



March 24, 1999

# ENGROSSED HOUSE BILL No. 1983

DIGEST OF HB 1983 (Updated March 22, 1999 12:54 pm - DI 51)

**Citations Affected:** IC 4-4; IC 6-3; IC 6-3.1; IC 36-4; noncode.

**Synopsis:** Enterprise zones; annexation. Adds six members to the enterprise zone board. Provides that the enterprise zone board, an urban enterprise association, the department of state revenue, the department of commerce, the state board of tax commissioners, county auditors, and township assessors shall, upon request, provide each other with records and information (including records and information that are otherwise confidential) that concern an individual or business that is  
(Continued next page)

**Effective:** February 1, 1999 (retroactive); July 1, 1999; January 1, 2000.

## Klinker, McClain, GiaQuinta, Pond

(SENATE SPONSORS — HARRISON, WYSS, SIMPSON, SKILLMAN,  
LANDSKE)

January 27, 1999, read first time and referred to Committee on Ways and Means.  
February 24, 1999, amended, reported — Do Pass.  
March 1, 1999, read second time, amended, ordered engrossed.  
March 2, 1999, engrossed.  
March 3, 1999, read third time, passed. Yeas 96, nays 0.

### SENATE ACTION

March 8, 1999, read first time and referred to Committee on Planning and Economic Development.  
March 23, 1999, amended, reported favorably — Do Pass.

EH 1983—LS 8143/DI 73+



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Digest Continued

receiving a tax deduction, exemption, or credit related to an enterprise zone. Provides that a pass through entity is a taxpayer for purposes of allowing a pass through entity to take an enterprise zone employment expense credit for individuals first employed by the taxpayer in 1999 and thereafter. Defines taxpayer to include a pass through entity for purposes of the law governing enterprise zone investment cost credits. Provides that pass through entities are eligible for the enterprise zone loan interest credit. Provides that an ordinance adopted by a municipality that annexes certain territory that is contiguous to the municipality takes effect immediately upon the expiration of the specified 60 day remonstrance and appeal period and after the required publication, filing, and recording if: (1) the annexed territory has no population; (2) 90% of the total assessed value of the land for property tax purposes has one owner; and (3) the annexation is required to fulfill an economic development incentive package and to retain an industry through various local incentives, including urban enterprise zone benefits.

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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. 1983

A BILL FOR AN ACT to amend the Indiana Code concerning economic development.

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

- 1 SECTION 1. IC 4-4-6.1-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) There is created  
3 a ~~thirteen (13)~~ **nineteen (19)** member enterprise zone board, referred  
4 to as the "board" in this chapter. The board consists of ~~nine (9)~~ **fifteen**  
5 **(15)** voting members and four (4) nonvoting, advisory members. **The**  
6 **members described in subsection (b)(1) through (b)(9)** serve for four  
7 (4) year terms, except that for the initial appointments to the board, six  
8 (6) members shall be appointed for two (2) year terms. ~~No~~ **Not** more  
9 than ~~seven (7)~~ **ten (10)** members may be from the same political party.  
10 The presence of at least ~~five (5)~~ **eight (8)** voting members is required  
11 to have a quorum for board meetings.  
12 (b) The governor shall appoint ~~nine (9)~~ **fifteen (15)** enterprise zone  
13 board members as follows:  
14 (1) A representative of business.  
15 (2) A representative of labor.

EH 1983—LS 8143/DI 73+



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- 1 (3) A representative of the fire prevention and building safety  
2 commission.
- 3 (4) A representative of minority business.
- 4 (5) A representative of small business.
- 5 (6) A representative of a neighborhood association.
- 6 (7) A representative of municipal government.
- 7 (8) A representative of the state department of health.
- 8 (9) The lieutenant governor or his designee.
- 9 **(10) A representative of the department of state revenue.**
- 10 **(11) A representative of the state board of tax commissioners.**
- 11 **(12) A representative of the department of environmental**  
12 **management.**
- 13 **(13) A representative of the Indiana development finance**  
14 **authority.**
- 15 **(14) A representative of the Indiana business modernization**  
16 **and technology corporation.**
- 17 **(15) A representative of the department of workforce**  
18 **development.**
- 19 (c) The president pro tempore of the state senate shall appoint two  
20 (2) state senators to the enterprise zone board.
- 21 (d) The speaker of the house of representatives shall appoint two (2)  
22 state representatives to the enterprise zone board.
- 23 (e) The four (4) legislative members appointed under subsections  
24 (c) and (d) are the nonvoting, advisory members of the board.
- 25 (f) Members may be dismissed only by the appointing authority and  
26 only for just cause. The governor shall fill any vacancy as it occurs for  
27 the remainder of the term.
- 28 (g) The governor shall designate a chairman and vice chairman  
29 every two (2) years in the month in which the first meeting of the board  
30 is held or whenever a vacancy occurs.
- 31 (h) The board by rule shall provide for the conduct of its business  
32 and the performance of its duties.
- 33 (i) The department of commerce shall serve as the staff of the board.  
34 If an urban enterprise association created under section 4 of this  
35 chapter requests copies of forms filed with the board, the department  
36 of commerce shall forward copies of the requested forms to the urban  
37 enterprise association.
- 38 (j) Except as provided in subsection (k), a nonlegislative member is  
39 entitled to the minimum salary per diem as provided in  
40 IC 4-10-11-2.1(b) while performing his duties. Such a member is also  
41 entitled to reimbursement for traveling expenses and other expenses  
42 actually incurred in connection with his duties, as provided in the state



1 travel policies and procedures established by the Indiana department  
2 of administration and approved by the budget agency.

3 (k) If a nonlegislative member of the board is an elected public  
4 official of local government, the member shall not be paid a salary.  
5 However, the board member shall be reimbursed for necessary  
6 expenses that are incurred in the performance of official duties.

7 (l) A legislative member is entitled to reimbursement as provided by  
8 law for traveling expenses and other expenses actually incurred in  
9 connection with his duties.

10 SECTION 2. IC 4-4-6.1-2.6 IS ADDED TO THE INDIANA CODE  
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
12 1, 1999]: **Sec. 2.6. (a) This section applies to records and other  
13 information, including records and information that are otherwise  
14 confidential, maintained by the following:**

- 15 (1) **The board.**  
16 (2) **An urban enterprise association.**  
17 (3) **The department of state revenue.**  
18 (4) **The department of commerce.**  
19 (5) **The state board of tax commissioners.**  
20 (6) **A county auditor.**  
21 (7) **A township assessor.**

22 (b) **A person listed in subsection (a) may request a second  
23 person described in subsection (a) to provide any records or other  
24 information maintained by the second person that concern an  
25 individual or business that is receiving a tax deduction, exemption,  
26 or credit related to an enterprise zone. Notwithstanding any other  
27 law, the person to whom the request is made under this section  
28 must comply with the request. A person receiving records or  
29 information under this section that are confidential must also keep  
30 the records or information confidential.**

31 (c) **A person who receives confidential records or information  
32 under this section and knowingly or intentionally discloses the  
33 records or information to an unauthorized person commits a Class  
34 A misdemeanor.**

35 SECTION 3. IC 6-3-3-10 IS AMENDED TO READ AS FOLLOWS  
36 [EFFECTIVE JANUARY 1, 2000]: Sec. 10. (a) As used in this section:

37 "Base period wages" means **the following:**

- 38 (1) **In the case of a taxpayer other than a pass through entity,**  
39 **wages paid or payable by a taxpayer to its employees during the**  
40 **year that ends on the last day of the month that immediately**  
41 **precedes the month in which an enterprise zone is established, to**  
42 **the extent that the wages would have been qualified wages if the**

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1 enterprise zone had been in effect for that year. If the taxpayer did  
 2 not engage in an active trade or business during that year in the  
 3 area that is later designated as an enterprise zone, then the base  
 4 period wages equal zero (0). If the taxpayer engaged in an active  
 5 trade or business during only part of that year in an area that is  
 6 later designated as an enterprise zone, then the department shall  
 7 determine the amount of base period wages.

8 **(2) In the case of a taxpayer that is a pass through entity, base**  
 9 **period wages equal zero (0).**

10 "Enterprise zone" means an enterprise zone created under  
 11 IC 4-4-6.1.

12 "Enterprise zone adjusted gross income" means adjusted gross  
 13 income of a taxpayer that is derived from sources within an enterprise  
 14 zone. Sources of adjusted gross income shall be determined with  
 15 respect to an enterprise zone, to the extent possible, in the same manner  
 16 that sources of adjusted gross income are determined with respect to  
 17 the state of Indiana under IC 6-3-2-2.

18 "Enterprise zone gross income" means gross income of a taxpayer  
 19 that is derived from sources within an enterprise zone.

20 "Enterprise zone insurance premiums" means insurance premiums  
 21 derived from sources within an enterprise zone.

22 "Monthly base period wages" means base period wages divided by  
 23 twelve (12).

24 **"Pass through entity" means a:**

25 **(1) corporation that is exempt from the adjusted gross income**  
 26 **tax under IC 6-3-2-2.8(2);**

27 **(2) partnership;**

28 **(3) trust;**

29 **(4) limited liability company; or**

30 **(5) limited liability partnership.**

31 "Qualified employee" means an individual who is employed by a  
 32 taxpayer and who:

33 (1) has his principal place of residence in the enterprise zone in  
 34 which he is employed;

35 (2) performs services for the taxpayer, ninety percent (90%) of  
 36 which are directly related to the conduct of the taxpayer's trade or  
 37 business that is located in an enterprise zone; ~~and~~

38 (3) performs at least fifty percent (50%) of his services for the  
 39 taxpayer during the taxable year in the enterprise zone; ~~and~~

40 **(4) in the case of an individual who is employed by a taxpayer**  
 41 **that is a pass through entity, the individual was first employed**  
 42 **by the taxpayer after December 31, 1998.**



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1 "Qualified increased employment expenditures" means the  
2 following:

3 (1) For a taxpayer's taxable year other than his taxable year in  
4 which the enterprise zone is established, the amount by which  
5 qualified wages paid or payable by the taxpayer during the taxable  
6 year to qualified employees exceeds the taxpayer's base period  
7 wages.

8 (2) For the taxpayer's taxable year in which the enterprise zone is  
9 established, the amount by which qualified wages paid or payable  
10 by the taxpayer during all of the full calendar months in the  
11 taxpayer's taxable year that succeed the date on which the  
12 enterprise zone was established exceed the taxpayer's monthly  
13 base period wages multiplied by that same number of full  
14 calendar months.

15 "Qualified state tax liability" means a taxpayer's total income tax  
16 liability incurred under:

17 (1) IC 6-2.1 (gross income tax) with respect to enterprise zone  
18 gross income;

19 (2) IC 6-3-1 through IC 6-3-7 (adjusted gross income tax) with  
20 respect to enterprise zone adjusted gross income;

21 (3) IC 27-1-18-2 (insurance premiums tax) with respect to  
22 enterprise zone insurance premiums; and

23 (4) IC 6-5.5 (the financial institutions tax);

24 as computed after the application of the credits that, under  
25 IC 6-3.1-1-2, are to be applied before the credit provided by this  
26 section.

27 "Qualified wages" means the wages paid or payable to qualified  
28 employees during a taxable year.

29 **"Taxpayer" includes a pass through entity.**

30 (b) A taxpayer is entitled to a credit against the taxpayer's qualified  
31 state tax liability for a taxable year in the amount of the lesser of:

32 (1) the product of ten percent (10%) multiplied by the qualified  
33 increased employment expenditures of the taxpayer for the  
34 taxable year; or

35 (2) one thousand five hundred dollars (\$1,500) multiplied by the  
36 number of qualified employees employed by the taxpayer during  
37 the taxable year.

38 (c) The amount of the credit provided by this section that a taxpayer  
39 uses during a particular taxable year may not exceed the taxpayer's  
40 qualified state tax liability for the taxable year. If the credit provided by  
41 this section exceeds the amount of that tax liability for the taxable year  
42 it is first claimed, then the excess may be carried back to preceding



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1 taxable years or carried over to succeeding taxable years and used as  
 2 a credit against the taxpayer's qualified state tax liability for those  
 3 taxable years. Each time that the credit is carried back to a preceding  
 4 taxable year or carried over to a succeeding taxable year, the amount  
 5 of the carryover is reduced by the amount used as a credit for that  
 6 taxable year. Except as provided in subsection (e), the credit provided  
 7 by this section may be carried forward and applied in the ten (10)  
 8 taxable years that succeed the taxable year in which the credit accrues.  
 9 The credit provided by this section may be carried back and applied in  
 10 the three (3) taxable years that precede the taxable year in which the  
 11 credit accrues.

12 (d) A credit earned by a taxpayer in a particular taxable year shall  
 13 be applied against the taxpayer's qualified state tax liability for that  
 14 taxable year before any credit carryover or carryback is applied against  
 15 that liability under subsection (c).

16 (e) Notwithstanding subsection (c), if a credit under this section  
 17 results from wages paid in a particular enterprise zone, and if that  
 18 enterprise zone terminates in a taxable year that succeeds the last  
 19 taxable year in which a taxpayer is entitled to use the credit carryover  
 20 that results from those wages under subsection (c), then the taxpayer  
 21 may use the credit carryover for any taxable year up to and including  
 22 the taxable year in which the enterprise zone terminates.

23 (f) A taxpayer is not entitled to a refund of any unused credit.

24 (g) A taxpayer that:

- 25 (1) does not own, rent, or lease real property outside of an
- 26 enterprise zone that is an integral part of its trade or business; and
- 27 (2) is not owned or controlled directly or indirectly by a taxpayer
- 28 that owns, rents, or leases real property outside of an enterprise
- 29 zone;

30 is exempt from the allocation and apportionment provisions of this  
 31 section.

32 **(h) If a pass through entity is entitled to a credit under**  
 33 **subsection (b) but does not have state tax liability against which the**  
 34 **tax credit may be applied, an individual who is a shareholder,**  
 35 **partner, beneficiary, or member of the pass through entity is**  
 36 **entitled to a tax credit equal to:**

- 37 **(1) the tax credit determined for the pass through entity for**  
 38 **the taxable year; multiplied by**
- 39 **(2) the percentage of the pass through entity's distributive**  
 40 **income to which the shareholder, partner, beneficiary, or**  
 41 **member is entitled.**

42 **The credit provided under this subsection is in addition to a tax**

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1 **credit to which a shareholder, partner, beneficiary, or member of**  
 2 **a pass through entity is entitled. However, a pass through entity**  
 3 **and an individual who is a shareholder, partner, beneficiary, or**  
 4 **member of a pass through entity may not claim more than one (1)**  
 5 **credit for the qualified expenditure.**

6 SECTION 4. IC 6-3.1-7-1 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. As used in this  
 8 chapter:

9 "Enterprise zone" means an enterprise zone created under  
 10 IC 4-4-6.1.

11 **"Pass through entity" means a:**

- 12 (1) **corporation that is exempt from the adjusted gross income**
- 13 **tax under IC 6-3-2-2.8(2);**
- 14 (2) **partnership;**
- 15 (3) **trust;**
- 16 (4) **limited liability company; or**
- 17 (5) **limited liability partnership.**

18 "Qualified loan" means a loan made to an entity that uses the loan  
 19 proceeds for:

- 20 (1) a purpose that is directly related to a business located in an
- 21 enterprise zone;
- 22 (2) an improvement that increases the assessed value of real
- 23 property located in an enterprise zone; or
- 24 (3) rehabilitation, repair, or improvement of a residence.

25 "State tax liability" means a taxpayer's total tax liability that is  
 26 incurred under:

- 27 (1) IC 6-2.1 (the gross income tax);
- 28 (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- 29 (3) IC 6-3-8 (the supplemental net income tax);
- 30 (4) IC 6-5-10 (the bank tax);
- 31 (5) IC 6-5-11 (the savings and loan association tax);
- 32 (6) IC 27-1-18-2 (the insurance premiums tax); and
- 33 (7) IC 6-5.5 (the financial institutions tax);

34 as computed after the application of the credits that, under  
 35 IC 6-3.1-1-2, are to be applied before the credit provided by this  
 36 chapter.

37 "Taxpayer" means any person, corporation, limited liability  
 38 company, partnership, or other entity that has any state tax liability.

39 **The term includes a pass through entity.**

40 SECTION 5. IC 36-4-3-7.1 IS ADDED TO THE INDIANA CODE  
 41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 42 FEBRUARY 1, 1999 (RETROACTIVE)]: **Sec. 7.1. Notwithstanding**

**EH 1983—LS 8143/DI 73+**



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1 section 7(b) of this chapter, an ordinance adopted under section 4  
2 of this chapter takes effect immediately upon the expiration of the  
3 sixty (60) day remonstrance and appeal period under section 11 or  
4 15.5 of this chapter and after the publication, filing, and recording  
5 required by section 22(a) of this chapter if all of the following  
6 conditions are met:

- 7 (1) The annexed territory has no population.
- 8 (2) Ninety (90%) of the total assessed value of the land for  
9 property tax purposes has one (1) owner.
- 10 (3) The annexation is required to fulfill an economic  
11 development incentive package and to retain an industry  
12 through various local incentives, including urban enterprise  
13 zone benefits.

14 SECTION 6. [EFFECTIVE JANUARY 1, 2000] IC 6-3-3-10 and  
15 IC 6-3.1-7-1, both as amended by this act, apply only to taxable  
16 years beginning after December 31, 1999.

17 SECTION 7. 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 1983, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1983 as introduced.)

BAUER, Chair

Committee Vote: yeas 22, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1983 be amended to read as follows:

Page 4, line 8, after "entity," insert "**base period wages equal zero (0).**".

Page 4, delete lines 9 through 18.

Page 5, line 4, strike "and".

Page 5, line 6, delete "." and insert "; **and**"

Page 5, between lines 6 and 7, begin a new line block indented and insert:

**"(4) in the case of an individual who is employed by a taxpayer that is a pass through entity, the individual was first employed by the taxpayer after December 31, 1998."**

(Reference is to HB 1983 as printed February 25, 1999.)

KLINKER

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1983 be amended to read as follows:

Page 10, between lines 40 and 41, begin a new paragraph and insert:  
"SECTION 8. IC 36-4-3-7.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE FEBRUARY 1, 1999 (RETROACTIVE)]: **Sec. 7.1. Notwithstanding section 7(b) of this chapter, an ordinance adopted under section 4 of this chapter takes effect immediately upon the expiration of the sixty (60) day remonstrance and appeal period under section 11 or 15.5 of this chapter and after the publication, filing, and recording required by section 22(a) of this chapter if all of the following conditions are met:**

- (1) The annexed territory has no population.**
- (2) Ninety (90%) of the total assessed value of the land for property tax purposes has one (1) owner.**
- (3) The annexation is required to fulfill an economic development incentive package and to retain an industry through various local incentives, including urban enterprise zone benefits."**

Page 11, after line 2, begin a new paragraph and insert:

**"SECTION 10. An emergency is declared for this act."**



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Renumber all SECTIONS consecutively.

(Reference is to HB 1983 as printed February 25, 1999.)

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SENATE MOTION

Mr. President: I move that Senator Landske be added as cosponsor of Engrossed House Bill 1983.

HARRISON

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COMMITTEE REPORT

Mr. President: The Senate Committee on Planning and Economic Development, to which was referred House Bill No. 1983, 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 7, delete lines 40 through 42.

Delete pages 8 through 9.

Page 10, delete lines 1 through 34.

Page 11, line 9, delete "," and insert "**and**".

Page 11, line 10, delete "IC 6-3.1-7-2, IC 6-3.1-10-4, and IC 6-3.1-10-8, all" and insert "**both**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1983 as reprinted March 2, 1999.)

LUBBERS, Chairperson

Committee Vote: Yeas 9, Nays 0.

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