



Ohio Revised Code

Section 5709.88 Tax incentives to promote employment and improve economic climate.

Effective: September 28, 1994

Legislation: Senate Bill 221 - 120th General Assembly

(A) As used in sections 5709.88 through 5709.883 of the Revised Code:

- (1) "Enterprise," "expand," "renovate," "project," "project site," "position," "full-time employee," "first used in business," and "making retail sales" have the same meanings as in section 5709.61 of the Revised Code.
- (2) "Property," "remedy," and "remedial activities" have the same meanings as in section 3746.01 of the Revised Code.
- (3) "Facility" means an enterprise's place of business, including land constituting property that is described in a certification under division (B) of section 5709.87 of the Revised Code, and buildings, improvements, fixtures, structures, machinery, equipment, and other materials, except inventory, used in business and situated on such land. "Facility" does not include any portion of an enterprise's place of business used primarily for making retail sales unless the place of business is located in an impacted city as defined in section 1728.01 of the Revised Code.
- (4) "New employee" means a full-time employee first employed by an enterprise at a facility that is a project site after the enterprise enters into an agreement under division (D) of this section.
- (5) "Remediate" means to make expenditures for remedies or remedial activities equal to at least ten per cent of the true value in money of the land, buildings, improvements, structures, and fixtures constituting a facility as determined for purposes of property taxation immediately prior to formal approval of an agreement under division (D) of this section.
- (6) "Occupy" means to make expenditures to alter or repair a vacant facility equal to at least twenty per cent of the market value of the facility prior to such expenditures, as determined for the purposes of local property taxation.



(7) "Vacant facility" means a facility that has been vacant for at least ninety days immediately preceding the date on which an agreement is entered into under division (D) of this section.

(B) The legislative authority of any county or municipal corporation within which is located property that is the subject of a certification under division (B) of section 5709.87 of the Revised Code may enter into an agreement with an enterprise under division (D) of this section, provided that the legislative authority of a county may enter into such agreements with respect only to property located within the unincorporated territory of the county. Prior to entering into such an agreement, the legislative authority shall petition the director of development for the director's confirmation that the property is the subject of such a certification, and the director, within thirty days after receipt of such a petition, shall confirm whether such a certification has been issued. The petition shall be accompanied by a description of the property in the form and manner prescribed by the director.

(C) Any enterprise that wishes to enter into an agreement with a legislative authority under division (D) of this section shall submit a proposal to the legislative authority on a form prescribed by the director of development together with the application fee established under section 5709.882 of the Revised Code. The form shall require the following information:

(1) An estimate of the number of new employees whom the enterprise intends to hire, or of the number of employees whom the enterprise intends to retain, at a facility that is a project site, and an estimate of the amount of payroll of the enterprise attributable to these employees;

(2) An estimate of the amount to be invested by the enterprise to establish, expand, renovate, or occupy a facility, including investment in new buildings, additions or improvements to existing buildings, machinery, equipment, furniture, fixtures, and inventory;

(3) A listing of the enterprise's current investment, if any, in a facility as of the date of the proposal's submission.

The enterprise shall review and update the listings required under this division to reflect material changes, and any agreement entered into under division (D) of this section shall set forth final estimates and listings as of the time the agreement is entered into. The legislative authority, on a



separate form and at any time, may require any additional information necessary to determine whether an enterprise is in compliance with an agreement and to collect the information required to be reported under section 5709.882 of the Revised Code.

(D) Upon receipt and investigation of a proposal under division (C) of this section, if the legislative authority finds that the enterprise submitting the proposal is qualified by financial responsibility and business experience to create and preserve employment opportunities at the project site and improve the economic climate of the county or municipal corporation, the legislative authority, after complying with section 5709.83 of the Revised Code, may enter into, and formally shall approve, an agreement with the enterprise under which the enterprise agrees to remediate a facility and to spend an amount equal to at least two hundred fifty per cent of the true value in money of the land, buildings, improvements, structures, and fixtures constituting the facility, as determined for purposes of property taxation immediately prior to formal approval of the agreement, to establish, expand, renovate, or occupy a facility and hire new employees, or preserve employment opportunities for existing employees, in return for one or more of the following incentives:

(1) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to one hundred per cent, of the assessed value of tangible personal property first used in business at the project site as a result of the agreement. An exemption granted pursuant to division (D)(1) of this section applies to inventory required to be listed pursuant to sections 5711.15 and 5711.16 of the Revised Code, except that, in the instance of an expansion or other situations in which an enterprise was in business at the facility prior to the effective date of the agreement, the inventory that is exempt is that amount or value of inventory in excess of the amount or value of inventory required to be listed in the personal property tax return of the enterprise in the return for the tax year in which the agreement is entered into.

(2) Exemption for a specified number of years, not to exceed ten, of a specified portion, up to one hundred per cent, of the increase, subsequent to formal approval of the agreement by the legislative authority, in the assessed valuation of buildings, improvements, structures, and fixtures constituting the project site;

(3) Provision for a specified number of years, not to exceed ten, of any optional services or assistance that the county or municipal corporation is authorized to provide with regard to the project



site.

(E) All agreements entered into under this section shall be in the form prescribed under section 5709.881 of the Revised Code.

(F) Except as otherwise provided in this division, an agreement entered into under this section shall require that the enterprise pay an annual fee equal to the greater of one per cent of the dollar value of incentives offered under the agreement or five hundred dollars, provided that if the value of the incentives exceeds two hundred fifty thousand dollars, the fee shall not exceed two thousand five hundred dollars. The fee shall be payable to the legislative authority once per year for each year the agreement is effective on the days and in the form specified in the agreement. Fees paid shall be deposited in a special fund created for that purpose by the legislative authority and shall be used by the legislative authority exclusively for the purpose of complying with section 5709.882 of the Revised Code and by the tax incentive review council created under section 5709.883 of the Revised Code exclusively for the purposes of performing the duties prescribed under that section. The legislative authority may waive or reduce the amount of the fee charged against an enterprise, but such a waiver or reduction does not affect the obligations of the legislative authority or the tax incentive review council to comply with section 5709.882 or 5709.883 of the Revised Code.

(G) When an agreement is entered into under this section, the legislative authority authorizing the agreement shall forward a copy of the agreement to the director of development and to the tax commissioner within fifteen days after the agreement is entered into.

(H) After an agreement is entered into, the enterprise shall file with each personal property tax return required to be filed while the agreement is in effect, an informational return, on a form prescribed by the tax commissioner for that purpose, setting forth separately the property, and related costs and values, exempted from taxation under the agreement.

(I) The legislative authority may require the owner of record to pay the amount of taxes that, during the period beginning with the commencement of the exemption and ending with the date of revocation of the covenant not to sue under Chapter 3746. of the Revised Code, would have been charged against the property had the property not been exempted from taxation pursuant to an agreement entered into under this section. In the case of real property, the proper county auditor shall



determine the taxable value of the property for each of the tax years for which the property had been exempted from taxation, and shall determine the amount of taxes that would have been charged against the property had the property been subject to taxation each of those years. The county treasurer shall issue a tax bill as otherwise required by law, and the taxes shall be payable in full on the first succeeding day on which the first one-half of taxes is required to be paid under section 323.12 of the Revised Code. If such real property taxes are not paid in full when due, a penalty shall be charged, and interest shall accrue on those taxes, as provided in section 323.121 of the Revised Code. In cases of underpayment or nonpayment, the deficiency shall be collected as otherwise provided for the collection of delinquent real property taxes.

In the case of tangible personal property, the tax commissioner shall determine the taxable value of the property for each of the tax years for which the property had been exempted from taxation on the basis of the informational return required to be filed under this section or any further assessment necessary to make such a determination, and certify that determination to the proper county auditor, who shall add the property to the proper tax lists and duplicates. Taxes shall be charged against such property at the rates charged for the respective years for which taxes are charged under this division. The county treasurer shall issue a tax bill as otherwise required by law, and the taxes shall be payable on the next succeeding date for the payment of current taxes. If the taxes are not paid in full when due, a penalty shall be charged, and interest shall accrue, as otherwise provided in sections 5719.03 and 5719.041 of the Revised Code. In cases of underpayment or nonpayment, the deficiency shall be collected as otherwise provided in Chapter 5719. of the Revised Code.