

CALIFORNIA CODES
GOVERNMENT CODE
SECTION 7070-7089

7070. This chapter shall be known and may be cited as the Enterprise Zone Act.

7071. The Legislature finds and declares as follows:

(a) The health, safety, and welfare of the people of California depend upon the development, stability, and expansion of private business, industry, and commerce, and there are certain areas within the state that are economically depressed due to a lack of investment in the private sector. Therefore, it is declared to be the purpose of this chapter to stimulate business and industrial growth in the depressed areas of the state by relaxing regulatory controls that impede private investment.

(b) It is in the economic interest of the state to have one strong, combined, and business-friendly incentive program to help attract business and industry to the state, to help retain and expand existing state business and industry, and to create increased job opportunities for all Californians.

(c) No enterprise zone shall be designated in which any boundary thereof is drawn in a manner so as to include larger stable businesses or heavily residential areas to the detriment of areas that are truly economically depressed.

(d) Nothing in this chapter shall be construed to infringe upon regulations relating to the civil rights, equal employment rights, equal opportunity rights, or fair housing rights of any person.

7072. For purposes of this chapter, the following definitions shall apply:

(a) "Department" means the Department of Housing and Community Development.

(b) "Date of original designation" means the earlier of the following:

(1) The date the eligible area receives designation as an enterprise zone by the department pursuant to this chapter.

(2) In the case of an enterprise zone deemed designated pursuant to subdivision (e) of Section 7073, the date the enterprise zone or program area received original designation by the former Trade and Commerce Agency pursuant to Chapter 12.8 (commencing with Section 7070) or Chapter 12.9 (commencing with Section 7080), as those chapters read prior to January 1, 1997.

(c) "Eligible area" means any of the following:

(1) An area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070), as it read prior to January 1, 1997, or as a targeted economic development area, neighborhood development area, or program area pursuant to Chapter 12.9 (commencing with Section 7080), as it read prior to January 1, 1997.

(2) A geographic area that, based upon the determination of the department, fulfills at least one of the following criteria:

(A) The proposed geographic area meets the Urban Development Action Grant criteria of the United States Department of Housing and Urban Development.

(B) The area within the proposed eligible area has experienced plant closures within the past two years affecting more than 100 workers.

(C) The city or county has submitted material to the department for a finding that the proposed geographic area meets criteria of economic distress related to those used in determining eligibility under the Urban Development Action Grant Program and is therefore an eligible area.

(D) The area within the proposed zone has a history of gang-related activity, whether or not crimes of violence have been committed.

(3) A geographic area that meets at least two of the following criteria:

(A) The census tracts within the proposed eligible area have an unemployment rate not less than 3 percentage points above the statewide average for the most recent calendar year as determined by the Employment Development Department.

(B) The county of the proposed eligible area has more than 70 percent of the children enrolled in public school participating in the federal free lunch program.

(C) The median household income for a family of four within the census tracts of the proposed eligible area does not exceed 80 percent of the statewide median income for the most recently available calendar year.

(d) "Enterprise zone" means any area within a city, county, or city and county that is designated as an enterprise zone by the department in accordance with Section 7073.

(e) "Governing body" means a county board of supervisors or a city council, as appropriate.

(f) "G-TEDA" means a geographically targeted economic development area, which is an area designated as an enterprise zone, a Manufacturing Enhancement Area, a targeted tax area, or a local agency military base recovery area.

(g) "High-technology industries" includes, but is not limited to, the computer, biological engineering, electronics, and telecommunications industries.

(h) "Resident," unless otherwise defined, means a person whose principal place of residence is within a targeted employment area.

(i) (1) "Targeted employment area" means an area within a city, county, or city and county that is composed solely of those census tracts designated by the United States Department of Housing and Urban Development as having at least 51 percent of its residents of low- or moderate-income levels, using either the most recent United States Department of Census data available at the time of the original enterprise zone application or the most recent census data available at the time the targeted employment area is designated to determine that eligibility. The purpose of a "targeted employment area" is to encourage businesses in an enterprise zone to hire eligible residents of certain geographic areas within a city, county, or city and county. A targeted employment area may be, but is not required to be, the same as all or part of an enterprise zone. A targeted employment area's boundaries need not be contiguous. A targeted employment area does not need to encompass each eligible census tract within a city, county, or city and county. The governing body of each city, county, or city and county that has jurisdiction of the enterprise zone shall identify those census tracts whose residents are in the most need of this employment targeting. Only those census tracts within the jurisdiction of the city, county, or city and county that has jurisdiction of the enterprise zone may be included in a targeted employment area.

(2) At least a part of each eligible census tract within a targeted employment area shall be within the territorial jurisdiction of the city, county, or city and county that has jurisdiction for an enterprise zone. If an eligible census tract encompasses the territorial jurisdiction of two or more local governmental entities, all of those entities shall be a party to the designation of a targeted employment area. However, any one or more of those entities, by resolution or ordinance, may specify that it shall not participate in the application as an applicant, but shall agree to complete all actions stated within the application that apply to its jurisdiction, if the area is designated.

(3) Each local governmental entity of each city, county, or city and county that has jurisdiction of an enterprise zone shall approve, by resolution or ordinance, the boundaries of its targeted employment area, regardless of whether a census tract within the proposed targeted employment area is outside the jurisdiction of the local governmental entity.

(4) (A) Within 180 days of updated United States census data becoming available, each local governmental entity of each city, county, or city and county that has jurisdiction of an enterprise zone shall approve, by resolution or ordinance, boundaries of its targeted employment area reflecting the new census data. If no changes are necessary to the boundaries based on the most current census data, the enterprise zone may send a letter to the department stating that a review has been undertaken by the respective local governmental entities and no boundary changes are required.

(B) A targeted employment area boundary approved prior to the 2000 United States census data becoming available that has not been reviewed and its boundaries revised to reflect the most recent census data, shall be reviewed and updated, and a new resolution or ordinance submitted by the appropriate local governmental entity to the department, by July 1, 2007. However, enterprise zones that expire on or prior to December 31, 2008, shall be exempt from the update requirement.

7072.5. By April 1, 1998, a governing body that has already designated a target employment area may request, by a resolution of all cities or counties having jurisdiction over the enterprise zone, to re-designate the targeted employment area using more current census data. A targeted employment area shall be comprised of census tracts from only one decennial census.

7073.

(a) Except as provided in subdivision (e), any city, county, or city and county with an eligible area within its jurisdiction may complete a preliminary application for designation as an enterprise zone. The applying entity shall establish definitive boundaries for the proposed enterprise zone and the targeted employment area.

(b) (1) In designating enterprise zones, the department shall select from the applications submitted those proposed enterprise zones that, upon a comparison of all of the applications submitted, indicate that they propose the most appropriate, innovative, and comprehensive regulatory, tax, program, and other incentives in attracting private sector investment in the zone proposed.

(2) For purposes of this subdivision, regulatory incentives include, but are not limited to, all of the following:

(A) The suspension or relaxation of locally originated or modified building codes, zoning laws, general development plans, or rent controls.

(B) The elimination or reduction of fees for applications, permits, and local government services.

(C) The establishment of a streamlined permit process.

(3) For purposes of this subdivision, tax incentives include, but are not limited to, the elimination or reduction of construction taxes or business license taxes.

(4) For the purposes of this subdivision, program and other incentives may include, but are not limited to, all of the following:

- (A) The provision or expansion of infrastructure.
- (B) The targeting of federal block grant moneys, including small cities, education, and health and welfare block grants.
- (C) The targeting of economic development grants and loan moneys, including grant and loan moneys provided by the federal Urban Development Action Grant program and the federal Economic Development Administration.
- (D) The targeting of state and federal job disadvantaged and vocational education grant moneys, including moneys provided by the federal Job Training Partnership Act of 1982 (Public Law 97-300).
- (E) The targeting of federal or state transportation grant moneys.
- (F) The targeting of federal or state low-income housing and rental assistance moneys.
- (G) The use of tax allocation bonds, special assessment bonds, bonds under the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5), industrial development bonds, revenue bonds, private activity bonds, housing bonds, bonds issued pursuant to the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5), certificates of participation, hospital bonds, redevelopment bonds, school bonds, and all special provisions provided for under federal tax law for enterprise community or empowerment zone bonds.

5) In the process of designating new enterprise zones, the department shall take into consideration the location of existing zones and make every effort to locate new zones in a manner that will not adversely affect any existing zones.

(6) In designating new enterprise zones, the department shall include in its criteria the fact that jurisdictions have been declared disaster areas by the President of the United States within the last seven years.

(7) When reviewing and ranking new enterprise zone applications, the department shall give special consideration or bonus points, or both, to applications from jurisdictions that meet at least two of the following criteria:

- A) The percentage of households within the census tracts of the proposed enterprise zone area, the income of which is below the poverty level, is at least 17.5 percent.
- B) The average unemployment rate for the census tracts of the proposed enterprise zone area was not less than five percentage points above the statewide average for the most recent calendar year as determined by the Employment Development Department.
- (C) The applicant jurisdiction has, and can document that it has, a unique distress factor affecting long-term economic development, including, but not limited to, resource depletion, plant closure, industry recession, natural disaster, or military base closure.

c) In evaluating applications for designation, the department shall ensure that applications are not disqualified solely because of technical deficiencies, and shall provide applicants with an opportunity to correct the deficiencies. Applications shall be disqualified if the deficiencies are not corrected within two weeks.

- (d) (1) Except as provided in paragraph (2), or upon dedesignation pursuant to subdivision (c) of Section 7076.1 or Section 7076.2, a designation made by the department shall be binding for a period of 15 years from the date of the original designation.
- 2) The designation period for any zone designated pursuant to either Section 7073 or 7085 prior to 1990 may total 20 years, subject to possible dedesignation pursuant to subdivision (c) of Section 7076.1 or Section 7076.2, if the following requirements are met:
- (A) The zone receives a superior or passing audit pursuant to subdivision (c) of Section 7076.1.
- (B) The local jurisdictions comprising the zone submit an updated economic development plan to the department justifying the need for an additional five years by defining goals and objectives that still need to be achieved and indicating what actions are to be taken to achieve these goals and objectives.
- (e) (1) Notwithstanding any other provision of law, any area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or as a targeted economic development area, neighborhood economic development area, or program area pursuant to Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997, or any program area or part of a program area deemed designated as an enterprise zone pursuant to Section 7085.5 as it read prior to January 1, 1997, shall be deemed to be designated as an enterprise zone pursuant to this chapter. The effective date of designation of the enterprise zone shall be that of the original designation of the enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or of the program area pursuant to Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997, and in no event may the total designation period exceed 15 years, except as provided in paragraph (2) of subdivision (d).
- (2) Notwithstanding any other provision of law, any enterprise zone authorized, but not designated, pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, shall be allowed to complete the application process started pursuant to that chapter, and to receive final designation as an enterprise zone pursuant to this chapter.
- (3) Notwithstanding any other provision of law, any expansion of a designated enterprise zone or program area authorized pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997, shall be deemed to be authorized as an expansion for a designated enterprise zone pursuant to this chapter.
- (4) No part of this chapter may be construed to require a new application for designation by an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or a targeted economic development area, neighborhood economic development area, or program area designated pursuant to Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997.
- (f) Notwithstanding any other provision of law, a city, county, or city and county may designate a joint powers authority to administer the enterprise zone.
- (g) This section shall only apply to enterprise zone applications for which the department has issued a solicitation for new enterprise zone designations prior to January 1, 2007.

7073.1.

(a) Except as provided in subdivision (e), any city, county, or city and county with an eligible area within its jurisdiction may complete a preliminary application for designation as an enterprise zone. The applying entity shall establish definitive boundaries for the proposed enterprise zone and the targeted employment area. An entity may propose zones in areas with noncontiguous boundaries, and the department may designate those areas as zones if the director determines both of the following:

- (1) The noncontiguous area is needed to implement the applicant's economic development strategy.
- (2) The excluded area between the proposed zone boundaries would not, based on the proposed economic strategy, also benefit from the zone designation.

(b) (1) In designating enterprise zones, the department shall select from the applications submitted those proposed enterprise zones that, upon a comparison of all of the applications submitted, indicate that they propose the most appropriate economic development strategy and implementation plan utilizing state and local programs and incentives to create jobs, attract private sector investment, and improve the economic conditions within the zone proposed. The department shall prescribe a format that promotes succinct and focused strategies and plans, and set minimum standards for the strategies and plans. For the purposes of this subdivision, important elements of a strategy or plan may include, but are not limited to, all of the following:

- (A) An assessment of current financial and community development strengths, needs, and opportunities.
- (B) A framework for investment of time, action, and money.
- (C) Clear articulation of goals.
- (D) Measurable objectives, including targets.
- (E) Proposed implementation activities and tasks, including timeframes, and a framework for evaluating performance, including qualitative and quantitative benchmarks.

(2) For purposes of this subdivision, local incentives may include, but are not limited to, all of the following:

- (A) The suspension or relaxation of locally originated or modified building codes, zoning laws, general development plans, or rent controls.
- (B) The elimination or reduction of fees for applications, permits, and local government services.
- (C) The establishment of a streamlined permit process.
- (D) Elimination or reduction of construction taxes or business license taxes.
- (E) The provision or expansion of infrastructure.
- (F) The targeting of federal block grant moneys, including small cities, education, and health and welfare block grants.
- (G) The targeting of economic development grants and loan moneys, including grant and loan moneys provided by the United States Department of Housing and Urban Development.
- (H) The targeting of state and federal job disadvantaged and vocational education grant moneys, including moneys provided by the federal Workforce Investment Act of 1998 (Public Law 105-220), or its successor.
- (I) The targeting of federal or state transportation grant moneys.

(J) The targeting of federal or state low-income housing and rental assistance moneys.

(K) The use of tax allocation bonds, special assessment bonds, bonds under the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5), industrial development bonds, revenue bonds, private activity bonds, housing bonds, bonds issued pursuant to the Marks-Roos Local Bond Pooling Act of 1985 (Article 4 (commencing with Section 6584) of Chapter 5), certificates of participation, hospital bonds, redevelopment bonds, school bonds, and all special provisions provided for under federal tax law for enterprise community or empowerment zone bonds.

(3) When designating new enterprise zones, the department shall take into consideration the location of existing zones and make every effort to locate new zones in a manner that will not adversely affect any existing zones.

(4) When reviewing and ranking new enterprise zone applications, the department shall give bonus points to applications from jurisdictions that meet minimum threshold points and at least two of the following criteria:

(A) The percentage of households within the census tracts of the proposed enterprise zone area, the income of which is below the poverty level, is at least 17.5 percent.

(B) The average unemployment rate for the census tracts of the proposed enterprise zone area was not less than five percentage points above the statewide average for the most recent calendar year as determined by the Employment Development Department.

(C) The applicant jurisdiction has, and can document that it has, a unique distress factor affecting long-term economic development, including, but not limited to, resource depletion, plant closure, industry recession, natural disaster, or military base closure.

(5) Except as modified pursuant to paragraph (4), applications shall be ranked by the appropriateness of the economic development strategy and implementation plan, including all of the following:

(A) The extent the strategy clearly identifies the local resources, incentives, and programs that will be made available to the zone for meeting its goals and objectives.

(B) The extent the strategy provides for attracting private sector investment.

(C) The extent the strategy includes related regional and community-based partnerships for achieving the goals and objectives in the strategy.

(D) The extent the strategy fits within the jurisdiction's overall economic development strategy, including the extent the strategy and implementation plan is appropriate for the local community.

(E) The extent the strategy addresses the hiring and retention of unemployed or underemployed residents or low-income individuals in the proposed zone and surrounding areas.

(F) The extent the strategy sets reasonable and measurable benchmarks, goals, and objectives.

(G) The extent the strategy sets forth an appropriate funding schedule for management, oversight, and program delivery within the zone relative to the benchmarks, goals, and objectives in the strategy.

(H) The extent that the economic development strategy has a comprehensive incentive package for attracting private investment to the enterprise zone.

(c) In evaluating applications for designation, the department shall ensure that applications are not disqualified solely because of technical deficiencies, and shall provide applicants with an opportunity to correct the deficiencies. Applications shall be disqualified if the deficiencies are not corrected within two weeks.

(d) Except upon dedesignation pursuant to subdivision (c) of Section 7076.1, Section 7076.2, or Section 7085.1, a designation made by the department shall be binding for a period of 15 years from the date of the original designation.

(e) This section shall only apply to enterprise zone applications for which the department has issued a solicitation for new enterprise zone designations on or after January 1, 2007.

7073.8.

(a) The department shall designate up to two Manufacturing Enhancement Areas requested by the governing boards of cities each of which shall meet at least the following criteria:

(1) The unemployment rate in the county in which the applicant is located has been at least three times the state average from 1990 to 1995, inclusive.

(2) The applicant city is, or portions of the city are, designated a federal enterprise community or empowerment zone pursuant to Subchapter U (commencing with Section 1391) of Chapter 1 of Subtitle A of Title 26 of the United States Code.

(3) The applicant city is located in a Border Environment Cooperation Commission region as specified in Section 3473 of Title 19 of the United States Code.

(4) At least one of the following:

(A) The designated area has grown by less than 5 percent in population per year for each of the two years preceding the application date.

(B) The median household income for the designated area is under twenty-five thousand dollars (\$25,000) per year.

(C) The designated area has a population of under 20,000 persons according to the 1990 federal census.

(D) The designated area is located in a rural community.

(5) An audit of the program shall be made pursuant to Section 7076.1 by the department with the cooperation of the local governing board. The audit shall be used to determine how effective the designation has been in attracting manufacturing facilities and creating new employment opportunities. Continuation of the designation is contingent on evidence of success of the program.

(b) For purposes of applying any provision of the Revenue and Taxation Code, any Manufacturing Enhancement Area designated pursuant to this section shall not be considered an enterprise zone designated pursuant to this chapter.

(c) The designation as a Manufacturing Enhancement Area pursuant to this section shall be binding for a period of 15 years, commencing January 1, 1998.

7073.9. Upon approval by the department of an application by a city, county, or city and county, a manufacturing enhancement area in Imperial County is expanded to the extent proposed, but in no event by more than a 200-acre site that is located in Imperial County and used for purposes of those lines of business described in Codes 2011 to 3999, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, to include definitive boundaries that are contiguous to the manufacturing enhancement area. The

department shall approve an application for expansion of the manufacturing enhancement area if it determines that the proposed additional territory meets the criteria specified in Section 7073.8 to the same extent as the existing territory of the manufacturing area and if all of the following conditions are met:

- (a) The governing body of each city in which the manufacturing enhancement is located approves an ordinance or resolution approving the proposed expansion of that area.
- (b) The additional territory proposed to be added to the manufacturing enhancement area is zoned for industrial or commercial use.
- (c) Basic infrastructure, including, but not limited to, gas, water, electrical service, and sewer systems is available to the additional territory proposed to be added to the manufacturing enhancement area.

7074.

(a) In the case of any enterprise zone, including an enterprise zone formerly designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or as a program area pursuant to Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997, a city, county, or city and county may propose that the enterprise zone be expanded by 15 percent to include definitive boundaries that are contiguous to the enterprise zone.

(b) The department may approve an enterprise zone expansion proposed pursuant to this section based on the following criteria:

- (1) Each of the adjacent jurisdictions' governing bodies approves the expansion by adoption of an ordinance or resolution.
- (2) Land included within the proposed expansion is zoned for industrial or commercial use.
- (3) Basic infrastructure, including, but not limited to, gas, water, electrical service, and sewer systems, is available to the area that would be included in the expansion.

(c) A city, county, or city and county may propose to use an eligible expansion allotment to expand into an adjacent jurisdiction pursuant to this section if the department finds that all of the following conditions exist:

(1) The governing body of the local agency with jurisdiction over the existing enterprise zone and the governing body of the local agency with jurisdiction over the proposed expansion area each approve the expansion by adoption of an ordinance or resolution. The ordinance or resolution by the jurisdiction containing the proposed expansion area shall indicate that the jurisdiction will provide the same or equivalent local incentives as provided by the jurisdiction of the existing enterprise zone.

(2)

(A) Land included within the proposed expansion is zoned for industrial or commercial use.

(B) An expansion area may contain noncommercial or nonindustrial land only if that land is a right-of-way and is needed to meet the requirement for a contiguous expansion between an existing enterprise zone and a proposed expansion area.

(3) Basic infrastructure, including, but not limited to, gas, water, electrical service, and sewer systems, is available to the area that would be included in the expansion.

- (4) The expansion area is contiguous to the existing enterprise zone.
- (d) (1) Except as otherwise provided in paragraph (2), in no event shall an enterprise zone be permitted to expand more than 15 percent in size from its size on the date of original designation, including any expansion authorized pursuant to Chapter 12.8 (commencing with Section 7070), or Chapter 12.9 (commencing with Section 7080), as those chapters read prior to January 1, 1997.
- (2) If an enterprise zone, on the date of original designation, is no greater than 13 square miles, it may be permitted to expand up to 20 percent in size from its size on the date of original designation.
- (e) A city, county, or city and county may propose expansion into a noncontiguous area if the department finds both of the following:
- (1) The noncontiguous area is needed to implement the enterprise zone's economic development strategy.
- (2) The excluded areas between the proposed new boundaries would not, based on the enterprise zone's economic development strategy, also benefit from enterprise zone expansion.

7074.2.

(a) Notwithstanding any other provision of law, a city, county, or a city and county may designate a joint powers authority to administer an enterprise zone.

(b) No more than 42 enterprise zones may be designated at any one time pursuant to this chapter, including those deemed designated pursuant to subdivision (e) of Section 7073. Upon the expiration or termination of a designation, the department may designate another enterprise zone to maintain a total of 42 enterprise zones.

(c) Notwithstanding any other provision of law, an expiring enterprise zone that applies for a new enterprise zone designation pursuant to Section 7073 or 7073.1, and receives a conditional designation letter from the department, may offer, and a taxpayer doing business within the geographic boundaries of the new zone referenced in the conditional designation letter shall be eligible to receive, all enterprise zone benefits until the department makes a final designation or declines to redesignate the zone. The department shall make the effective date of the new zone the date of expiration of the previous designation and the term of the new zone shall begin on that date.

7074.5. In the case of the Counties of Fresno and Kern, an enterprise zone that is located in a city or in the unincorporated area of the county may propose to use eligible expansion allotment to expand into an adjacent city or cities, or an adjacent unincorporated area of the county, subject to the conditions specified in Section 7074.

7075.

(a) For preliminary applications filed before October 1, 2007, the following shall apply:

(1) Upon filing a preliminary application, the applicant city, county, or city and county, as lead agency, shall submit an initial study and a notice of preparation to the department, the state clearinghouse, and all responsible agencies.

(2) Only an applicant lead agency chosen by the department as a final applicant shall prepare, or cause to be prepared, a draft environmental impact report, which shall set forth the potential environmental impacts of any and all development planned within the enterprise

zone. The draft environmental impact report shall be submitted to the department with the final application.

(3) Prior to final designation by the department, the applicant shall complete and certify the final environmental impact report.

(4) The environmental impact report shall comply with Division 13 (commencing with Section 21000) of the Public Resources Code.

(5) No further environmental impact report shall be required if the effects of the project were any of the following:

(A) Mitigated or avoided as a result of the environmental impact report prepared for the area.

(B) Examined at a sufficient level of detail in the environmental impact report for the area to enable those effects to be mitigated or avoided by specific site revisions, the imposition of conditions, or other means in connection with the designation of the area.

(C) Identified in the final environmental impact report and the lead agency made written findings that specific economic, social, or other considerations made the mitigation measures or project alternatives identified in the final environmental impact report unfeasible.

(b) For preliminary applications filed on and after October 1, 2007, the following shall apply:

(1) Upon filing a preliminary application, the applicant, city, county, or city and county, as lead agency, shall submit an initial study and a notice of preparation if an environmental impact report is to be prepared, to the department, the state clearinghouse, and all responsible agencies.

(2) Only an applicant lead agency chosen by the department as a final applicant shall prepare, or cause to be prepared, a draft environmental impact report, negative declaration, or mitigated negative declaration, as required by Division 13 (commencing with Section 21000) of the Public Resources Code, which shall be submitted to the department with the final application.

(3) Prior to final designation by the department, the applicant lead agency shall complete and certify the final environmental impact report, or approve the negative declaration or mitigated negative declaration.

(4) The environmental impact report, negative declaration, or mitigated negative declaration shall comply with Division 13 (commencing with Section 21000) of the Public Resources Code.

7076.

(a) (1) The department shall provide technical assistance to the enterprise zones designated pursuant to this chapter with respect to all of the following activities:

(A) Furnish limited onsite assistance to the enterprise zones when appropriate.

(B) Ensure that the locality has developed a method to make residents, businesses, and neighborhood organizations aware of the opportunities to participate in the program.

(C) Help the locality develop a marketing program for the enterprise zone.

(D) Coordinate activities of other state agencies regarding the enterprise zones.

(E) Monitor the progress of the program.

(F) Help businesses to participate in the program.

(2) Notwithstanding existing law, the provision of services in subparagraphs (A) to (F), inclusive, shall be a high priority of the department.

(3) The department may, at its discretion, undertake other activities in providing management and technical assistance for successful implementation of this chapter.

(b) The applicant shall be required to begin implementation of the enterprise zone plan contained in the final application within six months after notification of final designation or the enterprise zone shall lose its designation.

(c) The department may establish, charge, and collect a fee as reimbursement for the costs of its administration of this chapter. The department shall assess each enterprise zone and manufacturing enhancement area a fee of not more than ten dollars (\$10) for each application for issuance of a certificate pursuant to subdivision (j) of Section 17053.47 of, subdivision (c) of Section 17053.74 of, subdivision (c) of Section 23622.7 of, or subdivision (i) of Section 23622.8 of, the Revenue and Taxation Code. The enterprise zone or manufacturing enhancement area administrator shall collect this fee at the time an application is submitted for issuance of a certificate.

7076.1.

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

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

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

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

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

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

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

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

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

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

(B) Any G-TEDA that is determined to be failing shall enter into a written agreement with the department that specifies those items that the G-TEDA is required to remedy or improve. Failure of the G-TEDA and the department to negotiate and enter into a written agreement as so described within 60 days of the last day upon which the department is required to deliver a response letter pursuant to subparagraph

(C) shall result in the dedesignation of the G-TEDA on January 1 immediately following the department's written notice of dedesignation to the G-TEDA. A written agreement entered into pursuant to this subparagraph shall be for a six-month period. If, upon the expiration of the agreement, the department determines that the G-TEDA has not met or implemented at least 75 percent of the conditions set forth in the agreement, the department shall, after immediately providing written notification to each jurisdiction comprising the G-TEDA that the G-TEDA is to be dedesignated, dedesignate the G-TEDA effective on the first day of the month next following the date upon which the agreement expired. If, upon expiration of the agreement, the department determines that the G-TEDA has met or implemented at least 75 percent of the conditions set forth in the agreement, the department shall do either of the following:

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

(ii) Pursuant to written notice provided immediately to each jurisdiction that comprises the G-TEDA that the G-TEDA is to be dedesignated, dedesignate the G-TEDA effective on January 1 immediately following the date of the department's written notification of dedesignation to those jurisdictions. Any business, located within any jurisdiction that comprises a G-TEDA that has been dedesignated, that has elected to avail itself of any state tax incentive specifically applicable to a G-TEDA for any taxable or income year beginning prior to the dedesignation of the G-TEDA may, to the extent the business is otherwise still

eligible for those incentives, continue to avail itself of those incentives for a period equal to the remaining life of the G-TEDA. However, any business, located within any jurisdiction that comprises a G-TEDA that has been dedesignated, that has not availed itself of any state tax incentive in the manner described in the preceding sentence may not, after dedesignation of the G-TEDA, avail itself of any state incentive specifically applicable to a G-TEDA.

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

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

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

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

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

7076.2.

(a) The department shall dedesignate a zone on the first day of the month immediately following the date upon which the department has received from each jurisdiction comprising the zone a resolution, adopted by the governing body of that jurisdiction, requesting the dedesignation of the zone. Upon the dedesignation of a zone pursuant to this subdivision, the department shall initiate an application process for a new designation as provided in Section 7073.

(b) The department shall exclude from a zone that portion of that zone that is located within a jurisdiction on the first day of the month immediately following the date upon which the department receives from that jurisdiction a resolution, adopted by the governing body of that jurisdiction, requesting that exclusion. Any jurisdiction that provides notice to the department pursuant to this subdivision shall concurrently provide a copy of that notice to all other jurisdictions that comprise the affected zone.

(c) Any business, located within any jurisdiction that comprises a zone that has been dedesignated or within a jurisdiction that has excluded itself from a zone, that has elected to avail itself of any state tax incentive specifically applicable to a zone for any taxable or income year beginning prior to the dedesignation of the zone or the exclusion of a jurisdiction comprising the zone may, to the extent the business is still otherwise eligible for those incentives, continue to avail itself of those incentives for a period equal to the remaining life of the zone. However, any business, located within any jurisdiction that comprises a zone that has been dedesignated or within a jurisdiction that has excluded itself from a zone, that has not availed itself of any state tax incentive in the manner described in the preceding sentence may not, after dedesignation of the zone, avail itself of any state incentive specifically applicable to a zone.

- (d) For purposes of this section, "dedesignation" is defined as set forth in paragraph (1) of subdivision (d) of Section 7076.1.

7077. Notwithstanding any other provision of law, state and local agencies may lease land to businesses in a designated enterprise zone at a price below fair market value, provided that it serves a public purpose to lease at below fair market value.

7078. The limitations in Section 91503 on the allowable uses of proceeds of bonds issued pursuant to Title 10 (commencing with Section 91500) shall not apply to bonds issued on behalf of any enterprise zone or any portion of that zone.

7079. Notwithstanding any other provision of law, the Office of Small Business shall establish regulations for loans and loan guarantees administered by the office that give high priority to businesses in a designated enterprise zone.

7080. Notwithstanding Sections 32646 and 32647 of the Financial Code, a high priority in ranking loan applications by the State Assistance Fund for Energy, California Business and Development Corporation, shall be given to businesses in a designated enterprise zone, that are purchasing or providing alternative energy systems.

7081. Notwithstanding any other provision of state law, and to the extent permitted by federal law, the Employment Development Department and the State Department of Education shall give high priority to the training of unemployed individuals who reside in a targeted employment area or a designated enterprise zone. The department may assist localities in designating local business, labor, and education consortia to broker activities between the employment community and educational and training institutions. Any available discretionary funds may be used to assist the creation of those consortia.

7082. Notwithstanding any other provision of law, the Office of Criminal Justice Planning shall give high priority to designated enterprise zones in the allocation of its program resources.

7082.2. In the case of a G-TEDA being dedesignated pursuant to Section 7085.1, any business located within any jurisdiction that comprises a G-TEDA that has been dedesignated or within a jurisdiction that has excluded itself from a G-TEDA, that has elected to avail itself of any state tax incentive specifically applicable to a G-TEDA for any taxable or income year beginning prior to the dedesignation of the G-TEDA or the exclusion of a jurisdiction comprising the G-TEDA may, to the extent the business is still otherwise eligible for those incentives, continue to avail itself of those incentives for a period equal to the remaining life of the G-TEDA. However, any business located within any jurisdiction that comprises a G-TEDA that has been dedesignated or within a jurisdiction that has excluded itself from a G-TEDA, that has not availed itself of any state tax incentive in the manner described in the preceding sentence may not, after dedesignation of the G-TEDA, avail itself of any state incentive specifically applicable to a G-TEDA.

7083. Any designation of an enterprise zone in accordance with the provisions of this chapter shall be deemed appropriate state designation of an enterprise zone for purposes of qualifying that zone as an enterprise community or empowerment zone under federal law.

7084.

(a) Whenever the state prepares a solicitation for a contract for goods in excess of one hundred thousand dollars (\$100,000), except a contract in which the worksite is fixed by the provisions of the contract, the state shall award a 5-percent preference to California-based companies that demonstrate and certify under penalty of perjury that of the total labor hours required to manufacture the goods and perform the contract, at least 50 percent of the hours shall be accomplished at an identified worksite or worksites located in an enterprise zone.

(b) In evaluating proposals for contracts for services in excess of one hundred thousand dollars (\$100,000), except a contract in which the worksite is fixed by the provisions of the contract, the state shall award a 5-percent preference on the price submitted by California-based companies that demonstrate and certify under penalty of perjury that not less than 90 percent of the labor hours required to perform the contract shall be accomplished at an identified worksite or worksites located in an enterprise zone.

(c) Where a bidder complies with subdivision (a) or (b), the state shall award a 1-percent preference for bidders who certify under penalty of perjury to hire persons living within a targeted employment area or are enterprise zone eligible employees equal to 5 to 9 percent of its workforce during the period of contract performance; a 2-percent preference for bidders who shall agree to hire persons living within a targeted employment area or are enterprise zone eligible employees equal to 10 to 14 percent of its workforce during the period of contract performance; a 3-percent preference for bidders who shall agree to hire persons living within a targeted employment area or are enterprise zone eligible employees equal to 15 to 19 percent of its workforce during the period of contract performance; and a 4-percent preference for bidders who shall agree to hire persons living within a targeted employment area or are enterprise zone eligible employees equal to 20 or more percent of its workforce during the period of contract performance.

(d) The maximum preference a bidder may be awarded pursuant to this chapter and any other provision of law shall be 15 percent. However, in no case shall the maximum preference cost under this section exceed fifty thousand dollars (\$50,000) for any bid, nor shall the combined cost of references granted pursuant to this section and any other provision of law exceed one hundred thousand dollars (\$100,000). In those cases where the 15-percent cumulated preference cost would exceed the one hundred thousand dollar (\$100,000) maximum preference cost limit, the one hundred thousand dollar (\$100,000) maximum preference cost limit shall apply.

(e) Notwithstanding any other provision of this section, small business bidders qualified in accordance with Section 14838 shall have precedence over nonsmall business bidders in that the application of any bidder preference for which nonsmall business bidders may be eligible, including the preference contained in this section, shall not result in the denial of the award to a small business bidder. This subdivision shall apply to those cases where the small business bidder is the lowest responsible bidder, as well as to those cases where the small business bidder is eligible for award as the result of application of the 5-percent small business bidder incentive.

(f) All state contracts issued to bidders who are awarded preferences under this section shall contain conditions to ensure that the contractor performs the contract at the location specified and meets any commitment to employ persons with high risk of unemployment.

(g) (1) A business that requests and is given the preference provided for in subdivision (a) or (b) by reason of having furnished a false certification, and that by reason of this certification has been awarded a contract to which it would not otherwise have been entitled, shall be subject to all of the following:

(A) Pay to the state any difference between the contract amount and what the state's cost would have been if the contract had been properly awarded.

(B) In addition to the amount specified in subparagraph (A), be assessed a penalty in an amount of not more than 10 percent of the amount of the contract involved.

(C) Be ineligible to directly or indirectly transact any business with the state for a period of not less than six months and not more than 36 months.

(2) Prior to the imposition of any sanction under this subdivision, the business shall be entitled to a public hearing and to five days' notice of the time and place thereof. The notice shall state the reasons for the hearing.

(h) In each instance in this section an enterprise zone shall also mean any enterprise zone or program area previously authorized under any other provision of state law.

(i) As used in this section, "enterprise zone eligible employees" means employees who meet any of the requirements of clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b) of Section 17053.74, or clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b) of Section 23622.5, of the Revenue and Taxation Code.

7085.

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

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

7085.1.

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

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

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

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

(c) (1) G-TEDAs designated prior to January 1, 2007, shall have until April 15, 2008, to update their benchmarks, goals, objectives, and funding levels for administering the G-TEDA program, in order to make them measurable and conducive to the successful completion of the economic development strategy. The local legislative body and the department shall approve the updated goals and objectives. The updated goals and objectives shall be

included as an update to the existing memorandum of understanding between the G-TEDA and the department.

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

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

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

(d) The department shall biennially make available to the Legislature information related to the progress that each G-TEDA is making toward implementing its goals, objectives, and commitments set forth in the original application, the department's memorandum of understanding with the G-TEDA, and the biennial report.

7085.5. The Franchise Tax Board shall annually make available to the department and the Legislature information, by enterprise zone and by city or county, on the dollar value of the enterprise zone tax credits that are claimed each year by businesses and shall design and distribute forms and instructions that will allow the following information to be accessible:

- (a) The number of jobs for which the hiring credits are claimed.
- (b) The number of new employees for which hiring credits are claimed.
- (c) The number of businesses claiming each individual tax credit.
- (d) The nature of the business claiming each individual tax credit.
- (e) The distribution of zone tax incentives among industry groups.
- (f) The distribution of zone tax incentives by the annual receipts and asset value of the business claiming each individual tax credit.
- (g) Any other information that the Franchise Tax Board and the department deem to be important in determining the cost to, and benefit derived by, the taxpayers of the state.

7086.

(a) The department shall design, develop, and make available the applications and the criteria for selection of enterprise zones pursuant to Section 7073 and shall adopt all regulations necessary to carry out this chapter.

(b) The department shall adopt regulations concerning the designation procedures and application process as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare, notwithstanding subdivision (e) of Section 11346.1. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall not remain in effect more than 120 days unless the department complies with all provisions of Chapter 3.5 as required by subdivision (e) of Section 11346.1.

(c) The Department of General Services, with the cooperation of the Employment Development Department, the Department of Industrial Relations, and the Office of Planning and Research, and under the direction of the State and Consumer Services Agency, shall adopt appropriate rules, regulations, and guidelines to implement Section 7084.

(d) The department shall adopt regulations governing the imposition and collection of fees pursuant to subdivision (c) of Section 7076, and the issuance of certificates pursuant to subdivision (j) of Section 17053.47 of, subdivision (c) of Section 17053.74 of, subdivision (c) of Section 23622.7 of, or subdivision (i) of Section 23622.8 of, the Revenue and Taxation Code. The regulations shall provide for a notice or invoice to fee payers as to the amount and purpose of the fee. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding subdivision (e) of Section 11346.1, the regulations shall remain in effect for no more that 360 days unless the agency complies with all the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 as required by subdivision (e) of Section 11346.1.

7089. For purposes of the Revenue and Taxation Code, each of the following shall apply:

(a) Enterprise zones designated pursuant to former Chapter 12.8 (commencing with Section 7070), as that chapter read prior to January 1, 1997, shall be deemed to remain in existence for taxable or income years beginning on or after January 1, 1996, and before January 1, 1997.

(b) Program areas designated pursuant to former Chapter 12.9 (commencing with Section 7080), as that chapter read prior to January 1, 1997, shall be deemed to remain in existence for taxable or income years beginning on or after January 1, 1996, and before January 1, 1997.

(c) For taxable or income years beginning on or after January 1, 1996, and before January 1, 1997, a taxpayer conducting business activities located in an enterprise zone designated pursuant to this chapter shall be treated as conducting business activities in an enterprise zone designated pursuant to former Chapter 12.8 (commencing with Section 7070), as that chapter read prior to January 1, 1997, or a program area designated pursuant to former Chapter 12.9 (commencing with Section 7080), as that chapter read prior to January 1, 1997.

(d) For taxable or income years beginning on or after January 1, 1997, the carryover of any unused credits or deductions attributable to a taxpayer's business activities in an enterprise zone designated pursuant to former Chapter 12.8 (commencing with Section 7070), as that chapter read prior to January 1, 1997, or a program area designated pursuant to former Chapter 12.9 (commencing with Section 7080), as that chapter read prior to January 1, 1997, from taxable or income years beginning prior to January 1, 1997, shall be allowed, but shall be treated as if earned by a taxpayer or entity engaged in a trade or business within an enterprise zone designated pursuant to this chapter. The amount of carryovers of unused enterprise zone or program area credits shall not be recomputed under the enterprise zone tax provisions that become effective for taxable or income years beginning on or after January 1, 1997.