

Assembly Bill No. 1550

CHAPTER 718

An act to amend Sections 7072, 7073, 7073.8, 7074, 7076.1, 7097, 7099, and 7116 of, and to add Sections 7073.1, 7074.2, 7082.2, and 7085.1 to, the Government Code, relating to economic development, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 2006. Filed with
Secretary of State September 29, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1550, Arambula. Economic incentive areas.

Existing law provides for the designation and oversight by the Department of Housing and Community Development of various economic development areas in the state, including enterprise zones, up to 2 Manufacturing Enhancement Areas, a targeted tax area, and local agency military base recovery areas, or LAMBRAs, pursuant to which qualifying entities in those areas may receive various tax and regulatory incentives.

This bill would make various revisions in the requirements for designating and administering enterprise zones generally. It would provide for the administration and oversight of geographically targeted economic development areas, known as G-TEDAs, which would include enterprise zones, Manufacturing Enhancement Areas, the targeted tax area, and LAMBRAs, by the department, subject to specified criteria. It would also apply various requirements applicable to those entities to the G-TEDAs.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 7072 of the Government Code is amended to read:

7072. For purposes of this chapter, the following definitions shall apply:

(a) "Department" means the Department of Housing and Community Development.

(b) "Date of original designation" means the earlier of the following:

(1) The date the eligible area receives designation as an enterprise zone by the department pursuant to this chapter.

(2) In the case of an enterprise zone deemed designated pursuant to subdivision (e) of Section 7073, the date the enterprise zone or program area received original designation by the former Trade and Commerce

Agency pursuant to Chapter 12.8 (commencing with Section 7070) or Chapter 12.9 (commencing with Section 7080), as those chapters read prior to January 1, 1997.

(c) “Eligible area” means any of the following:

(1) An area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070), as it read prior to January 1, 1997, or as a targeted economic development area, neighborhood development area, or program area pursuant to Chapter 12.9 (commencing with Section 7080), as it read prior to January 1, 1997.

(2) A geographic area that, based upon the determination of the department, fulfills at least one of the following criteria:

(A) The proposed geographic area meets the Urban Development Action Grant criteria of the United States Department of Housing and Urban Development.

(B) The area within the proposed eligible area has experienced plant closures within the past two years affecting more than 100 workers.

(C) The city or county has submitted material to the department for a finding that the proposed geographic area meets criteria of economic distress related to those used in determining eligibility under the Urban Development Action Grant Program and is therefore an eligible area.

(D) The area within the proposed zone has a history of gang-related activity, whether or not crimes of violence have been committed.

(3) A geographic area that meets at least two of the following criteria:

(A) The census tracts within the proposed eligible area have an unemployment rate not less than 3 percentage points above the statewide average for the most recent calendar year as determined by the Employment Development Department.

(B) The county of the proposed eligible area has more than 70 percent of the children enrolled in public school participating in the federal free lunch program.

(C) The median household income for a family of four within the census tracts of the proposed eligible area does not exceed 80 percent of the statewide median income for the most recently available calendar year.

(d) “Enterprise zone” means any area within a city, county, or city and county that is designated as such by the department in accordance with Section 7073.

(e) “Governing body” means a county board of supervisors or a city council, as appropriate.

(f) G-TEDA means a geographically targeted economic development area, which is an area designated as an enterprise zone, a Manufacturing Enhancement Area, a targeted tax area, or a local agency military base recovery area.

(g) “High-technology industries” includes, but is not limited to, the computer, biological engineering, electronics, and telecommunications industries.

(h) “Resident,” unless otherwise defined, means a person whose principal place of residence is within a targeted employment area.

(i) (1) “Targeted employment area” means an area within a city, county, or city and county that is composed solely of those census tracts designated by the United States Department of Housing and Urban Development as having at least 51 percent of its residents of low- or moderate-income levels, using either the most recent United States Department of Census data available at the time of the original enterprise zone application or the most recent census data available at the time the targeted employment area is designated to determine that eligibility. The purpose of a “targeted employment area” is to encourage businesses in an enterprise zone to hire eligible residents of certain geographic areas within a city, county, or city and county. A targeted employment area may be, but is not required to be, the same as all or part of an enterprise zone. A targeted employment area’s boundaries need not be contiguous. A targeted employment area does not need to encompass each eligible census tract within a city, county, or city and county. The governing body of each city, county, or city and county that has jurisdiction of the enterprise zone shall identify those census tracts whose residents are in the most need of this employment targeting. Only those census tracts within the jurisdiction of the city, county, or city and county that has jurisdiction of the enterprise zone may be included in a targeted employment area.

(2) At least a part of each eligible census tract within a targeted employment area shall be within the territorial jurisdiction of the city, county, or city and county that has jurisdiction for an enterprise zone. If an eligible census tract encompasses the territorial jurisdiction of two or more local governmental entities, all of those entities shall be a party to the designation of a targeted employment area. However, any one or more of those entities, by resolution or ordinance, may specify that it shall not participate in the application as an applicant, but shall agree to complete all actions stated within the application that apply to its jurisdiction, if the area is designated.

(3) Each local governmental entity of each city, county, or city and county that has jurisdiction of an enterprise zone shall approve, by resolution or ordinance, the boundaries of its targeted employment area, regardless of whether a census tract within the proposed targeted employment area is outside the jurisdiction of the local governmental entity.

(4) (A) Within 180 days of updated United States census data becoming available, each local governmental entity of each city, county, or city and county that has jurisdiction of an enterprise zone shall approve, by resolution or ordinance, boundaries of its targeted employment area reflecting the new census data. If no changes are necessary to the boundaries based on the most current census data, the enterprise zone may send a letter to the department stating that a review has been undertaken by the respective local governmental entities and no boundary changes are required.

(B) A targeted employment area boundary approved prior to the 2000 United States census data becoming available that has not been reviewed

and its boundaries revised to reflect the most recent census data, shall be reviewed and updated, and a new resolution or ordinance submitted by the appropriate local governmental entity to the department, by July 1, 2007. However, enterprise zones that expire on or prior to December 31, 2008, shall be exempt from the update requirement.

SEC. 2. Section 7073 of the Government Code is amended to read:

7073. (a) Except as provided in subdivision (e), any city, county, or city and county with an eligible area within its jurisdiction may complete a preliminary application for designation as an enterprise zone. The applying entity shall establish definitive boundaries for the proposed enterprise zone and the targeted employment area.

(b) (1) In designating enterprise zones, the department shall select from the applications submitted those proposed enterprise zones that, upon a comparison of all of the applications submitted, indicate that they propose the most appropriate, innovative, and comprehensive regulatory, tax, program, and other incentives in attracting private sector investment in the zone proposed.

(2) For purposes of this subdivision, regulatory incentives include, but are not limited to, all of the following:

(A) The suspension or relaxation of locally originated or modified building codes, zoning laws, general development plans, or rent controls.

(B) The elimination or reduction of fees for applications, permits, and local government services.

(C) The establishment of a streamlined permit process.

(3) For purposes of this subdivision, tax incentives include, but are not limited to, the elimination or reduction of construction taxes or business license taxes.

(4) For the purposes of this subdivision, program and other incentives may include, but are not limited to, all of the following:

(A) The provision or expansion of infrastructure.

(B) The targeting of federal block grant moneys, including small cities, education, and health and welfare block grants.

(C) The targeting of economic development grants and loan moneys, including grant and loan moneys provided by the federal Urban Development Action Grant program and the federal Economic Development Administration.

(D) The targeting of state and federal job disadvantaged and vocational education grant moneys, including moneys provided by the federal Job Training Partnership Act of 1982 (Public Law 97-300).

(E) The targeting of federal or state transportation grant moneys.

(F) The targeting of federal or state low-income housing and rental assistance moneys.

(G) The use of tax allocation bonds, special assessment bonds, bonds under the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5), industrial development bonds, revenue bonds, private activity bonds, housing bonds, bonds issued pursuant to the Marks-Roos Local Bond

Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5), certificates of participation, hospital bonds, redevelopment bonds, school bonds, and all special provisions provided for under federal tax law for enterprise community or empowerment zone bonds.

(5) In the process of designating new enterprise zones, the department shall take into consideration the location of existing zones and make every effort to locate new zones in a manner that will not adversely affect any existing zones.

(6) In designating new enterprise zones, the department shall include in its criteria the fact that jurisdictions have been declared disaster areas by the President of the United States within the last seven years.

(7) When reviewing and ranking new enterprise zone applications, the department shall give special consideration or bonus points, or both, to applications from jurisdictions that meet at least two of the following criteria:

(A) The percentage of households within the census tracts of the proposed enterprise zone area, the income of which is below the poverty level, is at least 17.5 percent.

(B) The average unemployment rate for the census tracts of the proposed enterprise zone area was not less than five percentage points above the statewide average for the most recent calendar year as determined by the Employment Development Department.

(C) The applicant jurisdiction has, and can document that it has, a unique distress factor affecting long-term economic development, including, but not limited to, resource depletion, plant closure, industry recession, natural disaster, or military base closure.

(c) In evaluating applications for designation, the department shall ensure that applications are not disqualified solely because of technical deficiencies, and shall provide applicants with an opportunity to correct the deficiencies. Applications shall be disqualified if the deficiencies are not corrected within two weeks.

(d) (1) Except as provided in paragraph (2), or upon dedesignation pursuant to subdivision (c) of Section 7076.1 or Section 7076.2, a designation made by the department shall be binding for a period of 15 years from the date of the original designation.

(2) The designation period for any zone designated pursuant to either Section 7073 or 7085 prior to 1990 may total 20 years, subject to possible dedesignation pursuant to subdivision (c) of Section 7076.1 or Section 7076.2, if the following requirements are met:

(A) The zone receives a superior or passing audit pursuant to subdivision (c) of Section 7076.1.

(B) The local jurisdictions comprising the zone submit an updated economic development plan to the department justifying the need for an additional five years by defining goals and objectives that still need to be achieved and indicating what actions are to be taken to achieve these goals and objectives.

(e) (1) Notwithstanding any other provision of law, any area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or as a targeted economic development area, neighborhood economic development area, or program area pursuant to Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997, or any program area or part of a program area deemed designated as an enterprise zone pursuant to Section 7085.5 as it read prior to January 1, 1997, shall be deemed to be designated as an enterprise zone pursuant to this chapter. The effective date of designation of the enterprise zone shall be that of the original designation of the enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or of the program area pursuant to Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997, and in no event may the total designation period exceed 15 years, except as provided in paragraph (2) of subdivision (d).

(2) Notwithstanding any other provision of law, any enterprise zone authorized, but not designated, pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, shall be allowed to complete the application process started pursuant to that chapter, and to receive final designation as an enterprise zone pursuant to this chapter.

(3) Notwithstanding any other provision of law, any expansion of a designated enterprise zone or program area authorized pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997, shall be deemed to be authorized as an expansion for a designated enterprise zone pursuant to this chapter.

(4) No part of this chapter may be construed to require a new application for designation by an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or a targeted economic development area, neighborhood economic development area, or program area designated pursuant to Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997.

(f) Notwithstanding any other provision of law, a city, county, or city and county may designate a joint powers authority to administer the enterprise zone.

(g) This section shall only apply to enterprise zone applications for which the department has issued a solicitation for new enterprise zone designations prior to January 1, 2007.

SEC. 3. Section 7073.1 is added to the Government Code, to read:

7073.1. (a) Except as provided in subdivision (e), any city, county, or city and county with an eligible area within its jurisdiction may complete a preliminary application for designation as an enterprise zone. The applying entity shall establish definitive boundaries for the proposed enterprise zone and the targeted employment area. An entity may propose zones in areas with noncontiguous boundaries, and the department may

designate those areas as zones if the director determines both of the following:

(1) The noncontiguous area is needed to implement the applicant's economic development strategy.

(2) The excluded area between the proposed zone boundaries would not, based on the proposed economic strategy, also benefit from the zone designation.

(b) (1) In designating enterprise zones, the department shall select from the applications submitted those proposed enterprise zones that, upon a comparison of all of the applications submitted, indicate that they propose the most appropriate economic development strategy and implementation plan utilizing state and local programs and incentives to create jobs, attract private sector investment, and improve the economic conditions within the zone proposed. The department shall prescribe a format that promotes succinct and focused strategies and plans, and set minimum standards for the strategies and plans. For the purposes of this subdivision, important elements of a strategy or plan may include, but are not limited to, all of the following:

(A) An assessment of current financial and community development strengths, needs, and opportunities.

(B) A framework for investment of time, action, and money.

(C) Clear articulation of goals.

(D) Measurable objectives, including targets.

(E) Proposed implementation activities and tasks, including timeframes, and a framework for evaluating performance, including qualitative and quantitative benchmarks.

(2) For purposes of this subdivision, local incentives may include, but are not limited to, all of the following:

(A) The suspension or relaxation of locally originated or modified building codes, zoning laws, general development plans, or rent controls.

(B) The elimination or reduction of fees for applications, permits, and local government services.

(C) The establishment of a streamlined permit process.

(D) Elimination or reduction of construction taxes or business license taxes.

(E) The provision or expansion of infrastructure.

(F) The targeting of federal block grant moneys, including small cities, education, and health and welfare block grants.

(G) The targeting of economic development grants and loan moneys, including grant and loan moneys provided by the United States Department of Housing and Urban Development.

(H) The targeting of state and federal job disadvantaged and vocational education grant moneys, including moneys provided by the federal Workforce Investment Act of 1998 (Public Law 105-220), or its successor.

(I) The targeting of federal or state transportation grant moneys.

(J) The targeting of federal or state low-income housing and rental assistance moneys.

(K) The use of tax allocation bonds, special assessment bonds, bonds under the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5), industrial development bonds, revenue bonds, private activity bonds, housing bonds, bonds issued pursuant to the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5), certificates of participation, hospital bonds, redevelopment bonds, school bonds, and all special provisions provided for under federal tax law for enterprise community or empowerment zone bonds.

(3) When designating new enterprise zones, the department shall take into consideration the location of existing zones and make every effort to locate new zones in a manner that will not adversely affect any existing zones.

(4) When reviewing and ranking new enterprise zone applications, the department shall give bonus points to applications from jurisdictions that meet minimum threshold points and at least two of the following criteria:

(A) The percentage of households within the census tracts of the proposed enterprise zone area, the income of which is below the poverty level, is at least 17.5 percent.

(B) The average unemployment rate for the census tracts of the proposed enterprise zone area was not less than five percentage points above the statewide average for the most recent calendar year as determined by the Employment Development Department.

(C) The applicant jurisdiction has, and can document that it has, a unique distress factor affecting long-term economic development, including, but not limited to, resource depletion, plant closure, industry recession, natural disaster, or military base closure.

(5) Except as modified pursuant to paragraph (4), applications shall be ranked by the appropriateness of the economic development strategy and implementation plan, including all of the following:

(A) The extent the strategy clearly identifies the local resources, incentives, and programs that will be made available to the zone for meeting its goals and objectives.

(B) The extent the strategy provides for attracting private sector investment.

(C) The extent the strategy includes related regional and community-based partnerships for achieving the goals and objectives in the strategy.

(D) The extent the strategy fits within the jurisdiction's overall economic development strategy, including the extent the strategy and implementation plan is appropriate for the local community.

(E) The extent the strategy addresses the hiring and retention of unemployed or underemployed residents or low-income individuals in the proposed zone and surrounding areas.

(F) The extent the strategy sets reasonable and measurable benchmarks, goals, and objectives.

(G) The extent the strategy sets forth an appropriate funding schedule for management, oversight, and program delivery within the zone relative to the benchmarks, goals, and objectives in the strategy.

(H) The extent that the economic development strategy has a comprehensive incentive package for attracting private investment to the enterprise zone.

(c) In evaluating applications for designation, the department shall ensure that applications are not disqualified solely because of technical deficiencies, and shall provide applicants with an opportunity to correct the deficiencies. Applications shall be disqualified if the deficiencies are not corrected within two weeks.

(d) Except upon dedesignation pursuant to subdivision (c) of Section 7076.1, Section 7076.2, or Section 7085.1, a designation made by the department shall be binding for a period of 15 years from the date of the original designation.

(e) This section shall only apply to enterprise zone applications for which the department has issued a solicitation for new enterprise zone designations on or after January 1, 2007.

SEC. 4. Section 7073.8 of the Government Code is amended to read:

7073.8. (a) The department shall designate up to two Manufacturing Enhancement Areas requested by the governing boards of cities each of which shall meet at least the following criteria:

(1) The unemployment rate in the county in which the applicant is located has been at least three times the state average from 1990 to 1995, inclusive.

(2) The applicant city is, or portions of the city are, designated a federal enterprise community or empowerment zone pursuant to Subchapter U (commencing with Section 1391) of Chapter 1 of Subtitle A of Title 26 of the United States Code.

(3) The applicant city is located in a Border Environment Cooperation Commission region as specified in Section 3473 of Title 19 of the United States Code.

(4) At least one of the following:

(A) The designated area has grown by less than 5 percent in population per year for each of the two years preceding the application date.

(B) The median household income for the designated area is under twenty-five thousand dollars (\$25,000) per year.

(C) The designated area has a population of under 20,000 persons according to the 1990 federal census.

(D) The designated area is located in a rural community.

(5) An audit of the program shall be made pursuant to Section 7076.1 by the department with the cooperation of the local governing board. The audit shall be used to determine how effective the designation has been in attracting manufacturing facilities and creating new employment opportunities. Continuation of the designation is contingent on evidence of success of the program.

(b) For purposes of applying any provision of the Revenue and Taxation Code, any Manufacturing Enhancement Area designated pursuant to this section shall not be considered an enterprise zone designated pursuant to this chapter.

(c) The designation as a Manufacturing Enhancement Area pursuant to this section shall be binding for a period of 15 years, commencing January 1, 1998.

SEC. 5. Section 7074 of the Government Code is amended to read:

7074. (a) In the case of any enterprise zone, including an enterprise zone formerly designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or as a program area pursuant to Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997, a city, county, or city and county may propose that the enterprise zone be expanded by 15 percent to include definitive boundaries that are contiguous to the enterprise zone.

(b) The department may approve an enterprise zone expansion proposed pursuant to this section based on the following criteria:

(1) Each of the adjacent jurisdictions' governing bodies approves the expansion by adoption of an ordinance or resolution.

(2) Land included within the proposed expansion is zoned for industrial or commercial use.

(3) Basic infrastructure, including, but not limited to, gas, water, electrical service, and sewer systems, is available to the area that would be included in the expansion.

(c) A city, county, or city and county may propose to use an eligible expansion allotment to expand into an adjacent jurisdiction pursuant to this section if the department finds that all of the following conditions exist:

(1) The governing body of the local agency with jurisdiction over the existing enterprise zone and the governing body of the local agency with jurisdiction over the proposed expansion area each approve the expansion by adoption of an ordinance or resolution. The ordinance or resolution by the jurisdiction containing the proposed expansion area shall indicate that the jurisdiction will provide the same or equivalent local incentives as provided by the jurisdiction of the existing enterprise zone.

(2) (A) Land included within the proposed expansion is zoned for industrial or commercial use.

(B) An expansion area may contain noncommercial or nonindustrial land only if that land is a right-of-way and is needed to meet the requirement for a contiguous expansion between an existing enterprise zone and a proposed expansion area.

(3) Basic infrastructure, including, but not limited to, gas, water, electrical service, and sewer systems, is available to the area that would be included in the expansion.

(4) The expansion area is contiguous to the existing enterprise zone.

(d) (1) Except as otherwise provided in paragraph (2), in no event shall an enterprise zone be permitted to expand more than 15 percent in size from its size on the date of original designation, including any expansion

authorized pursuant to Chapter 12.8 (commencing with Section 7070), or Chapter 12.9 (commencing with Section 7080), as those chapters read prior to January 1, 1997.

(2) If an enterprise zone, on the date of original designation, is no greater than 13 square miles, it may be permitted to expand up to 20 percent in size from its size on the date of original designation.

(e) A city, county, or city and county may propose expansion into a noncontiguous area if the department finds both of the following:

(1) The noncontiguous area is needed to implement the enterprise zone's economic development strategy.

(2) The excluded areas between the proposed new boundaries would not, based on the enterprise zone's economic development strategy, also benefit from enterprise zone expansion.

SEC. 6. Section 7074.2 is added to the Government Code, to read:

7074.2. (a) Notwithstanding any other provision of law, a city, county, or a city and county may designate a joint powers authority to administer an enterprise zone.

(b) No more than 42 enterprise zones may be designated at any one time pursuant to this chapter, including those deemed designated pursuant to subdivision (e) of Section 7073. Upon the expiration or termination of a designation, the department may designate another enterprise zone to maintain a total of 42 enterprise zones.

(c) Notwithstanding any other provision of law, an expiring enterprise zone that applies for a new enterprise zone designation pursuant to Section 7073 or 7073.1, and receives a conditional designation letter from the department, may offer, and a taxpayer doing business within the geographic boundaries of the new zone referenced in the conditional designation letter shall be eligible to receive, all enterprise zone benefits until the department makes a final designation or declines to redesignate the zone. The department shall make the effective date of the new zone the date of expiration of the previous designation and the term of the new zone shall begin on that date.

SEC. 7. Section 7076.1 of the Government Code is amended to read:

7076.1. (a) The department may audit the program of any jurisdiction in any designated G-TEDA at any time during the duration of the designation, as appropriate. However, the department shall audit each G-TEDA at least once every five years from the date of designation or the operative date of this section, whichever is the latest. The matters to be examined in the course of an audit shall include an examination of the progress made by the G-TEDA toward meeting the goals, objectives, and commitments set forth in its original application and the department's memorandum of understanding with the G-TEDA.

(b) The department shall, for each audit, determine a result of superior, pass, or fail in accordance with subdivision (c). The results of each audit shall be based upon the success of the G-TEDA in making substantial and sustained efforts since the later of its designation or last audit to meet the standards, criteria, and conditions contained in the application and the

memorandum of understanding (MOU) between the department and the G-TEDA, as may be amended pursuant to the agreement of the G-TEDA and the department. In each audit, the department shall focus upon the G-TEDA's use of the marketing plan, local incentives, financing programs, job development, and program management as described in the application and the MOU. The department shall also evaluate the vouchering plan, staffing levels, budget, and elements unique to each application.

(c) For purposes of subdivision (b), an audit determination of superior, pass, or fail shall be made in accordance with the following:

(1) A G-TEDA will be determined to be superior if each jurisdiction comprising the G-TEDA does all of the following:

(A) Meets 100 percent of its goals, objectives, and commitments as defined in its application, most recent audit, biennial report, and memorandum of understanding with the department, and as determined by the department in consultation with the G-TEDA. An equivalent or similar commitment may be substituted for an existing commitment of a G-TEDA if it is determined by the department that an original commitment was not realistically practical or is no longer relevant.

(B) Demonstrates that it has reviewed and updated its goals, objectives, and commitments as defined in its original application, most recent audit, biennial report, and memorandum of understanding with the department.

(C) Identifies to the department's satisfaction that it has incorporated economic development commitments in addition to those commitments previously made in its application.

(2) (A) A G-TEDA will be determined to be passing if each jurisdiction comprising the area meets or exceeds 75 percent of its goals, objectives, or commitments as defined in its original application, most recent audit, biennial report, and memorandum of understanding with the department, and as determined by the department in consultation with the G-TEDA. An equivalent or similar commitment may be substituted for an existing commitment of a G-TEDA if it is determined by the department that an original commitment was not realistically practical or is no longer relevant.

(B) Any G-TEDA that is determined to be passing may appeal in writing to the department for a determination of superior. Only one appeal may be filed pursuant to this subparagraph with respect to a determination by the department, and may be filed no later than 30 days after the G-TEDA's receipt of the determination to which the appeal pertains. The department shall respond in writing to any appeal that is properly filed pursuant to this subparagraph within 60 days of the date of that filing.

(3) (A) A G-TEDA will be determined to be failing if any jurisdiction comprising the G-TEDA fails to meet or exceed 75 percent of its goals, objectives, or commitments as defined in its original application, most recent audit, biennial report, and memorandum of understanding with the department, and as determined by the department in consultation with the G-TEDA. An equivalent or similar commitment may be substituted for an

existing commitment of a G-TEDA if it is determined by the department that an original commitment was not realistically practical or is no longer relevant.

(B) Any G-TEDA that is determined to be failing shall enter into a written agreement with the department that specifies those items that the G-TEDA is required to remedy or improve. Failure of the G-TEDA and the department to negotiate and enter into a written agreement as so described within 60 days of the last day upon which the department is required to deliver a response letter pursuant to subparagraph (C) shall result in the dedesignation of the G-TEDA on January 1 immediately following the department's written notice of dedesignation to the G-TEDA. A written agreement entered into pursuant to this subparagraph shall be for a six-month period. If, upon the expiration of the agreement, the department determines that the G-TEDA has not met or implemented at least 75 percent of the conditions set forth in the agreement, the department shall, after immediately providing written notification to each jurisdiction comprising the G-TEDA that the G-TEDA is to be dedesignated, dedesignate the G-TEDA effective on the first day of the month next following the date upon which the agreement expired. If, upon expiration of the agreement, the department determines that the G-TEDA has met or implemented at least 75 percent of the conditions set forth in the agreement, the department shall do either of the following:

(i) Allow the G-TEDA an additional year, or a longer period in the department's discretion, to meet or implement those conditions in their entirety.

(ii) Pursuant to written notice provided immediately to each jurisdiction that comprises the G-TEDA that the G-TEDA is to be dedesignated, dedesignate the G-TEDA effective on January 1 immediately following the date of the department's written notification of dedesignation to those jurisdictions.

Any business, located within any jurisdiction that comprises a G-TEDA that has been dedesignated, that has elected to avail itself of any state tax incentive specifically applicable to a G-TEDA for any taxable or income year beginning prior to the dedesignation of the G-TEDA may, to the extent the business is otherwise still eligible for those incentives, continue to avail itself of those incentives for a period equal to the remaining life of the G-TEDA. However, any business, located within any jurisdiction that comprises a G-TEDA that has been dedesignated, that has not availed itself of any state tax incentive in the manner described in the preceding sentence may not, after dedesignation of the G-TEDA, avail itself of any state incentive specifically applicable to a G-TEDA.

(4) (A) Notwithstanding paragraphs (1) to (3), inclusive, a G-TEDA shall be determined to be failing if any jurisdiction comprising the G-TEDA, in the determination of the director, provides funding support in at least three of the previous five years at a level that is less than 75 percent of the amount committed to in the G-TEDA's memorandum of understanding with the department.

(B) In the event that a G-TEDA is determined to be failing pursuant to this paragraph, subparagraph (B) of paragraph (3) shall apply.

(C) Any G-TEDA that is determined to be failing pursuant to this paragraph may appeal in writing to the department. The appeal shall be filed within 30 days of the G-TEDA's receipt of the determination to which the appeal pertains. The department shall respond in writing to any appeal that is properly filed within 60 days of the date of filing.

(d) (1) For purposes of this section, "dedesignation" means that a G-TEDA is no longer a G-TEDA for purposes of either Section 7073 or 7085.

(2) Upon notification by the department of the dedesignation of a G-TEDA and the end of the appeal period with respect to that dedesignation, the department shall initiate an application process for a new designation as provided in Section 7073, 7073.8, 7085, 7097, or 7114.

SEC. 8. Section 7082.2 is added to the Government Code, to read:

7082.2. In the case of a G-TEDA being dedesignated pursuant to Section 7085.1, any business located within any jurisdiction that comprises a G-TEDA that has been dedesignated or within a jurisdiction that has excluded itself from a G-TEDA, that has elected to avail itself of any state tax incentive specifically applicable to a G-TEDA for any taxable or income year beginning prior to the dedesignation of the G-TEDA or the exclusion of a jurisdiction comprising the G-TEDA may, to the extent the business is still otherwise eligible for those incentives, continue to avail itself of those incentives for a period equal to the remaining life of the G-TEDA. However, any business located within any jurisdiction that comprises a G-TEDA that has been dedesignated or within a jurisdiction that has excluded itself from a G-TEDA, that has not availed itself of any state tax incentive in the manner described in the preceding sentence may not, after dedesignation of the G-TEDA, avail itself of any state incentive specifically applicable to a G-TEDA.

SEC. 9. Section 7085.1 is added to the Government Code, to read:

7085.1. (a) The governing board of the G-TEDA shall report to the department by October 1, 2008, and by that date every other year thereafter, on the activities of the G-TEDA in the previous two fiscal years and its plans for the current and following fiscal year. The biennial report shall include at least both of the following:

(1) The progress the G-TEDA has made during the period covered by the report relative to its goals, objectives, and commitments set forth in its original application and the department's memorandum of understanding with the G-TEDA.

(2) Identification of the previous two year's funding, including in-kind funding. The previous two year's funding levels shall be compared to the funding levels identified in its original application and the department's memorandum of understanding with the G-TEDA, and the amount identified in the previous year's biennial report. An explanation of any meaningful discrepancies in these amounts shall be provided.

(b) A copy of the biennial report developed pursuant to subdivision (a) shall also be submitted to the legislative bodies of the local jurisdictions comprising the G-TEDA. The progress of the G-TEDA in meeting the goals, objectives, and commitments set forth in the original application and the memorandum of understanding with the department shall be reviewed at least biennially by these legislative bodies, either as part of the approval of the G-TEDA's annual work plan or separately, at the discretion of the legislative body.

(c) (1) G-TEDAs designated prior to January 1, 2007, shall have until April 15, 2008, to update their benchmarks, goals, objectives, and funding levels for administering the G-TEDA program, in order to make them measurable and conducive to the successful completion of the economic development strategy. The local legislative body and the department shall approve the updated goals and objectives. The updated goals and objectives shall be included as an update to the existing memorandum of understanding between the G-TEDA and the department.

(2) G-TEDAs that fail to obtain approved updated goals and objectives by April 15, 2008, shall be dedesignated effective July 1, 2008. The Director of Housing and Community Development shall provide notice of prospective dedesignation to the local government no later than May 1, 2008. The director may authorize up to two 60-calendar day extensions, if the local government and G-TEDA are acting in good faith and the additional time would allow them to meet the requirements of this subdivision. Businesses located within a G-TEDA that have been dedesignated shall continue to have access to tax incentives previously authorized within the G-TEDA pursuant to Section 7082.2.

(3) G-TEDAs designated prior to January 1, 2007, are not required to implement the biennial reporting requirements of subdivisions (a) and (b) until October 1, 2009.

(4) G-TEDAs that expire prior to January 1, 2010, are not required to meet the conditions of this subdivision.

(d) The department shall biennially make available to the Legislature information related to the progress that each G-TEDA is making toward implementing its goals, objectives, and commitments set forth in the original application, the department's memorandum of understating with the G-TEDA, and the biennial report.

SEC. 10. Section 7097 of the Government Code is amended to read:

7097. (a) The Department of Housing and Community Development shall rank applicant communities and shall designate the first ranking community whose governing body is applying as a community to be designated as a targeted tax area which meets at least four of the five following criteria:

(1) The average unemployment rate in the applicant community exceeded 7.5 percent in 1995.

(2) The average unemployment rate in the applicant community exceeded 7.5 percent in 1996.

(3) The median family income in the applicant community does not exceed thirty-two thousand seven hundred dollars (\$32,700).

(4) The percentage of persons in the applicant community below the poverty level is at least 17.5 percent.

(5) The applicant community ranks in the top quartile, among California counties, in the percentage of population receiving Aid for Families with Dependent Children benefits, based on the Cash Grant Caseload Movement and Expenditures Report, July 1995 to June 1996.

(b) For purposes of applying any provision of the Revenue and Taxation Code, any targeted tax area designated pursuant to this section shall not be considered an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070).

(c) Except as provided in subdivision (e), the designation as a targeted tax area pursuant to this section shall be binding for a period of 15 years, commencing January 1, 1998.

(d) Only one targeted tax area shall be designated by the department, and a renewed or replacement designation shall not be made after the initial designation expires or is revoked.

(e) An audit of the program's operation shall be made by the department pursuant to Section 7076.1, on a periodic basis with the cooperation of the local governing board. If the department determines that the local jurisdiction is not complying with the terms of the memorandum of understanding, the department shall provide written notice of the program deficiencies and the governing body shall be given six months to correct the deficiencies. If the deficiencies are not corrected, the designation shall be revoked.

(f) A county and any cities within the county may apply jointly as a community if the combination of the jurisdictions meets the criteria.

SEC. 11. Section 7099 of the Government Code is amended to read:

7099. (a) The Department of Housing and Community Development may approve a proposed expansion of a targeted tax area subject to the following conditions:

(1) The governing body of each city and county in which the targeted tax area is located approves an ordinance or resolution approving the proposed expansion of the area.

(2) The department determines that the proposed additional territory meets the criteria specified in subdivision (a) of Section 7097 to the same extent as the existing territory of the targeted tax area.

(3) The proposed expansion, in combination with any previous expansions of the targeted tax area, does not exceed 15 percent of the size of the area on the date of its original designation.

(4) The expansion area is contiguous to the targeted tax area, except that it may be noncontiguous to the extent that it meets the criteria established in subdivision (e) of Section 7074.

(5) The expansion meets the criteria established in paragraphs (1), (2), and (3) of subdivision (b) of Section 7074.

(b) The department shall respond in writing to any application for a proposed expansion of the targeted tax area within 90 days of the date on which the application is deemed complete.

SEC. 12. Section 7116 of the Government Code is amended to read:

7116. (a) A local agency military base recovery area governing body shall provide information at the request of the department as necessary for the department to prepare the report required pursuant to Section 7115.

(b) A local agency military base recovery area governing body shall provide information at the request of the department as necessary for the department to determine whether the governing body is complying with the terms of the approved application.

(c) If the department determines that a local agency military base recovery area governing body is not complying with the terms of the approved application for designation, the department shall provide written notice of the program deficiencies and the governing body shall be given six months to correct the deficiencies.

(d) The department shall revoke the designation of a local agency military base recovery area if the department determines that the governing body granted the designation has not complied with the terms of the approved application for designation within six months after written notice pursuant to subdivision (c), and shall not be considered a local agency military base recovery area until the deficiencies are corrected.

(e) Any companies located in the local agency military base recovery area shall not be penalized during any period of revocation and may continue to operate with incentives provided pursuant to this chapter.

(f) An audit of the program shall be made by the department pursuant to Section 7076.1 with the cooperation of the governing body to determine the effectiveness of the program under this chapter.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement at the earliest possible time the improvements to the economic development programs set forth in act, which were developed pursuant to extensive legislative oversight hearings, it is necessary for this act to take effect immediately.