

CITY OF OAKLAND
BILL ANALYSIS



Date ~~2011 MAR 10~~ ^{PM 3:48} March 19, 2011

Bill Number: AB 231, AB 232, AND ABX1 11

Bill Author: V. Manuel Pérez, and Alejo (Coauthor Bradford)

DEPARTMENT INFORMATION

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RECOMMENDED POSITION: SUPPORT

Summary of the Bills

Chairman of the Assembly Committee on Jobs, Economic Development, and the Economy Committee, V. Manuel Pérez, has been joined by Assemblyman Luis Alejo and Assemblyman Steven Bradford in introducing a legislative package to reform the California Enterprise Zone Program (CEZP).

The legislative proposals described in this summary are based on two years of oversight hearings, working group meetings, stakeholder engagement, and a comparative review of other state's programs. The proposed amendments to the CEZP fall into three main categories, described below, and are intended to strengthen the program, making it more accountable to the public and to the communities it serves.

The reform conversation is ongoing, and additional amendments are anticipated in the coming weeks.

I. Enhanced Oversight and Reporting

De-Designation of Poor Performing Zones: The reform bill would link each zone's required biennial progress report to the HCD audit and zone de-designation process. Currently, there are no specified penalties for a zone's poor performance in meeting its goals and objectives outlined in its memorandum of understanding with the state. By linking poor performance with the existing HCD audit procedures, a process is established to identify and de-designate poor performing zones.

1) Track & Report Local Resources Dedicated to Zone Activities: The reform bill would specify that zones identify in their designation applications and report the financial value of

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local resources (including incentives) that the jurisdiction will use to implement its economic development strategy.

- 2) **Limit Size of Zones**: The bill would protect against unlimited expansion of zones by requiring that any new zone designation that includes census tracts from a previously designated zone cannot exceed a geographic area of more than 110% of the previous zone.
- 3) **Enhance Hiring Credit Reporting Requirements**: The reform bill would provide for greater public accountability on the local benefits provided through the hiring credit. Both businesses and zones will be required to report on a) the eligibility categories used to certify an employee, i.e. disabled veteran or local lower income; b) the number of new jobs and the number of replacement jobs certified; c) the range of wage rates of employees certified; and d) the size and industry sector of businesses submitting certification requests.

II. Refinements to the Hiring Credit, including Targeted Employment Areas (TEAs)

- 1) **Prohibit Data Shopping**: The reform bill would require the TEA boundary to be based on most current data available at the time of designation, currently not specified in the law.
- 2) **More Frequent Data Review, with Penalties for Noncompliance**: The reform bill would increase the frequency of the TEA boundary review from once every 10 year to once every 5 years. Zones that fail to update their TEA boundary will have their TEA invalidated for two years. Moreover, no business may earn a credit or certify an employee under the TEA category for two years, unless the business had previously certified an employee.
- 3) **Wage Cap on TEA**: The reform bill would prohibit a business from claiming a worker under the TEA eligibility category if the wage paid to the worker exceeds moderate income for the county, as defined by HCD in its affordable housing and Community Development Block Grant programs.
- 4) **Refined Statutory Purpose of TEA**: The purpose of the TEA would be defined as serving as the residential base of potential low- and moderate- income workers available to work at businesses located in a zone. Further, the TEA helps local communities identify key neighborhoods that may require additional assistance with employment training and job placement programs.

III. Improved Linkages to Workforce and Community Development

- 1) **Leverage G-TEDA Programs to Serve Workforce Development**: The reforms would require state agencies and departments, when developing workforce development and training plans, strategies, programs and services, to consider how the targeted economic development programs can integrate into and provide additional benefit to workers.

- 2) Increase CalWORKS Clients Competitiveness in Job Market: The reform bill would authorize local CalWORKS Offices to certify their clients' eligibility as a qualified employee under the hiring credit. This early certification enhances the competitiveness of CalWORKS recipients in the job market.
- 3) Increase Unemployed Workers Competitiveness in the Jobs Market: The amendments direct the Employment Development Department, consistent with its mandate to assist unemployed individuals to obtain jobs, to offer pre-certification of workers who are interested in working for businesses located in an enterprise zone.

The functions of Economic Development and Workforce Development in the City of Oakland are integrated within the Community and Economic Development Agency (CEDA). As a result, the City believes that the proposed State reforms to the EZ program align well with the approach already in place in Oakland.

Positive Factors for Oakland

The State of California Enterprise Zone Program has greatly contributed to the revitalization of our community. Since its inception, over 25,000 hiring credit vouchers have been issued for disadvantaged individuals employed through Oakland's EZ program. It remains as one of the most powerful economic incentives in attracting and retaining businesses to Oakland which results in increased tax revenues, less reliance on social services, and lower public safety costs. Residents and businesses also directly benefit from these more sustainable economic conditions through improved neighborhoods, business expansion, and job creation.

Most importantly, Enterprise Zones play a key role in linking newly created jobs with individuals in the community who are either underemployed or unemployed. The reform bills will provide employers with the assurance that the benefits that allowed them to remain, expand or locate in Oakland will be in place longer. It will enable the Oakland Enterprise Zone and others throughout the state to continue their work to create jobs, encourage investment in disadvantaged areas, and build local economies.

Negative Factors for Oakland NONE

Governor Jerry Brown's proposed 2011-2012 fiscal year budget advocates the elimination of California's Enterprise Zone program including any carry forward credits. This proposal has met with opposition across party lines from both the public and private sector. Nevertheless, the very real possibility that this may pass in a vote by the Senate and Assembly still looms with strong support from labor unions throughout the state.

PLEASE RATE THE EFFECT OF THIS MEASURE ON THE CITY OF OAKLAND:

X Critical (top priority for City lobbyist, city position required ASAP)

Very Important (priority for City lobbyist, city position necessary)

Somewhat Important (City position desirable if time and resources are available)

Minimal or **None** (do not review with City Council, position not required)

Known support:

California Association of Enterprise Zones

Known Opposition:

Attach bill text and state/federal legislative committee analysis, if available.

BILL NUMBER: AB 231 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Members V. Manuel Perez and Alejo
(Coauthor: Assembly Member Bradford)

FEBRUARY 2, 2011

An act to amend Section 7072 of, and to repeal and add Section 7072.5 of, the Government Code, and to amend Sections 17053.74 and 23622.7 of the Revenue and Taxation Code, relating to economic development, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 231, as introduced, V. Manuel Perez. Economic development: enterprise zones: targeted employment areas.

(1) The Enterprise Zone Act provides that its purpose is to stimulate business and industrial growth in the depressed areas of the state by relaxing regulatory controls that impede private investment. The act defines a targeted employment area as an area composed solely of those census tracts in which at least 51% of the residents of those census tracts, determined as specified, are of low- or moderate-income levels.

This bill would modify the definition of a targeted employment area, as specified.

(2) The act provides that the purpose of a targeted employment area is to encourage businesses in an enterprise zone to hire

eligible residents of certain geographic areas within a city, county, or city and county.

This bill would delete that provision of the act and instead provide that the purpose of a targeted employment area is to help identify neighborhoods of low- and moderate-income workers for the purpose of providing those workers with employment assistance, training, and job placement.

(3) The act requires each governmental entity of each city, county, or city and county that has jurisdiction over an enterprise zone to approve, by resolution or ordinance, the boundaries of its targeted employment area.

This bill would delete that requirement, and instead require the governing body of the jurisdiction administering the enterprise zone to adopt a resolution or ordinance designating a targeted employment area that meets specified conditions. The bill would also require, if 2 or more jurisdictions are jointly administering a zone, each of the governing bodies of the participating jurisdictions to adopt the resolution.

(4) The act requires, within 180 days of updated United States census data becoming available, each governmental entity of each city, county, or city and county that has jurisdiction over an enterprise zone to approve, by resolution or ordinance, new boundaries for the area that reflect the new census data. The act authorizes an enterprise zone, if no changes to the boundaries of an area are necessary to conform the area with the most current census data, to send a letter to the Department of Housing and Community Development stating that a review has been undertaken and no boundary changes are required.

This bill would delete those provisions, and instead require the governmental entity of each city, county, or city and county that has jurisdiction over an enterprise zone to approve, by resolution or ordinance, new boundaries for its targeted employment area that reflect the new household data provided by the United States Census Bureau in its 5-year American Community Study, and to send that resolution or ordinance to the Department of Housing and Community Development. The bill would require the city, county, or city and county, if no changes to the boundaries of an area are necessary, to send a letter to the department stating that a review has been undertaken and no boundary changes are required. The bill would provide that if the area's boundaries are not updated, and the department does not receive the letter within 180 days of the release of new census information, then the area is invalidated for a period of 2 years, except as specified.

(5) The act sets forth various requirements and limitations relating to the formation and composition of a targeted employment area.

This bill would revise and recast these requirements and limitations, as specified.

(6) The act authorizes a governing body that has already designated a targeted employment area to request to redesignate the area using more current census data, as specified, and requires an area to be comprised of a census tract from only one decennial

census.

This bill would delete that provision.

(7) The Personal Income Tax Law and the Corporation Tax Law authorize a taxpayer to claim certain tax incentives for activities conducted in an enterprise zone, including a credit for wages paid during the taxable year to a qualified employee, as defined, who is employed by the taxpayer during the taxable year in an enterprise zone, and those laws each set forth a schedule for the amount of the credit based on the qualified wages of the qualified employee in each of the first 5 years of employment.

This bill would modify the requirements that must be met for an individual to be a qualified employee, as specified, under the Personal Income Tax Law and the Corporation Tax Law, thereby reducing the scope of the credits, and make other specified changes relating to the requirements for a taxpayer to take advantage of the credits. The bill would require that changes made to the Personal Income Tax Law and the Corporations Tax Law by its provisions apply to taxable years beginning on and after January 1, 2011.

(8) This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of 2/3 of the membership of each house of the Legislature.

(9) This bill would take effect immediately as a tax levy.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

SECTION 1. Section 7072 of the Government Code is amended to read:

7072. For purposes of this chapter, the following definitions shall apply:

(a) "Department" means the Department of Housing and Community Development.

(b) "Date of original designation" means the earlier of the following:

(1) The date the eligible area receives designation as an enterprise zone by the department pursuant to this chapter.

(2) In the case of an enterprise zone deemed designated pursuant to subdivision (e) of Section 7073, the date the enterprise zone or program area received original designation by the former Trade and Commerce Agency pursuant to Chapter 12.8 (commencing with Section 7070) or Chapter 12.9 (commencing with Section 7080), as those chapters read prior to January 1, 1997.

(c) "Eligible area" means any of the following:

(1) An area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070), as it read prior to January 1, 1997, or as a targeted economic development area, neighborhood development area, or program area pursuant to Chapter 12.9 (commencing with Section 7080), as it read prior to January 1, 1997.

(2) A geographic area that, based upon the determination of the department, fulfills at least one of the following criteria:

(A) The proposed geographic area meets the Urban Development Action Grant criteria of the United States Department of Housing and Urban Development.

(B) The area within the proposed eligible area has experienced plant closures within the past two years affecting more than 100 workers.

(C) The city or county has submitted material to the department for a finding that the proposed geographic area meets criteria of economic distress related to those used in determining eligibility under the Urban Development Action Grant Program and is therefore an eligible area.

(D) The area within the proposed zone has a history of gang-related activity, whether or not crimes of violence have been committed.

(3) A geographic area that meets at least two of the following criteria:

(A) The census tracts within the proposed eligible area have an unemployment rate not less than 3 percentage points above the statewide average for the most recent calendar year as determined by the Employment Development Department.

(B) The county of the proposed eligible area has more than 70 percent of the children enrolled in public school participating in the federal free lunch program.

(C) The median household income for a family of four within the census tracts of the proposed eligible area does not exceed 80 percent of the statewide median income for the most recently available calendar year.

(d) "Enterprise zone" means any area within a city, county, or city and county that is designated as an enterprise zone by the department in accordance with Section 7073.

(e) "Governing body" means a county board of supervisors or a city council, as appropriate.

(f) "G-TEDA" means a geographically targeted economic development area, which is an area designated as an enterprise zone, a Manufacturing Enhancement Area, a targeted tax area, or a local agency military base recovery area.

(g) "High-technology industries" includes, but is not limited to, the computer, biological engineering, electronics, and telecommunications industries.

(h) "Resident," unless otherwise defined, means a person whose principal place of residence is within a targeted employment area.

(i) ~~(i)~~ - "Targeted employment area" means an area within a city, county, or city and county that is composed solely of those census tracts designated by the United States Department of Housing and Urban Development as having at least 51 percent of its residents of low- or moderate-income levels, using ~~either~~ the most recent United States Department of Census Bureau data available at the time ~~of the original enterprise zone application or the most recent census data available at the time~~ the targeted

employment area is designated to determine that eligibility. ~~The purpose of a "targeted employment area" is to encourage businesses in an enterprise zone to hire eligible residents of certain geographic areas within a city, county, or city and county. A targeted employment area may be, but is not required to be, the same as all or part of an enterprise zone. A targeted employment area's boundaries need not be contiguous. A targeted employment area does not need to encompass each eligible census tract within a city, county, or city and county. The governing body of each city, county, or city and county that has jurisdiction of the enterprise zone shall identify those census tracts whose residents are in the most need of this employment targeting. Only those census tracts within the jurisdiction of the city, county, or city and county that has jurisdiction of the enterprise zone may be included in a targeted employment area.~~

~~(2) At least a part of each eligible census tract within a targeted employment area shall be within the territorial jurisdiction of the city, county, or city and county that has jurisdiction for an enterprise zone. If an eligible census tract encompasses the territorial jurisdiction of two or more local governmental entities, all of these entities shall be a party to the designation of a targeted employment area. However, any one or more of those entities, by resolution or ordinance, may specify that it shall not participate in the application as an applicant, but shall agree to complete all actions stated within the application that apply to its jurisdiction, if the area is designated.~~

~~(3) Each local governmental entity of each city, county, or city and county that has jurisdiction of an enterprise zone shall approve, by resolution or ordinance, the boundaries of its targeted employment area, regardless of whether a census tract within the proposed targeted employment area is outside the jurisdiction of the local governmental entity.~~

~~(4) (A) Within 180 days of updated United States census data becoming available, each local governmental entity of each city, county, or city and county that has jurisdiction of an enterprise zone shall approve, by resolution or ordinance, boundaries of its targeted employment area reflecting the new census data. If no changes are necessary to the boundaries based on the most current census data, the enterprise zone may send a letter to the department stating that a review has been undertaken by the respective local governmental entities and no boundary changes are required.~~

~~(B) A targeted employment area boundary approved prior to the 2000 United States census data becoming available that has not been reviewed and its boundaries revised to reflect the most recent census data, shall be reviewed and updated, and a new resolution or ordinance submitted by the appropriate local governmental entity to the department, by July 1, 2007. However, enterprise zones that expire on or prior to December 31, 2008, shall be exempt from the update requirement.~~

SEC. 2. Section 7072.5 of the Government Code is repealed.

~~7072.5. By April 1, 1998, a governing body that has already designated a target employment area may request, by a resolution of all cities or counties having jurisdiction over the enterprise zone, to redesignate the targeted employment area using more current census data. A targeted employment area shall be comprised of census tracts from only one decennial census.~~

SEC. 3. Section 7072.5 is added to the Government Code, to read:

7072.5. (a) After receiving notification from the department of being conditionally designated as an enterprise zone, the governing body of the jurisdiction administering the zone shall adopt a resolution or ordinance designating a targeted employment area that meets all the conditions of this section and those set forth in subdivision (i) of Section 7072, and is consistent with the purpose set forth in this section. If two or more jurisdictions are jointly administering a zone, a resolution or ordinance designating the targeted employment area shall be adopted by each governing body.

(b) A targeted employment area serves as the residential base of potential low- and moderate-income workers who are available to work in businesses located in an enterprise zone. The purpose of a targeted employment area is to help identify neighborhoods of low- and moderate-income workers for the purpose of providing those workers with employment assistance, training, and job placement. Businesses located in a zone are encouraged to hire locally to help address some of the poverty and economic dislocation that led to the area's designation as a zone.

(c) (1) A targeted employment area may be, but is not required to be, the same as all or part of an enterprise zone. A targeted employment area's boundaries need not be contiguous. A targeted employment area does not need to encompass each eligible census tract or block group within a city, county, or city and county. The governing body of each city, county, or city and county that has jurisdiction over the zone shall identify those census tracts whose residents are in the most need of this employment targeting. Only those census tracts within the jurisdiction of the city, county, or city and county that have jurisdiction over the zone may be included in a targeted employment area.

(2) At least part of each eligible census tract within a targeted employment area shall be within the territorial jurisdiction of the city, county, or city and county that has jurisdiction over an enterprise zone. If an eligible census tract encompasses the territorial jurisdiction of two or more local governmental entities, all of those entities shall be a party to the designation of the targeted employment area. However any one or more of those entities, by resolution or ordinance, may specify that it shall not participate in the application as an applicant, but shall agree to complete all actions stated within the application that apply to its jurisdiction, if the area is designated.

(d) (1) A targeted employment area shall be designated based on data from the most current household income data published by the United States Census Bureau at the time that the targeted employment area is designated or modified, including being updated pursuant to paragraph (2).

(2) Every targeted employment area boundary shall be reviewed and updated to the extent necessary to accommodate the new household income data provided by the United States Census Bureau in its five-year American Community Survey. Each governmental entity of each city, county, or city and county that has jurisdiction over an enterprise zone shall approve, by resolution or ordinance, the boundaries of its targeted employment area reflecting the new household data and send a copy of its resolution with the changes that are necessary to the boundaries based on the most current census data, or the governmental entity that has jurisdiction over the zone shall send a letter to the department stating that the review has been undertaken by the respective local governmental entities and no boundary changes are required.

(3) (A) A targeted employment area boundary that is not updated, or for which a letter indicating that no changes are necessary has not been received by the department within 180 days of the release of new household data, is invalidated for a period of two years, except as modified by subparagraph (C).

(B) The department shall send a notice to the Franchise Tax Board and the local enterprise zone administrator that the targeted employment area is invalid and that no additional employees will be certified based on an employee living in a targeted employment area, other than a business that has already had one or more vouchers certified by the zone using the targeted employment area as the qualifying criterion under subparagraph (A) of paragraph (4) of subdivision (b) of Sections 17053.74 and 23622.7 of the Revenue and Taxation Code.

(C) A business that has previously received certification of an employee is exempt from subparagraph (A). The vouchering exemption is nontransferable to any other business.

SEC. 4. Section 17053.74 of the Revenue and Taxation Code is amended to read:

17053.74. (a) There shall be allowed a credit against the "net tax" (as defined in Section 17039) to a taxpayer who employs a qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the

taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described in Codes ~~3721 to 3728, inclusive, and Code 3812 of the Standard Industrial Classification (SIC) Manual~~

~~311 to 339, inclusive, of the North American Industry Classification System published by the United States Office of Management and Budget, 1987~~ 2007

edition, "qualified wages" means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Zone expiration date" means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following:

~~(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or service funded by the federal Job Training Partnership Act, or its successor.~~

~~(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (CAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.~~

---(I-II)

(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.

---(IV)

(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:

(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(bb) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(cc) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(dd) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(ee) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(ff) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(gg) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(hh) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

---(V)

(III) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan ~~or ie~~.

(IV) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

---(VI)

(V) Immediately preceding the qualified

employee's commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

~~—(VII)~~

(VI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:

(aa) Federal Supplemental Security Income benefits.

(bb) ~~Aid to Families with Dependent Children~~

Temporary Assistance for Needy Families .

(cc) Medi-Cal or Healthy Families.

~~—(ee)~~

(dd) Food stamps.

~~—(dd)~~

(ee) State and local general assistance.

(ff) Intensive services including employment training services funded through the federal Workforce Investment Act (Public Law 105-220).

(gg) Voluntary or mandatory services under the California Work Opportunity and Responsibility to Kids (CalWORKs) program (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code).

(hh) Federal Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code).

~~—(VII)~~

(VII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

~~—(IX)~~

(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area, as defined in Section 7072 of the Government Code , and the employee is receiving a wage that does not exceed moderate income for a family of four based on the countywide household income .

~~—(X)~~

(IX) An employee who qualified the taxpayer for the enterprise zone hiring credit under former Section 17053.8 or the program area hiring credit under former Section 17053.11.

~~—(XI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.~~

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal ~~Job Training Partnership Act or the Greater Avenues for Independence Act of 1985~~ Workforce Investment Act or the CalWORKs program or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) "Taxpayer" means a person or entity engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of the Government Code.

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city ~~Job Training Partnership Act administrative entity, the local county GAIN~~ federal Workforce Investment Act administrative entity, the local county CalWORKs program office or social services agency, or the local government administering the enterprise zone, a certification which provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to ~~a certifying agency. The Employment Development Department shall develop a form for this purpose~~ businesses located in an enterprise zone as of the department's implementation of the intensive services activities funded through the federal Workforce Investment Act . The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of trades or businesses, which are not incorporated, that are under common control shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days

of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections

1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and a qualified employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the qualified employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(g) For purposes of this section, "enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 17053.10, 17053.17 and 17053.46 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 17053.70, including any credit carryover from prior years, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's

California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1997.

(l) The changes made to this section by the act adding this subdivision shall apply only to taxable years beginning on and after January 1, 2011.

SEC. 5. Section 23622.7 of the Revenue and Taxation Code is amended to read:

23622.7. (a) There shall be allowed a credit against the "tax" (as defined by Section 23036) to a taxpayer who employs a qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described in Codes ~~3721 to 3728, inclusive, and Code 3812 of the Standard Industrial Classification (SIC) Manual~~

~~311 to 339, inclusive, of the North American Industry Classification System published by the United States Office of Management and Budget, 1987 2007~~ edition, "qualified wages" means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Zone expiration date" means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following:

~~—(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.~~

~~—(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for~~

~~Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.~~

~~—(III)~~

(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.

~~—(IV)~~

(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:

(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(bb) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(cc) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(dd) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(ee) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(ff) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(gg) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(hh) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

~~—(V)~~

(III) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan ~~or is~~ .

(IV) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a service-connected disabled veteran, veteran of the

Vietnam era, or veteran who is recently separated from military service.

~~—(VI)~~

(V) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

~~—(VII)~~

(VI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:

(aa) Federal Supplemental Security Income benefits.

(bb) ~~Aid to Families with Dependent Children~~
Temporary Assistance for Needy Families .

(cc) Medi-Cal or Healthy Families.

~~—(oe)~~

(dd) Food stamps.

~~—(ad)~~

(ee) State and local general assistance.

(ff) Intensive services including employment training services funded through the federal Workforce Investment Act (Public Law 105-220).

(gg) Voluntary or mandatory services under the California Work Opportunity and Responsibility to Kids (CalWORKs) program (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code).

(hh) Federal Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code).

~~—(VII)~~

(VII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

~~—(IX)~~

(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area (as defined in Section 7072 of the Government Code) , and the employee is receiving a wage that does not exceed mode rate income for a family of four based on the countywide average household income .

~~—(X)~~

(IX) An employee who qualified the taxpayer for the enterprise zone hiring credit under former Section 23622 or the program area hiring credit under former Section 23623.

~~—(XI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.~~

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal ~~Job~~

~~Training Partnership Act or the Greater Avenues for Independence Act of 1985~~ Workforce Investment Act or the CalWORKs program or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) "Taxpayer" means a corporation engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city ~~Job Training Partnership Act administrative entity, the local county GAIN~~

federal Workforce Investment Act administrative entity, the local county CalWORKs program office or social services agency, or the local government administering the enterprise zone, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to ~~a certifying agency. The Employment Development Department shall develop a form for this purpose~~ businesses located in a zone as part of the department's implementation of the intensive services activities funded through the federal Workforce Investment Act. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) For purposes of this subdivision, "controlled group of corporations" means "controlled group of corporations" as defined in Section 1563(a) of the Internal Revenue Code, except that:

(i) "More than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(ii) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a

trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment, whether or not consecutive, or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified

employee who voluntarily fails to return to the seasonal employment of the taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and a qualified employee shall not be treated as terminated by either of the following:

(i) By a transaction to which Section 381(a) of the Internal Revenue Code applies, if the qualified employee continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the taxpayer, if the qualified employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) Rules similar to the rules provided in Section 46(e) and (h) of the Internal Revenue Code shall apply to both of the following:

(1) An organization to which Section 593 of the Internal Revenue Code applies.

(2) A regulated investment company or a real estate investment trust subject to taxation under this part.

(g) For purposes of this section, "enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 23623.5, 23625, and 23646 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23612.2, including any credit carryover from prior years, that may reduce the "tax" for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes

of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the income year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the income year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the income year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the income year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years on or after January 1, 1997.

(1) The changes made to this section by the act adding this subdivision shall apply only to taxable years beginning on and after January 1, 2011.

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

BILL NUMBER: AB 232 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Members V. Manuel Perez and Alejo
(Coauthor: Assembly Member Bradford)

FEBRUARY 2, 2011

An act to amend Sections 7071, 7073.1, 7074, 7076, 7076.1, 7081, 7082, 7085, and 7085.1 of the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 232, as introduced, V. Manuel Perez. Economic development: Enterprise Zones.

(1) The Enterprise Zone Act provides that its purpose is to stimulate business and industrial growth in the depressed areas of the state by relaxing regulatory controls that impede private investment.

This bill would delete that purpose and instead provide that the purpose of the act is to help stabilize local communities, alleviate poverty, and enhance the state's economic prosperity through the implementation of public and privately funded programs and services that stimulate business and industrial growth in the depressed areas of the state.

(2) The act prohibits the designation of an enterprise zone in which any boundary thereof is drawn so as to include larger stable businesses or heavily residential areas to the detriment of truly economically depressed areas.

This bill would delete that prohibition.

(3) The act authorizes any city, county, or city and county with an eligible area within its jurisdiction to complete a preliminary application for designation as an enterprise zone. The act requires the applying entity to establish definitive boundaries for the proposed enterprise zone and the targeted employment area.

This bill would prohibit, if a census tract or portion of a census tract included in an enterprise zone proposed on or after January 1, 2011, is within, or previously was within, the boundaries of a previously designated enterprise zone, the aggregate size of the proposed enterprise zone from exceeding the size of the previously designated enterprise zone by more than 10%.

(4) The act requires the Department of Housing and Community Development, in designating enterprise zones, to select from the applications submitted proposed enterprise zones that indicate that they will implement the most appropriate economic development strategies and implementation plans utilizing state and local

programs and incentives to create jobs, attract private sector investment, and improve the economic conditions within the zone proposed. The act enumerates, but does not limit, the possible local incentives to be used by proposed zones.

This bill would add to that list tax increment moneys and local financing authorities under the Community Redevelopment Law, Workforce Investment Act moneys and programs funded by those moneys, Community Development Block Grant moneys, CalWORKs funding and other related resources, and local education entities, including K-12, adult education, community colleges, and public and private universities.

(5) The act authorizes a city, county, or city and county to propose that the enterprise zone be expanded by 15% to include definitive boundaries that are contiguous to the enterprise zone. The act authorizes the department to approve an enterprise zone expansion based on specified criteria. The act authorizes a city or county to propose to use an eligible expansion allotment to expand into an adjacent jurisdiction if specified conditions exist. The act authorizes an expansion area to contain noncommercial or nonindustrial land only if that land is a right-of-way and is needed to meet the requirement for a contiguous expansion between an existing enterprise zone and a proposed expansion area.

This bill would modify the immediately above authorization so that the act would authorize an expansion area to contain noncommercial land only if that land is a right-of-way.

(6) The act requires the department to provide technical assistance to an enterprise zone with respect to specified activities.

This bill would additionally require the department to serve as a liaison between the state and zone residents, businesses, workers, nonprofit organizations, and local governments. The bill would require state agencies and departments to affirmatively support their regulatory responsibilities under specified provisions of law, and to respond to requests made by and on the behalf of zones in a manner consistent with their statutory duties.

(7) The act requires the department to audit each geographically targeted economic development area (G-TEDA) at least once every 5 years, as specified, and to determine, for each audit, a result of superior, pass, or fail, as specified. The act sets forth the criteria for a G-TEDA to be determined superior or passing.

This bill would require the department, in undertaking these audit responsibilities, to seek appropriate opportunities to provide technical assistance and training to help G-TEDAs address inadequacies identified in the audit. The bill would also require the department to review specified progress reports submitted by a G-TEDA pursuant to a specified provision of law and to determine whether an audit of the G-TEDA is warranted. The bill would modify the criteria for a G-TEDA to be determined superior or passing, as specified.

(8) The act requires, to the extent permitted by federal law, the Employment Development Department and the State Department of Education to give high priority to the training of unemployed

individuals who reside in a targeted employment area or a designated enterprise zone.

This bill would require a state entity, when developing workforce development and training plans and strategies, to consider how the G-TEDA programs could be integrated in order to maximize the benefits to workers and businesses. The bill would also require the Employment Development Department to provide letters to unemployed prospective employees that could be used to certify their eligibility as a person participating in a program developed pursuant to specified provisions of law.

(9) The act requires the Office of Criminal Justice Planning to give high priority to designated enterprise zones in the allocation of its program resources.

This bill would modify that provision to instead require the Public Safety Branch and the Victim Services Branch of the California Emergency Management Agency to give high priority to designated enterprise zones in the allocation of program resources.

(10) The act requires the governing board of a G-TEDA to report to the Department of Housing and Community Development by October 1, 2008, and by that date every other year thereafter, on the activities of the G-TEDA in the previous 2 fiscal years and its plans for the current and following fiscal year. The report is required to include specified information.

This bill would additionally require the report to include an identification of the financial value of local incentives provided during the report period; an identification of the financial value of federal and other state resources accessed to serve the residents, workers, and businesses in the G-TEDA; and specified other information relating to the performance of the G-TEDA.

(11) This bill would make other technical, nonsubstantive changes updating the act.

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

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

SECTION 1. Section 7071 of the Government Code is amended to read:

7071. The Legislature finds and declares as follows:

(a) The health, safety, and welfare of the people of California depend upon the development, stability, and expansion of private business, industry, and commerce, and there are certain areas within the state that are economically depressed due to a lack of investment in the private sector. Therefore, it is declared to be the purpose of this chapter to help stabilize local communities, alleviate poverty, and enhance the state's economic prosperity through the implementation of public and privately funded programs and services that stimulate business and industrial growth in the depressed areas of the state ~~by relaxing regulatory controls that impede private investment~~ .

(b) The geographically targeted economic development area programs

are based on the economic principle that targeting significant incentives to lower income communities allows these communities to more effectively compete for new businesses and retain existing businesses, which results in increased tax revenues, less reliance on social services, and lower public safety costs. Residents and businesses also directly benefit from these more sustainable economic conditions through improved neighborhoods, business expansion, and job creation.

~~—(b)—It~~

(c) Therefore, it is in the economic interest of the state to have one strong, combined, and business-friendly , and community development incentive program to help attract business and industry to the state, to help retain and expand existing state business and industry, and to create increased job opportunities ~~for all Californians~~ .

~~—(e) No enterprise zone shall be designated in which any boundary thereof is drawn in a manner so as to include larger stable businesses or heavily residential areas to the detriment of areas that are truly economically depressed.~~

(d) Nothing in this chapter shall be construed to infringe upon regulations relating to the civil rights, equal employment rights, equal opportunity rights, or fair housing rights of any person.

SEC. 2. Section 7073.1 of the Government Code is amended to read:

7073.1. (a) Except as provided in subdivision ~~(e)~~

(f) , any city, county, or city and county with an eligible area within its jurisdiction may complete a preliminary application for designation as an enterprise zone. The applying entity shall establish definitive boundaries for the proposed enterprise zone and the targeted employment area. An entity may propose zones in areas with noncontiguous boundaries, and the department may designate those areas as zones if the director determines both of the following:

(1) The noncontiguous area is needed to implement the applicant's economic development strategy.

(2) The excluded area between the proposed zone boundaries would not, based on the proposed economic strategy, also benefit from the zone designation.

(b) If a census tract or portion of a census tract included in an enterprise zone proposed in an application submitted to the department on or after January 1, 2011, is within, or previously was within, the boundaries of a previously designated enterprise zone, then the aggregate size of the proposed enterprise zone shall not exceed the size of the previously designated enterprise zone by more than 10 percent.

~~—(b)~~

(c) (1) In designating enterprise zones, the department shall select from the applications submitted those proposed enterprise zones that, upon a comparison of all of the applications submitted, indicate that they propose the most appropriate economic development strategy and implementation plan utilizing state and local programs and incentives to create jobs, attract private sector

investment, and improve the economic conditions within the zone proposed. The department shall prescribe a format that promotes succinct and focused strategies and plans, and set minimum standards for the strategies and plans. For the purposes of this subdivision, important elements of a strategy or plan may include, but are not limited to, all of the following:

(A) An assessment of current financial and community development strengths, needs, and opportunities.

(B) A framework for investment of time, action, and money.

(C) Clear articulation of goals.

(D) Measurable objectives, including targets.

(E) Proposed implementation activities and tasks, including timeframes, and a framework for evaluating performance, including qualitative and quantitative benchmarks.

(F) An identification of local resources, including incentives, the jurisdiction will utilize to implement the strategy or plan and how those resources will help to leverage or maximize the benefit of state resources that become available for enterprise zone communities.

(2) For purposes of this subdivision, local resources incentives may include, but are not limited to, all of the following:

(A) The suspension or relaxation of locally originated or modified building codes, zoning laws, general development plans, or rent controls.

(B) The elimination or reduction of fees for applications, permits, and local government services.

(C) The establishment of a streamlined permit process.

(D) Elimination or reduction of construction taxes or business license taxes.

(E) The provision or expansion of infrastructure.

(F) The targeting of federal block grant moneys, including small cities, education, and health and welfare block grants.

(G) The targeting of economic development grants and loan moneys, including grant and loan moneys provided by the United States Department of Housing and Urban Development.

(H) The targeting of state and federal job disadvantaged and vocational education grant moneys, including moneys provided by the federal Workforce Investment Act of 1998 (Public Law 105-220), or its successor.

(I) The targeting of federal or state transportation grant moneys.

(J) The targeting of federal or state low-income housing and rental assistance moneys.

(K) The use of tax allocation bonds, special assessment bonds, bonds under the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5), industrial development bonds, revenue bonds, private activity bonds, housing bonds, bonds issued pursuant to the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5), certificates of participation, hospital bonds, redevelopment bonds, school bonds, and all special provisions

provided for under federal tax law for enterprise community or empowerment zone bonds.

(L) Redevelopment tax increment moneys and local financing authorities.

(M) Workforce Investment Act moneys and programs funded with those moneys.

(N) Community Development Block Grant moneys.

(O) CalWORKs funding and other related resources.

(P) Local education entities, including K-12, adult education, community colleges, and public and private universities.

(3) When designating new enterprise zones, the department shall take into consideration the location of existing zones and make every effort to locate new zones in a manner that will not adversely affect any existing zones.

(4) When reviewing and ranking new enterprise zone applications, the department shall give bonus points to applications from jurisdictions that meet minimum threshold points and at least two of the following criteria:

(A) The percentage of households within the census tracts of the proposed enterprise zone area, the income of which is below the poverty level, is at least 17.5 percent.

(B) The average unemployment rate for the census tracts of the proposed enterprise zone area was not less than five percentage points above the statewide average for the most recent calendar year as determined by the Employment Development Department.

(C) The applicant jurisdiction has, and can document that it has, a unique distress factor affecting long-term economic development, including, but not limited to, resource depletion, plant closure, industry recession, natural disaster, or military base closure.

(5) Except as modified pursuant to paragraph (4), applications shall be ranked by the appropriateness of the economic development strategy and implementation plan, including all of the following:

(A) The extent the strategy clearly identifies the local resources, incentives, and programs that will be made available to the zone for meeting its goals and objectives.

(B) The extent the strategy provides for attracting private sector investment.

(C) The extent the strategy includes related regional and community-based partnerships for achieving the goals and objectives in the strategy.

(D) The extent the strategy fits within the jurisdiction's overall economic development strategy, including the extent the strategy and implementation plan is appropriate for the local community.

(E) The extent the strategy addresses the hiring and retention of unemployed or underemployed residents or low-income individuals in the proposed zone and surrounding areas.

(F) The extent the strategy sets reasonable and measurable benchmarks, goals, and objectives.

(G) The extent the strategy sets forth an appropriate funding schedule for management, oversight, and program delivery within the zone relative to the benchmarks, goals, and objectives in the strategy.

(H) The extent that the economic development strategy has a comprehensive incentive package for attracting private investment to the enterprise zone.

—(e)

(d) In evaluating applications for designation, the department shall ensure that applications are not disqualified solely because of technical deficiencies, and shall provide applicants with an opportunity to correct the deficiencies. Applications shall be disqualified if the deficiencies are not corrected within two weeks.

—(d)

(e) Except upon dedesignation pursuant to subdivision (c) of Section 7076.1, Section 7076.2, or Section 7085.1, a designation made by the department shall be binding for a period of 15 years from the date of the original designation.

—(e)

(f) This section shall only apply to enterprise zone applications for which the department has issued a solicitation for new enterprise zone designations on or after January 1, 2007.

SEC. 3. Section 7074 of the Government Code is amended to read:

7074. (a) In the case of any enterprise zone, including an enterprise zone formerly designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or as a program area pursuant to Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997, a city, county, or city and county may propose that the enterprise zone be expanded by 15 percent to include definitive boundaries that are contiguous to the enterprise zone.

(b) The department may approve an enterprise zone expansion proposed pursuant to this section based on the following criteria:

(1) Each of the adjacent jurisdictions' governing bodies approves the expansion by adoption of an ordinance or resolution.

(2) Land included within the proposed expansion is zoned for industrial or commercial use.

(3) Basic infrastructure, including, but not limited to, gas, water, electrical service, and sewer systems, is available to the area that would be included in the expansion.

(c) A city, county, or city and county may propose to use an eligible expansion allotment to expand into an adjacent jurisdiction pursuant to this section if the department finds that all of the following conditions exist:

(1) The governing body of the local agency with jurisdiction over the existing enterprise zone and the governing body of the local agency with jurisdiction over the proposed expansion area each approve the expansion by adoption of an ordinance or resolution. The ordinance or resolution by the jurisdiction containing the proposed expansion area shall indicate that the jurisdiction will provide the same or equivalent local incentives as provided by the jurisdiction of the existing enterprise zone.

(2) (A) Land included within the proposed expansion is zoned for industrial or commercial use.

(B) An expansion area may contain noncommercial or nonindustrial

~~land only if that land is a right-of-way and is needed to meet the requirement for a contiguous expansion between an existing enterprise zone and a proposed expansion area.~~

(3) Basic infrastructure, including, but not limited to, gas, water, electrical service, and sewer systems, is available to the area that would be included in the expansion.

(4) The expansion area is contiguous to the existing enterprise zone.

(d) (1) Except as otherwise provided in paragraph (2), in no event shall an enterprise zone be permitted to expand more than 15 percent in size from its size on the date of original designation, including any expansion authorized pursuant to Chapter 12.8 (commencing with Section 7070), or Chapter 12.9 (commencing with Section 7080), as those chapters read prior to January 1, 1997.

(2) If an enterprise zone, on the date of original designation, is no greater than 13 square miles, it may be permitted to expand up to 20 percent in size from its size on the date of original designation.

(e) A city, county, or city and county may propose expansion into a noncontiguous area if the department finds both of the following:

(1) The noncontiguous area is needed to implement the enterprise zone's economic development strategy.

(2) The excluded areas between the proposed new boundaries would not, based on the enterprise zone's economic development strategy, also benefit from enterprise zone expansion.

SEC. 4. Section 7076 of the Government Code is amended to read:

~~7076. (a) (1)~~

7076. (a) The department shall serve as a liaison between the state and zone residents, businesses, workers, nonprofit organizations, and local governments. State agencies and departments shall affirmatively support their statutory responsibilities under this part, and respond to requests made by and on behalf of enterprise zones in a manner consistent with their statutory duties.

(b) (1) The department shall provide technical assistance to the enterprise zones designated pursuant to this chapter with respect to all of the following activities:

(A) Furnish limited onsite assistance to the enterprise zones when appropriate.

(B) Ensure that the locality has developed a method to make residents, businesses, and neighborhood organizations aware of the opportunities to participate in the program.

(C) Help the locality develop a marketing program for the enterprise zone.

(D) Coordinate activities of other state agencies regarding the enterprise zones.

(E) Monitor the progress of the program.

(F) Help businesses to participate in the program.

(2) Notwithstanding existing law, the provision of services in subparagraphs (A) to (F), inclusive, shall be a high priority of the

department.

(3) The department may, at its discretion, undertake other activities in providing management and technical assistance for successful implementation of this chapter.

—(b)

(c) The applicant shall be required to begin implementation of the enterprise zone plan contained in the final application within six months after notification of final designation or the enterprise zone shall lose its designation.

—(e)

(d) The department shall assess a fee of fifteen dollars (\$15) on each enterprise zone and manufacturing enhancement area for each application for issuance of a certificate pursuant to subdivision (j) of Section 17053.47 of, subdivision (c) of Section 17053.74 of, subdivision (c) of Section 23622.7 of, or subdivision (i) of Section 23622.8 of, the Revenue and Taxation Code. The department shall collect the fee for deposit into the Enterprise Zone Fund, pursuant to Section 7072.3, for the costs of administering this chapter. The enterprise zone or manufacturing enhancement area administrator shall collect this fee at the time an application is submitted for issuance of a certificate.

SEC. 5. Section 7076.1 of the Government Code is amended to read:

7076.1. (a) The department may audit the program of any jurisdiction in any designated G-TEDA at any time during the duration of the designation, as appropriate. However, the department shall audit each G-TEDA at least once every five years from the date of designation or the operative date of this section, whichever is the latest. The matters to be examined in the course of an audit shall include an examination of the progress made by the G-TEDA toward meeting the goals, objectives, and commitments set forth in its original application and the department's memorandum of understanding with the G-TEDA.

(b) The department shall, for each audit, determine a result of superior, pass, or fail in accordance with subdivision (c). The results of each audit shall be based upon the success of the G-TEDA in making substantial and sustained efforts since the later of its designation or last audit to meet the standards, criteria, and conditions contained in the application and the memorandum of understanding (MOU) between the department and the G-TEDA, as may be amended pursuant to the agreement of the G-TEDA and the department. In each audit, the department shall focus upon the G-TEDA's use of the marketing plan, local incentives, financing programs, job development, and program management as described in the application and the MOU. The department shall also evaluate the vouchering plan, staffing levels, budget, and elements unique to each application.

(c) For purposes of subdivision (b), an audit determination of superior, pass, or fail shall be made in accordance with the following:

(1) A G-TEDA will be determined to be superior if each jurisdiction comprising the G-TEDA does all of the following:

(A) Meets 100 percent of its goals, objectives, and commitments as defined in its application, most recent audit, biennial report, and

memorandum of understanding with the department, and as determined by the department in consultation with the G-TEDA. An equivalent or similar commitment may be substituted for an existing commitment of a G-TEDA if it is determined by the department that an original commitment was not realistically practical or is no longer relevant.

(B) Demonstrates that it has reviewed and updated its goals, objectives, and commitments as defined in its original application, most recent audit, biennial report, and memorandum of understanding with the department.

(C) Identifies to the department's satisfaction that it has incorporated economic development commitments in addition to those commitments previously made in its application.

(2) (A) A G-TEDA will be determined to be passing if each jurisdiction comprising the area meets ~~or exceeds~~ 75 to 90 percent of its goals, objectives, or commitments as defined in its original application, most recent audit, biennial report, and memorandum of understanding with the department, and as determined by the department in consultation with the G-TEDA. An equivalent or similar commitment may be substituted for an existing commitment of a G-TEDA if it is determined by the department that an original commitment was not realistically practical or is no longer relevant.

(B) Any G-TEDA that is determined to be passing may appeal in writing to the department for a determination of superior. Only one appeal may be filed pursuant to this subparagraph with respect to a determination by the department, and may be filed no later than 30 days after the G-TEDA's receipt of the determination to which the appeal pertains. The department shall respond in writing to any appeal that is properly filed pursuant to this subparagraph within 60 days of the date of that filing.

(3) (A) A G-TEDA will be determined to be failing if any jurisdiction comprising the G-TEDA fails to meet or exceed 75 percent of its goals, objectives, or commitments as defined in its original application, most recent audit, biennial report, and memorandum of understanding with the department, and as determined by the department in consultation with the G-TEDA. An equivalent or similar commitment may be substituted for an existing commitment of a G-TEDA if it is determined by the department that an original commitment was not realistically practical or is no longer relevant.

(B) Any G-TEDA that is determined to be failing shall enter into a written agreement with the department that specifies those items that the G-TEDA is required to remedy or improve. Failure of the G-TEDA and the department to negotiate and enter into a written agreement as so described within 60 days of the last day upon which the department is required to deliver a response letter pursuant to subparagraph (C) of paragraph (4) shall result in the dedesignation of the G-TEDA on January 1 immediately following the department's written notice of dedesignation to the G-TEDA.

A

(C) A written agreement entered into pursuant to this ~~subparagraph~~ paragraph shall be for a six-month period. If, upon the expiration of the

agreement, the department determines that the G-TEDA has not met or implemented at least 75 percent of the conditions set forth in the agreement, the department shall, after immediately providing written notification to each jurisdiction comprising the G-TEDA that the G-TEDA is to be dedesignated ~~—dedesignate—~~.

Dedesignation of the G-TEDA is effective on the first day of the month next following the date upon which the agreement expired. If, upon expiration of the agreement, the department determines that the G-TEDA has met or implemented at least 75 percent of the conditions set forth in the agreement, the department shall do either of the following:

(i) Allow the G-TEDA an additional year, or a longer period in the department's discretion, to meet or implement those conditions in their entirety.

(ii) Pursuant to written notice provided immediately to each jurisdiction that comprises the G-TEDA that the G-TEDA is to be dedesignated, dedesignate the G-TEDA effective on January 1 immediately following the date of the department's written notification of dedesignation to those jurisdictions.

~~—Any~~

(D) Any business, located within any jurisdiction that comprises a G-TEDA that has been dedesignated, that has elected to avail itself of any state tax incentive specifically applicable to a G-TEDA for any taxable or income year beginning prior to the dedesignation of the G-TEDA may, to the extent the business is otherwise still eligible for those incentives, continue to avail itself of those incentives for a period equal to the remaining life of the G-TEDA. However, any business, located within any jurisdiction that comprises a G-TEDA that has been dedesignated, that has not availed itself of any state tax incentive in the manner described in the preceding sentence may not, after dedesignation of the G-TEDA, avail itself of any state incentive specifically applicable to a G-TEDA.

(4) (A) Notwithstanding paragraphs (1) to (3), inclusive, a G-TEDA shall be determined to be failing if any jurisdiction comprising the G-TEDA, in the determination of the director, provides funding support in at least three of the previous five years at a level that is less than 75 percent of the amount committed to in the G-TEDA's memorandum of understanding with the department.

(B) In the event that a G-TEDA is determined to be failing pursuant to this paragraph, subparagraph (B) of paragraph (3) shall apply.

(C) Any G-TEDA that is determined to be failing pursuant to this paragraph may appeal in writing to the department. The appeal shall be filed within 30 days of the G-TEDA's receipt of the determination to which the appeal pertains. The department shall respond in writing to any appeal that is properly filed within 60 days of the date of filing.

(d) In undertaking its audit responsibilities pursuant to this section, the department shall seek appropriate opportunities to provide technical assistance and training to help G-TEDAs address inadequacies identified through the audit progress in the program.

Assistance may include, but is not limited to, workshops, mentoring programs, and referrals to other federal, state, and local public and private entities.

—(d)

(e) (1) For purposes of this section, "dedesignation" means that a G-TEDA is no longer a G-TEDA for purposes of either Section 7073 or 7085.

(2) Upon notification by the department of the dedesignation of a G-TEDA and the end of the appeal period with respect to that dedesignation, the department shall initiate an application process for a new designation as provided in Section 7073, 7073.8, 7085, 7097, or 7114.

(f) In addition to any other oversight activities that the department determines are appropriate and necessary, the department shall review the progress reports submitted by a G-TEDA pursuant to Section 7085.1 and determine whether an audit is warranted.

SEC. 6. Section 7081 of the Government Code is amended to read:

7081. (a) Notwithstanding any other provision of state law, and to the extent permitted by federal law, the Employment Development Department and the State Department of Education shall give high priority to the training of unemployed individuals who reside in a targeted employment area or a designated enterprise zone. —The

(b) When developing workforce development and training plans and strategies, including, but not limited to, federal Workforce Development Act funds, a state entity shall consider how the G-TEDA programs could be integrated so as to maximize the benefits to workers and businesses.

(c) The Employment Development Department shall, consistent with its duties to assist unemployed workers who are registered in the one-stop career centers, provide letters to unemployed prospective employees that could be used to certify their eligibility as a person participating in a program developed pursuant to the federal Workforce Investment Act of 1998 (Public Law 105-220).

(d) The department may assist localities in designating local business, labor, and education consortia to broker activities between the employment community and educational and training institutions. Any available discretionary funds may be used to assist the creation of those consortia.

SEC. 7. Section 7082 of the Government Code is amended to read:

7082. Notwithstanding any other provision of law, the ~~Office of Criminal Justice Planning~~ Public Safety Branch and the Victim Services Branch of the California Emergency Management Agency shall give high priority to designated enterprise zones in the allocation of ~~its~~ program resources.

SEC. 8. Section 7085 of the Government Code is amended to read:

7085. (a) Notwithstanding Section 7550.5, the department shall submit a report to the Legislature every five years beginning January 1, 1998, that evaluates the effect of the program on employment, investment, and incomes, and on state and local tax revenues in

designated enterprise zones. The report shall include a department review of the progress and effectiveness of each enterprise zone, including, but not limited to, any efforts made regarding training of unemployed individuals pursuant to Section 7081. The Employment Development Department shall, for the purposes of the report, provide the department with existing data on unemployed individuals receiving training. The Franchise Tax Board shall make available to the department and the Legislature aggregate information on the dollar value of enterprise zone tax credits that are claimed each year by businesses pursuant to Section 7085.5 .

(b) An enterprise zone governing body shall provide information at the request of the department as necessary for the department to prepare the report required pursuant to subdivision (a).

SEC. 9. Section 7085.1 of the Government Code is amended to read:

7085.1. (a) The governing board of the G-TEDA shall report to the department by October 1, 2008, and by that date every other year thereafter, on the activities of the G-TEDA in the previous two fiscal years and its plans for the current and following fiscal year. The biennial report shall include ~~at least both~~ all of the following:

(1) The progress the G-TEDA has made during the period covered by the report relative to its goals, objectives, and commitments set forth in its original application and the department's memorandum of understanding with the G-TEDA.

(2) Identification of the previous two years' funding, including in-kind funding. The previous two years' funding levels shall be compared to the funding levels identified in its original application and the department's memorandum of understanding with the G-TEDA, and the amount identified in the previous year's biennial report. An explanation of any meaningful discrepancies in these amounts shall be provided.

(3) Identification of the financial value of local incentives provided during the report period, and identification of the financial value of federal and other state resources accessed to serve the residents, workers, and businesses in the G-TEDA.

(4) The following information based on the certification applications approved in the zones relating to the hiring credit:

(A) The number of jobs for which the hiring credits are certified.

(B) The number of new employees for which hiring credits were certified.

(C) The number of employees replacing previous employees for which hiring credits were certified.

(D) The range of employee wage rates that were certified.

(E) The number of businesses obtaining certified hiring tax credits.

(F) An aggregate summary of the North American Industry Classification System (NAICS) codes to the third digit of the businesses applying for hiring tax credit employee certification.

(G) An aggregate summary of the size of businesses based on annual gross revenues receiving certification of employee hiring credits.

(b) A copy of the biennial report developed pursuant to subdivision (a) shall also be submitted to the legislative bodies of the local jurisdictions comprising the G-TEDA. The progress of the G-TEDA in meeting the goals, objectives, and commitments set forth in the original application and the memorandum of understanding with the department shall be reviewed at least biennially by these legislative bodies ~~—either as part of the approval of the G-TEDA's annual work plan or separately, at the discretion of the legislative body—~~.

(c) (1) G-TEDAs designated prior to January 1, 2007, shall have until April 15, 2008, to update their benchmarks, goals, objectives, and funding levels for administering the G-TEDA program, in order to make them measurable and conducive to the successful completion of the economic development strategy. The local legislative body and the department shall approve the updated goals and objectives. The updated goals and objectives shall be included as an update to the existing memorandum of understanding between the G-TEDA and the department.

(2) G-TEDAs that fail to obtain approved updated goals and objectives by April 15, 2008, shall be dedesignated effective July 1, 2008. The Director of Housing and Community Development shall provide notice of prospective dedesignation to the local government no later than May 1, 2008. The director may authorize up to two 60-calendar-day extensions, if the local government and G-TEDA are acting in good faith and the additional time would allow them to meet the requirements of this subdivision. Businesses located within a G-TEDA that have been dedesignated shall continue to have access to tax incentives previously authorized within the G-TEDA pursuant to Section 7082.2.

(3) G-TEDAs designated prior to January 1, 2007, are not required to implement the biennial reporting requirements of subdivisions (a) and (b) until October 1, 2009.

(4) G-TEDAs that expire prior to January 1, 2010, are not required to meet the conditions of this subdivision.

(d) The department shall biennially make available to the Legislature information related to the progress that each G-TEDA is making toward implementing its goals, objectives, and commitments set forth in the original application, the department's memorandum of understanding with the G-TEDA, and the biennial report.

BILL NUMBER: ABX1 11 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Members V. Manuel Perez and Alejo
(Coauthor: Assembly Member Bradford)

FEBRUARY 2, 2011

An act to amend Section 7072 of, and to repeal and add Section 7072.5 of, the Government Code, and to amend Sections 17053.74 and 23622.7 of the Revenue and Taxation Code, relating to economic development, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB II, as introduced, V. Manuel Perez. Economic development: enterprise zones: targeted employment areas. .

(1) The Enterprise Zone Act provides that its purpose is to stimulate business and industrial growth in the depressed areas of the state by relaxing regulatory controls that impede private investment. The act defines a targeted employment area as an area composed solely of those census tracts in which at least 51% of the residents of those census tracts, determined as specified, are of low- or moderate-income levels.

This bill would modify the definition of a targeted employment area, as specified.

(2) The act provides that the purpose of a targeted employment area is to encourage businesses in an enterprise zone to hire eligible residents of certain geographic areas within a city, county, or city and county.

This bill would delete that provision of the act and instead provide that the purpose of a targeted employment area is to help identify neighborhoods of low- and moderate-income workers for the purpose of providing those workers with employment assistance, training, and job placement.

(3) The act requires each governmental entity of each city, county, or city and county that has jurisdiction over an enterprise zone to approve, by resolution or ordinance, the boundaries of its targeted employment area.

This bill would delete that requirement, and instead require the governing body of the jurisdiction administering the enterprise zone to adopt a resolution or ordinance designating a targeted employment area that meets specified conditions. The bill would also require, if 2 or more jurisdictions are jointly administering a zone, each of the governing bodies of the 2 jurisdictions to adopt the resolution.

(4) The act requires, within 180 days of updated United States census data becoming available, each governmental entity of each city, county, or city and county that has jurisdiction over an

enterprise zone to approve, by resolution or ordinance, new boundaries for the area that reflect the new census data. The act authorizes an enterprise zone, if no changes to the boundaries of an area are necessary to conform the area with the most current census data, to send a letter to the Department of Housing and Community Development stating that a review has been undertaken and no boundary changes are required.

This bill would delete those provisions, and instead require the governmental entity of each city, county, or city and county that has jurisdiction over an enterprise zone to approve, by resolution or ordinance, new boundaries for its targeted employment area that reflect the new household data provided by the United States Census Bureau in its 5-year American Community Study, and to send that resolution or ordinance to the Department of Housing and Community Development. The bill would require the city, county, or city and county, if no changes to the boundaries of an area are necessary, to send a letter to the department stating that a review has been undertaken and no boundary changes are required. The bill would provide that if the area's boundaries are not updated, and the department does not receive the letter within 180 days of the release of new census information, then the area is invalidated for a period of 2 years, except as specified.

(5) The act sets forth various requirements and limitations relating to the formation and composition of a targeted employment area.

This bill would revise and recast these requirements and limitations, as specified.

(6) The act authorizes a governing body that has already designated a targeted employment area to request to redesignate the area using more current census data, as specified, and requires an area to be comprised of a census tract from only one decennial census.

This bill would delete that provision.

(7) The Personal Income Tax Law and the Corporation Tax Law authorize a taxpayer to claim certain tax incentives for activities conducted in an enterprise zone, including a credit for wages paid during the taxable year to a qualified employee, as defined, who is employed by the taxpayer during the taxable year in an enterprise zone, and those laws each set forth a schedule for the amount of the credit based on the qualified wages of the qualified employee in each of the first 5 years of employment.

This bill would modify the requirements that must be met for an individual to be a qualified employee, as specified, under the Personal Income Tax Law and the Corporation Tax Law, thereby reducing the scope of the credits, and make other specified changes relating to the requirements for a taxpayer to take advantage of the credits. The bill would require that changes made to the Personal Income Tax Law and the Corporations Tax Law by its provisions apply to taxable years beginning on and after January 1, 2011.

(8) This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus

would require for passage the approval of 2/3 of the membership of each house of the Legislature.

(9) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

(10) This bill would take effect immediately as a tax levy.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

SECTION 1. Section 7072 of the Government Code is amended to read:

7072. For purposes of this chapter, the following definitions shall apply:

(a) "Department" means the Department of Housing and Community Development.

(b) "Date of original designation" means the earlier of the following:

(1) The date the eligible area receives designation as an enterprise zone by the department pursuant to this chapter.

(2) In the case of an enterprise zone deemed designated pursuant to subdivision (e) of Section 7073, the date the enterprise zone or program area received original designation by the former Trade and Commerce Agency pursuant to Chapter 12.8 (commencing with Section 7070) or Chapter 12.9 (commencing with Section 7080), as those chapters read prior to January 1, 1997.

(c) "Eligible area" means any of the following:

(1) An area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070), as it read prior to January 1, 1997, or as a targeted economic development area, neighborhood development area, or program area pursuant to Chapter 12.9 (commencing with Section 7080), as it read prior to January 1, 1997.

(2) A geographic area that, based upon the determination of the department, fulfills at least one of the following criteria:

(A) The proposed geographic area meets the Urban Development Action Grant criteria of the United States Department of Housing and Urban Development.

(B) The area within the proposed eligible area has experienced plant closures within the past two years affecting more than 100 workers.

(C) The city or county has submitted material to the department for a finding that the proposed geographic area meets criteria of

economic distress related to those used in determining eligibility under the Urban Development Action Grant Program and is therefore an eligible area.

(D) The area within the proposed zone has a history of gang-related activity, whether or not crimes of violence have been committed.

(3) A geographic area that meets at least two of the following criteria:

(A) The census tracts within the proposed eligible area have an unemployment rate not less than 3 percentage points above the statewide average for the most recent calendar year as determined by the Employment Development Department.

(B) The county of the proposed eligible area has more than 70 percent of the children enrolled in public school participating in the federal free lunch program.

(C) The median household income for a family of four within the census tracts of the proposed eligible area does not exceed 80 percent of the statewide median income for the most recently available calendar year.

(d) "Enterprise zone" means any area within a city, county, or city and county that is designated as an enterprise zone by the department in accordance with Section 7073.

(e) "Governing body" means a county board of supervisors or a city council, as appropriate.

(f) "G-TEDA" means a geographically targeted economic development area, which is an area designated as an enterprise zone, a Manufacturing Enhancement Area, a targeted tax area, or a local agency military base recovery area.

(g) "High-technology industries" includes, but is not limited to, the computer, biological engineering, electronics, and telecommunications industries.

(h) "Resident," unless otherwise defined, means a person whose principal place of residence is within a targeted employment area.

(i) ~~(1)~~ - "Targeted employment area" means an area within a city, county, or city and county that is composed solely of those census tracts designated by the United States Department of Housing and Urban Development as having at least 51 percent of its residents of low- or moderate-income levels, using ~~either~~ the most recent United States Department of Census data available at the time ~~of the original enterprise zone application or the most recent census data available at the time~~ the targeted employment area is designated to determine that eligibility. ~~The purpose of a "targeted employment area" is to encourage businesses in an enterprise zone to hire eligible residents of certain geographic areas within a city, county, or city and county. A targeted employment area may be, but is not required to be, the same as all or part of an enterprise zone. A targeted employment area's boundaries need not be contiguous. A targeted employment area does not need to encompass each eligible census tract within a city, county, or city and county. The governing body of each city, county, or city and county that has jurisdiction of the enterprise zone shall identify those census tracts where~~

~~residents are in the most need of this employment targeting. Only those census tracts within the jurisdiction of the city, county, or city and county that has jurisdiction of the enterprise zone may be included in a targeted employment area.~~

~~— (2) At least a part of each eligible census tract within a targeted employment area shall be within the territorial jurisdiction of the city, county, or city and county that has jurisdiction for an enterprise zone. If an eligible census tract encompasses the territorial jurisdiction of two or more local governmental entities, all of those entities shall be a party to the designation of a targeted employment area. However, any one or more of those entities, by resolution or ordinance, may specify that it shall not participate in the application as an applicant, but shall agree to complete all actions stated within the application that apply to its jurisdiction, if the area is designated.~~

~~— (3) Each local governmental entity of each city, county, or city and county that has jurisdiction of an enterprise zone shall approve, by resolution or ordinance, the boundaries of its targeted employment area, regardless of whether a census tract within the proposed targeted employment area is outside the jurisdiction of the local governmental entity.~~

~~— (4) (A) Within 180 days of updated United States census data becoming available, each local governmental entity of each city, county, or city and county that has jurisdiction of an enterprise zone shall approve, by resolution or ordinance, boundaries of its targeted employment area reflecting the new census data. If no changes are necessary to the boundaries based on the most current census data, the enterprise zone may send a letter to the department stating that a review has been undertaken by the respective local governmental entities and no boundary changes are required.~~

~~— (B) A targeted employment area boundary approved prior to the 2000 United States census data becoming available that has not been reviewed and its boundaries revised to reflect the most recent census data, shall be reviewed and updated, and a new resolution or ordinance submitted by the appropriate local governmental entity to the department, by July 1, 2007. However, enterprise zones that expire on or prior to December 31, 2008, shall be exempt from the update requirement.~~

SEC. 2. Section 7072.5 of the Government Code is repealed.

~~— 7072.5. By April 1, 1998, a governing body that has already designated a target employment area may request, by a resolution of all cities or counties having jurisdiction over the enterprise zone, to redesignate the targeted employment area using more current census data. A targeted employment area shall be comprised of census tracts from only one decennial census.~~

SEC. 3. Section 7072.5 is added to the Government Code, to read:

7072.5. (a) After receiving notification from the department of being conditionally designated as an enterprise zone, the governing body of the jurisdiction administering the zone shall adopt a resolution or ordinance designating a targeted employment area that

meets all the conditions of this section and those set forth in subdivision (i) of Section 7072, and is consistent with the purpose set forth in this section. If two or more jurisdictions are jointly administering a zone, a resolution or ordinance designating the targeted employment area shall be adopted by each governing body.

(b) A targeted employment area serves as the residential base of potential low- and moderate-income workers who are available to work in businesses located in an enterprise zone. The purpose of a targeted employment area is to help identify neighborhoods of low- and moderate-income workers for the purpose of providing those workers with employment assistance, training, and job placement. Businesses located in a zone are encouraged to hire locally to help address some of the poverty and economic dislocation that led to the area's designation as a zone.

(c) (1) A targeted employment area may be, but is not required to be, the same as all or part of an enterprise zone. A targeted employment area's boundaries need not be contiguous. A targeted employment area does not need to encompass each eligible census tract or block group within a city, county, or city and county. The governing body of each city, county, or city and county that has jurisdiction over the zone shall identify those census tracts whose residents are in the most need of this employment targeting. Only those census tracts within the jurisdiction of the city, county, or city and county that have jurisdiction over the zone may be included in a targeted employment area.

(2) At least part of each eligible census tract within a targeted employment area shall be within the territorial jurisdiction of the city, county, or city and county that has jurisdiction over an enterprise zone. If an eligible census tract encompasses the territorial jurisdiction of two or more local governmental entities, all of those entities shall be a party to the designation of the targeted employment area. However any one or more of those entities, by resolution with the ordinance, may specify that it shall not participate in the application as an applicant, but shall agree to complete all actions stated within the application that apply to its jurisdiction, if the area is designated.

(d) (1) A targeted employment area shall be designated based on data from the most current household income data published by the United States Census Bureau at the time that the targeted employment area is designated or modified, including being updated pursuant to paragraph (2).

(2) Every targeted employment area boundary shall be reviewed and updated to the extent necessary to accommodate the new household income data provided by the United States Census Bureau in its five-year American Community Survey. Each governmental entity of each city, county, or city and county that has jurisdiction over an enterprise zone shall approve, by resolution or ordinance, the boundaries of its targeted employment area reflecting the new household data and send a copy of its resolution with the changes that are necessary to the boundaries based on the most current census data, or the governmental entity that has jurisdiction over the zone shall send a letter to the department stating that the review has

been undertaken by the respective local governmental entities and no boundary changes are required.

(3) (A) A targeted employment area boundary that is not updated, or for which a letter indicating that no changes are necessary has not been received by the department within 180 days of the release of new household data, is invalidated for a period of two years, except as modified by subparagraph (C).

(B) The department shall send a notice to the Franchise Tax Board and the local enterprise zone administrator that the targeted employment area is invalid and that no additional employees will be certified based on an employee living in a targeted employment area, other than a business that has already had one or more vouchers certified by the zone using the targeted employment area as the qualifying criteria under subparagraph (A) of paragraph (4) of subdivision (b) of Sections 17053.74 and 23622.7 of the Revenue and Taxation Code.

(C) A business that has previously received certification of an employee is exempt from subparagraph (A). The vouchering exemption is nontransferable to any other business.

SEC. 4. Section 17053.74 of the Revenue and Taxation Code is amended to read:

17053.74. (a) There shall be allowed a credit against the "net tax" (as defined in Section 17039) to a taxpayer who employs a qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described in Codes ~~3721 to 3728, inclusive, and Code 3812 of the Standard Industrial Classification (SIC) Manual~~

311 to 339, inclusive, of the North American Industry Classification System published by the United States Office of Management and Budget, ~~1987~~ 2007

edition, "qualified wages" means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly

occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Zone expiration date" means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following:

~~—(I)—Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.~~

~~—(II)—Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.~~

~~—(III)~~

(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.

~~—(IV)~~

(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:

(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has

exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(bb) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(cc) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(dd) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(ee) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(ff) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(gg) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(hh) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

~~—(V)~~

(III) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan ~~-or-io-~~.

(IV) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

~~—(VI)~~

(V) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

~~—(VII)~~

(VI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:

(aa) Federal Supplemental Security Income benefits.

(bb) ~~Aid to Families with Dependent Children~~
Temporary Assistance for Needy Families .

(cc) Medi-Cal or Healthy Families.

~~(ee)~~

(dd) Food stamps.

~~(da)~~

(ee) State and local general assistance.

(ff) Intensive services including employment training services funded through the federal Workforce Investment Act (Public Law 105-220).

(gg) Voluntary or mandatory services under the California Work Opportunity and Responsibility to Kids (CalWORKs) program (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code).

(hh) Federal Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code).

~~(VIII)~~

(VII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

~~(IX)~~

(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area, as defined in Section 7072 of the Government Code , and the employee is receiving a wage that does not exceed moderate income for a family of four based on the countywide household income .

~~(X)~~

(IX) An employee who qualified the taxpayer for the enterprise zone hiring credit under former Section 17053.8 or the program area hiring credit under former Section 17053.11.

~~(XI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.~~

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal ~~Job Training Partnership Act or the Greater Avenues for Independence Act of 1985~~ Workforce Investment Act or the CalWORKs program or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) "Taxpayer" means a person or entity engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of the Government Code.

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city ~~Job Training Partnership Act administrative entity, the local county-GAIN~~ federal Workforce Investment Act administrative

entity, the local county CalWORKs program office or social services agency, or the local government administering the enterprise zone, a certification which provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to ~~a certifying agency. The Employment Development Department shall develop a form for this purpose~~ businesses located in an enterprise zone as of the department's implementation of the intensive services activities funded through the federal Workforce Investment Act . The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of trades or businesses, which are not incorporated, that are under common control shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that

includes the 60th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship

between the taxpayer and a qualified employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the qualified employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(g) For purposes of this section, "enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 17053.10, 17053.17 and 17053.46 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit that exceeds the "net tax" may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 17053.70, including any credit carryover from prior years, that may reduce the "net tax" for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the enterprise zone determined as if that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by

a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1997.

(l) The changes made to this section by the act adding this subdivision shall apply only to taxable years beginning on and after January 1, 2011.

SEC. 5. Section 23622.7 of the Revenue and Taxation Code is amended to read:

23622.7. (a) There shall be allowed a credit against the "tax" (as defined by Section 23036) to a taxpayer who employs a qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of qualified wages in the first year of employment.

(2) Forty percent of qualified wages in the second year of employment.

(3) Thirty percent of qualified wages in the third year of employment.

(4) Twenty percent of qualified wages in the fourth year of employment.

(5) Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) "Qualified wages" means:

(A) (i) Except as provided in clause (ii), that portion of wages paid or incurred by the taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.

(ii) For up to 1,350 qualified employees who are employed by the taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described in Codes ~~3721 to 3728, inclusive, and Code 3812 of the Standard Industrial Classification (SIC) Manual~~

~~311 to 339, inclusive, of the North American Industry Classification System published by the United States Office of Management and Budget, -1987- 2007~~

edition, "qualified wages" means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) "Minimum wage" means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) "Zone expiration date" means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) "Qualified employee" means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer's trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following:

~~(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.~~

~~(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.~~

~~(III)~~

(I) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.

~~(IV)~~

(II) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:

(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(bb) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(cc) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(dd) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(ee) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(ff) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(gg) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(hh) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

~~—(v)~~

(III) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan ~~—or—is—~~.

(IV) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

~~—(VI)~~

(V) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

~~—(VII)~~

(VI) Immediately preceding the qualified

employee's commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:

(aa) Federal Supplemental Security Income benefits.

~~(bb) Aid to Families with Dependent Children~~

Temporary Assistance for Needy Families . . .

(cc) Medi-Cal or Healthy Families.

~~—(ee)~~

(dd) Food stamps.

~~—(dd)~~

(ee) State and local general assistance.

(ff) Intensive services including employment training services funded through the federal Workforce Investment Act (Public Law 105-220).

(gg) Voluntary or mandatory services under the California Work Opportunity and Responsibility to Kids (CalWORKs) program (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code).

(hh) Federal Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code).

~~—(VIII)~~

(VII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

~~—(IX)~~

(VIII) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a resident of a targeted employment area (as defined in Section 7072 of the Government Code) , and the employee is receiving a wage that does not exceed moderate income for a family of four based on the countywide average household income .

~~—(X)~~

(IX) An employee who qualified the taxpayer for the enterprise zone hiring credit under former Section 23622 or the program area hiring credit under former Section 23623.

~~—(XI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.~~

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal ~~Job Training Partnership Act or the Greater Avenues for Independence Act of 1985~~ Workforce Investment Act or the CalWORKs program or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) "Taxpayer" means a corporation engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business

operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city ~~Job Training Partnership Act administrative entity, the local county-GAIN~~ federal Workforce Investment Act administrative entity, the local county CalWORKs program office or social services agency, or the local government administering the enterprise zone, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to ~~a certifying agency. The Employment Development Department shall develop a form for this purpose~~ businesses located in a zone as part of the department's implementation of the intensive services activities funded through the federal Workforce Investment Act. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) For purposes of this subdivision, "controlled group of corporations" means "controlled group of corporations" as defined in Section 1563(a) of the Internal Revenue Code, except that:

(i) "More than 50 percent" shall be substituted for "at least 80 percent" each place it appears in Section 1563(a)(1) of the Internal Revenue Code.

(ii) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the "predecessor") or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment, whether or not consecutive, or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the

taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the taxpayer for a period of 270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in subparagraph (A) of paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the

seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and a qualified employee shall not be treated as terminated by either of the following:

(i) By a transaction to which Section 381(a) of the Internal Revenue Code applies, if the qualified employee continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the taxpayer, if the qualified employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) Rules similar to the rules provided in Section 46(e) and (h) of the Internal Revenue Code shall apply to both of the following:

(1) An organization to which Section 593 of the Internal Revenue Code applies.

(2) A regulated investment company or a real estate investment trust subject to taxation under this part.

(g) For purposes of this section, "enterprise zone" means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 23623.5, 23625, and 23646 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this section exceeds the "tax" for the taxable year, that portion of the credit that exceeds the "tax" may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23612.2, including any credit carryover from prior years, that may reduce the "tax" for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer's business income attributable to the enterprise zone determined as if

that attributable income represented all of the income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of

this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the income year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the income year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the income year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the income year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years on or after January 1, 1997.

(l) The changes made to this section by the act adding this subdivision shall apply only to taxable years beginning on and after January 1, 2011.

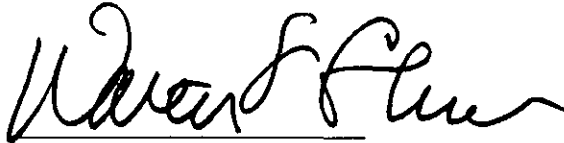
SEC. 6. This act addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation on January 20, 2011, pursuant to subdivision (f) of Section 10 of Article IV of the California Constitution.

SEC. 7. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

ACTION REQUESTED OF THE CITY COUNCIL

Staff requests that the Council adopt the resolution in support of these pieces of legislation.

Respectfully Submitted,



Walter S. Cohen, Director
Community and Economic Development Agency

Reviewed by:

Gregory Hunter, Deputy Director
Economic Development and Redevelopment

Prepared by:

Susana Villarreal, Enterprise Zone Coordinator
Economic Development

Approved for Forwarding to
Rules Committee



Office of City Administrator

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2011 MAR 10 PM 3:49

Approved as to Form and Legality


Deputy City Attorney

OAKLAND CITY COUNCIL

Resolution No. _____ C.M.S.

A RESOLUTION IN SUPPORT OF AB 231, AB 232, AND ABX 11, PROPOSED AMENDMENTS TO REFORM THE CALIFORNIA ENTERPRISE ZONE PROGRAM.

WHEREAS, the City of Oakland supports AB 231, AB 232, and ABX 11, proposed amendments intended to strengthen the Enterprise Zone Program, making it more accountable to the public and to the Oakland community; and

WHEREAS, the Governor's proposed 2010 – 2011 fiscal year budget advocates the elimination of California's Enterprise Zone Program; and

WHEREAS, the Oakland Enterprise Zone has greatly contributed to the revitalization of our community, creating jobs, for local residents and attracting and retaining businesses; now, therefore, be it

RESOLVED: That the best interests of the City of Oakland would be served by supporting AB 231, AB 232 and ABX 11; and be it

FURTHER RESOLVED: That the City Council hereby adopts a supporting position on AB 231, AB 232, and ABX 11.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, AND
PRESIDENT REID

NOES –

ABSENT –

ABSTENTION –

ATTEST:

LATONDA SIMMONS
City Clerk and Clerk of the Council of
the City of Oakland, California