Reprinted
March 2, 1999

HOUSE BILL No. 1983

DIGEST OF HB 1983 (Updated March 1, 1999 8:14 pm - DI 73)

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 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. Provides that a pass through entity is a taxpayer for purposes of allowing a pass through entity or corporation to take an enterprise zone investment cost credit. Provides that pass through

(Continued next page)

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

Klinker, McClain, GiaQuinta, Pond

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.

entities are eligible for the enterprise zone loan interest credit. Allows certain additional enterprise zone investment cost credits related to property that has environmental contamination, has perceived environmental contamination, or is abandoned or otherwise under used. Caps the total amount of enterprise zone investment cost credits at $500,000 per state fiscal year. 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.

Reprinted
March 2, 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.

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:

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

(b) The governor shall appoint ~~nine (9)~~ **fifteen (15)** enterprise zone board members as follows:

(1) A representative of business.

(2) A representative of labor.

(3) A representative of the fire prevention and building safety commission.
(4) A representative of minority business.
(5) A representative of small business.
(6) A representative of a neighborhood association.
(7) A representative of municipal government.
(8) A representative of the state department of health.
(9) The lieutenant governor or his designee.
(10) A representative of the department of state revenue.
(11) A representative of the state board of tax commissioners.
(12) A representative of the department of environmental management.
(13) A representative of the Indiana development finance authority.
(14) A representative of the Indiana business modernization and technology corporation.
(15) A representative of the department of workforce development.

(c) The president pro tempore of the state senate shall appoint two (2) state senators to the enterprise zone board.

(d) The speaker of the house of representatives shall appoint two (2) state representatives to the enterprise zone board.

(e) The four (4) legislative members appointed under subsections (c) and (d) are the nonvoting, advisory members of the board.

(f) Members may be dismissed only by the appointing authority and only for just cause. The governor shall fill any vacancy as it occurs for the remainder of the term.

(g) The governor shall designate a chairman and vice chairman every two (2) years in the month in which the first meeting of the board is held or whenever a vacancy occurs.

(h) The board by rule shall provide for the conduct of its business and the performance of its duties.

(i) The department of commerce shall serve as the staff of the board. If an urban enterprise association created under section 4 of this chapter requests copies of forms filed with the board, the department of commerce shall forward copies of the requested forms to the urban enterprise association.

(j) Except as provided in subsection (k), a nonlegislative member is entitled to the minimum salary per diem as provided in IC 4-10-11-2.1(b) while performing his duties. Such a member is also entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with his duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

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

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

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

(1) The board.
(2) An urban enterprise association.
(3) The department of state revenue.
(4) The department of commerce.
(5) The state board of tax commissioners.
(6) A county auditor.
(7) A township assessor.

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

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

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

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

(1) In the case of a taxpayer other than a pass through entity, wages paid or payable by a taxpayer to its employees during the year that ends on the last day of the month that immediately precedes the month in which an enterprise zone is established, to the extent that the wages would have been qualified wages if the enterprise zone had been in effect for that year. If the taxpayer did not engage in an active trade or business during that year in the area that is later designated as an enterprise zone, then the base period wages equal zero (0). If the taxpayer engaged in an active trade or business during only part of that year in an area that is later designated as an enterprise zone, then the department shall determine the amount of base period wages.

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

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

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

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

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

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

"Pass through entity" means a:

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

(2) partnership;

(3) trust;

(4) limited liability company; or

(5) limited liability partnership.

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

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

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

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

(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.

"Qualified increased employment expenditures" means the following:

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

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

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

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

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

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

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

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

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

"Taxpayer" includes a pass through entity.

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

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

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

(c) The amount of the credit provided by this section that a taxpayer uses during a particular taxable year may not exceed the taxpayer's qualified state tax liability for the taxable year. If the credit provided by this section exceeds the amount of that tax liability for the taxable year it is first claimed, then the excess may be carried back to preceding taxable years or carried over to succeeding taxable years and used as a credit against the taxpayer's qualified state tax liability for those taxable years. Each time that the credit is carried back to a preceding taxable year or carried over to a succeeding taxable year, the amount of the carryover is reduced by the amount used as a credit for that taxable year. Except as provided in subsection (e), the credit provided by this section may be carried forward and applied in the ten (10) taxable years that succeed the taxable year in which the credit accrues. The credit provided by this section may be carried back and applied in the three (3) taxable years that precede the taxable year in which the credit accrues.

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

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

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

(g) A taxpayer that:

(1) does not own, rent, or lease real property outside of an enterprise zone that is an integral part of its trade or business; and

(2) is not owned or controlled directly or indirectly by a taxpayer that owns, rents, or leases real property outside of an enterprise zone;

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

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

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, beneficiary, or member is entitled.

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

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

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

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

"Pass through entity" means a:

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

(2) partnership;

(3) trust;

(4) limited liability company; or

(5) limited liability partnership.

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

(1) a purpose that is directly related to a business located in an enterprise zone;

(2) an improvement that increases the assessed value of real property located in an enterprise zone; or

(3) rehabilitation, repair, or improvement of a residence.

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

(1) IC 6-2.1 (the gross income tax);

(2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(3) IC 6-3-8 (the supplemental net income tax);

(4) IC 6-5-10 (the bank tax);

(5) IC 6-5-11 (the savings and loan association tax);

(6) IC 27-1-18-2 (the insurance premiums tax); and

(7) IC 6-5.5 (the financial institutions tax);

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

"Taxpayer" means any person, corporation, limited liability company, partnership, or other entity that has any state tax liability. **The term includes a pass through entity.**

SECTION 5. IC 6-3.1-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) A taxpayer is entitled to a credit against his state tax liability for a taxable year if he receives interest on a qualified loan in that taxable year.

(b) The amount of the credit to which a taxpayer is entitled under this section is five percent (5%) multiplied by the amount of interest received by the taxpayer during the taxable year from qualified loans.

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

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, beneficiary, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, beneficiary, or member of a pass through entity is entitled. However, a pass through entity and an individual who is a shareholder, partner, beneficiary, or member of a pass through entity may not claim more than one (1) credit for the qualified expenditure.

SECTION 6. IC 6-3.1-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. ~~(a)~~ As used in this chapter, "taxpayer" means **the following:**

(1) Any individual that has any state tax liability.

~~(b) Notwithstanding subsection (a), for a credit for a qualified investment in a business located in an enterprise zone in a county having a population of more than one hundred thousand (100,000) but less than one hundred seven thousand (107,000), "taxpayer" includes a pass through entity.~~

(2) A pass through entity (as defined in IC 6-3-3-10).

SECTION 7. IC 6-3.1-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 8. (a) To be entitled to a credit, a taxpayer must request the department of commerce to determine:

(1) whether a purchase of an ownership interest in a business located in an enterprise zone is a qualified investment; and

(2) the percentage credit to be allowed.

The request must be made before a purchase is made.

(b) The department of commerce shall find that a purchase is a qualified investment if:

(1) the business is viable;

(2) the business has not been disqualified from enterprise zone

incentives or benefits under IC 4-4-6.1;

(3) the taxpayer has a legitimate purpose for purchase of the ownership interest;

(4) the purchase would not be made unless a credit is allowed under this chapter; and

(5) **in the case of a business that has not commenced any business operations or is a start-up business,** the purchase is critical to the commencement, enhancement, or expansion of business operations in the zone and will not merely transfer ownership, and the purchase proceeds will be used only in business operations in the enterprise zone.

The department may delay making a finding under this subsection if, at the time the request is filed under subsection (a), an urban enterprise zone association has made a recommendation that the business be disqualified from enterprise zone incentives or benefits under IC 4-4-6.1 and the enterprise zone board has not acted on that request. The delay by the department may not last for more than sixty (60) days.

(c) If the department of commerce finds that a purchase is a qualified investment, the department shall certify the percentage credit to be allowed under this chapter based upon the following:

(1) A percentage credit of ten percent (10%) may be allowed ~~based upon the need of the business for equity financing, as demonstrated by the inability of the business to obtain debt financing.~~ **for:**

(A) the redevelopment and environmental remediation of real property that has environmental contamination;

(B) the redevelopment of real property that has perceived environmental contamination; or

(C) the redevelopment of real property that is abandoned or otherwise under used.

A taxpayer may receive a credit under clause (A) in addition to any other credits the taxpayer is otherwise entitled to receive. A credit may not be granted to a taxpayer unless the taxpayer has not contributed to the contamination and has never had an ownership interest in an entity that contributed to the contamination.

(2) A percentage credit of two percent (2%) may be allowed for business operations in the retail, professional, or warehouse/distribution codes of the SIC Manual.

(3) A percentage credit of five percent (5%) may be allowed for business operations in the manufacturing codes of the SIC Manual.

(4) A percentage credit may be allowed for jobs created during the twelve (12) month period following the purchase of an ownership interest in the zone business, as determined under the following table:

JOBS CREATED	PERCENTAGE
Less than 11 jobs	1%
11 to 25 jobs	2%
26 to 40 jobs	3%
41 to 75 jobs	4%
More than 75 jobs	5%

(5) A percentage credit of five percent (5%) may be allowed if fifty percent (50%) or more of the jobs created in the twelve (12) month period following the purchase of an ownership interest in the zone business will be reserved for zone residents.

(6) A percentage credit may be allowed for investments made in real or depreciable personal property, as determined under the following table:

AMOUNT OF INVESTMENT	PERCENTAGE
Less than $25,001	1%
$25,001 to $50,000	2%
$50,001 to $100,000	3%
$100,001 to $200,000	4%
More than $200,000	5%

The total percentage credit may not exceed thirty percent (30%).

(d) If all or a part of a purchaser's intent is to transfer ownership, the tax credit shall be applied only to that part of the investment that relates directly to the enhancement or expansion of business operations at the zone location.

(e) The total amount of tax credits allowed under this chapter may not exceed five hundred thousand dollars ($500,000) in a state fiscal year. The department shall record the time of filing of each claim for a credit and shall approve the claims, if they otherwise qualify for a tax credit under this chapter, in the chronological order in which the claims are filed in the state fiscal year.

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.

SECTION 9. [EFFECTIVE JANUARY 1, 2000] **IC 6-3-3-10, IC 6-3.1-7-1, IC 6-3.1-7-2, IC 6-3.1-10-4, and IC 6-3.1-10-8, all as amended by this act, apply only to taxable years beginning after December 31, 1999.**

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