

SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1086 be amended to read as follows:

- 1 Page 23, between lines 26 and 27, begin a new paragraph and insert:
2 "SECTION 22. IC 6-3.1-19-3 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) ~~Subject to~~
4 **Except as provided in** section 5 or 5.5 of this chapter, a taxpayer is
5 entitled to a credit against the taxpayer's state and local tax liability for
6 a taxable year if the taxpayer makes a qualified 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
18 connection with the assignment under subsection (c) that exceeds the
19 value of the part of the credit assigned.
20 (e) If a pass through entity is entitled to a credit under this chapter
21 but does not have state and local tax liability against which the tax
22 credit may be applied, a shareholder, partner, or member of the pass
23 through entity is entitled to a tax credit equal to:
24 (1) the tax credit determined for the pass through entity for the
25 taxable year; multiplied by
26 (2) the percentage of the pass through entity's distributive income
27 to which the shareholder, partner, or member is entitled.
28 The credit provided under this subsection is in addition to a tax credit
29 to which a shareholder, partner, or member of a pass through entity is
30 otherwise entitled under this chapter. However, a pass through entity

1 and an individual who is a shareholder, partner, or member of the pass
2 through entity may not claim more than one (1) credit for the same
3 investment.

4 (f) A taxpayer that is otherwise entitled to a credit under this chapter
5 for a taxable year may claim the credit regardless of whether any
6 income tax incremental amount or gross retail incremental amount has
7 been:

8 (1) deposited in the incremental tax financing fund established for
9 the community revitalization enhancement district; or

10 (2) allocated to the district.

11 SECTION 3. IC 6-3.1-19-5.5 IS ADDED TO THE INDIANA
12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
13 [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. (a) This section applies**
14 **only to investments made in a district designated for an area**
15 **described in:**

16 (1) **IC 36-7-13-12(c)(1)(A); or**

17 (2) **IC 36-7-13-12(c)(1)(C).**

18 (b) **As used in this section, "advisory commission" means the**
19 **advisory commission on industrial development that designated the**
20 **districts described in subsection (a).**

21 (c) **A taxpayer is not entitled to a credit under this chapter for**
22 **an expenditure made in the district unless the advisory commission**
23 **selects the area to receive an allocation of the income tax**
24 **incremental amount and the gross retail incremental amount under**
25 **IC 36-7-13.**

26 (d) **After receiving notice of the advisory commission's selection**
27 **under IC 36-7-13-23, the budget agency shall inform the Indiana**
28 **economic development corporation and the department of which**
29 **district was selected by the advisory commission.**

30 (e) **The Indiana economic development commission may not**
31 **approve a taxpayer's expenditures until after receiving notice of**
32 **the advisory commission's selection."**

33 Page 43, between lines 40 and 41, begin a new paragraph and insert:

34 "SECTION 38. IC 36-7-13-12, AS AMENDED BY P.L.199-2005,
35 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 UPON PASSAGE]: Sec. 12. (a) If a municipal or county executive has
37 submitted an application to an advisory commission on industrial
38 development requesting that an area be designated as a district under
39 this chapter and the advisory commission has compiled and prepared
40 the information required under section 11 of this chapter concerning
41 the area, the advisory commission may adopt a resolution designating
42 the area as a district if it makes the findings described in subsection (b),
43 (c), (d), or (e). In a county described in subsection (c), an advisory
44 commission may designate more than one (1) district under subsection
45 (c).

46 (b) For an area located in a county having a population of more than

1 one hundred twenty thousand (120,000) but less than one hundred
 2 thirty thousand (130,000), an advisory commission may adopt a
 3 resolution designating a particular area as a district only after finding
 4 all of the following:

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

6 (A) with at least one million (1,000,000) square feet of usable
 7 interior floor space; and

8 (B) that is or are vacant or will become vacant due to the
 9 relocation of an employer.

10 (2) At least one thousand (1,000) fewer persons are employed in
 11 the area than were employed in the area during the year that is ten
 12 (10) years previous to the current year.

13 (3) There are significant obstacles to redevelopment of the area
 14 due to any of the following problems:

15 (A) Obsolete or inefficient buildings.

16 (B) Aging infrastructure or inefficient utility services.

17 (C) Utility relocation requirements.

18 (D) Transportation or access problems.

19 (E) Topographical obstacles to redevelopment.

20 (F) Environmental contamination.

21 (4) The unit has expended, appropriated, pooled, set aside, or
 22 pledged at least one hundred thousand dollars (\$100,000) for
 23 purposes of addressing the redevelopment obstacles described in
 24 subdivision (3).

25 (5) The area is located in a county having a population of more
 26 than one hundred twenty thousand (120,000) but less than one
 27 hundred thirty thousand (130,000).

28 (c) For a county having a population of more than one hundred
 29 eighteen thousand (118,000) but less than one hundred twenty
 30 thousand (120,000), an advisory commission may adopt a resolution
 31 designating not more than ~~two (2)~~ **three (3)** areas as districts. An
 32 advisory commission may designate an area as a district only after
 33 finding the following:

34 (1) The area meets ~~either~~ **at least one (1)** of the following
 35 conditions:

36 (A) **The area meets the following conditions:**

37 (i) The area contains a building with at least seven hundred
 38 ninety thousand (790,000) square feet. ~~and~~

39 (ii) At least eight hundred (800) fewer people are employed
 40 in the area than were employed in the area during the year
 41 that is fifteen (15) years previous to the current year.

42 (iii) **The area is located in or is adjacent to an industrial
 43 park.**

44 (B) **The area meets the following conditions:**

45 (i) The area contains a building with at least three hundred
 46 eighty-six thousand (386,000) square feet. ~~and~~

- 1 (ii) At least four hundred (400) fewer people are employed
2 in the area than were employed in the area during the year
3 that is fifteen (15) years previous to the current year.
- 4 **(iii) The area is located in or is adjacent to an industrial**
5 **park.**
- 6 **(C) The area meets the following conditions:**
- 7 **(i) The area contains a building with at least one million**
8 **(1,000,000) square feet.**
- 9 **(ii) At least seven hundred (700) fewer people are**
10 **employed in the area than were employed in the area on**
11 **January 1, 2008.**
- 12 ~~(2) The area is located in or is adjacent to an industrial park.~~
- 13 ~~(3) (2) There are significant obstacles to redevelopment of the~~
14 ~~area due to any of the following problems:~~
- 15 ~~(A) Obsolete or inefficient buildings.~~
16 ~~(B) Aging infrastructure or inefficient utility services.~~
17 ~~(C) Utility relocation requirements.~~
18 ~~(D) Transportation or access problems.~~
19 ~~(E) Topographical obstacles to redevelopment.~~
20 ~~(F) Environmental contamination.~~
- 21 ~~(4) (3) The area is located in a county having a population of~~
22 ~~more than one hundred eighteen thousand (118,000) but less than~~
23 ~~one hundred twenty thousand (120,000).~~
- 24 (d) For an area located in a county having a population of more than
25 two hundred thousand (200,000) but less than three hundred thousand
26 (300,000), an advisory commission may adopt a resolution designating
27 a particular area as a district only after finding all of the following:
- 28 (1) The area contains a building or buildings:
- 29 (A) with at least one million five hundred thousand
30 (1,500,000) square feet of usable interior floor space; and
31 (B) that is or are vacant or will become vacant.
- 32 (2) At least eighteen thousand (18,000) fewer persons are
33 employed in the area at the time of application than were
34 employed in the area before the time of application.
- 35 (3) There are significant obstacles to redevelopment of the area
36 due to any of the following problems:
- 37 (A) Obsolete or inefficient buildings.
38 (B) Aging infrastructure or inefficient utility services.
39 (C) Utility relocation requirements.
40 (D) Transportation or access problems.
41 (E) Topographical obstacles to redevelopment.
42 (F) Environmental contamination.
- 43 (4) The unit has expended, appropriated, pooled, set aside, or
44 pledged at least one hundred thousand dollars (\$100,000) for
45 purposes of addressing the redevelopment obstacles described in
46 subdivision (3).

- 1 (5) The area is located in a county having a population of more
 2 than two hundred thousand (200,000) but less than three hundred
 3 thousand (300,000).
- 4 (e) For an area located in a county having a population of more than
 5 three hundred thousand (300,000) but less than four hundred thousand
 6 (400,000), an advisory commission may adopt a resolution designating
 7 a particular area as a district only after finding all of the following:
- 8 (1) The area contains a building or buildings:
- 9 (A) with at least eight hundred thousand (800,000) gross
 10 square feet; and
- 11 (B) having leasable floor space, at least fifty percent (50%) of
 12 which is or will become vacant.
- 13 (2) There are significant obstacles to redevelopment of the area
 14 due to any of the following problems:
- 15 (A) Obsolete or inefficient buildings as evidenced by a decline
 16 of at least seventy-five percent (75%) in their assessed
 17 valuation during the preceding ten (10) years.
- 18 (B) Transportation or access problems.
- 19 (C) Environmental contamination.
- 20 (3) At least four hundred (400) fewer persons are employed in the
 21 area than were employed in the area during the year that is fifteen
 22 (15) years previous to the current year.
- 23 (4) The area has been designated as an economic development
 24 target area under IC 6-1.1-12.1-7.
- 25 (5) The unit has appropriated, pooled, set aside, or pledged at
 26 least two hundred fifty thousand dollars (\$250,000) for purposes
 27 of addressing the redevelopment obstacles described in
 28 subdivision (2).
- 29 (6) The area is located in a county having a population of more
 30 than three hundred thousand (300,000) but less than four hundred
 31 thousand (400,000).
- 32 (f) The advisory commission, or the county or municipal legislative
 33 body, in the case of a district designated under section 10.5 of this
 34 chapter, shall designate the duration of the district. However, a district
 35 must terminate not later than fifteen (15) years after the income tax
 36 incremental amount or gross retail incremental amount is first allocated
 37 to the district.
- 38 (g) Upon adoption of a resolution designating a district, the advisory
 39 commission shall:
- 40 (1) publish notice of the adoption and substance of the resolution
 41 in accordance with IC 5-3-1; and
- 42 (2) file the following information with each taxing unit in the
 43 county where the district is located:
- 44 (A) A copy of the notice required by subdivision (1).
- 45 (B) A statement disclosing the impact of the district, including
 46 the following:

1 (i) The estimated economic benefits and costs incurred by
 2 the district, as measured by increased employment and
 3 anticipated growth of property assessed values.

4 (ii) The anticipated impact on tax revenues of each taxing
 5 unit.

6 The notice must state the general boundaries of the district.

7 (h) Upon completion of the actions required by subsection (g), the
 8 advisory commission shall submit the resolution to the budget
 9 committee for review and recommendation to the budget agency. If the
 10 budget agency fails to take action on a resolution designating a district
 11 within one hundred twenty (120) days after the date that the resolution
 12 is submitted to the budget committee, the designation of the district by
 13 the resolution is considered approved.

14 (i) When considering a resolution, the budget committee and the
 15 budget agency must make the following findings:

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

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

21 (j) The income tax incremental amount and the gross retail
 22 incremental amount may not be allocated to the district until the
 23 resolution is approved under this section.

24 SECTION 39. IC 36-7-13-14, AS AMENDED BY P.L.199-2005,
 25 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 UPON PASSAGE]: Sec. 14. (a) **This section does not apply to a
 27 district that:**

28 **(1) is described in section 23(a) of this chapter; and**

29 **(2) is not selected by the advisory commission to receive an
 30 allocation of income tax incremental amount and the gross
 31 retail incremental amount under this chapter.**

32 **(b)** Before the first business day in October of each year, the
 33 department shall calculate the income tax incremental amount and the
 34 gross retail incremental amount for the preceding state fiscal year for
 35 each district designated under this chapter.

36 ~~(b)~~ **(c)** Businesses operating in the district shall report, in the
 37 manner and in the form prescribed by the department, information that
 38 the department determines necessary to calculate incremental gross
 39 retail, use, and income taxes.

40 ~~(c)~~ **(d)** Not later than sixty (60) days after receiving a certification
 41 of a district's modified boundaries under section 12.5(c) of this chapter,
 42 the department shall recalculate the income tax incremental amount
 43 and the gross retail incremental amount for the preceding state fiscal
 44 year for a district modified under section 12.5 of this chapter.

45 SECTION 40. IC 36-7-13-15 IS AMENDED TO READ AS
 46 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) **This**

1 **section does not apply to a district that:**

2 **(1) is described in section 23(a) of this chapter; and**

3 **(2) is not selected by the advisory commission to receive an**
 4 **allocation of income tax incremental amount and the gross**
 5 **retail incremental amount under this chapter.**

6 **(b)** If an advisory commission on industrial development designates
 7 a district under this chapter or the legislative body of a county or
 8 municipality adopts an ordinance designating a district under section
 9 10.5 of this chapter, the treasurer of state shall establish an incremental
 10 tax financing fund for the district. The fund shall be administered by
 11 the treasurer of state. Money in the fund does not revert to the state
 12 general fund at the end of a state fiscal year.

13 ~~(b)~~ **(c)** Subject to subsection ~~(c)~~, **(d)**, the following amounts shall be
 14 deposited during each state fiscal year in the incremental tax financing
 15 fund established for the district under subsection (a):

16 (1) The aggregate amount of state gross retail and use taxes that
 17 are remitted under IC 6-2.5 by businesses operating in the district,
 18 until the amount of state gross retail and use taxes deposited
 19 equals the gross retail incremental amount for the district.

20 (2) The aggregate amount of state and local income taxes paid by
 21 employees employed in the district with respect to wages earned
 22 for work in the district, until the amount of state and local income
 23 taxes deposited equals the income tax incremental amount.

24 ~~(c)~~ **(d)** The aggregate amount of revenues that is:

25 (1) attributable to:

26 (A) the state gross retail and use taxes established under
 27 IC 6-2.5; and

28 (B) the adjusted gross income tax established under IC 6-3-1
 29 through IC 6-3-7; and

30 (2) deposited during any state fiscal year in each incremental tax
 31 financing fund established for a district;

32 may not exceed one million dollars (\$1,000,000) per district designated
 33 under section 10.5 or 12 of this chapter and seven hundred fifty
 34 thousand dollars (\$750,000) per district for a district designated under
 35 section 10.1 or 12.1 of this chapter.

36 ~~(d)~~ **(e)** On or before the twentieth day of each month, all amounts
 37 held in the incremental tax financing fund established for a district
 38 shall be distributed to the district's advisory commission on industrial
 39 development for deposit in the industrial development fund of the unit
 40 that requested designation of the district.

41 SECTION 41. IC 36-7-13-23 IS ADDED TO THE INDIANA
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS
 43 [EFFECTIVE UPON PASSAGE]: **Sec. 23. (a) This section applies**
 44 **only to a district designated for an area described in:**

45 **(1) section 12(c)(1)(A) of this chapter; or**

46 **(2) section 12(c)(1)(C) of this chapter.**

- 1 **(b) A district is not entitled to receive an allocation of the**
2 **income tax incremental amount and the gross retail incremental**
3 **amount unless the advisory commission selects the district to**
4 **receive the allocations.**
- 5 **(c) The advisory commission may select only one (1) of the**
6 **districts to receive allocations of the income tax incremental**
7 **amount and the gross retail incremental amount.**
- 8 **(d) The advisory commission shall inform the budget agency**
9 **which district it selects to receive allocations on an election form**
10 **prescribed by the budget agency.**
- 11 **(e) The income tax incremental amount and the gross retail**
12 **incremental amount may not be allocated to the district selected**
13 **under this section until the budget agency receives the selection**
14 **form required by subsection (d)."**
- 15 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1086 as printed February 19, 2010.)

Senator ERRINGTON