



# Legislative Briefs

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## ENTERPRISE ZONE JOBS CREDIT

2005 Wisconsin Act 361 passed the legislature on March 9, 2006, and was partially vetoed, then signed, by Governor Jim Doyle on April 19, 2006. The act authorizes the Wisconsin Department of Commerce (Commerce) to designate certain areas as enterprise zones. Enterprise zones are intended to foster economic development by granting favorable tax treatment to businesses located in a defined area. Act 361 also creates an enterprise zone jobs tax credit for most businesses located in such zones. The measure was introduced as 2005 Assembly Bill 208, which contained language that designated enterprise zones only in rural areas, but the governor's partial veto removed the language that created the rural limitation.

### ENTERPRISE ZONES

Act 361 gives Commerce the authority to designate enterprise zones in the state of Wisconsin. The measure, as originally introduced, would have allowed enterprise zones only in rural areas. To qualify as rural under the language of the original bill, a zone could not be made up of any part of a first class city or any part of a city with a population of over 200,000 people. The governor's partial veto removed all of the language that limited the enterprise zones to rural areas. This was done, according to the governor's veto message, because the rural requirement would have unfairly prohibited enterprise zones from being created in Milwaukee and

Madison, while leaving other nonrural areas eligible as enterprise zones.

Commerce may only designate 10 enterprise zones in the state, and no zone may exceed 50 acres or be designated for more than 12 years. Commerce must consider a variety of criteria when selecting an area to designate as an enterprise zone, including indicators of the area's economic need, the existing resources available to the area, and the effect of zone designation on other economic and community development programs in the area. Commerce is required to give preference to areas with the greatest economic need, to the extent possible.

### ENTERPRISE ZONE JOBS TAX CREDIT

Act 361 also creates a tax credit for certified businesses located in an enterprise zone. The credit is applied against the business' income and franchise tax liability, and is calculated based on formulas in the act that consider the business' payroll for employees in the enterprise zone. If the business earns a tax credit that exceeds its tax liability, the state will issue it a check for the excess amount. Members and shareholders in certain business organizations such as partnerships and limited liability corporations may claim this tax credit against their personal, rather than the business', income tax liability, but will only receive that portion of their business' credit that is proportional to their ownership interest in the business. No one may claim this credit if the basis of the

credit is also the basis of another tax credit that is also claimed.

**CERTIFIED BUSINESSES**

In addition to designating enterprise zones, Act 361 gives Commerce the authority to certify businesses eligible to receive the tax benefits of an enterprise zone. A business may be certified if it meets one of four conditions:

- A business that begins operating in an enterprise zone;
- A business that relocates to an enterprise zone from outside Wisconsin;
- A Wisconsin business that expands operations in an enterprise zone and enters into an agreement with Commerce to claim tax benefits only for years during which the business maintains an increase in personnel of at least 10% over its precertified employment level; or
- A Wisconsin business that expands operations in an enterprise zone and enters into an agreement with Commerce to claim tax benefits only for years during which the business maintains capital investment in property located in the enterprise zone equal to at least 10% of the business' gross revenues in the preceding tax year attributable to business activities in Wisconsin.

For existing businesses expanding into an enterprise zone, the act also requires that compensation and benefits offered to employees working in the zone be at least as favorable as the compensation and benefits that the business offers to its Wisconsin employees working in the same type of jobs outside of the zone.

**CERTIFICATION AND REVOCATION**

Act 361 requires that Commerce notify the Department of Revenue when it certifies a business to receive tax benefits.

Commerce is also responsible for revoking the certification of businesses that fall into one of three categories:

- A business that supplies false or misleading information to obtain certification;
- A business that leaves the enterprise zone to conduct substantially the same business outside the enterprise zone; or
- A business that ceases operations in the enterprise zone and does not resume operation of the business, or of a similar business, in the enterprise zone within 12 months.

Commerce is required to notify the Department of Revenue that it has revoked a business' certification within 30 days of doing so.

Commerce may also require a business whose certification has been revoked to repay any tax benefits that the business has claimed for years in which it was not properly certified or failed to maintain the required personnel or capital investment levels.

**EFFECTIVE DATE**

2005 Wisconsin Act 361 is generally effective May 3, 2006. Its provisions relating to enterprise zone jobs tax credits first apply to taxable years beginning on July 1, 2007.

**FOR FURTHER INFORMATION**

View a copy of 2005 Wisconsin Act 361 at <http://www.legis.state.wi.us/2005/data/acts/05Act361.pdf>.

The governor's veto message, which discusses removing the rural limitation from enterprise zones, can be found at <http://www.wisgov.state.wi.us/docview.asp?docid=6740>.

For more information on enterprise zones from the Wisconsin Department of Commerce, go to <http://www.commerce.state.wi.us/>.

