

## SENATE BILL No. 358

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DIGEST OF SB 358 (Updated January 28, 1998 12:31 pm - DI 75)

**Citations Affected:** IC 4-4; IC 6-3.

**Synopsis:** Enterprise zones. Provides for enterprise zones for municipalities located in certain counties that are unable to meet the minimum population requirements and have a population of less than 5,000. Requires the following for such zones: (1) At least 50% of the zone must be within the limits of the municipality. (2) The total area of the zone must be less than either three square miles or 25% of the area of the municipality. (3) A zone containing an area that is outside the limits of the municipality must be approved through the adoption of a resolution by the legislative bodies of the municipality and the county. (4) The proposed zone must be contiguous with the municipality by the greater of: (A) one quarter of the aggregate external boundaries of the portion of the proposed zone located outside the corporate limits of the municipality; or (B) 150 feet. (5) The area of the proposed zone must be within the zoning jurisdiction of the municipality as determined by  
(Continued next page)

**Effective:** July 1, 1998.

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**Wolf, Weatherwax, Hume, Meeks,  
Young**

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January 8, 1998, read first time and referred to Committee on Commerce and Consumer Affairs.  
January 29, 1998, amended, reported favorably — Do Pass.

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statute. Provides for a representative of the county legislative body to serve on the urban enterprise association for the zone. Provides that the only incentive to which a business located in the zone is entitled is the enterprise zone inventory credit. Provides that an employee of such an enterprise zone business is not entitled to the adjusted gross income tax deduction that certain employees of businesses of other enterprise zones are entitled.

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January 30, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

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## SENATE BILL No. 358

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-4-6.1-3, AS AMENDED BY P.L.26-1995,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 1998]: Sec. 3. (a) The board may designate up to ten (10)  
4 enterprise zones, in addition to any enterprise zones which the federal  
5 government may designate in the state. After January 1, 1988, the  
6 board may by seven (7) affirmative votes increase the number of  
7 enterprise zones above ten (10), but it may add no more than two (2)  
8 new zones each year and may not add any new zones after December  
9 31, 2003. There may be no more than one (1) enterprise zone in any  
10 municipality.

11 (b) After approval by resolution of the legislative body, the  
12 executive of any municipality that is not an included town under  
13 IC 36-3-1-7 may submit one (1) application to the enterprise zone  
14 board to have one (1) portion of the municipality designated as an  
15 enterprise zone. If an application is denied, the executive may submit

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1 a new application. The board by rule shall provide application  
2 procedures.

3 (c) The board shall evaluate an enterprise zone application, if it  
4 finds that the following threshold criteria exist in a proposed zone:

5 (1) A poverty level in which twenty-five percent (25%) of the  
6 households in the zone are below the poverty level as established  
7 by the most recent United States census or an average rate of  
8 unemployment for the most recent eighteen (18) month period for  
9 which data is available that is at least one and one-half (1 1/2)  
10 times the average statewide rate of unemployment for the same  
11 eighteen (18) month period.

12 (2) **Except for a municipality described in section 3.5 of this**  
13 **chapter, the proposed zone must have** a population of more  
14 than two thousand (2,000) but less than eight thousand (8,000).

15 (3) **The proposed zone must comprise** an area of more than  
16 three-fourths (3/4) square mile but less than three (3) square  
17 miles, with a continuous boundary (using natural, street, or  
18 highway barriers when possible) entirely within the applicant  
19 municipality. However, if the zone includes a parcel of property  
20 that:

21 (A) is owned by the municipality; and

22 (B) has an area of twenty-five (25) acres or more;

23 the area of the zone may be increased above the three (3) square  
24 mile limitation by an amount not to exceed the area of the  
25 municipally owned parcel.

26 (4) Property suitable for the development of a mix of commercial,  
27 industrial, and residential activities.

28 (5) The appointment of an urban enterprise association that meets  
29 the requirements of section 4 of this chapter.

30 (6) A statement by the applicant indicating its willingness to  
31 provide certain specified economic development incentives.

32 (d) If an applicant has met the threshold criteria of subsection (c),  
33 the board shall evaluate the application, arrive at a decision based on  
34 the following factors, and either designate a zone or reject the  
35 application:

36 (1) Level of poverty, unemployment, and general distress of the  
37 area in comparison to other applicant and nonapplicant  
38 municipalities and the expression of need for an enterprise zone  
39 over and above the threshold criteria contained in subsection (c).

40 (2) Evidence of support for designation by residents, businesses,  
41 and private organizations in the proposed zone, and the  
42 demonstration of a willingness among those zone constituents to

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1 participate in zone area revitalization.

2 (3) Efforts by the applicant municipality to reduce the  
3 impediments to development in the zone area where necessary,  
4 including but not limited to the following:

5 (A) A procedure for streamlining local government regulations  
6 and permit procedures.

7 (B) Crime prevention activities involving zone residents.

8 (C) A plan for infrastructure improvements capable of  
9 supporting increased development activity.

10 (4) Significant efforts to encourage the reuse of existing zone  
11 structures in new development activities to preserve the existing  
12 character of the neighborhood, where appropriate.

13 (5) The proposed managerial structure of the zone and the  
14 capacity of the urban enterprise association to carry out the goals  
15 and purposes of this chapter.

16 (e) An enterprise zone expires ten (10) years from the day on which  
17 it is designated by the board. The two (2) year period immediately  
18 before the day on which it expires is the phase-out period. During the  
19 phase-out period, the board may review the success of the enterprise  
20 zone based upon the following criteria and may, with the consent of the  
21 budget committee, renew the zone, including all provisions of this  
22 chapter, for a period of five (5) years:

23 (1) Increases in capital investment in the zone.

24 (2) Retention of jobs and creation of jobs in the zone.

25 (3) Increases in employment opportunities for residents of the  
26 zone.

27 (f) If an enterprise zone is renewed under subsection (e), the two (2)  
28 year period immediately before the date on which the zone expires is  
29 another phase-out period. During the phase-out period, the board may  
30 review the success of the enterprise zone based upon the criteria set  
31 forth in subsection (e) and, with the consent of the budget committee,  
32 may again renew the zone, including all provisions of this chapter, for  
33 a final period of five (5) years. The zone may not be renewed after the  
34 expiration of this final five (5) year period.

35 (g) Notwithstanding any other provision of this chapter, one (1) or  
36 more units (as defined in IC 36-1-2-23) may declare all or any part of  
37 a military base or other military installation that is inactive, closed, or  
38 scheduled for closure as an enterprise zone. Such a declaration shall be  
39 made by a resolution of the legislative body of the unit that contains the  
40 geographic area being declared an enterprise zone. The legislative body  
41 must include in the resolution that an urban enterprise association is  
42 created or designate another entity to function as the urban enterprise

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1 association under this chapter. The resolution must also be approved  
 2 by the executive of the unit. If the resolution is approved, the executive  
 3 shall file the resolution and the executive's approval with the board. If  
 4 an entity other than an urban enterprise association is designated to  
 5 function as an urban enterprise association, the entity's acceptance must  
 6 be filed with the board along with the resolution. The enterprise zone  
 7 designation is effective on the first day of the month following the date  
 8 the resolution is filed with the board. Establishment of an enterprise  
 9 zone under this subsection is not subject to the limit of two (2) new  
 10 enterprise zones each year under subsection (a).

11 SECTION 2. IC 4-4-6.1-3.5 IS ADDED TO THE INDIANA CODE  
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 13 1, 1998]: **Sec. 3.5. (a) This section applies only to a zone established  
 14 in a county having a population of more than twelve thousand six  
 15 hundred (12,600) but less than thirteen thousand (13,000).**

16 **(b) A municipality that is unable to satisfy the population  
 17 requirements for a proposed zone described in section 3(c) of this  
 18 chapter and that has a population of less than five thousand (5,000)  
 19 must meet the following criteria for a proposed zone:**

20 **(1) At least fifty percent (50%) of the zone must be within the  
 21 corporate limits of the municipality.**

22 **(2) The total area of the zone must be within or contiguous to  
 23 the applicant municipality and be less than:**

24 **(A) three (3) square miles; or**

25 **(B) twenty-five percent (25%) of the area of the municipal  
 26 applicant.**

27 **(3) A proposed zone that contains an area outside the  
 28 corporate limits of the municipality must be approved by the  
 29 adoption of a resolution of the legislative bodies of the  
 30 municipality and the county.**

31 **(4) The part of a proposed zone outside the corporate limits of  
 32 the municipality must be contiguous with the municipality by  
 33 the greater of:**

34 **(A) one-fourth (1/4) of the aggregate external boundaries  
 35 of the part of the proposed zone located outside the  
 36 corporate limits of the municipality; or**

37 **(B) one hundred fifty (150) feet.**

38 **(5) The area of the proposed zone must be within the zoning  
 39 jurisdiction of the municipality as determined under  
 40 IC 36-7-4-205.**

41 **(c) Notwithstanding any other law, the only incentive to which  
 42 a business located within the zone is entitled is the credit under**

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1 **IC 6-1.1-20.8.**

2 SECTION 3. IC 4-4-6.1-4, AS AMENDED BY P.L.9-1994,  
 3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 4 JULY 1, 1998]: Sec. 4. (a) There is created in each applicant for  
 5 designation as an enterprise zone and in each enterprise zone an urban  
 6 enterprise association, referred to as the U.E.A. in this chapter. Its  
 7 ~~twelve (12)~~ members are to be chosen as follows:

8 (1) The governor shall appoint the following:

9 (A) One (1) state legislator whose district includes all or part  
 10 of the enterprise zone.

11 (B) One (1) representative of the state department of  
 12 commerce, who is not a voting member of the U.E.A.

13 (2) The executive of the municipality in which the zone is located  
 14 shall appoint the following:

15 (A) One (1) representative of the plan commission having  
 16 jurisdiction over the zone, if any exists.

17 (B) One (1) representative of the municipality's department  
 18 that performs planning or economic development functions.

19 (C) Two (2) representatives of businesses located in the zone,  
 20 one (1) of which shall be from a manufacturing concern, if any  
 21 exists in the zone.

22 (D) One (1) resident of the zone.

23 (E) One (1) representative of organized labor from the  
 24 building trades that represent construction workers.

25 (3) The legislative body of the municipality in which the zone is  
 26 located shall appoint, by majority vote, the following:

27 (A) One (1) member of the municipality's legislative body  
 28 whose district includes all or part of the zone.

29 (B) One (1) representative of a business located in the zone.

30 (C) Two (2) residents of the zone, who must not be members  
 31 of the same political party.

32 **(4) For zones meeting the criteria of section 3.5(b) of this**  
 33 **chapter, the legislative body of a county shall appoint, by a**  
 34 **majority vote, one (1) member of the county legislative body.**

35 (b) Members of the urban enterprise association serve four (4) year  
 36 terms. The appointing authority shall fill any vacancy for the balance  
 37 of the vacated term.

38 (c) Members may be dismissed only by the appointing authority and  
 39 only for just cause.

40 (d) The members shall elect a chairman, a vice chairman, and a  
 41 secretary by majority vote. This election shall be held every two (2)  
 42 years in the same month as the first meeting or whenever a vacancy



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1 occurs. The U.E.A. shall meet at least once every three (3) months. The  
 2 secretary shall notify members of meetings at least two (2) weeks in  
 3 advance of meetings. The secretary shall provide a list of members to  
 4 each member and shall notify members of any changes in membership.

5 (e) If an applicant for designation as an enterprise zone does not  
 6 receive that designation, the U.E.A. in that municipality is dissolved  
 7 when the application is rejected.

8 SECTION 4. IC 6-3-2-8 IS AMENDED TO READ AS FOLLOWS  
 9 [EFFECTIVE JANUARY 1, 1999]: Sec. 8. (a) For purposes of this  
 10 section, "qualified employee" means an individual who **satisfies all of**  
 11 **the following:**

12 (1) **The individual** is employed by a taxpayer or by an employer  
 13 exempt from adjusted gross income tax (IC 6-3-1 through  
 14 IC 6-3-7) under IC 6-3-2-2.8(3), ~~(4)~~; **IC 6-3-2-2.8(4)**, or ~~(5)~~ **and**  
 15 ~~who:~~ **IC 6-3-2-2.8(5).**

16 ~~(1)~~ **has** (2) ~~The employee's~~ **individual's** principal place of  
 17 residence **is:**

18 (A) in the enterprise zone in which the employee is employed;  
 19 **and**

20 (B) **not located in a county having a population of more**  
 21 **than twelve thousand six hundred (12,600) but less than**  
 22 **thirteen thousand (13,000).**

23 ~~(2)~~ (3) **The individual** performs services for the taxpayer or  
 24 employer, ninety percent (90%) of which are directly related to  
 25 the conduct of the taxpayer's or employer's trade or business that  
 26 is located in an enterprise zone. ~~and~~

27 ~~(3)~~ (4) **The individual** performs at least fifty percent (50%) of the  
 28 ~~employee's~~ **individual's** service for the taxpayer or employer  
 29 during the taxable year in the enterprise zone.

30 (b) Except as provided in subsection (c), a qualified employee is  
 31 entitled to deduction from his adjusted gross income in each taxable  
 32 year in the amount of the lesser of:

33 (1) one-half (1/2) of his adjusted gross income for the taxable year  
 34 that he earns as a qualified employee; or

35 (2) seven thousand five hundred dollars (\$7,500).

36 (c) No qualified employee is entitled to a deduction under this  
 37 section for a taxable year that begins after the termination of the  
 38 enterprise zone in which he resides.

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SENATE MOTION

Mr. President: I move that Senator Weatherwax be added as second author and Senators Hume, Meeks and R. Young be added as coauthors of Senate Bill 358.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Commerce and Consumer Affairs, to which was referred Senate Bill 358, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 12, delete "subdivision (3)" and insert "**section 3.5 of this chapter**".

Page 2, line 14, delete "(8,000)," and insert "(8,000)."

Page 2, line 14, delete "and the".

Page 2, delete line 15.

Page 2, line 16, reset in roman "(3)".

Page 2, line 16, after "(3)" insert "**The proposed zone must comprise**".

Page 2, delete lines 26 through 42.

Page 3, delete lines 1 through 8.

Page 4, between lines 35 and 36, begin a new paragraph and insert:  
"SECTION 2. IC 4-4-6.1-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 3.5. (a) This section applies only to a zone established in a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000).**

**(b) A municipality that is unable to satisfy the population requirements for a proposed zone described in section 3(c) of this chapter and that has a population of less than five thousand (5,000) must meet the following criteria for a proposed zone:**

**(1) At least fifty percent (50%) of the zone must be within the corporate limits of the municipality.**

**(2) The total area of the zone must be within or contiguous to the applicant municipality and be less than:**

**(A) three (3) square miles; or**

**(B) twenty-five percent (25%) of the area of the municipal applicant.**

**(3) A proposed zone that contains an area outside the corporate limits of the municipality must be approved by the adoption of a resolution of the legislative bodies of the municipality and the county.**

**(4) The part of a proposed zone outside the corporate limits of the municipality must be contiguous with the municipality by the greater of:**

**(A) one-fourth (1/4) of the aggregate external boundaries of the part of the proposed zone located outside the corporate limits of the municipality; or**



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**(B) one hundred fifty (150) feet.**

**(5) The area of the proposed zone must be within the zoning jurisdiction of the municipality as determined under IC 36-7-4-205.**

**(c) Notwithstanding any other law, the only incentive to which a business located within the zone is entitled is the credit under IC 6-1.1-20.8."**

Page 5, line 24, delete "3(c)(3)" and insert "**3.5(b)**".

Page 5, after line 41, begin a new paragraph and insert:

"SECTION 4. IC 6-3-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1999]: Sec. 8. (a) For purposes of this section, "qualified employee" means an individual who **satisfies all of the following:**

**(1) The individual** is employed by a taxpayer or by an employer exempt from adjusted gross income tax (IC 6-3-1 through IC 6-3-7) under IC 6-3-2-2.8(3), ~~(4)~~; **IC 6-3-2-2.8(4)**, or ~~(5)~~ and ~~who: IC 6-3-2-2.8(5)~~.

~~(1)~~ **(2) The employee's individual's** principal place of residence is:

**(A)** in the enterprise zone in which the employee is employed; **and**

**(B) not located in a county having a population of more than twelve thousand six hundred (12,600) but less than thirteen thousand (13,000).**

~~(2)~~ **(3) The individual** performs services for the taxpayer or employer, ninety percent (90%) of which are directly related to the conduct of the taxpayer's or employer's trade or business that is located in an enterprise zone. ~~and~~

~~(3)~~ **(4) The individual** performs at least fifty percent (50%) of the ~~employee's individual's~~ service for the taxpayer or employer during the taxable year in the enterprise zone.

(b) Except as provided in subsection (c), a qualified employee is entitled to deduction from his adjusted gross income in each taxable year in the amount of the lesser of:

(1) one-half (1/2) of his adjusted gross income for the taxable year that he earns as a qualified employee; or

(2) seven thousand five hundred dollars (\$7,500).

(c) No qualified employee is entitled to a deduction under this section for a taxable year that begins after the termination of the enterprise zone in which he resides."

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Renumber all SECTIONS consecutively.  
and when so amended that said bill do pass.  
(Reference is to Senate Bill 358 as introduced.)

MILLS, Chairperson

Committee Vote: Yeas 8, Nays 0.

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