

ENTERPRISE ZONE AMENDMENTS

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Mike Dmitrich

AN ACT RELATING TO COMMUNITY AND ECONOMIC DEVELOPMENT; AMENDING CRITERIA FOR ENTERPRISE ZONES AND TAX CREDITS; MAKING TECHNICAL CORRECTIONS; AND PROVIDING FOR RETROSPECTIVE OPERATION.

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

AMENDS:

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

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

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

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

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

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

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

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

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

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

(a) ~~verifies that the municipality~~ has a population of 10,000 persons or less;

(b) ~~verifies that the municipality~~ is within a county that has a population of 30,000 or less;

and

(c) provides clear evidence of the need for development in the [community] municipality.

(3) [The] An application filed under Subsection (1) or (2) shall be in a form and in

accordance with procedures approved by the department, and shall include the following information:

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

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

9-2-413. State tax credits.

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

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

- (b) an additional \$500 tax credit may be claimed if the new position pays at least 125% of:
 - (i) the county average monthly nonagricultural payroll wage for the respective industry as determined by the Department of Workforce Services; or
 - (ii) if the county average monthly nonagricultural payroll wage is not available for the respective industry, the total average monthly nonagricultural payroll wage in the respective county where the enterprise zone is located;
 - (c) an additional credit of \$750 may be claimed if the new position is in a business that adds value to agricultural commodities through manufacturing or processing;
 - (d) an additional credit of \$200 may be claimed for two consecutive years for each new employee who is insured under an employer-sponsored health insurance program if the employer pays at least 50% of the premium cost for two consecutive years;
 - (e) a credit of 50% of the value of a cash contribution to a private nonprofit corporation, except that the credit claimed may not exceed \$100,000:
 - (i) that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;
 - (ii) whose primary purpose is community and economic development; and
 - (iii) that has been accredited by the board of directors of the Utah Rural Development Council;
 - (f) a credit of 25% of the first \$200,000 spent on rehabilitating a building in the enterprise zone that has been vacant for two years or more; and
 - (g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5% of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable property.
- (2) (a) Subject to the limitations of Subsection (2)(b), a business claiming a credit under Subsections (1)(a) through (d) may claim a credit for 30 full-time employee positions or less in each of its taxable years.
- (b) A business that received a credit for its full-time employee positions under Subsections (1)(a) through (d) may claim an additional credit for a full-time employee position under Subsections (1)(a) through (d) if:

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

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

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

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

(d) Construction jobs are not eligible for the tax credit under Subsections (1)(a) through (d).
[~~(3) Tax credits not claimed by a business on its state income tax return within three years are forfeited.~~]

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

(4) (a) If a business entity is located in a county that met the requirements of Subsections 9-2-404(1)(b) and (c) but did not qualify as an enterprise zone prior to January 1, 1998, because the county was located in a metropolitan statistical area in more than one state, the business entity:

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

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

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

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

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

(A) an individual income tax return;

(B) an amended individual income tax return;

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

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

(ii) may carry forward the tax credit to a taxable year beginning on or after January 1, 1998,

in accordance with Subsection (3).

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

Section 3. Retrospective operation.

This act has retrospective operation to January 1, 1998.