Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	V. Manuel Perez	Analyst:	Brian Werking	Bill Number:	AB 28
Related Bills:	See Legislative History	Telephone:	845-5103	Introduced Date:	December 3, 2012
		Attorney:	Patrick Kusiak	Sponsor:	

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

SUMMARY

This bill would modify the rules relating to Enterprise Zone (EZ) boundaries and expand the Franchise Tax Board's (FTB's) reporting requirements under the EZ Act.

This bill also would make changes to the Government Code that do not affect the department and are not discussed in this analysis.

RECOMMENDATION

No position.

Summary of Suggested Amendments

Amendments are suggested to clarify definitions, correct grammatical errors, and provide for consistent use of terminology.

REASON FOR THE BILL

The reason for this bill is to make reforms to the EZ program to make it more transparent, effective, and accountable to the public and to the communities it serves.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2014, and, with respect to the provisions of the bill that affect the FTB, would apply to information provided by the FTB on or after that date.

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 Department of Housing and Community Development (HOUSING) 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 HOUSING is authorized to designate 42 EZs under current law (40

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are currently designated).[1] When an EZ expires, HOUSING is authorized, but not required, to request applications for EZ designation. HOUSING 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 HOUSING 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 HOUSING deem important in determining the costs and benefits of the EZ program to the state.

THIS BILL

This bill would make the following changes to the Government Code:

Limit the size of a proposed EZ when the proposed EZ boundaries overlap the boundaries of one or more existing or expired EZs (previously designated EZs) on applications for EZ designation that are submitted on or after January 1, 2014, in response to a HOUSING solicitation for new EZs issued on or after January 1, 2014, as follows.

> If any proposed EZ's boundary overlaps a previously existing EZ, the size of the proposed EZ shall not exceed the size of the previously designated and expanded EZ by more than 15 percent. If the proposed EZ is located in a rural city, as defined, or in a county with a total population under 275,000, the proposed EZ shall not exceed the size of the previously designated and expanded EZ by more than 25 percent.
>
> If any proposed EZ's boundary overlaps the boundaries of two or more previously designated EZs, the aggregate size of the proposed EZ shall not exceed the size of the largest previously designated and expanded EZ by more than 15 percent.

Expand the FTB's current reporting requirement from EZ tax credits to include all geographically-targeted economic development area ("G-TEDA") tax credits and other G-TEDA tax incentives, to the extent that information is reasonably available. Additionally, the number of new employees included in the computation of the hiring credit would be eliminated as a reported item, and the total cost of qualified property, as defined, put into service within the EZs and LAMBRAs during the previous five taxable years would be added as a reported item. The FTB would be required to design and distribute forms to collect the data necessary to report the new item.

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

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 to the information reported annually by the department to HOUSING the total cost of qualified property put into service within EZs and LAMBRAs during the previous five taxable years. It is unclear how the data should be presented to HOUSING. If it is the author's intent for the total cost of property put into service to mean the amount for each EZ or LAMBRA as opposed to one aggregated total for all EZs and LAMBRAs, this bill should be amended.

TECHNICAL CONSIDERATIONS

The language beginning on page 5, line 1, and page 11, line 11, providing that the amendments to the specified subdivisions only apply to requests for proposals on or after January 1, 2014, is unusual and the author may wish to use other language to accomplish this result. Amendments 1 through 4 would make this change.

The language on page 15, lines 16 and 17, have been amended to become an incomplete sentence. Amendment 5 provides language to complete the sentence.

The term "enterprise zone" that appears on page 20, line 32, should be replaced with the term "G-TEDA" for consistency of use. Amendment 6 would make this change.

It is recommended that subdivision (f) of Government Code Section 7085.5 as amended by this bill be further amended for clarity and consistency. Amendment 7 provides this recommendation.

LEGISLATIVE HISTORY

SB 133 (DeSaulnier, 2013/2014) would limit the size of specified proposed EZs in a similar way that this bill would. This bill has not yet been assigned to a Senate Rules Committee.

AB 231 (Perez, 2011/2012) would have, among other things, required state agencies to consider how the G-TEDA programs could be integrated into workforce development and training plans and strategies and would have modified the FTB's reporting requirements. This bill failed to pass out of the Assembly Jobs, Economic Development and the Economy Committee.

AB 1411 (Perez, 2011/2012) would have, among other things, limited the size of specified proposed EZs and modified the FTB's reporting requirements under the EZ Act in the same way that this bill would. This bill failed to pass out of the Senate Rules Committee.

FISCAL IMPACT

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

ECONOMIC IMPACT

Expanding FTB's existing reporting requirements would not impact the state's income tax revenue.

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/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Supporters may argue that the proposed reforms to the EZ program could improve the ability of the program's stakeholders to evaluate the program's impact on economic development and job growth in the state.

Opponents: Some may argue that the proposed reforms to the EZ program could increase the program's administrative burden on state and local entities with minimal corresponding benefit.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 28
AS INTRODUCED DECEMBER 3, 2012

AMENDMENT 1

On page 5, line 1, replace "during the 2012-13 Regular Session" with "by the act amending this subdivision".

AMENDMENT 2

On page 5, line 2, strikeout "only".

AMENDMENT 3

On page 11, line 11, replace "during the 2012-13 Regular Session" with "by the act amending this subdivision".

AMENDMENT 4

On page 11, line 12, strikeout "only".

AMENDMENT 5

On page 15, line 17, after "dedesignated" and before "." insert ", dedesignate".

AMENDMENT 6

On page 20, line 32, replace "enterprise zone" with "G-TEDA".

AMENDMENT 7

Subdivision (f) of section 7085.5 of the Government Code as amended by Assembly Bill 28 as introduced December 3, 2013 should be amended as follows:

(f) (1)The total cost of qualified property placed in~~put into~~ service within enterprise zones and LAMBRAs during the previous five taxable years.
(2)In determining these amounts, qualified property placed in~~put into~~ 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 in~~put into~~ service within a LAMBRA shall have the same meaning as "qualified property" as defined in paragraph 3 of subdivision (b) of Section~~s~~ 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~~and~~ 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.