

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 ENROLLED ACT No. 1341

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

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

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

(b) After approval by resolution of the legislative body, the executive of any municipality that is not an included town under IC 36-3-1-7 may submit one (1) application to the enterprise zone board to have one (1) portion of the municipality designated as an enterprise zone. If an application is denied, the executive may submit a new application. The board by rule shall provide application procedures.

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

- (1) A poverty level in which twenty-five percent (25%) of the households in the zone are below the poverty level as established

HEA 1341



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by the most recent United States census or an average rate of unemployment for the most recent eighteen (18) month period for which data is available that is at least one and one-half (1 1/2) times the average statewide rate of unemployment for the same eighteen (18) month period.

(2) A population of more than two thousand (2,000) but less than ~~eight ten thousand five hundred (8,000)~~: **(10,500)**.

(3) An area of more than three-fourths (3/4) square mile but less than ~~three (3)~~ **four (4)** square miles, with a continuous boundary (using natural, street, or highway barriers when possible) entirely within the applicant municipality. However, if the zone includes a parcel of property that:

(A) is owned by the municipality; and

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

the area of the zone may be increased above the ~~three (3)~~ **four (4)** square mile limitation by an amount not to exceed the area of the municipally owned parcel.

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

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

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

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

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

(2) Evidence of support for designation by residents, businesses, and private organizations in the proposed zone, and the demonstration of a willingness among those zone constituents to participate in zone area revitalization.

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

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

(B) Crime prevention activities involving zone residents.

(C) A plan for infrastructure improvements capable of

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supporting increased development activity.

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

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

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

(1) Increases in capital investment in the zone.

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

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

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

(g) Notwithstanding any other provision of this chapter, one (1) or more units (as defined in IC 36-1-2-23) may declare all or any part of a military base or other military installation that is inactive, closed, or scheduled for closure as an enterprise zone. Such a declaration shall be made by a resolution of the legislative body of the unit that contains the geographic area being declared an enterprise zone. The legislative body must include in the resolution that an urban enterprise association is created or designate another entity to function as the urban enterprise association under this chapter. The resolution must also be approved by the executive of the unit. If the resolution is approved, the executive shall file the resolution and the executive's approval with the board. If an entity other than an urban enterprise association is designated to function as an urban enterprise association, the entity's acceptance must be filed with the board along with the resolution. The enterprise zone designation is effective on the first day of the month following the date the resolution is filed with the board. Establishment of an enterprise

HEA 1341



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zone under this subsection is not subject to the limit of two (2) new enterprise zones each year under subsection (a).

(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).

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.

HEA 1341



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(b) Notwithstanding subsection (a), a business that would otherwise be disqualified under subsection (a) is eligible for benefits and 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 or health insurance obligations payable to employees or former employees of the non-zone operation without the consent of the employees.

(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

HEA 1341



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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.

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

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

(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).

(d) This SECTION expires July 1, 2000.

SECTION 4. An emergency is declared for this act.

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