An act to amend Section 7072 of, and to repeal and add Section 7072.5 of, the Government Code, and to amend Sections 17053.74 and 23622.7 of the Revenue and Taxation Code, relating to economic development, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL’S DIGEST

AB 231, as introduced, V. Manuel Pérez. Economic development: enterprise zones: targeted employment areas.

(1) The Enterprise Zone Act provides that its purpose is to stimulate business and industrial growth in the depressed areas of the state by relaxing regulatory controls that impede private investment. The act defines a targeted employment area as an area composed solely of those census tracts in which at least 51% of the residents of those census tracts, determined as specified, are of low- or moderate-income levels.

This bill would modify the definition of a targeted employment area, as specified.

(2) The act provides that 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.

This bill would delete that provision of the act and instead provide that the purpose of a targeted employment area is to help identify neighborhoods of low- and moderate-income workers for the purpose of providing those workers with employment assistance, training, and job placement.
(3) The act requires each governmental entity of each city, county, or city and county that has jurisdiction over an enterprise zone to approve, by resolution or ordinance, the boundaries of its targeted employment area.

This bill would delete that requirement, and instead require the governing body of the jurisdiction administering the enterprise zone to adopt a resolution or ordinance designating a targeted employment area that meets specified conditions. The bill would also require, if 2 or more jurisdictions are jointly administering a zone, each of the governing bodies of the participating jurisdictions to adopt the resolution.

(4) The act requires, within 180 days of updated United States census data becoming available, each governmental entity of each city, county, or city and county that has jurisdiction over an enterprise zone to approve, by resolution or ordinance, new boundaries for the area that reflect the new census data. The act authorizes an enterprise zone, if no changes to the boundaries of an area are necessary to conform the area with the most current census data, to send a letter to the Department of Housing and Community Development stating that a review has been undertaken and no boundary changes are required.

This bill would delete those provisions, and instead require the governmental entity of each city, county, or city and county that has jurisdiction over an enterprise zone to approve, by resolution or ordinance, new boundaries for its targeted employment area that reflect the new household data provided by the United States Census Bureau in its 5-year American Community Study, and to send that resolution or ordinance to the Department of Housing and Community Development. The bill would require the city, county, or city and county, if no changes to the boundaries of an area are necessary, to send a letter to the department stating that a review has been undertaken and no boundary changes are required. The bill would provide that if the area’s boundaries are not updated, and the department does not receive the letter within 180 days of the release of new census information, then the area is invalidated for a period of 2 years, except as specified.

(5) The act sets forth various requirements and limitations relating to the formation and composition of a targeted employment area.

This bill would revise and recast these requirements and limitations, as specified.

(6) The act authorizes a governing body that has already designated a targeted employment area to request to redesignate the area using
more current census data, as specified, and requires an area to be comprised of a census tract from only one decennial census.

This bill would delete that provision.

(7) The Personal Income Tax Law and the Corporation Tax Law authorize a taxpayer to claim certain tax incentives for activities conducted in an enterprise zone, including a credit for wages paid during the taxable year to a qualified employee, as defined, who is employed by the taxpayer during the taxable year in an enterprise zone, and those laws each set forth a schedule for the amount of the credit based on the qualified wages of the qualified employee in each of the first 5 years of employment.

This bill would modify the requirements that must be met for an individual to be a qualified employee, as specified, under the Personal Income Tax Law and the Corporation Tax Law, thereby reducing the scope of the credits, and make other specified changes relating to the requirements for a taxpayer to take advantage of the credits. The bill would require that changes made to the Personal Income Tax Law and the Corporations Tax Law by its provisions apply to taxable years beginning on and after January 1, 2011.

(8) This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of \( \frac{2}{3} \) of the membership of each house of the Legislature.

(9) This bill would take effect immediately as a tax levy.

Vote: \( \frac{2}{3} \). Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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 an enterprise zone 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 Bureau 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 7072.5 of the Government Code is repealed.
census data. A targeted employment area shall be comprised of census tracts from only one decennial census.

SEC. 3. Section 7072.5 is added to the Government Code, to read:
7072.5. (a) After receiving notification from the department of being conditionally designated as an enterprise zone, the governing body of the jurisdiction administering the zone shall adopt a resolution or ordinance designating a targeted employment area that meets all the conditions of this section and those set forth in subdivision (i) of Section 7072, and is consistent with the purpose set forth in this section. If two or more jurisdictions are jointly administering a zone, a resolution or ordinance designating the targeted employment area shall be adopted by each governing body.

(b) A targeted employment area serves as the residential base of potential low- and moderate-income workers who are available to work in businesses located in an enterprise zone. The purpose of a targeted employment area is to help identify neighborhoods of low- and moderate-income workers for the purpose of providing those workers with employment assistance, training, and job placement. Businesses located in a zone are encouraged to hire locally to help address some of the poverty and economic dislocation that led to the area’s designation as a zone.

(c) (1) 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 or block group within a city, county, or city and county. The governing body of each city, county, or city and county that has jurisdiction over the 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 have jurisdiction over the zone may be included in a targeted employment area.

(2) At least 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 over 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 the
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.

(d) (1) A targeted employment area shall be designated based on data from the most current household income data published by the United States Census Bureau at the time that the targeted employment area is designated or modified, including being updated pursuant to paragraph (2).

(2) Every targeted employment area boundary shall be reviewed and updated to the extent necessary to accommodate the new household income data provided by the United States Census Bureau in its five-year American Community Survey. Each governmental entity of each city, county, or city and county that has jurisdiction over an enterprise zone shall approve, by resolution or ordinance, the boundaries of its targeted employment area reflecting the new household data and send a copy of its resolution with the changes that are necessary to the boundaries based on the most current census data, or the governmental entity that has jurisdiction over the zone shall send a letter to the department stating that the review has been undertaken by the respective local governmental entities and no boundary changes are required.

(3) (A) A targeted employment area boundary that is not updated, or for which a letter indicating that no changes are necessary has not been received by the department within 180 days of the release of new household data, is invalidated for a period of two years, except as modified by subparagraph (C).

(B) The department shall send a notice to the Franchise Tax Board and the local enterprise zone administrator that the targeted employment area is invalid and that no additional employees will be certified based on an employee living in a targeted employment area, other than a business that has already had one or more vouchers certified by the zone using the targeted employment area as the qualifying criterion under subparagraph (A) of paragraph (4) of subdivision (b) of Sections 17053.74 and 23622.7 of the Revenue and Taxation Code.

(C) A business that has previously received certification of an employee is exempt from subparagraph (A). The vouchering exemption is nontransferable to any other business.
SEC. 4. Section 17053.74 of the Revenue and Taxation Code is amended to read:

17053.74. (a) There shall be allowed a credit against the “net tax” (as defined in Section 17039) to a taxpayer who employs a qualified employee in an enterprise zone during the taxable year. The credit shall be equal to the sum of each of the following:

1. Fifty percent of qualified wages in the first year of employment.
2. Forty percent of qualified wages in the second year of employment.
3. Thirty percent of qualified wages in the third year of employment.
4. Twenty percent of qualified wages in the fourth year of employment.
5. Ten percent of qualified wages in the fifth year of employment.

(b) For purposes of this section:

1. “Qualified wages” means:
   (i) Except as provided in clause (ii), that portion of wages paid or incurred by the taxpayer during the taxable year to qualified employees that does not exceed 150 percent of the minimum wage.
   (ii) For up to 1,350 qualified employees who are employed by the taxpayer in the Long Beach Enterprise Zone in aircraft manufacturing activities described in Codes 3721 to 3728, inclusive, and Code 3812 of the Standard Industrial Classification (SIC) Manual 311 to 339, inclusive, of the North American Industry Classification System published by the United States Office of Management and Budget, 1987 2007 edition, “qualified wages” means that portion of hourly wages that does not exceed 202 percent of the minimum wage.
   (B) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.
   (C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within
the 60-month period prior to the zone expiration date shall continue
to qualify for the credit under this section after the zone expiration
date, in accordance with all provisions of this section applied as
if the enterprise zone designation were still in existence and
binding.
(2) “Minimum wage” means the wage established by the
Industrial Welfare Commission as provided for in Chapter 1
(commencing with Section 1171) of Part 4 of Division 2 of the
Labor Code.
(3) “Zone expiration date” means the date the enterprise zone
designation expires, is no longer binding, or becomes inoperative.
(4) (A) “Qualified employee” means an individual who meets
all of the following requirements:
   (i) At least 90 percent of whose services for the taxpayer during
the taxable year are directly related to the conduct of the taxpayer’s
trade or business located in an enterprise zone.
   (ii) Performs at least 50 percent of his or her services for the
taxpayer during the taxable year in an enterprise zone.
   (iii) Is hired by the taxpayer after the date of original designation
of the area in which services were performed as an enterprise zone.
   (iv) Is any of the following:
      (I) Immediately preceding the qualified employee’s
commencement of employment with the taxpayer, was a person
eligible for services under the federal Job Training Partnership
Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving,
or is eligible to receive, subsidized employment, training, or
services funded by the federal Job Training Partnership Act, or its
successor.
      (II) Immediately preceding the qualified employee’s
commencement of employment with the taxpayer, was a person
eligible to be a voluntary or mandatory registrant under the Greater
Avenues for Independence Act of 1985 (GAIN) provided for
pursuant to Article 3.2 (commencing with Section 11320) of
Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
Code, or its successor.
      (III) Immediately preceding the qualified employee’s
commencement of employment with the taxpayer, was an
economically disadvantaged individual 14 years of age or older.
      (IV)
(II) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:

(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(bb) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(cc) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(dd) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(ee) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(ff) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.

(gg) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(hh) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(III) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is.
(IV) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(V) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

(VI) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:


(bb) Aid to Families with Dependent Children—Temporary Assistance for Needy Families.

(cc) Medi-Cal or Healthy Families.

(ddd) Food stamps.

(ee) State and local general assistance.

(ff) Intensive services including employment training services funded through the federal Workforce Investment Act (Public Law 105-220).

(gg) Voluntary or mandatory services under the California Work Opportunity and Responsibility to Kids (CalWORKs) program (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code).

(hh) Federal Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code).

(VII) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(VIII) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a resident of a targeted employment area, as defined in Section 7072 of the
Government Code, and the employee is receiving a wage that does not exceed moderate income for a family of four based on the countywide household income.

(X)

(IX) An employee who qualified the taxpayer for the enterprise zone hiring credit under former Section 17053.8 or the program area hiring credit under former Section 17053.11.

(XI) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 Workforce Investment Act or the CalWORKs program or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) “Taxpayer” means a person or entity engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of the Government Code.

(6) “Seasonal employment” means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county Gain federal Workforce Investment Act administrative entity, the local county CalWORKs program office or social services agency, or the local government administering the enterprise zone, a certification which provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose businesses located in an enterprise zone as of the department’s implementation of the intensive services activities funded through the federal Workforce Investment Act. The Department of Housing and
Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of trades or businesses, which are not incorporated, that are under common control shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.

(C) Principles that apply in the case of controlled groups of corporations, as specified in subdivision (d) of Section 23622.7, shall apply with respect to determining employment.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (e)) for any calendar year ending after that acquisition, the employment relationship between a qualified employee and an employer shall not be treated as terminated if the employee continues to be employed in that trade or business.

(e) (1) (A) If the employment, other than seasonal employment, of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is terminated by the taxpayer at any time during the first 270 days of that employment (whether or not consecutive) or before the close of the 270th calendar day after the day in which that employee completes 90 days of employment with the taxpayer, the tax imposed by this part for the taxable year in which that employment is terminated shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that employee.

(B) If the seasonal employment of any qualified employee, with respect to whom qualified wages are taken into account under subdivision (a) is not continued by the taxpayer for a period of
270 days of employment during the 60-month period beginning with the day the qualified employee commences seasonal employment with the taxpayer, the tax imposed by this part, for the taxable year that includes the 60th month following the month in which the qualified employee commences seasonal employment with the taxpayer, shall be increased by an amount equal to the credit allowed under subdivision (a) for that taxable year and all prior taxable years attributable to qualified wages paid or incurred with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to any of the following:

(i) A termination of employment of a qualified employee who voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of a qualified employee who, before the close of the period referred to in paragraph (1), becomes disabled and unable to perform the services of that employment, unless that disability is removed before the close of that period and the taxpayer fails to offer reemployment to that employee.

(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the
taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and a qualified employee shall not be treated as terminated by reason of a mere change in the form of conducting the trade or business of the taxpayer, if the qualified employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) In the case of an estate or trust, both of the following apply:

(1) The qualified wages for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each.

(2) Any beneficiary to whom any qualified wages have been apportioned under paragraph (1) shall be treated, for purposes of this part, as the employer with respect to those wages.

(g) For purposes of this section, “enterprise zone” means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 17053.10, 17053.17 and 17053.46 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.
In addition, any deduction otherwise allowed under this part for
the wages or salaries paid or incurred by the taxpayer upon which
the credit is based shall be reduced by the amount of the credit,
prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this
section exceeds the “net tax” for the taxable year, that portion of
the credit that exceeds the “net tax” may be carried over and added
to the credit, if any, in succeeding taxable years, until the credit is
exhausted. The credit shall be applied first to the earliest taxable
years possible.

(j) (1) The amount of the credit otherwise allowed under this
section and Section 17053.70, including any credit carryover from
prior years, that may reduce the “net tax” for the taxable year shall
not exceed the amount of tax which would be imposed on the
taxpayer’s business income attributable to the enterprise zone
determined as if that attributable income represented all of the
income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s
California source business income that is apportioned to the
enterprise zone. For that purpose, the taxpayer’s business income
attributable to sources in this state first shall be determined in
accordance with Chapter 17 (commencing with Section 25101) of
Part 11. That business income shall be further apportioned to the
enterprise zone in accordance with Article 2 (commencing with
Section 25120) of Chapter 17 of Part 11, modified for purposes
of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone
by multiplying the total California business income of the taxpayer
by a fraction, the numerator of which is the property factor plus
the payroll factor, and the denominator of which is two. For
purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is
the average value of the taxpayer’s real and tangible personal
property owned or rented and used in the enterprise zone during
the taxable year, and the denominator of which is the average value
of all the taxpayer’s real and tangible personal property owned or
rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is
the total amount paid by the taxpayer in the enterprise zone during
the taxable year for compensation, and the denominator of which
is the total compensation paid by the taxpayer in this state during
the taxable year.
(4) The portion of any credit remaining, if any, after application
of this subdivision, shall be carried over to succeeding taxable
years, as if it were an amount exceeding the “net tax” for the
taxable year, as provided in subdivision (i).
(k) The changes made to this section by the act adding this
subdivision shall apply to taxable years beginning on or after
January 1, 1997.
(l) The changes made to this section by the act adding this
subdivision shall apply only to taxable years beginning on and
after January 1, 2011.
SEC. 5. Section 23622.7 of the Revenue and Taxation Code
is amended to read:
23622.7. (a) There shall be allowed a credit against the “tax”
as defined by Section 23036) to a taxpayer who employs a
qualified employee in an enterprise zone during the taxable year.
The credit shall be equal to the sum of each of the following:
(1) Fifty percent of qualified wages in the first year of
employment.
(2) Forty percent of qualified wages in the second year of
employment.
(3) Thirty percent of qualified wages in the third year of
employment.
(4) Twenty percent of qualified wages in the fourth year of
employment.
(5) Ten percent of qualified wages in the fifth year of
employment.
(b) For purposes of this section:
(1) “Qualified wages” means:
(A) (i) Except as provided in clause (ii), that portion of wages
paid or incurred by the taxpayer during the taxable year to qualified
employees that does not exceed 150 percent of the minimum wage.
(ii) For up to 1,350 qualified employees who are employed by
the taxpayer in the Long Beach Enterprise Zone in aircraft
manufacturing activities described in Codes 3721 to 3728,
inclusive, and Code 3812 of the Standard Industrial Classification
(SIC) Manual 311 to 339, inclusive, of the North American Industry
Classification System published by the United States Office of
means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Zone expiration date” means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) “Qualified employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer’s trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment, training, or services funded by the federal Job Training Partnership Act, or its successor.
(II) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a person eligible to be a voluntary or mandatory registrant under the Greater Avenues for Independence Act of 1985 (GAIN) provided for pursuant to Article 3.2 (commencing with Section 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code, or its successor.

(III)

(I) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was an economically disadvantaged individual 14 years of age or older.

(IV)

(II) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a dislocated worker who meets any of the following:

(aa) Has been terminated or laid off or who has received a notice of termination or layoff from employment, is eligible for or has exhausted entitlement to unemployment insurance benefits, and is unlikely to return to his or her previous industry or occupation.

(bb) Has been terminated or has received a notice of termination of employment as a result of any permanent closure or any substantial layoff at a plant, facility, or enterprise, including an individual who has not received written notification but whose employer has made a public announcement of the closure or layoff.

(cc) Is long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including an individual 55 years of age or older who may have substantial barriers to employment by reason of age.

(dd) Was self-employed (including farmers and ranchers) and is unemployed as a result of general economic conditions in the community in which he or she resides or because of natural disasters.

(ee) Was a civilian employee of the Department of Defense employed at a military installation being closed or realigned under the Defense Base Closure and Realignment Act of 1990.

(ff) Was an active member of the armed forces or National Guard as of September 30, 1990, and was either involuntarily separated or separated pursuant to a special benefits program.
(gg) Is a seasonal or migrant worker who experiences chronic seasonal unemployment and underemployment in the agriculture industry, aggravated by continual advancements in technology and mechanization.

(hh) Has been terminated or laid off, or has received a notice of termination or layoff, as a consequence of compliance with the Clean Air Act.

(III) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a disabled individual who is eligible for or enrolled in, or has completed a state rehabilitation plan or is.

(IV) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a service-connected disabled veteran, veteran of the Vietnam era, or veteran who is recently separated from military service.

(V) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was an ex-offender. An individual shall be treated as convicted if he or she was placed on probation by a state court without a finding of guilt.

(VI) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a person eligible for or a recipient of any of the following:


(bb) Aid to Families with Dependent Children—Temporary Assistance for Needy Families.

(cc) Medi-Cal or Healthy Families.

(ee) State and local general assistance.

(ff) Intensive services including employment training services funded through the federal Workforce Investment Act (Public Law 105-220).

(gg) Voluntary or mandatory services under the California Work Opportunity and Responsibility to Kids (CalWORKs) program.
(Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code).

(hh) Federal Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code).

(VII) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(VIII) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a resident of a targeted employment area (as defined in Section 7072 of the Government Code), and the employee is receiving a wage that does not exceed moderate income for a family of four based on the countywide average household income.

(IX) An employee who qualified the taxpayer for the enterprise zone hiring credit under former Section 23622 or the program area hiring credit under former Section 23623.

(X) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985, the Workforce Investment Act or the CalWORKs program or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) “Taxpayer” means a corporation engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(6) “Seasonal employment” means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:
(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN federal Workforce Investment Act administrative entity, the local county CalWORKs program office or social services agency, or the local government administering the enterprise zone, a certification that provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose businesses located in a zone as part of the department’s implementation of the intensive services activities funded through the federal Workforce Investment Act. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:
(A) All employees of all corporations which are members of the same controlled group of corporations shall be treated as employed by a single taxpayer.
(B) The credit, if any, allowable by this section to each member shall be determined by reference to its proportionate share of the expense of the qualified wages giving rise to the credit, and shall be allocated in that manner.
(C) For purposes of this subdivision, “controlled group of corporations” means “controlled group of corporations” as defined in Section 1563(a) of the Internal Revenue Code, except that:
(i) “More than 50 percent” shall be substituted for “at least 80 percent” each place it appears in Section 1563(a)(1) of the Internal Revenue Code.
(ii) The determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal Revenue Code.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of
a trade or business of a predecessor, then, for purposes of applying
this section (other than subdivision (e)) for any calendar year
ending after that acquisition, the employment relationship between
a qualified employee and an employer shall not be treated as
terminated if the employee continues to be employed in that trade
or business.

(e) (1) (A) If the employment, other than seasonal employment,
of any qualified employee with respect to whom qualified wages
are taken into account under subdivision (a) is terminated by the
taxpayer at any time during the first 270 days of that employment,
whether or not consecutive, or before the close of the 270th
calendar day after the day in which that employee completes 90
days of employment with the taxpayer, the tax imposed by this
part for the taxable year in which that employment is terminated
shall be increased by an amount equal to the credit allowed under
subdivision (a) for that taxable year and all prior taxable years
attributable to qualified wages paid or incurred with respect to that
employee.

(B) If the seasonal employment of any qualified employee, with
respect to whom qualified wages are taken into account under
subdivision (a) is not continued by the taxpayer for a period of
270 days of employment during the 60-month period beginning
with the day the qualified employee commences seasonal
employment with the taxpayer, the tax imposed by this part, for
the taxable year that includes the 60th month following the month
in which the qualified employee commences seasonal employment
with the taxpayer, shall be increased by an amount equal to the
credit allowed under subdivision (a) for that taxable year and all
prior taxable years attributable to qualified wages paid or incurred
with respect to that qualified employee.

(2) (A) Subparagraph (A) of paragraph (1) shall not apply to
any of the following:

(i) A termination of employment of a qualified employee who
voluntarily leaves the employment of the taxpayer.

(ii) A termination of employment of a qualified employee who,
before the close of the period referred to in subparagraph (A) of
paragraph (1), becomes disabled and unable to perform the services
of that employment, unless that disability is removed before the
close of that period and the taxpayer fails to offer reemployment
to that employee.
(iii) A termination of employment of a qualified employee, if it is determined that the termination was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that employee.

(iv) A termination of employment of a qualified employee due to a substantial reduction in the trade or business operations of the taxpayer.

(v) A termination of employment of a qualified employee, if that employee is replaced by other qualified employees so as to create a net increase in both the number of employees and the hours of employment.

(B) Subparagraph (B) of paragraph (1) shall not apply to any of the following:

(i) A failure to continue the seasonal employment of a qualified employee who voluntarily fails to return to the seasonal employment of the taxpayer.

(ii) A failure to continue the seasonal employment of a qualified employee who, before the close of the period referred to in subparagraph (B) of paragraph (1), becomes disabled and unable to perform the services of that seasonal employment, unless that disability is removed before the close of that period and the taxpayer fails to offer seasonal employment to that qualified employee.

(iii) A failure to continue the seasonal employment of a qualified employee, if it is determined that the failure to continue the seasonal employment was due to the misconduct (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the California Code of Regulations) of that qualified employee.

(iv) A failure to continue seasonal employment of a qualified employee due to a substantial reduction in the regular seasonal trade or business operations of the taxpayer.

(v) A failure to continue the seasonal employment of a qualified employee, if that qualified employee is replaced by other qualified employees so as to create a net increase in both the number of seasonal employees and the hours of seasonal employment.

(C) For purposes of paragraph (1), the employment relationship between the taxpayer and a qualified employee shall not be treated as terminated by either of the following:
(i) By a transaction to which Section 381(a) of the Internal Revenue Code applies, if the qualified employee continues to be employed by the acquiring corporation.

(ii) By reason of a mere change in the form of conducting the trade or business of the taxpayer, if the qualified employee continues to be employed in that trade or business and the taxpayer retains a substantial interest in that trade or business.

(3) Any increase in tax under paragraph (1) shall not be treated as tax imposed by this part for purposes of determining the amount of any credit allowable under this part.

(f) Rules similar to the rules provided in Section 46(e) and (h) of the Internal Revenue Code shall apply to both of the following:

(1) An organization to which Section 593 of the Internal Revenue Code applies.

(2) A regulated investment company or a real estate investment trust subject to taxation under this part.

(g) For purposes of this section, “enterprise zone” means an area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(h) The credit allowable under this section shall be reduced by the credit allowed under Sections 23623.5, 23625, and 23646 claimed for the same employee. The credit shall also be reduced by the federal credit allowed under Section 51 of the Internal Revenue Code.

In addition, any deduction otherwise allowed under this part for the wages or salaries paid or incurred by the taxpayer upon which the credit is based shall be reduced by the amount of the credit, prior to any reduction required by subdivision (i) or (j).

(i) In the case where the credit otherwise allowed under this section exceeds the “tax” for the taxable year, that portion of the credit that exceeds the “tax” may be carried over and added to the credit, if any, in succeeding taxable years, until the credit is exhausted. The credit shall be applied first to the earliest taxable years possible.

(j) (1) The amount of the credit otherwise allowed under this section and Section 23612.2, including any credit carryover from prior years, that may reduce the “tax” for the taxable year shall not exceed the amount of tax which would be imposed on the taxpayer’s business income attributable to the enterprise zone
determined as if that attributable income represented all of the
income of the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer’s
California source business income that is apportioned to the
enterprise zone. For that purpose, the taxpayer’s business
attributable to sources in this state first shall be determined in
accordance with Chapter 17 (commencing with Section 25101).
That business income shall be further apportioned to the enterprise
zone in accordance with Article 2 (commencing with Section
25120) of Chapter 17, modified for purposes of this section in
accordance with paragraph (3).

(3) Business income shall be apportioned to the enterprise zone
by multiplying the total California business income of the taxpayer
by a fraction, the numerator of which is the property factor plus
the payroll factor, and the denominator of which is two. For
purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is
the average value of the taxpayer’s real and tangible personal
property owned or rented and used in the enterprise zone during
the income year, and the denominator of which is the average value
of all the taxpayer’s real and tangible personal property owned or
rented and used in this state during the income year.

(B) The payroll factor is a fraction, the numerator of which is
the total amount paid by the taxpayer in the enterprise zone during
the income year for compensation, and the denominator of which
is the total compensation paid by the taxpayer in this state during
the income year.

(4) The portion of any credit remaining, if any, after application
of this subdivision, shall be carried over to succeeding taxable
years, as if it were an amount exceeding the “tax” for the taxable
year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this
subdivision shall apply to taxable years on or after January 1, 1997.

(l) The changes made to this section by the act adding this
subdivision shall apply only to taxable years beginning on and
after January 1, 2011.

SEC. 6. This act provides for a tax levy within the meaning of
Article IV of the Constitution and shall go into immediate effect.