

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 800

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

Read first time January 10, 2014

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Enterprise Zone Act; to amend sections
2 13-2103, 13-2105, 13-2109, 13-2112, and 77-5905, Reissue
3 Revised Statutes of Nebraska, sections 58-708 and
4 81-12,156, Revised Statutes Cumulative Supplement, 2012,
5 and sections 81-1201.21 and 81-12,149, Revised Statutes
6 Supplement, 2013; to provide for designation of
7 enterprise zones; to provide preferences for certain
8 business incentive and grant programs for projects
9 located in enterprise zones; to harmonize provisions; and
10 to repeal the original sections.

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

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

3 13-2103 (1)(a) Following the formal adoption of rules and
4 regulations pursuant to section 13-2112, the department shall, for a
5 period of one hundred ~~twenty-eighty~~ days, accept formal applications
6 for the designation of enterprise zones. Within sixty days after the
7 end of such application period, the department may designate not more
8 than ~~two~~ five areas as enterprise zones based on eligible
9 applications it has received. Each area designated as an enterprise
10 zone shall meet all eligibility criteria. Of the enterprise zones
11 authorized, no more than one shall be located inside the boundaries
12 of a city of the metropolitan class and no more than one inside a
13 city of the primary class.

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

24 ~~(c) During the two application periods set out in~~
25 ~~subdivisions (a) and (b) of this subsection, the department shall not~~

1 ~~designate more than a total of five enterprise zones in this state.~~
2 ~~Of the five enterprise zones authorized, at least three shall be~~
3 ~~located outside of the boundaries of cities of the metropolitan and~~
4 ~~primary classes.~~

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

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

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

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

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

9 (6) An area designated as an enterprise zone shall retain
10 such designation for a period of ten years from the date of such
11 designation.

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

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

17 13-2105 ~~The Legislature shall encourage the targeting of~~
18 ~~funds from federal programs, including Community Development Block~~
19 ~~Grants, the Job Training Partnership Act, Community Services Block~~
20 ~~Grants, federal highway funds, or other federal funds received by the~~
21 ~~state for designated enterprise zones. Local governments shall be~~
22 ~~encouraged to use federal funds to provide assistance to business~~
23 ~~activities in enterprise zones and to seek designation of appropriate~~
24 ~~areas as community development areas under the Community Development~~
25 ~~Assistance Act. The Governor shall provide a state government~~

1 interagency response team to work with local governments and
2 enterprise zone associations on effective ways to use new and
3 existing resources from all levels of government to improve
4 development capacity in enterprise zones and accomplish the purposes
5 of the Enterprise Zone Act.

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

8 13-2109 (1) There shall be created an enterprise zone
9 association within each proposed enterprise zone upon the decision by
10 the political subdivision to submit an enterprise zone application.
11 Such enterprise zone association shall be governed by an enterprise
12 zone association board which shall consist of seven members. The
13 initial members of the board shall be appointed by the mayor of the
14 city or village with the approval of the city council or village
15 board, by the county board, or by the tribal chairperson. The city
16 council, village board, county board, or tribal government shall
17 establish the length of the terms and shall establish staggered terms
18 so that no more than four members of the enterprise zone association
19 board shall be appointed in any one-year period. ~~If an enterprise~~
20 ~~zone association board is already in existence upon July 15, 1998,~~
21 ~~and the terms of the board members have not been staggered as~~
22 ~~provided in this section, the next three members to be appointed~~
23 ~~after July 15, 1998, shall be appointed to serve terms equivalent to~~
24 ~~one half of the length of the term established by the governing board~~
25 ~~of the city, village, or county or the tribal government. At the end~~

1 ~~of such terms, those appointed to fill their seats on the board shall~~
2 ~~be appointed for full terms as established by the governing body or~~
3 ~~tribal government.~~

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

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

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

1 to transact any business.

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

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

17 (7) If an applicant for designation as an enterprise zone
18 does not receive such designation, the association of such applicant
19 shall be dissolved.

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

22 13-2112 The department shall adopt and promulgate rules
23 and regulations to carry out the Enterprise Zone Act within six
24 months after the effective date of this act.

25 Sec. 5. Section 58-708, Revised Statutes Cumulative

1 Supplement, 2012, is amended to read:

2 58-708 (1) During each calendar year in which funds are
3 available from the Affordable Housing Trust Fund for use by the
4 Department of Economic Development, the department shall allocate a
5 specific amount of funds, not less than twenty-five percent, to each
6 congressional district. Entitlement area funds allocated under this
7 section that are not awarded to an eligible project from within the
8 entitlement area within one year shall be made available for
9 distribution to eligible projects elsewhere in the state. The
10 department shall announce a grant and loan application period of at
11 least ninety days duration for all nonentitlement areas. In selecting
12 projects to receive trust fund assistance, the department shall
13 develop a qualified allocation plan and give first priority to
14 financially viable projects that serve the lowest income occupants
15 for the longest period of time. The qualified allocation plan shall:

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

23 (b) Give first priority in allocating trust fund
24 assistance among selected projects to those projects which are
25 located in whole or in part within an enterprise zone designated

1 pursuant to the Enterprise Zone Act, serve the lowest income
2 occupant, and are obligated to serve qualified occupants for the
3 longest period of time.

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

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

17 Sec. 6. Section 77-5905, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 77-5905 (1) If the Department of Revenue determines that
20 an application meets the requirements of section 77-5904 and that the
21 investment or employment is eligible for the credit and (a) the
22 applicant is actively engaged in the operation of the microbusiness
23 or will be actively engaged in the operation upon its establishment,
24 (b) the majority of the assets of the microbusiness are located in a
25 distressed area or will be upon its establishment, (c) the applicant

1 will make new investment or employment in the microbusiness, and (d)
2 the new investment or employment will create new income or jobs in
3 the distressed area, the department shall approve the application and
4 authorize tentative tax credits to the applicant within the limits
5 set forth in this section and certify the amount of tentative tax
6 credits approved for the applicant. Applications for tax credits
7 shall be considered in the order in which they are received, except
8 that preference shall be given to applications in which the majority
9 of the assets of the microbusiness are located in whole or in part
10 within an enterprise zone designated pursuant to the Enterprise Zone
11 Act.

12 (2) The department may approve applications up to the
13 adjusted limit for each calendar year beginning January 1, 2006,
14 through December 31, 2015. After applications totaling the adjusted
15 limit have been approved for a calendar year, no further applications
16 shall be approved for that year. The adjusted limit in a given year
17 is two million dollars plus tentative tax credits that were not
18 granted by the end of the preceding year. Tax credits shall not be
19 allowed for a taxpayer receiving benefits under the Employment and
20 Investment Growth Act, the Nebraska Advantage Act, or the Nebraska
21 Advantage Rural Development Act.

22 Sec. 7. Section 81-1201.21, Revised Statutes Supplement,
23 2013, is amended to read:

24 81-1201.21 (1) There is hereby created the Job Training
25 Cash Fund. The fund shall be under the direction of the Department of

1 Economic Development. Money may be transferred to the fund pursuant
2 to subdivision (1)(b)(iii) of section 48-621 and from the Cash
3 Reserve Fund at the direction of the Legislature. The department
4 shall establish a subaccount for all money transferred from the Cash
5 Reserve Fund to the Job Training Cash Fund on or after July 1, 2005.

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

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

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

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

11 Sec. 8. Section 81-12,149, Revised Statutes Supplement,
12 2013, is amended to read:

13 81-12,149 (1) During each calendar year in which funds
14 are available from the Site and Building Development Fund for use by
15 the Department of Economic Development, the department shall allocate
16 a specific amount of funds, not less than forty percent, to
17 nonmetropolitan areas. For purposes of this section, nonmetropolitan
18 areas means counties with fewer than one hundred thousand inhabitants
19 according to the most recent federal decennial census. In selecting
20 projects to receive fund assistance, the department shall develop a
21 qualified action plan by January 1 of each even-numbered year. The
22 plan shall give first priority to financially viable projects that
23 have an agreement with a business that will locate a site within
24 ninety days of the signed agreement and to financially viable
25 projects located in whole or in part within an enterprise zone

1 designated pursuant to the Enterprise Zone Act. The plan shall set
2 forth selection criteria to be used to determine priorities of the
3 fund which are appropriate to local conditions, including the
4 community's immediate need for site and building development,
5 proposed increases in jobs and investment, private dollars leveraged,
6 level of local government support and participation, and repayment,
7 in part or in whole, of financial assistance awarded by the fund. The
8 Director of Economic Development shall submit the plan to the
9 Governor for approval.

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

16 Sec. 9. Section 81-12,156, Revised Statutes Cumulative
17 Supplement, 2012, is amended to read:

18 81-12,156 At least forty percent of the funding for
19 financial assistance programs in sections 81-12,157 to 81-12,162
20 shall be used for projects that best alleviate chronic economic
21 distress in distressed areas. When selecting projects for funding
22 under this section, the department shall give a preference to
23 projects located in whole or in part within an enterprise zone
24 designated pursuant to the Enterprise Zone Act.

25 Sec. 10. Original sections 13-2103, 13-2105, 13-2109,

1 13-2112, and 77-5905, Reissue Revised Statutes of Nebraska, sections
2 58-708 and 81-12,156, Revised Statutes Cumulative Supplement, 2012,
3 and sections 81-1201.21 and 81-12,149, Revised Statutes Supplement,
4 2013, are repealed.