



March 24, 1999

**ENGROSSED  
HOUSE BILL No. 1341**

DIGEST OF HB 1341 (Updated March 22, 1999 1:12 pm - DI 51)

**Citations Affected:** IC 4-4; noncode.

**Synopsis:** Enterprise zones. Increases the maximum permissible population of an enterprise zone from 8,000 to 10,500. Increases the maximum permissible area of an enterprise zone from three square miles to four square miles. Provides that the enterprise zone board may not approve the enlargement of an enterprise zone's geographic boundaries unless the area to be enlarged meets certain criteria of (Continued next page)

**Effective:** January 1, 1997 (retroactive); upon passage; July 1, 1999.

**Kromkowski, Buell, Bauer, Kruse**

(SENATE SPONSORS — ZAKAS, WASHINGTON)

January 12, 1999, read first time and referred to Committee on Ways and Means.  
February 18, 1999, amended, reported — Do Pass.  
March 3, 1999, read second time, amended, ordered engrossed.  
March 4, 1999, engrossed.  
March 8, 1999, read third time, passed. Yeas 97, nays 0.

**SENATE ACTION**

March 11, 1999, read first time and referred to Committee on Planning and Economic Development.  
March 23, 1999, amended, reported favorably — Do Pass.

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economic distress. Permits the enterprise zone board to review the success of an enterprise zone and to expand the boundaries of the zone after the zone's final phase-out period. (Current law permits such reviews only during specified phase-out periods.) Establishes additional criteria for eligibility for enterprise zone benefits and incentives which must be met by a business relocating its operations from a non-zone location in Indiana in order to relocate to an enterprise zone.

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March 24, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

## ENGROSSED HOUSE BILL No. 1341

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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 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The board  
3 may designate up to ten (10) enterprise zones, in addition to any  
4 enterprise zones which the federal government may designate in the  
5 state. After January 1, 1988, the board may by seven (7) affirmative  
6 votes increase the number of enterprise zones above ten (10), but it  
7 may add no more than two (2) new zones each year and may not add  
8 any new zones after December 31, 2003. There may be no more than  
9 one (1) enterprise zone in any municipality.
- 10 (b) After approval by resolution of the legislative body, the  
11 executive of any municipality that is not an included town under  
12 IC 36-3-1-7 may submit one (1) application to the enterprise zone  
13 board to have one (1) portion of the municipality designated as an  
14 enterprise zone. If an application is denied, the executive may submit  
15 a new application. The board by rule shall provide application  
16 procedures.
- 17 (c) The board shall evaluate an enterprise zone application, if it

**EH 1341—LS 7128/DI 44+**



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- 1 finds that the following threshold criteria exist in a proposed zone:  
 2 (1) A poverty level in which twenty-five percent (25%) of the  
 3 households in the zone are below the poverty level as established  
 4 by the most recent United States census or an average rate of  
 5 unemployment for the most recent eighteen (18) month period for  
 6 which data is available that is at least one and one-half (1 1/2)  
 7 times the average statewide rate of unemployment for the same  
 8 eighteen (18) month period.  
 9 (2) A population of more than two thousand (2,000) but less than  
 10 **eight ten thousand five hundred (8,000): (10,500).**  
 11 (3) An area of more than three-fourths (3/4) square mile but less  
 12 than ~~three (3)~~ **four (4)** square miles, with a continuous boundary  
 13 (using natural, street, or highway barriers when possible) entirely  
 14 within the applicant municipality. However, if the zone includes  
 15 a parcel of property that:  
 16 (A) is owned by the municipality; and  
 17 (B) has an area of twenty-five (25) acres or more;  
 18 the area of the zone may be increased above the ~~three (3)~~ **four (4)**  
 19 square mile limitation by an amount not to exceed the area of the  
 20 municipally owned parcel.  
 21 (4) Property suitable for the development of a mix of commercial,  
 22 industrial, and residential activities.  
 23 (5) The appointment of an urban enterprise association that meets  
 24 the requirements of section 4 of this chapter.  
 25 (6) A statement by the applicant indicating its willingness to  
 26 provide certain specified economic development incentives.  
 27 (d) If an applicant has met the threshold criteria of subsection (c),  
 28 the board shall evaluate the application, arrive at a decision based on  
 29 the following factors, and either designate a zone or reject the  
 30 application:  
 31 (1) Level of poverty, unemployment, and general distress of the  
 32 area in comparison to other applicant and nonapplicant  
 33 municipalities and the expression of need for an enterprise zone  
 34 over and above the threshold criteria contained in subsection (c).  
 35 (2) Evidence of support for designation by residents, businesses,  
 36 and private organizations in the proposed zone, and the  
 37 demonstration of a willingness among those zone constituents to  
 38 participate in zone area revitalization.  
 39 (3) Efforts by the applicant municipality to reduce the  
 40 impediments to development in the zone area where necessary,  
 41 including but not limited to the following:  
 42 (A) A procedure for streamlining local government regulations

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1                   and permit procedures.

2                   (B) Crime prevention activities involving zone residents.

3                   (C) A plan for infrastructure improvements capable of

4                   supporting increased development activity.

5                   (4) Significant efforts to encourage the reuse of existing zone

6                   structures in new development activities to preserve the existing

7                   character of the neighborhood, where appropriate.

8                   (5) The proposed managerial structure of the zone and the

9                   capacity of the urban enterprise association to carry out the goals

10                  and purposes of this chapter.

11                  (e) An enterprise zone expires ten (10) years from the day on which

12                  it is designated by the board. The two (2) year period immediately

13                  before the day on which it expires is the phase-out period. During the

14                  phase-out period, the board may review the success of the enterprise

15                  zone based upon the following criteria and may, with the consent of the

16                  budget committee, renew the zone, including all provisions of this

17                  chapter, for a period of five (5) years:

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

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

20                    (3) Increases in employment opportunities for residents of the

21                    zone.

22                  (f) If an enterprise zone is renewed under subsection (e), the two (2)

23                  year period immediately before the date on which the zone expires is

24                  another phase-out period. During the phase-out period, the board may

25                  review the success of the enterprise zone based upon the criteria set

26                  forth in subsection (e) and, with the consent of the budget committee,

27                  may again renew the zone, including all provisions of this chapter, for

28                  a final period of five (5) years. The zone may not be renewed after the

29                  expiration of this final five (5) year period.

30                  (g) Notwithstanding any other provision of this chapter, one (1) or

31                  more units (as defined in IC 36-1-2-23) may declare all or any part of

32                  a military base or other military installation that is inactive, closed, or

33                  scheduled for closure as an enterprise zone. Such a declaration shall be

34                  made by a resolution of the legislative body of the unit that contains the

35                  geographic area being declared an enterprise zone. The legislative body

36                  must include in the resolution that an urban enterprise association is

37                  created or designate another entity to function as the urban enterprise

38                  association under this chapter. The resolution must also be approved

39                  by the executive of the unit. If the resolution is approved, the executive

40                  shall file the resolution and the executive's approval with the board. If

41                  an entity other than an urban enterprise association is designated to

42                  function as an urban enterprise association, the entity's acceptance must

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1 be filed with the board along with the resolution. The enterprise zone  
 2 designation is effective on the first day of the month following the date  
 3 the resolution is filed with the board. Establishment of an enterprise  
 4 zone under this subsection is not subject to the limit of two (2) new  
 5 enterprise zones each year under subsection (a).

6 **(h) The enterprise zone board may not approve the enlargement**  
 7 **of an enterprise zone's geographic boundaries unless the area to be**  
 8 **enlarged meets the criteria of economic distress set forth in**  
 9 **subsection (c)(1).**

10 SECTION 2. IC 4-4-6.1-6 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JANUARY 1, 1997 (RETROACTIVE)]:  
 12 Sec. 6. (a) Any business which substantially reduces or ceases an  
 13 operation located in Indiana and outside an enterprise zone (referred to  
 14 as a non-zone operation) in order to relocate in an Indiana enterprise  
 15 zone is disqualified from benefits or incentives available to zone  
 16 businesses. Determinations under this section shall be made by a  
 17 hearing panel composed of the chairman of the board or the chairman's  
 18 designee, the commissioner of the department of state revenue or the  
 19 commissioner's designee, and the chairman of the state board of tax  
 20 commissioners or the chairman's designee. The panel, after an  
 21 evidentiary hearing held subsequent to the relocation of the business,  
 22 shall submit a recommended order to the board for its adoption. The  
 23 recommended order shall be based on the following criteria and  
 24 subsection (b):

25 (1) A site-specific economic activity, including sales, leasing,  
 26 service, manufacturing, production, storage of inventory, or any  
 27 activity involving permanent full-time or part-time employees  
 28 shall be considered a business operation.

29 (2) With respect to a non-zone operation, any of the following that  
 30 occurs during the twelve (12) months before **the completion of**  
 31 **the physical relocation in of all or part of the activity described**  
 32 **in subdivision (1) from the non-zone operation to the zone as**  
 33 compared with the twelve (12) months before that twelve (12)  
 34 months shall be considered a substantial reduction:

35 (A) A reduction in the average number of full-time or  
 36 part-time employees of the lesser of one hundred (100)  
 37 employees or twenty-five percent (25%) of all employees.

38 (B) A twenty-five percent (25%) reduction in the average  
 39 number of goods manufactured or produced.

40 (C) A twenty-five percent (25%) reduction in the average  
 41 value of services provided.

42 (D) A ten percent (10%) reduction in the average value of

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1 stored inventory.  
2 (E) A twenty-five percent (25%) reduction in the average  
3 amount of gross income.

4 (b) Notwithstanding subsection (a), a business that would otherwise  
5 be disqualified under subsection (a) is eligible for benefits and  
6 incentives available to zone businesses if **each of the following**  
7 **conditions is met:**

8 (1) The business relocates its non-zone operation for any of the  
9 following reasons:

10 (1) ~~(A)~~ (A) The lease on property necessary for the non-zone  
11 operation has been involuntarily lost through no fault of the  
12 business.

13 ~~(2)~~ (B) The space available at the location of the non-zone  
14 operation cannot accommodate planned expansion needed by  
15 the business.

16 ~~(3)~~ (C) The building for the non-zone operation has been  
17 certified as uninhabitable by a state or local building authority.

18 ~~(4)~~ (D) The building for the non-zone operation has been  
19 totally destroyed through no fault of the business.

20 ~~(5)~~ (E) The renovation and construction costs at the location  
21 of the non-zone operation are more than one and one-half (1  
22 1/2) times the costs of purchase, renovation, and construction  
23 of a facility in the zone, as certified by three (3) independent  
24 estimates.

25 A business is eligible for benefits and incentives under  
26 subdivision ~~(3)~~ or ~~(4)~~ clause (C) or (D) only if renovation and  
27 construction costs at the location of the non-zone operation are  
28 more than one and one-half (1 1/2) times the cost of purchase,  
29 renovation, and construction of a facility in the zone. These costs  
30 must be certified by three (3) independent estimates.

31 (2) **The business has not terminated or reduced the pension or**  
32 **health insurance obligations payable to employees or former**  
33 **employees of the non-zone operation without the consent of**  
34 **the employees.**

35 (c) The hearing panel shall cause to be delivered to the business  
36 and to any person who testified before the panel in favor of  
37 disqualification of the business a copy of the panel's recommended  
38 order. The business and these persons shall be considered parties for  
39 the purposes of this section.

40 (d) A party who wishes to oppose the board's adoption of the  
41 recommended order of the hearing panel shall, within ten (10) days of  
42 the party's receipt of the recommended order, file written objections

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1 with the board. If the objections are filed, the board shall set the  
 2 objections for oral argument and give notice to the parties. A party at  
 3 its own expense may cause to be filed with the board a transcript of the  
 4 oral testimony or any other part of the record of the proceedings. The  
 5 oral argument shall be on the record filed with the board. The board  
 6 may hear additional evidence or remand the action to the hearing panel  
 7 with instructions appropriate to the expeditious and proper disposition  
 8 of the action. The board may adopt the recommendations of the hearing  
 9 panel, may amend or modify the recommendations, or may make such  
 10 order or determination as is proper on the record.

11 (e) If no objections are filed, the board may adopt the recommended  
 12 order without oral argument. If the board does not adopt the proposed  
 13 findings of fact and recommended order, the parties shall be notified  
 14 and the action shall be set for oral argument as provided in subsection  
 15 (d).

16 (f) The final determination made by the board shall be made by a  
 17 majority of the quorum needed for board meetings.

18 SECTION 3. [EFFECTIVE UPON PASSAGE] (a)  
 19 **Notwithstanding IC 4-4-6.1-3(f), the enterprise zone board may at**  
 20 **any time after the two (2) year phase-out period described in**  
 21 **IC 4-4-6.1-3(f) review the success of an enterprise zone based upon**  
 22 **the criteria set forth in IC 4-4-6.1-3(e) and, with the consent of the**  
 23 **budget committee, may approve an enlargement of the zone**  
 24 **boundaries consistent with the population and geographic**  
 25 **limitations in IC 4-4-6.1-3(c)(2) and IC 4-4-6.1-3(c)(3), both as**  
 26 **amended by this act. In approving an enlargement of zone**  
 27 **boundaries under this SECTION, the enterprise zone board must**  
 28 **consider the recommendations of the urban enterprise association.**

29 (b) **A decision by the enterprise zone board to expand the**  
 30 **geographic boundaries of a zone under this SECTION does not**  
 31 **extend the expiration date for the zone under IC 4-4-6.1-3(f).**

32 (c) **The enterprise zone board may not approve the enlargement**  
 33 **of an enterprise zone's geographic boundaries under this**  
 34 **SECTION unless the area to be enlarged meets the criteria of**  
 35 **economic distress set forth in IC 4-4-6.1-3(c)(1).**

36 (d) **This SECTION expires July 1, 2000.**

37 SECTION 4. **An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1341, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, between lines 5 and 6, begin a new paragraph and insert:

**"(h) The enterprise zone board may not approve the enlargement of an enterprise zone's geographic boundaries unless the area to be enlarged meets the criteria of economic distress set forth in subsection (c)(1)."**

Page 4, between lines 19 and 20, begin a new paragraph and insert:

**"(c) The enterprise zone board may not approve the enlargement of an enterprise zone's geographic boundaries under this SECTION unless the area to be enlarged meets the criteria of economic distress set forth in IC 4-4-6.1-3(c)(1)."**

Page 4, line 20, delete "(c)" and insert "(d)".

and when so amended that said bill do pass.

(Reference is to HB 1341 as introduced.)

BAUER, Chair

Committee Vote: yeas 24, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1341 be amended to read as follows:

Page 4, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 2. IC 4-4-6.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 1997 (RETROACTIVE)]:  
 Sec. 6. (a) Any business which substantially reduces or ceases an operation located in Indiana and outside an enterprise zone (referred to as a non-zone operation) in order to relocate in an Indiana enterprise zone is disqualified from benefits or incentives available to zone businesses. Determinations under this section shall be made by a hearing panel composed of the chairman of the board or the chairman's designee, the commissioner of the department of state revenue or the commissioner's designee, and the chairman of the state board of tax commissioners or the chairman's designee. The panel, after an evidentiary hearing held subsequent to the relocation of the business, shall submit a recommended order to the board for its adoption. The recommended order shall be based on the following criteria and subsection (b):

(1) A site-specific economic activity, including sales, leasing, service, manufacturing, production, storage of inventory, or any activity involving permanent full-time or part-time employees shall be considered a business operation.

(2) With respect to a non-zone operation, any of the following that occurs during the twelve (12) months before **the completion of the physical relocation in of all or part of the activity described in subdivision (1) from the non-zone operation** to the zone as compared with the twelve (12) months before that twelve (12) months shall be considered a substantial reduction:

(A) A reduction in the average number of full-time or part-time employees of the lesser of one hundred (100) employees or twenty-five percent (25%) of all employees.

(B) A twenty-five percent (25%) reduction in the average number of goods manufactured or produced.

(C) A twenty-five percent (25%) reduction in the average value of services provided.

(D) A ten percent (10%) reduction in the average value of stored inventory.

(E) A twenty-five percent (25%) reduction in the average amount of gross income.

(b) Notwithstanding subsection (a), a business that would otherwise be disqualified under subsection (a) is eligible for benefits and

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incentives available to zone businesses if **each of the following conditions is met:**

(1) The business relocates its non-zone operation for any of the following reasons:

(1) (A) The lease on property necessary for the non-zone operation has been involuntarily lost through no fault of the business.

(2) (B) The space available at the location of the non-zone operation cannot accommodate planned expansion needed by the business.

(3) (C) The building for the non-zone operation has been certified as uninhabitable by a state or local building authority.

(4) (D) The building for the non-zone operation has been totally destroyed through no fault of the business.

(5) (E) The renovation and construction costs at the location of the non-zone operation are more than one and one-half (1 1/2) times the costs of purchase, renovation, and construction of a facility in the zone, as certified by three (3) independent estimates.

A business is eligible for benefits and incentives under subdivision (3) or (4) clause (C) or (D) only if renovation and construction costs at the location of the non-zone operation are more than one and one-half (1 1/2) times the cost of purchase, renovation, and construction of a facility in the zone. These costs must be certified by three (3) independent estimates.

(2) **The business has not terminated or reduced the pension obligations payable to employees or former employees of the non-zone operation.**

(3) **There are no criminal complaints alleging the violation of a state or federal environmental protection law pending against the non-zone operation.**

(4) **No judgments of criminal conviction have been entered against the non-zone operation for violation of a state or federal environmental protection law during the five (5) years before relocation of the business within the zone.**

(5) **There are no civil or administrative complaints alleging the violation of a state or federal environmental protection law pending against the non-zone operation.**

(6) **No civil or administrative complaints have resulted in a fine against the non-zone operation for violation of a state or federal environmental protection law during the five (5) years before relocation of the business within the zone.**



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(c) The hearing panel shall cause to be delivered to the business and to any person who testified before the panel in favor of disqualification of the business a copy of the panel's recommended order. The business and these persons shall be considered parties for the purposes of this section.

(d) A party who wishes to oppose the board's adoption of the recommended order of the hearing panel shall, within ten (10) days of the party's receipt of the recommended order, file written objections with the board. If the objections are filed, the board shall set the objections for oral argument and give notice to the parties. A party at its own expense may cause to be filed with the board a transcript of the oral testimony or any other part of the record of the proceedings. The oral argument shall be on the record filed with the board. The board may hear additional evidence or remand the action to the hearing panel with instructions appropriate to the expeditious and proper disposition of the action. The board may adopt the recommendations of the hearing panel, may amend or modify the recommendations, or may make such order or determination as is proper on the record.

(e) If no objections are filed, the board may adopt the recommended order without oral argument. If the board does not adopt the proposed findings of fact and recommended order, the parties shall be notified and the action shall be set for oral argument as provided in subsection (d).

(f) The final determination made by the board shall be made by a majority of the quorum needed for board meetings."

Renumber all SECTIONS consecutively.

(Reference is to HB 1341 as printed February 19, 1999.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1341 be amended to read as follows:

Page 4, between lines 9 and 10, begin a new paragraph and insert:  
"SECTION 2. IC 4-4-6.1-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 9. (a) Before October 1 of each year, the department of commerce shall publish a report that includes at least the following information:**

**(A) The name and address of each taxpayer that claimed a tax**



credit, a deduction, or an exemption available to zone businesses or zone employees during the preceding state fiscal year.

(B) The amount of each type of credit, deduction, or exemption described in subdivision (1) that was claimed during the preceding state fiscal year.

(b) The information required under subsection (a) must be listed separately for each enterprise zone and must also be listed on a statewide basis.

(c) The department of commerce shall compile and publish all data in the report required by this section in both written and electronic form."

Renumber all SECTIONS consecutively.

(Reference is to HB 1341 as printed February 19, 1999.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Planning and Economic Development, to which was referred House Bill No. 1341, 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 5, line 31, after "pension" insert "**or health insurance**".

Page 5, line 33, after "operation" delete "." and insert "**without the consent of the employees.**".

Page 5, delete lines 34 through 42.

Page 6, delete lines 1 through 5.

Page 6, delete lines 31 through 42.

Page 7, delete lines 1 through 6.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1341 as reprinted March 4, 1999.)

LUBBERS, Chairperson

Committee Vote: Yeas 9, Nays 0.

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