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# A BILL FOR AN ACT

RELATING TO ENTERPRISE ZONES.

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

1           SECTION 1. The legislature finds that the current statute  
2 pertaining to state enterprise zones sets a limited period for  
3 qualified businesses to receive the tax credit incentive. The  
4 legislature further finds that the expiration of the period will  
5 negatively impact agricultural entities and the governor's goal  
6 of doubling food production by 2020.

7           The legislature finds that the enterprise zones for  
8 agricultural producers should be extended every six years until  
9 the agricultural "self-sufficiency" standard of the Constitution  
10 of the State of Hawaii is fulfilled. The legislature further  
11 finds that businesses providing renewable energy infrastructure  
12 for agricultural producers should also be eligible for the  
13 extended enterprise zone benefits.

14           The purpose of this Act is to amend chapter 209E, Hawaii  
15 Revised Statutes, to:



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- 1           (1) Expand the definition of an eligible business activity  
2           to include the installation of renewable energy  
3           infrastructure for agricultural producers;
- 4           (2) Extend the tax credit eligibility periods in  
5           enterprise zones for agricultural producers and  
6           businesses providing renewable energy infrastructure  
7           to agricultural producers until the constitutional  
8           mandate of self-sufficiency provided in the  
9           Constitution of the State of Hawaii has been  
10          fulfilled;
- 11          (3) Expand the qualification for a qualified business  
12          under section 209E-9, Hawaii Revised Statutes, to  
13          include those businesses that increase gross volume of  
14          agricultural products processed or increase gross  
15          volume of renewable energy infrastructure installed  
16          for agricultural producers within enterprise zones  
17          located within the same county by two per cent  
18          annually; and
- 19          (4) Specify the kinds of agricultural investments that are  
20          eligible for the business tax credit under section  
21          209E-10, Hawaii Revised Statutes.



1 SECTION 2. Section 209E-1, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "§209E-1 Purpose. It is declared that the health, safety,  
4 and welfare of the people of this State are dependent upon the  
5 continual encouragement, development, growth, and expansion of  
6 the private sector, and that there are certain areas in the  
7 State that need the particular attention of government to help  
8 attract private sector investment. Therefore, it is the purpose  
9 of this chapter to stimulate business, agricultural, and  
10 industrial growth in areas that would result in neighborhood  
11 revitalization of those areas by means of regulatory flexibility  
12 and tax incentives. The Constitution of the State of Hawaii  
13 requires increased agricultural self-sufficiency; however,  
14 global trade has challenged the viability of Hawaii's  
15 agricultural sector. The purpose of this chapter is also to  
16 enable investments to meet the constitutional mandate of  
17 agricultural self-sufficiency."

18 SECTION 3. Section 209E-2, Hawaii Revised Statutes, is  
19 amended as follows:

20 1. By adding a new definition to be appropriately inserted  
21 and to read:



1        "Agricultural producer" shall have the same meaning as in  
2 section 155-5.6."

3        2. By amending the definition of "eligible business  
4 activity" to read:

5        "Eligible business activity" means the:

- 6        (1) Manufacture of tangible personal property, the  
7                wholesale sale of tangible personal property as  
8                described in section 237-4, or a service business as  
9                defined in this section;
- 10        (2) Production of agricultural products where the business  
11                is a producer as defined in section 237-5, or the  
12                processing of agricultural products, all or some of  
13                which were grown within an enterprise zone;
- 14        (3) Research, development, sale, or production of all  
15                types of genetically-engineered medical, agricultural,  
16                or maritime biotechnology products; [~~e~~]
- 17        (4) Production of electric power from wind energy for sale  
18                primarily to a public utility company for resale to  
19                the public; or



1       (5) Installation of renewable energy infrastructure for  
2           agricultural producers by renewable energy production  
3           businesses;

4 provided that medical marijuana dispensary activities pursuant  
5 to chapter 329D shall not be considered an eligible business  
6 activity for the purposes of this chapter."

7       SECTION 4. Section 209E-4, Hawaii Revised Statutes, is  
8 amended to read as follows:

9       "**§209E-4 Enterprise zone designation.** (a) The governing  
10 body of any county may apply in writing to the department to  
11 have an area declared to be an enterprise zone. The application  
12 shall include a description of the location of the area or areas  
13 in question, and a general statement identifying proposed local  
14 incentives to complement the state and any federal incentives.

15       (b) The governor, upon the recommendation of the director,  
16 shall approve the designation of up to six areas in each county  
17 as enterprise zones for a period of twenty years[-], except for  
18 agricultural producers and those businesses engaged in providing  
19 renewable energy infrastructure for agricultural producers. Any  
20 such area shall be located in one United States census tract or  
21 two or more contiguous United States census tracts in accordance



1 with the most recent decennial United States Census. The census  
2 tract or tracts within which each enterprise zone is located  
3 also shall meet at least one of the following criteria:

4 (1) Twenty-five per cent or more of the population have  
5 incomes below eighty per cent of the median family  
6 income of the county; or

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

8 (c) For agricultural producers and those businesses  
9 engaged in providing renewable energy infrastructure for  
10 agricultural producers, the governor, upon the recommendation of  
11 the director, shall approve the designation of up to six areas  
12 in each county as agricultural enterprise zones until such date  
13 that it is determined that the constitutional mandate of  
14 increased agricultural self-sufficiency has been achieved. The  
15 department of agriculture in consultation with the department of  
16 business, economic development, and tourism shall define the  
17 standards for agricultural self-sufficiency, as stated in the  
18 Constitution of the State of Hawaii."

19 SECTION 5. Section 209E-9, Hawaii Revised Statutes, is  
20 amended by amending subsection (b) to read as follows:



1           "(b) A business firm may also be eligible to be designated  
2 a qualified business for purposes of this chapter if the  
3 business:

4           (1) Is actively engaged in the conduct of a trade or  
5 business in an eligible business activity in an area  
6 immediately prior to the area being designated an  
7 enterprise zone;

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

9           (3) Either:

10           (A) Increases its average annual number of full-time  
11 employees employed at the business' establishment  
12 or establishments within enterprise zones located  
13 within the same county by at least ten per cent  
14 by the end of the first year of operation, and by  
15 at least fifteen per cent by the end of each of  
16 the fourth, fifth, sixth, and seventh years of  
17 operation, and for businesses eligible for tax  
18 credits extending past the seventh year, at least  
19 maintains that higher level of employment during  
20 each subsequent taxable year; provided that the  
21 percentage increase shall be based upon the



1 employee count at the beginning of the initial  
2 year of operation within the enterprise zone or  
3 zones; [~~or~~]

4 (B) Increases its gross sales of agricultural crops  
5 produced, or agricultural products processed  
6 within enterprise zones located within the same  
7 county by two per cent annually[-]; or

8 (C) Increases its gross volume of agricultural  
9 products processed or gross volume of renewable  
10 energy infrastructure installed for agricultural  
11 producers within agricultural enterprise zones  
12 located within the same county by two per cent  
13 annually."

14 SECTION 6. Section 209E-10, Hawaii Revised Statutes, is  
15 amended to read as follows:

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





1 due for the second tax year, sixty per cent of the tax due for  
2 the third year, fifty per cent of the tax due the fourth year,  
3 forty per cent of the tax due the fifth year, thirty per cent of  
4 the tax due the sixth year, and twenty per cent of the tax due  
5 the seventh year. For qualified businesses engaged in [~~the~~  
6 ~~manufacturing of tangible personal property or~~] the producing or  
7 processing of agricultural products[~~7~~] or renewable energy  
8 infrastructure for agricultural producers, the credit shall  
9 continue after the seventh year at the rate of twenty per cent  
10 of the tax due for each of the subsequent [~~three~~] tax years[~~7~~],  
11 until the State's mandate of increased agricultural self-  
12 sufficiency is achieved. Any tax credit not usable [~~shall not~~]  
13 may be applied to future tax years.

14 (b) When a partnership is eligible for a tax credit under  
15 this section, each partner shall be eligible for the tax credit  
16 provided for in this section on the partner's income tax return  
17 in proportion to the amount of income received by the partner  
18 from the partnership. Any qualified business having taxable  
19 income from business activity, both within and without the  
20 enterprise zone, shall allocate and apportion its taxable income  
21 attributable to the conduct of business. Tax credits provided



1 for in this section shall only apply to taxable income of a  
2 qualified business attributable to the conduct of business  
3 within enterprise zones located within the same county.

4 (c) In addition to any tax credit authorized under this  
5 section, any qualified business shall be entitled to a tax  
6 credit against any taxes due the State in an amount equal to a  
7 percentage of unemployment taxes paid. The amount of the credit  
8 shall be equal to eighty per cent of the unemployment taxes paid  
9 during the first year, seventy per cent of the taxes paid during  
10 the second year, sixty per cent of the taxes paid during the  
11 third year, fifty per cent of the taxes paid during the fourth  
12 year, forty per cent of the taxes paid during the fifth year,  
13 thirty per cent of the taxes paid during the sixth year, and  
14 twenty per cent of the taxes paid during the seventh year. For  
15 qualified businesses engaged in the manufacturing of tangible  
16 personal property or the producing or processing of agricultural  
17 products, the credit shall continue after the seventh year in an  
18 amount equal to twenty per cent of the taxes paid during each of  
19 the subsequent three tax years.

20 (d) Tax credits provided for in subsection (c) shall only  
21 apply to the unemployment tax paid on employees employed at the



1 qualified business' establishment or establishments within  
2 enterprise zones located within the same county. Any tax credit  
3 not usable shall not be applied to future tax years.

4 (e) For agricultural producers and those business firms  
5 engaged in producing renewable energy infrastructure for  
6 agricultural producers, the amount of the business tax credit  
7 shall be equal to eighty per cent of the tax credit claimable  
8 under this section as long as investments in the following areas  
9 are made during the taxable year:

- 10 (1) Water infrastructure;  
11 (2) Farm labor housing;  
12 (3) Investments in mechanization;  
13 (4) Food processing and value added production  
14 infrastructure, including infrastructure for food  
15 safety compliance; and  
16 (5) Renewable energy production capacity.

17 Qualification for the tax credit shall be evaluated and  
18 determined by the department of agriculture."

19 SECTION 7. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.



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1 SECTION 8. This Act shall take effect upon its approval,  
2 and shall apply to taxable years beginning after December 31,  
3 2016.

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INTRODUCED BY:

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# S.B. NO. 780

**Report Title:**

Enterprise Zones; Agriculture; Renewable Energy; Tax Credit

**Description:**

Expands the definition of an eligible business activity to include businesses that provide renewable energy infrastructure to agricultural producers. Extends the tax credit eligibility periods in enterprise zones for agricultural producers and for businesses providing renewable energy infrastructure to agricultural producers until the Hawaii constitutional mandate of "self-sufficiency" is fulfilled. Expands the qualifications of a qualified business to include those businesses that increase gross volume of agricultural products or gross volume of renewable energy infrastructures to agricultural producers within enterprise zones located within the same county by two percent annually. Specifies the kinds of agricultural investments that are eligible for the business tax credit.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

