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FISCAL IMPACT STATEMENT

LS 6913 | **NOTE PREPARED:** Feb 16, 2009
BILL NUMBER: HB 1338 | **BILL AMENDED:** Feb 12, 2009

SUBJECT: Incentives Provided by the IEDC.

FIRST AUTHOR: Rep. Pelath | **BILL STATUS:** As Passed House
FIRST SPONSOR: Sen. Kenley

FUNDS AFFECTED: X GENERAL | **IMPACT:** State & Local
DEDICATED
FEDERAL

Summary of Legislation: (Amended) This bill requires the Indiana Economic Development Corporation (IEDC) to provide an annual report on the effectiveness of incentives and incentive payback activity. It provides that the IEDC must require an applicant to agree to an employment number in an incentive contract. It requires that an incentive contract must include an incentive payback provision that allows the IEDC to require an incentive recipient that is in partial noncompliance to repay a proportionate share of the incentive to the IEDC and to require that if a recipient moves, closes, or transfers positions out of Indiana, the IEDC shall recoup the entire incentive provided. It requires a full-time compliance officer in the IEDC to review whether incentive recipients are complying with the incentive agreement. It requires incentive recipients to provide an annual report on compliance with employment goals. It provides that unless a payback provision is waived by the IEDC, the IEDC may not provide an incentive to a person if that person is subject to an incentive payback requirement in Indiana until repayment is made. It provides that a waiver may be granted when a person's failure to meet a condition for receiving an incentive is because of circumstances beyond the recipient's control.

The bill provides that for purposes of the Headquarters Relocation Tax Credit an eligible business is required to have annual worldwide revenues of at least $10 M (instead of $100 M) if the business relocates to Elkhart County before July 1, 2010. The bill also makes an appropriation.

Effective Date: July 1, 2009.

Explanation of State Expenditures: (Revised) *General Fund Appropriations*: This bill appropriates $500,000 from the state General Fund to Elkhart and LaGrange Counties in FY 2010. The appropriation is $250,000 for each county that had an unemployment rate of more than 14% as of December 31, 2008. The appropriations must be used by county economic development corporations to promote job creation.

(Revised) *Indiana Economic Development Corporation*: This bill requires the IEDC to provide an annual report each August regarding the effectiveness of incentives provided on their web site. The report must include a section regarding compliance with incentive agreements and any incentive that had to be reduced or paid back as a result of noncompliance with the agreement.

The bill also provides that the IEDC must receive agreement by applicants to the following for any incentives: a specific number of individuals that will be employed by the applicant as of a specified date each year; an annual compliance report detailing compliance or progress toward compliance with cooperation with federal, state, and local governments and agencies in the coordination of programs to make the best use of Indiana resources; that the IEDC is entitled to demand a portion of any incentive that has been received if fewer individuals are employed than the number agreed to initially; and that the IEDC is entitled to demand the entire incentive that has been received if the applicant moves, closes, or transfers employment positions out of Indiana. The bill also provides that the IEDC may waive or modify a recapture provision in an agreement if conditions were not met because of circumstances beyond the recipient's control. The circumstances specified include: (1) natural disaster; (2) unforeseen industry trends; (3) lack of available labor force; or (4) loss of a major supplier or market.

The bill requires the IEDC to hire a compliance officer. The duties described in the bill are currently being performed by several staff at IEDC, so this provision would be accomplished through existing resources.

Explanation of State Revenues: *IEDC Incentives*: If applicants do not comply with the provisions agreed to when receiving incentives, they must pay back the appropriate amounts. The fiscal impact is indeterminable because it will depend on the extent to which applicants violate the provisions of their incentive agreements. This bill could potentially reduce the number of companies that would have chosen to relocate facilities to Indiana.

(Revised) *Headquarters Relocation Tax Credit*: This bill provides that businesses that have annual worldwide revenues of at least $10 M and relocate to Elkhart County before July 1, 2010, will be eligible for the Headquarters Relocation Tax Credit. Businesses relocating to locations other than Elkhart County must have annual worldwide revenues of at least $100 M. The net revenue impact of the credit depends on the extent that tax collections on headquarters employees and other taxable activities attributable to the headquarters is less than or exceeds the credits claimed by the business. However, if the headquarters relocation would have occurred in the absence of the tax credit, the net impact is equal to the total credits claimed by the business.

The nonrefundable credit is equal to 50% of a corporation's costs of relocating their headquarters to Indiana, and may be taken against the Individual and Corporate AGI Tax, the Financial Institutions Tax (FIT), and the Insurance Premiums Tax (IPT). Revenue from the Individual and Corporate AGI Tax, the FIT and the IPT is distributed in the state General Fund.

Current statute provides that eligible businesses relocating to all locations in Indiana must have annual worldwide revenues of at least $100 M. There were no applications received or approved by the IEDC for the Headquarters Relocation Tax Credit in FY 2008.

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) This bill appropriates $250,000 to Elkhart County and $250,000 to LaGrange County in FY 2010 to promote job creation.

State Agencies Affected: IEDC.

Local Agencies Affected: Elkhart and LaGrange Counties.

Information Sources: Ryan Asberry, IEDC, 317-232-8962; Research & Analysis Unit, Department of Workforce Development; IEDC Economic Incentives and Compliance Report, FY 2008; Bureau of Labor Statistics.

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