

SUMMARY ANALYSIS OF AMENDED BILL

Author: V. Manuel Perez, et. al Analyst: Jahna Carlson Bill Number: AB 1411
 Related Bills: See Prior Analysis Telephone: 845-5683 Amended Date: August 21 & 24, 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 (EZ) Act.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The August 21, 2012, amendments modified the definition of an EZ, EZ evaluation criteria, limits on EZ expansion, and the fees the Department of Housing and Community Development (DHCD) may charge for certain certificates. Additionally, the amendments eliminated the requirement that Employment Development Department provide certification letters, as specified, and the requirement that the FTB review both personal and corporate tax returns and report each G-TEDA incentive separately, and added a coauthor.

The August 24, 2012, amendments defined the acronym “LAMBRA,” modified the limits on EZ expansion and the scope of FTB’s reporting requirements, and made a technical non-substantive change.

As a result of the August 21 and 24, 2012, amendments, the “This Bill,” “Implementation Considerations,” “Technical Considerations,” and “Fiscal Impact” sections have been revised, and the “Economic Impact” section has been repeated for convenience.

Summary of Suggested Amendments

Amendments are suggested to clarify definitions and provide for consistent use of terminology.

Board Position:	Legislative Director	Date
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ANALYSIS

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 and expanded EZ. The limit would increase to 125 percent of the size of the previously designated EZ and expanded EZ, 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 and expanded EZ.

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 cost of qualified property put into service within EZs and LAMBRA during the previous five taxable years. The number of new employees included in the computation of the hiring credit would be eliminated as a required item on forms and instructions.

Qualified property put into service within EZs would have the same meaning as defined in sections 17053.70 and 23612.2 of the Revenue and Taxation Code. Qualified property put into service within a LAMBRA would have the same meaning as defined in sections 17053.45 and 23645 of the Revenue and Taxation Code.

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 would add the total cost of qualified property put into service within EZs and LAMBRA during the previous five taxable years to the information reported annually by the department to the DHCD and the Legislature. If it is the author's intent for the total cost of property put into service for each EZ or LAMBRA as opposed to one aggregated total for all EZs and LAMBRA be reported, this bill should be amended.

TECHNICAL CONSIDERATIONS

The term “enterprise zone” that appears on page 19, line 7, should be replaced with the term “G-TEDA” for consistency of use. Amendment 1 would make this change.

Subdivision (f) of Government Code Section 7085.5 needs to be amended for clarity and consistency. Amendment 2 is provided.

FISCAL IMPACT

If the implementation consideration addressed in this analysis is resolved, the department’s costs are expected to be minor.

ECONOMIC IMPACT

The bill’s modified 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 insufficient data exists to predict the future effect on the general fund, we are unable to provide an estimate of the revenue effect.

SUPPORT/OPPOSITION¹

Support: California Association of Enterprise Zones, SS Marine, Inc.

Opposition: None provided.

LEGISLATIVE STAFF CONTACT

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¹ As reported by the Senate Floor Analysis dated August 27, 2012, at http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1401-1450/ab_1411_cfa_20120827_191924_sen_floor.html [as of August 30, 2012].

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO
AB 1411 AS AMENDED AUGUST 24, 2012

AMENDMENT 1

On page 19, line 7, strikeout "enterprise zone" and insert:

G-TEDA

AMENDMENT 2

On page 19, strikeout lines 22 through 31, inclusive, and insert:

- (f)(1) The total aggregate cost of qualified property placed in service within enterprise zones and LAMBRA's during the previous five taxable years.
- (2) In determining these amounts, qualified property placed in service within enterprise zones shall have the same meaning as "qualified property" as defined in paragraph (2) of subdivision (b) of Sections 17053.70 and 23612.2 of the Revenue and Taxation Code, and qualified property placed into service within a LAMBRA shall have the same meaning as "qualified property" as defined in paragraph (3) of subdivision (b) of Section 17053.45 to the extent that the qualified property does not exceed a value of one million dollars (\$1,000,000) in a single taxable year and "qualified property" as defined in paragraph (3) of subdivision (b) of Section 23645 of the Revenue and Taxation Code to the extent that the qualified property does not exceed a value of twenty million dollars (\$20,000,000) in a single taxable year.