



January 16, 2004

SENATE BILL No. 180

DIGEST OF SB 180 (Updated January 14, 2004 5:19 pm - DI 87)

Citations Affected: IC 6-3.1; IC 36-7; noncode.

Synopsis: Community revitalization enhancement districts. Provides that a taxpayer that is otherwise entitled to a community revitalization enhancement district ("district") tax credit may claim the credit regardless of whether any incremental income or sales taxes have been deposited in the incremental tax financing fund established for the district or have been allocated to the district. Provides that a district must terminate not later than 15 years after incremental income or sales taxes are first allocated to the district. Provides that if the budget agency fails to act on an ordinance or a resolution designating a district within 120 days, the ordinance or resolution is considered approved. Permits an advisory commission on industrial development or the executive of a municipality or county to petition the budget agency for permission to modify the boundaries of a district. Establishes a procedure and criteria for appealing a decision by the department of state revenue that a taxpayer is not eligible for the community revitalization enhancement district tax credit (CRED) because the taxpayer's business relocated operations into the district from another location in Indiana.

Effective: July 1, 2004.

**Long, Broden, Riegsecker, Wyss,
Lanane, Zakas**

January 6, 2004, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.
January 15, 2004, amended, reported favorably — Do Pass.

**C
o
p
y**

SB 180—LS 6593/DI 92+



January 16, 2004

Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

C
O
P
Y

SENATE BILL No. 180



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 6-3.1-19-3, AS AMENDED BY P.L.224-2003,
- 2 SECTION 196, IS AMENDED TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2004]: Sec. 3. (a) Subject to section 5 of this
- 4 chapter, a taxpayer is entitled to a credit against the taxpayer's state and
- 5 local tax liability for a taxable year if the taxpayer makes a qualified
- 6 investment in that year.
- 7 (b) The amount of the credit to which a taxpayer is entitled is the
- 8 qualified investment made by the taxpayer during the taxable year
- 9 multiplied by twenty-five percent (25%).
- 10 (c) A taxpayer may assign any part of the credit to which the
- 11 taxpayer is entitled under this chapter to a lessee of property
- 12 redeveloped or rehabilitated under section 2 of this chapter. A credit
- 13 that is assigned under this subsection remains subject to this chapter.
- 14 (d) An assignment under subsection (c) must be in writing and both
- 15 the taxpayer and the lessee must report the assignment on their state tax
- 16 return for the year in which the assignment is made, in the manner
- 17 prescribed by the department. The taxpayer may not receive value in

SB 180—LS 6593/DI 92+



1 connection with the assignment under subsection (c) that exceeds the
2 value of the part of the credit assigned.

3 (e) If a pass through entity is entitled to a credit under this chapter
4 but does not have state and local tax liability against which the tax
5 credit may be applied, a shareholder, partner, or member of the pass
6 through entity is entitled to a tax credit equal to:

- 7 (1) the tax credit determined for the pass through entity for the
- 8 taxable year; multiplied by
- 9 (2) the percentage of the pass through entity's distributive income
- 10 to which the shareholder, partner, or member is entitled.

11 The credit provided under this subsection is in addition to a tax credit
12 to which a shareholder, partner, or member of a pass through entity is
13 otherwise entitled under this chapter. However, a pass through entity
14 and an individual who is a shareholder, partner, or member of the pass
15 through entity may not claim more than one (1) credit for the same
16 investment.

17 **(f) A taxpayer that is otherwise entitled to a credit under this**
18 **chapter for a taxable year may claim the credit regardless of**
19 **whether any income tax incremental amount or gross retail**
20 **incremental amount has been:**

- 21 (1) deposited in the incremental tax financing fund established
- 22 for the community revitalization enhancement district; or
- 23 (2) allocated to the district.

24 SECTION 2. IC 6-3.1-19-5 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) ~~Except as~~
26 ~~provided in subsection (b);~~ A taxpayer is not entitled to claim the credit
27 provided by this chapter to the extent that the taxpayer substantially
28 reduces or ceases its operations in Indiana in order to relocate them
29 within the district.

30 ~~(b) Notwithstanding subsection (a); a taxpayer's substantial~~
31 ~~reduction or cessation of operations in Indiana in order to relocate~~
32 ~~operations to a district does not make a taxpayer ineligible for a credit~~
33 ~~under this chapter if: (1)~~

34 **Determinations under this section shall be made by the**
35 **department. The department shall adopt a proposed order**
36 **concerning a taxpayer's eligibility for the credit based on**
37 **subsection (b) and the following criteria:**

- 38 (1) A site-specific economic activity, including sales, leasing,
- 39 service, manufacturing, production, storage of inventory, or
- 40 any activity involving permanent full-time or part-time
- 41 employees, shall be considered a business operation.
- 42 (2) With respect to an operation located outside the district

C
o
p
y



1 (referred to in this section as a "nondistrict operation"), any
2 of the following that occurs during the twelve (12) months
3 before the completion of the physical relocation of all or part
4 of the activity described in subdivision (1) from the
5 nondistrict operation to the district as compared with the
6 twelve (12) months before that twelve (12) months shall be
7 considered a substantial reduction:

- 8 (A) A reduction in the average number of full-time or
- 9 part-time employees of the lesser of one hundred (100)
- 10 employees or twenty-five percent (25%) of all employees.
- 11 (B) A twenty-five percent (25%) reduction in the average
- 12 number of goods manufactured or produced.
- 13 (C) A twenty-five percent (25%) reduction in the average
- 14 value of services provided.
- 15 (D) A ten percent (10%) reduction in the average value of
- 16 stored inventory.
- 17 (E) A twenty-five percent (25%) reduction in the average
- 18 amount of gross income.

19 (b) Notwithstanding subsection (a), a taxpayer that would
20 otherwise be disqualified under subsection (a) is eligible for the
21 credit provided by this chapter if the taxpayer meets at least one
22 (1) of the following conditions:

- 23 (1) The taxpayer relocates all or part of its nondistrict
- 24 operation for any of the following reasons:
- 25 (A) The lease on property necessary for the nondistrict
- 26 operation has been involuntarily lost through no fault of
- 27 the taxpayer.
- 28 (B) The space available at the location of the nondistrict
- 29 operation cannot accommodate planned expansion needed
- 30 by the taxpayer.
- 31 (C) The building for the nondistrict operation has been
- 32 certified as uninhabitable by a state or local building
- 33 authority.
- 34 (D) The building for the nondistrict operation has been
- 35 totally destroyed through no fault of the taxpayer.
- 36 (E) The renovation and construction costs at the location
- 37 of the nondistrict operation are more than one and
- 38 one-half (1 1/2) times the costs of purchase, renovation,
- 39 and construction of a facility in the district, as certified by
- 40 three (3) independent estimates.
- 41 (F) The taxpayer had existing operations in the district and ~~(2)~~
- 42 the nondistrict operations relocated to the district are an

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

expansion of the taxpayer's operations in the district.

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

(2) The taxpayer has not terminated or reduced the pension or health insurance obligations payable to employees or former employees of the nondistrict operation without the consent of the employees.

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

(d) A party who wishes to appeal the proposed order of the department shall, within ten (10) days after the party's receipt of the proposed order, file written objections with the department. The department shall immediately forward copies of the objections to the director of the budget agency and the director of the department of commerce. A hearing panel composed of the commissioner of the department or the commissioner's designee, the director of the budget agency or the director's designee, and the director of the department of commerce or the director's designee 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 hearing panel 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 hearing panel. The hearing panel may hear additional evidence or remand the action to the department with instructions appropriate to the expeditious and proper disposition of the action. The hearing panel may adopt the proposed order of the department, may amend or modify the proposed order, or may make such order or determination as is proper on the record. The affirmative votes of at least two (2) members of the hearing panel are required for the hearing panel to take action on any measure. The taxpayer may appeal the decision of the hearing panel to the tax court in the same manner that a final determination of the department may be appealed under IC 33-3-5.

(e) If no objections are filed, the department may adopt the

**C
O
P
Y**



1 **proposed order without oral argument.**

2 ~~(c)~~ (f) A determination that a taxpayer is not entitled to the credit
3 provided by this chapter as a result of a substantial reduction or
4 cessation of operations applies to credits that would otherwise arise in
5 the taxable year in which the substantial reduction or cessation occurs
6 and in all subsequent years. ~~Determinations under this section shall be~~
7 ~~made by the department of state revenue.~~

8 SECTION 3. IC 36-7-13-2.4, AS AMENDED BY P.L.178-2002,
9 SECTION 116, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2004]: Sec. 2.4. Except as provided in section
11 10.7(c) of this chapter, as used in this chapter, "gross retail base period
12 amount" means:

13 (1) the aggregate amount of state gross retail and use taxes
14 remitted under IC 6-2.5 by the businesses operating in the
15 territory comprising a district during the full state fiscal year that
16 precedes the date on which:

17 (A) an advisory commission on industrial development
18 adopted a resolution designating the district, in the case of a
19 district that is not described in section 12(c) of this chapter; or
20 (B) the legislative body of a county or municipality adopts an
21 ordinance designating a district under section 10.5 of this
22 chapter; ~~or~~

23 (2) an amount equal to:

24 (A) the aggregate amount of state gross retail and use taxes
25 remitted:

26 (i) under IC 6-2.5 by the businesses operating in the territory
27 comprising a district; and

28 (ii) during the month in which an advisory commission on
29 industrial development adopted a resolution designating the
30 district; multiplied by

31 (B) twelve (12);

32 in the case of a district that is described in section 12(c) of this
33 chapter; ~~or~~

34 **(3) an amount equal to the amount determined under**
35 **subdivision (1) or (2); plus:**

36 **(A) the aggregate amount of state gross retail and use taxes**
37 **remitted:**

38 **(i) under IC 6-2.5 by the businesses operating in the**
39 **territory added to the district; and**

40 **(ii) during the month in which a petition to modify the**
41 **district's boundaries is approved by the budget agency**
42 **under section 12.5 of this chapter; multiplied by**

C
O
P
Y



1 **(B) twelve (12);**
2 **in the case of a district modified under section 12.5 of this**
3 **chapter.**

4 SECTION 4. IC 36-7-13-3.2, AS AMENDED BY P.L.178-2002,
5 SECTION 117, IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2004]: Sec. 3.2. Except as provided in section
7 10.7(d) of this chapter, as used in this chapter, "income tax base period
8 amount" means:

9 (1) the aggregate amount of state and local income taxes paid by
10 employees employed in the territory comprising a district with
11 respect to wages and salary earned for work in the district for the
12 state fiscal year that precedes the date on which:

13 (A) an advisory commission on industrial development
14 adopted a resolution designating the district, in the case of a
15 district that is not described in section 12(c) of this chapter; or
16 (B) the legislative body of a county or municipality adopts an
17 ordinance designating a district under section 10.5 of this
18 chapter; or

19 (2) an amount equal to:
20 (A) the aggregate amount of state and local income taxes paid
21 by employees employed in the territory comprising a district
22 with respect to wages and salary earned for work in the district
23 during the month in which an advisory commission on
24 industrial development adopted a resolution designating the
25 district; multiplied by

26 (B) twelve (12);
27 in the case of a district that is described in section 12(c) of this
28 chapter; or

29 (3) **an amount equal to the amount determined under**
30 **subdivision (1) or (2); plus:**

31 (A) **the aggregate amount of state and local income taxes**
32 **paid by employees employed in the territory added to the**
33 **district with respect to wages and salary earned for work**
34 **in the modified district during the month in which a**
35 **petition to modify the district's boundaries is approved by**
36 **the budget agency under section 12.5 of this chapter;**
37 **multiplied by**

38 (B) **twelve (12);**
39 **in the case of a district modified under section 12.5 of this**
40 **chapter.**

41 SECTION 5. IC 36-7-13-10.5, AS AMENDED BY P.L.178-2002,
42 SECTION 118, IS AMENDED TO READ AS FOLLOWS

C
o
p
y



1 [EFFECTIVE JULY 1, 2004]: Sec. 10.5. (a) This section applies only
2 to a county that meets the following conditions:

3 (1) The county's annual rate of unemployment has been above the
4 average annual statewide rate of unemployment during at least
5 three (3) of the preceding five (5) years.

6 (2) The median income of the county has:

7 (A) declined over the preceding ten (10) years; or

8 (B) has grown at a lower rate than the average annual
9 statewide growth in median income during at least three (3) of
10 the preceding five (5) years.

11 (3) The population of the county (as determined by the legislative
12 body of the county) has declined over the preceding ten (10)
13 years.

14 (b) Except as provided in section 10.7 of this chapter, in a county
15 described in subsection (a), the legislative body of the county may
16 adopt an ordinance designating an unincorporated part or
17 unincorporated parts of the county as a district, and the legislative body
18 of a municipality located within the county may adopt an ordinance
19 designating a part or parts of the municipality as a district, if the
20 legislative body finds all of the following:

21 (1) The area to be designated as a district contains a building or
22 buildings that:

23 (A) have a total of at least fifty thousand (50,000) square feet
24 of usable interior floor space; and

25 (B) are vacant or will become vacant due to the relocation of
26 the employer or the cessation of operations on the site by the
27 employer.

28 (2) Significantly fewer persons are employed in the area to be
29 designated as a district than were employed in the area during the
30 year that is ten (10) years previous to the current year.

31 (3) There are significant obstacles to redevelopment in the area
32 due to any of the following problems:

33 (A) Obsolete or inefficient buildings.

34 (B) Aging infrastructure or inefficient utility services.

35 (C) Utility relocation requirements.

36 (D) Transportation or access problems.

37 (E) Topographical obstacles to redevelopment.

38 (F) Environmental contamination or remediation.

39 (c) A legislative body adopting an ordinance under subsection (b)
40 shall designate the duration of the district. However, ~~the duration may~~
41 **not exceed a district must terminate not later than** fifteen (15) years
42 ~~from the time of designation. after the income tax incremental~~

C
O
P
Y



1 **amount or gross retail incremental amount is first allocated to the**
2 **district.**

3 (d) Except as provided in section 10.7 of this chapter, upon adoption
4 of an ordinance designating a district, the legislative body shall submit
5 the ordinance to the budget committee for review and recommendation
6 to the budget agency. **If the budget agency fails to take action on an**
7 **ordinance designating a district within one hundred twenty (120)**
8 **days after the date that the ordinance is submitted to the budget**
9 **committee, the designation of the district by the ordinance is**
10 **considered approved.**

11 (e) Except as provided in section 10.7 of this chapter, when
12 considering the designation of a district by an ordinance adopted under
13 this section, the budget committee and the budget agency must make
14 the following findings before approving the designation of the district:

15 (1) The area to be designated as a district meets the conditions
16 necessary for the designation as a district.

17 (2) The designation of the district will benefit the people of
18 Indiana by protecting or increasing state and local tax bases and
19 tax revenues for at least the duration of the district.

20 (f) Except as provided in section 10.7 of this chapter, the income tax
21 incremental amount and the gross retail incremental amount may not
22 be allocated to the district until ~~the budget agency approves~~ the
23 designation of the district by the local ordinance **is approved under**
24 **this section.**

25 SECTION 6. IC 36-7-13-12, AS AMENDED BY P.L.224-2003,
26 SECTION 238, IS AMENDED TO READ AS FOLLOWS
27 [EFFECTIVE JULY 1, 2004]: Sec. 12. (a) If a municipal or county
28 executive has submitted an application to an advisory commission on
29 industrial development requesting that an area be designated as a
30 district under this chapter and the advisory commission has compiled
31 and prepared the information required under section 11 of this chapter
32 concerning the area, the advisory commission may adopt a resolution
33 designating the area as a district if it makes the findings described in
34 subsection (b), (c), (d), or (e). In a county described in subsection (c),
35 an advisory commission may designate more than one (1) district under
36 subsection (c).

37 (b) For an area located in a county having a population of more than
38 one hundred twenty thousand (120,000) but less than one hundred
39 thirty thousand (130,000), an advisory commission may adopt a
40 resolution designating a particular area as a district only after finding
41 all of the following:

42 (1) The area contains a building or buildings:

C
o
p
y



- 1 (A) with at least one million (1,000,000) square feet of usable
- 2 interior floor space; and
- 3 (B) that is or are vacant or will become vacant due to the
- 4 relocation of an employer.
- 5 (2) At least one thousand (1,000) fewer persons are employed in
- 6 the area than were employed in the area during the year that is ten
- 7 (10) years previous to the current year.
- 8 (3) There are significant obstacles to redevelopment of the area
- 9 due to any of the following problems:
- 10 (A) Obsolete or inefficient buildings.
- 11 (B) Aging infrastructure or inefficient utility services.
- 12 (C) Utility relocation requirements.
- 13 (D) Transportation or access problems.
- 14 (E) Topographical obstacles to redevelopment.
- 15 (F) Environmental contamination.
- 16 (4) The unit has expended, appropriated, pooled, set aside, or
- 17 pledged at least one hundred thousand dollars (\$100,000) for
- 18 purposes of addressing the redevelopment obstacles described in
- 19 subdivision (3).
- 20 (5) The area is located in a county having a population of more
- 21 than one hundred twenty thousand (120,000) but less than one
- 22 hundred thirty thousand (130,000).
- 23 (c) For a county having a population of more than one hundred
- 24 eighteen thousand (118,000) but less than one hundred twenty
- 25 thousand (120,000), an advisory commission may adopt a resolution
- 26 designating not more than two (2) areas as districts. An advisory
- 27 commission may designate an area as a district only after finding the
- 28 following:
- 29 (1) The area meets either of the following conditions:
- 30 (A) The area contains a building with at least seven hundred
- 31 ninety thousand (790,000) square feet, and at least eight
- 32 hundred (800) fewer people are employed in the area than
- 33 were employed in the area during the year that is fifteen (15)
- 34 years previous to the current year.
- 35 (B) The area contains a building with at least four hundred
- 36 forty thousand (440,000) square feet, and at least four hundred
- 37 (400) fewer people are employed in the area than were
- 38 employed in the area during the year that is fifteen (15) years
- 39 previous to the current year.
- 40 (2) The area is located in or is adjacent to an industrial park.
- 41 (3) There are significant obstacles to redevelopment of the area
- 42 due to any of the following problems:

COPY



- 1 (A) Obsolete or inefficient buildings.
- 2 (B) Aging infrastructure or inefficient utility services.
- 3 (C) Utility relocation requirements.
- 4 (D) Transportation or access problems.
- 5 (E) Topographical obstacles to redevelopment.
- 6 (F) Environmental contamination.
- 7 (4) The area is located in a county having a population of more
- 8 than one hundred eighteen thousand (118,000) but less than one
- 9 hundred twenty thousand (120,000).
- 10 (d) For an area located in a county having a population of more than
- 11 two hundred thousand (200,000) but less than three hundred thousand
- 12 (300,000), an advisory commission may adopt a resolution designating
- 13 a particular area as a district only after finding all of the following:
- 14 (1) The area contains a building or buildings:
- 15 (A) with at least one million five hundred thousand
- 16 (1,500,000) square feet of usable interior floor space; and
- 17 (B) that is or are vacant or will become vacant.
- 18 (2) At least eighteen thousand (18,000) fewer persons are
- 19 employed in the area at the time of application than were
- 20 employed in the area before the time of application.
- 21 (3) There are significant obstacles to redevelopment of the area
- 22 due to any of the following problems:
- 23 (A) Obsolete or inefficient buildings.
- 24 (B) Aging infrastructure or inefficient utility services.
- 25 (C) Utility relocation requirements.
- 26 (D) Transportation or access problems.
- 27 (E) Topographical obstacles to redevelopment.
- 28 (F) Environmental contamination.
- 29 (4) The unit has expended, appropriated, pooled, set aside, or
- 30 pledged at least one hundred thousand dollars (\$100,000) for
- 31 purposes of addressing the redevelopment obstacles described in
- 32 subdivision (3).
- 33 (5) The area is located in a county having a population of more
- 34 than two hundred thousand (200,000) but less than three hundred
- 35 thousand (300,000).
- 36 (e) For an area located in a county having a population of more than
- 37 three hundred thousand (300,000) but less than four hundred thousand
- 38 (400,000), an advisory commission may adopt a resolution designating
- 39 a particular area as a district only after finding all of the following:
- 40 (1) The area contains a building or buildings:
- 41 (A) with at least eight hundred thousand (800,000) gross
- 42 square feet; and

COPY



- 1 (B) having leasable floor space, at least fifty percent (50%) of
- 2 which is or will become vacant.
- 3 (2) There are significant obstacles to redevelopment of the area
- 4 due to any of the following problems:
- 5 (A) Obsolete or inefficient buildings as evidenced by a decline
- 6 of at least seventy-five percent (75%) in their assessed
- 7 valuation during the preceding ten (10) years.
- 8 (B) Transportation or access problems.
- 9 (C) Environmental contamination.
- 10 (3) At least four hundred (400) fewer persons are employed in the
- 11 area than were employed in the area during the year that is fifteen
- 12 (15) years previous to the current year.
- 13 (4) The area has been designated as an economic development
- 14 target area under IC 6-1.1-12.1-7.
- 15 (5) The unit has appropriated, pooled, set aside, or pledged at
- 16 least two hundred fifty thousand dollars (\$250,000) for purposes
- 17 of addressing the redevelopment obstacles described in
- 18 subdivision (2).
- 19 (6) The area is located in a county having a population of more
- 20 than three hundred thousand (300,000) but less than four hundred
- 21 thousand (400,000).
- 22 (f) The advisory commission, or the county or municipal legislative
- 23 body, in the case of a district designated under section 10.5 of this
- 24 chapter, shall designate the duration of the district. ~~but the duration~~
- 25 ~~may not exceed~~ **However, a district must terminate not later than**
- 26 **fifteen (15) years (at the time of designation): after the income tax**
- 27 **incremental amount or gross retail incremental amount is first**
- 28 **allocated to the district.**
- 29 (g) Upon adoption of a resolution designating a district, the advisory
- 30 commission shall submit the resolution to the budget committee for
- 31 review and recommendation to the budget agency. **If the budget**
- 32 **agency fails to take action on a resolution designating a district**
- 33 **within one hundred twenty (120) days after the date that the**
- 34 **resolution is submitted to the budget committee, the designation of**
- 35 **the district by the resolution is considered approved.**
- 36 (h) When considering a resolution, the budget committee and the
- 37 budget agency must make the following findings:
- 38 (1) The area to be designated as a district meets the conditions
- 39 necessary for designation as a district.
- 40 (2) The designation of the district will benefit the people of
- 41 Indiana by protecting or increasing state and local tax bases and
- 42 tax revenues for at least the duration of the district.

C
o
p
y



1 (i) The income tax incremental amount and the gross retail
2 incremental amount may not be allocated to the district until ~~the budget~~
3 **agency approves the resolution is approved under this section.**

4 SECTION 7. IC 36-7-13-12.1, AS ADDED BY P.L.224-2003,
5 SECTION 239, IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2004]: Sec. 12.1. (a) If the executive of a city
7 described in section 10.1(a) of this chapter has submitted an
8 application to an advisory commission on industrial development
9 requesting that an area be designated as a district under this chapter
10 and the advisory commission has compiled and prepared the
11 information required under section 11 of this chapter concerning the
12 area, the advisory commission may adopt a resolution designating the
13 area as a district if it finds the following:

- 14 (1) That the redevelopment of the area in the district will:
 - 15 (A) promote significant opportunities for the gainful
 - 16 employment of its citizens;
 - 17 (B) attract a major new business enterprise to the area; or
 - 18 (C) retain or expand a significant business enterprise within
 - 19 the area.
- 20 (2) That there are significant obstacles to redevelopment of the
 - 21 area due to any of the following problems:
 - 22 (A) Obsolete or inefficient buildings.
 - 23 (B) Aging infrastructure or ineffective utility services.
 - 24 (C) Utility relocation requirements.
 - 25 (D) Transportation or access problems.
 - 26 (E) Topographical obstacles to redevelopment.
 - 27 (F) Environmental contamination.
 - 28 (G) Lack of development or cessation of growth.
 - 29 (H) Deterioration of improvements or character of occupancy,
 - 30 age, obsolescence, or substandard buildings.
 - 31 (I) Other factors that have impaired values or prevent a normal
 - 32 development of property or use of property.

33 (b) To address the obstacles identified in subsection (a)(2), the city
34 may make expenditures for:

- 35 (1) the acquisition of land;
- 36 (2) interests in land;
- 37 (3) site improvements;
- 38 (4) infrastructure improvements;
- 39 (5) buildings;
- 40 (6) structures;
- 41 (7) rehabilitation, renovation, and enlargement of buildings and
- 42 structures;

C
o
p
y



- 1 (8) machinery;
- 2 (9) equipment;
- 3 (10) furnishings;
- 4 (11) facilities;
- 5 (12) administration expenses associated with such a project;
- 6 (13) operating expenses; or
- 7 (14) substance removal or remedial action to the area.

8 (c) In addition to the findings described in subsection (a), an
 9 advisory commission must also find that the city described in section
 10 10.1(a) of this chapter has expended, appropriated, pooled, set aside,
 11 or pledged at least two hundred fifty thousand dollars (\$250,000) for
 12 purposes of addressing the redevelopment obstacles described in
 13 subsection (a)(2).

14 (d) The advisory commission shall designate the duration of the
 15 district. ~~but the duration may not exceed~~ **However, a district must**
 16 **terminate not later than** fifteen (15) years ~~(at the time of designation):~~
 17 **after the income tax incremental amount or gross retail**
 18 **incremental amount is first allocated to the district under this**
 19 **chapter.**

20 (e) Upon adoption of a resolution designating a district, the advisory
 21 commission shall submit the resolution to the budget committee for
 22 review and recommendation to the budget agency. **If the budget**
 23 **agency fails to take action on a resolution designating a district**
 24 **within one hundred twenty (120) days after the date that the**
 25 **resolution is submitted to the budget committee, the designation of**
 26 **the district by the resolution is considered approved.**

27 (f) When considering a resolution, the budget committee and the
 28 budget agency must make the following findings:

- 29 (1) The area to be designated as a district meets the conditions
 30 necessary for designation as a district.
- 31 (2) The designation of the district will benefit the people of
 32 Indiana by protecting or increasing state and local tax bases and
 33 tax revenues for at least the duration of the district.

34 (g) The income tax incremental amount and the gross retail
 35 incremental amount may not be allocated to the district until the ~~budget~~
 36 **agency approves the resolution is approved under this section.**

37 SECTION 8. IC 36-7-13-12.5 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2004]: **Sec. 12.5. (a) An advisory commission**
 40 **on industrial development that designates a district under section**
 41 **12 or 12.1 of this chapter or the legislative body of a county or**
 42 **municipality that adopts an ordinance designating a district under**

COPY



1 section 10.5 of this chapter may petition for permission to modify
2 the boundaries of the district. The petition must be submitted to
3 the budget committee for review and recommendation to the
4 budget agency.

5 (b) When considering a petition submitted under subsection (a),
6 the budget committee and the budget agency must make the
7 following findings:

8 (1) The area to be added to the district, if any, meets the
9 conditions necessary for designation as a district under
10 section 10.5, 12, or 12.1 of this chapter.

11 (2) The proposed modification of the district will benefit the
12 people of Indiana by protecting or increasing state and local
13 tax bases and tax revenues for at least the duration of the
14 district.

15 (c) Upon approving a petition submitted under subsection (a),
16 the budget agency shall certify the district's modified boundaries
17 to the department of state revenue.

18 SECTION 9. IC 36-7-13-13, AS AMENDED BY P.L.224-2003,
19 SECTION 240, IS AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2004]: Sec. 13. (a) If an advisory commission
21 on industrial development designates a district under section 12 or 12.1
22 of this chapter or if the legislative body of a county or municipality
23 adopts an ordinance designating a district under section 10.5 of this
24 chapter, the advisory commission, or the legislative body in the case of
25 a district designated under section 10.5 of this chapter, shall send a
26 certified copy of the resolution or ordinance designating the district to
27 the department of state revenue by certified mail and shall include with
28 the resolution a complete list of the following:

- 29 (1) Employers in the district.
30 (2) Street names and the range of street numbers of each street in
31 the district.

32 (b) The advisory commission, or the legislative body in the case of
33 a district designated under section 10.5 of this chapter, shall update the
34 list:

- 35 (1) before July 1 of each year; or
36 (2) within fifteen (15) days after the date that the budget
37 agency approves a petition to modify the boundaries of the
38 district under section 12.5 of this chapter.

39 (c) Not later than sixty (60) days after receiving a copy of the
40 resolution or ordinance designating a district, the department of state
41 revenue shall determine the gross retail base period amount and the
42 income tax base period amount.

C
o
p
y



1 (d) Not later than sixty (60) days after receiving a certification
2 of a district's modified boundaries under section 12.5(c) of this
3 chapter, the department shall recalculate the gross retail base
4 period amount and the income tax base period amount for a
5 district modified under section 12.5 of this chapter.

6 SECTION 10. IC 36-7-13-14 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 14. (a) Before the first
8 business day in October of each year, the department shall calculate the
9 income tax incremental amount and the gross retail incremental amount
10 for the preceding state fiscal year for each district designated under this
11 chapter.

12 (b) Not later than sixty (60) days after receiving a certification
13 of a district's modified boundaries under section 12.5(c) of this
14 chapter, the department shall recalculate the income tax
15 incremental amount and the gross retail incremental amount for
16 the preceding state fiscal year for a district modified under section
17 12.5 of this chapter.

18 SECTION 11. [EFFECTIVE JULY 1, 2004] (a) An advisory
19 commission or a legislative body that designated a community
20 revitalization enhancement district before July 1, 2004, may adopt
21 a resolution before July 1, 2005, to amend the duration of the
22 district under IC 36-7-13-10.5, IC 36-7-13-12, or IC 36-7-13-12.1,
23 all as amended by this act, if no income tax incremental amounts
24 or gross retail incremental amounts have been:

- 25 (1) deposited in the incremental tax financing fund established
26 for the community revitalization enhancement district; or
- 27 (2) allocated to the district.

28 (b) If an advisory commission or a legislative body adopts a
29 resolution under this SECTION to amend the duration of the
30 district, the advisory commission or legislative body shall
31 immediately send a certified copy of the resolution to the budget
32 agency and the department of state revenue by certified mail.

33 (c) This SECTION expires January 1, 2006.

34 SECTION 12. [EFFECTIVE JULY 1, 2004] IC 6-3.1-19-3, as
35 amended by this act, applies only to taxable years beginning after
36 December 31, 2004.

C
o
p
y



SENATE MOTION

Madam President: I move that Senator Zakas be added as coauthor of Senate Bill 180.

LONG

**C
o
p
y**



COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Senate Bill No. 180, 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, delete lines 24 through 42, begin a new paragraph and insert:

"SECTION 2. IC 6-3.1-19-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 5. (a) ~~Except as provided in subsection (b);~~ A taxpayer is not entitled to claim the credit provided by this chapter to the extent that the taxpayer substantially reduces or ceases its operations in Indiana in order to relocate them within the district.

~~(b) Notwithstanding subsection (a); a taxpayer's substantial reduction or cessation of operations in Indiana in order to relocate operations to a district does not make a taxpayer ineligible for a credit under this chapter if: (1)~~

Determinations under this section shall be made by the department. The department shall adopt a proposed order concerning a taxpayer's eligibility for the credit based on subsection (b) and the following criteria:

(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 an operation located outside the district (referred to in this section as a "nondistrict operation"), any of the following that occurs during the twelve (12) months before the completion of the physical relocation of all or part of the activity described in subdivision (1) from the nondistrict operation to the district 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

C
O
P
Y



stored inventory.

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

(b) Notwithstanding subsection (a), a taxpayer that would otherwise be disqualified under subsection (a) is eligible for the credit provided by this chapter if the taxpayer meets at least one (1) of the following conditions:

(1) The taxpayer relocates all or part of its nondistrict operation for any of the following reasons:

(A) The lease on property necessary for the nondistrict operation has been involuntarily lost through no fault of the taxpayer.

(B) The space available at the location of the nondistrict operation cannot accommodate planned expansion needed by the taxpayer.

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

(D) The building for the nondistrict operation has been totally destroyed through no fault of the taxpayer.

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

(F) The taxpayer had existing operations in the district and ~~(2)~~ the nondistrict operations relocated to the district are an expansion of the taxpayer's operations in the district.

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

(2) The taxpayer has not terminated or reduced the pension or health insurance obligations payable to employees or former employees of the nondistrict operation without the consent of the employees.

(c) The department shall cause to be delivered to the taxpayer and to any person who testified before the department in favor of disqualification of the taxpayer a copy of the department's proposed order. The taxpayer and these persons shall be

C
O
P
Y



considered parties for purposes of this section.

(d) A party who wishes to appeal the proposed order of the department shall, within ten (10) days after the party's receipt of the proposed order, file written objections with the department. The department shall immediately forward copies of the objections to the director of the budget agency and the director of the department of commerce. A hearing panel composed of the commissioner of the department or the commissioner's designee, the director of the budget agency or the director's designee, and the director of the department of commerce or the director's designee 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 hearing panel 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 hearing panel. The hearing panel may hear additional evidence or remand the action to the department with instructions appropriate to the expeditious and proper disposition of the action. The hearing panel may adopt the proposed order of the department, may amend or modify the proposed order, or may make such order or determination as is proper on the record. The affirmative votes of at least two (2) members of the hearing panel are required for the hearing panel to take action on any measure. The taxpayer may appeal the decision of the hearing panel to the tax court in the same manner that a final determination of the department may be appealed under IC 33-3-5.

(e) If no objections are filed, the department may adopt the proposed order without oral argument.

~~(c)~~ (f) A determination that a taxpayer is not entitled to the credit provided by this chapter as a result of a substantial reduction or cessation of operations applies to credits that would otherwise arise in the taxable year in which the substantial reduction or cessation occurs and in all subsequent years. ~~Determinations under this section shall be made by the department of state revenue."~~

Page 3, delete lines 1 through 39.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 180 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 10, Nays 0.

SB 180—LS 6593/DI 92+

C
O
P
Y

