



Ohio Revised Code

Section 5709.633 Enterprise relocating from another Ohio location.

Effective: March 11, 2004

Legislation: House Bill 127 - 125th General Assembly

(A)(1) Except as otherwise provided in division (B) of this section, no legislative authority or board of county commissioners shall enter into an agreement with an enterprise under division (E) of section 5709.62, division (D) of section 5709.63, or section 5709.632 of the Revised Code if that enterprise or a successor enterprise currently has operations at another location in this state and those operations will be relocated to an enterprise zone upon or as a result of that agreement.

(2) Except as otherwise provided in division (B) of this section, if an enterprise subject to an agreement granting an exemption from taxation under section 5709.62, 5709.63, or 5709.632 of the Revised Code expands its operations or relocates its operations to another location in this state that results in a reduction of its operations at any Ohio location, or discontinues operations at the project site to which that exemption applies prior to the expiration of the term of the agreement, no legislative authority shall enter into an agreement with such an enterprise, a related member, or a successor enterprise under section 5709.62, 5709.63, or 5709.632 of the Revised Code prior to five years after such expansion, relocation, or discontinuation of operations. The director of development shall review all agreements entered into under those sections to determine whether there has been a violation of this paragraph and whether the requirements to be a facility have been met. If the director discovers there has been a violation of this paragraph or the requirements to be a facility have not been met, the agreement is void, and all incentives granted under the agreement shall cease immediately. The director shall certify to the legislative authority and to the board of education of the city, local, or exempted village school district to which operations were relocated that the agreement is void.

(B) Divisions (A)(1) and (2) of this section do not apply if the director of development waives application of those divisions. The director may waive application of division (A)(1) of this section if the enterprise or successor enterprise demonstrates, by documentation satisfactory to the director, that the relocation was necessitated by or results from one of the circumstances described in divisions (B)(1) to (3) of this section, and the director determines that under the circumstance claimed and in light of the possible relocation issuance of a waiver is absolutely necessary to attract



or retain employment opportunities in this state. The director may waive application of division (A)(2) of this section, except for the provision that the requirements to be a facility must be met, if the enterprise, related member, or successor enterprise demonstrates, by documentation satisfactory to the director, that the discontinuation of operations was necessitated by or resulted from one of the circumstances described in divisions (B)(1) to (3) of this section, and the director determines that under the circumstance claimed and in light of the possible relocation issuance of a waiver is absolutely necessary to attract or retain employment opportunities in this state.

The circumstance that may be claimed shall be one of the following:

- (1) The project site at which operations are or will be discontinued cannot accommodate expansion plans of the enterprise due to inadequate land suitable for such expansion.
- (2) Conditions in the markets in which the enterprise participates require that the enterprise relocate operations in order for the enterprise to become or remain competitive in that market. These conditions include, but are not limited to, any of the following:
 - (a) New or modified contracts with customers or suppliers, such as "just-in-time" supply or similar arrangements;
 - (b) Changes in the enterprise's production methods;
 - (c) Loss or impending loss of an existing contract requires expansion into another market in order to maintain production levels;
 - (d) Changes in ownership or other changes in control of the enterprise, or of a controlled group of corporations of which the enterprise is a subsidiary, that result from a decision on the part of owners or officers located outside this state.
- (3) The enterprise currently is subject to a consolidation of its operations, or such a consolidation is imminent. For purposes of division (B)(3) of this section, "consolidation" means an enterprise combines the operations of two or more existing facilities and one of the following conditions is satisfied:



(a) At least one of the facilities currently is not located in this state, and the relocation of the operations of that facility would result in both of the following during the term of the agreement:

(i) The number of employees employed by the enterprise at its existing facilities in this state to which operations are relocated increases by not less than twenty-five per cent after the date the agreement is formally approved by the legislative authority;

(ii) The assessed value of tangible personal property first used in business at the project site, or the assessed value of real property constituting the project site, increases by not less than twenty-five per cent after the date the agreement is formally approved by the legislative authority.

(b) All of the facilities currently are in this state, and the relocation of the operations of any of those facilities would result in both of the following during the term of the agreement:

(i) The number of employees employed by the enterprise at its existing facilities in this state to which operations are relocated increases by not less than twenty-five per cent after the date the agreement is formally approved by the legislative authority;

(ii) The assessed value of tangible personal property first used in business at the project site, or the assessed value of real property constituting the project site, increases by not less than fifty per cent over the assessed value, determined at the time of relocation, of tangible personal property located at, and of real property constituting, the facilities in this state from which operations would be relocated.

For purposes of divisions (B)(3)(a) and (b) of this section, "assessed value of tangible personal property" and "assessed value of real property" mean the value of such property as assessed for purposes of property taxation and entered on the tax lists and duplicates of the county.

(C) To apply for a waiver under division (B) of this section, the enterprise and the legislative authority intending to enter into an agreement under section 5709.62, 5709.63, or 5709.632 of the Revised Code shall petition the director of development in a form acceptable to the director. The petition shall be accompanied by documentation demonstrating one or more of the circumstances described in divisions (B)(1), (2), or (3) of this section. Not later than thirty days after receiving such



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a petition, the director shall investigate the petition and accompanying documentation to determine the validity of the circumstance claimed therein, and shall issue to the enterprise and to the legislative authority the determination, in writing, waiving, or refusing to waive application of division (A) of this section.