Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Cogdill	Analyst:	Roger Lackey	Bill Number:	AB 499
Related Bills:	See Prior Analysis	Telephone:	845-3627	Amended Date:	04-01-2002
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Agency Designation Additional Enterprise Zone & Targeted Tax Area In Inter-Regional Partnership & Additional Zone in Imperial County

____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended ________________________.

X AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

X AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended January 17, 2002.

____ FURTHER AMENDMENTS NECESSARY.

____ DEPARTMENT POSITION CHANGED TO ________________________.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED January 17, 2001, STILL APPLIES.

____ OTHER - See comments below.

SUMMARY

This bill would require the Technology, Trade, and Commerce Agency (TTCA) to designate a new enterprise zone (EZ) and targeted tax area (TTA) within a county within a specified group of counties.

This analysis will only discuss those provisions of the bill impacting the department.

SUMMARY OF AMENDMENTS

The April 1, 2002, amendments would:

- require the TTCA upon request of the county board of supervisors to designate the existing Manufacturing Enhancement Area (MEA) within Imperial County as an EZ, including the area described for expansion of the MEA,
- eliminate the MEA on the date the MEA was designated as an EZ,
- cease to allow any MEA benefits, and
- repeal the statute allowing the MEA in Imperial County to expand.

The amendments also made Legislative declarations and added provisions related to the Inter-Regional Partnership. These amendments would not impact the department and are not discussed.

Board Position:			Legislative Director	Date
____ S	____ NA	____ NP		
____ SA	____ O	____ NAR	Brian Putler	04/05/02
____ N	____ OUA	X PENDING		

The April 1, 2002, amendments raised new implementation considerations that are included below along with a revised revenue estimate. In addition, the implementation consideration and technical consideration addressed in the department's analysis of the bill as amended January 17, 2002, were not resolved and are included. The remainder of the department's analysis of the bill as amended January 17, 2002, still applies.

POSITION

Pending.

IMPLEMENTATION CONSIDERATIONS

This bill would require TTCA to designate an EZ within the boundaries of the MEA. If the EZ did not have the same boundaries as the MEA, taxpayers that were included in the MEA may not be included in the EZ. As a result, a taxpayer may lose the benefits associated with the MEA and the EZ.

It is unclear what the designation date and expiration date of the EZ would be. In the past, when program areas were converted to EZs, the designation date, and thus, the expiration date of the converted program area remained unchanged.

Two MEAs exist in Imperial County, Brawley and Calexico. It is unclear whether both MEAs are eligible for designation as an EZ or only one. If both are eligible, it also would be unclear whether the designation would allow for only one EZ to be designated that includes both Calexico and Brawley, or whether two separate EZs would be designated.

This bill would require TTCA to designate either one or both of the MEAs in Imperial County as an EZ, and would provide that the MEA and its benefits would cease on the designation date. Under current law, taxpayers operating in an MEA are eligible to claim a hiring credit. The hiring credit and its carryover are only applied against income and tax generated from activities in the MEA. It is unclear whether the taxpayer would be able to apply the MEA hiring credit and carryover to future years, since the taxpayer would no longer have MEA income.

This bill would state that the benefits obtained in the MEA cease. It is unclear whether a taxpayer still be allowed to incur new MEA hiring credits or if the taxpayer would lose the right to apply existing MEA hiring credit and credit carryover obtained in prior tax years. For example, the hiring credit is a five-year credit allowed based on the hiring date, and the fact that the hiring date occurred after the designation of the MEA. It is unclear once the area is designated an enterprise zone, if those employees previously qualifying the taxpayer for the MEA hiring credit would now qualify the taxpayer for the EZ hiring credit.

An MEA has a single tax benefit, the hiring credit. EZs have several different tax benefits (hiring credit, sales and use tax credit, business deduction, net operating loss, and a net interest deduction). It is unclear what impact this bill would have on fiscal year taxpayers that are claiming these tax benefits. Taxpayers that operate on a fiscal year may be in the MEA for the first portion of their taxable year, and in an EZ for the remaining portion of the taxable year. It is unclear what tax benefits would be available to the fiscal year taxpayer or how the taxpayer would claim the new benefits.

The conversion of the MEA to an EZ and the treatment of the MEA and EZ tax benefits should be clarified in the MEA and EZ Revenue and Taxation Code provisions. Department staff is available to assist the author's office in drafting the appropriate amendments.

Of the four criteria listed to be eligible for an EZ or the new TTA, the first two criteria are specific to the proposed area. However, the third and fourth criteria (concerning population and a unique distress factor) do not specify whether they apply to the proposed area or the county where the proposed area is located. As a result, the lack of certainty may create confusion for both the applying area and TTCA.

Once the implementation considerations are resolved, implementing this bill would not significantly impact the department's programs and operations.

TECHNICAL CONSIDERATIONS

The criteria for the new TTA refer to "the proposed enterprise zone area." The criteria should be amended to refer to the proposed TTA. The attached amendments would make the proper reference.

ECONOMIC IMPACT *

Revenue Estimate

This bill is estimated to impact revenue as shown in the following table.

Revenue Impact of AB 499 Tax Years Beginning After December 31, 2002 Enactment Assumed After June 30, 2002 ($ Millions)			
Fiscal Year	2002-03	2003-04	2004-05
	Insignificant loss	-0.2	-0.3

Insignificant <$150,000

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Revenue Discussion

Total credits used by the Calexico Enterprise Zone were $363,700 in 1999. It was assumed due to their similarity in geographic and population size that an Enterprise Zone in Brawley would use approximately the same amount of credits as Calexico by the third year after enactment.

The MEAs (Calexico and Brawley) used $3,300 in credits in 1999. The MEAs would cease to exist if this bill is enacted, so the $3,300 was added back as revenue to the state in the 2003-04 fiscal year. The full revenue impact for the Brawley enterprise zone is expected by the 2004-05 fiscal year.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 499
As Amended April 1, 2002

AMENDMENT 1

On page 5, line 29, strikeout "enterprise zone" and insert:

targeted tax

AMENDMENT 2

On page 5, line 33, strikeout "enterprise zone" and insert:

targeted tax