



## Legislative Fiscal Bureau

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May 25, 2005

Joint Committee on Finance

Paper #211

### **Enterprise Development Zone Maximum Tax Credit Limit (Commerce)**

[LFB 2005-07 Budget Summary: Page 109, #16]

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#### **CURRENT LAW**

The Enterprise Development Zone (EDZ) program is one of five zone programs that provide tax credits to businesses as incentives to expand or locate operations, increase employees, or increase investment in different areas of the state. A business that conducts, or intends to conduct, economic activity in an area of the state can apply to Commerce to have the area designated as an enterprise development zone by submitting an application and a project plan. The Department can designate the area as an enterprise development zone if the area meets certain criteria and the Department approves the project plan. Commerce is authorized to establish the length of time an enterprise development zone can be designated, but the zone cannot be designated for more than seven years (84 months). Through April, 2005, 65 enterprise development zones had been designated in the state.

#### **GOVERNOR**

Delete the statutory limit of 79 on the number of enterprise development zones that can be created, and eliminate the requirement that Commerce must obtain approval from the Joint Committee on Finance to designate any zone that would exceed the statutory figure (currently authorized at a total of 81 zones). A total statewide maximum tax credit amount that could be claimed in all enterprise development zones that were created would be set at \$243 million.

#### **DISCUSSION POINTS**

1. The 1995-97 biennial budget created the Enterprise Development Zone (EDZ) program. The provisions creating the program were first introduced and adopted by the Joint

Committee on Finance. Commerce was initially authorized to create 50 enterprise development zones, and the Department could not designate more than the specified maximum number of 50 without receiving approval from the Joint Committee on Finance. At the September 1998, meeting under s. 13.10 of the statutes, the Joint Committee on Finance increased the number of enterprise development zones that could be created from 50 to 64. In 1999 Wisconsin Act 9, the total number of enterprise development zones that could be created was increased from 64 to 79. Ten of these zones are required to be for environmental remediation projects. Employers in environmental remediation zones do not have to claim jobs credits. Recently, at the January, 2005, meeting under s. 13.10, the Committee increased the number of zones that could be created by 2, from 79 to 81.

2. As noted, a business that wishes to have an area designated as an enterprise development zone must submit an application and a project plan to the Department. The project plan must include the following:

- a. The name and address of the person's business for which tax benefits will be claimed;
- b. The Wisconsin tax identification number of the business;
- c. The names and addresses of other locations outside of the proposed zone where the applicant conducts business and a description of the business activities at those locations;
- d. In the proposed zone, the amount that the applicant proposes: to invest in a business; to spend on the construction, rehabilitation, repair or remodeling of a building; or to spend on the removal or containment of, or the restoration of soil or groundwater affected by environmental pollution;
- e. The estimated total investment of the business in the proposed enterprise development zone;
- f. The estimated number of full-time jobs that will be created, retained or substantially upgraded as a result of the project in relation to the estimated amount of tax benefits received;
- g. The person's plans to make reasonable attempts to hire employees from the target population;
- h. The estimated number of full-time jobs that will be filled by members of the target population;
- i. The boundaries or legal description of the area proposed to be designated as an enterprise development zone; and
- j. Any other information required by Commerce or the Department of Revenue (DOR).

3. Commerce is authorized to approve a project plan and designate, as an enterprise development zone, an area in which the person that submits the project plan conducts or intends to conduct the project. The Department may not designate an area as an enterprise development zone if that area is within the boundaries of a development zone or development opportunity zone. In order to designate an area as an enterprise development zone the Department of Commerce must determine all of the following:

- a. That designation of the area will serve a public purpose;
- b. That designation of the area will likely retain or increase employment in the state;
- c. That the economic development in the area is not likely to occur or continue without the Department's designation of the area as an enterprise development zone; and
- d. That the area meets at least three of the following criteria: (1) the unemployment rate in the area is higher than the state average for the 18 months immediately preceding the date on which the application for creating the zone was filed; (2) the percentage of persons residing in the area who are members of households with household income levels at or below 80% of the statewide median household income is higher than the state average; (3) the percentage of households in the area receiving unemployment insurance or participating in the W-2 program is higher than the state average; (4) in the 36 months immediately preceding the date on which a application for creating a zone was submitted to Commerce, a number of workers in the area were permanently laid off by their employer or became unemployed as a result of a business action subject to the state business closing law; (5) an employer in the vicinity of the area has given public notice under state law of either a business closing or reduction of the greater of 25 employees, or 25% of the employees of a business, that will be laid off permanently; (6) property values in the area have been declining; (7) there has been a decline in population in the area.

4. In determining if an area has the required characteristics to be designated as a development or enterprise development zone Commerce must consider the following:

- a. The extent of poverty, unemployment or other factors contributing to general economic hardship in the area;
- b. The prospects for new investment and economic development in the area;
- c. The amount of investment that is likely to result from designation of the area as a zone;
- d. The number of full-time jobs that are likely to be created or retained in the area as a result of its designation as a zone;
- e. The number of full-time jobs that are likely to be available to the target population as a result of designation of the area as a zone;

f. The competitive effect of designating the area as a zone on other businesses in the vicinity of the area;

g. The needs of other areas of the state; and

h. Any other factors that Commerce considers relevant.

5. A business that conducts economic activity in an enterprise development zone and is certified by Commerce can claim the consolidated development zones tax credit. Only one business is eligible for tax benefits in an enterprise development zone. The maximum amount of credits that can be claimed by an eligible business in an enterprise development zone is established by Commerce, but cannot exceed \$3 million. The consolidated development zones tax credit is based on amounts spent on environmental remediation and the number of full-time jobs created or retained as follows:

a. *Environmental Remediation Component.* A credit against income taxes due can be claimed for 50% of the amount expended for environmental remediation in an enterprise development zone. "Environmental remediation" is defined as removal or containment of environmental pollution, and restoration of soil or groundwater that is affected by environmental pollution in a brownfield if removal, containment, or restoration began after the area that contains the site where the work was done was designated an enterprise development zone. Investigation costs are eligible unless the investigation determines that remediation is required and remediation is not undertaken. "Environmental pollution" means the contaminating or rendering unclean or impure the air, land or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal or plant life. "Brownfield" is defined as an industrial or commercial facility the expansion or redevelopment of which is complicated by environmental contamination.

b. *Full-Time Jobs Component.* A credit of up to \$8,000 against income and franchise taxes can be claimed for: (1) each full-time job created in an enterprise development zone and filled by a member of a targeted group; and (2) retaining a full-time job in an enterprise development zone if Commerce determines that a significant capital investment was made to retain the full-time job. In addition, a credit of up to \$6,000 can be claimed for each full-time job created or retained in an enterprise development zone that is filled by a Wisconsin resident who is not a member of a targeted group. At least one-third of jobs credits claimed must be based on jobs created and filled by targeted group members. In addition, except for businesses that only claim credits for environmental remediation, 25% of all tax credits claimed must be based on creating or retaining full-time jobs.

"Full-time job" is defined as a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including leave and paid holidays, and for which the individual receives pay equal to at least 150% of the federal minimum wage and also receives benefits that are not required by federal or state law. A full-time job does not include initial training before an employment position began. Targeted groups include the following: (1) dislocated workers; (2) economically disadvantaged youths; (3) economically

disadvantaged ex-convicts; (4) vocational rehabilitation referrals; (5) economically disadvantaged veterans; (6) general assistance recipients; (7) Supplemental Security Income (SSI) recipients; (8) qualified summer youth employees; (9) Wisconsin Works (W-2) participants; (10) residents of federally designated enterprise communities, and (11) food stamp recipients.

Credits that are not entirely used to offset income or franchise taxes in the current year can be carried forward up to 15 years to offset future tax liabilities. If a certification of eligibility for tax benefits is revoked, credits cannot be claimed for the tax year in which the certification was revoked or for successive tax years, and unused credits cannot be carried forward to offset tax liabilities for the year in which certification was revoked and succeeding years. In addition, credits cannot be claimed for the year in which a person that was certified for tax benefits ceases business operations in an enterprise development zone, and unused credit amounts cannot be carried forward from that year or from previous years.

6. The attachment provides summary information about the enterprise development zone program. The table shows that through April, 2005, sixty-five enterprise development zones had been created and a total of \$122.8 million had been allocated to the zones. Credit allocations ranged from \$366,000 to \$3.0 million, with an average allocation of approximately \$1.9 million.

7. AB 100 would eliminate the current maximum limit of 81 on the number of zones created and establish a maximum amount of tax credits of \$243 million (81 zones x \$3 million per zone) that could be allocated to enterprise development zones. As a result, the Department would have a total of \$120.2 million in tax credits to allocate to new zones. The changes are viewed as providing Commerce with more flexibility in its economic development activities and access to the total amount of potential tax credits that could be claimed under the program. The Department would be able to respond more quickly to economic circumstances, such as major establishment relocations or expansions. Based on the current average of \$1.9 million per zone, the bill would allow Commerce to designate approximately 50 enterprise development zones, beyond that currently allowed.

8. The enterprise development zones program is promoted as the Department's primary financial assistance program for major economic development projects. Up to \$3.0 million in tax credits can be awarded to a single business. This level of assistance is not available through Commerce's other programs. For example, during the 2001-03 biennium a total of \$6.3 million in Wisconsin Development Fund (WDF) major economic development (MED) grants and loans were awarded to 12 applicants (average award of \$525,000). MED awards are targeted at about 30% of total WDF funding (\$8.5 million) for the 2003-05 biennium. As noted, the EDZ program can provide up to \$3.0 million for just one project, and the average amount of tax credits allocated to each zone is \$1.9 million. Commerce staff indicates that the state needs the enterprise development zone program to compete with other states for large investment and employment projects. They would note that, under the current EDZ program, a project averages \$28.4 million in investment, 266 jobs created, and 421 jobs retained.

9. The enterprise development zone program is designed to promote economic growth

and employment through job creation and investment, particularly in distressed areas of the state. Designation criteria target areas with high unemployment, low incomes, high proportions of W-2 participants or unemployment insurance recipients, recent layoffs, declining population, or declining property values. However, "area" is not defined. Commerce generally designates zones on the basis of countywide or sometimes metropolitan statistical area data, compiled from the Department of Workforce Development (DWD), the Department of Revenue (DOR), and the federal government. As a result, some EDZs are located in municipalities that might not be considered distressed. For a number of reasons, such projects could be viewed as providing benefits to distressed areas. Frequently, it is more costly to locate or expand businesses operations in distressed areas, due to environmental factors such as lack of necessary infrastructure and the unavailability of proper project sites. In these cases, the tax credits would be less likely to influence investment decisions, and the project may not be undertaken. Unless the project involves environmental remediation, at least one-third of the jobs tax credits claimed must be for targeted group members. Undertaking the project within the county or metropolitan area can provide jobs for individuals who live in the more distressed sections of municipalities within the county or metropolitan area. For example, Commerce staff indicates that target group members that are not residents of the municipality fill over one-half of the jobs created by the Kohl's Department Store in Menomonee Falls. Similarly, assisting a project outside of a distressed area could help maintain the business' major operations that are located in the distressed area. Commerce staff argue that the Allen Bradley Co. project in Mequon helped retain the company headquarters and manufacturing operations in Milwaukee. On the other hand, municipalities are likely to have some distressed areas within their boundaries that would be appropriate project sites, or would be willing to provide assistance to businesses to retain or create jobs. In addition, transportation to workplaces outside of the area in which they reside could be a barrier to employment to many target group individuals. Requiring economic development projects to at least be within the municipality in which the target group members reside, where access to public transportation is available, could help target the program more toward distressed areas.

10. A major issue in evaluating economic development incentives is determining if the incentive is necessary to influence investment decisions. From one view, this is especially the case when large businesses are involved. These entities have greater access to funds through traditional lending institutions and from retained earnings. Also, the nature of their operations are such, that differences in production costs, such as labor or transportation, are likely to overwhelm tax incentives. From this view, the program might be better focused on smaller firms. The Governor has recommended modifying the definition of small business for the purposes of WDF grants and loans to be a business with fewer than 100 employees. The Committee may wish to require that one-half of the enterprise development zones that are created after July 1, 2005, be for small businesses defined in this manner. This would allow the Department to continue to assist major economic development projects as well.

11. The Department of Commerce is responsible for administering five programs that provide tax credits to businesses as incentives to expand or locate operations, increase employees, or increase investment in different areas of the state. These programs include: (a) development zones-- 22 zones and \$38.155 million in total tax credits; (b) enterprise development zones -- 81 zones and

\$243 million in potential total tax credits; (c) development opportunity zones -- three zones and \$16.4 million in total tax credits; (d) technology zones -- eight zones and \$40 million in total tax credits; and (e) agricultural development zone -- one zone and \$5 million in total tax credits. There is concern that, if the enterprise development zone program becomes too large it would compete with the other zone programs, particularly the development zones program, for projects. Some economic development studies have indicated that development zone programs are most effective in attracting investment when they are limited to a small number of economically distressed areas of the state. The development zone program is designed to attract businesses to these areas. Technology zones are designed to promote development and expansion of high-technology businesses across the state based on the concept of promoting industry cluster formation. Development opportunity zones target projects in specific communities. Enterprise development zones are limited areas that encompass one business. Although, the various types of zones can be located in similar areas of economic distress, it is possible that a business, that would otherwise undertake a new development project in other types of zones, would instead locate in an enterprise development zone because the program is targeted to individual firms.

12. Since the enterprise development zone program was created in the 1995-97 biennial budget, there has been a limit on the number of zones that could be created, and Commerce has been required to obtain approval from the Joint Committee on Finance to exceed that limit. In creating the program, the Legislature provided for a measure of legislative oversight of the enterprise development zone program. The Committee may wish to continue this oversight authority, and require the Department to receive approval to exceed the maximum limit on zones established by the Committee. The average number of enterprise development zones that have been created each year, beginning with 1995, is about six, although the annual number has declined in recent years as the limit on total zones was approached. The Committee approved two new zones in January. As an alternative, four more regular zones or a total of 85 enterprise development zones could be authorized. This would provide the Commerce with a total of six new zones for 2005. Authorization of additional zones could then be considered by the Joint Committee on Finance upon the request of Commerce.

13. Increasing the number of enterprise development zones would have a minimal fiscal effect in the current biennium. Commerce would have to review and approve applications and project plans, and allocate and certify tax credits to businesses. The businesses would have to take actions, such as hiring workers that would be necessary to claim the credits. Also, the entire amount allocated to an individual business would not be claimed in a single year, but would be claimed as investments were made and employees were hired. However, the total amount of tax credits that could be claimed would equal \$3.0 million times the number of zones created. If four additional zones are authorized, the total amount of development zones credits that could be claimed would be increased by \$12 million (\$3 million x four zones). If the amount of credits allocated to each enterprise development zone maintained the current average of \$1.9 million, the potential reduction in state income and franchise tax revenues would be \$7.6 million. If that amount of tax credits were claimed over the next five years, the annualized reduction in revenues would be \$1.5 million. The actual fiscal effect of these provisions will be reflected in future revenue estimates.

## ALTERNATIVES

1. Adopt the Governor's recommendation to Delete the statutory limit of 79 on the number of enterprise development zones that can be created, and eliminate the requirement that Commerce must obtain approval from the Joint Committee on Finance to designate any zone that would exceed the statutory figure (currently authorized at a total of 81 zones). A total statewide maximum tax credit amount that could be claimed in all enterprise development zones that were created would be set at \$243 million.

2. Delete the Governor's recommendation and instead adopt any of the following:

a. Authorize the Department of Commerce to create four additional enterprise development zones, or a total of 85.

b. Require that one-half of the zones that are designated beginning July 1, 2005, be for small businesses (businesses with less than 100 employees).

c. Require that "area" for the purpose of designating enterprise development zones be defined as a town, village or city.

3. Maintain current law.

Prepared by: Ron Shanovich  
Attachment



# ATTACHMENT

## Enterprise Development Zone Program

<u>City</u>	<u>Company Name</u>	<u>Certification Date</u>	<u>Zone Investment</u>	<u>Jobs Created</u>	<u>Jobs Retained</u>	<u>Credit Allocation</u>
New Berlin	Quad/Graphics	August 14, 1995	\$96,500,000	500	0	\$3,000,000
Eau Claire	W.L. Gore	September 19, 1995	70,000,000	450	34	1,235,406
Oconto Falls	Cera-Mite Corp.	November 1, 1995	5,000,000	150	162	366,000
Neilsville	Leeson Electric	December 11, 1995	2,500,000	150	0	900,000
Marinette	Karl Schmidt Unisia	January 12, 1996	50,000,000	350	384	2,100,000
Menomonee Falls	Strong Capital Management, Inc.	February 12, 1996	30,000,000	500	528	3,000,000
Wisconsin Rapids	Renaissance Learning, Inc.	February 16, 1996	20,000,000	370	130	2,000,000
Kenosha	DaimlerChrysler Corp.	April 1, 1996	364,000,000	414	1,405	3,000,000
Franklin	Harley-Davidson Motor Co. Group, Inc.	April 1, 1996	20,000,000	200	473	2,800,000
Shawano	Aarrowcast, Inc.	July 4, 1996	13,500,000	312	244	1,068,000
Chippewa Falls	Johnson Matthey Semicon- ductor Packages, Inc.	August 1, 1996	47,700,000	600	470	2,750,000
Prairie du Chien	Cabela's Wholesale, Inc.	August 29, 1996	29,000,000	555	0	3,000,000
Wauwatosa	Harley-Davidson Motor Co. Operations, Inc.	September 27, 1996	90,000,000	400	75	3,000,000
Ladysmith	Weather Shield, Mfg., Inc.	October 25, 1996	6,200,000	200	430	1,200,000
Janesville	Alliant Techsystems, Inc.	November 10, 1996	3,500,000	0	250	1,000,000
Dodgeville	Land's End, Inc.	November 20, 1996	62,000,000	666	1498	3,000,000
Green Bay	KI	January 10, 1997	7,600,000	175	689	1,050,000
Sheboygan	J.L. French Corp.	February 1, 1997	43,000,000	220	720	1,320,000
Saukville	Charter Manuf. Co., Inc.	March 21, 1997	25,000,000	200	663	1,200,000
Racine	J.I. Case	May 1, 1997	116,000,000	500	1739	3,000,000
Chetek	Parker Hannifin Corp.	June 1, 1997	2,400,000	100	0	600,000
Oconto	KCS International	June 18, 1997	2,400,000	600	417	3,000,000
Platteville	Hypro, Inc.	July 31, 1997	7,300,000	150	0	900,000
Wausau	Award Hardwood Floors, LLP	August 1, 1997	13,400,000	175	0	775,000
Manawa	Kolbe & Kolbe Milwork Co., Inc.	August 18, 1997	6,000,000	200	0	525,000
De Pere	Moore USA Inc. (Response Mktg. Services)	September 1, 1997	63,000,000	471	729	2,500,000
Bonduel	KI	November 17, 1997	4,900,000	375	0	2,250,000
Milwaukee	Johnson Controls	March 1, 1998	17,000,000	350	915	1,750,000
Port Washington	Simplicity Manuf., Inc.	March 31, 1998	970,000	60	470	2,180,000
Wausaukee	Wausaukee Composites, Inc.	April 30, 1998	3,700,000	200	135	1,000,000
Oshkosh	The Fonda Group, Inc.	July 31, 1998	13,000,000	207	93	1,500,000
Ripon	Alliance Laundry Holdings, LLC	January 1, 1999	31,000,000	200	480	3,000,000
Mequon	Allen-Bradley Co.	January 1, 1999	49,500,000	65	460	2,165,000
DePere	IDS Property Casualty Insurance Co.	February 15, 1999	20,891,000	357	391	1,785,000
Hudson	Whitmire Distribution Corp.	April 1, 1999	8,500,000	71	0	426,000
Madison	The Charton Group	August 1, 1999	1,500,000	280	83	840,000
Menomonie	Andersen Corporation	September 1, 1999	17,000,000	300	0	1,500,000
Neenah	Pitney Bowes, Inc.	September 1, 1999	7,900,000	400	94	1,600,000
Wausau	Marathon Electric Manf. Corp.	December 2, 1999	8,739,000	106	686	700,000
Brodhead	Stoughton Trailers	January 1, 2000	13,700,000	367	0	2,053,000

<u>City</u>	<u>Company Name</u>	<u>Certification Date</u>	<u>Zone Investment</u>	<u>Jobs Created</u>	<u>Jobs Retained</u>	<u>Credit Allocation</u>
Plymouth	Sargento Foods, Inc.	April 1, 2000	\$9,100,000	324	949	\$1,620,000
Manitowoc	The Manitowoc Co., Inc.	May 22, 2000	4,200,000	600	800	2,600,000
Oshkosh	Oshkosh Truck	June 1, 2000	8,500,000	352	248	3,000,000
Eau Claire	EBY Brown Co., Inc.	September 1, 2000	6,000,000	70	100	410,000
Oshkosh	4imprint Inc.	October 1, 2000	1,050,000	400	200	\$3,000,000
Sheboygan	Rockline Industries, Inc.	October 1, 2000	7,531,000	124	297	710,000
La Crosse	City Brewing Co., LLC	December 1, 2000	14,000,000	100	0	800,000
Racine	CNH Global N.V.	January 1, 2001	21,500,000	0	1,000	3,000,000
Waterford	Runzheimer International, Ltd.	January 1, 2001	8,200,000	0	178	1,400,000
Stevens Point	Land's End, Inc.	March 1, 2001	19,000,000	500	0	3,000,000
Oshkosh	Firststar Bank/U.S. Bancorp	March 1, 2001	9,283,000	297	532	891,000
Sturtevant	Bombardier Motor Corp. of America	April 5, 2001	32,900,000	750	0	3,000,000
Tomahawk	Harley Davidson Motor Co. Operations, Inc.	June 1, 2001	41,300,000	0	327	2,616,000
Thorp	Benchmark Components Inc./ Wisconsin Bench	June 1, 2001	9,415,000	110	72	550,000
Cudahy	Patrick Cudahy, Inc.	June 1, 2001	22,548,000	390	1125	3,000,000
Milwaukee	USF-Holland	August 1, 2001	7,817,000	50	276	640,000
Horicon	Deere & Company	November 1, 2001	37,000,000	0	253	1,644,500
Menomonee Falls	Kohl's Department Stores, Inc.	February 4, 2002	18,600,000	175	2,000	3,000,000
Brookfield	Norlight Telecommunications, Inc.	July 1, 2002	1,900,000	90	238	2,489,000
Saukville	Kohler Co.	July 18, 2002	3,100,000	50	45	685,000
Sheboygan	ACUITY, A Mutual Insurance Co.	March 24, 2003	40,000,000*	600	554	3,000,000
Sheboygan	ACUITY, A Mutual Insurance Co.	March 24, 2003	0	0	500	3,000,000
Arcadia	Ashley Furniture Industries	July 16, 2003	2,759,233	343	2,437	1,715,000
Milwaukee	Aldrich Chemical Co., Inc.	January 5, 2004	90,000,000	0	400	3,000,000
Menomonee Falls	Kohl's Dept. Stores, Inc.	---	<u>35,000,000</u>	<u>---</u>	<u>---</u>	<u>3,000,000</u>
TOTAL			\$1,845,003,233	17,271	27,378	\$122,808,906

\*The \$40,000,000 is total investment in the ACUITY zones and includes a building renovation project to retain jobs, and a building expansion project that will create jobs.