

1 **RURAL ENTERPRISE ZONES**

2 1998 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Beverly Ann Evans**

5 AN ACT RELATING TO COMMUNITY AND ECONOMIC DEVELOPMENT; AMENDING
6 CRITERIA FOR ENTERPRISE ZONES AND TAX CREDITS; ALLOWING FOR INDIAN
7 TRIBES TO APPLY; MAKING TECHNICAL CORRECTIONS; AND PROVIDING FOR
8 RETROSPECTIVE OPERATION.

9 This act affects sections of Utah Code Annotated 1953 as follows:

10 AMENDS:

11 **9-2-404**, as last amended by Chapter 292, Laws of Utah 1996

12 **9-2-412**, as last amended by Chapter 254, Laws of Utah 1993

13 **9-2-413**, as last amended by Chapter 375, Laws of Utah 1997

14 ENACTS:

15 **9-2-415**, Utah Code Annotated 1953

16 *Be it enacted by the Legislature of the state of Utah:*

17 Section 1. Section **9-2-404** is amended to read:

18 **9-2-404. Criteria for designation of enterprise zones -- Application.**

19 (1) A county applicant seeking designation as an enterprise zone shall file an application
20 with the department that, in addition to complying with other requirements of this part~~[, verifies~~
21 ~~that]~~:

22 (a) ~~verifies that~~ the entire county is not located in a metropolitan statistical area that is
23 entirely located within Utah;

24 (b) ~~verifies that~~ the county has a population of ~~[30,000]~~ 50,000 or less; and

25 (c) provides clear evidence of the need for development in the county.

26 (2) A municipal applicant seeking designation as an enterprise zone shall file an
27 application with the department that, in addition to complying with other requirements of this

1 part[, verifies that the municipality]:

- 2 (a) verifies that the municipality has a population of 10,000 persons or less;
- 3 (b) verifies that the municipality is within a county that has a population of [~~30,000~~
- 4 50,000 or less; and
- 5 (c) provides clear evidence of the need for development in the [community] municipality.

6 (3) [The] An application filed under Subsection (1) or (2) shall be in a form and in
7 accordance with procedures approved by the department, and shall include the following
8 information:

- 9 (a) a plan developed by the county applicant or municipal applicant that identifies local
10 contributions meeting the requirements of Section 9-2-405;
- 11 (b) the county applicant or municipal applicant has a development plan that outlines:
 - 12 (i) the types of investment and development within the zone that the county applicant or
13 municipal applicant expects to take place if the incentives specified in this part are provided;
 - 14 (ii) the specific investment or development reasonably expected to take place;
 - 15 (iii) any commitments obtained from businesses;
 - 16 (iv) the projected number of jobs that will be created and the anticipated wage level of
17 those jobs;
 - 18 (v) any proposed emphasis on the type of jobs created, including any affirmative action
19 plans; and
 - 20 (vi) a copy of the county applicant's or municipal applicant's economic development plan
21 to demonstrate coordination between the zone and overall county or municipal goals;
- 22 (c) the county applicant's or municipal applicant's proposed means of assessing the
23 effectiveness of the development plan or other programs to be implemented within the zone once
24 they have been implemented;
- 25 (d) any additional information required by the department; and
- 26 (e) any additional information the county applicant or municipal applicant considers
27 relevant to its designation as an enterprise zone.

28 Section 2. Section **9-2-412** is amended to read:

29 **9-2-412. Businesses qualifying for tax incentives.**

30 The tax incentives described in this part are available only to [~~business firms meeting the~~
31 ~~following qualifications: (1)] a business firm for which at least 51% of the employees employed~~

1 at facilities of the firm located in the enterprise zone are individuals who, at the time of
2 employment, reside in the municipality or county that applied for the enterprise zone[;and]
3 designation.

4 [~~2) the firm operates within the enterprise zone a business whose primary activity lies
5 within standard industrial codes 2011 through 3999, 4221 through 4231, 5093, 7371 through 7375,
6 and codes 7379, telemarketing firms within 7389, 7629, 7692, 7694, and 7699, as set forth in the
7 1987 Revisions of the Standard Industrial Classification Manual.]~~

8 Section 3. Section **9-2-413** is amended to read:

9 **9-2-413. State tax credits.**

10 (1) Subject to the limitations of Subsections (2) through (4), the following state tax credits
11 against individual income [tax] taxes or corporate franchise [tax] and income taxes are applicable
12 in an enterprise zone:

13 (a) a tax credit of \$750 may be claimed by a business for each new full-time position filled
14 for not less than six months during a given tax year;

15 (b) an additional \$500 tax credit may be claimed if the new position pays at least 125%
16 of:

17 (i) the county average monthly nonagricultural payroll wage for the respective industry
18 as determined by the Department of Workforce Services; or

19 (ii) if the county average monthly nonagricultural payroll wage is not available for the
20 respective industry, the total average monthly nonagricultural payroll wage in the respective
21 county where the enterprise zone is located;

22 (c) an additional credit of \$750 may be claimed if the new position is in a business that
23 adds value to agricultural commodities through manufacturing or processing;

24 (d) an additional credit of \$200 may be claimed for two consecutive years for each new
25 employee who is insured under an employer-sponsored health insurance program if the employer
26 pays at least 50% of the premium cost for two consecutive years;

27 (e) a credit of 50% of the value of a cash contribution to a private nonprofit corporation,
28 except that the credit claimed may not exceed \$100,000:

29 (i) that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue
30 Code;

31 (ii) whose primary purpose is community and economic development; and

1 (iii) that has been accredited by the board of directors of the Utah Rural Development
2 Council;

3 (f) a credit of 25% of the first \$200,000 spent on rehabilitating a building in the enterprise
4 zone that has been vacant for two years or more; and

5 (g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5% of
6 the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable property.

7 (2) (a) Subject to the limitations of Subsection (2)(b), a business claiming a credit under
8 Subsections (1)(a) through (d) may claim a credit for 30 full-time employee positions or less in
9 each of its taxable years.

10 (b) A business that received a credit for its full-time employee positions under Subsections
11 (1)(a) through (d) may claim an additional credit for a full-time employee position under
12 Subsections (1)(a) through (d) if:

13 (i) the business creates a new full-time employee position;

14 (ii) the total number of full-time employee positions at the business is greater than the
15 number of full-time employee positions previously claimed by the business under Subsections
16 (1)(a) through (d); and

17 (iii) the total number of credits the business has claimed for its current taxable year,
18 including the new full-time employee position for which the business is claiming a credit, is less
19 than or equal to 30.

20 (c) A business existing in an enterprise zone on the date of its designation shall calculate
21 the number of full-time positions based on the average number of employees reported to the
22 Department of Workforce Services.

23 (d) Construction jobs are not eligible for the tax credit under Subsections (1)(a) through
24 (d).

25 ~~[(3) Tax credits not claimed by a business on its state income tax return within three years
26 are forfeited.]~~

27 (3) If the amount of a tax credit under this section exceeds a business entity's tax liability
28 under this chapter for a taxable year, the amount of the credit exceeding the liability may be carried
29 forward for a period that does not exceed the next three taxable years.

30 (4) (a) If a business entity is located in a county that met the requirements of Subsections
31 9-2-404(1)(b) and (c) but did not qualify as an enterprise zone prior to January 1, 1998, because

1 the county was located in a metropolitan statistical area in more than one state, the business entity:

2 (i) shall qualify for tax credits for a taxable year beginning on or after January 1, 1997, but
3 beginning before December 31, 1997;

4 (ii) may claim a tax credit as described in Subsection (4)(a) in a taxable year beginning
5 on or after January 1, 1997, but beginning before December 31, 1997; and

6 (iii) may qualify for tax credits for any taxable year beginning on or after January 1, 1998,
7 if the county is designated as an enterprise zone in accordance with this part.

8 (b) If a business entity claims a tax credit under Subsection (4)(a)(ii), the business entity:

9 (i) may claim the tax credit by filing for the taxable year beginning on or after January 1,
10 1997, but beginning before December 31, 1997:

11 (A) an individual income tax return;

12 (B) an amended individual income tax return;

13 (C) a corporate franchise and income tax return; or

14 (D) an amended corporate franchise and income tax return; and

15 (ii) may carry forward the tax credit to a taxable year beginning on or after January 1,
16 1998, in accordance with Subsection (3).

17 [(4)] (5) The tax credits under Subsections (1)(a) through (d) may not be claimed by a
18 business engaged in retail trade or by a public utilities business.

19 Section 4. Section **9-2-415** is enacted to read:

20 **9-2-415. Indian tribes -- Application.**

21 (1) For purposes of this section:

22 (a) "Indian reservation" is as defined in Section 9-9-210.

23 (b) "Indian tribe" is as defined in Subsection 9-9-402(4).

24 (c) "Tribal applicant" means the governing authority of a tribe that meets the requirements
25 for designation as an enterprise zone under Subsection (3).

26 (2) Indian tribes may apply for designation of an area within an Indian reservation as an
27 enterprise zone.

28 (3) The tribal applicant shall follow the application procedure for a municipal applicant
29 in this part except for the population requirement in Subsections 9-2-404(2)(a) and (b).

30 Section 5. **Retrospective operation.**

31 This act has retrospective operation to January 1, 1998.

Legislative Review Note
as of 1-8-98 1:57 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel