

ACT 91

H.B. NO. 1878

A Bill for an Act Relating to State Enterprise Zones.

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

SECTION 1. The legislature finds that several technical changes are necessary to clarify chapter 209E, Hawaii Revised Statutes, “state enterprise zones,” to simplify the implementation and improve the effectiveness of the program. These changes include:

- (1) Revision of the low-income hiring requirements to allow variation by family size and to allow updating annually rather than every ten years;
- (2) Deletion of references to the public service company tax and the bank and financial corporation tax;
- (3) Simplification of tax credit claims by eliminating the requirement for certified public accountant (CPA) verification; and
- (4) Other changes to update references to federal census data and federal enterprise zone criteria.

SECTION 2. Section 209E-2, Hawaii Revised Statutes, is amended:

1. By adding a new definition to be appropriately inserted and to read as follows:

““Low-income employee” means a person whose family income during the twelve months prior to being hired by a qualified business is less than the most recently published federal Department of Labor lower living standard income levels for the county in which the person is hired.”

2. By amending the definitions of “qualified business” and “taxes due the state” to read as follows:

““Qualified business” means any corporation, partnership, or sole proprietorship authorized to do business in the State which is[:] qualified under section 209E-9 and 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; or
- (3) Engaged in producing agricultural products where the business is a producer as defined in section 237-5[:]; and
- (4) Qualified under section 209E-9].

“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; and¹
- (3) In the case of a financial institution, tax due under chapter 241].”

SECTION 3. 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, shall approve the designation of up to six areas in each county as enterprise zones for a period of twenty years. Any such area shall be located in one United States census tract or two or more contiguous United States census tracts in accordance with the [1980] most recent decennial United States Census. [Any 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 have incomes below eighty per cent of the median family income of the county; or
- (2) The unemployment rate is 1.5 times the state average.”

SECTION 4. Section 209E-5, Hawaii Revised Statutes, is amended to read as follows:

“[~~§209E-5~~] **Application review.** (a) The department shall review each application upon receipt and shall secure any additional information that the department deems necessary for the purpose of determining whether the area described in the application qualifies to be declared an enterprise zone.

(b) The department shall complete review of the application within sixty days of the last date designated for receipt of an application. After review of the applications, the department shall recommend to the governor within thirty days those applications with the greatest potential for accomplishing the purpose of this

chapter. If an application is denied, the governing body shall be informed of that fact together with the reasons for the denial.

[(c) If any portion of an area designated as an enterprise zone under this chapter is included in an area designated as an enterprise zone by an agency of the federal government, the area designated under this chapter shall be enlarged to include the area designated by the federal agency.]”

SECTION 5. Section 209E-9, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

“(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 its enterprise zone establishment’s gross receipts attributable to the active conduct of trade or business within the enterprise zone; and
- (3) [~~Forty~~] Has forty per cent or more of the average annual number of full-time employees employed at the business’ establishment or establishments located within the enterprise zone [meet the criteria set forth in 209E-4(b)(1) prior to employment.] who are low-income employees.

(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);
- (3) Increases the average number of full-time employees employed at the business’ establishment or establishments located within the enterprise zone by at least five per cent over the preceding year’s employment with not less than forty per cent of the increase being low-income 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 low-income 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.”

SECTION 6. Section 209E-6, Hawaii Revised Statutes, is repealed.

SECTION 7. Statutory material to be repealed is bracketed.² New statutory material is underscored.

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

(Approved June 7, 1995.)

Notes

1. So in original.
2. Edited pursuant to HRS §23G-16.5.