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**FISCAL IMPACT STATEMENT**

**LS 6593**

**BILL NUMBER: SB 180**

**NOTE PREPARED: Jan 26, 2004**

**BILL AMENDED: Jan 15, 2004**

**SUBJECT:** Community Revitalization Enhancement Districts.

**FIRST AUTHOR:** Sen. Long

**FIRST SPONSOR:**

**BILL STATUS:** As Passed Senate

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill provides that a taxpayer that is otherwise entitled to a Community Revitalization Enhancement District ("District") tax credit may claim the credit regardless of whether any incremental income or sales taxes have been deposited in the Incremental Tax Financing Fund established for the district or have been allocated to the district. The bill provides that a district must terminate not later than 15 years after incremental income or sales taxes are first allocated to the district. It also provides that if the Budget Agency fails to act on an ordinance or a resolution designating a district within 120 days, the ordinance or resolution is considered approved. The bill permits an advisory commission on industrial development or the executive of a municipality or county to petition the Budget Agency for permission to modify the boundaries of a district. The bill establishes a procedure and criteria for appealing a decision by the Department of State Revenue that a taxpayer is not eligible for the Community Revitalization Enhancement District Tax Credit because the taxpayer's business relocated operations into the District from another location in Indiana.

**Effective Date:** July 1, 2004.

**Explanation of State Expenditures:** (Revised) The State Budget Committee and State Budget Agency must review proposed boundary modifications for Community Revitalization Enhancement Districts (CREDS).

The changes made by the bill could potentially create additional administrative demands for the Department of State Revenue (DOR) in determining eligibility for the Community Revitalization Enhancement District (CRED) Tax Credit. However, the additional demands presumably can be absorbed given DOR's existing budget and resources, since the DOR already conducts the determination process and there are reportedly only three CREDS operating at this time - in Bloomington, Marion, and South Bend. The Department of State Revenue (DOR) also must calculate the base income tax amount and the base gross retail amount for areas

added to a CRED under an approved boundary modification. The December 29, 2003, vacant position report indicates that the DOR has 124 vacant full-time positions.

**Explanation of State Revenues:** (Revised) *Community Revitalization Enhancement Tax Credit:* The bill provides that a taxpayer who is otherwise entitled to the Community Revitalization Enhancement Tax Credit for a taxable year may claim the credit regardless of whether incremental income or sales tax revenue has been: (1) deposited in an incremental tax financing fund or (2) allocated to the CRED. This provision is expected to result in no fiscal impact, as current statute does not prohibit a taxpayer from claiming the credit under the conditions specified above in (1) and (2).

Under current statute, a taxpayer who makes a qualified investment for the redevelopment or rehabilitation of property located within a CRED is entitled to the Community Revitalization Tax Credit. The tax credit is based on 25% of the qualified investment. The expenditures must be made under a plan adopted by an advisory commission on industrial development and approved by the Department of Commerce. The tax credit may be used to reduce the taxpayer's tax liability against the Adjusted Gross Income Tax, CAGIT, COIT, CEDIT, the Insurance Premiums Tax, and the Financial Institutions Tax. A taxpayer is not entitled to a credit if they substantially reduce or cease to operate in another area of the state in order to relocate within the district.

*Reduction in Operations Outside a CRED:* The bill changes the conditions under which a taxpayer that reduces operations elsewhere in Indiana to relocate operations in a CRED remains eligible for the CRED Tax Credit. Potentially, the changes could increase the number of individual and corporate taxpayers that qualify for the CRED Tax Credit. However, the increase in qualified taxpayers and the fiscal impact as a result is indeterminable.

Under current statute, a taxpayer who makes a qualified investment for the redevelopment or rehabilitation of property located within a CRED is entitled to the CRED Tax Credit. The tax credit is based on 25% of the qualified investment. The expenditures must be made under a plan adopted by an advisory commission on industrial development and approved by the Department of Commerce. The tax credit may be used to reduce the taxpayer's tax liability against the Adjusted Gross Income Tax, CAGIT, COIT, CEDIT, the Insurance Premiums Tax, and the Financial Institutions Tax.

Under current statute, a taxpayer is not entitled to the tax credit to the extent that the taxpayer substantially reduces or ceases its operations elsewhere in Indiana to relocate them within a CRED. However, a taxpayer that reduces or ceases operations remains eligible for the tax credit provided: (1) the taxpayer had existing operations in the CRED; and (2) the operations relocated to the CRED are an expansion of the taxpayer's operations in the CRED. Current statute requires the DOR to make eligibility determinations. This condition for eligibility for taxpayers that reduce operations elsewhere in Indiana is not changed by the bill.

The bill specifies reductions in operations that are *substantial* and would disqualify a taxpayer from claiming the CRED Tax Credit. However, the bill also specifies additional conditions under which a taxpayer that reduces operations elsewhere in Indiana remains eligible for the CRED Tax Credit. The additional eligibility conditions require that the taxpayer relocates all or part of its non-CRED operations for any of the reasons specified below in (A) through (F); or (2) the taxpayer has not terminated or reduced the pension or health insurance obligations payable to employees or former employees of the non-CRED operation with their consent. (Note: Condition (F) below is specified in current law.)

(A) The lease on property necessary for the non-CRED operation has been involuntarily lost through no fault of the taxpayer.

- (B) The space available at the location of the non-CRED operation cannot accommodate planned expansion needed by the taxpayer.
- (C) The building for the non-CRED operation has been certified as uninhabitable by a state or local building authority.
- (D) The building for the non-CRED operation has been totally destroyed through no fault of the taxpayer.
- (E) The renovation and construction costs at the location of the non-CRED operation are more than 1.5 times the costs of purchase, renovation, and construction of a facility in the CRED, as certified by three independent estimates.
- (F) The taxpayer had existing operations in the district and the nondistrict operations relocated to the district are an expansion of the taxpayer's operations in the district.

The bill also provides that a taxpayer remains eligible for the credit under (C) or (D) only if the criteria in (E) are also met.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *CRED Boundaries and Expiration:* The bill would allow an existing CRED to be expanded, provided the State Budget Committee and the State Budget Agency find that the area to be added to a CRED meets the criteria required for CRED designation. The bill requires the advisory commission on industrial development or the county or municipal legislative body that designated the CRED to submit a petition for approval of the boundary modifications to the State Budget Committee and State Budget Agency. The bill specifies a method to be used by the DOR to determine the gross retail and income tax base period amounts for the area added to a CRED. The bill also specifies deadlines within which this determination must be made. The impact of this change is indeterminable, but would depend on the potential for expansion of the CREDs currently operating or those that may operate in the future.

The bill also changes the expiration of a CRED from 15 years from the time of designation to 15 years after incremental income or sales taxes are allocated to the CRED. Depending upon the time that elapses from the time of designation to the time at which incremental income or sales tax revenue is generated in a CRED, this change could potentially increase the number of years that incremental revenue is diverted to a CRED.

*Alcohol Permits in CREDs:* Two-thirds of the revenue distributed to the Excise Fund is distributed to cities, towns, and counties based on population. If more restaurants obtain permits, Excise Fund distributions to local entities could increase.

*Background:* Current statute authorizes the designation of CREDs in the City of Marion and municipalities in Allen, Delaware, Monroe, and St. Joseph Counties. P.L. 224-2003 also authorized the City of Indianapolis and all second class cities to designate CREDs. CREDs have been established in Bloomington, Marion, and South Bend. Only two distributions of incremental sales and income taxes have been made. Bloomington has received \$492,005, and Marion has received \$24,241.

CREDs may be designated by an advisory commission on industrial development or, under certain circumstances, by the legislative body of a county or municipality. The resolution designating the CRED must be submitted to the Budget Committee for review and recommendation to the State Budget Agency (SBA). CREDs are authorized to capture incremental income and sales tax revenue generated within the district. However, the allocations may be made only if the resolution designating the CRED is approved by the SBA. The following taxes may be allocated to a CRED: Gross Retail and Use Taxes, the Adjusted Gross Income Tax, and CAGIT, COIT, and CEDIT. Incremental tax allocations to CREDs designated under P.L. 224-2003 are limited to 75% of the incremental tax revenue up to \$750,000 per year. Allocations to other

CREDs are limited to \$1.0 M per year in incremental tax revenues. This revenue is to be deposited in the Industrial Development Fund of the city designating the CRED. A CRED is limited to 15 years at the time of designation. Current law also allows all taxing units, except townships, to impose a levy for the Industrial Development Fund at a rate of up to \$0.0167 per \$100 of assessed valuation. The proceeds from the tax levy may be pledged for the payment of bonds and obligations issued in a CRED.

**State Agencies Affected:** Alcohol and Tobacco Commission; State Budget Committee; State Budget Agency; Department of State Revenue.

**Local Agencies Affected:** Cities with CREDs.

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