



# Ohio Legislative Service Commission

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## Fiscal Note & Local Impact Statement

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**Bill:** H.B. 182 of the 131st G.A. **Date:** February 18, 2016

**Status:** As Passed by the House **Sponsor:** Rep. Schuring

**Local Impact Statement Procedure Required:** No

**Contents:** Revises law governing joint economic development districts and enterprise zones

### State Fiscal Highlights

- No direct fiscal effect on the state.

### Local Fiscal Highlights

- The bill modifies law governing statewide joint economic development districts (JEDDs) and enterprise zones.
- A prohibition on including residences of electors in JEDDs is eased, allowing inclusion of mixed-use facilities that are part residential.
- The bill allows income of persons residing in JEDDs to be subject to the JEDD income tax, potentially increasing revenue. It requires that a JEDD income tax be based on the income of persons employed or residing in the district and on the net profits of businesses operating there.
- A business that operated in the unincorporated part of a JEDD prior to the JEDD's creation may apply for exemption from the JEDD income tax, which may reduce JEDD revenue.
- Allowing appeals of decisions of the Director of Development Services regarding exemption for certain businesses and their employees from the JEDD income tax may increase costs of county courts of common pleas.
- The bill allows investments in retail facilities in an enterprise zone to be exempt or partly exempt from property taxes, if approved by affected school boards.

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## Detailed Fiscal Analysis

The bill reorganizes law governing statewide joint economic development districts (JEDDs), consolidating into Revised Code section 715.72 provisions currently in sections 715.73 through 715.78 and repealing the latter sections. Not included are JEDDs organized under restricted procedures in Revised Code sections 715.70 and 715.71, available only to certain municipal corporations and townships. Also not included are joint economic development zones organized under section 715.69. The bill makes a number of changes affecting statewide JEDDs. The discussion in this Fiscal Note focuses on changes that appear to have fiscal effects. Further details on the various changes are in the LSC Bill Analysis.

The bill also revises law pertaining to enterprise zones, allowing tax exemption for qualifying retail facilities.

### **Joint economic development districts**

JEDDs are geographic areas specified in contractual agreements between one or more municipal corporations, one or more townships, and in some cases one or more counties. Within a JEDD, the parties seek to foster economic development and redevelopment, job creation or preservation, and improved economic welfare. These objectives are pursued through provision of new, expanded, or additional services, facilities, or improvements, paid for by imposition of an income tax. Revenue from the JEDD income tax may also be used for other purposes of the parties to the contract.

The bill generally continues a prohibition in current law on designation of land where electors reside when the JEDD is created as part of a JEDD, but allows inclusion of a "mixed-use facility" within the territory of a JEDD. A mixed-use facility is one used for both residential and commercial or industrial purposes. The bill further provides that the tax base of an income tax levied by the JEDD shall include the income of persons living within the JEDD, whereas current law does not apply to incomes of individuals residing in the JEDD except to the extent that the income is earned there. Current law, unchanged by the bill, requires that a tax levied by a JEDD be levied on both income of persons working in the JEDD and net profits of businesses operating in the JEDD. These changes may increase JEDD revenue.

The bill lets contracting parties exclude from a JEDD parcels that are within JEDD boundaries. Income or net profit earned in excluded parcels is not subject to JEDD income tax. Current law does not either authorize or prohibit such exclusions. The fiscal effect of explicitly permitting such exclusions is uncertain.

The bill requires JEDD income tax revenue to be used to carry out the district's economic development plan "and for any other lawful purpose of the contracting parties pursuant to the contract" including utility services provided by contracting parties. Current law requires JEDD income tax revenue to be used for purposes of the

district and of the contracting parties. The fiscal impact of this change is not clear, but it may alter use of this revenue.

The bill creates a procedure for an owner of a business that operated in the unincorporated part of a JEDD prior to creation of the JEDD to apply to the Director of Development Services for exemption from the JEDD income tax for the business and its employees. An application to the Director to opt out must be made within six months of the effective date of the JEDD contract. A business owner or JEDD contracting party may appeal the Director's decision to the county court of common pleas. This change may increase court system costs.

To be exempted, the business and employees must derive no or negligible benefit from the services, facilities, and improvements under the economic development plan. The owner cannot apply for this exemption if the owner signed the petition consenting to the proposed JEDD or is deemed to have signed the petition. An owner may be deemed to have signed this petition if the owner signed to accept delivery of a notice of the petition sent by certified mail with return receipt requested, and did not respond to the contracting party that sent the notice within 30 days of the date the notice was sent.

Availability of this exemption may reduce JEDD revenue.

## **Enterprise zones**

Enterprise zones are geographic areas in which businesses may receive partial or full exemption for a specified term of years from property taxes, for eligible new investments. Municipal and county governments administer enterprise zones.

The bill allows a municipality or county seeking to establish an enterprise zone, for a place of business used mainly for making retail sales, to petition the board of education of a school district within the territory of which the place of business is located to waive the retail facilities exclusion in enterprise zone law. Under the retail facilities exclusion, an enterprise's place of business in an enterprise zone is deemed not to include any portion used for making retail sales.<sup>1</sup> With the waiver, the retail sales facility would become eligible for the tax exemption. This change may reduce property tax revenues from investments that increase the value of such facilities. As implied by the above explanation, the revenue loss would be permissive for an affected school district and for the municipality or county seeking to establish the enterprise zone.

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<sup>1</sup> This provision is not applicable in an impacted city, under R.C. 1728.01, because a retail facility there is not excluded from an enterprise zone.