2010
Enterprise Zone Agreement Annual Report

June 4, 2012

Ohio | Department of Development

John R. Kasich, Governor

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In 1982, the Ohio General Assembly enacted the Ohio Enterprise Zone Program as an incentive tool for local communities to encourage business expansion and new investment. This program provides communities with the ability to offer exemptions from real property taxation or, when applicable, personal property taxation for eligible investments in capital assets (e.g. building renovations, new construction, or purchase of machinery and equipment, furniture, fixtures, or inventory). The program is currently scheduled to sunset on October 15, 2012.

In 2005, the Ohio General Assembly passed H.B. 66 and began to phase-out the personal property tax. Until this time, the exemption of the tangible personal property tax, particularly for businesses that operated in capital intensive industries, was a critical feature of Enterprise Zone agreements. When the phase-out was complete, the personal property tax was no longer levied against general business taxpayers (the tax remains for public utility personal property). Consequently, the Enterprise Zone Program now exists to deliver exemptions from real property taxes and to make businesses eligible for additional income tax benefits, which are discussed later in this report.

In 2010, the Ohio Enterprise Zone Program entered its 29th year of existence and continues to provide local political subdivisions within the State of Ohio a tax exemption tool that promotes commercial and industrial investment as well as job growth.

Enterprise Zone Agreement Portfolio Overview

Since the program's inception, 409 zones have been certified throughout the State of Ohio by the Ohio Department of Development (Development). As of December 31, 2010, 363 zones remain active. During 2010, no new Enterprise Zones were created within the State of Ohio; however, four zones were amended. The zone amendment process is similar to the zone creation process, in that both must be approved by the Director of Development. Of the 363 active zones, 336 derived their authority from the Board of County Commissioners (53 of these zones met distress criteria) pursuant to Ohio Revised Code Section (ORC) 5709.63. The remaining 27 zones derived their authority from either the councils of cities in a metropolitan statistical area or from the council of communities which were considered "urban clusters" (18 of these zones met the distress criteria) pursuant to ORC Section 5709.62. 92.5 percent of the active Enterprise Zones in Ohio are formed by partnerships between the Board of County Commissioners and the participating local political subdivisions. Additionally, 17.1 percent of Enterprise Zones statewide demonstrated to the Director that they satisfy the distress requirements in the Enterprise Zone law, providing them with full authority to enter into Enterprise Zone agreements with all qualifying entities.

Since the Enterprise Zone Program's inception, 5,973 agreements have been entered into throughout the State of Ohio. Table 1 provides cumulative information on commitments made in conjunction with these agreements.

Table 1 – Ohio Enterprise Zone Program – Agreement Commitments (1982-2010)

Number of Enterprise Zone Agreements executed since 1982:	5,973
Committed Retained Jobs:	524,306
Committed Retained Payroll:	$19.2 billion
Committed New Full-time Permanent Jobs:	237,960
Committed New Full-time Permanent Payroll:	$7.2 billion
Committed New Real Property Investment:	$13.6 billion
Committed New Tangible Personal Property Investment: (non-inventory)	$40.3 billion
New Inventory Investment:	$7.8 billion

Based upon the above numbers (representing the entire Enterprise Zone agreement portfolio), the "average" Enterprise Zone agreement includes commitments for the following: 88 retained jobs with a payroll of $3,208,446; a commitment of 40 new, full-time positions with a payroll of $1,202,997; new real property investment of $2,283,198; new tangible personal property investment of $6,750,546; and new inventory investment of $1,303,900.

New Agreement Activity in 2010

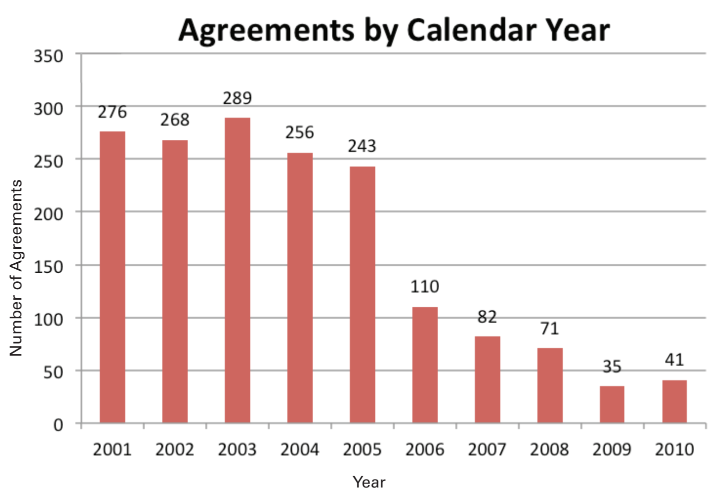
During calendar year 2010, the Enterprise Zone Program experienced a 17 percent increase in new agreement activity, with 41 new agreements being entered into in 2010 compared to 35 in 2009. This is the first time the program has experienced a year-to-year increase in agreement activity since the 2002-2003 time period. However, this number of 41 new agreements per year is still significantly less than those numbers from the late 1990s/early 2000s, when the number of new agreements entered into consistently exceeded more than 200 annually. Several influences have combined to create this reduction in new agreements, including Ohio's comprehensive tax reform (the phase-out of personal property tax) and the continued effects of the national recession. Despite these factors, the program continues to be an important economic development tool for local job creation and property investment efforts in Ohio.

These agreements entered into in 2010, through their investment in new real property and creation of new, full-time jobs, will generate new tax revenue for the local jurisdictions in which they are located. The new real property will generate an increase in the local property tax revenue, which will become even more significant after the expiration of the tax exemption and the tax collection is fully realized. Additionally, increases in income taxes will occur for projects that are located where such a tax is levied due to the new job creation. Beyond these aforementioned taxes, the affected local school districts may benefit from several income streams including compensation agreements in lieu of taxes, sharing of the municipal tax generated from the new annual payroll (when new payroll exceeds $1 million), and/or income tax revenue for those school districts with a tax on income.

Table 2 provides information detailing the new Enterprise Zone agreements entered into by calendar year from 2001 through 2010.

Table 2 – Ohio Enterprise Zone Program – New Agreements by Calendar Year

Year	Annual Total
2001	276
2002	268
2003	289
2004	256
2005	243
2006	110
2007	82
2008	71
2009	35
2010	41



Contained in the 41 new contractual agreements are total investment commitments (both real and personal property) of more than $309 million that will be made in Ohio within the next 36 months. This figure is comprised of $24 million in real property acquisition, $162.6 million in real property construction, and $11.5 million in real property improvements, as well as personal property commitments totaling $99.9 million in machinery and equipment purchases, $3.8 million in furniture and fixtures, and $7.5 million in inventory. These 2010 agreements include commitments to create 1,440 full-time positions and retain 1,604 jobs during the term of the incentives. The new full-time jobs are expected to create more than $46.3 million in annual payroll.

Of the agreements executed during 2010, 100 percent of the agreements contained a real property tax exemption component, and only 2 percent (one agreement) contained a personal property tax exemption component. Average real property tax exemption granted in the agreements was 74 percent, and the average real property exemption term was 9.95 years. That one agreement which contained a personal property tax exemption specified a 50 percent, 10 year term. Granting of personal property tax exemptions following the phase-out of the tangible personal property tax results from two circumstances: 1) the use of the Enterprise Zone as a preventative measure against the reassessment of the tangible personal property tax (as in the case of the 2010 agreement); and 2) the use of the Enterprise Zone Program to exempt electric generating equipment.

In 2010, nine of the 41 Enterprise Zone agreements granted tax exemption terms and/or rates that exceeded the standard thresholds established in the ORC (75 percent tax exemption rate, 10 year tax exemption term), and as such required a formal approval by the affected city, local, or exempted school district. All nine of the aforementioned agreements granted an exemption of 100 percent for real property, representing 22 percent of all agreements finalized during the year and an increase of 8 percent over last year's rate. Additionally, three of these nine agreements offered exemption terms of 15 years. Previous Enterprise Zone Annual Reports have demonstrated that, on average, approximately one-third of the agreements entered into in a given year exceed the statutory thresholds, requiring approval from the affected school district.

Compensation agreements to local school districts were also included in conjunction with some of the Enterprise Zone agreements entered into in 2010. These agreements are typically structured in one of two ways; either as a fixed annual payment to the school, or as an annual payment based on a percentage of the total taxes the school district would have received had there not been an incentive. Development received four compensation agreements in 2010. Of these, two were structured as a fixed annual payment with the average annual payment totaling $11,445, and the other two were structured as a percentage of the exempted taxes with an average payment representing 45 percent of the exempted taxes to the schools.

Within the 41 Enterprise Zone agreements entered into in 2010, 12 are subject to the mandatory income tax revenue sharing provisions with a local board of education due to their projected new payroll exceeding $1 million. The flexibility permitted within the revenue sharing provisions allow for many types of compensation arrangements with the local boards of education including donation agreements, the transfer of goods and services, and the statutory 50/50 new income tax revenue split in the absence of a formal agreement. Development continues to encourage local communities to include the affected boards of education in the negotiation process to allow for an incentive package that benefits each significant stakeholder within the property tax revenue stream.

In comparing 2010 aggregate commitments to previous years, the real and personal property investment commitments made in 2010 were $309 million, down from $440 million in 2009. The actual property investment may be larger, as the Ohio Enterprise Zone Law was amended in 2004 to permit Enterprise Zone jurisdictions to specify minimum and maximum investments to which the property tax exemption will apply.

When examining the jobs commitment from agreements executed during 2010 against those executed in 2009, the average number of new full-time permanent employment positions per agreement decreased from 57.6 per agreement in 2009 to 35.1 per agreement in 2010. Likewise, the total annual projected payroll associated with the new job creation decreased, from $61 million in 2009 to $35 million in 2010. The agreements' average annual wage also declined from the previous year, from $35,398 in 2009 to $32,155 in 2010. It is, however, important to note that 2010's average wage is still more than 14 percent higher than the average wage reported for the 2008 year.

Enterprise Zone Annual Report Data Analysis

The 2010 reporting process continued Development's goal of increased reliability and efficiency. This was the 11th year that electronic filing of the Ohio Enterprise Zone Annual Report was available to the local Enterprise Zone Program administrators and the sixth year that electronic filing of annual Enterprise Zone reports was mandatory.

Each political subdivision that operates an Enterprise Zone must file an annual report with Development as required by ORC Section 5709.68. Failure to file this report subjects the local political subdivision to a penalty of $1,000 per month until the report is submitted to Development.

For the 2010 annual report, Development conducted a detailed and focused review of the Enterprise Zone agreements portfolio. Development reviewed each of the agreements that were in "active" status as of December 31, 2010, and received a 100 percent response rate for outstanding agreements. As a result, the Enterprise Zone agreement database reflects its most comprehensive understanding ever of the status and activity of the agreements throughout the State of Ohio.

The total number of active agreements reported in 2010 was 1,571, which includes agreements executed through December 31, 2010. This is the seventh consecutive year that the number of active agreements reported has decreased. This decrease of active agreements in the program's portfolio is a result of two factors (1) a significant amount of existing agreements expiring in a given year, and (2) the relatively small number of new agreements being entered into in that same year. For example, the number of new agreements entered into from 2008-2010 totals 148, while the number of agreements scheduled to expire within that same time period total 1,023. This trend is expected to continue in the future as agreements entered into in the late 1990s/early 2000s continue to expire.

Consistent with previous Enterprise Zone Annual Reports, Table 3 provides aggregate performance data by zone for all executed agreements that remain active as of December 31, 2010. Projects that have either completed the exemption period or have been terminated as of that date are not included in the aggregate data. Data referenced below is provided by the business entity/entities that is party to the Enterprise Zone agreement with the local jurisdiction and is based on project levels through December 31, 2010.

Table 3 – Ohio Enterprise Zone Program –
Summary of Agreements Active through December 31, 2010

Number of Enterprise Zones active as of December 31, 2010:	363
Number of Enterprise Zone Agreements in effect through December 31, 2010:	1,571
Number of enterprises that proposed to close or reduce Ohio facilities for the primary purpose of locating at the site specified within an Enterprise Zone Agreement (from relocation waiver and relocation notice information):	730
Number of projected jobs to be retained:	156,482
Number of actual jobs retained:	111,068
Number of projected full-time permanent jobs to be created:	61,177
Number of actual full-time permanent jobs created:	58,464
Projected payroll from new positions:	2.3 billion
Actual payroll from new positions:	2.9 billion
Proposed investment in real and personal property (including inventory):	25.7 billion
Actual investment in real and personal property (including inventory):	23.7 billion

The number of retained jobs for purposes of the Enterprise Zone Program is determined at the time of an agreement's execution and this number reflects the positions preserved with the company as a result of the agreement. The retention of jobs has been, and continues to be, a critical component of the Enterprise Zone Program as companies continue to make sizable investments in Ohio. The annual report information of the active Enterprise Zone agreements as of December 31, 2010 shows committed retained jobs totaling 156,482 and actual retained jobs totaling 111,068. Consistent with other figures, the 2010 retained numbers are lower than the 2009 retained figures.

Through December 31, 2010, active Enterprise Zone agreements reflect 61,177 new full-time jobs committed to and 58,464 reported actual new, full-time jobs created in the State of Ohio. The new job creation represents a 95.6 percent compliance rate of committed new hires. This figure will most likely increase, as 138 of the 1,517 reported agreements (9 percent) are still within the permitted three-year job creation period. The projected new payroll of those agreements totaled $2.3 billion, while the actual aggregate new payroll created totals $2.9 billion. The total investment commitment for all active Enterprise Zone agreements for the Ohio Enterprise Zone Program as of December 31, 2010 stands at $25.7 billion with actual investment reaching $23.7 billion (a 92.2 percent completion rate).

As a result of H.B. 283 enacted in 1999, there is a statutory requirement that any school compensation agreements entered into in conjunction with an Enterprise Zone agreement be submitted to Development. This requirement applies to all agreements executed after July 1, 1999. When considering the 1,571 agreements that submitted reports in conjunction with the 2010 Enterprise Zone Annual Report, 547 included a school compensation agreement. This volume, which indicates that 34 percent of all active agreements as of December 31, 2010 included a compensation component, illustrates the significance of the local jurisdiction/school district partnership and cooperation in conjunction with the tax incentive process.

Each active tax exemption agreement entered into under the Ohio Enterprise Zone Program must be reviewed annually by the Tax Incentive Review Council (TIRC) to determine whether the enterprise is in compliance with agreement commitments. The Council's make-up is controlled in the Enterprise Zone authorizing legislation and is comprised of representatives of certain local entities affected by the incentive (i.e. county, city, township, school board). The TIRC sits in an advisory capacity to provide recommendations to the local legislative bodies that approve the agreements. These local legislative bodies are the entities responsible for making any modifications or terminations to the agreements and ultimately evaluating the performance of the agreements. Of the 1,571 agreements that were active as of December 31, 2010 and reviewed by the TIRC, 406 agreements received a recommendation other than continuation by the TIRC. These recommendations could include termination, modification, probation, warnings, or other actions. The TIRC recommended that 168 agreements be terminated as a result of nonperformance, poor performance, or merely because of the tangible personal property tax phase-out.

In addition to the annual review, local communities continually work with the companies they partner with in Enterprise Zone agreements to evaluate the parameters of those existing agreements. In circumstances where Enterprise Zone agreements have not demonstrated strict compliance with the contractual thresholds, but have shown progress and promise in the investment and/or job creation, local communities may choose to amend the agreement. Through this amendment process, the local community may alter the commitments within the Enterprise Zone agreement to better align them with the actual business performance. Most amendments fall into the following categories: assignment of incentives to a new property owner, increasing property investment amounts, or revising the project completion dates. Throughout calendar year 2010, Development received a total of 60 amendments to original agreements.

Intrastate Relocations

There are three different waivers in which Development may become involved when considering a project involving an intrastate relocation. First, the relocation waiver allows an enterprise to relocate from one Ohio jurisdiction to another Ohio jurisdiction that has a limited authority, non-distress-based Enterprise Zone and enters into an Enterprise Zone agreement with the new jurisdiction. Second, the five-year rule waiver allows an enterprise that has an active Enterprise Zone agreement at its current site to relocate to another Ohio jurisdiction to enter into a new agreement at the new site without waiting the required five-year transition period at the new site. Both of the aforementioned waivers are necessitated as a result of requirements outlined in ORC Section 5709.633. Finally, the time-notice modification allows a project to reduce the required notice to the negatively affected community from 30 days to 15 days pursuant to ORC Section 5709.69. An intrastate relocation project summary may require one, two, or all three of the above-mentioned waivers.

Since the inception of the relocation restrictions (i.e. July 22, 1994) through December 31, 2010, Development has received 589 waiver requests. Of the 589 requests received, 493 sought a waiver of the relocation restrictions, 23 requests sought a waiver from the five-year rule, and 73 related to time-notice modification requests.

During calendar year 2010, two waiver requests, representing waivers of the relocation restriction were received by Development. Both relocation waiver requests were ultimately approved by the Director. Please note, these relocation waiver requests were received by Development in November 2010 and were not formally approved until 2011. The number of waivers received has consistently decreased since 2005, which corresponds with the overall reduction in new agreements for the program.

In very limited cases, relocations may include projects involving relocation to sites within distress-based Enterprise Zones. These intrastate relocations do not require a formal relocation waiver from Development to proceed with an agreement, but do require the 30-day notice to the municipality or county from which the enterprise is relocating, as well as notice to the Director of Development. In 2010, Development received formal notice of four projects involving relocation to sites within distress-based Enterprise Zones. Additionally, since 1994, 141 notices of relocations have been received from full authority, distress-based Enterprise Zones that do not require relocation restriction waivers.

Educating communities and businesses as to the statutory requirements on relocation is an ongoing process. Development continues to follow its policy of inviting all affected local jurisdictions to participate in the fact-finding site meeting and continues to use existing economic development tools to lessen the loss of tax revenue on the impacted community when possible and practicable.

Additional Benefits

The main purpose of the Enterprise Zone Program is to provide real and personal property tax exemptions in order to promote investment and employment growth. However, included within the program are certain benefits that provide additional incentives. Applications for these additional benefits must be made to Development, which then reviews and certifies or rejects the applications based upon applicable statutory requirements set forth in the ORC.

Tier II Ohio Franchise Tax Benefits (ORC Section 5709.65)

In 2010, Development received 11 applications for Ohio Enterprise Zone Program Tax Incentive Qualification Certificates. Of these applicants, 10 were awarded tax certificates. The number of applications received has been decreasing each year since 2005 as a result of the phase-out of the corporate franchise tax and changes to individual income tax as a result of H.B. 66.

Tier III Ohio Job Creation Tax Credit Benefits (ORC Section 5709.66)

In 2010, Development received one inquiry seeking incentives under ORC 5709.66. It was ultimately determined that the company making the inquiry did not qualify for the program due to the geographic restriction imposed by the statute, and therefore did not submit an application.

Fiscal

The Ohio Enterprise Zone Program is managed by Development's Strategic Business Investment Division's Office of Grants and Tax Incentives (OGTI). Funding for the administrative costs is collected through receipts of fees from the Enterprise Zone Program (namely fees from agreements and annual report penalty assessments) and fees from the various other programs that the OGTI administers. During calendar year 2010, collections from the Enterprise Zone Program fees equaled $31,500.

Program staff for 2010 included one full-time senior tax incentives specialist, a part-time student (college) intern, and logistical support from OGTI's manager and an administrative aide.

Conclusion

This is the Enterprise Zone Program's 19th annual report submitted under the requirements adopted in 1994. The information included provides a benchmark of current performance, insight into the economic impact, and a means for identifying program concerns.

As always, it is important to remember that every tax incentive agreement entered into is made in conjunction with new property investment being committed to the State of Ohio. New employment positions created and/or employment positions retained are also part of the requirements for a tax incentive agreement. The number of agreements entered into in 2010, one of the smaller annual values when looking at the program's history, still represents an increase from the number executed in 2009. Every one of these new agreements includes new investment that should result in additional property taxes. Furthermore, these agreements will result in the retention of existing jobs while promoting economic stability within the State of Ohio. Finally, the creation of new jobs in conjunction with the agreements provides not only additional opportunities for the residents of the State of Ohio, but generates new income tax revenue through municipal income tax and public school income tax, where applicable.

The 2010 Enterprise Zone Program Annual Report illustrates that while challenges still exist for Ohio's economy, companies are continuing to make and deliver on significant capital investment commitments as well as job and payroll commitments and demonstrates the role of the Enterprise Zone Program in promoting growth. For companies, the program provides a tax exemption that can increase cash flow and available equity, which in turn can be invested to generate further growth. For the local and county jurisdictions, the program can encourage business location and expansion projects that can increase the tax base through property tax and, in municipalities, the income tax.