

## LEGISLATIVE BILL 800

Approved by the Governor April 9, 2014

Introduced by Mello, 5; Ashford, 20; Cook, 13; Harms, 48; Nordquist, 7.

FOR AN ACT relating to enterprise zones; to amend sections 13-2103, 13-2105, 13-2109, and 13-2112, Reissue Revised Statutes of Nebraska, sections 58-708 and 81-12,156, Revised Statutes Cumulative Supplement, 2012, and sections 81-1201.21 and 81-12,149, Revised Statutes Supplement, 2013; to provide for designation of enterprise zones; to provide preferences for certain business incentive and grant programs for projects located in enterprise zones; to harmonize provisions; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 13-2103, Reissue Revised Statutes of Nebraska, is amended to read:

13-2103 (1)(a) ~~Following the formal adoption of rules and regulations pursuant to section 13-2112, Beginning on the date the rules and regulations updated in accordance with section 13-2112 become effective as provided in section 84-908,~~ the department shall, for a period of one hundred ~~twenty~~ eighty days, accept formal applications for the designation of enterprise zones. Within sixty days after the end of such application period, the department may designate not more than ~~two~~ five areas as enterprise zones based on eligible applications it has received. Each area designated as an enterprise zone shall meet all eligibility criteria. Of the enterprise zones authorized, no more than one shall be located inside the boundaries of a city of the metropolitan class and no more than one inside a city of the primary class.

~~(b) For a period of one hundred eighty days following April 1 next immediately following the end of the application period specified in subdivision (a) of this subsection, the department shall accept formal applications for the designation of enterprise zones. Within sixty days after the end of such application period, the department may designate additional areas as enterprise zones based on eligible applications it has received, subject to the restriction on number of zones designated set out in subdivision (c) of this subsection. Each area designated as an enterprise zone shall meet all eligibility criteria.~~

~~(c) During the two application periods set out in subdivisions (a) and (b) of this subsection, the department shall not designate more than a total of five enterprise zones in this state. Of the five enterprise zones authorized, at least three shall be located outside of the boundaries of cities of the metropolitan and primary classes.~~

~~(d) (b) In any the application period, the department may reject from consideration any application which does not fully and completely comport with the provisions of section 13-2104 at the end of the designated application period. In choosing among eligible applications for enterprise zone designation, the department shall consider the levels of distress existing within the applicant areas and the contents of the applicant's formal enterprise zone application.~~

(2) Any city, village, tribal government area, or county may apply for designation of an area within such city, village, tribal government area, or county as an enterprise zone, except that if a county seeks to have an area within an incorporated city or village or a tribal government area designated as an enterprise zone, the consent of the governing body of such city, village, or tribal government area shall first be required.

(3) If an incorporated city or village or a tribal government area consents, a county may apply on behalf of the city, village, or tribal government area for certification of an area within such city, village, or tribal government area as an enterprise zone. Both a county and a city, village, or tribal government area shall not apply for certification of the same area.

(4) Two or more counties or tribal government areas may jointly apply for designation of an area as an enterprise zone which is located on both sides of their common boundaries.

(5) Political subdivisions wishing to file an application for designation of an enterprise zone shall first follow the procedures set out in sections 13-2106 to 13-2108. An application for designation as an enterprise zone shall be in a form and contain information prescribed by the department pursuant to section 13-2104.

(6) An area designated as an enterprise zone shall retain such

designation for a period of ten years from the date of such designation.

(7) All enterprise zones designated as such within a single county shall not exceed a total of sixteen square miles in area.

Sec. 2. Section 13-2105, Reissue Revised Statutes of Nebraska, is amended to read:

13-2105 ~~The Legislature shall encourage the targeting of funds from federal programs, including Community Development Block Grants, the Job Training Partnership Act, Community Services Block Grants, federal highway funds, or other federal funds received by the state for designated enterprise zones. Local governments shall be encouraged to use federal funds to provide assistance to business activities in enterprise zones and to seek designation of appropriate areas as community development areas under the Community Development Assistance Act. The Governor shall provide a state government interagency response team to work with local governments and enterprise zone associations on effective ways to use new and existing resources from all levels of government to improve development capacity in enterprise zones and accomplish the purposes of the Enterprise Zone Act.~~

Sec. 3. Section 13-2109, Reissue Revised Statutes of Nebraska, is amended to read:

13-2109 (1) There shall be created an enterprise zone association within each proposed enterprise zone upon the decision by the political subdivision to submit an enterprise zone application. Such enterprise zone association shall be governed by an enterprise zone association board which shall consist of seven members. The initial members of the board shall be appointed by the mayor of the city or village with the approval of the city council or village board, by the county board, or by the tribal chairperson. The city council, village board, county board, or tribal government shall establish the length of the terms and shall establish staggered terms so that no more than four members of the enterprise zone association board shall be appointed in any one-year period. If an enterprise zone association board is already in existence upon July 15, 1998, and the terms of the board members have not been staggered as provided in this section, the next three members to be appointed after July 15, 1998, shall be appointed to serve terms equivalent to one-half of the length of the term established by the governing board of the city, village, or county or the tribal government. At the end of such terms, those appointed to fill their seats on the board shall be appointed for full terms as established by the governing body or tribal government.

(2) The city council, village board, county board, or tribal government shall, by majority vote, nominate candidates and appoint from the candidates qualified persons to fill each vacant, open, or opening seat on the enterprise zone association board. A member of the enterprise zone association board, not otherwise disqualified, whose term of office has ended shall continue to serve as a member of the board until his or her successor is properly qualified and appointed.

(3) Vacancies on the enterprise zone association board shall be filled in the same manner as provided for appointments other than initial appointments, and such members shall serve for the balance of the unexpired terms. A board member may serve more than one term. Any board member appointed as a resident of the area constituting the enterprise zone shall cease to be a member of the enterprise zone association board at such time as he or she ceases to be a resident within the area constituting the zone, and at such time his or her seat shall be vacant.

(4) The enterprise zone association board shall select its own officers and may exercise such other additional powers and authority as may be granted it by the department or the city, village, county, or tribal government. The presence of at least four members of the enterprise zone association board shall be necessary to transact any business.

(5) Individuals chosen to serve as members of the enterprise zone association board shall include property owners, business operators, and users of space within the area of the enterprise zone as well as individuals representing groups or organizations with an interest in furthering the purposes and goals of the enterprise zone. Not less than two-thirds of the members of the enterprise zone association board shall be residents of the area constituting the enterprise zone. For purposes of this section, residents of the area constituting the enterprise zone shall be construed to include those persons residing within a county in which an enterprise zone is located when the enterprise zone is not located in a city of the primary or metropolitan class.

(6) The city, village, county, or tribal government establishing the enterprise zone association shall provide appropriate staff assistance and support to the association.

(7) If an applicant for designation as an enterprise zone does

not receive such designation, the association of such applicant shall be dissolved.

Sec. 4. Section 13-2112, Reissue Revised Statutes of Nebraska, is amended to read:

13-2112 The department shall adopt and promulgate rules and regulations to carry out the Enterprise Zone Act. The department shall update such rules and regulations within six months after the effective date of this act.

Sec. 5. Section 58-708, Revised Statutes Cumulative Supplement, 2012, is amended to read:

58-708 (1) During each calendar year in which funds are available from the Affordable Housing Trust Fund for use by the Department of Economic Development, the department shall allocate a specific amount of funds, not less than twenty-five percent, to each congressional district. Entitlement area funds allocated under this section that are not awarded to an eligible project from within the entitlement area within one year shall be made available for distribution to eligible projects elsewhere in the state. The department shall announce a grant and loan application period of at least ninety days duration for all nonentitlement areas. In selecting projects to receive trust fund assistance, the department shall develop a qualified allocation plan and give first priority to financially viable projects that serve the lowest income occupants for the longest period of time. The qualified allocation plan shall:

(a) Set forth selection criteria to be used to determine housing priorities of the housing trust fund which are appropriate to local conditions, including the community's immediate need for affordable housing, proposed increases in home ownership, private dollars leveraged, level of local government support and participation, and repayment, in part or in whole, of financial assistance awarded by the fund; and

(b) Give first priority in allocating trust fund assistance among selected projects to those projects which are located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act, serve the lowest income occupant, and are obligated to serve qualified occupants for the longest period of time.

(2) The department shall fund in order of priority as many applications as will utilize available funds less actual administrative costs of the department in administering the program. In administering the program the department may contract for services or directly provide funds to other governmental entities or instrumentalities.

(3) The department may recapture any funds which were allocated to a qualified recipient for an eligible project through an award agreement if such funds were not utilized for eligible costs within the time of performance under the agreement and are therefor no longer obligated to the project. The recaptured funds shall be credited to the Industrial Recovery Fund except as provided in section 81-1213.

Sec. 6. Section 81-1201.21, Revised Statutes Supplement, 2013, is amended to read:

81-1201.21 (1) There is hereby created the Job Training Cash Fund. The fund shall be under the direction of the Department of Economic Development. Money may be transferred to the fund pursuant to subdivision (1)(b)(iii) of section 48-621 and from the Cash Reserve Fund at the direction of the Legislature. The department shall establish a subaccount for all money transferred from the Cash Reserve Fund to the Job Training Cash Fund on or after July 1, 2005.

(2) The department shall use the Job Training Cash Fund or the subaccount established in subsection (1) of this section (a) to provide reimbursements for job training activities, including employee assessment, preemployment training, on-the-job training, training equipment costs, and other reasonable costs related to helping industry and business locate or expand in Nebraska, (b) to provide upgrade skills training of the existing labor force necessary to adapt to new technology or the introduction of new product lines, or (c) to provide grants pursuant to section 81-1210.02. The department shall give a preference to job training activities carried out in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act.

(3) The department shall establish a subaccount within the fund to provide training grants for training employees and potential employees of businesses that (a) employ twenty-five or fewer employees on the application date, (b) employ, or train for potential employment, residents of rural areas of Nebraska, or (c) are located in or employ, or train for potential employment, residents of high-poverty areas as defined in section 81-1203. The department shall calculate the amount of prior year investment income earnings

accruing to the fund and allocate such amount to the subaccount for training grants under this subsection. The subaccount shall also be used as provided in the Teleworker Job Creation Act and as provided in section 81-1210.02. The department shall give a preference to training grants for businesses located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act.

(4) Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 7. Section 81-12,149, Revised Statutes Supplement, 2013, is amended to read:

81-12,149 (1) During each calendar year in which funds are available from the Site and Building Development Fund for use by the Department of Economic Development, the department shall allocate a specific amount of funds, not less than forty percent, to nonmetropolitan areas. For purposes of this section, nonmetropolitan areas means counties with fewer than one hundred thousand inhabitants according to the most recent federal decennial census. In selecting projects to receive fund assistance, the department shall develop a qualified action plan by January 1 of each even-numbered year. The plan shall give first priority to financially viable projects that have an agreement with a business that will locate a site within ninety days of the signed agreement and to financially viable projects located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act. The plan shall set forth selection criteria to be used to determine priorities of the fund which are appropriate to local conditions, including the community's immediate need for site and building development, proposed increases in jobs and investment, private dollars leveraged, level of local government support and participation, and repayment, in part or in whole, of financial assistance awarded by the fund. The Director of Economic Development shall submit the plan to the Governor for approval.

(2) The department shall fund in order of priority as many applications as will utilize available funds less actual administrative costs of the department in administering the program. In administering the program the department may contract for services or directly provide funds to other governmental entities or instrumentalities.

Sec. 8. Section 81-12,156, Revised Statutes Cumulative Supplement, 2012, is amended to read:

81-12,156 At least forty percent of the funding for financial assistance programs in sections 81-12,157 to 81-12,162 shall be used for projects that best alleviate chronic economic distress in distressed areas. When selecting projects for funding under this section, the department shall give a preference to projects located in whole or in part within an enterprise zone designated pursuant to the Enterprise Zone Act.

Sec. 9. Original sections 13-2103, 13-2105, 13-2109, and 13-2112, Reissue Revised Statutes of Nebraska, sections 58-708 and 81-12,156, Revised Statutes Cumulative Supplement, 2012, and sections 81-1201.21 and 81-12,149, Revised Statutes Supplement, 2013, are repealed.