



General Assembly

February Session, 2000

Amendment

LCO No. 4583

Offered by:

SEN. LEBEAU, 3rd Dist.

To: Subst. Senate Bill No. 450

File No. 600

Cal. No. 394

"An Act Concerning Urban And Industrial Site Reinvestment."

1 Strike out everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (a) As used in this section:

4 (1) "Commissioner" means the Commissioner of Economic and
5 Community Development.

6 (2) "Eligible industrial site investment project" means an investment
7 made in real property, or in improvements to real property, located
8 within this state: (A) (i) That has been subject to a "spill", as defined in
9 section 22a-452c of the general statutes, (ii) is an "establishment", as
10 defined in subdivision (3) of section 22a-134 of the general statutes, as
11 amended, or (iii) is a "facility", as defined in 42 USC 9601(9); (B) that, if
12 remediated, renovated or demolished in accordance with applicable
13 law and regulations and used for business purposes, may add
14 significant new economic activity and employment in the municipality
15 in which the investment is to be made, and may generate additional

16 tax revenues to the state; (C) for which the use of the urban and
17 industrial site reinvestment program may be necessary to attract
18 private investment to the project; (D) the business use of which would
19 be economically viable and would generate direct and indirect
20 economic benefits to the state that exceed the amount of the
21 investment during the period for which the tax credits granted
22 pursuant to this act are granted; and (E) that is consistent with the
23 strategic economic development priorities of the state and the
24 municipality.

25 (3) "Eligible urban reinvestment project" means an investment: (A)
26 That may add significant new economic activity and new jobs in the
27 eligible municipality in which the investment is to be made, and may
28 generate significant additional tax revenues to the state or the
29 municipality; (B) for which the use of the urban and industrial site
30 reinvestment program may be necessary to attract private investment
31 to an eligible municipality; (C) that is economically viable; (D) for
32 which the direct and indirect economic benefits to the state outweigh
33 the costs of the investment; and (E) that is consistent with the strategic
34 economic development priorities of the state and the municipality.

35 (4) "Related person" means: (A) A corporation, limited liability
36 company, partnership, association or trust controlled by the taxpayer;
37 (B) an individual, corporation, limited liability company, partnership,
38 association or trust that is in control of the taxpayer; (C) a corporation,
39 limited liability company, partnership, association or trust controlled
40 by an individual, corporation, limited liability company, partnership,
41 association or trust that is in control of the taxpayer; or (D) a member
42 of the same controlled group as the taxpayer. For purposes of this
43 section, "control", with respect to a corporation, means ownership,
44 directly or indirectly, of stock possessing fifty per cent or more of the
45 total combined voting power of all classes of the stock of such
46 corporation entitled to vote. "Control", with respect to a trust, means
47 ownership, directly or indirectly, of fifty per cent or more of the
48 beneficial interest in the principal or income of such trust. The
49 ownership of stock in a corporation, of a capital or profits interest in a

50 partnership or association or of a beneficial interest in a trust shall be
51 determined in accordance with the rules for constructive ownership of
52 stock provided in Section 267(c) of the Internal Revenue Code of 1986,
53 or any subsequent corresponding internal revenue code of the United
54 States, as from time to time amended, other than paragraph (3) of such
55 section.

56 (5) "Investment" means all amounts invested in a project, whether
57 directly or through a fund, directly or indirectly, on behalf of a
58 taxpayer, including, but not limited to: (A) Direct investments made by
59 the taxpayer, and (B) loans made to the fund for the benefit of the
60 taxpayer which loans are guaranteed by the taxpayer.

61 (6) "Income year" means (A) with respect to corporations subject to
62 taxation under chapter 208 of the general statutes, the income year as
63 determined under said chapter 208, and (B) with respect to insurance
64 companies, hospital and medical services corporations subject to
65 taxation under chapter 207 of the general statutes, the income year as
66 determined under said chapter 207.

67 (7) "Taxpayer" means any person, as defined in section 12-1 of the
68 general statutes, whether or not subject to any taxes levied by this
69 state.

70 (8) "Fund manager" means a fund manager registered in accordance
71 with subsection (d) of this section.

72 (9) "New job" means a job that did not exist in a business invested
73 in, pursuant to this section, in this state prior to issuance by the
74 commissioner of an eligibility certificate under this section for an
75 investment related to such business and that is filled by a new
76 employee, but does not mean a job created when an employee is
77 shifted from an existing location of the subject business in this state to
78 a new facility.

79 (10) "New employee" means a person hired by a business invested
80 in, pursuant to this section, to fill a position for a new job or a person

81 shifted from an existing location of such business outside this state to a
82 facility in this state, provided a person shall be deemed to be a "new
83 employee" only if such person's duties in connection with the
84 operation of the facility are on a regular, full-time, or equivalent
85 thereof, and permanent basis.

86 (11) "Eligible municipality" means (A) a municipality with an area
87 designated as an enterprise zone pursuant to section 32-70 of the
88 general statutes, (B) a distressed municipality, as defined in subsection
89 (b) of section 32-9p of the general statutes, or (C) a municipality that
90 has a population in excess of one hundred thousand.

91 (12) "Eligible project" means an eligible urban reinvestment project
92 or an eligible industrial site investment project or both.

93 (13) "Approved investment" means an investment approved by the
94 commissioner or deemed approved under subsection (g) of this
95 section.

96 (14) "Recapture amount" means the amount by which the approved
97 investment exceeds the amount of state revenue generated by the
98 approved investment.

99 (15) "Pro rata share" means the percentage of the amount invested
100 by an individual investor in an approved investment bears to the total
101 amount of the approved investment actually invested in the project, or
102 in the case of a taxpayer to whom credits are transferred under this
103 section, the percentage of the amount of credits transferred bears to the
104 total amount of the approved investment actually invested in the
105 project.

106 (b) There is established an urban and industrial site reinvestment
107 program under which taxpayers who invest in eligible urban
108 reinvestment projects or eligible industrial site investment projects
109 may be allowed a credit against the tax imposed under chapter 207 or
110 208 of the general statutes or section 38a-743 of the general statutes, or
111 a combination of said taxes, in an amount equal to the percentage of

112 their investment determined in accordance with subsection (i) of this
113 section.

114 (c) No project shall be deemed an eligible project unless such project
115 shall be of sufficient size, by itself or in conjunction with related new
116 investments, to generate a substantial return to the state economy.

117 (d) The commissioner may register managers of funds created for
118 the purpose of investing in eligible projects. Any manager registered
119 under this subsection shall have its primary place of business in this
120 state. Each applicant shall submit an application under oath to the
121 commissioner to be registered and shall furnish evidence satisfactory
122 to the commissioner of its financial responsibility, integrity,
123 professional competence and experience in managing investment
124 funds. Failure to maintain adequate fiduciary standards shall
125 constitute cause for the commissioner to revoke, after hearing, any
126 registration granted under this section. The fund manager shall make a
127 report on or before the first day of March in each year, under oath, to
128 the Commissioner of Revenue Services specifying the name, address
129 and Social Security number or employer identification number of each
130 investor, the year during which each investment was made by each
131 investor, the amount of each investment, a description of the fund's
132 investment objectives and relative performance and a description,
133 including amounts, of all fees and expenses charged or incurred by
134 such manager in relation to each fund. Any manager of funds
135 registered on or before the effective date of this section pursuant to
136 section 38a-88a of the general statutes shall be deemed registered for
137 all purposes under the provisions of this section.

138 (e) Any taxpayer or fund manager wishing to make an investment
139 under the provisions of this section shall apply to the commissioner in
140 accordance with the provisions of this section. The application shall
141 contain sufficient information to establish that the investment is an
142 eligible industrial site investment project or an urban reinvestment
143 project, as appropriate, concerning the type of investment proposed to
144 be made, its location, the number of jobs to be created or retained,

145 physical infrastructure that might be created or preserved, feasibility
146 studies or business plans for the investment, projected revenue the
147 state might derive as a result of the investment and other information
148 necessary to demonstrate the financial viability of the investment and
149 to demonstrate that the investment will provide net benefits to the
150 economy of, and employment for citizens of, the municipality and the
151 state. The commissioner shall impose a fee for such application as the
152 commissioner deems appropriate.

153 (f) (1) The commissioner shall determine whether the proposed
154 investment is an eligible urban reinvestment project or an eligible
155 industrial site investment project, whether the investment is
156 economically viable only with use of the urban and industrial site
157 reinvestment program, the effects of the project on the municipality
158 where the investment will be made and whether the project would
159 provide a net benefit to economic development and employment
160 opportunities in the state. The commissioner may require the taxpayer
161 to submit such additional information as may be necessary to evaluate
162 the application.

163 (2) The commissioner shall retain such persons as he deems
164 appropriate to prepare an economic impact assessment that uses a
165 dynamic model of the state economy and estimates the state and local
166 revenue that would be generated as a result of the investment over the
167 total number of years in which it is projected that tax credits would be
168 claimed under this section.

169 (g) (1) The commissioner, upon consideration of the application, the
170 economic impact assessment and any additional information that the
171 commissioner requires concerning a proposed investment, may
172 approve an investment only if the proposed investment is an eligible
173 urban reinvestment project or an eligible industrial site investment
174 project. The commissioner shall approve the application if the taxpayer
175 has demonstrated eligibility. If the commissioner rejects an application,
176 the commissioner shall specifically identify the defects in the
177 application and specifically explain the reasons for the rejection. The

178 commissioner shall render a decision on an application not later than
179 sixty days from its receipt. Failure to render a decision within sixty
180 days shall be deemed an approval of the application and the proposed
181 investment shall be deemed an approved investment. The amount of
182 the approved investment so approved shall not exceed the amount of
183 state revenue that will be generated pursuant to the economic impact
184 assessment prepared under this subsection.

185 (2) The approval of an investment by the commissioner may be
186 combined with the exercise of any of the commissioner's other powers,
187 including, but not limited to, the provision of other forms of financial
188 assistance.

189 (3) Upon approving an investment, the commissioner may require
190 the applicant to reimburse the commissioner for all or any part of the
191 cost of any economic impact assessment used in reviewing the
192 application.

193 (h) On the date which an investment becomes an approved
194 investment, the commissioner shall issue a certificate of eligibility
195 certifying that the applicant has complied with the provisions of this
196 section.

197 (i) (1) There shall be allowed as a credit against the tax imposed
198 under chapter 207 or 208 of the general statutes or section 38a-743 of
199 the general statutes an amount equal to the following percentage of the
200 moneys of the taxpayer invested in an approved investment with
201 respect to the following income years of the taxpayer: (A) With respect
202 to the income year in which the investment in the eligible urban
203 reinvestment project or eligible industrial site investment project was
204 made and the two next succeeding income years, zero per cent; (B)
205 with respect to the third full income year succeeding the year in which
206 the investment in the eligible urban reinvestment project or eligible
207 industrial site investment project was made and the three next
208 succeeding income years, ten per cent; (C) with respect to the seventh
209 full income year succeeding the year in which the investment in the

210 eligible urban reinvestment project or eligible industrial site
211 investment project was made and the next two succeeding years,
212 twenty per cent. The sum of all tax credits granted pursuant to the
213 provisions of this section shall not exceed fifty million dollars with
214 respect to a single approved investment.

215 (2) Notwithstanding the provisions of subdivision (1) of this
216 subsection, any applicant may, at the time of application, apply to the
217 commissioner for a credit that exceeds the limitations established by
218 this subsection. The commissioner shall evaluate the benefits of such
219 application and make recommendations to the General Assembly if
220 said commissioner determines that the proposal would be of economic
221 benefit to the state.

222 (3) Notwithstanding the provisions of subdivision (1) of this
223 subsection, in any case in which, upon consideration of an application
224 for approval of an investment or upon consideration of the
225 reinstatement of a certificate of eligibility under subsection (s) of this
226 section, the economic impact assessment prepared pursuant to this
227 section indicates that the state revenue generated by the investment
228 shall not exceed the amount of the investment, the commissioner may
229 approve a grant of credits on a different schedule or of a different
230 amount than that set forth in said subdivision (1), provided in no case
231 shall the amount of such credits exceed the amount of state revenue
232 such economic impact assessment indicates will be generated by such
233 investment.

234 (j) The credits allowed by this section may be claimed by a taxpayer
235 who has made an investment (1) directly, only if such investment has a
236 total asset value of not less than twenty million dollars; or (2) through
237 a fund managed by a fund manager register under this section, only if
238 such fund: (A) Has a total asset value of not less than sixty million
239 dollars for the income year for which the initial credit is taken; and (B)
240 has not less than three investors who are not related persons with
241 respect to each other or to any person in which any investment is made
242 other than through the fund at the date the investment is made.

243 (k) Each taxpayer claiming the credit allowed under this section
244 shall submit to the Commissioner of Revenue Services a copy of the
245 eligibility certificate issued under subsection (h) of this section with its
246 tax return for each taxable year for which a credit is claimed.

247 (l) The tax credits allowed by this section, when made through a
248 fund, shall only be available for investments in funds that are not open
249 to additional investments or investors beyond the amount subscribed
250 at the formation of the fund.

251 (m) (1) The Commissioner of Revenue Services may treat one or
252 more corporations that are properly included in a combined
253 corporation business tax return under section 12-223a of the general
254 statutes as one taxpayer in determining whether the appropriate
255 requirements under this section are met. Where corporations are
256 treated as one taxpayer for purposes of this subsection, then the credit
257 shall be allowed only against the amount of the combined tax for all
258 corporations properly included in a combined return that, under the
259 provisions of subdivision (2) of this subsection, is attributable to the
260 corporations treated as one taxpayer.

261 (2) The amount of the combined tax for all corporations properly
262 included in a combined corporation business tax return that is
263 attributable to the corporations that are treated as one taxpayer under
264 the provisions of this subsection shall be in the same ratio to such
265 combined tax that the net income apportioned to this state of each
266 corporation treated as one taxpayer bears to the net income
267 apportioned to this state, in the aggregate, of all corporations included
268 in such combined return. Solely for the purposes of computing such
269 ratio, any net loss apportioned to this state by a corporation treated as
270 one taxpayer or by a corporation included in such combined return
271 shall be disregarded.

272 (n) Any taxpayer allowed a credit under this section may assign
273 such credit to another person, provided such person may claim such
274 credit only with respect to a calendar year for which the assigning

275 taxpayer would have been eligible to claim such credit. The taxpayer
276 or fund manager shall file with the Commissioner of Revenue Services
277 information requested by the commissioner regarding such
278 assignments, including, but not limited to, the current holders of
279 credits as of the end of the preceding calendar year.

280 (o) No taxpayer shall be eligible for a credit under (1) this section,
281 and (2) section 12-217e or 38a-88a of the general statutes, for the same
282 investment. No two taxpayers shall be eligible for any tax credit with
283 respect to the same investment.

284 (p) Any credit not used in the income year for which it was allowed
285 may be carried forward for the five immediately succeeding income
286 years until the full credit has been allowed.

287 (q) Any single approved investment in excess of fifteen million
288 dollars in total shall be submitted on the date the commissioner issues
289 a certificate of eligibility for such investment to the General Assembly
290 for approval. If such submission is not disapproved by the House of
291 Representatives or the Senate, or both, within thirty days of the
292 submission date, such investment shall continue to be an approved
293 investment.

294 (r) Not later than July first in each year that credits allowed by this
295 section are claimed by a taxpayer with respect to an approved
296 investment, the commissioner may retain such persons as said
297 commissioner may deem appropriate to conduct an economic impact
298 assessment that uses a dynamic model of the state economy and
299 estimates the state revenue that is being and will be generated by such
300 investment. Such economic impact assessment shall determine
301 whether the state revenue actually generated by such investment is
302 equal to the estimate of state revenue made at the time such
303 investment was approved. If the sum of all state revenue actually
304 generated by such investment is less than the amount of the total sum
305 of tax credits claimed on the date of such analysis, the commissioner
306 may determine from the person retained pursuant to this subsection

307 the applicable recapture amount and may revoke the certificate of
308 eligibility issued under subsection (h) of this section. The
309 commissioner may require the taxpayer or the fund manager that
310 made such approved investment to reimburse the commissioner for all
311 or any part of the cost of any economic impact assessment performed
312 under this subsection.

313 (s) (1) Any taxpayer which has claimed credits allowed by this
314 section related to an investment concerning which the commissioner
315 has revoked the certificate of eligibility issued under subsection (h) of
316 this section, shall be required to recapture such taxpayer's pro rata
317 share of the recapture amount as determined under the provisions of
318 subdivision (2) of this subsection and no subsequent credit shall be
319 allowed unless such certificate of eligibility is reinstated under the
320 provisions of subdivision (3) of this subsection.

321 (2) If the taxpayer is required under the provisions of subdivision
322 (1) of this subsection to recapture its pro rata share of the recapture
323 amount during (A) the first year such credit was claimed, then ninety
324 per cent of such share shall be recaptured on the tax return required to
325 be filed for such year, (B) the second of such years, then sixty-five per
326 cent of such share shall be recaptured on the tax return required to be
327 filed for such year, (C) the third of such years, then fifty per cent of
328 such share shall be recaptured on the tax return required to be filed for
329 such year, (D) the fourth of such years, then thirty per cent of such
330 share shall be recaptured on the tax return required to be filed for such
331 year, (E) the fifth of such years, then twenty per cent of such share
332 shall be recaptured on the tax return required to be filed for such year,
333 and (F) the sixth or subsequent of such years, then ten per cent of such
334 share shall be recaptured on the tax return required to be filed for such
335 year. The Commissioner of Revenue Services may recapture such share
336 from the taxpayer who has claimed such credits. If the commissioner is
337 unable to recapture all or part of such share from such taxpayer, the
338 commissioner may seek to recapture such share from any taxpayer
339 who has assigned credits in an amount at least equal to such share to
340 another taxpayer. If the commissioner is unable to recapture all or part

341 of such share from any such taxpayer, the commissioner may
342 recapture such share from any fund through which the investment was
343 made.

344 (3) If the commissioner has revoked the certificate of eligibility
345 issued under subsection (h) of this section, such certificate of eligibility
346 shall be reinstated by the commissioner if, upon a request made by the
347 taxpayer or the fund manager who made such approved investment,
348 an economic impact assessment conducted pursuant to subsection (r)
349 of this section shall determine that the sum of all state revenue actually
350 generated by such investment is greater than the amount of the total
351 sum of tax credits claimed on the date of such analysis, provided no
352 such request shall be made pursuant to this subsection during the
353 calendar year in which such certificate was revoked. For the purpose of
354 determining whether such certificate shall be reinstated, the
355 commissioner shall, upon receipt of a request made under this
356 subsection, obtain one such economic impact assessment per calendar
357 year and may obtain additional such economic impact assessments as
358 the commissioner deems appropriate.

359 Sec. 2. This act shall take effect July 1, 2000."