Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author:	Perez, V. Manual, et al.	Analyst:	Jahna Carlson	Bill Number:	AB 1411
Related Bills:	See Prior Analysis	Telephone:	845-5683	Amended Date:	August 6, 2012
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Enterprise Zone Act/Modify Definitions/Modify The FTB's Reporting Requirements

SUMMARY

This bill would modify the Franchise Tax Board's (FTB's) reporting requirements under the Enterprise Zone Act.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The August 6, 2012, amendments modified the bill's legislative findings and declarations, operative date, the requirement for state entities to consider integration of the G-TEDA programs in workforce development and training plans, and reporting requirements applicable to G-TEDA governing boards.

As a result of the August 6, 2012, amendments, the "Effective\Operative Date," "This Bill," and "Fiscal Impact" sections have been revised, and the "State Law" section has been revised to reflect the expiration of two EZs since the August 15, 2011, analysis. The remainder of the department's analysis dated August 15, 2011, still applies. The "Implementation Considerations," "Technical Considerations," and "Economic Impact" sections are repeated for convenience.

Summary of Suggested Amendments

Amendments 1 and 3 would clarify language and provide consistency in terminology. Amendment 2 is suggested to provide appropriation language to fund the departmental costs associated with administering the expanded reporting requirements this bill could require.

EFFECTIVE/OPERATIVE DATE

If enacted by September 30, 2012, this bill would be effective January 1, 2013, and, with respect to the provisions of the bill that affect the FTB, would apply to required actions taken on or after that date. For example, reports due to the Department of Housing and Community Development (DHCD) and the Legislature on or after January 1, 2013.

Board Position:			Legislative Director	Date
_______ S	_______ NA	___X___ NP		
_______ SA	_______ O	_______ NAR	Gail Hall	08/15/12
_______ N	_______ OUA			

ANALYSIS

STATE LAW

Under the Government Code, existing state law allows the governing body of a city or county to apply for designation as an EZ. Using specified criteria, the DHCD designates EZs from the applications received from the governing bodies. EZs are designated for 15 years (except EZs meeting certain criteria may be extended to 20 years), and the DHCD is authorized to designate 42 EZs under current law (40 are currently designated).[1] When an EZ expires, the DHCD is authorized, but not required, to request applications for EZ designation. The DHCD may approve the geographic expansion of EZs up to 15 percent in size and, for certain small EZs, up to 20 percent in size.

Under the Government Code, the FTB is required to provide an annual report to the DHCD and the Legislature on the dollar value of the EZ tax incentives claimed each year by businesses operating within an EZ. Additionally, the FTB is required to develop and distribute forms to allow for the collection and reporting of the following data:

- The number of jobs for which the hiring credit is claimed;
- The number of businesses claiming each individual tax credit;
- The nature of the business claiming each individual tax credit;
- The distribution of zone tax incentives among industry groups;
- The distribution of zone tax incentives by the annual receipts and asset value of the businesses claiming each individual tax credit; and
- Any other information the FTB and the DHCD deem important in determining the costs and benefits of the EZ program to the state.

THIS BILL

Under the Government Code, this bill would, for applications for EZ designation that are submitted on or after January 1, 2013, in response to a DHCD solicitation for new EZs issued on or after January 1, 2013, limit the size of a proposed EZ when the proposed EZ's boundaries overlap the boundaries of one or more existing or expired EZs (previously designated EZs).

If the proposed EZ's boundary overlapped one previously existing EZ, the size of the proposed EZ would be limited to 115 percent of the size of the previously designated EZ. The limit would increase to 125 percent for a proposed EZ located in a rural city, as defined, or in a county with a total population under 275,000.

If the boundary overlap involved more than one previously existing EZ, the size of the proposed EZ would be limited to 115 percent of the size of the largest previously designated EZ.

---

[1] The Antelope Valley EZ expired on January 31, 2012, and the Watsonville EZ expired on April 30, 2012.

This bill would expand the FTB's current reporting requirement from EZ tax credits to include all G-TEDA tax credits and other G-TEDA tax incentives, to the extent that information is reasonably available. Additionally, the FTB would be required to design and distribute forms and instructions that would allow for the collection of information on the total amount of capital investments made and the total amount of the sales and use tax credit claimed by a business operating within a G-TEDA. The number of new employees included in the computation of the hiring credit would be eliminated as a required item on forms and instructions.

Under the terms of the bill, the FTB would be required to review both personal and corporate tax returns in the development of the required information and, at minimum, report the total for each G-TEDA tax incentive separately for personal and corporate tax filers.

This bill would require state agencies and departments to: (1) affirmatively support their statutory responsibilities under the Enterprise Zone Act and, within their statutory responsibility, to respond to requests made by and on the behalf of an EZ, and (2) consider how the G-TEDA programs could be integrated into workforce development and training plans and strategies in order to maximize the benefits to workers and businesses.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concern. Department staff is available to work with the author's office to resolve this concern and other concerns that may be identified.

This bill uses the undefined phrase, "total amount of capital investments made." It is unclear whether "total amount" would mean tax basis or total fair market value of capital investments made (which may be different if property is acquired in a tax-deferred exchange rather than for cash). The absence of a definition to clarify this phrase could complicate the administration of this bill's reporting requirements.

TECHNICAL CONSIDERATIONS

The term "enterprise zone" that appears on page 19, line 32 should be replaced with the term "G-TEDA" for consistency of use. Amendment 1 would make this change.

The language that would require the FTB to "review returns from personal and corporate tax returns" should be clarified. Amendment 2 is provided to change the phrase to "review tax returns filed by taxpayers claiming G-TEDA tax credits and tax incentives", which may be less confusing.

FISCAL IMPACT

Because the bill would limit expanded reporting to the information that is reasonably available, it could be argued that the FTB could continue the current reporting process with no cost to the department.

However, if the reporting requirements were expanded to require the FTB to provide the same G-TEDA tax credit and tax incentive detail for Personal Income Tax filers as is provided for Corporate Tax filers, staff estimates costs of approximately $133,000 in fiscal year 2012/2013 to develop, program, and test system changes necessary to implement expanded reporting; and beginning with fiscal year 2013/2014, on-going costs of $128,000 to continue providing the expanded reports.

Under the expanded reporting interpretation, if this bill is enacted without appropriation language, the department could pursue a budget augmentation ("legislative budget change proposal") through the normal budgetary processes and if necessary, could redirect resources from other revenue producing activities to implement this bill. Redirection of resources could negatively impact existing revenue producing activities. Accordingly, suggested language is provided in Amendment 3 to fund the department's implementation costs for this bill.

ECONOMIC IMPACT

The bill's additional reporting requirements would not impact the state's income tax revenue or the department's current programs or practices.

Modifying the Government Code provisions that govern EZ designation could affect the General Fund revenue impact of the program. For example, limiting the size of EZs proposed for designation in the future could affect the number of qualified taxpayers eligible for the various EZ income and franchise tax incentives. Because the effect, if any, would occur in the future and is impractical to predict, we are unable to provide an estimate of the revenue effect.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

SUPPORT/OPPOSITION[2]

Support: None provided.

Opposition: None provided.

LEGISLATIVE STAFF CONTACT

Jahna Carlson	Gail Hall
Legislative Analyst, FTB	Legislative Director, FTB
(916) 845-5683	(916) 845-6333
jahna.carlson@ftb.ca.gov	gail.hall@ftb.ca.gov

[2] As reported by the Senate Transportation and Housing Committee Analysis dated June 30, 2011 at <http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1401-1450/ab_1411_cfa_20110630_144756_sen_comm.html> [as of August 15, 2012].

Analyst	Jahna Carlson
Telephone #	(916) 845-5683
Attorney	Pat Kusiak

FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO
AB 1411 AS AMENDED AUGUST 6, 2012

AMENDMENT 1

On page 19, line 32, strikeout "enterprise zone" and insert:

G-TEDA

AMENDMENT 2

On page 20, strikeout line 14, and insert:

shall review tax returns filed by taxpayers claiming G-TEDA tax credits and tax incentives. The

AMENDMENT 3

On page 20, after line 16, insert:

SEC. 10 The sum of one hundred thirty-three thousand dollars ($133,000) is hereby appropriated to the Franchise Tax Board in augmentation of item 1730-001-0001 of the Governor's Budget, Chapter 21, Statutes of 2012. Implementation of the reporting requirements contained in section 9 of this bill is contingent upon receipt of an appropriation