

**CITY OF OAKLAND**  
**BILL ANALYSIS**



**Date:** April 21, 2009

**Bill Number:** AB 1139

**Bill Author:** John A. Perez; D-Los Angeles

**DEPARTMENT INFORMATION**

**Contact:** Susana Villarreal  
**Department:** CEDA/ED  
**Telephone:** 238-7794 **FAX #** 238-2230 **E-mail:** svillarreal@oaklandnet.com

**RECOMMENDED POSITION: OPPOSE**

**Summary of the Bill:**

AB 1139 (J. Perez; D-Los Angeles) would mandate that businesses, as a condition of participating in the Enterprise Zone (EZ) program, provide health care coverage and full-time employment to all employees covered under the EZ program. AB 1139 would also eliminate one of the primary ways that employees qualify for a hiring credit under the program, which is residency in low-income, low-employment neighborhoods, known as "targeted employment areas." In addition, the bill establishes impractical deadlines and regulations that severely limit the program's effectiveness and would make participation in the program burdensome and costly for businesses.

The reductions proposed by AB 1139 would be on top of severe reductions already imposed on the EZ program in the October 2008 Budget. AB 1452 (Committee on Budget, Chapter 763, Statutes of 2008), which placed a two-year limit on the ability of businesses to use all business tax credits, including enterprise zone credits, and capped those credits at one-half of the taxpayer's tax liability. Although AB 1139 would further significantly reduce the tax credits available under the EZ program, it has been designated as needing only a majority vote of the Legislature to be enacted.

**Positive Factors for Oakland: NONE**

**Negative Factors for Oakland:**

Assembly Bill 1139 would make the costs of participating in the Enterprise Zone program far outweigh the benefits. Tying employees' healthcare into the Enterprise Zone program has a disproportionate impact on small and medium-sized businesses

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2009 APR 23 PM 6:19

Item: \_\_\_\_\_  
Rules & Legislation Comte.  
April 30, 2009

that cannot afford to pay high healthcare costs. Also, many businesses have to rely on part-time or seasonal workers to meet the unique needs and schedules of a particular industry.

Taking advantage of the Targeted Employment Area (TEA) hiring credit gives employers an incentive to hire workers who live in low income areas and who might otherwise have a difficult time finding employment. Abolishing the TEA criteria will have a devastating impact on the Enterprise Zone program by drastically reducing the number of hiring credit vouchers that are issued, affecting thousands of employers and employees and undermining the ability of the program to eliminate barriers to employment for disadvantaged individuals.

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

- 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:**

1. International Longshore Workers Union (Co-sponsor)
2. Women's Policy Institute (Co-sponsor)

**Known Opposition:**

1. CAEZ
2. California Chamber of Commerce
3. California Hispanic Chamber of Commerce
4. Asian Pacific Chamber of Commerce
5. LAEDC
6. Los Angeles County Board of Supervisors
7. Greater Los Angeles Chamber of Commerce
8. Orange County Business Council
9. Otay Mesa Chamber of Commerce
10. South County Economic Development Council
11. San Diego Regional Chamber of Commerce
12. City of Chula Vista
13. National City Chamber of Commerce

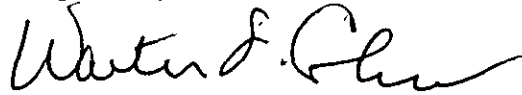
14. Yuba City
15. City of Pittsburg
16. Stanislaus County Economic Development Alliance
17. Yuba-Sutter Enterprise Zone
18. Yuba-Sutter EDC
19. Elliot, Lewis, Lieber & Stumpf
20. Labhart Miles Consulting
21. CLC Tax Credits
22. UPS
23. Holthouse Carlin & Van Trigt
24. Tulare County EDC
25. Chabin Concepts
26. City of Fresno
27. Tulare County Targeted Tax Area
28. City of Los Angeles
29. City of Montague
30. NorCal Lumber Co.
31. City of Yreka
32. Timber Products
33. Siskiyou County EDC
34. Siskiyou County
35. San Bernardino County
36. City of Barstow
37. Barstow Enterprise Zone
38. City of San Bernardino
39. San Bernardino Valley Enterprise Zone
40. City of Hesperia
41. Valley Economic Alliance
42. City of Gardena
43. Valley Industry & Commerce Assoc.
44. City of Compton Enterprise Zone
45. International Component Technology
46. Nivek Industries, Inc.
47. San Ysidro Chamber of Commerce
48. City of Oroville
49. MARS STOUT
50. KBKG
51. Cal Tax Group, Inc.
52. Marza Consulting
53. Compete Consulting, LLC
54. Windsor Mortgage & Capital

55. Pacific Real Estate
56. Urban Industries Embroidery
57. Vermont Outlet, Inc.
58. Amazon Consultants
59. ACE Parking
60. Blum & Clark Accounting
61. San Bernardino Greater Downtown Area Chamber of Commerce
62. City of San Bernardino Economic Development Agency
63. San Bernardino Downtown Assoc.
64. Young Electric Sign Co.
65. Jacobs Pine Consulting
66. National Tax Credit Group
67. Enterprise Zone Benefits Group
68. City of Pasadena
69. CMTA
70. C&I Tax Consultants
71. City of Wheatland
72. Merced County EDC
73. City of West Sacramento
74. Wakecraft Boats
75. Brigante, Cameron, Watters & Strong, LLP
76. Encore Tax Group
77. Hilton Hotels
78. City of Santa Ana
79. Upstate California EDC
80. City of Shafter
81. Walton Management Services
82. EDC of Shasta County
83. Knuth Hinge Co., Inc
84. First Capitol Consulting
85. Coachella Valley Enterprise Zone
86. American Tax Incentives

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

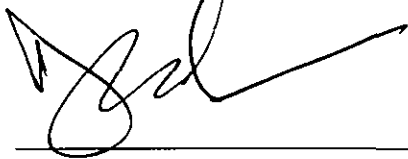
Included as Attachment A.

Respectfully Submitted,



Walter S. Cohen, Director  
Community and Economic Development Agency

Approved for Forwarding to  
Rules Committee:



Office of the City Administrator

Item: \_\_\_\_\_  
Rules & Legislation Comte.  
April 30, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1139**

---

**Introduced by Assembly Member John A. Perez**

February 27, 2009

---

An act to amend Sections 17053.74 and 23634 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1139, as amended, John A. Perez. Income taxes: credits: enterprise zones.

*The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a credit based on "qualified wages," which, except as specified, is that portion of wages paid or incurred by the taxpayer during the taxable year to qualified employees that does not exceed 150% of the minimum wage, for qualified taxpayers who hire qualified employees within enterprise zones, subject to specific criteria. Existing law requires a taxpayer to obtain, from specified agencies, a certification providing that a qualified employee meets the requirements of the credit.*

*This bill would revise the definition of "qualified wages" for purposes of the credit to provide that qualified wages include that portion of wages paid or incurred by the taxpayer that do not exceed \_\_\_% of the minimum wage and to further revise the definition to provide that qualified wages include that portion of wages paid or incurred by the taxpayer that do not exceed \_\_\_% of the minimum wage for qualified employees that the qualified employer employs for at least 35 hours per week and for whom the taxpayer pays for at least 80% of specified forms of health care coverage. This bill would also revise the definition*

of “qualified employee” by removing, as an element of eligibility as a qualified employee, residency in a targeted employment or targeted tax area. Additionally, this bill would require taxpayers to apply for, and obtain, the certification of a qualified employee within 21 days of the date of hire of the qualified employee. This bill would also require taxpayers to annually report specified information regarding qualified employees to certifying agencies which then must compile and report that information to the Department of Housing and Community Development, for an annual report presented by the department to the Legislature.

~~The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a hiring credit for qualified taxpayers who hire qualified employees, as defined, within enterprise zones, subject to specific criteria. Qualified employees includes, for purposes of the credit, an ex-offender, as defined.~~

~~This bill would revise the definition of “qualified employee” for this purpose, by providing that an ex-offender includes an individual who has been convicted of a felony or a misdemeanor offense punishable by incarceration, or a person charged with a felony or misdemeanor punishable by incarceration but placed on probation without a finding of guilt, with specified exclusions. This bill would also make technical, nonsubstantive changes to remove obsolete references in the credit provisions.~~

This bill would take effect immediately as a tax levy.

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

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 17053.74 of the Revenue and Taxation
- 2     Code is amended to read:
- 3     17053.74. (a) There shall be allowed a credit against the “net
- 4     tax” (as defined in Section 17039) to a taxpayer who employs a
- 5     qualified employee in an enterprise zone during the taxable year.
- 6     The credit shall be equal to the sum of each of the following:
- 7         (1) Fifty percent of qualified wages in the first year of
- 8     employment.
- 9         (2) Forty percent of qualified wages in the second year of
- 10    employment.

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

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

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

7 (b) For purposes of this section:

8 (1) "Qualified wages" means:

9 (A) (i) Except as provided in clause (ii) *or* (iii), that portion of  
10 wages paid or incurred by the taxpayer during the taxable year to  
11 qualified employees that does not exceed ~~150~~ \_\_\_\_ percent of the  
12 minimum wage.

13 (ii) For up to 1,350 qualified employees who are employed by  
14 the taxpayer in the Long Beach Enterprise Zone in aircraft  
15 manufacturing activities described in Codes 3721 to 3728,  
16 inclusive, and Code 3812 of the Standard Industrial Classification  
17 (SIC) Manual published by the United States Office of  
18 Management and Budget, 1987 edition, "qualified wages" means  
19 that portion of hourly wages that does not exceed 202 percent of  
20 the minimum wage.

21 (iii) *"Qualified wages" means that portion of wages paid or*  
22 *incurred by the taxpayer during the taxable year that does not*  
23 *exceed \_\_\_\_ percent of the minimum wage for a qualified employee*  
24 *that the qualified employer employs for at least 35 hours per week*  
25 *and for whom the taxpayer pays for at least 80 percent of any of*  
26 *the following:*

27 (I) *Health care coverage that meets the minimum requirements*  
28 *set forth in Chapter 2.2 (commencing with Section 1340) of*  
29 *Division 2 of the Health and Safety Code.*

30 (II) *A group health insurance policy, as defined in subdivision*  
31 *(b) of Section 106 of the Insurance Code, that covers hospital,*  
32 *surgical, and medical care expenses, provided the maximum*  
33 *out-of-pocket costs for insureds do not exceed the maximum*  
34 *out-of-pocket costs for enrollees of health care service plans*  
35 *providing benefits under a preferred provider organization policy.*  
36 *For purposes of this section, a group health insurance policy shall*  
37 *not include Medicare supplement, vision-only, dental-only,*  
38 *Champus-supplement insurance, hospital indemnity, accident-only,*  
39 *or specified disease insurance that pays benefits on a fixed benefit,*  
40 *cash-payment-only basis.*



1     (III) Any Taft-Hartley health and welfare fund or any other  
2 lawful collective bargaining agreement that provides for health  
3 and welfare coverage for collective bargaining unit or other  
4 employees thereby covered.

5     (IV) Any employer-sponsored group health plan meeting the  
6 requirements of the federal Employee Income Security Act of 1974,  
7 provided it meets the benefits required under subclause (I) or (II)  
8 of this clause.

9     (V) A multiple employer welfare agreement established pursuant  
10 to Section 742.20 of the Insurance Code, provided that its benefits  
11 have not changed after January 1, 2004, or that it meets the  
12 benefits required under subclause (I) or (II) of this clause.

13     (VI) Coverage provided under the Public Employees' Medical  
14 and Hospital Care Act (Part 5 (commencing with Section 22850)  
15 of Division 5 of Title 2 of the Government Code), provided it meets  
16 the benefits required under subclause (I) or (II) of this clause or  
17 is otherwise collectively bargained.

18     (VII) Health coverage provided by the University of California  
19 to students of the University of California who are also employed  
20 by the University of California.

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

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

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

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

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

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

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

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

12 (iv) Is any of the following:

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

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

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

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

33 ~~(aa)~~

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

38 ~~(bb)~~

39 (ib) Has been terminated or has received a notice of termination  
40 of employment as a result of any permanent closure or any

1 substantial layoff at a plant, facility, or enterprise, including an  
2 individual who has not received written notification but whose  
3 employer has made a public announcement of the closure or layoff.

4 (ee)

5 (ic) Is long-term unemployed and has limited opportunities for  
6 employment or reemployment in the same or a similar occupation  
7 in the area in which the individual resides, including an individual  
8 55 years of age or older who may have substantial barriers to  
9 employment by reason of age.

10 (dd)

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

15 (ee)

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

19 (ff)

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

23 (gg)

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

28 (hh)

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

32 (V) Immediately preceding the qualified employee's  
33 commencement of employment with the taxpayer, was a disabled  
34 individual who is eligible for or enrolled in, or has completed a  
35 state rehabilitation plan or is a service-connected disabled veteran,  
36 veteran of the Vietnam era, or veteran who is recently separated  
37 from military service.

38 (VI) Immediately preceding the qualified employee's  
39 commencement of employment with the taxpayer, was an  
40 ex-offender. An individual shall be treated as convicted if he or

1 she was placed on probation by a state court without a finding of  
2 guilt.

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

6 (aa)

7 (ia) Federal Supplemental Security Income benefits.

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

9 (ib) *Temporary Assistance for Needy Families*.

10 ~~(cc)~~

11 (ic) Food stamps.

12 ~~(dd)~~

13 (id) State and local general assistance.

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

18 ~~(IX) Immediately preceding the qualified employee's  
19 commencement of employment with the taxpayer, was a resident  
20 of a targeted employment area, as defined in Section 7072 of the  
21 Government Code.~~

22 ~~(X)~~

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

26 ~~(XI)~~

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

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

38 (5) "Taxpayer" means a person or entity engaged in a trade or  
39 business within an enterprise zone designated pursuant to Chapter  
40 12.8 (commencing with Section 7070) of the Government Code.

- 1 (6) "Seasonal employment" means employment by a taxpayer  
2 that has regular and predictable substantial reductions in trade or  
3 business operations.
- 4 (c) The taxpayer shall do both of the following:
- 5 (1) (A) Obtain, *within 21 days from the commencement date of*  
6 *employment*, from the Employment Development Department, as  
7 permitted by federal law, the local county or city ~~Job Training~~  
8 ~~Partnership~~ *Workforce Investment Act* administrative entity, the  
9 local county ~~GAIN~~ *CalWORKs* office or social services agency,  
10 or the local government administering the enterprise zone, a  
11 certification which provides that a qualified employee meets the  
12 eligibility requirements specified in clause (iv) of subparagraph  
13 (A) of paragraph (4) of subdivision (b). The Employment  
14 Development Department may provide preliminary screening and  
15 referral to a certifying agency. The Employment Development  
16 Department shall develop a form for this purpose. The Department  
17 of Housing and Community Development shall develop regulations  
18 governing the issuance of certificates by local governments  
19 pursuant to subdivision (a) of Section 7086 of the Government  
20 Code.
- 21 (B) *Applications for certification must be submitted to the*  
22 *certifying agency within 21 days of the commencement date of*  
23 *employment for the employee. The certifying agency shall not*  
24 *provide a certification for any employee whose employment*  
25 *commenced more than 21 days before the taxpayer requests a*  
26 *certification.*
- 27 (2) Retain a copy of the certification and provide it upon request  
28 to the Franchise Tax Board.
- 29 (d) (1) For purposes of this section:
- 30 (A) All employees of trades or businesses, which are not  
31 incorporated, that are under common control shall be treated as  
32 employed by a single taxpayer.
- 33 (B) The credit, if any, allowable by this section with respect to  
34 each trade or business shall be determined by reference to its  
35 proportionate share of the expense of the qualified wages giving  
36 rise to the credit, and shall be allocated in that manner.
- 37 (C) Principles that apply in the case of controlled groups of  
38 corporations, as specified in subdivision (d) of Section 23622.7,  
39 shall apply with respect to determining employment.

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

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

22 (B) If the seasonal employment of any qualified employee, with  
23 respect to whom qualified wages are taken into account under  
24 subdivision (a) is not continued by the taxpayer for a period of  
25 270 days of employment during the 60-month period beginning  
26 with the day the qualified employee commences seasonal  
27 employment with the taxpayer, the tax imposed by this part, for  
28 the taxable year that includes the 60th month following the month  
29 in which the qualified employee commences seasonal employment  
30 with the taxpayer, shall be increased by an amount equal to the  
31 credit allowed under subdivision (a) for that taxable year and all  
32 prior taxable years attributable to qualified wages paid or incurred  
33 with respect to that qualified employee.

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

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

38 (ii) A termination of employment of a qualified employee who,  
39 before the close of the period referred to in paragraph (1), becomes  
40 disabled and unable to perform the services of that employment,

1 unless that disability is removed before the close of that period  
2 and the taxpayer fails to offer reemployment to that employee.

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

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

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

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

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

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

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

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

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

38 (C) For purposes of paragraph (1), the employment relationship  
39 between the taxpayer and a qualified employee shall not be treated  
40 as terminated by reason of a mere change in the form of conducting

1 the trade or business of the taxpayer, if the qualified employee  
2 continues to be employed in that trade or business and the taxpayer  
3 retains a substantial interest in that trade or business.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

33 (l) (1) *On or before March 1 of the calendar year following the*  
34 *calendar year in which a taxpayer obtained the certification*  
35 *required by subdivision (c), and every year thereafter, the taxpayer*  
36 *must report to the certifying entity the following information for*  
37 *each qualified employee:*

38 (A) *Total wages or other compensation paid to the qualified*  
39 *employee.*

40 (B) *The type of work performed by the qualified employee.*

1 (C) *The length of employment of the qualified employee.*  
2 (D) *Any benefits provided by the taxpayer to the qualified*  
3 *employee.*

4 (2) *A certifying entity may refuse to issue a certification for a*  
5 *subsequently hired qualified employee to a taxpayer if a taxpayer*  
6 *has failed to report the information required by paragraph (1) for*  
7 *qualified employees who have already been certified.*

8 (m) *The amendments made to this section by the act adding*  
9 *subdivision shall apply to taxable years beginning on or after*  
10 *January 1, 2010, and to vouchers for hiring credits issued on or*  
11 *after January 1, 2010.*

12 SEC. 2. *Section 23634 of the Revenue and Taxation Code is*  
13 *amended to read:*

14 23634. (a) *For each taxable year beginning on or after January*  
15 *1, 1998, there shall be allowed a credit against the "tax" (as defined*  
16 *by Section 23036) to a qualified taxpayer who employs a qualified*  
17 *employee in a targeted tax area during the taxable year. The credit*  
18 *shall be equal to the sum of each of the following:*

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

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

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

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

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

29 (b) *For purposes of this section:*

30 (1) *"Qualified wages" means:*

31 (A) ~~That~~ *(i) Except as provided in clause (ii), that portion of*  
32 *wages paid or incurred by the qualified taxpayer during the taxable*  
33 *year to qualified employees that does not exceed 150 \_\_\_\_\_ percent*  
34 *of the minimum wage.*

35 *(ii) "Qualified wages" means that portion of wages paid or*  
36 *incurred by the taxpayer during the taxable year that does not*  
37 *exceed \_\_\_\_\_ percent of the minimum wage for qualified employees*  
38 *that the qualified employer employs for at least 35 hours per week*  
39 *and for whom the taxpayer pays for at least 80 percent of any of*  
40 *the following:*

- 1     (I) Health care coverage that meets the minimum requirements  
2 set forth in Chapter 2.2 (commencing with Section 1340) of  
3 Division 2 of the Health and Safety Code.
- 4     (II) A group health insurance policy, as defined in subdivision  
5 (b) of Section 106 of the Insurance Code, that covers hospital,  
6 surgical, and medical care expenses, provided the maximum  
7 out-of-pocket costs for insureds do not exceed the maximum  
8 out-of-pocket costs for enrollees of health care service plans  
9 providing benefits under a preferred provider organization policy.  
10 For purposes of this section, a group health insurance policy shall  
11 not include Medicare supplement, vision-only, dental-only,  
12 Champus-supplement insurance, hospital indemnity, accident-only,  
13 or specified disease insurance that pays benefits on a fixed benefit,  
14 cash-payment-only basis.
- 15     (III) Any Taft-Hartley health and welfare fund or any other  
16 lawful collective bargaining agreement that provides for health  
17 and welfare coverage for collective bargaining unit or other  
18 employees thereby covered.
- 19     (IV) Any employer-sponsored group health plan meeting the  
20 requirements of the federal Employee Income Security Act of 1974,  
21 provided it meets the benefits required under subclause (I) or (II)  
22 of this clause.
- 23     (V) A multiple employer welfare agreement established pursuant  
24 to Section 742.20 of the Insurance Code, provided that its benefits  
25 have not changed after January 1, 2004, or that it meets the  
26 benefits required under subclause (I) or (II) of this clause.
- 27     (VI) Coverage provided under the Public Employees' Medical  
28 and Hospital Care Act (Part 5 (commencing with Section 22850)  
29 of Division 5 of Title 2 of the Government Code), provided it meets  
30 the benefits required under subclause (I) or (II) of this clause or  
31 is otherwise collectively bargained.
- 32     (VII) Health coverage provided by the University of California  
33 to students of the University of California who are also employed  
34 by the University of California.
- 35     (B) Wages received during the 60-month period beginning with  
36 the first day the employee commences employment with the  
37 qualified taxpayer. Reemployment in connection with any increase,  
38 including a regularly occurring seasonal increase, in the trade or  
39 business operations of the qualified taxpayer does not constitute  
40 commencement of employment for purposes of this section.

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

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

14 (3) "Targeted tax area expiration date" means the date the  
15 targeted tax area designation expires, is revoked, is no longer  
16 binding, or becomes inoperative.

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

19 (i) At least 90 percent of his or her services for the qualified  
20 taxpayer during the taxable year are directly related to the conduct  
21 of the qualified taxpayer's trade or business located in a targeted  
22 tax area.

23 (ii) Performs at least 50 percent of his or her services for the  
24 qualified taxpayer during the taxable year in a targeted tax area.

25 (iii) Is hired by the qualified taxpayer after the date of original  
26 designation of the area in which services were performed as a  
27 targeted tax area.

28 (iv) Is any of the following:

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

36 (II) Immediately preceding the qualified employee's  
37 commencement of employment with the qualified taxpayer, was  
38 a person eligible to be a voluntary or mandatory registrant under  
39 the Greater Avenues for Independence Act of 1985 (GAIN)  
40 provided for pursuant to Article 3.2 (commencing with Section

1 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and  
2 Institutions Code, or its successor.

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

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

9 ~~(aa)~~

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

14 ~~(bb)~~

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

20 ~~(cc)~~

21 *(ic)* Is long-term unemployed and has limited opportunities for  
22 employment or reemployment in the same or a similar occupation  
23 in the area in which the individual resides, including an individual  
24 55 years of age or older who may have substantial barriers to  
25 employment by reason of age.

26 ~~(dd)~~

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

31 ~~(ee)~~

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

35 ~~(ff)~~

36 *(if)* Was an active member of the Armed Forces or National  
37 Guard as of September 30, 1990, and was either involuntarily  
38 separated or separated pursuant to a special benefits program.

39 ~~(gg)~~

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

5 ~~(hh)~~

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

9 (V) Immediately preceding the qualified employee's  
10 commencement of employment with the qualified taxpayer, was  
11 a disabled individual who is eligible for or enrolled in, or has  
12 completed a state rehabilitation plan or is a service-connected  
13 disabled veteran, veteran of the Vietnam era, or veteran who is  
14 recently separated from military service.

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

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

23 ~~(aa)~~

24 (ia) Federal Supplemental Security Income benefits.

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

26 (ib) Temporary Assistance for Needy Families.

27 ~~(cc)~~

28 (ic) Food stamps.

29 ~~(dd)~~

30 (id) State and local general assistance.

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

35 ~~(IX) Immediately preceding the qualified employee's  
36 commencement of employment with the qualified taxpayer, was  
37 a resident of a targeted tax area.~~

38 ~~(X)~~

39 (IX) Immediately preceding the qualified employee's  
40 commencement of employment with the taxpayer, was a member

1 of a targeted group, as defined in Section 51(d) of the Internal  
2 Revenue Code, or its successor.

3 (B) Priority for employment shall be provided to an individual  
4 who is enrolled in a qualified program under the federal ~~Job~~  
5 ~~Training Partnership Workforce Training Act~~ or the ~~Greater~~  
6 ~~Avenues for Independence Act of 1985 California Work~~  
7 ~~Opportunities and Responsibility to Kids Act~~ or who is eligible as  
8 a member of a targeted group under the Work Opportunity Tax  
9 Credit (Section 51 of the Internal Revenue Code), or its successor.

10 (5) (A) “Qualified taxpayer” means a person or entity that meets  
11 both of the following:

12 (i) Is engaged in a trade or business within a targeted tax area  
13 designated pursuant to Chapter 12.93 (commencing with Section  
14 7097) of Division 7 of Title 1 of the Government Code.

15 (ii) Is engaged in those lines of business described in Codes  
16 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,  
17 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,  
18 of the Standard Industrial Classification (SIC) Manual published  
19 by the United States Office of Management and Budget, 1987  
20 edition.

21 (B) In the case of any passthrough entity, the determination of  
22 whether a taxpayer is a qualified taxpayer under this section shall  
23 be made at the entity level and any credit under this section or  
24 Section 17053.34 shall be allowed to the passthrough entity and  
25 passed through to the partners or shareholders in accordance with  
26 applicable provisions of this part or Part 10 (commencing with  
27 Section 17001). For purposes of this subparagraph, the term  
28 “passthrough entity” means any partnership or S corporation.

29 (6) “Seasonal employment” means employment by a qualified  
30 taxpayer that has regular and predictable substantial reductions in  
31 trade or business operations.

32 (c) If the qualified taxpayer is allowed a credit for qualified  
33 wages pursuant to this section, only one credit shall be allowed to  
34 the taxpayer under this part with respect to those qualified wages.

35 (d) The qualified taxpayer shall do both of the following:

36 (1) (A) Obtain, *within 21 days of the commencement date of*  
37 *employment*, from the Employment Development Department, as  
38 permitted by federal law, the local county or city ~~Job Training~~  
39 ~~Partnership Workforce Investment Act~~ administrative entity, the  
40 local county ~~GAIN~~ *CalWORKs* office or social services agency,

1 or the local government administering the targeted tax area, a  
2 certification that provides that a qualified employee meets the  
3 eligibility requirements specified in clause (iv) of subparagraph  
4 (A) of paragraph (4) of subdivision (b). The Employment  
5 Development Department may provide preliminary screening and  
6 referral to a certifying agency. The Department of Housing and  
7 Community Development shall develop regulations for the issuance  
8 of certificates pursuant to subdivision (g) of Section 7097 of the  
9 Government Code, and shall develop forms for this purpose.

10 *(B) Applications for certification must be submitted to the*  
11 *certifying agency within 21 days of the commencement date of*  
12 *employment for the employee. The certifying agency shall not*  
13 *provide a certification for any employee whose employment*  
14 *commenced more than 21 days before the taxpayer requests a*  
15 *certification.*

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

18 (e) (1) For purposes of this section:

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

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

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

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

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

35 (2) If an employer acquires the major portion of a trade or  
36 business of another employer (hereinafter in this paragraph referred  
37 to as the “predecessor”) or the major portion of a separate unit of  
38 a trade or business of a predecessor, then, for purposes of applying  
39 this section (other than subdivision (f)) for any calendar year ending  
40 after that acquisition, the employment relationship between a



1 qualified employee and an employer shall not be treated as  
2 terminated if the employee continues to be employed in that trade  
3 or business.

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

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

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

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

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

38 (iii) A termination of employment of a qualified employee, if  
39 it is determined that the termination was due to the misconduct (as

1 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of  
2 the California Code of Regulations) of that employee.

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

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

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

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

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

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

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

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

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

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

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

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

9 (g) Rules similar to the rules provided in Sections 46(e) and (h)  
10 of the Internal Revenue Code shall apply to both of the following:

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

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

15 (h) For purposes of this section, “targeted tax area” means an  
16 area designated pursuant to Chapter 12.93 (commencing with  
17 Section 7097) of Division 7 of Title 1 of the Government Code.

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

24 (j) (1) The amount of the credit otherwise allowed under this  
25 section and Section 23633, including any credit carryover from  
26 prior years, that may reduce the “tax” for the taxable year shall  
27 not exceed the amount of tax that would be imposed on the  
28 qualified taxpayer’s business income attributable to the targeted  
29 tax area determined as if that attributable income represented all  
30 of the income of the qualified taxpayer subject to tax under this  
31 part.

32 (2) Attributable income shall be that portion of the taxpayer’s  
33 California source business income that is apportioned to the  
34 targeted tax area. For that purpose, the taxpayer’s business income  
35 attributable to sources in this state first shall be determined in  
36 accordance with Chapter 17 (commencing with Section 25101).  
37 That business income shall be further apportioned to the targeted  
38 tax area in accordance with Article 2 (commencing with Section  
39 25120) of Chapter 17, modified for purposes of this section in  
40 accordance with paragraph (3).

1 (3) Business income shall be apportioned to the targeted tax  
2 area by multiplying the total California business income of the  
3 taxpayer by a fraction, the numerator of which is the property  
4 factor plus the payroll factor, and the denominator of which is two.

5 For purposes of this paragraph:

6 (A) The property factor is a fraction, the numerator of which is  
7 the average value of the taxpayer's real and tangible personal  
8 property owned or rented and used in the targeted tax area during  
9 the taxable year, and the denominator of which is the average value  
10 of all the taxpayer's real and tangible personal property owned or  
11 rented and used in this state during the taxable year.

12 (B) The payroll factor is a fraction, the numerator of which is  
13 the total amount paid by the taxpayer in the targeted tax area during  
14 the taxable year for compensation, and the denominator of which  
15 is the total compensation paid by the taxpayer in this state during  
16 the taxable year.

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

21 (5) In the event that a credit carryover is allowable under  
22 subdivision (h) for any taxable year after the targeted tax area  
23 designation has expired or been revoked, the targeted tax area shall  
24 be deemed to remain in existence for purposes of computing the  
25 limitation specified in this subdivision.

26 *(k) (1) On or before March 1 of the calendar year following  
27 the calendar year in which a taxpayer obtained the certification  
28 required by subdivision (c), and every year thereafter, the taxpayer  
29 must report to the certifying entity the following information for  
30 each qualified employee:*

31 *(A) Total wages or other compensation paid to the qualified  
32 employee.*

33 *(B) The type of work performed by the qualified employee.*

34 *(C) The length of employment of the qualified employee.*

35 *(D) Any benefits provided by the taxpayer to the qualified  
36 employee.*

37 *(2) A certifying entity may refuse to issue a certification for a  
38 subsequently hired qualified employee to a taxpayer if a taxpayer  
39 has failed to report the information required by paragraph (1) for  
40 qualified employees who have already been hired.*

1 (l) The amendments made to this section by the act adding  
2 subdivision shall apply to taxable years beginning on or after  
3 January 1, 2010, and to vouchers for hiring credits issued on or  
4 after January 1, 2010.

5 SEC. 3. (a) On or before October 1 of each calendar year, an  
6 agency required to provide a certification regarding a qualified  
7 employee pursuant to subdivision (c) of Section 17053.74 and  
8 subdivision (d) of Section 23634 of the Revenue and Taxation Code  
9 shall provide the Department of Housing and Community  
10 Development with a report, in a form and manner determined by  
11 the department, that includes, but is not limited to, a compilation  
12 of the information provided to the certifying agency by a taxpayer  
13 pursuant to subdivision (l) of Section 17053.74 and subdivision  
14 (k) of Section 23634 of the Revenue and Taxation Code.

15 (b) The Housing and Community Development Department  
16 shall consider the completeness and timeliness of the reports as  
17 part of its auditing requirements under Section 7076.1 of the  
18 Government Code.

19 (c) Annually, the Housing and Community Development  
20 Department shall submit the information provided pursuant to  
21 subdivision (a) as a compilation report.

22 SEC. 4. This act provides for a tax levy within the meaning of  
23 Article IV of the Constitution and shall go into immediate effect.  
24

25  
26 **All matter omitted in this version of the bill**  
27 **appears in the bill as introduced in the**  
28 **Assembly, February 27, 2009 (JR11)**  
29

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2009 APR 23 PM 6:50

Approved as to Form and Legality

  
Deputy City Attorney

## OAKLAND CITY COUNCIL

Resolution No. \_\_\_\_\_ C.M.S.

Introduced by Councilmember \_\_\_\_\_

---

**RESOLUTION IN OPPOSITION TO ASSEMBLY BILL 1139 (J. PEREZ), WHICH WOULD DISMANTLE THE ENTERPRISE ZONE PROGRAM AND DRASTICALLY AFFECT THE ABILITY OF CALIFORNIA BUSINESSES TO BENEFIT FROM THE PROGRAM**

**WHEREAS**, Assembly Bill 1139 (J. Perez) would roll back many of the benefits of the Enterprise Zone program by imposing costly and onerous requirements on employers; 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; and

**WHEREAS**, the negative impact of AB 1139 would be catastrophic to economic opportunity and job growth at a time when our economy needs stimulus and more support of economic tools; and

**WHEREAS**, the best interests of the City of Oakland would be served by opposing AB 1139; now, therefore, be it

**RESOLVED:** That City Council of the City of Oakland hereby declares its opposition to AB 1139; and be it

**FURTHER RESOLVED:** That the Council hereby authorizes and directs the City Administrator or his designee to submit a letter to the State Legislature affirming the City's opposition to AB 1139, and taking whatever other action is necessary with respect to this position consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

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

NOES -

ABSENT -

ABSTENTION -

ATTEST:

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