

AMENDED IN ASSEMBLY AUGUST 18, 2015

AMENDED IN ASSEMBLY JULY 13, 2015

AMENDED IN SENATE JUNE 2, 2015

AMENDED IN SENATE MAY 20, 2015

AMENDED IN SENATE MAY 4, 2015

SENATE BILL

No. 251

Introduced by Senator Roth
(Principal coauthor: Senator Galgiani)
(Coauthors: Senators Anderson and Nielsen)
(Coauthor: Assembly Member Cooper)

February 18, 2015

An act to amend Sections 55.32, 55.53, and 55.56, of the Civil Code, to amend Sections 4459.7, 4459.8, and 8299.06 of, to add Section 65941.6 to, and to add Article 4 (commencing with Section 65946) to Chapter 4.5 of Division 1 of Title 7 of, the Government Code, and to add and repeal Sections 17053.43 and 23643 of the Revenue and Taxation Code, relating to disability access.

LEGISLATIVE COUNSEL'S DIGEST

SB 251, as amended, Roth. ~~Civil rights: disability access.~~ *Disability access: civil rights: income tax credit.*

(1) Existing law prohibits discrimination on the basis of various specified personal characteristics, including disability. The Construction-Related Accessibility Standards Compliance Act establishes standards for making new construction and existing facilities accessible to persons with disabilities and provides for construction-related accessibility claims for violations of those standards.

Existing law requires that a demand letter alleging a violation of a construction-related accessibility standard or asserting a construction-related accessibility claim include specified information, and that copies of the demand letter be sent to the State Bar of California. Existing law repeals the requirement that a copy of a demand letter be sent to the State Bar of California on January 1, 2016.

This bill would extend the above-described January 1, 2016, repeal date, to January 1, 2019.

Existing law requires that a copy of the demand letter and the complaint be sent to the California Commission on Disability Access.

This bill would, in addition, require that information about the demand letter and the complaint be submitted to the commission in a standard format specified by the commission.

(2) Existing law specifies that a violation of construction-related accessibility standards personally encountered by a plaintiff may be sufficient to cause a denial of full and equal access if the plaintiff experienced difficulty, discomfort, or embarrassment because of the violation.

This bill would exclude certain technical violations from the scope of this provision, if specified conditions are met.

(3) Under existing law, a defendant is liable for actual damages plus minimum statutory damages for each instance of discrimination relating to a construction-related accessibility standard.

This bill would exempt a defendant from liability for minimum statutory damages with respect to a structure or area inspected by a certified access specialist for a period of 120 days if specified conditions are met. The bill would require a defendant who claims the benefit of this provision, to disclose the date and findings of any certified access specialist (CASp) inspection to the plaintiff.

(4) Existing law requires the State Architect to establish and publicize a program for the voluntary certification by the state of any person who meets specified criteria as a CASp. Existing law requires the State Architect to annually publish a list of CASps. Existing law requires each applicant for CASp certification or renewal to pay certain fees, and requires the State Architect to periodically review those fees, as specified. Existing law provides for the deposit of those fees into the Certified Access Specialist Fund, which is continuously appropriated for use by the State Architect to implement the CASp program.

This bill would additionally require the State Architect to publish, and regularly update, easily accessible lists of businesses that file

prescribed notices of inspection, and businesses which have been inspected by a CASp on or after January 1, 2016, including the date of the inspection. The bill would require the State Architect to develop a process by which a small business may notify the State Architect that a structure or area has had a CASp inspection and to develop a form for businesses to notify the public that the business has obtained a CASp inspection. The bill would also require applicants for CASp certification or renewal to additionally provide to the State Architect the name of the city, county, or city and county in which the applicant intends to provide or has provided services, and would require the Division of the State Architect to post that information on its Internet Web site.

(5) Existing law establishes the California Commission on Disability Access for purposes of developing recommendations to enable persons with disabilities to exercise their right to full and equal access to public facilities and facilitating business compliance with applicable state and federal laws and regulations. Existing law sets forth the powers and duties of the commission, including developing educational materials and information for businesses, building owners, tenants, and building officials, posting that information on the commission's Internet Web site, and coordinating with other state agencies and local building departments to ensure that information provided to the public on disability access requirements is uniform and complete.

This bill would additionally require the commission to provide a link on its Internet Web site to the Internet Web site of the Division of the State Architect's CASp certification program, and make the commission's educational materials and information available to other state agencies and local building departments.

(6) The Planning and Zoning Law establishes procedures for the application, and review of an application, for a development project. Existing law requires a public agency to notify applicants for development permits of specified information, including the time limits established for the review and approval of development permits.

This bill would additionally require local agencies to develop and provide to applicants materials relating to the requirements of the federal Americans with Disabilities Act of 1990, or to instead provide similar materials developed by the California Commission on Disability Access. The bill would require a local agency to notify an applicant that approval of a permit does not signify that the applicant has complied with that act. The bill would also require local agencies to expedite review of projects for which the applicant provides a copy of a disability access

certificate, demonstrates that the project is necessary to address an alleged violation of a construction-related access standard or a violation noted in a CASp report, and, if project plans are necessary for approval, has had a CASp review the project plans for compliance with all applicable construction-related accessibility standards. The bill would declare that these provisions constitute a matter of statewide concern and shall apply to charter cities and charter counties.

By imposing additional duties on local agencies with respect to the receipt and review of applications for development projects, this bill would impose a state-mandated local program.

(7) Existing federal law allows a credit against federal income taxes for eligible small businesses for eligible access expenditures, as those terms are defined, in an amount equal to 50% of eligible access expenditures for a taxable year that exceed \$250 but do not exceed \$10,250. The Personal Income Tax Law and the Corporation Tax Law allow a credit against the taxes imposed by those laws for the amount paid or incurred for eligible access expenditures in an amount equal to 50% of eligible access expenditures for a taxable year as do not exceed \$250, as specified.

This bill would, for taxable years beginning on or after January 1, 2016, and before January 1, ~~2023~~, ~~2021~~, ~~allow to small businesses, as defined,~~ a credit under both the Personal Income Tax Law and the Corporation Tax Law for eligible access expenditures ~~in an~~ *accordance with the above-described federal tax credit, except with a credit* amount equal to ~~50%~~ *10%* of eligible access expenditures for a taxable year, as specified.

(8) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 55.32 of the Civil Code, as added by
2 Section 5 of Chapter 383 of the Statutes of 2012, is amended to
3 read:

4 55.32. (a) An attorney who provides a demand letter, as defined
5 in subdivision (a) of Section 55.3, shall do all of the following:

6 (1) Include the attorney’s State Bar license number in the
7 demand letter.

8 (2) Contemporaneously with providing the demand letter, send
9 a copy of the demand letter to the State Bar of California by
10 facsimile transmission at 1-415-538-2171, or by mail to 180
11 Howard Street, San Francisco, CA, 94105, Attention: Professional
12 Competence.

13 (3) Within five business days of providing the demand letter,
14 send a copy of the demand letter to the California Commission on
15 Disability Access.

16 (b) An attorney who sends or serves a complaint, as defined in
17 subdivision (a) of Section 55.3, shall send a copy of the complaint
18 to the California Commission on Disability Access within five
19 business days of sending or serving the complaint.

20 (c) A violation of paragraph (2) or (3) of subdivision (a) or
21 subdivision (b) shall constitute cause for the imposition of
22 discipline of an attorney where a copy of the complaint or demand
23 letter is not sent to the California Commission on Disability Access
24 within five business days, or a copy of the demand letter is not
25 sent to the State Bar within five business days. In the event the
26 State Bar receives information indicating that an attorney has failed
27 to send a copy of the complaint or demand letter to the California
28 Commission on Disability Access within five business days, the
29 State Bar shall investigate to determine whether paragraph (3) of
30 subdivision (a) or subdivision (b) has been violated.

31 (d) Notwithstanding subdivisions (a) and (b), an attorney is not
32 required to send to the State Bar of California or the California
33 Commission on Disability Access a copy of any subsequent
34 demand letter or amended complaint in the same dispute following
35 the initial demand letter or complaint, unless that subsequent
36 demand letter or amended complaint alleges a new
37 construction-related accessibility claim.

1 (e) A demand letter or complaint sent to the California
2 Commission on Disability Access shall be for the informational
3 purposes of Section 8299.08 of the Government Code. A demand
4 letter received by the State Bar from either the sender or recipient
5 of the demand letter shall be reviewed by the State Bar to determine
6 whether subdivision (b) or (c) of Section 55.31 has been violated.

7 (f) (1) Commencing July 31, 2013, and annually each July 31
8 thereafter, the State Bar shall report to the Legislature and the
9 Chairs of the Senate and Assembly Committees on Judiciary, both
10 of the following with respect to demand letters received by the
11 State Bar:

12 (A) The number of investigations opened to date on a suspected
13 violation of subdivision (b) or (c) of Section 55.31.

14 (B) Whether any disciplinary action resulted from the
15 investigation, and the results of that disciplinary action.

16 (2) A report to be submitted pursuant to this subdivision shall
17 be submitted in compliance with Section 9795 of the Government
18 Code.

19 (g) The California Commission on Disability Access shall
20 review and report on the demand letters and complaints it receives
21 as provided in Section 8299.08 of the Government Code.

22 (h) Paragraphs (2) and (3) of subdivision (a) and subdivision
23 (b) shall not apply to a demand letter or complaint sent or filed by
24 an attorney employed or retained by a qualified legal services
25 project or a qualified support center, as defined in Section 6213
26 of the Business and Professions Code, when acting within the
27 scope of employment in asserting a construction-related
28 accessibility claim. The Legislature finds and declares that qualified
29 legal services projects and support centers are extensively regulated
30 by the State Bar of California, and that there is no evidence of any
31 abusive use of demand letters or complaints by these organizations.
32 The Legislature further finds that, in light of the evidence of the
33 extraordinarily small number of construction-related accessibility
34 cases brought by regulated legal services programs, and given the
35 resources of those programs, exempting regulated legal services
36 programs from the requirements of this section to report to the
37 California Commission on Disability Access will not affect the
38 purpose of the reporting to, and tabulation by, the commission of
39 all other construction-related accessibility claims.

40 (i) This section shall become operative on January 1, 2013.

1 (j) This section shall remain in effect only until January 1, 2019,
2 and as of that date is repealed.

3 SEC. 2. Section 55.32 of the Civil Code, as added by Section
4 6 of Chapter 383 of the Statutes of 2012, is amended to read:

5 55.32. (a) An attorney who provides a demand letter, as defined
6 in subdivision (a) of Section 55.3, shall do all of the following:

7 (1) Include the attorney’s State Bar license number in the
8 demand letter.

9 (2) Within five business days of providing the demand letter,
10 send a copy of the demand letter and submit information about the
11 demand letter in a standard format specified by the California
12 Commission on Disability Access, to the commission.

13 (b) An attorney who sends or serves a complaint, as defined in
14 subdivision (a) of Section 55.3, shall send a copy of the complaint
15 and submit information about the complaint in a standard format
16 specified by the California Commission on Disability Access to
17 the commission within five business days of sending or serving
18 the complaint.

19 (c) A violation of paragraph (2) of subdivision (a) or subdivision
20 (b) shall constitute cause for the imposition of discipline of an
21 attorney if a copy of the demand letter or complaint is not sent to
22 the California Commission on Disability Access within five
23 business days. In the event the State Bar receives information
24 indicating that an attorney has failed to send a copy of the demand
25 letter or complaint to the California Commission on Disability
26 Access within five business days, the State Bar shall investigate
27 to determine whether paragraph (2) of subdivision (a) or
28 subdivision (b) has been violated.

29 (d) Notwithstanding subdivisions (a) and (b), an attorney is not
30 required to send to the California Commission on Disability Access
31 a copy of any subsequent demand letter or amended complaint in
32 the same dispute following the initial demand letter or complaint,
33 unless that subsequent demand letter or amended complaint alleges
34 a new construction-related accessibility claim.

35 (e) A demand letter sent to the California Commission on
36 Disability Access shall be for the informational purposes of Section
37 8299.08 of the Government Code. A demand letter received by
38 the State Bar from the recipient of the demand letter shall be
39 reviewed by the State Bar to determine whether subdivision (b)
40 or (c) of Section 55.31 has been violated.

1 (f) (1) Notwithstanding Section 10231.5 of the Government
2 Code, on or before July 31, 2019, and annually thereafter, the State
3 Bar shall report to the Legislature and the Chairs of the Senate and
4 Assembly Judiciary Committees, both of the following with respect
5 to demand letters received by the State Bar:

6 (A) The number of investigations opened to date on a suspected
7 violation of subdivision (b) or (c) of Section 55.31.

8 (B) Whether any disciplinary action resulted from the
9 investigation, and the results of that disciplinary action.

10 (2) A report to be submitted pursuant to this subdivision shall
11 be submitted in compliance with Section 9795 of the Government
12 Code.

13 (g) The California Commission on Disability Access shall
14 review and report on the demand letters and complaints it receives
15 as provided in Section 8299.08 of the Government Code.

16 (h) The expiration of any ground for discipline of an attorney
17 shall not affect the imposition of discipline for any act prior to the
18 expiration. An act or omission that constituted cause for imposition
19 of discipline of an attorney when committed or omitted prior to
20 January 1, 2019, shall continue to constitute cause for the
21 imposition of discipline of that attorney on and after January 1,
22 2019.

23 (i) Paragraph (2) of subdivision (a) and subdivision (b) shall
24 not apply to a demand letter or complaint sent or filed by an
25 attorney employed or retained by a qualified legal services project
26 or a qualified support center, as defined in Section 6213 of the
27 Business and Professions Code, when acting within the scope of
28 employment in asserting a construction-related accessibility claim.
29 The Legislature finds and declares that qualified legal services
30 projects and support centers are extensively regulated by the State
31 Bar of California, and that there is no evidence of any abusive use
32 of demand letters or complaints by these organizations. The
33 Legislature further finds that, in light of the evidence of the
34 extraordinarily small number of construction-related accessibility
35 cases brought by regulated legal services programs, and given the
36 resources of those programs, exempting regulated legal services
37 programs from the requirements of this section to report to the
38 California Commission on Disability Access will not affect the
39 purpose of the reporting to, and tabulation by, the commission of
40 all other construction-related accessibility claims.

1 (j) This section shall become operative on January 1, 2019.

2 SEC. 3. Section 55.53 of the Civil Code is amended to read:

3 55.53. (a) For purposes of this part, a certified access specialist
4 shall, upon completion of the inspection of a site, comply with the
5 following:

6 (1) For a meets applicable standards site, if the CASp determines
7 the site meets all applicable construction-related accessibility
8 standards, the CASp shall provide a written inspection report to
9 the requesting party that includes both of the following:

10 (A) An identification and description of the inspected structures
11 and areas of the site.

12 (B) A signed and dated statement that includes both of the
13 following:

14 (i) A statement that, in the opinion of the CASp, the inspected
15 structures and areas of the site meet construction-related
16 accessibility standards. The statement shall clearly indicate whether
17 the determination of the CASp includes an assessment of readily
18 achievable barrier removal.

19 (ii) If corrections were made as a result of the CASp inspection,
20 an itemized list of all corrections and dates of completion.

21 (2) For an inspected by a CASp site, if the CASp determines
22 that corrections are needed to the site in order for the site to meet
23 all applicable construction-related accessibility standards, the
24 CASp shall provide a signed and dated written inspection report
25 to the requesting party that includes all of the following:

26 (A) An identification and description of the inspected structures
27 and areas of the site.

28 (B) The date of the inspection.

29 (C) A statement that, in the opinion of the CASp, the inspected
30 structures and areas of the site need correction to meet
31 construction-related accessibility standards. This statement shall
32 clearly indicate whether the determination of the CASp includes
33 an assessment of readily achievable barrier removal.

34 (D) An identification and description of the structures or areas
35 of the site that need correction and the correction needed.

36 (E) A schedule of completion for each of the corrections within
37 a reasonable timeframe.

38 (3) The CASp shall provide, within 30 days of the date when it
39 is requested by a business that qualifies for the provisions of
40 subparagraph (A) of paragraph (3) of subdivision (g) of Section

1 55.56, a copy of a report prepared pursuant to that subparagraph
2 to the business that requested it.

3 (4) The CASp shall file, within 10 days of inspecting a business
4 pursuant to subparagraph (A) of paragraph (3) of subdivision (g)
5 of Section 55.56, a notice with the State Architect for listing on
6 the State Architect's Internet Web site, as provided by subdivision
7 (d) of Section 4459.7 of the Government Code, indicating that the
8 CASp has inspected the business, the name and address of the
9 business, the date of the filing, the date of the inspection of the
10 business, the name and license number of the CASp, and a
11 description of the structure or area inspected by the CASp.

12 (b) For purposes of this section, in determining whether the site
13 meets applicable construction-related accessibility standards when
14 there is a conflict or difference between a state and federal
15 provision, standard, or regulation, the state provision, standard, or
16 regulation shall apply unless the federal provision, standard, or
17 regulation is more protective of accessibility rights.

18 (c) Every CASp who conducts an inspection of a place of public
19 accommodation shall, upon completing the inspection of the site,
20 provide the building owner or tenant who requested the inspection
21 with the following notice, which the State Architect shall make
22 available as a form on the State Architect's Internet Web site:

23

24 NOTICE TO PRIVATE PROPERTY OWNER/TENANT:

25

26 YOU ARE ADVISED TO KEEP IN YOUR RECORDS ANY
27 WRITTEN INSPECTION REPORT AND ANY OTHER
28 DOCUMENTATION CONCERNING YOUR PROPERTY SITE
29 THAT IS GIVEN TO YOU BY A CERTIFIED ACCESS
30 SPECIALIST.

31 IF YOU BECOME A DEFENDANT IN A LAWSUIT THAT
32 INCLUDES A CLAIM CONCERNING A SITE INSPECTED
33 BY A CERTIFIED ACCESS SPECIALIST, YOU MAY BE
34 ENTITLED TO A COURT STAY (AN ORDER TEMPORARILY
35 STOPPING ANY LAWSUIT) OF THE CLAIM AND AN EARLY
36 EVALUATION CONFERENCE.

37 IN ORDER TO REQUEST THE STAY AND EARLY
38 EVALUATION CONFERENCE, YOU WILL NEED TO VERIFY
39 THAT A CERTIFIED ACCESS SPECIALIST HAS INSPECTED
40 THE SITE THAT IS THE SUBJECT OF THE CLAIM. YOU

1 WILL ALSO BE REQUIRED TO PROVIDE THE COURT AND
2 THE PLAINTIFF WITH THE COPY OF A WRITTEN
3 INSPECTION REPORT BY THE CERTIFIED ACCESS
4 SPECIALIST, AS SET FORTH IN CIVIL CODE SECTION
5 55.54. THE APPLICATION FORM AND INFORMATION ON
6 HOW TO REQUEST A STAY AND EARLY EVALUATION
7 CONFERENCE MAY BE OBTAINED AT
8 www.courts.ca.gov/selfhelp-start.htm.

9 YOU ARE ENTITLED TO REQUEST, FROM A CERTIFIED
10 ACCESS SPECIALIST WHO HAS CONDUCTED AN
11 INSPECTION OF YOUR PROPERTY, A WRITTEN
12 INSPECTION REPORT AND OTHER DOCUMENTATION AS
13 SET FORTH IN CIVIL CODE SECTION 55.53. YOU ARE ALSO
14 ENTITLED TO REQUEST THE ISSUANCE OF A DISABILITY
15 ACCESS INSPECTION CERTIFICATE, WHICH YOU MAY
16 POST ON YOUR PROPERTY.

17
18 (d) (1) Commencing July 1, 2010, a local agency shall employ
19 or retain at least one building inspector who is a certified access
20 specialist. The certified access specialist shall provide consultation
21 to the local agency, permit applicants, and members of the public
22 on compliance with state construction-related accessibility
23 standards with respect to inspections of a place of public
24 accommodation that relate to permitting, plan checks, or new
25 construction, including, but not limited to, inspections relating to
26 tenant improvements that may impact access. If a local agency
27 employs or retains two or more certified access specialists to
28 comply with this subdivision, at least one-half of the certified
29 access specialists shall be building inspectors who are certified
30 access specialists.

31 (2) Commencing January 1, 2014, a local agency shall employ
32 or retain a sufficient number of building inspectors who are
33 certified access specialists to conduct permitting and plan check
34 services to review for compliance with state construction-related
35 accessibility standards by a place of public accommodation with
36 respect to new construction, including, but not limited to, projects
37 relating to tenant improvements that may impact access. If a local
38 agency employs or retains two or more certified access specialists
39 to comply with this subdivision, at least one-half of the certified

1 access specialists shall be building inspectors who are certified
2 access specialists.

3 (3) If a permit applicant or member of the public requests
4 consultation from a certified access specialist, the local agency
5 may charge an amount limited to a reasonable hourly rate, an
6 estimate of which shall be provided upon request in advance of
7 the consultation. A local government may additionally charge or
8 increase permitting, plan check, or inspection fees to the extent
9 necessary to offset the costs of complying with this subdivision.
10 Any revenues generated from an hourly or other charge or fee
11 increase under this subdivision shall be used solely to offset the
12 costs incurred to comply with this subdivision. A CASp inspection
13 pursuant to subdivision (a) by a building inspector who is a
14 certified access specialist shall be treated equally for legal and
15 evidentiary purposes as an inspection conducted by a private CASp.
16 Nothing in this subdivision shall preclude permit applicants or any
17 other person with a legal interest in the property from retaining a
18 private CASp at any time.

19 (e) (1) Every CASp who completes an inspection of a place of
20 public accommodation shall, upon a determination that the site
21 meets applicable standards pursuant to paragraph (1) of subdivision
22 (a) or is inspected by a CASp pursuant to paragraph (2) of
23 subdivision (a), provide the building owner or tenant requesting
24 the inspection with a numbered disability access inspection
25 certificate indicating that the site has undergone inspection by a
26 certified access specialist. The disability access inspection
27 certificate shall be dated and signed by the CASp inspector, and
28 shall contain the inspector's name and license number. Upon
29 issuance of a certificate, the CASp shall record the issuance of the
30 numbered certificate, the name and address of the recipient, and
31 the type of report issued pursuant to subdivision (a) in a record
32 book the CASp shall maintain for that purpose.

33 (2) Beginning March 1, 2009, the State Architect shall make
34 available for purchase by any local building department or CASp
35 sequentially numbered disability access inspection certificates that
36 are printed with a watermark or other feature to deter forgery and
37 that comply with the information requirements specified in
38 subdivision (a).

39 (3) The disability access inspection certificate may be posted
40 on the premises of the place of public accommodation, unless,

1 following the date of inspection, the inspected site has been
2 modified or construction has commenced to modify the inspected
3 site in a way that may impact compliance with construction-related
4 accessibility standards.

5 (f) Nothing in this section or any other law is intended to require
6 a property owner or tenant to hire a CASp. A property owner's or
7 tenant's election not to hire a CASp shall not be admissible to
8 prove that person's lack of intent to comply with the law.

9 SEC. 4. Section 55.56 of the Civil Code is amended to read:

10 55.56. (a) Statutory damages under either subdivision (a) of
11 Section 52 or subdivision (a) of Section 54.3 may be recovered in
12 a construction-related accessibility claim against a place of public
13 accommodation only if a violation or violations of one or more
14 construction-related accessibility standards denied the plaintiff
15 full and equal access to the place of public accommodation on a
16 particular occasion.

17 (b) A plaintiff is denied full and equal access only if the plaintiff
18 personally encountered the violation on a particular occasion, or
19 the plaintiff was deterred from accessing a place of public
20 accommodation on a particular occasion.

21 (c) A violation personally encountered by a plaintiff may be
22 sufficient to cause a denial of full and equal access if the plaintiff
23 experienced difficulty, discomfort, or embarrassment because of
24 the violation.

25 (d) A plaintiff demonstrates that he or she was deterred from
26 accessing a place of public accommodation on a particular occasion
27 only if both of the following apply:

28 (1) The plaintiff had actual knowledge of a violation or
29 violations that prevented or reasonably dissuaded the plaintiff from
30 accessing a place of public accommodation that the plaintiff
31 intended to use on a particular occasion.

32 (2) The violation or violations would have actually denied the
33 plaintiff full and equal access if the plaintiff had accessed the place
34 of public accommodation on that particular occasion.

35 (e) (1) The following technical violations are presumed to not
36 cause a person difficulty, discomfort, or embarrassment for the
37 purpose of an award of minimum statutory damages in a
38 construction-related accessibility claim, as set forth in subdivision
39 (c), where the defendant is a small business as described by
40 subparagraph (B) of paragraph (2) of subdivision (g), the defendant

1 has corrected, within 15 days of the service of a summons and
2 complaint asserting a construction-related accessibility claim or
3 receipt of a written notice, whichever is earlier, all of the technical
4 violations that are the basis of the claim, and the claim is based on
5 one or more of the following violations:

6 (A) Interior signs, other than directional signs or signs that
7 identify the location of accessible elements, facilities, or features,
8 when not all such elements, facilities, or features are accessible.

9 (B) The lack of exterior signs, other than parking signs and
10 directional signs, including signs that indicate the location of
11 accessible pathways or entrance and exit doors when not all
12 pathways, entrance and exit doors are accessible.

13 (C) The order in which parking signs are placed or the exact
14 location or wording of parking signs, provided that the parking
15 signs are clearly visible and indicate the location of accessible
16 parking and van-accessible parking.

17 (D) The color of parking signs, provided that the color of the
18 background contrasts with the color of the information on the sign.

19 (E) The color of parking lot striping, provided that it exists and
20 provides sufficient contrast with the surface upon which it is
21 applied to be reasonably visible.

22 (F) Faded, chipped, damaged, or deteriorated paint in otherwise
23 fully compliant parking spaces and passenger access aisles in
24 parking lots, provided that it indicates the required dimensions of
25 a parking space or access aisle in a manner that is reasonably
26 visible.

27 (G) The presence or condition of detectable warning surfaces
28 on ramps, except where the ramp is part of a pedestrian path of
29 travel that intersects with a vehicular lane or other hazardous area.

30 (2) The presumption set forth in paragraph (1) affects the
31 plaintiff's burden of proof and is rebuttable by evidence showing,
32 by a preponderance of the evidence, that the plaintiff did, in fact,
33 experience difficulty, discomfort, or embarrassment on the
34 particular occasion as a result of one or more of the technical
35 violations listed in paragraph (1).

36 (f) Statutory damages may be assessed pursuant to subdivision
37 (a) based on each particular occasion that the plaintiff was denied
38 full and equal access, and not upon the number of violations of
39 construction-related accessibility standards identified at the place
40 of public accommodation where the denial of full and equal access

1 occurred. If the place of public accommodation consists of distinct
2 facilities that offer distinct services, statutory damages may be
3 assessed based on each denial of full and equal access to the distinct
4 facility, and not upon the number of violations of
5 construction-related accessibility standards identified at the place
6 of public accommodation where the denial of full and equal access
7 occurred.

8 (g) (1) Notwithstanding any other law, a defendant’s liability
9 for statutory damages in a construction-related accessibility claim
10 against a place of public accommodation is reduced to a minimum
11 of one thousand dollars (\$1,000) for each offense if the defendant
12 demonstrates that it has corrected all construction-related violations
13 that are the basis of a claim within 60 days of being served with
14 the complaint, and the defendant demonstrates any of the following:

15 (A) The structure or area of the alleged violation was determined
16 to be “CASp-inspected” or “meets applicable standards” and, to
17 the best of the defendant’s knowledge, there were no modifications
18 or alterations that impacted compliance with construction-related
19 accessibility standards with respect to the plaintiff’s claim that
20 were completed or commenced between the date of that
21 determination and the particular occasion on which the plaintiff
22 was allegedly denied full and equal access.

23 (B) The structure or area of the alleged violation was the subject
24 of an inspection report indicating “CASp determination pending”
25 or “Inspected by a CASp,” and the defendant has either
26 implemented reasonable measures to correct the alleged violation
27 before the particular occasion on which the plaintiff was allegedly
28 denied full and equal access, or the defendant was in the process
29 of correcting the alleged violation within a reasonable time and
30 manner before the particular occasion on which the plaintiff was
31 allegedly denied full and equal access.

32 (C) For a claim alleging a construction-related accessibility
33 violation filed before January 1, 2018, the structure or area of the
34 alleged violation was a new construction or an improvement that
35 was approved by, and passed inspection by, the local building
36 department permit and inspection process on or after January 1,
37 2008, and before January 1, 2016, and, to the best of the
38 defendant’s knowledge, there were no modifications or alterations
39 that impacted compliance with respect to the plaintiff’s claim that
40 were completed or commenced between the completion date of

1 the new construction or improvement and the particular occasion
2 on which the plaintiff was allegedly denied full and equal access.

3 (D) The structure or area of the alleged violation was new
4 construction or an improvement that was approved by, and passed
5 inspection by, a local building department official who is a certified
6 access specialist, and, to the best of the defendant's knowledge,
7 there were no modifications or alterations that affected compliance
8 with respect to the plaintiff's claim that were completed or
9 commenced between the completion date of the new construction
10 or improvement and the particular occasion on which the plaintiff
11 was allegedly denied full and equal access.

12 (2) Notwithstanding any other law, a defendant's liability for
13 statutory damages in a construction-related accessibility claim
14 against a place of public accommodation is reduced to a minimum
15 of two thousand dollars (\$2,000) for each offense if the defendant
16 demonstrates both of the following:

17 (A) The defendant has corrected all construction-related
18 violations that are the basis of a claim within 30 days of being
19 served with the complaint.

20 (B) The defendant is a small business that has employed 25 or
21 fewer employees on average over the past three years, or for the
22 years it has been in existence if less than three years, as evidenced
23 by wage report forms filed with the Economic Development
24 Department, and has average annual gross receipts of less than
25 three million five hundred thousand dollars (\$3,500,000) over the
26 previous three years, or for the years it has been in existence if
27 less than three years, as evidenced by federal or state income tax
28 returns. The average annual gross receipts dollar amount shall be
29 adjusted biannually by the Department of General Services for
30 changes in the California Consumer Price Index for All Urban
31 Consumers, as compiled by the Department of Industrial Relations.
32 The Department of General Services shall post that adjusted
33 amount on its Internet Web site.

34 (3) (A) Notwithstanding any other law, a defendant shall not
35 be liable for minimum statutory damages in a construction-related
36 accessibility claim, with respect to a violation noted in a report by
37 a certified access specialist (CAsp), for a period of 120 days
38 following the date of the inspection if the defendant demonstrates
39 compliance with each of the following:

- 1 (i) The defendant is a business that has employed 100 or fewer
2 employees on average over the past three years, or for the years it
3 has been in existence if less than three years, as evidenced by wage
4 report forms filed with the Employment Development Department.
- 5 (ii) The structure or area of the alleged violation was the subject
6 of an inspection report indicating “CASp determination pending”
7 or “Inspected by a CASp.”
- 8 (iii) The inspection predates the filing of the claim by, or receipt
9 of a demand letter from, the plaintiff regarding the alleged violation
10 of a construction-related accessibility standard, and the defendant
11 was not on notice of the alleged violation prior to the CASp
12 inspection because of a previous CASp inspection of the premises,
13 or other reasons.
- 14 (iv) Within 10 days of the date of the inspection, the CASp files
15 a notice with the State Architect for listing on the State Architect’s
16 Internet Web site, stating that the defendant has obtained a CASp
17 inspection, the date of the filing, and the date of the inspection.
- 18 (v) The CASp posted the notice described in clause (iv), in a
19 form prescribed by the State Architect, in a conspicuous location
20 within five feet of all public entrances to the building on the date
21 of the inspection and the defendant kept it in place until the earlier
22 of either of the following:
 - 23 (I) One hundred twenty days after the date of the inspection.
 - 24 (II) The date when all of the construction-related violations in
25 the structure or area inspected by the CASp are corrected.
- 26 (vi) The defendant has corrected, within 120 days of the date
27 of the inspection, all construction-related violations in the structure
28 or area inspected by the CASp that are noted in the CASp report
29 that are the basis of the claim.
- 30 (B) Notwithstanding any other law, a defendant who claims the
31 benefit of the reduction of minimum statutory damages under this
32 subdivision shall disclose the date and findings of any CASp
33 inspection to a plaintiff if relevant to a claim or defense in an
34 action.
- 35 (4) A defendant may assert the reduction of minimum statutory
36 damages under this subdivision only once for each structure or
37 area inspected by a CASp, unless the inspected structure or area
38 has undergone modifications or alterations that affect the
39 compliance with construction-related accessibility standards of
40 those structures or areas after the date of the last inspection, and

1 the defendant obtains an additional CASp inspection within 30
2 days of final approval by the building department or certificate of
3 occupancy, as appropriate, regarding the modification or
4 alterations.

5 (5) If the defendant has failed to correct, within 120 days of the
6 date of the inspection, all construction-related violations in the
7 structure or area inspected by the CASp that are noted in the CASp
8 report, the defendant shall not receive any reduction of minimum
9 statutory damages, unless a building permit is required for the
10 repairs which cannot reasonably be completed by the defendant
11 within 120 days and the defendant is in the process of correcting
12 the violations noted in the CASp report, as evidenced by having,
13 at least, an active building permit necessary for the repairs to
14 correct the violation that was noted, but not corrected, in the CASp
15 report and all of the repairs are completed within 180 days of the
16 date of the inspection.

17 (6) This subdivision shall not be applicable to intentional
18 violations.

19 (7) Nothing in this subdivision affects the awarding of actual
20 damages, or affects the awarding of treble actual damages.

21 (8) This subdivision shall apply only to claims filed on or after
22 the effective date of Senate Bill 1186 of the 2011–12 Regular
23 Session of the Legislature, except that for paragraphs (3), (4), and
24 (5), which shall apply to claims filed on or after January 1, 2016.
25 Nothing in this subdivision is intended to affect a complaint filed
26 before that date.

27 (h) This section does not alter the applicable law for the
28 awarding of injunctive or other equitable relief for a violation or
29 violations of one or more construction-related accessibility
30 standards, nor alter any legal obligation of a party to mitigate
31 damages.

32 (i) In assessing liability under subdivision (d), in an action
33 alleging multiple claims for the same construction-related
34 accessibility violation on different particular occasions, the court
35 shall consider the reasonableness of the plaintiff's conduct in light
36 of the plaintiff's obligation, if any, to mitigate damages.

37 (j) For purposes of this section, the "structure or area inspected"
38 means one of the following: the interior of the premises, the
39 exterior of the premises, or both the interior and exterior.

1 SEC. 5. Section 4459.7 of the Government Code is amended
2 to read:

3 4459.7. (a) (1) No later than October 31 of each year, the
4 State Architect shall publish and make available to the public a
5 list of certified access specialists who have met the requirements
6 of Section 4459.5.

7 (2) The State Architect shall publish and regularly update on
8 its Internet Web site easily accessible lists of all of the following:

9 (A) Businesses that have obtained a CASp inspection and have
10 filed, or a CASp has filed on their behalf, a notice pursuant to
11 paragraph (3) of subdivision (g) of Section 55.56 of the Civil Code.

12 (B) Businesses which have been inspected by a certified access
13 specialist on or after January 1, 2016, including the date of the
14 inspection.

15 (3) The lists required pursuant to this section shall include a
16 written disclaimer of liability as specified in subdivision (b).

17 (b) Notwithstanding any other provision of law, a state agency
18 or employee of a state agency may not be held liable for any injury
19 or damages resulting from any service provided by a certified
20 access specialist whose name appears on the list published pursuant
21 to subdivision (a).

22 (c) The State Architect may perform periodic audits of work
23 performed by a certified access specialist as deemed necessary to
24 ensure the desired standard of performance. A certified access
25 specialist shall provide an authorized representative of the State
26 Architect with complete access, at any reasonable hour of the day,
27 to all technical data, reports, records, photographs, design outlines
28 and plans, and files used in building inspection and plan review,
29 with the exception of proprietary and confidential information.

30 (d) By January 1, 2016, the State Architect shall develop a
31 process by which a certified access specialist (CASp) may notify
32 the State Architect that a structure or area on the premises of a
33 business has been inspected by a CASp and to notify the public
34 that the business has a “CASp determination pending,” or has been
35 “Inspected by a CASp,” as provided by paragraph (3) of
36 subdivision (g) of Section 55.56 of the Civil Code, which shall
37 include the date of the notification, the date of the inspection, and
38 a description of the structure or area inspected by a CASp.

39 (e) By January 1, 2016, the State Architect shall develop a form
40 for a business to notify the public that the business has obtained a

1 CAsp inspection pursuant to paragraph (3) of subdivision (g) of
2 Section 55.56 of the Civil Code, which shall include the date of
3 the notification, the date of the inspection, and a description of the
4 structure or area inspected by a CAsp.

5 (f) For purposes of this section, the “structure or area inspected”
6 means one of the following: the interior of the premises, the
7 exterior of the premises, or both the interior and exterior.

8 SEC. 6. Section 4459.8 of the Government Code is amended
9 to read:

10 4459.8. (a) The certification authorized by Section 4459.5 is
11 effective for three years from the date of initial certification and
12 expires if not renewed. The State Architect, upon consideration of
13 any factual complaints regarding the work of a certified access
14 specialist or of other relevant information, may suspend
15 certification or deny renewal of certification.

16 (b) (1) The State Architect shall require each applicant for
17 certification as a certified access specialist to do both of the
18 following:

19 (A) Pay fees, including an application and course fee and an
20 examination fee, at a level sufficient to meet the costs of application
21 processing, registration, publishing a list, and other activities that
22 are reasonably necessary to implement and administer the certified
23 access specialist program.

24 (B) Provide to the State Architect the name of the city, county,
25 or city and county in which the applicant intends to provide
26 services.

27 (2) The State Architect shall require each applicant for renewal
28 of certification to do both of the following:

29 (A) Pay a fee sufficient to cover the reasonable costs of
30 reassessing qualifications of renewal applicants.

31 (B) Provide to the State Architect the name of the city, county,
32 or city and county in which the applicant has provided services
33 since the last day of certification by the State Architect.

34 (3) The State Architect shall periodically review its schedule
35 of fees to ensure that its fees for certification are not excessive
36 while covering the costs to administer the certified access specialist
37 program. The application fee for a California licensed architect,
38 landscape architect, civil engineer, or structural engineer shall not
39 exceed two hundred fifty dollars (\$250).

1 (c) All fees collected pursuant to this section shall be deposited
2 into the Certified Access Specialist Fund, which is hereby created
3 in the State Treasury. Notwithstanding Section 13340, this fund
4 is continuously appropriated without regard to fiscal years for use
5 by the State Architect to implement Sections 4459.5 to 4459.8,
6 inclusive.

7 (d) The State Architect shall post on his or her Internet Web
8 site the name of the city, county, or city and county in which each
9 certified access specialist provides or intends to provide services.

10 SEC. 7. Section 8299.06 of the Government Code is amended
11 to read:

12 8299.06. (a) A priority of the commission shall be the
13 development and dissemination of educational materials and
14 information to promote and facilitate disability access compliance.

15 (b) The commission shall work with other state agencies,
16 including the Division of the State Architect and the Department
17 of Rehabilitation, to develop educational materials and information
18 for use by businesses to understand its obligations to provide
19 disability access and to facilitate compliance with
20 construction-related accessibility standards.

21 (c) The commission shall develop and make available on its
22 Internet Web site, or make available on its Internet Web site if
23 developed by another governmental agency, including Americans
24 with Disabilities Act centers, toolkits or educational modules to
25 assist a California business to understand its obligations under the
26 law and to facilitate compliance with respect to the top 10 alleged
27 construction-related violations, by type, as specified in subdivision
28 (a) of Section 8299.08. Upon completion of this requirement, the
29 commission shall develop and make available on its Internet Web
30 site, or work with another agency to develop, other toolkits or
31 educational modules that would educate businesses of the
32 accessibility requirements and to facilitate compliance with that
33 requirement.

34 (d) The commission shall post the following on its Internet Web
35 site:

36 (1) Educational materials and information that will assist
37 building owners, tenants, building officials, and building inspectors
38 to understand the disability accessibility requirements and to
39 facilitate compliance with disability access laws. The commission
40 shall at least annually review the educational materials and

1 information on disability access requirements and compliance
2 available on the Internet Web site of other local, state, or federal
3 agencies, including Americans with Disabilities Act centers, to
4 augment the educational materials and information developed by
5 the commission.

6 (2) A link to the Internet Web site of the Division of the State
7 Architect’s certified access specialist (CASp) program to assist
8 building owners and tenants in locating or hiring a CASp.

9 (e) The commission shall, to the extent feasible, coordinate with
10 other state agencies and local building departments to ensure that
11 information provided to the public on disability access requirements
12 is uniform and complete, and make its educational materials and
13 information available to those agencies and departments.

14 SEC. 8. Section 65941.6 is added to the Government Code, to
15 read:

16 65941.6. (a) Each local agency shall develop materials relating
17 to the requirements of the federal Americans with Disabilities Act
18 of 1990 (42 U.S.C. Sec. 12101 et seq.). The local agency shall
19 provide these materials to an applicant along with notice that
20 approval of a permit does not signify that the applicant has
21 complied with the federal Americans with Disabilities Act of 1990.

22 (b) For the purposes of complying with the requirements of
23 subdivision (a), a local agency may, in lieu of developing its own
24 materials, provide applicants with those materials which the
25 California Commission on Disability Access has developed and
26 made available pursuant to Section 8299.06.

27 SEC. 9. Article 4 (commencing with Section 65946) is added
28 to Chapter 4.5 of Division 1 of Title 7 of the Government Code,
29 to read:

30

31 Article 4. Expedited Review

32

33 65946. (a) For the purposes of this section, the following
34 definitions shall apply:

35 (1) “Certified access specialist” or “CASp” means any person
36 who has been certified pursuant to Section 4459.5.

37 (2) “Construction-related accessibility standard” means a
38 provision, standard, or regulation under state or federal law
39 requiring compliance with standards for making new construction
40 and existing facilities accessible to persons with disabilities,

1 including, but not limited to, any provision, standard, or regulation
2 set forth in Section 51, 54, 54.1, or 55 of the Civil Code, Section
3 19955.5 of the Health and Safety Code, the California Building
4 Standards Code (Title 24 of the California Code of Regulations),
5 the federal Americans with Disabilities Act of 1990 (Public Law
6 101-336; 42 U.S.C. Sec. 12101 et seq.), and the federal Americans
7 with Disabilities Act Accessibility Guidelines (Appendix A to Part
8 36 of Title 28 of the Code of Federal Regulations).

9 (3) “Written inspection report” means the CASp report required
10 to be provided pursuant to subdivision (a) of Section 55.53 of the
11 Civil Code.

12 (b) A local agency shall expedite review of a project application
13 if the project applicant meets all of the following conditions:

14 (1) The applicant provides a copy of a disability access
15 inspection certificate, provided by a CASp pursuant to subdivision
16 (e) of Section 55.53 of the Civil Code, pertaining to the site of the
17 proposed project.

18 (2) The applicant demonstrates that the proposed project is
19 necessary to address either an alleged violation of a
20 construction-related accessibility standard or a violation noted in
21 a written inspection report.

22 (3) If project plans are necessary for the approval of a project,
23 the applicant has had a CASp review the project plans for
24 compliance with all applicable construction-related accessibility
25 standards.

26 SEC. 10. Section 17053.43 is added to the Revenue and
27 Taxation Code, to read:

28 17053.43. (a) ~~(1)~~ For each taxable year beginning on or after
29 January 1, 2016, and before January 1, ~~2023~~, 2021, there shall be
30 allowed to a taxpayer that is a small business as a credit against
31 the “net tax,” as defined in Section 17039, for the amount paid or
32 incurred for eligible access expenditures in excess of two hundred
33 fifty dollars (\$250). *expenditures. The credit shall be allowed in*
34 *accordance with Section 44 of the Internal Revenue Code, relating*
35 *to expenditures to provide access to disabled individuals, except*
36 *that the credit amount specified in subdivision (b) shall be*
37 *substituted for the credit amount specified in Section 44(a) of the*
38 *Internal Revenue Code.*

39 (2) ~~(A)~~ The credit shall be in an amount equal to 50 percent
40 of the difference between the total eligible access expenditures

1 incurred by a taxpayer that is a small business that do not exceed
2 ten thousand two hundred fifty dollars (\$10,250) and two hundred
3 fifty dollars (\$250).

4 ~~(B) In the case of a partnership, the limitation under this~~
5 ~~paragraph shall apply with respect to the partnership and each~~
6 ~~partner. A similar rule shall apply in the case of an “S” corporation.~~

7 ~~(b) For the purposes of this section, the following definitions~~
8 ~~shall apply:~~

9 ~~(1) “Eligible access expenditures” has the same meaning as~~
10 ~~defined in Section 44(c) of the Internal Revenue Code, except that~~
11 ~~the amounts may be paid or incurred by a taxpayer other than an~~
12 ~~eligible small business.~~

13 ~~(2) (A) “Small business” means a trade or business that, in the~~
14 ~~three immediately preceding taxable years, had average gross~~
15 ~~receipts, less returns and allowances reportable to this state, of less~~
16 ~~than three million five hundred thousand dollars (\$3,500,000) and~~
17 ~~employed 25 or fewer full-time employees.~~

18 ~~(B) For the purposes of this paragraph, “gross receipts, less~~
19 ~~returns and allowances reportable to this state” means the sum of~~
20 ~~the gross receipts from the production of business income, as~~
21 ~~defined in subdivision (a) of Section 25120, and the gross receipts~~
22 ~~from the production of nonbusiness income, as defined in~~
23 ~~subdivision (d) of Section 25120.~~

24 ~~(C) For the purposes of this paragraph, “full-time employee”~~
25 ~~means an employee of the taxpayer who works at least 30 hours~~
26 ~~per week.~~

27 ~~(b) The credit amount allowed under this section shall be an~~
28 ~~amount equal to 10 percent of so much of the eligible access~~
29 ~~expenditures for the taxable year as exceed two hundred fifty~~
30 ~~dollars (\$250) but do not exceed ten thousand two hundred fifty~~
31 ~~dollars (\$10,250).~~

32 ~~(c) In the case where the credit allowed by this section exceeds~~
33 ~~the “net tax,” the excess may be carried over to reduce the “net~~
34 ~~tax” in the following year, and the succeeding ~~six~~ four years, if~~
35 ~~necessary, until the credit is exhausted.~~

36 ~~(d) The credit allowed by this section may be claimed only on~~
37 ~~a timely filed original return of the taxpayer.~~

38 ~~(e) In the case of a credit allowed under this section, the~~
39 ~~following shall apply:~~

1 ~~(1) A deduction or credit shall not be allowed for that amount~~
2 ~~under any other provision of this part.~~

3 ~~(2) An increase in the adjusted basis of any property shall not~~
4 ~~result from that amount.~~

5 ~~(f)~~

6 ~~(e) The Franchise Tax Board may prescribe rules, guidelines,~~
7 ~~or procedures necessary or appropriate to carry out the purposes~~
8 ~~of this section, including any guidelines regarding the~~
9 ~~substantiation of the credit allowed by this section. Chapter 3.5~~
10 ~~(commencing with Section 11340) of Part 1 of Division 3 of Title~~
11 ~~2 of the Government Code does not apply to any rule, guideline,~~
12 ~~or procedure prescribed by the Franchise Tax Board pursuant to~~
13 ~~this section.~~

14 ~~(g)~~

15 ~~(f) This section shall remain in effect only until December 1,~~
16 ~~2023, 2021, and as of that date is repealed.~~

17 SEC. 11. Section 23643 is added to the Revenue and Taxation
18 Code, to read:

19 23643. (a) ~~(1)~~ For each taxable year beginning on or after
20 January 1, 2016, and before January 1, ~~2023, 2021~~, there shall be
21 allowed to a taxpayer that is a small business as a credit against
22 the “tax,” as defined in Section 23036, for the amount paid or
23 incurred for eligible access expenditures in excess of two hundred
24 ~~fifty dollars (\$250).~~ *expenditures. The credit shall be allowed in*
25 *accordance with Section 44 of the Internal Revenue Code, relating*
26 *to expenditures to provide access to disabled individuals, except*
27 *that the credit amount specified in subdivision (b) shall be*
28 *substituted for the credit amount specified in Section 44(a) of the*
29 *Internal Revenue Code and the second sentence of Section 44(d)(3)*
30 *of the Internal Revenue Code, relating to partnerships and S*
31 *corporations, shall not apply.*

32 ~~(2) (A) The credit shall be in an amount equal to 50 percent of~~
33 ~~the difference between the total eligible access expenditures~~
34 ~~incurred by a taxpayer that is a small business that do not exceed~~
35 ~~ten thousand two hundred fifty dollars (\$10,250) and two hundred~~
36 ~~fifty dollars (\$250).~~

37 ~~(B) In the case of a partnership, the limitation under this~~
38 ~~paragraph shall apply with respect to the partnership and each~~
39 ~~partner. A similar rule shall apply in the case of an “S” corporation.~~

1 ~~(b) For the purposes of this section, the following definitions~~
2 ~~shall apply:~~

3 ~~(1) “Eligible access expenditures” has the same meaning as~~
4 ~~defined in Section 44(e) of the Internal Revenue Code, except that~~
5 ~~the amounts may be paid or incurred by a taxpayer other than an~~
6 ~~eligible small business.~~

7 ~~(2) (A) “Small business” means a trade or business that, in the~~
8 ~~three immediately preceding taxable years, had average gross~~
9 ~~receipts, less returns and allowances reportable to this state, of less~~
10 ~~than three million five hundred thousand dollars (\$3,500,000) and~~
11 ~~employed 25 or fewer full-time employees.~~

12 ~~(B) For the purposes of this paragraph, “gross receipts, less~~
13 ~~returns and allowances reportable to this state” means the sum of~~
14 ~~the gross receipts from the production of business income, as~~
15 ~~defined in subdivision (a) of Section 25120, and the gross receipts~~
16 ~~from the production of nonbusiness income, as defined in~~
17 ~~subdivision (d) of Section 25120.~~

18 ~~(C) For the purposes of this paragraph, “full-time employee”~~
19 ~~means an employee of the taxpayer who works at least 30 hours~~
20 ~~per week.~~

21 ~~(D) The dollar amount specified in subparagraph (A) shall apply~~
22 ~~to the gross receipts of all taxpayers required or authorized to be~~
23 ~~included on a combined report pursuant to Section 25101 or~~
24 ~~25101.15.~~

25 *(b) The credit amount allowed under this section shall be an*
26 *amount equal to 10 percent of so much of the eligible access*
27 *expenditures for the taxable year as exceed two hundred fifty*
28 *dollars (\$250) but do not exceed ten thousand two hundred fifty*
29 *dollars (\$10,250).*

30 (c) In the case where the credit allowed by this section exceeds
31 the “tax,” the excess may be carried over to reduce the “tax” in
32 the following year, and the succeeding ~~six~~ *four* years, if necessary,
33 until the credit is exhausted.

34 (d) The credit allowed by this section may be claimed only on
35 a timely filed original return of the taxpayer.

36 ~~(e) In the case of a credit allowed under this section, the~~
37 ~~following shall apply:~~

38 ~~(1) A deduction or credit shall not be allowed for that amount~~
39 ~~under any other provision of this part.~~

1 ~~(2) An increase in the adjusted basis of any property shall not~~
2 ~~result from that amount.~~

3 ~~(f)~~

4 (e) The Franchise Tax Board may prescribe rules, guidelines,
5 or procedures necessary or appropriate to carry out the purposes
6 of this section, including any guidelines regarding the
7 substantiation of the credit allowed by this section. Chapter 3.5
8 (commencing with Section 11340) of Part 1 of Division 3 of Title
9 2 of the Government Code does not apply to any rule, guideline,
10 or procedure prescribed by the Franchise Tax Board pursuant to
11 this section.

12 ~~(g)~~

13 (f) This section shall remain in effect only until December 1,
14 2023, 2021, and as of that date is repealed.

15 SEC. 12. The Legislature finds and declares that Sections 8
16 and 9 of this act, pertaining to the review and approval of
17 development permit applications, constitute matters of statewide
18 concern, and shall apply to charter cities and charter counties.
19 These sections shall supersede any inconsistent provisions in the
20 charter of any city, county, or city and county.

21 SEC. 13. It is the intent of the Legislature to make the findings
22 required by Section 41 of the Revenue and Taxation Code with
23 respect to the tax credits allowed by Sections 10 and 11 of this act.

24 SEC. 14. If the Commission on State Mandates determines
25 that this act contains costs mandated by the state, reimbursement
26 to local agencies and school districts for those costs shall be made
27 pursuant to Part 7 (commencing with Section 17500) of Division
28 4 of Title 2 of the Government Code.

O