
A BILL FOR AN ACT

RELATING TO STATE ENTERPRISE ZONES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that in these difficult
2 economic times, government must seek ways to stimulate and
3 encourage economic growth and diversity.

4 The state enterprise zones program, under the department of
5 business, economic development, and tourism, was established to
6 promote private sector business growth, and to facilitate the
7 revitalization of certain communities within the state through
8 various measures such as regulatory flexibility and tax
9 incentives.

10 The purpose of this Act is to improve the state enterprise
11 zone program by, among other things:

12 (1) Allowing limited liability companies to be included
13 under the definitions of "qualified businesses" and
14 "service businesses";

15 (2) Extending the enterprise zone tax credits and
16 exemptions, for businesses engaged in manufacturing
17 tangible personal property or in producing or



1 processing agricultural products, for an additional
2 seven years; and

3 (3) Allowing the receipts, sales, and employees of a
4 business's establishments in all enterprise zones
5 located within the same county to count toward
6 qualification requirements.

7 SECTION 2. Section 209E-2, Hawaii Revised Statutes, is
8 amended as follows:

9 1. By adding a new definition to be appropriately
10 inserted and to read:

11 "Eligible business activity" means:

12 (1) The manufacture of tangible personal property, the
13 wholesale sale of tangible personal property described
14 in section 237-4(a)(8), or the activities of a service
15 business as defined in this chapter;

16 (2) The production of agricultural products where the
17 business is a producer as defined in section 237-5, or
18 the processing of agricultural products as defined in
19 section 237-5, all or some of which were grown within
20 an enterprise zone;



1 (3) Research, development, sale, or production of all
2 types of genetically-engineered medical, agricultural,
3 or maritime biotechnology products; or

4 (4) The production of electric power from renewable energy
5 for sale primarily to a public utility company for
6 resale to the public."

7 2. By amending the definitions of "qualified business"
8 and "service business" to read:

9 "Qualified business" means any corporation, partnership,
10 limited liability company, or sole proprietorship authorized to
11 do business in the [State] state that is qualified under section
12 209E-9, subject to the state corporate or individual income tax
13 under chapter 235, and is [+] engaged in an eligible business
14 activity.

15 ~~[(1) Engaged in manufacturing, the wholesale sale of~~
16 ~~tangible personal property as defined in section 237-~~
17 ~~4, or a service business as defined in this chapter;~~

18 ~~(2) Engaged in producing agricultural products where the~~
19 ~~business is a producer as defined in section 237-5, or~~
20 ~~engaged in processing agricultural products, all or~~
21 ~~some of which were grown within an enterprise zone;~~



- 1 ~~(3) Engaged in research, development, sale, or production~~
2 ~~of all types of genetically engineered medical,~~
3 ~~agricultural, or maritime biotechnology products, or~~
4 ~~(4) Engaged in producing electric power from wind energy~~
5 ~~for sale primarily to a public utility company for~~
6 ~~resale to the public.]~~

7 "Service business" means any corporation, partnership,
8 limited liability company, or sole proprietorship that repairs
9 ships, aircraft, or assisted technology equipment, provides
10 telecommunication services, information technology design and
11 production services, medical and health care services, or
12 education and training services as defined in this chapter."

13 SECTION 3. Section 209E-4, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**§209E-4 Enterprise zone designation.** (a) The governing
16 body of any county may apply in writing to the department to
17 have an area declared to be an enterprise zone. The application
18 shall include a description of the location of the area or areas
19 in question, and a general statement identifying proposed local
20 incentives to complement the state and any federal incentives.

21 (b) The governor, upon the recommendation of the director,
22 shall approve the designation of up to six areas in each county



1 as enterprise zones for a period of twenty years. Any such area
2 shall be located in one United States census tract or two or
3 more contiguous United States census tracts in accordance with
4 the most recent decennial United States Census. The census
5 tract or tracts within which each enterprise zone is located
6 also shall meet at least one of the following criteria:

7 (1) Twenty-five per cent or more of the population have
8 incomes below eighty per cent of the median family
9 income of the county; or

10 (2) The unemployment rate is 1.5 times the state average.

11 ~~[(c) Notwithstanding subsection (b), census tract #405~~
12 ~~within the county of Kauai shall be eligible for designation as~~
13 ~~an enterprise zone. The eligibility for designation shall~~
14 ~~remain in effect until January 1, 1997, unless the governor~~
15 ~~earlier determines that the eligibility is no longer necessary.~~

16 ~~(d) Notwithstanding subsection (b) or (c), only lands~~
17 ~~classified as agricultural in the Waialua district on Oahu, as~~
18 ~~defined in section 4-1(3)(D), shall be designated an enterprise~~
19 ~~zone on July 1, 1997, and the designation shall remain in effect~~
20 ~~until June 30, 2002.] "~~

21 SECTION 4. Section 209E-9, Hawaii Revised Statutes, is
22 amended as follows:



1 1. By amending subsections (a) to (c) to read:

2 "(a) Any business firm may be eligible to be designated a

3 qualified business for purposes of this chapter if the business:

4 (1) Begins the operation of a trade or business of an

5 eligible business activity within an enterprise zone;

6 (2) During each taxable year has at least fifty per cent

7 of its enterprise zone [~~establishment's~~

8 establishments' gross receipts attributable to the

9 active conduct of trade or business within [~~the~~

10 enterprise [~~zone,~~] zones located within the same

11 county; and

12 (3) (A) Increases its average annual number of full-time

13 employees by at least ten per cent by the end of

14 its first tax year of participation, and during

15 each subsequent taxable year at least maintains

16 that higher level of employment; or

17 (B) Increases its gross sales of agricultural crops

18 produced, or agricultural products processed

19 within [~~the~~] enterprise [~~zone~~] zones located

20 within the same county by two per cent annually.

21 For business firms engaged in producing or processing

22 agricultural products, receipts from value-added products made



1 from crops grown within [~~an~~] enterprise [~~zone~~] zones located
2 within the same county and sold at retail pursuant to the limits
3 of subsection (e) shall count toward the gross receipts
4 requirement under paragraph (2).

5 (b) A business firm may also be eligible to be designated
6 a qualified business for purposes of this chapter if the
7 business:

8 (1) Is actively engaged in the conduct of a trade or
9 business of an eligible business activity in an area
10 immediately prior to [~~an~~] the area being designated an
11 enterprise zone;

12 (2) Meets the requirements of subsection (a)(2); and

13 (3) (A) Increases its average annual number of full-time
14 employees employed at the [~~business~~] business's
15 establishment or establishments [~~located~~] within
16 [~~the enterprise zone~~] enterprise zones located
17 within the same county by at least ten per cent
18 by the end of the first year of operation, and by
19 at least fifteen per cent by the end of each of
20 the fourth, fifth, sixth, and seventh years of
21 operation[+], and for businesses eligible for tax
22 credits extending past the seventh year, at least



1 maintains that higher level of employment during
2 each subsequent taxable year; provided that the
3 percentage increase shall be based upon the
4 employee count at the beginning of the initial
5 year of operation within the enterprise [~~zone,~~]
6 zone or zones; or

7 (B) Increases its gross sales of agricultural crops
8 produced, or agricultural products processed
9 within [~~the enterprise zone~~] enterprise zones
10 located within the same county by two per cent
11 annually.

12 (c) After designation [~~as~~] of an enterprise zone, each
13 qualified business firm in the zone shall submit annually to the
14 department an approved form supplied by the department that
15 provides the information necessary for the department to
16 determine if it may certify the applicability of the tax credits
17 and exemptions provided in this chapter for the business firm
18 [~~qualifies as a qualified business~~]. The approved form shall be
19 submitted by each business to the governing body of the county
20 in which the enterprise zone is located, then forwarded to the
21 department by the governing body of the county."

22 2. By amending subsection (e) to read:



1 (e) Tangible personal property shall be sold at an
 2 establishment of a qualified business within an enterprise zone
 3 and the transfer of title to the buyer of the tangible personal
 4 property shall take place in [~~the same~~] an enterprise zone
 5 located within the same county in which the tangible personal
 6 property is sold. Services shall be sold at an establishment of
 7 a qualified business engaged in a service business within an
 8 enterprise zone [~~and the services shall be delivered in the same~~
 9 ~~enterprise zone in which sold. Any services rendered outside an~~
 10 ~~enterprise zone shall not be deemed to be the services of a~~
 11 ~~qualified business]."~~

12 SECTION 5. Section 209E-10, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 "**§209E-10 State business tax credit.** (a) The department
 15 shall certify annually to the department of taxation the
 16 applicability of the tax credit provided in this chapter for a
 17 qualified business against any taxes due the State. Except for
 18 the general excise tax, the credit shall be eighty per cent of
 19 the tax due for the first tax year, seventy per cent of the tax
 20 due for the second tax year, sixty per cent of the tax due for
 21 the third year, fifty per cent of the tax due the fourth year,
 22 forty per cent of the tax due the fifth year, thirty per cent of



1 the tax due the sixth year, and twenty per cent of the tax due
2 the seventh year. For qualified businesses engaged in
3 manufacturing tangible personal property, or producing or
4 processing agricultural products, the credit shall continue
5 after the seventh year at the rate of twenty per cent of the tax
6 due for each of the subsequent seven tax years. Any tax credit
7 not usable shall not be applied to future tax years.

8 (b) When a partnership is eligible for a tax credit under
9 this section, each partner shall be eligible for the tax credit
10 provided for in this section on the partner's income tax return
11 in proportion to the amount of income received by the partner
12 from the partnership. Any qualified business having taxable
13 income from business activity, both within and without the
14 enterprise zone, shall allocate and apportion its taxable income
15 attributable to the conduct of business. Tax credits provided
16 for in this section shall only apply to taxable income of a
17 qualified business attributable to the conduct of business
18 within [~~the enterprise zone.~~] enterprise zones located within
19 the same county.

20 (c) In addition to any tax credit authorized under this
21 section, any qualified business shall be entitled to a tax
22 credit against any taxes due the State in an amount equal to a



1 percentage of unemployment taxes paid. The amount of the credit
 2 shall be equal to eighty per cent of the unemployment taxes paid
 3 during the first year, seventy per cent of the taxes paid during
 4 the second year, sixty per cent of the taxes paid during the
 5 third year, fifty per cent of the taxes paid during the fourth
 6 year, forty per cent of the taxes paid during the fifth year,
 7 thirty per cent of the taxes paid during the sixth year, and
 8 twenty per cent of the taxes paid during the seventh year. For
 9 qualified businesses engaged in manufacturing tangible personal
 10 property, or producing or processing agricultural products, the
 11 credit shall continue after the seventh year in an amount equal
 12 to twenty per cent of the taxes paid during each of the
 13 subsequent seven tax years.

14 (d) Tax credits provided for in subsection (c) shall only
 15 apply to the unemployment tax paid on employees employed at the
 16 qualified [~~business~~] business's establishment or establishments
 17 [~~located~~] within [~~the enterprise zone.~~] enterprise zones located
 18 within the same county. Any tax credit not usable shall not be
 19 applied to future tax years."

20 SECTION 6. Section 209E-11, Hawaii Revised Statutes, is
 21 amended to read as follows:

1 **"§209E-11 State general excise exemptions.** The department
2 shall certify annually to the department of taxation that any
3 qualified business is exempt from the payment of general excise
4 taxes on the gross proceeds from [~~the manufacture of tangible~~
5 ~~personal property, the wholesale sale of tangible personal~~
6 ~~property, the engaging in a service business by a qualified~~
7 ~~business, or the engaging in research, development, sale, or~~
8 ~~production of all types of genetically engineered medical,~~
9 ~~agricultural, or maritime biotechnology products,] an eligible
10 business activity as defined in this chapter; provided that
11 agricultural businesses other than those engaged in the
12 production of genetically-engineered agricultural products shall
13 not be exempt from the payment of general excise taxes on the
14 gross proceeds of agricultural retail sales. The gross proceeds
15 received by a contractor licensed under chapter 444 shall be
16 exempt from the general excise tax for construction within an
17 enterprise zone performed for a qualified business within an
18 enterprise zone[~~-~~] or a business that has been approved by the
19 department to enroll into the enterprise zone program. The
20 exemption shall extend for a period not to exceed seven years;
21 provided that for qualified businesses engaged in manufacturing
22 tangible personal property, or producing or processing~~



1 agricultural products, the exemption shall extend for a period
2 not to exceed fourteen years; provided further that if a force
3 majeure event occurs, then the period of time shall be tolled
4 until the force majeure event ceases."

5 SECTION 7. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 8. This Act shall take effect on July 1, 2112.



Report Title:

Enterprise Zone (EZ) Program

Description:

Allows LLCs and renewable energy producers to qualify for EZ benefits; extends EZ tax benefits for manufacturing and agricultural businesses, for an additional seven years; allows receipts, sales, and employees of a business's establishments in all EZs within one county to count towards EZ qualifications; exempts payments for construction for a business approved for enrollment in the EZ Program from the general excise tax.

(HB1682 HD1)

