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# A BILL FOR AN ACT

RELATING TO STATE ENTERPRISE ZONES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that in these difficult  
2 economic times of lower revenues for the State and closure of  
3 key businesses, government must seek ways to encourage and  
4 expedite economic growth and diversity.

5           The State's enterprise zones program in the department of  
6 business, economic development, and tourism was established to  
7 stimulate business and industrial growth through regulatory  
8 flexibility and tax incentives in areas that are viable for  
9 neighborhood revitalization.

10           The purpose of this Act is to:

- 11           (1) Add a definition of "eligible business activity" and  
12           clarify the definitions of "qualified business" and  
13           "service business";
- 14           (2) Allow limited liability companies to be qualified  
15           businesses and service businesses;
- 16           (3) Extend the tax credits and exemptions for businesses  
17           engaged in the manufacturing of tangible personal

- 1 property or in the producing or processing of  
2 agricultural products for an additional seven years;
- 3 (4) Allow the receipts, sales, and employees of a  
4 business's establishments in all enterprise zones  
5 located within the same county to count toward  
6 qualification requirements; and
- 7 (5) Delete obsolete provisions.

8 SECTION 2. Section 209E-2, Hawaii Revised Statutes, is  
9 amended as follows:

- 10 1. By adding a new definition to read:
- 11 "Eligible business activity" means the:
- 12 (1) Manufacture of tangible personal property, the  
13 wholesale sale of tangible personal property as  
14 described in section 237-4, or a service business as  
15 defined in this section;
- 16 (2) Production of agricultural products where the business  
17 is a producer as defined in section 237-5, or the  
18 processing of agricultural products, all or some of  
19 which were grown within an enterprise zone;
- 20 (3) Research, development, sale, or production of all  
21 types of genetically-engineered medical, agricultural,  
22 or maritime biotechnology products; or

1        (4) Production of electric power from wind energy for sale  
2        primarily to a public utility company for resale to  
3        the public."

4        2. By amending the definitions of "qualified business" and  
5 "service business" to read:

6        "'Qualified business" means any corporation, partnership,  
7 limited liability company, or sole proprietorship authorized to  
8 do business in the State that is qualified under section 209E-9,  
9 subject to the state corporate or individual income tax under  
10 chapter 235, and is[+] engaged in an eligible business activity  
11 as defined in this chapter.

12        [~~(1) Engaged in manufacturing, the wholesale sale of~~  
13        ~~tangible personal property as defined in section 237-~~  
14        ~~4, or a service business as defined in this chapter;~~

15        ~~(2) Engaged in producing agricultural products where the~~  
16        ~~business is a producer as defined in section 237-5, or~~  
17        ~~engaged in processing agricultural products, all or~~  
18        ~~some of which were grown within an enterprise zone;~~

19        ~~(3) Engaged in research, development, sale, or production~~  
20        ~~of all types of genetically-engineered medical,~~  
21        ~~agricultural, or maritime biotechnology products; or~~

1       ~~(4) Engaged in producing electric power from wind energy~~  
2           ~~for sale primarily to a public utility company for~~  
3           ~~resale to the public.]~~

4           "Service business" means any corporation, partnership,  
5   limited liability company, or sole proprietorship that repairs  
6   ships, aircraft, or assisted technology equipment, provides  
7   telecommunication services, information technology design and  
8   production services, medical and health care services, or  
9   education and training services as defined in this chapter."

10       SECTION 3. Section 209E-4, Hawaii Revised Statutes, is  
11   amended to read as follows:

12       "**§209E-4 Enterprise zone designation.** (a) The governing  
13   body of any county may apply in writing to the department to  
14   have an area declared to be an enterprise zone. The application  
15   shall include a description of the location of the area or areas  
16   in question, and a general statement identifying proposed local  
17   incentives to complement the state and any federal incentives.

18       (b) The governor, upon the recommendation of the director,  
19   shall approve the designation of up to six areas in each county  
20   as enterprise zones for a period of twenty years. Any such area  
21   shall be located in one United States census tract or two or  
22   more contiguous United States census tracts in accordance with

1 the most recent decennial United States Census. The census  
2 tract or tracts within which each enterprise zone is located  
3 also shall meet at least one of the following criteria:

4 (1) Twenty-five per cent or more of the population have  
5 incomes below eighty per cent of the median family  
6 income of the county; or

7 (2) The unemployment rate is 1.5 times the state average.

8 ~~[(c) Notwithstanding subsection (b), census tract #405~~  
9 ~~within the county of Kauai shall be eligible for designation as~~  
10 ~~an enterprise zone. The eligibility for designation shall~~  
11 ~~remain in effect until January 1, 1997, unless the governor~~  
12 ~~earlier determines that the eligibility is no longer necessary.~~

13 ~~(d) Notwithstanding subsection (b) or (c), only lands~~  
14 ~~classified as agricultural in the Waialua district on Oahu, as~~  
15 ~~defined in section 4-1(3) (D), shall be designated an enterprise~~  
16 ~~zone on July 1, 1997, and the designation shall remain in effect~~  
17 ~~until June 30, 2002.] "~~

18 SECTION 4. Section 209E-9, Hawaii Revised Statutes, is  
19 amended as follows:

20 1. By amending subsections (a), (b), and (c) to read:

21 "(a) Any business firm may be eligible to be designated a  
22 qualified business for purposes of this chapter if the business:

- 1 (1) Begins the operation of a trade or business in an  
2 eligible business activity within an enterprise zone;
- 3 (2) During each taxable year has at least fifty per cent  
4 of its enterprise zone [~~establishment's~~  
5 establishments' gross receipts attributable to the  
6 active conduct of trade or business within [~~the~~  
7 enterprise [~~zone;~~] zones located within the same  
8 county; and
- 9 (3) Either:
- 10 (A) Increases its average annual number of full-time  
11 employees by at least ten per cent by the end of  
12 its first tax year of participation, and during  
13 each subsequent taxable year at least maintains  
14 that higher level of employment; or
- 15 (B) Increases its gross sales of agricultural crops  
16 produced, or agricultural products processed  
17 within [~~the~~] enterprise [~~zone~~] zones located  
18 within the same county by two per cent annually.
- 19 For business firms engaged in producing or processing  
20 agricultural products, receipts from value-added products made  
21 from crops grown within [~~an~~] enterprise [~~zone~~] zones located  
22 within the same county and sold at retail pursuant to the limits

1 of subsection (e) shall count toward the gross receipts  
2 requirement under paragraph (2).

3 (b) A business firm may also be eligible to be designated  
4 a qualified business for purposes of this chapter if the  
5 business:

6 (1) Is actively engaged in the conduct of a trade or  
7 business in an eligible business activity in an area  
8 immediately prior to ~~an~~ the area being designated an  
9 enterprise zone;

10 (2) Meets the requirements of subsection (a) (2); and

11 (3) Either:

12 (A) Increases its average annual number of full-time  
13 employees employed at the ~~[business]~~ business's  
14 establishment or establishments ~~[located]~~ within  
15 ~~[the]~~ enterprise ~~[zone]~~ zones located within the  
16 same county by at least ten per cent by the end  
17 of the first year of operation, and by at least  
18 fifteen per cent by the end of each of the  
19 fourth, fifth, sixth, and seventh years of  
20 operation~~[+]~~, and for businesses eligible for tax  
21 credits extending past the seventh year, at least  
22 maintains that higher level of employment during

1           each subsequent taxable year; provided that the  
2           percentage increase shall be based upon the  
3           employee count at the beginning of the initial  
4           year of operation within the enterprise [~~zone;~~]  
5           zone or zones; or

6           (B) Increases its gross sales of agricultural crops  
7           produced, or agricultural products processed  
8           within [~~the enterprise zone~~] enterprise zones  
9           located within the same county by two per cent  
10          annually.

11          (c) After designation [~~as~~] of an enterprise zone, each  
12          qualified business firm in the zone shall submit annually to the  
13          department an approved form supplied by the department that  
14          provides the information necessary for the department to  
15          determine if it may certify the applicability of the tax credits  
16          and exemptions provided in this chapter for the business firm  
17          [~~qualifies as a qualified business~~]. The approved form shall be  
18          submitted by each business to the governing body of the county  
19          in which the enterprise zone is located, then forwarded to the  
20          department by the governing body of the county."

21          2. By amending subsection (e) to read:

1           "(e) Tangible personal property shall be sold at an  
2 establishment of a qualified business within an enterprise zone  
3 and the transfer of title to the buyer of the tangible personal  
4 property shall take place in [~~the same~~] an enterprise zone  
5 located within the same county in which the tangible personal  
6 property is sold. Services shall be sold at an establishment of  
7 a qualified business engaged in a service business within an  
8 enterprise zone [~~and the services shall be delivered in the same~~  
9 ~~enterprise zone in which sold. Any services rendered outside an~~  
10 ~~enterprise zone shall not be deemed to be the services of a~~  
11 ~~qualified business]~~."

12           SECTION 5. Section 209E-10, Hawaii Revised Statutes, is  
13 amended to read as follows:

14           "**§209E-10 State business tax credit.** (a) The department  
15 shall certify annually to the department of taxation the  
16 applicability of the tax credit provided in this chapter for a  
17 qualified business against any taxes due the State. Except for  
18 the general excise tax, the credit shall be eighty per cent of  
19 the tax due for the first tax year, seventy per cent of the tax  
20 due for the second tax year, sixty per cent of the tax due for  
21 the third year, fifty per cent of the tax due the fourth year,  
22 forty per cent of the tax due the fifth year, thirty per cent of

1 the tax due the sixth year, and twenty per cent of the tax due  
2 the seventh year. For qualified businesses engaged in the  
3 manufacturing of tangible personal property or the producing or  
4 processing of agricultural products, the credit shall continue  
5 after the seventh year at the rate of twenty per cent of the tax  
6 due for each of the subsequent seven tax years. Any tax credit  
7 not usable shall not be applied to future tax years.

8 (b) When a partnership is eligible for a tax credit under  
9 this section, each partner shall be eligible for the tax credit  
10 provided for in this section on the partner's income tax return  
11 in proportion to the amount of income received by the partner  
12 from the partnership. Any qualified business having taxable  
13 income from business activity, both within and without the  
14 enterprise zone, shall allocate and apportion its taxable income  
15 attributable to the conduct of business. Tax credits provided  
16 for in this section shall only apply to taxable income of a  
17 qualified business attributable to the conduct of business  
18 within ~~[the]~~ enterprise ~~[zone.]~~ zones located within the same  
19 county.

20 (c) In addition to any tax credit authorized under this  
21 section, any qualified business shall be entitled to a tax  
22 credit against any taxes due the State in an amount equal to a

1 percentage of unemployment taxes paid. The amount of the credit  
2 shall be equal to eighty per cent of the unemployment taxes paid  
3 during the first year, seventy per cent of the taxes paid during  
4 the second year, sixty per cent of the taxes paid during the  
5 third year, fifty per cent of the taxes paid during the fourth  
6 year, forty per cent of the taxes paid during the fifth year,  
7 thirty per cent of the taxes paid during the sixth year, and  
8 twenty per cent of the taxes paid during the seventh year. For  
9 qualified businesses engaged in the manufacturing of tangible  
10 personal property or the producing or processing of agricultural  
11 products, the credit shall continue after the seventh year in an  
12 amount equal to twenty per cent of the taxes paid during each of  
13 the subsequent seven tax years.

14 (d) Tax credits provided for in subsection (c) shall only  
15 apply to the unemployment tax paid on employees employed at the  
16 qualified [~~business'~~] business's establishment or establishments  
17 [~~located~~] within [~~the~~] enterprise [~~zone.~~] zones located within  
18 the same county. Any tax credit not usable shall not be applied  
19 to future tax years."

20 SECTION 6. Section 209E-11, Hawaii Revised Statutes, is  
21 amended to read as follows:

1           "**§209E-11 State general excise exemptions.** The department  
2 shall certify annually to the department of taxation that any  
3 qualified business is exempt from the payment of general excise  
4 taxes on the gross proceeds from [~~the manufacture of tangible  
5 personal property, the wholesale sale of tangible personal  
6 property, the engaging in a service business by a qualified  
7 business, or the engaging in research, development, sale, or  
8 production of all types of genetically-engineered medical,  
9 agricultural, or maritime biotechnology products;~~] an eligible  
10 business activity as defined in this chapter; provided that  
11 agricultural businesses other than those engaged in the  
12 production of genetically-engineered agricultural products shall  
13 not be exempt from the payment of general excise taxes on the  
14 gross proceeds of agricultural retail sales. The gross proceeds  
15 received by a contractor licensed under chapter 444 shall be  
16 exempt from the general excise tax for construction within an  
17 enterprise zone performed for a qualified business within an  
18 enterprise zone[~~-~~] or a business that has been approved by the  
19 department to enroll into the enterprise zone program. The  
20 exemption shall extend for a period not to exceed seven years;  
21 provided that for qualified businesses engaged in the  
22 manufacturing of tangible personal property or the producing or

1 processing of agricultural products, the exemption shall extend  
2 for a period not to exceed fourteen years; provided further that  
3 if a force majeure event occurs, then the period of time shall  
4 be tolled until the force majeure event ceases."

5 SECTION 7. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 8. This Act shall take effect on July 1, 2050.

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9

**Report Title:**

Enterprise Zone Program; Agricultural Producers and  
Manufacturers

**Description:**

Authorizes agricultural producers and manufacturers to renew their eligibility in the enterprise zone program and allows receipts, sales, and employees of a business establishment that are located within the same county to count toward qualification. Amends definitions in section 209E-2, HRS.  
(SD1)