

AMENDED IN SENATE AUGUST 5, 2010
AMENDED IN SENATE SEPTEMBER 4, 2009
AMENDED IN SENATE AUGUST 19, 2009
AMENDED IN SENATE JUNE 30, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1554

Introduced by Committee on Jobs, Economic Development, and the Economy (V. Manuel Pérez (Chair), Logue (Vice Chair), Beall, Bill Berryhill, Block, Huber, and Salas)

March 11, 2009

~~An act to amend Sections 12206, 17058, and 23610.5 of, and to add Sections 17053.15 and 23608.4 to, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately. 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 1554, as amended, Committee on Jobs, Economic Development, and the Economy. ~~Low-income housing tax credit. 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 technical 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.

Existing law establishes a low-income housing tax credit program, administered by the California Tax Credit Allocation Committee, which provides procedures and requirements for the allocation of state tax credit amounts among low-income housing projects based on federal law. Existing law, among other things, provides for the recapture for noncompliance, in a specified amount, of tax credits previously granted with respect to the costs of constructing or rehabilitating farmworker housing.

This bill would, in the case of the credit applicable to farmworker housing, modify the recapture amount, as provided. This bill would also require recapture of credit for low-income housing in conformity with federal law, as provided.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$ -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, and
- 3 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,

1 whichever is the latest. The matters to be examined in the course
2 of an audit shall include an examination of the progress made by
3 the G-TEDA toward meeting the goals, objectives, and
4 commitments set forth in its original application and the
5 department's memorandum of understanding with the G-TEDA.

6 (b) The department shall, for each audit, determine a result of
7 superior, pass, or fail in accordance with subdivision (c). The
8 results of each audit shall be based upon the success of the
9 G-TEDA in making substantial and sustained efforts since the later
10 of its designation or last audit to meet the standards, criteria, and
11 conditions contained in the application and the memorandum of
12 understanding (MOU) between the department and the G-TEDA,
13 as may be amended pursuant to the agreement of the G-TEDA and
14 the department. In each audit, the department shall focus upon the
15 G-TEDA's use of the marketing plan, local incentives, financing
16 programs, job development, and program management as described
17 in the application and the MOU. The department shall also evaluate
18 the vouchering plan, staffing levels, budget, and elements unique
19 to each application.

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

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

25 (A) Meets 100 percent of its goals, objectives, and commitments
26 as defined in its application, most recent audit, biennial report, and
27 memorandum of understanding with the department, and as
28 determined by the department in consultation with the G-TEDA.
29 An equivalent or similar commitment may be substituted for an
30 existing commitment of a G-TEDA if it is determined by the
31 department that an original commitment was not realistically
32 practical or is no longer relevant.

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

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

1 (2) (A) A G-TEDA will be determined to be passing if each
2 jurisdiction comprising the area meets or exceeds 75 percent of
3 its goals, objectives, or commitments as defined in its original
4 application, most recent audit, biennial report, and memorandum
5 of understanding with the department, and as determined by the
6 department in consultation with the G-TEDA. An equivalent or
7 similar commitment may be substituted for an existing commitment
8 of a G-TEDA if it is determined by the department that an original
9 commitment was not realistically practical or is no longer relevant.

10 (B) Any G-TEDA that is determined to be passing may appeal
11 in writing to the department for a determination of superior. Only
12 one appeal may be filed pursuant to this subparagraph with respect
13 to a determination by the department, and may be filed no later
14 than 30 days after the G-TEDA's receipt of the determination to
15 which the appeal pertains. The department shall respond in writing
16 to any appeal that is properly filed pursuant to this subparagraph
17 within 60 days of the date of that filing.

18 (3) (A) A G-TEDA will be determined to be failing if any
19 jurisdiction comprising the G-TEDA fails to meet or exceed 75
20 percent of its goals, objectives, or commitments as defined in its
21 original application, most recent audit, biennial report, and
22 memorandum of understanding with the department, and as
23 determined by the department in consultation with the G-TEDA.
24 An equivalent or similar commitment may be substituted for an
25 existing commitment of a G-TEDA if it is determined by the
26 department that an original commitment was not realistically
27 practical or is no longer relevant.

28 (B) Any G-TEDA that is determined to be failing shall enter
29 into a written agreement with the department that specifies those
30 items that the G-TEDA is required to remedy or improve. Failure
31 of the G-TEDA and the department to negotiate and enter into a
32 written agreement as so described within 60 days of the last day
33 upon which the department is required to deliver a response letter
34 pursuant to subparagraph (C) shall result in the dedesignation of
35 the G-TEDA on January 1 immediately following the department's
36 written notice of dedesignation to the G-TEDA. A written
37 agreement entered into pursuant to this subparagraph shall be for
38 a six-month period. If, upon the expiration of the agreement, the
39 department determines that the G-TEDA has not met or
40 implemented at least 75 percent of the conditions set forth in the

1 agreement, the department shall, after immediately providing
2 written notification to each jurisdiction comprising the G-TEDA
3 that the G-TEDA is to be dedesignated, dedesignate the G-TEDA
4 effective on the first day of the month next following the date upon
5 which the agreement expired. If, upon expiration of the agreement,
6 the department determines that the G-TEDA has met or
7 implemented at least 75 percent of the conditions set forth in the
8 agreement, the department shall do either of the following:

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

12 (ii) Pursuant to written notice provided immediately to each
13 jurisdiction that comprises the G-TEDA that the G-TEDA is to be
14 dedesignated, dedesignate the G-TEDA effective on January 1
15 immediately following the date of the department's written
16 notification of dedesignation to those jurisdictions.

17 Any business, located within any jurisdiction that comprises a
18 G-TEDA that has been dedesignated, that has elected to avail itself
19 of any state tax incentive specifically applicable to a G-TEDA for
20 any taxable or income year beginning prior to the dedesignation
21 of the G-TEDA may, to the extent the business is otherwise still
22 eligible for those incentives, continue to avail itself of those
23 incentives for a period equal to the remaining life of the G-TEDA.
24 However, any business, located within any jurisdiction that
25 comprises a G-TEDA that has been dedesignated, that has not
26 availed itself of any state tax incentive in the manner described in
27 the preceding sentence may not, after dedesignation of the
28 G-TEDA, avail itself of any state incentive specifically applicable
29 to a G-TEDA.

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

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

1 (C) Any G-TEDA that is determined to be failing pursuant to
2 this paragraph may appeal in writing to the department. The appeal
3 shall be filed within 30 days of the G-TEDA's receipt of the
4 determination to which the appeal pertains. The department shall
5 respond in writing to any appeal that is properly filed within 60
6 days of the date of filing.

7 (d) (1) For purposes of this section, "dedesignation" means that
8 a G-TEDA is no longer a G-TEDA for purposes of either Section
9 7073 or ~~7085~~ 7085.1.

10 (2) Upon notification by the department of the dedesignation
11 of a G-TEDA and the end of the appeal period with respect to that
12 dedesignation, the department shall initiate an application process
13 for a new designation as provided in Section 7073, 7073.8, ~~7085~~,
14 7097, or 7114.

15 *SEC. 3. Section 7085 of the Government Code is repealed.*

16 ~~7085. (a) Notwithstanding Section 7550.5, the department~~
17 ~~shall submit a report to the Legislature every five years beginning~~
18 ~~January 1, 1998, that evaluates the effect of the program on~~
19 ~~employment, investment, and incomes, and on state and local tax~~
20 ~~revenues in designated enterprise zones. The report shall include~~
21 ~~a department review of the progress and effectiveness of each~~
22 ~~enterprise zone, including, but not limited to, any efforts made~~
23 ~~regarding training of unemployed individuals pursuant to Section~~
24 ~~7081. The Employment Development Department shall, for the~~
25 ~~purposes of the report, provide the department with existing data~~
26 ~~on unemployed individuals receiving training. The Franchise Tax~~
27 ~~Board shall make available to the department and the Legislature~~
28 ~~aggregate information on the dollar value of enterprise zone tax~~
29 ~~credits that are claimed each year by businesses.~~

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

33 *SEC. 4. Section 7085.1 of the Government Code is amended*
34 *to read:*

35 7085.1. (a) The governing board of the G-TEDA shall report
36 to the department by October 1, 2008, and by that date every other
37 year thereafter, on the activities of the G-TEDA in the previous
38 two fiscal years and its plans for the current and following fiscal
39 year. The biennial report shall include at least both of the following:

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

5 (2) Identification of the previous two years' funding, including
6 in-kind funding. The previous two years' funding levels shall be
7 compared to the funding levels identified in its original application
8 and the department's memorandum of understanding with the
9 G-TEDA, and the amount identified in the previous year's biennial
10 report. An explanation of any meaningful discrepancies in these
11 amounts shall be provided.

12 ~~(b) A copy of the biennial report developed pursuant to~~
13 ~~subdivision (a) shall also be submitted to the legislative bodies of~~
14 ~~the local jurisdictions comprising the G-TEDA. The progress of~~
15 ~~the G-TEDA in meeting the goals, objectives, and commitments~~
16 ~~set forth in the original application and the memorandum of~~
17 ~~understanding with the department shall be reviewed at least~~
18 ~~biennially by these legislative bodies, either as part of the approval~~
19 ~~of the G-TEDA's annual work plan or separately, at the discretion~~
20 ~~of the legislative body the legislative bodies comprising the~~
21 ~~G-TEDA.~~

22 *(c) An enterprise zone governing body shall provide information*
23 *at the request of the department as necessary for the department*
24 *to prepare the report required pursuant to subdivisions (e) and*
25 *(f).*

26 ~~(e)~~

27 (d) (1) G-TEDAs designated prior to January 1, 2007, shall have
28 until April 15, 2008, to update their benchmarks, goals, objectives,
29 and funding levels for administering the G-TEDA program, in
30 order to make them measurable and conducive to the successful
31 completion of the economic development strategy. The local
32 legislative body and the department shall approve the updated
33 goals and objectives. The updated goals and objectives shall be
34 included as an update to the existing memorandum of
35 understanding between the G-TEDA and the department.

36 (2) G-TEDAs that fail to obtain approved updated goals and
37 objectives by April 15, 2008, shall be dedesignated effective July
38 1, 2008. The Director of Housing and Community Development
39 shall provide notice of prospective dedesignation to the local
40 government no later than May 1, 2008. The director may authorize

1 up to two 60-calendar-day extensions, if the local government and
2 G-TEDA are acting in good faith and the additional time would
3 allow them to meet the requirements of this subdivision. Businesses
4 located within a G-TEDA that have been dedesignated shall
5 continue to have access to tax incentives previously authorized
6 within the G-TEDA pursuant to Section 7082.2.

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

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

12 ~~(d)~~

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

20 (f) *The department shall submit a report to the Legislature on*
21 *or before December 31, 2010, addressing the period of January*
22 *1, 2004, to July 1, 2010, inclusive, and submit a report every six*
23 *years thereafter, addressing the period of the six immediately*
24 *preceding fiscal years, that evaluates the effect of the program on*
25 *employment, investment, and incomes, and on state and local tax*
26 *revenues in designated enterprise zones. The assessment shall*
27 *differentiate the progress made by G-TEDAs designated prior to*
28 *January 1, 2007, and those designated after January 1, 2007.*

29 SEC. 5. *The Legislature finds and declares both of the*
30 *following:*

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

33 (b) *The changes made by this act to subdivisions(e) of Section*
34 *7085.1 of the Government Code are technical, nonsubstantive*
35 *corrections.*

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, September 4, 2009. (JR11)**

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