Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author: Ducheny | Analyst: Darrine Distefano | Bill Number: SB 172

Related Bills: See Prior Analysis | Telephone: 845-6458 | Amended Date: April 3, 2003

Attorney: Patrick Kusiak | Sponsor: ____________

SUBJECT: Enterprise Zones/Redesignation of Manufacturing Enhancement Area

____	DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended ____________.
____	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 introduced February 12, 2003.
____	FURTHER AMENDMENTS NECESSARY.
____	DEPARTMENT POSITION CHANGED TO ____________.
X	REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 12, 2003 STILL APPLIES.
X	OTHER - See comments below.

SUMMARY

This bill would:

- require the Technology, Trade, and Commerce Agency (TTCA) to designate an enterprise zone (EZ) within the boundaries of a specific existing manufacturing enhancement area (MEA), and
- allow all EZs to be designated for 20 years if certain criteria is met.

SUMMARY OF AMENDMENT

The April 3, 2003, amendment added additional criteria for an EZ to be designated for 20 years. The additional criteria provides that if in the fiscal year prior to the end of an EZ's 15-year original designation period the Secretary of TTCA determines there is not sufficient staff at TTCA to conduct an audit and review the updated economic development plan for an EZ, the designation period would be extended for five years for a total of 20 years.

The additional criteria would not impact the department. The implementation and technical considerations discussed in the department's prior analysis are included below for the author's convenience. The remainder of the department's analysis of the bill as introduced February 12, 2003, still applies.

Board Position:			Legislative Director	Date
____ S	____ NA	____ NP	Brian Putler	4/14/03
____ SA	____ O	____ NAR		
____ N	____ OUA	X PENDING		

POSITION

Pending.

IMPLEMENTATION CONSIDERATIONS

This bill would require the EZ to be designated within the boundaries of the existing MEA. It does not require the geographical area to be identical to the MEA. As a result, certain taxpayers may fall outside the boundaries of the EZ, and therefore, would not be eligible for MEA or EZ incentives.

One section of this bill requires an area within the boundaries of an existing MEA to be converted to an EZ, while another section requires an MEA to be designated as an EZ. In order to avoid confusion, the bill should be amended to maintain consistency.

A single area in Calexico is currently designated as both an MEA and an EZ. This bill extinguishes the designation of an area as an MEA once it is designated as an EZ. It also requires the number of MEAs to be reduced by the number of areas designated as an EZ. It is unclear whether enactment of this bill extinguishes the Calexico MEA since it already exists as an EZ. The author may wish to clarify whether this bill would apply to Calexico.

Once the area is converted to an EZ, it is unclear whether a taxpayer would lose the right to apply existing MEA hiring credits and credit carryovers obtained in prior tax years. The author should include language allowing the taxpayer with existing MEA hiring credits to apply that credit against the income from EZ business activities.

It is unclear if those employees previously qualifying the taxpayer for the MEA hiring credit would automatically qualify the taxpayer for the EZ hiring credit. If not, the taxpayer would have to obtain new vouchers for those employees. The author should include language allowing the employee who qualified the taxpayer under the MEA to be a qualified employee under the EZ.

It is unclear what impact this bill would have on fiscal year taxpayers that are claiming the EZ 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 their 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 author should include language allowing fiscal year taxpayers to apply income generated from business activities in the MEA to be considered income generated in the EZ for purposes of applying tax incentives.

TECHNICAL CONSIDERATIONS

Section 7085 of the Government Code requires TTCA to provide a report to the Legislature on the effectiveness of the EZ program. Before the conversion of program areas (PA) to EZs, this section had the requirements for the designation of a PA. The reference to this section on page 4, line 6, is no longer applicable, and should be deleted.

LEGISLATIVE STAFF CONTACT

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