

# ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author: Torlakson Analyst: Nicole Kwon Bill Number: SB 254

Related Bills: See Legislative History Telephone: 845-7800 Introduced Date: 2-15-2005

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Department Of Housing And Community Development Charge Manufacturing Enhancement Areas, Targeted Tax Areas And Local Agency Military Base Recovery Areas Administration Fee/Issuance Of Tax Certificates By Local Governments

## SUMMARY

This bill would do the following:

- Extend to the Department of Housing and Community Development (DHCD) authority to assess and collect a fee related to all economic development areas (EDAs).
- Direct DHCD to develop and adopt regulations that govern the issuance of vouchering certificates by local governments to all EDAs.
- Eliminate the sunset date for DHCD's authorization to collect fees from enterprise zones (EZs).

## PURPOSE OF THE BILL

According to the author's staff, the purpose of the bill is to eliminate the sunset date for EZ fees and to extend this fee to other EDA programs to ensure the state's continued ability to administer and oversee all of the EDA programs.

## EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative January 1, 2006.

## POSITION

Pending.

## ANALYSIS

### STATE LAW

Under the Government Code, state law provides for several types of EDAs: EZs, Manufacturing Enhancement Areas (MEAs), Targeted Tax Areas (TTAs), and Local Agency Military Base Recovery Areas (LAMBRAs).

Under the Revenue and Taxation Code, existing state law provides special franchise and income tax incentives for taxpayers conducting business activities within an EDA. These incentives include an income tax hiring credit for taxpayers operating in an EDA.

Board Position:

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Department Director

Date

Gerald Goldberg

3/30/2005

Taxpayers operating in an EDA are allowed the hiring credit for employing “qualified employees.” “Qualified employees” for EDAs are defined by reference to various state and federal public assistance programs. A taxpayer located in an EDA is allowed a credit of up to 50% of wages paid to “qualified employees.” To be eligible for the hiring credit, the taxpayer is required to obtain a voucher certificate for each of its “qualified employees.” The voucher certificates are issued by a local (within the same EDA as the workplace of the employee) or state agency familiar with the public assistance statutes.

Existing state law allows local governments administering an EZ to issue vouchering certificates for the hiring credit. DHCD is authorized to develop regulations that govern the issuance of vouchering certificates by these local governments.

DHCD also has the authority, until July 1, 2006, to charge a fee of up to \$10 for each application for a hiring credit voucher certificate under the EZ in order to cover the costs of administering the program. If the Franchise Tax Board (FTB) does not accept the vouchering certificate for purposes of the EZ hiring credit, DHCD is required to refund any fees assessed or collected.

For MEAs, LAMBRAs, and the TTA, the California Employment Development Department and the local entities that administer the Job Training Partnership Act and Greater Avenues of Independence Act (GAIN) have the authority to issue the voucher certificates. The voucher certificate indicates that the employee is qualified for or receiving any of the specified forms of public assistance and thus is a “qualified employee” for purposes of the hiring credit. Currently, there is no fee charged for each application for a hiring credit voucher certificate under the MEAs, LAMBRAs, and the TTA.

Taxpayers that claim the hiring credit are required to retain a copy of the voucher certificate for each of its “qualified employees.” Upon the request of FTB, the taxpayer is required to provide the voucher certificate for purposes of verifying the hiring credit claimed by the taxpayer.

### THIS BILL

This bill expands the authority to issue voucher certificates for the MEA, LAMBRA, and TTA hiring credit to the local governments administering those EDAs.

This bill would direct DHCD to develop and adopt regulations governing the issuance of hiring credit voucher certificates by local governments to all EDAs.

This bill would eliminate the July 1, 2006, sunset date for DHCD to charge fees for vouchering certificates.

This bill would authorize DHCD to assess and collect a fee of up to \$10 for the administration of each application it accepts for issuing the vouchering certificates for the MEAs, LAMBRAs, and the TTA, in addition to the same fee for EZs that exists under current law. The fee is intended to fund administrative costs incurred by DHCD for administering these programs.

This bill would eliminate the requirement that DHCD refund any fees assessed or collected when FTB has rejected a vouchering certificate.

### IMPLEMENTATION CONSIDERATIONS

Implementing this bill is not expected to significantly impact the department’s programs or operations.

## **LEGISLATIVE HISTORY**

SB 1097 (Senate Budget Comm., Stat. 2004, Ch. 225) authorized local governments to issue vouchering certificates and authorized DHCD to issue emergency regulations to govern local governments and assess a fee for the administration of the EZ hiring credit.

AB 2926 (Nakano, 2003/2004) would have revised and expanded the qualifying process for the hiring credit in EDAs. This bill failed passage in the Senate Housing and Community Development Committee.

AB 2895 (Committee on Revenue and Taxation, Stat. 2000, Ch. 864) amended the LAMBRA and the MEA hiring credit statutes to be consistent with the existing EZ and TTA statutes. Taxpayers are required to obtain a voucher for each newly hired employee, except with regard to the MEA hiring credit. No certification is required to claim the MEA hiring credit.

## **OTHER STATES' INFORMATION**

Currently, 29 other states have EDAs that provide similar tax related incentives to those provided in California's EDAs. The number of EDAs varies from state to state. For example, California currently has 49 EDAs (that includes EZs (39), MEA (2), LAMBRA (7), and TTA (1)), New York has 71, Florida 51, Illinois 93, and Michigan 33.

*Florida* allows a county or municipality an authorization to grant an economic development tax exemption to new businesses and expansions of existing businesses. To get an economic development exemption, a qualifying business must file a written application, on a form prescribed by the Department of Revenue, with the board or governing authority, or both, requesting adoption of an ordinance exempting the applicant. The application must be filed in the year for which the exemption is desired.

*New York* provides credits against the franchise tax to encourage corporations to relocate to disadvantaged areas, designated as Empire Zones, and to stimulate private business development and create new jobs in those areas. To be eligible for the qualified empire zone enterprises (QEZE) credits, a business must be certified under New York General Municipal Law Section 18-B as a QEZE and meet the "employment test."

*Illinois* has a Growing Economy Tax Credit Act that provides tax credits to businesses creating new jobs and making capital investments. A taxpayer that has entered into an agreement under the Growing Economy Tax Credit Act is allowed a credit against the tax. The Department of Revenue and the Illinois Business Investment Committee determine the amount and duration of the credit, which must not exceed 10 taxable years.

## **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

## **ECONOMIC IMPACT**

### Revenue Estimate

This bill is not anticipated to impact significantly the amount of revenue associated with existing and future EZs, MEAs, TTA, and LAMBRAs.

Revenue Discussion

Data and information necessary to measure the revenue impact of allowing local governments to issue voucher certificates is not available. However, department staff does not anticipate that this bill would significantly alter the revenue impact currently associated with the MEA, TTA, and LAMBRA hiring credit.

**LEGISLATIVE STAFF CONTACT**

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