

A Bill for an Act Relating to the State Enterprise Zones.

Be It Enacted by the Legislature of the State of Hawaii:

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

“§209E-2 Definitions. As used in this chapter:

["Business" means any entity authorized to do business in the State and subject to the state income tax on net corporate rate income, or a public service company subject to tax under chapter 239, or a financial institution subject to tax under chapter 241, or a partnership or sole proprietorship.]

"Department" means the department of business and economic development.

"Director" means the director of business and economic development.

"Enterprise zone" means an area declared by the governor to be eligible for the benefits of this chapter.

"Establishment" means a single physical location where business is conducted. A business firm may include one or more establishments, any number of which may be in the enterprise zones.

"Qualified business" means any corporation, partnership, or sole proprietorship authorized to do business in the State which is:

- (1) Subject to the state corporate or individual income tax under chapter 235, the public service company tax under chapter 239, or the bank and financial corporation tax under chapter 241;
- (2) Engaged in manufacturing, the wholesale sale of tangible personal property, or a service business or calling; and
- (3) Qualified under section 209E-9.

"Service business or calling" for the purposes of this chapter means any corporation, partnership, or sole proprietorship that acts upon or processes tangible personal property, such as cleaning, repair and maintenance and does not mean activities which are not performed upon tangible personal property.

"Taxes due the State" means:

- (1) In the case of a corporation, partnership, or sole proprietorship, income taxes due under chapter 235;
- (2) In the case of a public service company, tax due under chapter 239;
- (3) In the case of a financial institution, tax due under chapter 241.

"Wholesale" means those activities defined in section 237-4."

SECTION 2. Section 209E-4, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) The governor shall approve, upon the recommendation of the director, the designation of up to six areas in each county as enterprise zones for a period of twenty years. [Not more than four zones shall be designated during the first year after April 22, 1986.] Any such area shall [consist of] be located in one United States census tract or two or more contiguous United States census tracts in accordance with the 1980 United States Census. Any [such] area designated as an enterprise zone after 1990 United States census data becomes available shall be located in one United States census tract or two or more contiguous United States census tracts in accordance with the 1990 United States Census. The census tract or tracts within which each enterprise zone is located also shall meet at least one of the following criteria:

- (1) Twenty-five per cent or more of the population [of the area] shall have incomes below eighty per cent of the median family income of the county, or
- (2) An unemployment rate 1.5 times the state average.”

SECTION 3. Section 209E-8, Hawaii Revised Statutes, is amended to read as follows:

“[§209E-8] Rules. Rules prescribing procedures effectuating the purpose of this chapter shall be adopted by the department in consultation with the department of taxation pursuant to chapter 91.”

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

“[§209E-9] Eligibility. (a) Any business firm may be designated a “qualified business” for purposes of this chapter if the business:

- (1) Begins the operation of a trade or business within an enterprise zone;
- (2) During each taxable year has at least fifty per cent of [the business’] its enterprise zone establishment’s gross receipts attributable to the active conduct of trade or business within the enterprise zone; and
- (3) Forty per cent or more of the employees employed at the business’ establishment or establishments located within the enterprise zone meet the criteria set forth in section 209E-4(b)(1) prior to employment.

(b) A business also may be designated a “qualified business” for purposes of this chapter if the business:

- (1) Is actively engaged in the conduct of a trade or business in an area immediately prior to an area being designated an enterprise zone;
- (2) Meets the requirements of subsection (a)(2); [and]
- (3) Increases the average number of full-time employees employed at the business’ establishment or establishments located within the enterprise zone by at least [ten] five per cent over the preceding year’s employment with not less than forty per cent of the increase being employees meeting the criteria of section 209E-4(b)(1) prior to employment[.] and during each subsequent taxable year maintains that higher level of employment; and
- (4) Increases by at least five per cent during each taxable year the average number of full-time employees meeting the criteria of section 209E-4(b)(1) until forty per cent or more of the employees employed at the business’ establishment or establishments within the enterprise zone meet the foregoing criteria.

(c) After designation as an enterprise zone, each qualified business firm in the zone shall submit annually to the department a statement requesting one or more of the tax incentives provided in this chapter. The statement shall be accompanied by an approved form supplied by the department and completed by an independent certified public accountant licensed by the State which states that the business firm meets the definition of a “qualified business”. A copy of the statement submitted by each business to the department shall be forwarded to the governing body of the county in which the enterprise zone is located.

(d) The form referred to in subsection (c) shall be prima facie evidence of the eligibility of a business for the purposes of this section.

(e) Tangible personal property must be sold by an establishment of a qualified business within an enterprise zone and the transfer of title and delivery to the buyer of the tangible personal property must take place in the same enterprise zone in

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which the tangible personal property is sold. Services must be sold by an establishment of a qualified business engaged in a service business or calling within an enterprise zone and the services must be delivered in the same enterprise zone in which sold. Any services rendered outside of an enterprise zone shall not be deemed to be the services of a qualified business.”

SECTION 5. Section 209E-10, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) When a partnership is eligible for a tax credit under this section, each partner shall be eligible for the tax credit provided for in this section on the partner’s [individual] income tax return in proportion to the amount of income received by the partner from the partnership. Any qualified business having taxable income from business activity, both within and without the enterprise zone, shall allocate and apportion its taxable income attributable to the conduct of business. Tax credits provided for in this section shall only apply to taxable income of a qualified business attributable to the conduct of business within the enterprise zone.”

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

“**[~~§209E-11~~] State general excise tax exemptions.** The department shall certify annually to the department of taxation that any qualified business is exempt from the payment of general excise taxes on the gross proceeds from [all items sold] the manufacture of tangible personal property, the wholesale sale of tangible personal property, or the engaging in a service business or calling by a qualified business in the enterprise zone. The exemption shall extend for a period not to exceed seven years.”

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 8. This Act shall take effect upon its approval.

(Approved June 27, 1989.)