

AMENDED IN SENATE JUNE 3, 1997  
AMENDED IN SENATE APRIL 14, 1997

**SENATE BILL**

**No. 200**

**Introduced by Senator Kelley**

January 27, 1997

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An act to add Section 7073.8 to the Government Code, *and to add Sections 17053.47 and 23622.8 to the Revenue and Taxation Code*, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

SB 200, as amended, Kelley. Enterprise zones.

The Enterprise Zone Act provides for the designation of enterprise zones by the Trade and Commerce Agency, according to specified criteria, pursuant to which certain entities may receive regulatory, tax, and other incentives for private investment and employment.

This bill would require the agency to designate up to 2 ~~additional enterprise zones~~ *regions* requested by the governing board of cities each of which meet certain specified criteria.

*The Personal Income Tax Law provides various credits against the taxes imposed by that law, including a hiring credit for employees hired by taxpayers engaged in a trade or business within an enterprise zone.*

*This bill would provide for a credit under that law for a manufacturer hiring qualified individuals in the designated regions in connection with the wages paid or incurred with respect to those individuals.*

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. Section 7073.8 is added to the  
 2 Government Code, to read:  
 3 7073.8. (a) In addition to the enterprise zones  
 4 authorized pursuant to Section 7073, the agency shall  
 5 designate up to two ~~enterprise zones~~ *regions* requested  
 6 by the governing boards of cities each of which shall meet  
 7 at least the following criteria:  
 8 (1) The unemployment rate in the county in which  
 9 the applicant is located has been at least three times the  
 10 state average from 1990 to 1995, inclusive.  
 11 (2) The applicant city is, or portions of the city are,  
 12 designated a federal enterprise community or  
 13 empowerment zone pursuant to Subchapter U  
 14 (commencing with Section 1391) of Chapter 1 of Subtitle  
 15 A of Title 26 of the United States Code.  
 16 (3) The applicant city is located in a Border  
 17 Environment Cooperation Commission region as  
 18 specified in Section 3473 of Title 19 of the United States  
 19 Code.  
 20 (4) At least one of the following:  
 21 (A) The designated area has grown by less than 5  
 22 percent in population per year for each of the two years  
 23 preceding the application date.  
 24 (B) The median household income for the designated  
 25 area is under twenty-five thousand dollars (\$25,000) per  
 26 year.  
 27 (C) The designated area has a population of under  
 28 20,000 persons according to the 1990 federal census.  
 29 (D) The designated area is located in a county with a  
 30 population that is at least 51 percent non-Anglo according  
 31 to the 1990 federal census.  
 32 (E) The designated area is located in a rural  
 33 community.  
 34 (b) (1) For purposes of applying any provision of the  
 35 Revenue and Taxation Code, any ~~enterprise zone~~ *region*



1 designated pursuant to this section shall be deemed  
2 designated by Section 7073.

3 ~~(2) Notwithstanding paragraph (1) or any other~~  
4 ~~provision of law, no~~ No business located within an  
5 ~~enterprise zone~~ a region designated pursuant to this  
6 section shall qualify for ~~an enterprise zone tax incentive~~  
7 ~~under a tax credit pursuant to Section 17053.47 or 23622.8~~  
8 of the Revenue and Taxation Code unless that business  
9 hires at least 30 percent of its work force from the county  
10 in which the ~~enterprise zone~~ region is located.

11 (c) *The designation as a region pursuant to Section*  
12 *7073 and this section shall be binding for a period of 15*  
13 *years.*

14 SEC. 2. *Section 17053.47 is added to the Revenue and*  
15 *Taxation Code, to read:*

16 17053.47. (a) *For each taxable year beginning on or*  
17 *after January 1, 1998, there shall be allowed a credit*  
18 *against the “net tax” (as defined in Section 17039) to a*  
19 *qualified taxpayer for hiring a qualified disadvantaged*  
20 *individual during the taxable year for employment in the*  
21 *region. The credit shall be equal to the sum of each of the*  
22 *following:*

23 (1) *Fifty percent of the qualified wages in the first year*  
24 *of employment.*

25 (2) *Forty percent of the qualified wages in the second*  
26 *year of employment.*

27 (3) *Thirty percent of the qualified wages in the third*  
28 *year of employment.*

29 (4) *Twenty percent of the qualified wages in the*  
30 *fourth year of employment.*

31 (5) *Ten percent of the qualified wages in the fifth year*  
32 *of employment.*

33 (b) *For purposes of this section:*

34 (1) *“Qualified wages” means:*

35 (A) *That portion of wages paid or incurred by the*  
36 *employer during the taxable year to qualified*  
37 *disadvantaged individuals that does not exceed 150*  
38 *percent of the minimum wage.*

39 (B) *The total amount of qualified wages which may be*  
40 *taken into account for purposes of claiming the credit*



1 allowed under this section shall not exceed two million  
2 dollars (\$2,000,000) per taxable year.

3 (C) Wages received during the 60-month period  
4 beginning with the day the individual commences  
5 employment with the taxpayer.

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

10 (3) “Region” means a region designated pursuant to  
11 Section 7073.8 of the Government Code according to the  
12 procedures of Chapter 12.8 (commencing with Section  
13 7070) of Division 7 of Title 1 of the Government.

14 (4) “Qualified disadvantaged individual” means an  
15 individual who satisfies all of the following requirements:

16 (A) (i) At least 90 percent of whose services for the  
17 taxpayer during the taxable year are directly related to  
18 the conduct of the taxpayer’s trade or business located in  
19 a region.

20 (ii) Who performs at least 50 percent of his or her  
21 services for the taxpayer during the taxable year in the  
22 region.

23 (B) Who is hired by the employer after the  
24 designation of the area as a region in which the  
25 individual’s services were primarily performed.

26 (C) Who is any of the following immediately  
27 preceding the individual’s commencement of  
28 employment with the taxpayer:

29 (i) An individual who has been determined eligible for  
30 services under the federal Job Training Partnership Act  
31 (29 U.S.C. Sec. 1501 et seq.).

32 (ii) Any voluntary or mandatory registrant under the  
33 Greater Avenues for Independence Act of 1985 as  
34 provided pursuant to Article 3.2 (commencing with  
35 Section 11320) of Chapter 2 of Part 3 of Division 9 of the  
36 Welfare and Institutions Code.

37 (iii) Any individual who has been certified eligible by  
38 the Employment Development Department under the  
39 federal Targeted Jobs Tax Credit Program, whether or  
40 not this program is in effect.



1 (5) “*Qualified taxpayer*” means any taxpayer engaged  
2 in those lines of business described in Codes 2011 to 3999,  
3 inclusive, of the Standard Industrial Classification (SIC)  
4 Manual published by the United States Office of  
5 Management and Budget, 1987 edition.

6 (c) (1) For purposes of this section, both of the  
7 following apply:

8 (A) All employees of trades or businesses that are  
9 under common control shall be treated as employed by  
10 a single employer.

11 (B) The credit (if any) allowable by this section with  
12 respect to each trade or business shall be determined by  
13 reference to its proportionate share of the qualified wages  
14 giving rise to the credit.

15 The regulations prescribed under this paragraph shall  
16 be based on principles similar to the principles that apply  
17 in the case of controlled groups of corporations as  
18 specified in subdivision (e) of Section 23622.

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

29 (d) (1) If the employment of any employee, with  
30 respect to whom qualified wages are taken into account  
31 under subdivision (b) is terminated by the taxpayer at  
32 any time during the first 270 days of that employment  
33 (whether or not consecutive) or before the close of the  
34 270th calendar day after the day in which that employee  
35 completes 90 days of employment with the taxpayer, the  
36 tax imposed by this part for the taxable year in which that  
37 employment is terminated shall be increased by an  
38 amount (determined under those regulations) equal to  
39 the credit allowed under subdivision (a) for that taxable



1 year and all prior taxable years attributable to qualified  
2 wages paid or incurred with respect to that employee.

3 (2) (A) Paragraph (1) does not apply to any of the  
4 following:

5 (i) A termination of employment of an employee who  
6 voluntarily leaves the employment of the taxpayer.

7 (ii) A termination of employment of an individual  
8 who, before the close of the period referred to in  
9 paragraph (1), becomes disabled to perform the services  
10 of that employment, unless that disability is removed  
11 before the close of that period and the taxpayer fails to  
12 offer reemployment to that individual.

13 (iii) A termination of employment of an individual, if  
14 it is determined under the applicable employment  
15 compensation laws that the termination was due to the  
16 misconduct of that individual.

17 (iv) A termination of employment of an individual due  
18 to a substantial reduction in the trade or business  
19 operations of the taxpayer.

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

24 (B) For purposes of paragraph (1), the employment  
25 relationship between the taxpayer and an employee shall  
26 not be treated as terminated by reason of a mere change  
27 in the form of conducting the trade or business of the  
28 taxpayer, if the employee continues to be employed in  
29 that trade or business and the taxpayer retains a  
30 substantial interest in that trade or business.

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

35 (e) In the case of an estate or trust, both of the  
36 following apply:

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



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

5 (f) The credit shall be reduced by the credit allowed  
6 under Section 17053.7. The credit shall also be reduced by  
7 the federal credit allowed under Section 51 of the Internal  
8 Revenue Code.

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

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

20 (h) (1) The amount of credit otherwise allowed  
21 under this section, including prior year credit carryovers,  
22 that may reduce the “net tax” for the taxable year shall  
23 not exceed the amount of tax that would be imposed on  
24 the taxpayer’s business income attributed to a region  
25 determined as if that attributed income represented all  
26 of the net income of the taxpayer subject to tax under this  
27 part.

28 (2) The amount of attributed income described in  
29 paragraph (1) shall be determined in accordance with  
30 the provisions of Chapter 17 (commencing with Section  
31 25101) of Part 11, modified for purposes of this section as  
32 follows:

33 (A) Income shall be apportioned to a region by  
34 multiplying total business income by a fraction, the  
35 numerator of which is the property factor plus the payroll  
36 factor, and the denominator of which is two.

37 (B) “The region” shall be substituted for “this state.”

38 (3) The portion of any credit remaining, if any, after  
39 application of this subdivision, shall be carried over to  
40 succeeding taxable years, as if it were an amount



1 exceeding the “net tax” for the taxable year, as provided  
2 in subdivision (g).

3 (i) (1) In the case where “qualified wages” qualify for  
4 a credit under more than one section in this part, the  
5 taxpayer shall make an election as to which section  
6 applies to those qualified wages.

7 (2) Any election made under this section, and any  
8 specification contained in that election, may not be  
9 revoked except with the consent of the Franchise Tax  
10 Board.

11 (j) A qualified taxpayer located within a region  
12 designated pursuant to this section shall not qualify for  
13 the credit provided by this section and Section 23622.8  
14 unless that business hires at least 30 percent of its  
15 workforce from the county in which the region is located.

16 SEC. 3. Section 23622.8 is added to the Revenue and  
17 Taxation Code, to read:

18 23622.8. (a) For each income year beginning on or  
19 after January 1, 1998, there shall be allowed a credit  
20 against the “tax” (as defined in Section 23036) to a  
21 qualified taxpayer for hiring a qualified disadvantaged  
22 individual during the income year for employment in the  
23 region. The credit shall be equal to the sum of each of the  
24 following:

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

27 (2) Forty percent of the qualified wages in the second  
28 year of employment.

29 (3) Thirty percent of the qualified wages in the third  
30 year of employment.

31 (4) Twenty percent of the qualified wages in the  
32 fourth year of employment.

33 (5) Ten percent of the qualified wages in the fifth year  
34 of employment.

35 (b) For purposes of this section:

36 (1) “Qualified wages” means:

37 (A) That portion of wages paid or incurred by the  
38 employer during the income year to qualified  
39 disadvantaged individuals that does not exceed 150  
40 percent of the minimum wage.



1 (B) The total amount of qualified wages which may be  
2 taken into account for purposes of claiming the credit  
3 allowed under this section shall not exceed two million  
4 dollars (\$2,000,000) per income year.

5 (C) Wages received during the 60-month period  
6 beginning with the day the individual commences  
7 employment with the taxpayer.

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

12 (3) “Region” means a region designated pursuant to  
13 Section 7073.8 of the Government Code according to the  
14 procedures of Chapter 12.8 (commencing with Section  
15 7070) of Division 7 of Title 1 of the Government.

16 (4) “Qualified disadvantaged individual” means an  
17 individual who satisfies all of the following requirements:

18 (A) (i) At least 90 percent of whose services for the  
19 taxpayer during the taxable year are directly related to  
20 the conduct of the taxpayer’s trade or business located in  
21 a region.

22 (ii) Who performs at least 50 percent of his or her  
23 services for the taxpayer during the income year in the  
24 region.

25 (B) Who is hired by the employer after the  
26 designation of the area as a region in which the  
27 individual’s services were primarily performed.

28 (C) Who is any of the following immediately  
29 preceding the individual’s commencement of  
30 employment with the taxpayer:

31 (i) An individual who has been determined eligible for  
32 services under the federal Job Training Partnership Act  
33 (29 U.S.C. Sec. 1501 et seq.).

34 (ii) Any voluntary or mandatory registrant under the  
35 Greater Avenues for Independence Act of 1985 as  
36 provided pursuant to Article 3.2 (commencing with  
37 Section 11320) of Chapter 2 of Part 3 of Division 9 of the  
38 Welfare and Institutions Code.

39 (iii) Any individual who has been certified eligible by  
40 the Employment Development Department under the



1 federal Targeted Jobs Tax Credit Program, whether or  
2 not this program is in effect.

3 (5) “Qualified taxpayer” means any taxpayer engaged  
4 in those lines of business described in Codes 2011 to 3999,  
5 inclusive, of the Standard Industrial Classification (SIC)  
6 Manual published by the United States Office of  
7 Management and Budget, 1987 edition.

8 (c) (1) For purposes of this section, both of the  
9 following apply:

10 (A) All employees of trades or businesses that are  
11 under common control shall be treated as employed by  
12 a single employer.

13 (B) The credit (if any) allowable by this section with  
14 respect to each trade or business shall be determined by  
15 reference to its proportionate share of the qualified wages  
16 giving rise to the credit.

17 The regulations prescribed under this paragraph shall  
18 be based on principles similar to the principles that apply  
19 in the case of controlled groups of corporations as  
20 specified in subdivision (e) of Section 23622.

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

31 (d) (1) If the employment of any employee, with  
32 respect to whom qualified wages are taken into account  
33 under subdivision (b) is terminated by the taxpayer at  
34 any time during the first 270 days of that employment  
35 (whether or not consecutive) or before the close of the  
36 270th calendar day after the day in which that employee  
37 completes 90 days of employment with the taxpayer, the  
38 tax imposed by this part for the income year in which that  
39 employment is terminated shall be increased by an  
40 amount (determined under those regulations) equal to



1 *the credit allowed under subdivision (a) for that income*  
2 *year and all prior income years attributable to qualified*  
3 *wages paid or incurred with respect to that employee.*

4 (2) (A) *Paragraph (1) does not apply to any of the*  
5 *following:*

6 (i) *A termination of employment of an employee who*  
7 *voluntarily leaves the employment of the taxpayer.*

8 (ii) *A termination of employment of an individual*  
9 *who, before the close of the period referred to in*  
10 *paragraph (1), becomes disabled to perform the services*  
11 *of that employment, unless that disability is removed*  
12 *before the close of that period and the taxpayer fails to*  
13 *offer reemployment to that individual.*

14 (iii) *A termination of employment of an individual, if*  
15 *it is determined under the applicable employment*  
16 *compensation laws that the termination was due to the*  
17 *misconduct of that individual.*

18 (iv) *A termination of employment of an individual due*  
19 *to a substantial reduction in the trade or business*  
20 *operations of the taxpayer.*

21 (v) *A termination of employment of an individual, if*  
22 *that individual is replaced by other qualified employees*  
23 *so as to create a net increase in both the number of*  
24 *employees and the hours of employment.*

25 (B) *For purposes of paragraph (1), the employment*  
26 *relationship between the taxpayer and an employee shall*  
27 *not be treated as terminated by either of the following:*

28 (i) *By a transaction to which Section 381(a) of the*  
29 *Internal Revenue code applies, if the employee continues*  
30 *to be employed by the acquiring corporation.*

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

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



1 (e) The credit shall be reduced by the credit allowed  
2 under Section 23621. The credit shall also be reduced by  
3 the federal credit allowed under Section 51 of the Internal  
4 Revenue Code.

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

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

16 (g) (1) The amount of credit otherwise allowed  
17 under this section, including prior year credit carryovers,  
18 that may reduce the “tax” for the taxable year shall not  
19 exceed the amount of tax that would be imposed on the  
20 taxpayer’s business income attributed to a region  
21 determined as if that attributed income represented all  
22 of the net income of the taxpayer subject to tax under this  
23 part.

24 (2) The amount of attributed income described in  
25 paragraph (1) shall be determined in accordance with  
26 the provisions of Chapter 17 (commencing with Section  
27 25101), modified for purposes of this section as follows:

28 (A) Income shall be apportioned to a region by  
29 multiplying total business income by a fraction, the  
30 numerator of which is the property factor plus the payroll  
31 factor, and the denominator of which is two.

32 (B) “The region” shall be substituted for “this state.”

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

38 (h) (1) In the case where “qualified wages” qualify  
39 for a credit under more than one section in this part, the



1 taxpayer shall make an election as to which section  
2 applies to those qualified wages.

3 (2) Any election made under this section, and any  
4 specification contained in that election, may not be  
5 revoked except with the consent of the Franchise Tax  
6 Board.

7 (i) A qualified taxpayer located within a region  
8 designated pursuant to this section does not qualify for  
9 the credit provided by this section and Section 17053.47  
10 unless that business hires at least 30 percent of its  
11 workforce from the county in which the region is located.

