

ASSEMBLY BILL

No. 1411

**Introduced by Committee on Jobs, Economic Development, and
the Economy (V. Manuel Pérez (Chair), Beall, Block, and Hueso)**

March 10, 2011

An act to amend Sections 7076.1 and 7085.1 of, and to repeal Section 7085 of, the Government Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

AB 1411, as introduced, Committee on Jobs, Economic Development, and the Economy. Economic development: omnibus bill.

(1) Existing law requires the Department of Housing and Community Development to submit a report to the Legislature every 5 years evaluating specified effects of enterprise zones.

This bill would repeal, recast, and make various changes to these provisions.

(2) Existing law requires a geographically targeted economic development area (G-TEDA) to report to the Department of Housing and Community Development every 2 years on progress made toward its existing goals and objectives and plans for the following 2-year period. Existing law also requires that a copy of this biennial report be submitted to the legislative bodies of the local jurisdictions comprising the G-TEDA for review.

This bill would delete the requirement that this report be submitted to the legislative bodies of the local jurisdictions comprising the G-TEDA.

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

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

1 SECTION 1. The Legislature finds and declares that this act
2 by the Assembly Committee on Jobs, Economic Development,
3 and the Economy is the committee’s annual omnibus bill on
4 geographically targeted economic development areas.

5 SEC. 2. Section 7076.1 of the Government Code is amended
6 to read:

7 7076.1. (a) The department may audit the program of any
8 jurisdiction in any designated G-TEDA at any time during the
9 duration of the designation, as appropriate. However, the
10 department shall audit each G-TEDA at least once every five years
11 from the date of designation or the operative date of this section,
12 whichever is the latest. The matters to be examined in the course
13 of an audit shall include an examination of the progress made by
14 the G-TEDA toward meeting the goals, objectives, and
15 commitments set forth in its original application and the
16 department’s memorandum of understanding with the G-TEDA.

17 (b) The department shall, for each audit, determine a result of
18 superior, pass, or fail in accordance with subdivision (c). The
19 results of each audit shall be based upon the success of the
20 G-TEDA in making substantial and sustained efforts since the later
21 of its designation or last audit to meet the standards, criteria, and
22 conditions contained in the application and the memorandum of
23 understanding (MOU) between the department and the G-TEDA,
24 as may be amended pursuant to the agreement of the G-TEDA and
25 the department. In each audit, the department shall focus upon the
26 G-TEDA’s use of the marketing plan, local incentives, financing
27 programs, job development, and program management as described
28 in the application and the MOU. The department shall also evaluate
29 the vouchering plan, staffing levels, budget, and elements unique
30 to each application.

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

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

36 (A) Meets 100 percent of its goals, objectives, and commitments
37 as defined in its application, most recent audit, biennial report, and
38 memorandum of understanding with the department, and as

1 determined by the department in consultation with the G-TEDA.
2 An equivalent or similar commitment may be substituted for an
3 existing commitment of a G-TEDA if it is determined by the
4 department that an original commitment was not realistically
5 practical or is no longer relevant.

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

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

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

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

30 (3) (A) A G-TEDA will be determined to be failing if any
31 jurisdiction comprising the G-TEDA fails to meet or exceed 75
32 percent of its goals, objectives, or commitments as defined in its
33 original application, most recent audit, biennial report, and
34 memorandum of understanding with the department, and as
35 determined by the department in consultation with the G-TEDA.
36 An equivalent or similar commitment may be substituted for an
37 existing commitment of a G-TEDA if it is determined by the
38 department that an original commitment was not realistically
39 practical or is no longer relevant.

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

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

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

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

1 G-TEDA, avail itself of any state incentive specifically applicable
2 to a G-TEDA.

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

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

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

19 (d) (1) For purposes of this section, "dedesignation" means that
20 a G-TEDA is no longer a G-TEDA for purposes of either Section
21 7073 or 7085.1.

22 (2) Upon notification by the department of the dedesignation
23 of a G-TEDA and the end of the appeal period with respect to that
24 dedesignation, the department shall initiate an application process
25 for a new designation as provided in Section 7073, 7073.8, ~~7085,~~
26 ~~7097,~~ or 7114.

27 SEC. 3. Section 7085 of the Government Code is repealed.

28 ~~7085. (a) Notwithstanding Section 7550.5, the department~~
29 ~~shall submit a report to the Legislature every five years beginning~~
30 ~~January 1, 1998, that evaluates the effect of the program on~~
31 ~~employment, investment, and incomes, and on state and local tax~~
32 ~~revenues in designated enterprise zones. The report shall include~~
33 ~~a department review of the progress and effectiveness of each~~
34 ~~enterprise zone, including, but not limited to, any efforts made~~
35 ~~regarding training of unemployed individuals pursuant to Section~~
36 ~~7081. The Employment Development Department shall, for the~~
37 ~~purposes of the report, provide the department with existing data~~
38 ~~on unemployed individuals receiving training. The Franchise Tax~~
39 ~~Board shall make available to the department and the Legislature~~

1 aggregate information on the dollar value of enterprise zone tax
2 credits that are claimed each year by businesses.

3 ~~(b) An enterprise zone governing body shall provide information~~
4 ~~at the request of the department as necessary for the department~~
5 ~~to prepare the report required pursuant to subdivision (a).~~

6 SEC. 4. Section 7085.1 of the Government Code is amended
7 to read:

8 7085.1. (a) The governing board of the G-TEDA shall report
9 to the department by October 1, 2008, and by that date every other
10 year thereafter, on the activities of the G-TEDA in the previous
11 two fiscal years and its plans for the current and following fiscal
12 year. The biennial report shall include at least both of the following:

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

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

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

34 *(c) An enterprise zone governing body shall provide information*
35 *at the request of the department as necessary for the department*
36 *to prepare the report required pursuant to subdivisions (e) and*
37 *(f).*

38 *(e)*

39 *(d) (1) G-TEDAs designated prior to January 1, 2007, shall*
40 *have until April 15, 2008, to update their benchmarks, goals,*

1 objectives, and funding levels for administering the G-TEDA
2 program, in order to make them measurable and conducive to the
3 successful completion of the economic development strategy. The
4 local legislative body and the department shall approve the updated
5 goals and objectives. The updated goals and objectives shall be
6 included as an update to the existing memorandum of
7 understanding between the G-TEDA and the department.

8 (2) G-TEDAs that fail to obtain approved updated goals and
9 objectives by April 15, 2008, shall be dedesignated effective July
10 1, 2008. The Director of Housing and Community Development
11 shall provide notice of prospective dedesignation to the local
12 government no later than May 1, 2008. The director may authorize
13 up to two 60-calendar-day extensions, if the local government and
14 G-TEDA are acting in good faith and the additional time would
15 allow them to meet the requirements of this subdivision. Businesses
16 located within a G-TEDA that have been dedesignated shall
17 continue to have access to tax incentives previously authorized
18 within the G-TEDA pursuant to Section 7082.2.

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

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

24 ~~(d)~~

25 (e) The department shall biennially, *beginning on or before*
26 *December 31, 2008*, make available to the Legislature information
27 related to the progress that each G-TEDA is making toward
28 implementing its goals, objectives, and commitments set forth in
29 the original application, the department's memorandum of
30 understanding with the G-TEDA, and the *G-TEDA's* biennial
31 report.

32 (f) *Notwithstanding Section 10231.5, the department shall submit*
33 *a report to the Legislature on or before December 31, 2011,*
34 *addressing the period of January 1, 2005, to July 1, 2010, inclusive,*
35 *and submit a report every six years thereafter, addressing the*
36 *period of the six immediately preceding fiscal years, that evaluates*
37 *the effect of the program on employment, investment, and incomes,*
38 *and on state and local tax revenues in designated enterprise zones.*
39 *The assessment shall differentiate the progress made by G-TEDAs*

1 *designated prior to January 1, 2007, and those designated after*
2 *January 1, 2007.*

3 SEC. 5. The Legislature finds and declares both of the
4 following:

5 (a) This is an act by the Assembly Committee on Jobs, Economic
6 Development, and the Economy for code maintenance.

7 (b) The changes made by this act to subdivision (e) of Section
8 7085.1 of the Government Code are technical, nonsubstantive
9 corrections.