

# **ALABAMA ENTERPRISE ZONE PROGRAM PROCEDURES MANUAL**



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## **I. INTRODUCTION**

The Alabama Enterprise Zone Act (87-573) was passed by the legislature of the State of Alabama on May 26, 1987 and signed into law on July 22, 1987. The purpose of the legislation is to stimulate business and industrial growth in depressed areas of the state both urban and rural. This purpose is accomplished through the relaxation of certain governmental controls by providing state and local tax and non-tax incentives in the designated areas.

Per Section 41-23-21, Code of Alabama, 1975, effective October 1, 2016, the definition of an Enterprise Zone shall mean any Alabama county that is described in Section 40-18-376.1(a), Code of Alabama, 1975. The Alabama Incentives Modernization Act, Act #2019-392, amended Section 40-18-376.1(a) to describe an Enterprise Zone as any targeted or jumpstart county. A targeted county means any Alabama county that has a population of 50,000 or less. The population is determined by the Commissioner of Labor as of each January 1 using the most current data available from the United State Departments of Labor or Commerce, the United States Bureau of the Census, or any other federal or state agency or department. A jumpstart county means any Alabama county: 1) that does not qualify as a targeted county; 2) that has experienced negative population growth over the last five years as determined by the Commissioner of Labor as of each January 1 using the most current data available from the United States Departments of Labor or Commerce, the United States Bureau of the Census, or any other federal or state agency or department; and 3) contains no more than two Opportunity Zones as they existed on June 1, 2019.

## **II. TAX CREDIT INCENTIVES PROVIDED THROUGH SECTION 5 OF THE ACT**

### **A. INTRODUCTION**

The maximum tax credit available to any private employer locating in an enterprise zone is \$2,500 per new permanent employee hired pursuant to the act and hired on or after the date of endorsement. **The \$2,500 figure may be attained through the utilization of the various tax credits made available through the act.** The choice of which credits to pursue and which will be of maximum benefit should be made by the private employer. Each incentive may stand alone or may be paired with another in order to arrive at the maximum available benefit for the private employer's zone operation.

### **B. VARIOUS INCENTIVES AND CERTIFICATION REQUIREMENTS**

1. Private employer may choose to apply for incentives as follows:

- a. an Alabama Income or Privilege Tax Credit on taxes due from the zone operation if the private employer can certify that at least 30% of new permanent employees hired pursuant to the act were formerly unemployed for at least 90 days prior to this employment, **or**
- b. an Alabama Income or Privilege Tax Credit for new investments in the zone improvements to existing facilities in the zone provided that at least five new permanent employees are hired, **or**
- c. an Alabama Income or Privilege Tax Credit of up to \$1,000 per new permanent employee for expenses of training those employees in new skills.

### **C. LIMITATIONS**

A private employer prior to applying for the benefits of the act should consider which credit or combination of credits would allow for the maximum benefit and create the least paperwork in terms of providing proper certification. The keys to reception of the benefits are good up-front planning by the private employer and a coordinated, cooperative effort to comply with the areas of certification they have chosen to pursue.

**Note:** If a private employer chooses to certify part II. B. 1 a., then the 30% requirement will be relevant to any reception of benefits.

**Note:** If a private employer chooses to certify II. B. 1 b., then the making of a new capital investment and hiring a minimum of five new permanent employees (see definitions in Section III.) will be relevant to any reception of benefits.

**Note:** If a private employer chooses to certify part II. B. 1 c., then either the 30% and/or the minimum of five new permanent employees hired would be relevant to any reception benefits as would a certification that the training was in new skills.

### **III. TAX EXEMPTIONS PROVIDED THROUGH SECTION 11 OF THE ACT**

#### **A. INTRODUCTION**

The exemptions available through Section 11 of the Alabama Enterprise Zone Act are not tied to the \$2,500 per new permanent employee referenced in Section 5, but requires a contract between the employer and ADECA that must be presented to the Council and approved by the Governor. The benefits of the Section require a great deal of certification areas to be verified and also these areas to be updated on an annual basis for continued participation of a company in the program. The decision to pursue this area of benefits should be weighed carefully by the employer due to the number of certification areas required for participation in this section's benefits.

#### **B. AVAILABLE BENEFITS**

If a contract is entered into with an eligible company, the following benefits may be derived:

1. An exemption from sales and use tax imposed by the State of Alabama on the purchases of the material used in the construction of a building, or any addition or improvement thereon, for housing any legitimate zone business enterprises and machinery and equipment used in that enterprise, and/or
2. Certain exemptions from income taxes levied by the State of Alabama on eligible corporations and individuals, for a period of up to five years, and/or
3. Certain exemptions of privileged taxes levied by the State of Alabama for a period of up to five years.

**Note:** If the exemptions are already being received, through another program, then the enterprise zone benefits could be gained through another exemption area.

After the original certification of the private employer to receive the benefits of the enterprise zone and a contract is in place, the 35% annual certification requirement is mandated in order for the private employer to continue receiving any benefits of the enterprise zone program connected to Section 11.

#### **IV. ROLES AND RESPONSIBILITIES**

##### **A. THE DEPARTMENT**

The “Department” for purposes of this program is defined as the Alabama Department of Economic and Community Affairs hereafter referred to as ADECA.

ADECA with input from the Enterprise Zone Advisory Council shall have the responsibility for the general implementation of the law to include:

- monitoring the operation of the act and conducting a continuing evaluation of the progress made in the enterprise zones
- assisting the appropriate local governing authority of an enterprise zone in obtaining assistance from the Federal Government, including the possible suspension of federal regulations within the enterprise zone
- assisting the appropriate local governing authority of an enterprise zone in obtaining assistance from any other department of state government, including assistance in providing training and technical assistance to new businesses and small businesses within an enterprise zone
- assisting an employer within an enterprise zone in obtaining the benefits of any incentive or inducement program authorized by Alabama law
- submitting an annual written report evaluating the effectiveness of the program to the Governor and the Legislature no later than the third day of each regular session
- promulgating rules and regulations to effectuate the act in accordance with the Administrative Procedures Act
- acting as the certifying agency to both the Council and State Department of Revenue that a company has met the requirements and is certified as eligible to receive the appropriate tax incentives to be determined through their tax returns

##### **B. APPROPRIATE LOCAL GOVERNING AUTHORITY**

The “Appropriate Local Governing Authority” for the purpose of this program is defined as the governing body of a county or a municipality in whose jurisdiction an enterprise zone is located and operating.

The Local Governing Authority shall have the responsibility for the following:

- passing a resolution, through the utilization of public hearing/comment format endorsing a company to participate in the program and make application for the enterprise zone’s benefits. The public hearing/comment period should begin with a public notice run in a newspaper of general circulation at least 15

days prior to the hearing. The hearing can be scheduled in conjunction with regularly scheduled council or commission meetings.

- providing ADECA with any comments received pertaining to endorsing a company.
- assisting ADECA in certifying eligibility of an employer expanding in or locating within the boundaries of the enterprise zone.
- putting in place a mechanism through which any local tax and non-tax incentives specified in the application for zone designation will be made available. It is recommended that the appropriate local governing authority might wish to develop its own rules and regulations to deal with provision of the local incentives.
- assisting ADECA in evaluating progress made in the enterprise zones.
- giving priority to federal programs for use in the enterprise zones. (UDAG, CDBG, JTPA, EDA, FmHA, SBA, etc.)
- authorizing ADECA to supersede certain specified local regulations and ordinances which may serve to discourage economic development within the enterprise zone.
- providing for a local contact person or board to respond to questions and provide information on the day-to-day operation of the enterprise zone.

### **C. A PRIVATE EMPLOYER**

A “Private Employer” for purpose of this program is defined as a business or industry located within the boundaries of an enterprise zone and operating a private-for-profit business.

The Private Employer shall have the responsibility for the following:

- obtaining an endorsement resolution approved by the appropriate local governing authority in whose jurisdiction (ENTERPRISE ZONE) the establishment is located or to be located. The endorsed resolution represents the private employers effective date for participation in the program.
- locate or expand within the boundaries of an enterprise zone.
- filing with ADECA the endorsement resolution and an application of intent to apply for the benefits of the enterprise zone and certifying to ADECA that documentation will be made to verify the areas of certification.
- expanding its labor force or making a new capital investment or preventing loss of employment.
- not closing or reducing employment elsewhere in Alabama in order to located or expand into an enterprise.

## **V. PROCEDURES**

### **SEQUENCES OF EVENTS**

#### **PRIVATE EMPLOYER**

- located or is located in the boundaries of an enterprise zone.
- plans to expand its labor force, make a new capital investment, or prevent loss of employment.
- solicits the appropriate local governing authority for an endorsement resolution as their entry date for participation in the program.

#### **APPROPRIATE LOCAL GOVERNING AUTHORITY**

- considers the private employer's request for endorsement.
- if favorable, publish notice of public hearing/public comment period in newspaper of general circulation at least 15 days prior to hearing (council or commission meeting).
- consider public comments and either approve or reject resolution of endorsement.
- issues approved endorsement resolution to company and a copy of an application of intent provided by ADECA and forwards copy of public notice and any relevant comments to ADECA.

#### **PRIVATE EMPLOYER**

- forwards copy of endorsement resolution and application of intent to ADECA.

#### **ADECA**

- receives copy of endorsement resolution and application of intent from private employer.
- issues an identification number to the company and will work with company to identify and define certification requirements.
- forwards copy of documents to State Department of Revenue as a signal to issue tax forms and requirements.
- verifies the company hires employees in the proper areas in order to meet certification requirements and sends certification to the State Department of Revenue as eligible to receive benefits of the enterprise zone program.

## **APPROPRIATE LOCAL GOVERNING AUTHORITY**

- assists ADECA in certifying eligibility of private employer to receive the benefits of the enterprise zone.
- puts a system in place on the local level to ensure that local tax and non-tax incentives are provided and sets requirements for the granting of these benefits.
- certifies a private employer through the use of a questionnaire format, as eligible to receive the benefits of the enterprise zone program to the Department of Revenue.
- issues a certification number to the private employer on their ADECA-EZ1 form to utilize when filing tax return claiming tax incentives under Section 5 of the Act or issues an approved contract to the company under Section 11 of the Act.
- updates certification on an annual basis for continued reception of benefits by the private employer.

\*If questions exist concerning a private employer's eligibility the endorsement resolution and the application of intent will be taken to the Enterprise Zone Advisory Council for their review and input.

\*\*The certification areas will be adequately addressed in other sections of this document however the definitions of new permanent and full-time employee are important to the certification areas required of a private employer. These definitions are published in the Enterprise Zone rules and are as follows

“NEW PERMANENT EMPLOYEE” – a full-time employee hired pursuant to this act who remains employed with the firm for a minimum of nine months.

“FULL TIME EMPLOYEE” – an employee working a minimum of thirty (30) hours per week and receiving appropriate company benefits.



**VI. PUBLIC NOTICE**

**(SAMPLE)**

An example of public notice that would be appropriate is show below:

The \_\_\_\_\_ request  
County Commission/City Council  
comments concerning the endorsement of \_\_\_\_\_ to make  
Name of Company  
application for the State and local tax and non-tax incentives available through the Alabama  
Enterprise Zone Program.

Any written comments should be forwarded to: \_\_\_\_\_ on or  
Contact Name  
before \_\_\_\_\_ and/or public Comment may be made  
Date  
at \_\_\_\_\_ on \_\_\_\_\_ in \_\_\_\_\_  
Time Date Location

If you should desire additional information prior to the hearing date please contact  
\_\_\_\_\_ at \_\_\_\_\_

**Note:** This notice should be run at least fifteen (15) days prior to the scheduled meeting in a newspaper of general circulation and the date for receiving written comments should be the same as that of the hearing. If the hearing coincides with a regularly scheduled Council or Commission meeting, an extra called meeting would be avoided.

**VII. ENDORSEMENT RESOLUTION AND APPLICATIONS OF INTENT**

Copies of and ENDORSEMENT RESOLUTION and APPLICATIONS OF INTENT are included as part of this package to assist in simplifying the initial applications.

**RESOLUTION OF ENDORSEMENT**

Whereas, an industry prior to participating in the Alabama Enterprise Zone Program or accruing any benefit from the program must obtain an endorsement resolution approved by the appropriate local governing authority and

Whereas, the appropriate governing authority must assist the Alabama Department of Economic and Community Affairs in certifying eligibility of industries expanding or locating within enterprise zones and

Whereas, it has been determined through a public hearing/public comment period that the granting of this endorsement by this governing authority as well as the potential benefits to be received by this company will not threaten the well-being of existing industries located within the country/municipality and

Whereas, it has been established that the said company’s operation falls into Standard Industrial Classification (SIC) codes 20-42, 44-49 or consist of major warehousing and distribution centers or regional and/or corporate headquarters of companies whose standard industrial classification (SIC) codes are 20-42, 44-49 or such other activities having a prospect of significantly impacting the areas economy without adversely affecting the well-being of existing industries located within the city/county hosting the enterprise zone

Therefore, be it resolved that we, the members of \_\_\_\_\_  
County Commission/City Council

endorse \_\_\_\_\_  
Name of Company

to apply for the benefits of the enterprise zone and will assist them in meeting certification requirements as set forth through procedures established by the Alabama Department of Economic and Community Affairs, the Alabama Department of Revenue and/or other state agencies.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_

Two Thousand and \_\_\_\_\_  
\_\_\_\_\_  
Mayor/Chairman of County Commission

**Certification:**

I do hereby certify that this Resolution of Endorsement was duly adopted at a  
\_\_\_\_\_ meeting of the \_\_\_\_\_  
City Council/County Commission

held on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
Month Year

\_\_\_\_\_  
Clerk of City Council/County Commission

**APPLICATION OF INTENT TO APPLY FOR SECTION 5  
(CODE OF ALABAMA 41-23-24) BENEFITS**

ADECA PRE-APP NUMBER \_\_\_\_\_

DATE OF APPLICATION: \_\_\_\_\_

NAME OF COMPANY: \_\_\_\_\_

LOCATION: \_\_\_\_\_

RESOLUTION OF ENDORSEMENT PASSED BY: \_\_\_\_\_

In filing this application of intent to apply for the benefits of the Enterprise Zone Program

\_\_\_\_\_  
Name of Company

will provide appropriate documentation to the Department of Economic and Community Affairs to certify that our Company:

1. a. Expanded its labor force, or  
b. Made a new capital investment or  
c. Prevented loss of employment
2. Did not close or reduce total employment elsewhere in Alabama in order to expand into the zone
3. Is located within the Enterprise Zone.

If certifying Part 1.a. (expansion of labor force), our Company will further certify and document that at least 30% of our new permanent full-time employees were formerly unemployed for at least 90 days prior to this employment, or

If certifying Part 1.b. made a new capital investment, our Company will further certify and document that at least five new permanent full-time employees have been hired, and

If applying for a credit for expenses of training new permanent full-time employees that the training provided was in new skill areas.

I am filing this application of intent to apply for Section 5 benefits of the enterprise zone for my company and will provide necessary documentation to verify my company's eligibility to be certified to both the Council and the State Department of Revenue as eligible to receive the benefits of the Enterprise Zone Program.

Signature: \_\_\_\_\_  
Owner, President, Chief Executive Officer

**APPLICATION OF INTENT TO APPLY FOR SECTION 11  
(CODE OF ALABAMA 41-23-30) BENEFITS**

ADECA PRE –APP NUMBER \_\_\_\_\_

DATE OF APPLICATION: \_\_\_\_\_

NAME OF COMPANY: \_\_\_\_\_

LOCATION: \_\_\_\_\_

RESOLUTION OF ENDORSEMENT PASSED BY: \_\_\_\_\_

DATE OF RESOLUTION: \_\_\_\_\_

In filing this application of intent to apply for the benefits of the Enterprise Zone Program.

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Name of Company

will provide appropriate documentation to the Department of Economic and Community Affairs to certify that our company.

1. a. Expanded its labor force, or  
b. Made a new capital investment, or  
c. Prevented loss of employment.
2. Did not close or reduce total employment elsewhere in Alabama in order to expand into the zone.
3. Is located within the Enterprise Zone.
4. Will certify annually that at least 35% of our employees in our Zone operation at the time of employment were:
  - a. Residents of the enterprise zone
  - b. Receiving some form of public assistance prior to employment, or
  - c. Considered unemployable by traditional standards, or
  - d. Lacking in basic skills.
5. Will give preference and priority to Alabama manufacturers, suppliers, contractors, and labor, except where not reasonably possible to do so without added expense, substantial inconvenience, or sacrifice in operational efficiency

I am filing this Application of Intent to apply for benefits of the enterprise zone and will provide the necessary documentation to participate in a contract with the Department of Economic and Community Affairs benefits under this section of the act and understand certification must be updated annually for continued participation in the program.

Signature: \_\_\_\_\_  
Owner, President, Chief Executive Officer

## **VIII. CONCLUSION**

This manual has been compiled to assist local zone managers, appropriate local governing authorities and private employers in preparing applications and starting the process toward obtaining the benefits of the Enterprise Zone Program. As additional questions develop or if you require additional information, you may contact ADECA at 334-242-5370 or the address below.

ALABAMA DEPARTMENT OF ECONOMICS AND COMMUNITY AFFAIRS

Post Office Box 5690

Montgomery, Alabama 36104-5690

Attention: Enterprise Zone Coordinator