

Date of Hearing: April 30, 2013

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT AND THE ECONOMY

Jose Medina, Chair

AB 1079 (Bradford) – As Amended: April 2, 2013

SUBJECT: Enterprise zones: energy management plans

SUMMARY: Authorizes a city, county or a city and county to prepare one or more energy management plans in order to reduce air emissions and promote economic development. Further, the bill authorizes the financing for enterprise zone energy-related improvements through the issuance of conduit revenue bonds by the state. Specifically, this bill:

- 1) Makes findings and declarations, including, but not limited to, the need for the state to encourage the development of new businesses and retention of existing businesses within enterprise zones, the benefits to existing energy utility customers from the addition of new businesses, the value of greater stability and certainty in the cost of energy services to businesses, and the optimal position that investor-owned and publically owned utilities have in facilitating these objectives.
- 2) Specifies that if a city, county, or city and county chooses to prepare an energy management plan it is required to include the following elements:
 - a) An electric or natural gas load forecast, as specified;
 - b) An assessment of the role that distributed generation, combined with accurately priced utility services, could play in providing greater rate stability and energy cost certainty, as specified;
 - c) A list of recommendations for the enhanced use of cost-effective energy efficiency and demand-side management in existing buildings and the inclusion of energy efficiency measures as part of the development of new buildings;
 - d) A plan to reduce air emissions for vehicle use within the district boundaries, as specified;
 - e) Proposed actions for the development of infrastructure to aid in the refueling of alternative fuel vehicles, as specified;
 - f) Consideration of projects that provide greater certainty of energy costs over a period of up to 15 years for businesses developing in the district;
 - g) Other proposed actions and associated utility services that may be implemented in connection with an energy management plan; and
 - h) Proposed methods of funding the activities in the energy management plan, including the California Infrastructure and Economic Development Bank (I-Bank) and the California Alternative Energy and Advanced Transportation Financing Authority, among other sources.
- 3) Specifies that the energy management plan is to be jointly developed by the city, county, or city and county and one or more of the following: servicing electoral corporation, gas corporation, local publicly owned electric utility or rural electric cooperative.

- 4) Requires expedited review of jointly developed elements of an energy management plan by the California Public Utilities Commission (PUC), as specified.
- 5) Requires the PUC and governing boards of local publically owned utilities and rural electric cooperatives to encourage electric or gas corporations to participate in developing, implementing, and administering viable energy management plans for districts.
- 6) Requires projects that promote economic development in enterprise zones pursuant to a specified energy management plan to consider conduit revenue bond financing through the I-Bank. Specifies that these projects would be eligible for funding and directs the bank to remove unnecessary barriers to that funding.

EXISTING LAW

- 1) Makes findings and declarations, including, but not limited to, the electric and natural gas utilities having a principal goal in resource planning and investment to minimize the cost to society of the reliable energy services, improve the environment, encourage conservation and energy efficiency, and to encourage the diversity of energy sources including wind, solar, and geothermal energy.
- 2) Creates the I-Bank, within the Business, Transportation and Housing Agency (BTH), to promote economic revitalization, enable future development, and encourage a healthy climate for jobs in California. The I-Bank is authorized to offer a variety of financial undertakings including, but not limited to, issuance of conduit revenue bonds for financing economic development facilities.
- 3) Defines economic development facilities to mean real and personal property, structures, buildings, equipment, and supporting components that are used to provide industrial, recreational, research, commercial, utility, or service enterprise facilities, community, educational, cultural, or social welfare facilities and any parts or combinations thereof, and all facilities or infrastructure necessary or desirable in connection therewith, including provision for working capital, but shall not include any housing.
- 4) Authorized the Department of the Housing and Community Development (HCD) to designate up to 42 enterprise zones for the purpose of stimulating business and industrial growth in depressed areas of the state. Each enterprise zone is authorized for a term of 15-years, unless there is cause for dedesignation.

FISCAL EFFECT: Unknown

COMMENTS:

- 1) Author's Purpose: According to the author, "Businesses are finding it more and more difficult to locate and expand in California. Of the numerous obstacles, the supply and cost of energy has caused a significant amount of uncertainty, staggering business growth and the creation of new jobs. In economically distressed areas, these costs paint an even bleaker picture for business development and retention.

The California Enterprise Zone program was designed to incentivize businesses retention and development in economically distressed areas. Cities and counties can provide tax incentives to make

it easier to do business in these areas. However, they lack the ability to develop energy management plans, making it difficult to achieve enterprise zone objectives. AB 1079 recognizes the importance of reducing energy costs in economically disadvantaged areas by authorizing a city, county, or city and county, to develop energy management plans jointly with the serving electric or gas utilities (including publicly owned utilities). In doing so, this bill will promote economic development, the addition of new business, and the retention of existing businesses as well as reduce air emissions in that enterprise zone."

- 2) Framing the Policy Issue: This bill proposes to encourage cities and counties to adopt comprehensive energy management plans for enterprise zones by offering an expedited PUC review of projects that flow from the plan. Enterprise zones are designated based on a select set of economic challenges that often result in reducing the competitiveness of zone businesses relative to other business across the state, nation and world. For this reason, businesses located in zones are eligible for certain incentives not available these other businesses including a tax credit to offset sales taxes and state contracting preferences.

This bill adds another incentive to assisting zone businesses, that being a coordinated focus on increasing energy efficiency and development of more sustainable form of energy production. The analysis includes additional information on energy management plans, how plans could advantage zone businesses, background on the enterprise zone program, and a list of related legislation. Suggested amendments are included in Comment 7.

- 3) Energy Management Plans: Energy management plans are comprehensive strategies for monitoring, controlling, and conserving energy. This is primarily accomplished through a systemic analysis of current energy consumption in order to identify areas of suboptimal energy usage. The resulting data is used to identify baseline energy usage metrics and opportunities for cost-effective energy savings measures through upgrades to high-efficiency equipment and systems, and promoting efficient behaviors by workers.

Efficiency improvements can be found in many different areas. Upgrades to existing infrastructure can be substantially cost-effective because advances to HVAC systems, lighting, refrigeration systems, motors, and transformers have been significant enough in recent years that the cost of replacement of decades-old equipment can be cost-neutral in little time. Modern design techniques allow for new construction and renovations to be designed to be highly energy efficient. Strategic purchasing of energy, avoiding peak hours and choosing an appropriate rate plan can also yield significant energy savings. Finally, education and institutional culture are of the utmost importance, as a successful energy management plan takes the full commitment of the entire organization.

- 4) Energy Management Plans and Enterprise Zones: High energy costs are one of California businesses' top concerns. To the extent that energy management plans help local communities identify key actions to reduce energy consumption, share best conservation practices, and access financing that would not otherwise be available, the measure benefits underserved communities.

Energy management plans within enterprise zones will, however, require unique approaches to planning and stakeholder involvement. Typically, plans are developed by entities that have some level of control over the project, building, or even a port district, as is the case in AB 628 (Gorell and Hall). Enterprise zones, however, have multiple government and nongovernmental stakeholders, each having different levels of control over various elements of the community. This lack of direct control will be a challenge to setting an agenda, financing, and ensuring commitments are kept over

times. While the bill identifies several financing options, there are still repayment requirements which could be difficult for residents and businesses in low-income areas.

A further challenge for enterprise zone-based energy management plans is ensuring that the benefits that arise from longer term planning and possible utility rate increases accrue to zone residents and businesses. Comment 7 includes a suggestion which requires a city or county to make a finding that both the costs and benefits of the projects and actions equitably apply to zone businesses and residents.

Too often low income areas become overburdened with large-scale infrastructure projects which impair the ability of a neighborhood to rationally develop, while providing its primary benefit to higher income neighboring areas. In addition, improved infrastructure can lead to gentrification and possible displacement of long-time residents and businesses. Clearly, neither of these events are the author's intent. The proposed finding is designed to raise these issues to the local government's attention, where they can be considered and possibly mitigated on a case by case basis.

- 5) The California Enterprise Zone Program: The EZ program and the other G-TEDAs are among the largest state economic development programs in California. HCD administers four G-TEDA programs including programs for the EZs, MEAs, LAMBRAs, and one TTA.

HCD is authorized to designate up to 42 enterprise zones based on a statutory list of criteria related to poverty and economic dislocation. The G-TEDA programs are based on the economic principle that targeting significant incentives to lower income communities allows these communities to more effectively compete for new businesses and retain existing businesses, resulting in increased tax revenues, decreased reliance on social services, and lower public safety costs. Residents and businesses also directly benefit from these more sustainable economic conditions through improved neighborhoods, business expansion, and job creation.

Enterprise zones are located in portions of 54 Assembly Districts and 32 Senate Districts. Enterprise zones range in size from one square mile to 70 square miles and in geographic locations ranging from Eureka and Shasta Valley near the Oregon border to San Diego and Calexico along the Mexican border.

Under the program, businesses and other entities located within the area are eligible for a variety of local and state incentives. In its application, a prospective enterprise zone is required to identify specific local government incentives that will be made available to businesses located in the proposed zone. The local incentives can, among other things, include writing down the costs of development, funding related infrastructure improvements, providing job training to prospective employees, and/or establishing streamlined processes for obtaining permits.

The state additionally offers a number of incentives, including tax credits, special tax provisions, priority notification in the sale of state surplus lands, access to certain Brownfield clean-up programs, and preferential treatment for state contracts. In addition to enterprise zones, the state is also authorized to administer several other G-TEDAs including a TTA, MEA and LAMBRA. Below is a chart comparing the state tax incentives offered to businesses located in a G-TEDA.

Comparison of State Tax Benefits by Targeted Area					
	Hiring Credit	Longer NOL ¹ Carry- Forward Period	Sales and Use Tax Credit	Accelerated Depreciation	Lender Interest Deduction
Enterprise Zone	X	X	X	X	X
Manufacturing Enhancement Zone	X				
Targeted Tax Area	X	X	X	X	
Local Agency Military Base Recovery Area	X	X	X	X	

Source: Legislative Analyst's Office

The Franchise Tax Board (FTB) reported that in 2010 – the most current comprehensive data available – \$721.5 million in enterprise zone business incentives were claimed through corporate and personal income tax (PIT) returns. Additionally, FTB reported hundreds of millions in carryover credits have been earned by businesses, but have not been claimed. Below is a chart that displays the dollar amount of enterprise zone incentives claimed through each of the tax incentives.

Enterprise Zone Tax Incentive Usage*								
Source: http://www.ftb.ca.gov/aboutFTB/Tax_Statistics/Reports/2011_Tables_Memo.pdf http://www.ftb.ca.gov/aboutFTB/Tax_Statistics/Reports/2011_Table_2_EZPA.pdf http://www.ftb.ca.gov/aboutFTB/Tax_Statistics/Rev_Est_Exhibits_1212.pdf								
	2004	2005	2006	2007	2008	2009	2010	2011
Hiring and Sales Tax Credit	\$349,127	\$362,620	\$385,677	\$430,934	\$462,682	\$458,912	\$697,912	\$476,205*
NOL Deductions	\$72,326	\$74,024	\$126,106	\$207,993	\$50,418	\$5,588	\$6,521	--
Tax Impact	\$5,171	\$5,966	\$11,351	\$15,807	\$3,433	\$359	\$523	--
Net Interest Deductions	\$432,867	\$490,129	\$517,310	\$520,372	\$264,547	\$265,683	\$335,982	--
Tax Impact	\$29,103	\$32,395	\$34,156	\$34,438	\$17,282	\$12,268	\$22,986	--
Business Expense Deductions	\$4,387	\$4,770	\$4,463	\$5,136	\$5,637	\$4,365	\$4,481	--
Tax Impact	\$222	\$200	\$188	\$197	\$199	\$163	\$159	--
Total Tax Impact	\$383,624	\$401,181	\$431,371	\$481,376	\$483,596	\$474,515	\$721,580	--

*Data shown in Thousands

¹ NOL= Net Operating Loss

Across the U.S., 37 other states have G-TEDA type programs. Economic developers have testified that the G-TEDA programs are among the state's last remaining marketing tools for attracting new businesses and investment to California. Others, however, remain unconvinced and have suggested that this level of tax expenditure could be better spent elsewhere.

- 6) California Infrastructure and Economic Development Bank: The I-Bank was established in 1994 to promote economic revitalization, enable future development, and encourage a healthy climate for jobs in California. The I-Bank administers two categories of programs: 1) The Infrastructure State Revolving Fund which provides direct low-cost financing to public agencies for a variety of public infrastructure projects; and 2) Bond financed programs which provide financing for manufacturing companies, nonprofit organizations, public agencies and other eligible entities. There is no commitment of the I-Bank or state funds for any of the category #2 conduit revenue bonds. Even in the case of default, the state is not liable.

Since its inception, the I-Bank has loaned over \$400 million to local agencies, developing a high-level of expertise in the financing of public infrastructure. The I-Bank also serves as the state's only general purpose financing authority with broad statutory powers to issue revenue bonds. Over \$30 billion in conduit revenue bonds have been issued by the I-Bank since 2000. Effective July 1, 2013 the I-Bank will be administered through the Governor's Office of Business and Economic Development (GO-Biz), pursuant to the 2012 Governor's Reorganization Plan.

AB 1079 would state that projects that come from the energy management plan would be eligible for conduit bond financing through the I-Bank. Technical amendments are proposed in Comment 7 to expand the code reference to include all of the I-Bank financing programs.

- 7) Implementing Amendments: This measure calls for the development of energy management plans for the purpose of supporting the development and expansion of businesses within the enterprise zones, creating more certainty in energy costs, and improving the environment. The following are a list of technical and implementing amendments.
- a) Modify the energy management plan requirement by:
 - i) Adding an assessment of the current energy consumption within the zone by energy source and user;
 - ii) Setting short, mid and long term goals for projects and actions;
 - iii) Identifying government and nongovernmental impediments to implementing projects and actions;
 - iv) Requiring the local government make a finding that there is an equitable distribution of costs and benefits of the projects and actions proposed in and implemented through the energy management plan.
 - b) Clarify the meaning of prohibiting the PUC from limiting the role of utilities who jointly develop recommendations;
 - c) Make technical corrections to the I-Bank provisions and expand the program to reference all I-Bank financing options;

- d) Require city and counties to engage small business technical assistance providers and business and industry-related partners in identifying energy efficiency opportunities, public education activities, and the development of funding options and packages; and
 - e) Require zones to report on the content and progress of the plans within their already required biennial report to HCD.
- 8) Related Legislation: The following is a list of related legislation.
- a) AB 628 (Gorell and Hall) Energy Management Plans at Ports: This bill authorizes a harbor and port district to prepare one or more energy management plans in order to reduce air emissions and promote economic development. Further the bill authorizes the financing for harbor and port district improvements through a specified state revolving loan fund. Status: Pending in JEDE.
 - b) AB 1530 (Huffman and V. Manuel Pérez) Clean Manufacturing Zones: This bill would have enacted the Clean Manufacturing and Job Creation Incentive Act of 2012, which establishes a process for local governments to designate clean manufacturing zone, access tax credits for local manufacturers and have those manufacturers receive priority on their permit and license applications. Status: Held by the Assembly Committee on Appropriations in 2012.

REGISTERED SUPPORT / OPPOSITION:

Support

- California Asian Pacific Chamber of Commerce
- California Association of Enterprise Zone
- California Black Chamber of Commerce
- California Manufacturers & Technology Association
- Central City Association
- Chula Vista Chamber of Commerce
- City of Pasadena
- San Diego Gas & Electric Company (the Sempra Energy utilities)
- Southern California Gas Company
- Southern California Gas Company and Sand Diego Gas & Electric Company
- The Inland Empire Economic Partnership
- The League of California Cities
- Three Individuals

Opposition

None received

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