

**Renumbered 5/12/2015**

**63M-1-2404 Creation of economic development zones -- Tax credits -- Assignment of tax credit.**

- (1) The office, with advice from the board, may create an economic development zone in the state that satisfies all of the following requirements:
  - (a) the area is zoned commercial, industrial, manufacturing, business park, research park, or other appropriate use in a community-approved master plan;
  - (b) the request to create a development zone has been forwarded to the office after first being approved by an appropriate local government entity; and
  - (c) local incentives have been committed or will be committed to be provided within the area.
- (2)
  - (a) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules establishing the conditions that a business entity or local government entity shall meet to qualify for a tax credit under this part.
  - (b) The office shall ensure that the conditions described in Subsection (2)(a) include the following requirements:
    - (i) the new commercial project must be within the development zone;
    - (ii) the new commercial project includes direct investment within the geographic boundaries of the development zone;
    - (iii) the new commercial project brings new incremental jobs to Utah;
    - (iv) the new commercial project includes significant capital investment, the creation of high paying jobs, or significant purchases from Utah vendors and providers, or any combination of these three economic factors;
    - (v) the new commercial project generates new state revenues; and
    - (vi)
      - (A) a business entity or local government entity qualifying for the tax credit meets the requirements of Section 63M-1-2405; or
      - (B) a community development and renewal agency to which a local government entity assigns a tax credit under this section meets the requirements of Section 63M-1-2405.
- (3)
  - (a) Subject to the other provisions of this Subsection (3), the office, with advice from the board, may enter into an agreement with a business entity or local government entity authorizing a tax credit to the business entity or local government entity if the business entity or local government entity meets the standards established under Subsection (2).
  - (b)
    - (i) With respect to one new commercial project, the office may authorize a tax credit to a business entity or a local government entity, but not both.
    - (ii) In determining whether to authorize a tax credit with respect to one new commercial project to a business entity or a local government entity, the office shall authorize the tax credit in a manner that the office determines will result in providing the most effective incentive for the new commercial project.
  - (c)
    - (i) The office may not authorize or commit to authorize a tax credit if that tax credit exceeds:
      - (A) 50% of the new state revenues from the new commercial project in any given year; or
      - (B) 30% of the new state revenues from the new commercial project over the life of a new commercial project or 20 years, whichever is less.
    - (ii) Notwithstanding Subsection (3)(c)(i), the office may authorize or commit to authorize a tax credit not exceeding 60% of new state revenues from the new commercial project in any

given year, if the eligible business entity creates a significant number of high paying jobs and makes capital expenditures in the state of at least \$1,000,000,000.

(d)

- (i) A local government entity may by resolution assign a tax credit that the office authorizes to the local government entity to a community development and renewal agency.
  - (ii) The local government entity shall provide a copy of the resolution described in Subsection (3)(d)(i) to the office.
  - (iii) If a local government entity assigns a tax credit to a community development and renewal agency:
    - (A) the agreement described in this section shall:
      - (I) be among the office, the local government entity, and the community development and renewal agency; and
      - (II) establish:
        - (Aa) the obligations of the local government entity and the community development and renewal agency; and
        - (Bb) the extent to which any of the local government entity's obligations are transferred to the community development and renewal agency;
    - (B) the community development and renewal agency shall retain records as described in Subsection (4)(d); and
    - (C) a tax credit certificate issued in accordance with Section 63M-1-2406 shall list the community development and renewal agency as the name of the applicant.
- (4) Subject to Subsection (3), the office shall ensure that the agreement described in Subsection (3):
- (a) details the requirements that the business entity or local government entity shall meet to qualify for a tax credit under this part;
  - (b) specifies the maximum amount of tax credit that the business entity or local government entity may be authorized for a taxable year and over the life of the new commercial project;
  - (c) establishes the length of time the business entity or local government entity may claim a tax credit;
  - (d) requires the business entity or local government entity to retain records supporting a claim for a tax credit for at least four years after the business entity or local government entity claims a tax credit under this part; and
  - (e) requires the business entity or local government entity to submit to audits for verification of the tax credit claimed.