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(As Passed by the General Assembly)

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Effective date: *

ACT SUMMARY

- Makes miscellaneous changes to the County Credit Card Law.
- Authorizes boards of county commissioners to approve the use of procurement cards for certain work-related expenses.
- Changes the provision pertaining to the exemption of county expenditures from the certification of available funds requirement by removing the limitation on an authorizing resolution to "the current fiscal year" and by increasing the amount for which purchases may be authorized from \$750 or less to \$1,000 or less.
- Authorizes a board of county commissioners to provide for pre-tax payroll deductions for certain county employee transportation expenses.
- Expands the investing authority of county treasurers with respect to inactive moneys and securities lending agreements.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

- Permits townships to dispose of unneeded, obsolete, or unfit for use property with a fair market value in excess of \$2,500 by sale by sealed bid to the highest bidder.
- Exempts certain township road projects from the force account assessment form requirement.
- Specifies that employees (1) who are employed by a related member of a taxpayer engaged in the enrichment and commercialization of uranium and (2) whose employment is shifted to the taxpayer after the taxpayer is approved for a job creation tax credit, are "new employees" whose income tax withholdings are to be considered in calculating the taxpayer's job creation tax credit.
- Extends the maximum term of an enterprise zone tax exemption from ten years to 15 years if the project that is part of an enterprise zone agreement involves the enrichment and commercialization of uranium or uranium products or related research and development activities, if the board of education affected by the exemption approves a number of years in excess of ten, and if the project that is part of the agreement includes a fixed asset investment of at least \$100 million or the Director of Development determines that there are extraordinary circumstances involved.
- Requires generally that the Director of Development adopt rules necessary to implement and administer the enterprise zone program.
- Authorizes a political subdivision to enter into an agreement with any taxing unit whereby the political subdivision agrees to compensate the taxing unit for tax revenue foregone by the taxing unit as a result of real or tangible personal property tax exemptions granted by the political subdivision for the purpose of fostering economic development, and also permits the owner of the exempted property to enter into an agreement to compensate the taxing unit.

TABLE OF CONTENTS

| | |
|---|---|
| County-related provisions | 3 |
| Use of county credit cards | 3 |
| Use of county procurement cards | 5 |
| Changes to Certification of Available Funds Law | 8 |



| | |
|--|----|
| County payroll deduction..... | 9 |
| Investment authority of county treasurers..... | 9 |
| Township-related provisions | 10 |
| Disposition of unneeded, obsolete, and unfit for use property..... | 10 |
| Township force account road projects..... | 11 |
| Economic development-related provisions | 11 |
| Job creation tax credit | 11 |
| Enterprise zones..... | 12 |

CONTENT AND OPERATION

County-related provisions

Use of county credit cards

Continuing and former law. Under continuing law, a credit card held by a board of county commissioners or other county appointing authority may be used by officers or employees of the appointing authority if the appointing authority has applied for and received authorization from the board of county commissioners (sec. 301.27(C)). Under former law, the card could be used only to pay for work-related expenses for food, transportation, gasoline and oil, minor motor vehicle maintenance, emergency motor vehicle repair, telephones, lodging, Internet service providers, and specified purchases of a public children services agency; the act modifies these work-related purposes as explained below (sec. 301.27(B)). The debt incurred from an authorized use of a card formerly had to be paid from "moneys appropriated to the appointing authority" for these work-related purposes (sec. 301.27(D)).

Former law provided that every officer or employee authorized to use a county credit card generally had to submit to the board of county commissioners a monthly estimate of anticipated expenses or an estimate for a longer period of time that the board authorized by resolution. The board could authorize an amount up to that estimated amount and then had to certify that authorized amount to the county auditor and provide accompanying information so the auditor could determine the appropriate appropriation line item for the expenses. After the board received certification from the county auditor that the approved sum of money was in the treasury or in the process of collection to the credit of the appropriate appropriation line item for which the credit card was approved for use, and was free from previous and then-outstanding obligations or certifications, it had to authorize the officer or employee to incur debt for the authorized amount. (Sec. 301.27(E)(1).) These preauthorized spending limit provisions are generally continued by the act.

In lieu of the procedure set forth above for establishing a preauthorized spending limit, former law permitted a board of county commissioners to authorize, by resolution, an officer or employee of an appointing authority to use a county credit card to pay for specific classes of the work-related expenses, or to use a specific credit card for any of those expenses. Use of any credit card under this alternative procedure was limited to the amount appropriated and encumbered in a specific appropriation line item for the permitted use or uses designated in the authorizing resolution, or, in the case of a resolution that authorized use of a specific credit card, for each of the permitted uses, but only to the extent the moneys in those appropriations were not otherwise encumbered. (Sec. 301.27(E)(2).) These alternative procedure provisions also are generally continued by the act.

Under former law, when a county credit card was used for more than a preauthorized amount, an appointing authority could request the board of county commissioners to authorize the excess expenditure "after the fact" if the county auditor certified that the sum of money was in the treasury or in the process of collection to the credit of the appropriate appropriation line item for which the credit card was used, and was free from previous and then-outstanding obligations or certifications; the act maintains these "after the fact" authorization provisions (sec. 301.27 (F)(1)). However, under former law, if the alternative procedure was used for more than the amount appropriated, an appointing authority could request the board to issue a supplemental appropriation or make a transfer of funds to the proper line item account to cover the excess charge; the act eliminates this supplemental appropriation-transfer of funds authority as explained below (sec. 301.27(F)(2)).

Further, under former law, if these procedures were not followed, specified liabilities applied for an overcharge, and the person liable was required to reimburse the county treasury within 30 days after the issuance of written notice or face a civil law suit to recover the overcharge; the person also could have faced criminal prosecution for the unauthorized use (sec. 301.27(F)(1)(a) and (b), (2)(a) and (b), and (4) and (G)). The act maintains these liability provisions for the most part.

Finally, under former law, if a county officer or employee who was authorized to use a county credit card suspected the loss, theft, or possibility of unauthorized use of the card, the officer or employee had to notify his or her appointing authority or the board of county commissioners immediately and in writing (sec. 301.27(F)(3)). The act expands this duty as explained below.

Changes made by the act. The act removes "minor motor vehicle maintenance" from the list of permissible work-related expenses for which a county credit card may be used and instead lists "motor vehicle repair and

maintenance expenses." It also removes emergency motor vehicle repair expenses from the list. (Sec. 301.27(A)(3) and (B)(1)(d).)

Under the act, if a county officer or employee submits a monthly estimate of anticipated work-related expenses under the law's preauthorized spending limit provisions for county credit cards, the officer or employee also must submit the *specific appropriation line items* from which those expenses are to be paid. After the board of county commissioners receives certification from the county auditor that the determined sum of money is in the treasury or in the process of collection to the credit of the specific appropriation line items for which the credit card's use is approved, and is free from previous and then outstanding obligations or certifications, the board must authorize the officer or employee to incur debt up to the authorized amount. (Sec. 301.27(E)(1).)

Also, under the act, if the alternative procedure provisions for the authorization of county credit card use are followed and a county credit card is used for more than the amount appropriated, the appointing authority no longer can request, and the board of county commissioners *no longer can make*, a *supplemental appropriation or a transfer of funds* to cover the amount charged beyond the amount appropriated for the use of that card. Instead, under the act the county treasury must be reimbursed in the manner provided by continuing law for reimbursement when the board chooses not to make a requested supplemental appropriation or transfer of funds to cover the excess charges. (Sec. 301.27(F)(2).)

In miscellaneous related county credit card changes, the act excludes "procurement cards" from the definition of a county "credit card" and provides that no late or finance charges can be allowed as an allowable expense unless authorized by the board of county commissioners (sec. 301.27(A)(1) and (B)(2)). (See "*Use of county procurement cards*," below.) It also (1) substitutes throughout the County Credit Card Law references to "specific appropriation line items" for former law's "appropriations," (2) requires officer or employee written notices of suspected loss, theft, or possible unauthorized use of a credit card to be given additionally to the county auditor, and (3) requires the board of county commissioners to additionally notify the county auditor of necessary reimbursements to the county treasury due to overcharges (sec. 301.27(D), (E)(2), and (F)(3) and (4)).

Use of county procurement cards

Authorization procedure and use. The act authorizes a board of county commissioners to authorize, by resolution, the use of a county "procurement card" for work-related expenses. A "procurement card" is defined generally as a financial transaction device authorized by the act's County Procurement Card Law,

but the term excludes any credit card authorized by the County Credit Card Law.¹ Similar to a county credit card, however, late or finance charges cannot be allowed as allowable expenses with respect to a procurement card unless authorized by the board of county commissioners. (Sec. 301.29(A)(2), (B), and (C)(1).)

In any county that chooses to use procurement cards, the board of county commissioners must adopt, by resolution and with the advice of the county auditor, a policy for the county's use of those cards. The resolution must include provisions that limit the use to payment for one or more specific work-related or specific classes of work-related expenses, and that limit transactions to a specific number per day, month, quarter, or other specified period, by supplier or work-related expense. In addition, the resolution must limit a procurement card to daily and monthly spending limits, and must contain a list of administrative controls that the board determines, after consulting with the county auditor, will be sufficient for use of a procurement card. Those administrative controls must include at least the following: (1) an aggregate amount that may be incurred through use of each card within a day, week, or month, (2) classes of permissible goods and services that may be purchased with a card, and (3) a procedure for the revocation of a card if it is misused. (Sec. 301.29(C)(1).)

Under the act, a county appointing authority may apply to the board of county commissioners for authorization to have an officer or employee of the appointing authority use a procurement card held by that appointing authority. The authorization request must state whether the card is to be issued only in the name of the office of the appointing authority or whether it also must include the name of a specified officer or employee. (Sec. 301.29(D).)

The act contains a procedure for obtaining approval of spending amounts that generally is similar to that set forth in the County Credit Card Law except that for procurement cards the monthly or other period estimate of work-related expenses need not be accompanied by the specific appropriation line items from which those expenses are to be made (sec. 301.29(F)(1)).

An alternative procedure is authorized for a board of county commissioners to adopt a resolution authorizing an officer or employee of an appointing authority to use a county procurement card to pay for specific classes of work-related expenses, or use a specific card for any work-related expenses, without submitting an estimate of those expenses as required for a preauthorized spending limit. Before adopting the resolution, the board must notify the county auditor. The resolution must specify whether the officer's or employee's exemption extends to

¹ A "financial transaction device" is a credit card, debit card, charge card, or prepaid or stored value card (sec. 301.28--not in, but referred to in, the act).

the use of a specific procurement card, identified by its number, or to one or more specific work-related uses. The act's procedures for a preauthorized spending limit must be followed before any procurement card issued for specific uses may be used to make purchases for uses other than the specific uses listed in the resolution or the use will be considered an unauthorized use. Use of a procurement card under this alternative procedure must be limited to the amount appropriated and encumbered in a specific appropriation line item for the permitted use or uses designated in the authorizing resolution, or, in the case of a resolution that authorizes use of a specific procurement card, for any work-related expense, but only to the extent the moneys in those specific appropriation line items are not otherwise encumbered. (Sec. 301.29(F)(2).)

The act provides similar authority to that in the County Credit Card Law before the act's effective date, for obtaining "after the fact" approval, supplemental appropriations, or transfers to specific appropriation line items when expenses incurred by use of a county procurement card are in excess of authorized or appropriated amounts. (See "*Use of county credit cards--Continuing and former law*," above.) In addition, the act specifies identical liabilities for specified persons for any amounts charged on a procurement card beyond the originally authorized or appropriated amount, and the same criminal penalty for an unauthorized use. (Sec. 301.29(G)(1) and (2) and (H).) The County Credit Card Law and the County Procurement Card Law include similar provisions for notification to the county auditor and either the officer's or employee's appointing authority or the board of county commissioners of loss, theft, or possible unauthorized use of a card and for notification by the board of liability to reimburse the county treasury for an overcharge; the County Procurement Card Law also refers, however, to the unlawful use of a card in its provisions (sec. 301.29(G)(3) and (4)).

As under the County Credit Card Law, the debt incurred as a result of the use of a county procurement card must be paid from moneys appropriated to the specific appropriation line items of the appointing authority (sec. 301.29(E)).

Internal accounting controls. The act requires the county auditor to develop internal accounting controls in consultation with the Auditor of State for the implementation of the County Procurement Card Law (sec. 301.29(C)(2)).

Request for proposals to issuers of procurement cards. The act requires a board of county commissioners to advertise a request for proposals from issuers of procurement cards. The request for proposals must be advertised in a newspaper of general circulation within the county at least once a week for two consecutive weeks. The advertisement must specify the purpose of the request, the type of procurement card or cards sought, and the date by which proposals must be

received. That date must not be less than ten days after the last day of the second week in which the request is advertised. (Sec. 301.29(C)(3).)

The act allows a board to post the advertisement on the county web site on the Internet. If it is so posted, the board may eliminate the otherwise required second newspaper publication if the first newspaper notice (1) is published at least two weeks before the date required for receipt of the proposals, (2) includes a statement that the notice is posted on the county web site on the Internet, (3) provides the county Internet address, and (4) provides instruction for accessing the advertisement on the county web site. (Sec. 301.29(C)(3).)

A board must determine, upon the advice of the county auditor and the county treasurer, whether to contract with any one or more issuers that submit a timely proposal. Before entering into a contract, the board must adopt a resolution stating the contract's intent and guidelines consistent with the act's requirements and the internal accounting controls for county procurement cards. (Sec. 301.29(C)(3).)

Competitive bidding requirements preserved. The act provides that a county procurement card cannot be used in any manner to circumvent the competitive bidding requirements of continuing law (sec. 301.29(F)(3)).

Conforming change to the Criminal Code. Because continuing law and the act subject a person to potential criminal prosecution for the offense of "misuse of credit cards" if there is an unauthorized use of a county credit card (continuing law) or a county procurement card (added by the act), the act changes the definition of "credit card" in the Criminal Code's Theft Offenses Law to include county procurement cards authorized by the act (sec. 2913.01(U) and related secs. 301.27(G), 301.29(H), and 2913.21 (not in, but referred to in, the act)).

Changes to Certification of Available Funds Law

Under former law, a board of county commissioners annually could adopt a resolution exempting for the current fiscal year county purchases of \$750 or less from the requirement that a certificate be attached to any contract or order involving the expenditure of money. The act increases to \$1,000 or less the amount for which purchases may be authorized to be made without the certificate of available funds. It also removes the requirement that an authorizing resolution be adopted only for the current fiscal year, thereby apparently authorizing a resolution for an unlimited period of time. (Sec. 5705.41(D)(2).)

Under former law, a person authorized to make a county purchase in a county that had adopted such a resolution was required to prepare and file with the county auditor, within three business days after incurring an obligation not requiring a certificate, a written document specifying the purpose and amount of

the expenditure, the date of the purchase, the name of the vendor, and any additional information the Auditor of State prescribed. The act allows for the notice to be sent within that three-business-day period or any other period of time the board of county commissioners specifies in the resolution and also allows it to be made by an electronically transferred document. And, under the act, the notice additionally must include the specific appropriation line items from which the expenditures are to be made. (Sec. 5705.41(D)(2).)

County payroll deduction

The Internal Revenue Code permits certain employee fringe benefits to be excluded from gross income (a pre-tax deduction). Among those benefits is any "qualified transportation fringe" within specified dollar limits. A "qualified transportation fringe" is any employer-provided transportation in a commuter highway vehicle if the transportation is in connection with travel between the employee's residence and place of employment, any transit pass, or, in general, parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by mass transit, in a commuter highway vehicle, or by carpool. (26 U.S.C.A. 132.)

The act explicitly authorizes a board of county commissioners to adopt a resolution authorizing a payroll deduction benefit program to implement this fringe benefit for county employees, but only insofar as it applies to parking and transit passes. If the program includes a parking benefit for parking at a facility that is not owned by the county, the county must require a third-party administrator to administer the program for the county, unless, on or before the act's effective date, the county already provides such a parking benefit for which it is acting as the administrator. (Sec. 9.361.)

The board's resolution must provide a process whereby any county officer or employee may participate in or withdraw from the program upon the filing of a written application. Upon appropriate written authorization, the county auditor must make the appropriate payroll deductions and issue warrants as required by the program. (Sec. 9.361.)

Investment authority of county treasurers

Under continuing law, the county treasurer ("investing authority") must deposit or invest any part or all of the county's inactive moneys and is limited to depositing or investing them in securities and obligations listed in the Public Depositories for County Funds Law. Among those permitted deposits and investments under former law was a securities lending agreement with any eligible institution that was a member of the Federal Reserve System or Federal Home Loan Bank under the terms of which the county treasurer lent securities and the eligible institution agreed to simultaneously exchange either (1) specified federal

government securities, (2) cash, or (3) both those securities and cash, equal value for equal value. (Sec. 135.35(A)(7).)

The act continues to permit county treasurers to invest county inactive moneys in security lending agreements with any eligible institution that is a member of the Federal Reserve System or Federal Home Loan Bank but adds, as permissible investments, security lending agreements with a *recognized United States government securities dealer*.² The act also permits *any* "similar" securities or cash to be exchanged by an eligible institution or dealer under a securities lending agreement, instead of only specified federal government securities or cash as under former law, and it no longer permits an exchange of both securities and cash. The act further provides that cash or securities received as collateral by a county under a securities lending agreement are not "inactive moneys" of the county, and it places limitations on the investment of cash received as collateral--it may be invested only in instruments specified by the county treasurer in a written investment policy that is generally required by law and must be filed with the Auditor of State. (Sec. 135.35(A)(7), (J)(1), and (K)(1).)

Township-related provisions

Disposition of unneeded, obsolete, and unfit for use property

Under former law, a board of township trustees could dispose of township real and personal property that was not needed for public use, was obsolete, or was unfit for use by the following methods (sec. 505.10 and secs. 505.101 and 505.102 (not in the act)):

(1) If the property's fair market value, in the opinion of the board, was in excess of \$2,500, by a sale at a public auction following specified published and posted public notification;

(2) If the property's fair market value was \$2,500 or less, at a private sale without advertisement or public notification;

(3) For personal property, irrespective of the property's fair market value, by sale by Internet auction conducted in a specified manner;

(4) For motor vehicles and road equipment, by sale to a person or firm from which the board proposed to purchase other motor vehicles or road equipment, with the sale price credited toward that purchase;

² *These security dealers apparently must be members of the National Association of Securities Dealers (sec. 135.35(J)(1)).*

(5) For real property, by a transfer to any other political subdivision of this state, and for materials, equipment, and supplies, by a sale to another political subdivision or a state department or agency, upon terms agreed to by the parties;

(6) For real property, by a sale or other transfer to any nonprofit senior citizens' organization for specified purposes upon terms agreed to by the parties;

(7) For real property, upon a unanimous vote of the board, by a sale or other transfer to any person upon whatever terms were agreed to;

(8) For personal property that was determined to have no value, by discarding or salvaging it.

The act generally maintains these methods but adds another option for the sale of property with a fair market value over \$2,500: by sealed bid to the highest bidder. If there is to be a sale by sealed bid, the board of township trustees may reject all bids and hold another sale, by public auction or sealed bid. A sale by sealed bid must follow (1) public notification as prescribed in continuing law for sales of property with a fair market value over \$2,500 and (2) certain other procedures specified in the act. (Sec. 505.10(A)(1).)

Township force account road projects

Continuing law permits a board of township trustees to maintain and repair roads by either contract or force account. Under former law, however, if a township wished to proceed by force account, it *first* had to have the county engineer complete a force account assessment form developed by the Auditor of State to determine compliance with force account limits. (Sec. 5575.01.)

The act provides that a force account assessment form is not required for any township road maintenance or repair project of less than \$15,000, or township road construction or reconstruction project of less than \$5,000 per mile. Thus, a township could proceed under the act with a township road maintenance or repair project by force account without *ever* having the county engineer complete such a form if the project's cost is less than \$15,000. (Sec. 5575.01(A) and (C).)

Economic development-related provisions

Job creation tax credit

Background. Under continuing law, Ohio's Tax Credit Authority may enter into agreements with employers whereby the employer agrees to increase employment in Ohio in exchange for tax credits against the corporation franchise tax (corporations) or the personal income tax (owners of most partnerships, limited liability companies, S corporations, and sole proprietorships). The amount of the



tax credit is equal to a percentage (determined by the Authority) of the "new income tax revenue," which is the total amount of income tax withheld by the taxpayer from the compensation of "new employees."

Under former law, "new employee" did not include any employee of the taxpayer who was previously employed in Ohio by a related member of the taxpayer and whose employment was shifted to the taxpayer after the taxpayer entered into the tax credit agreement or after the Authority approved the credit in a public meeting.³ Thus, under former law, a job creation tax credit could not be based upon employment positions transferred to the taxpayer from businesses related to the taxpayer. These provisions generally continue under the act, subject to the exception described below.

Taxpayers engaged in enrichment and commercialization of uranium authorized to include employees of related members in calculation of credit.

Under the act, if the Authority determines it is appropriate, a taxpayer that is engaged in the enrichment and commercialization of uranium or uranium products or that is engaged in research and development activities related to the enrichment and commercialization of uranium or uranium products may include employees shifted from related members as "new employees" for purposes of calculating the job creation tax credit. Income tax withheld from compensation paid to these employees is to be included in the "new income tax revenue" that forms the basis for calculating the tax credit. Employment positions shifted from related members continues to be excluded when calculating the job creation tax credit for taxpayers that are not involved in the enrichment and commercialization of uranium or uranium products. (Sec. 122.17.)

Enterprise zones

Background. Legislative authorities of municipal corporations and boards of county commissioners may designate certain economically depressed areas

³ Generally speaking, a "related member" is a business entity (corporate or noncorporate) that substantially owns, or is substantially owned by, a corporation, either through direct ownership or through a chain of other business entities. Specifically, a related member is any of the following: (a) an individual owning at least 50% of the corporation's stock (alone or together with his or her family members), (b) an individual's corporation, partnership, trust, or estate that, considered as a group, owns at least 50% of the corporation's stock, (c) a second corporation owning at least 50% of the corporation's stock, including any third entity related to the second corporation in such a way that federal law would attribute ownership of the second corporation to that entity, or vice-versa, if federal law were modified to require a 20% rather than 5% share ownership threshold, or (d) a second corporation related to the corporation through the common ownership or control of each corporation's stock through one or more other corporations (with 80% stock ownership generally constituting ownership or control).

within their political subdivision as "enterprise zones." If the Director of Development certifies a proposed enterprise zone, a municipal corporation or county is permitted to enter into agreements with businesses for the purpose of fostering economic growth and development in the zone. Under an enterprise zone agreement, a business agrees to undertake specified measures to economically develop the zone in exchange for certain "incentives," which can include tax relief in the form of a tax exemption of a specified percentage of the taxable value of real or tangible personal property located in the zone.

Under former law, a municipal corporation or county could agree to provide these tax exemptions for a period no longer than ten years.

Finally, a business that qualifies for one of these tax incentives and who satisfies additional employment requirements may apply under continuing law to the Director of Development for a tax incentive qualification certificate demonstrating its entitlement to additional state income tax or corporation franchise tax incentives.

Maximum term of enterprise zone tax incentives extended. The act extends the period for which a municipal corporation or county may agree to provide tax exemptions to businesses that develop an enterprise zone from ten years to 15 years, provided that certain conditions are satisfied. First the project that is part of the enterprise zone agreement must involve the enrichment and commercialization of uranium or uranium products or research and development activities related to that enrichment and commercialization. Second, the board of education of the city, local, or exempted village school district within the territory in which the exempted property is or will be located must approve a number of years in excess of ten. Third, the project that is part of the agreement must include a "fixed asset investment" of at least \$100 million or the Director of Development must determine that there are "extraordinary circumstances." The act neither defines the term "fixed asset investment" nor specifies the "extraordinary circumstances" that would warrant a fixed asset investment of less than \$100 million. (Secs. 5709.62(D)(2) and 5709.63(C)(1)(b).)

The act describes the process by which a city, local, or exempted village school district may approve a tax exemption with a term longer than ten years. First, the legislative authority of the political subdivision that wishes to enter into the enterprise zone agreement must provide the school district's board of education with notice of the exemption at least 45 days before approving the agreement. The notice must state the percentage of taxable value to be exempted, an estimate of the property's true value, and the number of years the property is to be exempted. Then, the board of education, by resolution adopted by a majority of the board, must approve or disapprove the agreement and certify a copy of the resolution to the legislative authority at least 14 days before the legislative authority formally

considers the agreement. The board of education may include in its resolution conditions under which the board would approve the agreement, including the execution of an agreement to compensate the school district (see "Compensation of taxing units for foregone tax revenue," below). (Secs. 5709.62(D)(3), 5709.63(C)(1)(c), and 5709.82.)

Director of Development's rulemaking responsibilities extended. Former law required the Director of Development to adopt rules governing the Director's certification of enterprise zones and the issuance of tax incentive qualification certificates. The act removes the references to these specific aspects of the Enterprise Zone Law and provides, more generally, that the Director is to adopt rules necessary to implement and administer the enterprise zone program. (Sec. 5709.67.)

Compensation of taxing units for foregone tax revenue. Continuing law authorizes, but does not require, the legislative authority of a political subdivision to enter into an agreement with a board of education whereby the political subdivision agrees to compensate the school district for tax revenue foregone by the district as the result of certain real or tangible personal property tax exemptions granted by the political subdivision for the purpose of fostering economic growth and development. The act extends this authority by permitting a political subdivision to enter into these agreements with other taxing units that have foregone tax revenue as the result of those exemptions. Specifically, under the act, a political subdivision may, but is not required to, enter into an agreement to compensate any political subdivision or other governmental district having authority to levy taxes on the exempted property in the district. (Sec. 5709.82(A)(3) and (B)(1).)

Further, the act provides that the owner of the property exempted from taxation may, by becoming a party to a compensation agreement between a political subdivision and a taxing unit or by entering into a separate agreement with the taxing unit, agree to compensate the taxing unit for tax revenue foregone by the taxing unit as a result of the owner's exemption. The owner can agree to compensate the taxing unit by paying cash to the taxing unit or by providing it with property or services by gift, loan, or otherwise. (Sec. 5709.82(B)(2).)

If a political subdivision enters into multiple compensation agreements with respect to a particular tax exemption, the political subdivision must provide to each taxing unit with which it contracts the same percentage of tax revenue foregone by the taxing unit, unless the taxing unit expressly agrees to receive a smaller percentage. This percentage includes any amounts paid by the owner of the exempted property to the taxing unit. So, for example, if a political subdivision enters into an agreement to compensate a school district for 50% of the tax revenue foregone by the school district as the result of a tax exemption, the

political subdivision cannot enter into an agreement to compensate any other taxing unit for less than 50% of the tax revenue foregone by the taxing unit as the result of that tax exemption unless that taxing unit expressly agrees to accept less than 50%. However, if the owner of the exempted property is compensating the taxing unit, the percentage required to be compensated by the political subdivision would be reduced by the percentage of foregone tax revenue being compensated by the owner. (Sec. 5709.82(B)(1).)

The amount of tax revenue that a political subdivision agrees to compensate a taxing unit may be based upon good faith projections as to how much revenue will be foregone by the taxing unit in the future or may be based upon an amount that the parties know the taxing unit has already foregone. Thus, a political subdivision and a taxing unit may enter into an agreement under which the taxing unit is immediately compensated for a percentage of the tax revenue that the taxing unit expects to forego, or, alternatively, the parties may enter into an agreement under which payment to the taxing unit is postponed until the actual amount of foregone tax revenue is known. (Sec. 5709.82(B)(1).)

HISTORY

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