Housing rehabilitation and construction;

c) School construction, education, and academic performance improvement;

d) Workforce preparation and training;

e) Public safety, community policing, crime prevention, rehabilitation, and probation;

f) Public health, social services, and other human services;

g) Mental health services;

h) Alcohol and other drug abuse prevention and treatment;

i) Recreation and community arts and music programs;

j) Transportation and other mobility infrastructure, including public transit, walkways, and bicycle paths;

k) Other infrastructure, including water, sewer, solid waste, recycling, and lighting;

l) Broadband deployment for high-speed Internet access, other information technology infrastructure, and smart grid;

m) Energy efficiency, weatherization, and renewable energy resources;

n) Environmental quality, resource recycling, community gardens, and local food sourcing services;

o) Homeless facilities and services; and,

9) Requires CCIP to develop and adopt criteria for identifying eligible triple bottom-line investments funds that will serve as partners and invest in enterprises and employers that generate permanent jobs, including investments to assist in starting-up, locating, and expanding employers in low-income neighborhoods. These criteria shall include the spirit and intent of the preponderance of the following criteria as refined and adopted by the California Community Investment Council:

   a) Commitment to locate investments in a low-income neighborhood;

   b) Generation of living wage jobs with benefits for low-income residents;

   c) Projected multiplier effect for generation of additional employment;

   d) Provision of employment benefits, such as health care, retirement plans, profit sharing, and employee stock ownership;

   e) Commitment to local hiring and job training;

   f) Engagement of local, women, and minority business enterprises as suppliers and contractors;

   g) Development and sponsorship of employee training programs, including job training and financial education;

   h) Provision of on site or nearby child care for children of employees;

   i) Use of green building design, construction, renovation, or operations;

   j) Implementation of energy and other resource efficiency, recycling, or pollution prevention programs;

   k) Deployment of broadband high-speed Internet access and other information technologies to support and increase productivity and reduce impacts on the environment;

   l) Implementation of workplace safety or effective ergonomic programs;

   m) Engagement with the local community through volunteer organizations, local school support programs, and other community initiatives;

   n) Production of economically, socially, or environmentally beneficial products and services;

   o) Receipt of green business certification; and,

   p) Production of Corporate Social Responsibility (CSR), Corporate Sustainability, and Creating Shared Value (CSV) reporting;

10) Requires the CCIP to develop and adopt criteria for eligible triple bottom-line investment funds that invest in real estate developments to assist in constructing, expanding, renovating, and rehabilitating buildings in low-income neighborhoods that accommodate all allowed land use approved and permitted by the local government land use regulations. The criteria shall include the spirit and intent of the preponderance of the following, as refined and adopted by the California Community Investment Council:

a) Commitment to locate investments in a low-income neighborhood that benefit low-income residents;

b) Consistency of development with local government land use plans and alignment with local government priorities;

c) Generation of construction jobs with living wages and benefits;

d) Establishment of job training and apprentice programs for local residents;

e) Ownership or equity participation by a local, woman, or minority developer or use of local, women, or minority business enterprises as contractors or subcontractors;

f) Construction of affordable housing, especially as part of a larger mixed-income, mixed-use project to optimize synergies among land uses;

g) Generation of permanent living wage jobs;

h) Retention or generation of permanent living wage jobs;

i) Use of green construction materials and practices;

j) Incorporation of energy efficiencies, waste reduction, and renewable energy resources;

k) Implementation of smart development practices deploying broadband for high-speed Internet access for smart infrastructure and smart buildings, optimizing the utility of a smart grid;

l) Incorporation of a multimodal transportation system that optimizes walking, bicycling, public transit, and other strategies to reduce single-occupant vehicle trips;

m) Design of development consistent with the concept and principles for livable communities;

n) Accommodation of green and clean technology employers;

o) Implementation of low-impact development practices incorporating native vegetation, soil preservation, water use conservation, recycling and other efficiencies, and pervious pavement;

p) Incorporation of parks, recreational areas, open spaces, and other environmental amenities;

q) Accommodation of locations for small and local businesses;

r) Establishment of space for neighborhood organizations, community centers, child care centers, and other nonprofit community-based organizations;

s) Use of bio-regional development practices connecting local and regional sustainable food production with urban consumption; and,

t) Acquisition of LEED certification for buildings and neighborhoods.

11) Mandates that CCIP establish overall triple bottom-line goals and standardized metrics for economic, social, and environmental outcomes that shall be accepted by all eligible investment funds.

12) Specifies that CCIP shall gather evidence and conduct public forums to identify a broad array of incentives that will encourage triple bottom-line fund investments in low-income neighborhoods and take the following actions:

a) Prepare a report to the Legislature and Governor;

b) Establish incentives for which there is existing legal and regulatory authority; and,

c) Recommend appropriate amendments to existing laws and regulations and work with the Legislature and the Governor to secure adoption.

13) Requires CCIP to survey counties and cities to identify and inventory local governments that want to partner with triple bottom-line investment funds to invest in low-income neighborhoods. This survey shall determine if the local government has done any of the following:

a) Approved within the last 10 years a general plan, specific plan, or other land use plan or zoning regulation on which an investor can rely to govern and control development;

b) Identified local public funding or other resources that have been or will be committed to the low-income neighborhood to complement a triple bottom-line fund investment;

c) Designated a person to coordinate alignment of public resources and implementation of development plans with a fund manager;

d) Established county and city school integrated human services teams to serve the low-income neighborhood with goals and accountability to increase employment, improve education, reduce poverty, reduce crime, and improve health status; or,

e) Committed to cooperate in and assist with monitoring and tracking performance outcomes in the low-income neighborhoods;

14) Specifies that CCIP establish and convene regular meetings of the California Community Investment Network comprised of organizations and institutions with expertise and resources to advise the Council and eligible investment fund managers.

15) States that CCIP must report biannually to the Legislature and the Governor on the status and progress of the CCIP and performance on goals and triple bottom-line outcomes.

16) Provides that the CCIP shall encourage significant private sector commitment, cooperation, and collaboration to invest private capital in low-income neighborhoods through eligible triple bottom-line equity funds with the goal of obtaining at least one billion dollars ($1,000,000,000) of new investment by triple bottom-line investment funds in triple-bottom real estate developments and businesses located in low-income California neighborhoods.

17) States that CCIP shall give priority consideration for award of state assistance from public resources, herein identified, to low-income neighborhoods that adopt and implement strategies to become business, development, and investment ready and collaborate with the California Community Investment Program to attract investment by triple bottom-line funds.

18) Requires the Council to adopt criteria for an eligible triple bottom-line equity fund that shall include at least the following:

    a) The fund shall be legally structured to comply with both the spirit and intent of the preponderance of the relevant criteria delineated in subdivisions (d) and (e) of Section 12099.2, as refined and adopted by the California Community Investment Council, including triple bottom-line goals and outcomes with explicit metrics;

    b) The fund shall be managed by a reputable fund manager with a track record of experience and performance with triple bottom-line funds;

    c) The fund shall attain a scale of at least one hundred million dollars ($100,000,000,000) in capital;

    d) The fund shall be committed to working with relevant local government jurisdictions to optimize the alignment of state public funding and resources and local government funding and resources;

    e) The fund shall include experienced personnel to manage coordination with appropriate state and local government public funding or other resources. This shall be accomplished wither by the fund manager or through a contractual relationship between the fund manager and an appropriate nonprofit organization; and

    f) The fund shall be organized to track performance and report metrics for triple bottom-line goals and outcomes;

19) Requires CCIP to give priority consideration to working with triple bottom-line funds that meet the criteria established by the California Community Investment Council, with first attention to those funds with the largest amount of capital.

20) Mandates that CCIP shall assist funds meeting these criteria to identify and make appropriate investments in investment ready low-income communities and shall work with these funds to coordinate all of the appropriate state and local financial and programmatic resources to assist these investments to succeed.

EXISTING LAW establishes the Governor's Office of Business and Economic Development. (Government Code, Section 12096 et seq)

FISCAL EFFECT: Unknown, but specifies that the CCIP must be staffed by GOBiz using existing resources.

COMMENTS:

According to information provided by the author's office this bill is necessary for the following:

> Poverty is increasing in California, and the state lacks a coordinated economic development strategy to bring social equity private investment to low-income neighborhoods. According to the supplemental poverty measure, established by the U.S. Census Bureau in 2013 to incorporate cost of living in the establishment of the rate of poverty, the rate of poverty in California is 23.5%, which means that nearly nine million people are poor. Low-income neighborhoods face challenges in accessing capital. One way to address poverty is to increase public and private investment in resource poor neighborhoods through triple bottom line investing. Triple bottom line investing promotes a market or above market rate of economic return, environmental protection, and social equity. However, private investment won't flow into low-income neighborhoods unless the state can help underwrite the risk of crime, poverty, low job skills, and poor infrastructure. While the state has numerous programs aimed at reducing poverty and promoting economic development, none of this is organized or coordinated.
>
> AB 495 seeks to provide a structure within state government to coordinate public investment so that it complements and encourages triple bottom line investing into low-income neighborhoods. The triple bottom line investment sector consists of funds like the Bay Area Family of Funds organized by the Bay Area Council. The Bay Area Family of Funds is a regional effort to attract private capital into low and moderate income neighborhoods. The Family of Funds leverages its investments in these communities through projects that promote smart growth, address poverty, support local businesses and clean up contaminated sites with market-based solutions.
>
> It has raised over $215 million for double and triple bottom line investments through four separate funds: the Bay Area Smart Growth Funds I & II, the Bay Area Equity Fund, and the California Environmental Redevelopment Fund. The Funds' investors consist of banks, foundations, pension funds, insurance companies, individuals, and other corporations. The triple bottom line sector of the private capital market has matured over the past decade and is positioned to accelerate its investment in low-income neighborhoods if the state is able to step-up and help mitigate the risk that social equity investors face.

Triple Bottom Line (TBL) Investing.

The goal of AB 495 is to encourage greater investment in communities in need TBL investments. What is TBL investing? In traditional business accounting, the "bottom line" is the sum of revenue minus expenses, which is either a loss or a profit. The term originated from the profit is always shown at the very bottom of the statement of revenue and expenses. In the last 50 years, social and environmental justice groups have struggled to bring a broader definition of "bottom line" into public consciousness. The concept of TBL is designed to bring about other bottom lines, often paraphrased as "profit, people, planet." These other bottom lines are social and environmental concerns that provide a societal benefit. TBL accounting gained attention in the mid-1990s when John Elkington, an authority on corporate responsibility and sustainability, came up with TBL as a way to measure the sustainability outcomes of corporate America. Andrew W. Savitz, author of The Triple Bottom Line and formerly a lead partner running PricewaterhouseCoopers' sustainability consulting practice has said the TBL "captures the essence of sustainability by measuring the impact of an organization's activities on the world… including both its profitability and shareholder values and its social, human and environmental capital."

While profits can be measured in dollars, how does one measure social capital? This remains a significant challenge. There is no universal standard method for calculating the TBL nor is there a universal standard for the measures that compromise the three TBL categories. Government and business may view sustainability in different terms. Stakeholder groups, such as socially responsible investors, non-governmental organizations, green consumers, and governmental regulators and agencies are increasingly calling for information related to the social and environmental dimensions.

TBL is not without its critics. Notwithstanding the difficulties of quantification, a report, Triple Bottom Line: A Business Metaphor for a Social Construct, had a negative view of TBL as a metaphor for the "bottom line." The author's found,

> *We conclude that the bottom line as a metaphor for measuring and reporting business' contribution to social sustainability is fatally flawed. The metaphor's application through current triple bottom line reporting protocols allows businesses to ignore critical sustainability concerns for several reasons. First, businesses attempting to legitimate themselves without actually addressing sustainability can use the reporting exercise to co-opt the external pressure for true sustainability. Due to the lack of mandatory standards, businesses freely pick and choose which characteristics they measure, derive their own metrics and standards for these characteristics, and produce a report that reveals precisely what they wish to disclose. The bottom line metaphor implies rigor and objectivity that fail to exist in these situations. Second, businesses that start with a genuine commitment to enhancing their sustainability efforts can be distracted as the inter-relationships among the dimensions are masked by the apparent independence of the three "bottom lines". There is neither demand to analyze inter-relationships nor pressure to consider how the impacts from one dimension affect the others. The focus is an atomistic one, a (relatively) easy and uninformed perspective for addressing sustainability objectives. Third, the fundamental differences between the three the triple bottom line elements make using a single framework problematic. The major differences are in: the ability to identify, quantify, and measure these central constructs; the applicability of being metaphorically designated as capital; and the metaphorical*

> *representations and conceptual approaches to understand, quantify, and report the dimensions.*

In spite of these academic concerns, TBL investing has gained legitimacy over the last decade as private investors attempt align to their investment portfolios with socially responsible goals. The California Emerging Technology Fund writes in support of AB 495:

> The Community Capital Investment Initiative does not require any new State funds nor does it incur any financial liability for the State government. However, CCII will help support living-wage jobs, affordable housing, a healthier environment and improved community services in low-income communities. CCII will be led and managed by the Governor's Office of Business and Economic Development (GOBiz) with the assistance of a coordinating and oversight body comprised of Administration Agencies and public representatives with expertise to align and support with all other economic development tools. Thus, CCII complements augments and leverages the State's existing economic development strategies and programs to enhance their impact.
>
> Over the last decade, socially-responsible TBL investing has matured as industry, demonstrating that private investors can achieve market-rate financial returns while also generating social and environmental benefits. However, most TBL funds invest in more moderate-income than low-income communities because of higher risks in the poorest neighborhoods. AB 495 will help reduce those private-sector investment risk by mobilizing public leadership and existing government resources into low-income neighborhoods where the TBL funds invest. AB 495 fosters the kind of public-private collaboration that is needed to attract investment into California's poorest neighborhoods to benefit the most disadvantaged residents.

AB 495 attempts to utilize the state's economic investment strategies, via GOBiz, to encourage greater investment and revitalization in California's disadvantaged communities.

<u>This bill,</u> would establish the CCIP and a 14 member Council in an effort designed to identify low-income communities in California, as well as, inventory California public sector funding and investment resources. This inventory would also include a survey of cities and counties to identify local governments that may want to partner with TBL investment funds. The inventory would also be required to assess the role and impact of various state entities and programs on disadvantaged communities. Furthermore it requires the Council to govern the CCIP and identify communities that can be eligible for assistance and coordination of TBL investments with CCIP. This process also includes a list of criteria. These criteria fall into these categories:

1) Programs and public sector financial investments that meet certain standards. For example, those programs that encourage economic development, housing, workforce development, etc. This list of criteria includes fifteen specific items.

2) Criteria for identifying eligible TBL investments funds that would serve as partners and investing in enterprises and employers that generate permanent jobs and expand employment opportunities in low income communities. This list of criteria includes sixteen specific items that may be refined and adopted by the Council.

3) Adopt criteria for TBL investment funds that invest in real estate developments to assist in constructing, expanding, renovating, and rehabilitation of buildings in low income communities. This list of criteria includes 20 specific items that may be refined and adopted by the Council.

4) The Council will adopt criteria for an eligible TBL equity fund that includes a list of 6 factors.

Discussion.

The coordination and marshaling of existing state resources and programs in order to better target services at low-income communities should be a vital goal of the state's economic development policies. Including TBL investment funds that wish to expand their investment in projects that meet TBL goals is an innovative way to direct policies toward revitalization, specifically in the post-redevelopment agency era, and with more questions being raised on the actual economic impact of enterprise zones. The strategy outlined in AB 495 may well represent a potential paradigm shift concerning the complicated issue of how policy makers and community groups address socio-economic needs of low income communities. Creating a pipeline for investment capital that can be focused on the location of the most need can reduce waste and a misdirection of resources. While the underlying theme and policy direction of AB 495 is a constructive step forward in bridging state resources with private capital, it suffers under the burden of several problematic issues. The following are items that create unintentional policy issues that need to be addressed:

1) Vague and or confusing terms: It uses terms or phrases that need greater clarification. The Council is made up of several appointed members, three of which must have "business or investment expertise" while two members must have "community development expertise." The parameters for what would meet these requirements are not provided. In establishing the multiple list of criteria, the bill states the criteria shall include the "spirit and intent of the preponderance of the following criteria…" Again, it is unclear what is meant by this statement that occurs several times throughout the language. Additionally, personnel and managers of TBL investment funds that meet the requirements would need to be "reputable" and "experienced." Again, these terms need greater explanation. Additional sections also include terms and phrases that need greater refinement and/or specificity.

2) Multiple list of criteria: As discussed earlier, this bill includes multiple and seperate list of criteria designed to provide guidance for the CCIP and the Council, but may in fact become constraining over the long term. For example, the list of criteria does not address issues relating to assisting the underbanked and unbanked through access to asset building strategies. Additionally, many of these communities are challenged by a saturation of high-cost and risky credit products that create cycles of debt. These issues are lacking from the criteria list, yet it may not be appropriate to add more to the list. Thus, the problem is highlighted in that once we list numerous goals, even if they are parameters and not a total list, the absence of other factors will provide invisible boundaries for what the CCIP can accomplish. It is recommended that rather than a specific list of items (even if they are only a minimum, not a maximum) that instead the goals of the CCIP be expressed via general statements on assisting low income communities and empower the Council and CCIP to work with TBL investment funds and community groups to refine their own organic list of

criteria.

3) Flexibility. In the modern economy as developments in technology and commerce come and go overnight, investment funds need partners that quickly react to provide investment opportunities or development of new projects. The various parameters proscribed by AB 495 would appear to take away the flexibility and reaction time needed for the state to have a positive contribution in working with TBL investors. With several reports, surveys and inventory lists required, the CCIP may be burdened with an overload of administrative work required to be accomplished with the existing resources of GoBiz. Staff recommends that efforts should be made to reduce the administrative burdens required under this bill and instead focus on the policy goals that should be met.

4) Though not intentional, AB 495 would give CCIP authority to redirect state resources and programs creating a confusing contradiction between various state departments and agencies. This confusion arises with CCIP given the authority to "give priority consideration for award of state assistance from public resources and programs…" Additionally, the bill requires CCIP and GoBiz to offer assistance to funds meeting the various criteria, but it is unclear to what this assistance would entail, or the potential budgetary costs such assistance could create.

5) Creation of special fund. Requires the Council to adopt criteria for an eligible TBL equity fund. Is this a state operated fund? The language is not specific as to where capital for such a fund would come from. Typically, legislative proposals that do not specify a source of funds put cost pressures on the state's General Fund. The criteria call for the fund to have a fund manager. Does this mean that private fund manager would be in charge of a publically created and administered equity fund? This concept needs further detail and clarification on its intent, operation and costs. Staff recommends that references to such fund be struck out of the bill.

Due to the aforementioned issues, it is recommended that future amendments are necessary to correct these issues. AB 495 goes to Assembly Housing Committee should it pass from this committee so any amendments suggested here would need to be adopted either in Housing or Appropriations Committee. For now, staff suggests the following amendments:

1) Page 6, line 7, delete "with."

2) Page 6 delete lines 8-40;

3) Page 7, delete lines 1-2 inclusive;

4) Page 7, delete lines 8-33 inclusive;

5) Page 7, line 39 delete "these criteria."

6) Page 8, delete lines 1-35 inclusive;

7) Page 9, line 1 delete "The criteria shall include the spirit and intent."

8) Page 9, delete lines 2-39 inclusive;

9) Page 10, delete lines 1-7 inclusive;

10) Page 10, delete lines 15-40 inclusive;

11) Page 11, line 8 delete "Initiative" and insert "Program."

12) Page 11, delete lines 18-31 inclusive;

13) Page 11, line 34 delete "That shall include at least the following."

14) Page 11, delete lines 35-40 inclusive;

15) Page 12, delete lines 1-37 inclusive.

REGISTERED SUPPORT / OPPOSITION:

Support

Bay Area Impact Investing Initiative
Breakthrough Communities
Bronze Investments
California Emerging Technology Fund
Double Bottom Line Venture Capital
Seal Cove Financial
Strategic Development Solutions
Sustainable Systems
Transom Capitol Group

Opposition

The American Wood Council (AWC)

Analysis Prepared by: Mark Farouk / B. & F. / (916) 319-3081