

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2428

Introduced by Assembly Member Buchanan

February 19, 2010

An act relating to ~~enterprise zones~~ *economic development*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2428, as amended, Buchanan. ~~Enterprise zones.~~ *Economic development: Green Technology Zone Pilot Program.*

The Enterprise Zone Act provides for the *Department of Housing and Community Development's* designation and oversight ~~by the Department of Housing and Community Development~~ of various economic development areas in the state, including, but not limited to, enterprise zones, pursuant to which qualifying entities in those areas may receive various tax and regulatory incentives.

This bill would establish the Green Technology Zone Pilot Program and authorize the City of Elk Grove and the City of Livermore, respectively, to participate in the program. The bill would authorize those governing bodies to designate, by resolution or ordinance, a green technology zone, as defined, within each one's respective jurisdiction. The bill would authorize those governing bodies to, by resolution or ordinance, adopt or suspend specified local laws to encourage economic development. The bill would prohibit a resolution or ordinance adopted for this purpose from preempting state law, and would require the resolution or ordinance to be subordinate to state law.

The bill would also establish various incentives for economic development within a designated green technology zone, including, among others, a tax credit for the purchase of qualified property, as

defined, a tax credit for the employment of a qualified employee, as defined, a 5% preference in specified solicitations for bids on contracts for goods by California-based companies located within a green technology zone, and the authority for state and local agencies to lease land to a business in a green technology zone at a price below fair market value, if that lease serves a public purpose.

The bill would require an individual or business that takes advantage of these incentives to enter into agreements with state, local, regional, or county programs, or a qualified nonprofit organization, that provides education, job training, or career opportunities for individuals under 22 years of age, relating to clean technology, renewable energy, or energy efficiency.

This bill would make legislative findings and declarations as to the necessity of a special statute for the Cities of Elk Grove and Livermore.

~~*This bill would state the intent of the Legislature to enact legislation to expand the definition of enterprise zone to include green technology zones.*~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

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

1 *SECTION 1. This act shall be known and may be cited as the*
2 *Green Technology Zone Pilot Program Act.*

3 *SEC. 2. (a) The Legislature finds and declares all of the*
4 *following:*

5 *(1) For decades, California has been a national leader in*
6 *environmental protection. The state was the first to adopt air*
7 *quality standards for vehicle emissions, and to establish statewide*
8 *goals for reduction of solid waste through source reduction and*
9 *recycling. More recently, the state enacted legislation to reduce*
10 *its greenhouse gas emissions to 1990 levels by no later than 2020.*

11 *(2) The state also provides incentives to employers to provide*
12 *jobs in areas of limited opportunity or in industries with*
13 *tremendous growth potential. It is the purpose of this act to create*
14 *new permanent jobs in California.*

15 *(b) It is the intent of the Legislature that the Green Technology*
16 *Zone Pilot Program concurrently facilitate the policy objectives*
17 *of job creation, economic development, and environmental*
18 *protection.*

1 (c) *The Green Technology Zone Pilot Program shall be a*
2 *10-year program to promote energy efficiency, clean technology,*
3 *and the creation of high quality jobs within geographical zones*
4 *established pursuant to the program. The results of the pilot*
5 *program shall aid in determining whether this type of program*
6 *can effectively promote these state interests. The program shall*
7 *also encourage individuals and businesses that take advantage of*
8 *program incentives to partner with local K-12 schools and*
9 *community colleges to provide job skills and training necessary*
10 *for a career in green technology and to contribute to the state's*
11 *goals for greenhouse gas emissions reduction.*

12 SEC. 3. *For the purposes of this act, the following definitions*
13 *shall apply:*

14 (a) *“Eligible area” means a geographic area that is authorized*
15 *to participate in the Green Technology Zone Pilot Program in*
16 *which 20 percent of the businesses located therein can verify that*
17 *they are currently meeting any of the following standards:*

18 (1) *Researching and developing technology that promotes*
19 *energy efficiency.*

20 (2) *Manufactures technology that reduces greenhouse gas,*
21 *pollution in air or water, or energy consumption.*

22 (3) *Manufactures renewable energy. “Renewable energy” for*
23 *purposes of this paragraph means a device or technology that*
24 *conserves or produces heat, processes heat, space heating, water*
25 *heating, steam, space cooling, refrigeration, mechanical energy,*
26 *electricity, or energy in any form convertible to these uses, that*
27 *does not expend or use conventional energy fuels, and that uses*
28 *any of the following electrical generation technologies:*

29 (A) *Biomass.*

30 (B) *Solar thermal.*

31 (C) *Photovoltaic.*

32 (D) *Wind.*

33 (E) *Geothermal*

34 (b) *“Green technology zone” means not more than one*
35 *geographical area within a city, that is smaller than the*
36 *geographical boundaries of the city, that could encompass one or*
37 *more eligible areas that are authorized to participate in the Green*
38 *Technology Zone Pilot Program, and that has been designated as*
39 *a green technology zone by the governing body of that city.*

1 (c) “Governing body” means the city council or the county
2 board of supervisors, as appropriate, of a city, county, or city and
3 county that is authorized to participate in the program.

4 (d) “Qualified employee” means an individual who meets all
5 of the following standards:

6 (1) At least 90 percent of his or her services for the qualified
7 taxpayer during the taxable year were directly related to the
8 conduct of the qualified taxpayer’s trade or business located within
9 a green technology zone.

10 (2) Performed at least 50 percent of his or her services for the
11 qualified taxpayer during the taxable year within a green
12 technology zone.

13 (3) Was hired by the qualified taxpayer after the date of original
14 designation of the green technology zone where at least 50 percent
15 of his or her services were performed for the qualified taxpayer
16 during the taxable year.

17 (e) “Qualified property” means any of the following if used
18 exclusively within a green technology zone:

19 (1) Machinery and machinery parts used for fabricating,
20 processing, assembling, manufacturing, or production of renewable
21 resources.

22 (2) Machinery and machinery parts used for either of the
23 following:

24 (A) Air pollution control mechanisms.

25 (B) Water pollution control mechanisms.

26 (3) Data processing and communications equipment, including,
27 but not limited to, computers, computer-automated drafting
28 systems, copy machines, telephone systems, and faxes.

29 (4) Motion picture manufacturing equipment central to
30 production and postproduction, including, but not limited to,
31 cameras, audio recorders, and digital image and sound processing
32 equipment.

33 (f) “Qualified wages” means the portion of wages paid to a
34 qualified employee by the taxpayer during the taxable year that
35 does not exceed 150 percent of the minimum wage.

36 SEC. 4. (a) The Green Technology Zone Pilot Program shall
37 be operative as of the effective date of this act for a period of 10
38 years. The City of Elk Grove and the City of Livermore exclusively
39 may participate in the Green Technology Zone Pilot Program.

1 (b) The City Council of the City of Elk Grove or the City of
2 Livermore, respectively, may, by resolution or ordinance, designate
3 a green technology zone in any eligible area, as defined in Section
4 3 of this act, within its jurisdiction.

5 (c) (1) The resolution or ordinance may do any of the following:

6 (A) Suspend or relax locally originated or modified building
7 codes, zoning laws, general development plans, or rent controls.

8 (B) Eliminate or reduce fees for applications, permits, and local
9 government services.

10 (C) Establish a streamlined permit process.

11 (D) Create additional incentives as permitted by law.

12 (2) A resolution or ordinance adopted pursuant to paragraph
13 (1) may be harmonized with, but shall not preempt, state law, and
14 in any conflict between the resolution or ordinance and state law,
15 the resolution or ordinance shall be subordinate to state law.

16 SEC. 5. There shall be allowed a credit against the “net tax”
17 (as defined in Section 17039 of the Revenue and Taxation Code)
18 for the taxable year an amount equal to the sales or use tax paid
19 or incurred during the taxable year by the taxpayer in connection
20 with the taxpayer’s purchase of qualified property, as defined in
21 Section 3 of this act. A taxpayer who elects to be subject to this
22 section shall not be entitled to increase the basis of the qualified
23 property as otherwise required by Section 164(a) of the Internal
24 Revenue Code with respect to sales or use tax paid or incurred in
25 connection with the taxpayer’s purchase of qualified property. The
26 amount of the credit otherwise allowed under this act and Section
27 17053.74 of the Revenue and Taxation Code, including any credit
28 carryover from prior years, that may reduce the “net tax” for the
29 taxable year shall not exceed the amount of tax that would be
30 imposed on the taxpayer’s business income attributable to the
31 green technology zone as if that attributable income represented
32 all of the income of the taxpayer subject to tax under Part 10
33 (commencing with Section 17001) of Division 2 of the Revenue
34 and Taxation Code.

35 SEC. 6. There shall be allowed a credit against the “net tax”
36 (as defined in Section 17039 of the Revenue and Taxation Code)
37 to a taxpayer who employs a qualified employee in a green
38 technology zone during the taxable year. The credit shall be equal
39 to the sum of each of the following:

1 (1) Fifty percent of qualified wages in the first year of
2 employment.

3 (2) Forty percent of qualified wages in the second year of
4 employment.

5 (3) Thirty percent of qualified wages in the third year of
6 employment.

7 (4) Twenty percent of qualified wages in the fourth year of
8 employment.

9 (5) Ten percent of qualified wages in the fifth year of
10 employment.

11 SEC. 7. Whenever the state prepares a solicitation for a
12 contract for goods in excess of one hundred thousand dollars
13 (\$100,000), except a contract in which the worksite is fixed by the
14 provisions of the contract, the state shall award a 5-percent
15 preference to California-based companies located within a green
16 technology zone.

17 SEC. 8. Notwithstanding any contrary law, state and local
18 agencies may lease land to businesses in a designated green
19 technology zone at a price below fair market value, provided that
20 it serves a public purpose to lease at below fair market value.

21 SEC. 9. The limitations in Section 91503 of the Government
22 Code on the allowable uses of proceeds of bonds issued pursuant
23 to Title 10 (commencing with Section 91500) of the Government
24 Code shall not apply to bonds issued on behalf of a green
25 technology zone or any portion of that zone.

26 SEC. 10. Notwithstanding any contrary law, the California
27 Office of Small Business shall establish regulations for loans and
28 loan guarantees administered by the office that give high priority
29 to businesses in a designated green technology zone.

30 SEC. 11. Notwithstanding Sections 32646 and 32647 of the
31 Financial Code, a high priority in ranking loan applications by
32 the State Assistance Fund for Energy, California Business and
33 Development Corporation, shall be given to businesses in a
34 designated green technology zone that are purchasing or providing
35 alternative energy systems.

36 SEC. 12. An individual or a business that takes advantage of
37 incentives provided pursuant to this act shall enter into agreements,
38 including, but not limited to, partnerships, contracts, memoranda
39 of understanding, or other mutually agreed upon arrangements
40 with a state, local, regional, or county program, or a qualified

1 nonprofit organization that provides education, job training, or
2 career opportunities for minors or adults under 22 years of age
3 and fosters the knowledge, skills, and credentials necessary for
4 their successful employment in careers directly related to clean
5 technology, renewable energy, or energy efficiency that may also
6 contribute to the state's goals for greenhouse gas emissions
7 reduction.

8 SEC. 13. The Legislature finds and declares that a special law
9 is necessary and that a general law cannot be made applicable
10 within the meaning of Section 16 of Article IV of the California
11 Constitution because of the unique opportunities for synergy in
12 promoting economic development and environmental protection
13 in the Cities of Elk Grove and Livermore.

14 ~~SECTION 1. It is the intent of the Legislature to enact~~
15 ~~legislation to expand the definition of enterprise zone to include~~
16 ~~green technology zones.~~