

## RELOCATION ISSUES

### General Relocation Projects

The Ohio Enterprise Zone Program restricts the use of tax incentives for projects which relocate all or a portion of an existing Ohio facility's employee positions or assets to another site. The relocation restriction does not apply to Enterprise Zones certified or decertified under ORC Sections 5709.62 or 5709.63 after July 22, 1994. These Enterprise Zones have documented the distress requirements of ORC Section 5709.61(A) and for that reason can consider project proposals which involve intra-state relocations. Local jurisdictions should review their certification to ensure they have the appropriate authority.

Any Enterprise Zone certified prior to July 1, 1994 or certified under ORC Section 5709.633 after July 22, 1994 can consider an intra-state relocation project only if the ODOD Director issues a waiver of the relocation provision according to ORC Section 5709.633(B). The business and the legislative authority considering a relocation project must formally petition (see waiver form) the ODOD Director requesting a waiver and providing documentation that the waiver conditions are met. ODOD must respond to the request within 30 days of receiving the petition.

The Director may grant a waiver if it is determined that "issuance of a waiver is absolutely necessary to attract or retain employment opportunities in this state" and the circumstances claimed by the business meet one of the specific waivable conditions. The specific conditions under which the ODOD Director can issue a waiver are:

1. ORC Section 5709.633(B)(1) – Business cannot physically expand at the current site to the extent necessary for the proposed project.
2. ORC Section 5709.633(B)(2) – Market conditions such as just-in-time supply, changes in production methods, changes in special contract provisions, or ownership changes that require a relocation of the facility for it to remain viable.
3. ORC Section 5709.633(B)(3) – Business is subject to a consolidation of two or more existing facilities and meets one of the following two standards:
  - a. at least one of the facilities involved in the consolidation is not an Ohio operation and the project would result in at least a 25 percent increase in the existing Ohio employment and at least a 25 percent increase in the existing value of the business's real or personal property at the site.
  - b. all of the facilities involved in the consolidation are located in Ohio and the project would result in at least a 25 percent increase in the existing Ohio employment and at least a 50 percent increase in the existing values of real or personal property of the Ohio facilities involved in the relocation.

## Second Enterprise Zone Agreement

If a business has an active enterprise zone agreement with a local jurisdiction and discontinues operations at that site prior to the expiration of that agreement, the business is prohibited from entering into a new enterprise zone agreement for five years with the new jurisdiction unless the ODOD Director issues a waiver.

## Notice

Please note that all intra-state relocation projects involve special notification requirements pursuant to ORC Section 5709.69. A minimum 30-day notice must be given to the county or municipality from which the business will relocate prior to the “first public meeting at which the agreement is deliberated” by the local government(s) considering the request. (Please review the Notification section of this document for details). The notice requirement must be fulfilled prior to completing an Enterprise Zone Agreement. A copy of the Enterprise Zone Agreement (draft) to be considered is to accompany the notice.