

CHAPTER 209

TAXATION

SENATE BILL 99-033

BY SENATORS Linkhart, Reeves, Andrews, and Rupert;
also REPRESENTATIVES Pfiffner, Leyba, Taylor, Bacon, Coleman, Grossman, Hagedorn, McKay, Plant, Swenson, and Zimmerman.

AN ACT

CONCERNING MECHANISMS TO ENSURE THAT ENTERPRISE ZONES MEET THE ECONOMIC DEVELOPMENT OBJECTIVES SET FORTH FOR SUCH ZONES IN THE URBAN AND RURAL ENTERPRISE ZONE ACT.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 39-30-103 (3) (d), Colorado Revised Statutes, is amended, and the said 39-30-103 (3) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

39-30-103. Zones established - termination. (3) In proposing an area for designation as an enterprise zone, the local government shall submit to the executive director of the department of local affairs a development plan. This plan shall include information describing the following items:

(d) The specific ~~business~~ ECONOMIC development and ~~job creation~~ objectives, to be achieved in the zone, INCLUDING SPECIFIC OBJECTIVES THAT HAVE MEASURABLE OUTCOMES, and the measures that local government and the private sector will undertake to support those objectives;

(e.5) HOW THE SPECIFIC ECONOMIC DEVELOPMENT OBJECTIVES OF THE ZONE THAT HAVE MEASURABLE OUTCOMES WILL BE MEASURED AND THE SPECIFIC, VERIFIABLE DATA THAT WILL BE USED TO MEASURE SUCH OUTCOMES;

SECTION 2. 39-30-103 (4) (b), (4) (c), (4) (d) (I), and (6), Colorado Revised Statutes, are amended, and the said 39-30-103 (4) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

39-30-103. Zones established - termination. (4) (b) For any area designated

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

as an enterprise zone or as a portion of an enterprise zone prior to July 1, 1996, the executive director of the department of local affairs shall require local governments that submitted development plans pertaining to areas selected as enterprise zones to develop and submit no later than September 1, 1996, specific ~~business~~ ECONOMIC development ~~and job creation~~ objectives to be achieved in the zones or portions thereof. FOR ANY AREA DESIGNATED AS AN ENTERPRISE ZONE OR AS A PORTION OF AN ENTERPRISE ZONE PRIOR TO JULY 1, 1999, THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS SHALL WORK WITH THE ZONE ADMINISTRATOR TO ENSURE THAT THE AREA HAS SPECIFIC ECONOMIC DEVELOPMENT OBJECTIVES WITH OUTCOMES THAT CAN BE MEASURED WITH SPECIFIC, VERIFIABLE DATA. The executive director shall require the ~~local governments that submitted development plans pertaining to areas selected as enterprise zones to continue~~ ZONE ADMINISTRATORS FOR EACH ZONE to submit annual documentation of efforts to improve conditions in ~~those~~ areas DESIGNATED AS ENTERPRISE ZONES and the results of those efforts. SUCH ANNUAL DOCUMENTATION SHALL INCLUDE SPECIFIC, VERIFIABLE DATA THAT CAN BE USED TO MEASURE WHETHER THE ZONE HAS ACHIEVED THE SPECIFIC ECONOMIC DEVELOPMENT OBJECTIVES FOR THE ZONE THAT HAVE MEASURABLE OUTCOMES. In order for the executive director to determine if the enterprise zones or portions thereof are achieving the specific ~~business~~ ECONOMIC development ~~and job creation~~ objectives submitted pursuant to this paragraph (b) or to paragraph (d) of subsection (3) of this section, such annual documentations shall include, but need not be limited to, the most recent statistics available for companies claiming enterprise zone tax credits on:

(I) The number of jobs created in the enterprise zone and the standard industrial classification code (SIC) of each company reporting the creation of jobs within the zone;

(II) The number of jobs retained in the zone;

(III) The average annual compensation level, including benefits, of the jobs created or retained within the zone, categorized by full time permanent, part time, temporary, and contract jobs;

(IV) ~~Any change in the unemployment rate in the zone;~~

(V) The number of employees from outside the zone transferred to a facility within the zone;

(VI) ~~The amount of any monetary or in-kind contribution for the purpose of implementing the economic development plan for the enterprise zone and the specific purpose of the contribution as provided in section 39-30-103.5;~~

(VII) An analysis of capital investment in the enterprise zone, including:

(A) ~~The number of new or expanded business facilities and~~ The number and amount of qualified rehabilitation expenses made on rehabilitated vacant buildings;

(B) The amount of investment in qualifying property for which tax credits were claimed pursuant to section 39-30-104;

(VIII) The number of employees trained and the amount of investment in job training programs pursuant to section 39-30-104 (4);

(IX) THE NUMBER OF EMPLOYEES EMPLOYED IN NEW OR EXPANDED BUSINESS FACILITIES FOR WHICH A CREDIT IS CLAIMED PURSUANT TO SECTION 39-30-105;

(X) THE AMOUNT OF INVESTMENT TAX CREDITS CLAIMED PURSUANT TO SECTION 39-30-104 AND THE AMOUNT OF CREDITS CLAIMED FOR NEW BUSINESS FACILITY EMPLOYEES PURSUANT TO SECTION 39-30-105;

(XI) ANY OTHER INFORMATION REASONABLY REQUIRED BY THE ZONE ADMINISTRATOR OR THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS TO EVALUATE THE EFFECTIVENESS OF EACH ZONE IN ACCOMPLISHING THE SPECIFIC MEASURABLE OBJECTIVES OF THE ZONE.

(b.5) IN ADDITION TO THE ANNUAL DOCUMENTATION REQUIRED PURSUANT TO PARAGRAPH (b) OF THIS SUBSECTION (4), THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS SHALL REQUIRE THE ZONE ADMINISTRATORS FOR EACH ENTERPRISE ZONE TO SUBMIT, TO THE EXTENT PRACTICABLE, ANNUAL DOCUMENTATION ON THE MOST RECENT STATISTICS AVAILABLE ON:

(I) ANY CHANGE IN THE UNEMPLOYMENT RATE IN THE ZONE;

(II) ANY CHANGE IN PER CAPITA INCOME IN THE ZONE;

(III) ANY CHANGE IN POPULATION IN THE ZONE;

(IV) THE AMOUNT OF ALL MONETARY OR IN-KIND CONTRIBUTIONS FOR THE PURPOSE OF IMPLEMENTING THE ECONOMIC DEVELOPMENT PLAN FOR THE ZONE AND THE SPECIFIC PURPOSE OF THE CONTRIBUTIONS AS PROVIDED IN SECTION 39-30-103.5.

(b.7) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS SHALL SUBMIT AN ANNUAL REPORT TO THE GENERAL ASSEMBLY SUMMARIZING THE ANNUAL DOCUMENTATION SUBMITTED BY ZONE ADMINISTRATORS TO THE EXECUTIVE DIRECTOR EACH YEAR PURSUANT TO PARAGRAPHS (b) AND (b.5) OF THIS SUBSECTION (4).

(c) (I) The state auditor shall submit a report to the governor and the general assembly no later than ~~March 1, 1998~~ SEPTEMBER 1, 2001, and every two years thereafter WHICH REVIEWS THE REPORT OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS SUBMITTED TO THE GENERAL ASSEMBLY PURSUANT TO PARAGRAPH (b.7) OF THIS SUBSECTION (4).

(II) THE STATE AUDITOR SHALL SUBMIT A REPORT TO THE GOVERNOR AND THE GENERAL ASSEMBLY AT A FREQUENCY TO BE ESTABLISHED BY THE STATE AUDITOR AND THE LEGISLATIVE AUDIT COMMITTEE, BUT IN NO EVENT LESS THAN ONCE EVERY FIVE YEARS, evaluating the implementation of the program and its effect on the employment, unemployment rate, investment, overall growth rate, economic diversity, and per capita income in each enterprise zone or county containing an enterprise zone, EVALUATING THE EFFECTIVENESS OF EACH ZONE IN ACHIEVING ITS MEASURABLE OBJECTIVES, making recommendations for statutory changes, if any, and including

any other information requested by the governor or the general assembly. The evaluation shall be based upon objective verifiable data SUBMITTED BY THE ZONE ADMINISTRATORS AND maintained by the department of local affairs, local governments, and zone administrators and shall include information concerning the amounts of tax credits claimed and allowed under the enterprise zone program. For purposes of preparing the report required by this paragraph (c), the state auditor shall have access to all records and documents applicable to the enterprise zone program, whether maintained by the department of local affairs, local governments, or enterprise zone administrators.

(c.5) COMPANIES CLAIMING ENTERPRISE ZONE CREDITS SHALL PROVIDE INFORMATION REASONABLY REQUIRED BY ZONE ADMINISTRATORS AND THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LOCAL AFFAIRS TO EVALUATE THE EFFECTIVENESS OF EACH ZONE IN ACCOMPLISHING THE MEASURABLE ECONOMIC DEVELOPMENT OBJECTIVES TO BE ACHIEVED IN THE ZONE.

(d) (I) ~~No later than January 1, 1997~~ WITHIN TWELVE MONTHS AFTER THE RELEASE OF SOCIO-ECONOMIC DATA FROM THE UNITED STATES CENSUS AND EVERY FIVE YEARS THEREAFTER, the executive director of the department of local affairs shall submit to the Colorado economic development commission created in section 24-46-102, C.R.S., and to the state auditor a plan establishing criteria, procedures, and a schedule for the termination of enterprise zones or portions thereof THAT NO LONGER MEET THE CRITERIA SET FORTH BY SUBSECTION (1) OF THIS SECTION OR OTHER CRITERIA ESTABLISHED BY THE COLORADO ECONOMIC DEVELOPMENT COMMISSION.

(6) When the termination of an enterprise zone or portion of an enterprise zone would prevent a taxpayer from qualifying for tax benefits under this article and the taxpayer can identify job creation or capital expansion activities that were planned prior to the termination announcement and that would have otherwise entitled the taxpayer to claim tax benefits under section 39-30-103.5, 39-30-104, or 39-30-105, the enterprise zone administrator and the taxpayer shall jointly certify the circumstances and detailed plan information ~~to the Colorado economic development commission~~ prior to the effective date of the termination. ~~Within six months after receiving such information, the commission shall certify an extension of~~ SUCH CERTIFICATION MAY BE FILED WITH THE TAXPAYER'S STATE INCOME TAX RETURN TO EXTEND the period within which the taxpayer may claim such tax benefits, not to exceed the five tax years following the year of the termination, and the amount of each benefit that the taxpayer may claim during the extension period, based on the plan information ~~received by the commission~~ FILED WITH THE TAX RETURN. It is the intent of this subsection (6) only to permit taxpayers to claim tax benefits on which they demonstrably relied in making business planning decisions, and, except as specifically provided in this subsection (6), nothing in this subsection (6) shall be construed to authorize the commission or any enterprise zone administrator to grant tax benefits that have been repealed by the general assembly or to grant tax benefits in excess of the limits established by law.

SECTION 3. 39-30-103.5 (1) (e), Colorado Revised Statutes, is amended to read:

39-30-103.5. Credit against tax - contributions to enterprise zone

administrators to implement economic development plans - repeal. (1) (e) On or before November 1, 1996, and November 1 of each year thereafter, each zone administrator shall provide to the EXECUTIVE director of the department of local affairs a list of all programs, projects, and organizations to which taxpayers may contribute during the next calendar year for the purpose of implementing the economic development plan of the zone and receiving a tax credit pursuant to this section. The list shall be accompanied by a description of each program, project, or organization, including the purpose and relationship of the program, project, or organization to the economic development goals of the enterprise zone, the expected benefits of the program, project, or organization to the enterprise zone, and an estimate of the amount of potential contributions to the program, project, or organization during the next calendar year. No later than December 1 of each year, the EXECUTIVE director of the department of local affairs shall forward the lists of programs, projects, or organizations submitted by zone administrators to the Colorado economic development commission established pursuant to article 46 of title 24, C.R.S. Any modifications to a list, including programs, projects, or organizations that are to be added thereto, shall be submitted to the department of local affairs by the zone administrator no later than thirty days after the modification is made. The department of local affairs shall report any such modifications to the Colorado economic development commission within thirty days of receipt. COMMENCING JULY 1, 1999, the commission is authorized to hold hearings and review ~~the proposed programs, projects, and organizations~~ ANY NEW PROGRAM, PROJECT, OR ORGANIZATION INCLUDED ON A LIST THAT IS SUBMITTED TO THE COMMISSION PURSUANT TO THIS SECTION, ANY MODIFICATION TO A LIST, AND ANY OTHER PROGRAM, PROJECT, OR ORGANIZATION THAT THE COMMISSION DETERMINES HAS CHANGED MATERIALLY. A list or modification of a list that is submitted to the commission pursuant to this section shall not be considered final until thirty days after the commission has received such information. The commission ~~is authorized to reject~~ SHALL APPROVE any program, project, or organization that it determines is ~~not~~ eligible under the requirements of this section or is ~~not~~ essential to the mission of the enterprise zone upon a ~~two-thirds~~ MAJORITY vote of THE MEMBERS OF the commission PRESENT AT A MEETING AT WHICH SUCH APPROVAL IS CONSIDERED. The commission shall notify the zone administrator of any program, project, or organization ~~rejected~~ THAT IS NOT APPROVED within thirty days of receipt of the list or modification of the list. Any program, project, or organization ~~rejected~~ NOT APPROVED by the commission may request that the commission reconsider its decision within thirty days after the date the notice ~~of rejection is~~ INDICATING THAT THE PROGRAM, PROJECT, OR ORGANIZATION WAS NOT APPROVED WAS provided to the zone administrator. A zone administrator may accept contributions for any program, project, or organization it has submitted pursuant to this paragraph (e).

SECTION 4. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 20, 1999