



Ohio Legislative Service Commission

Bill Analysis

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Sub. H.B. 289*

130th General Assembly
(As Reported by S. Finance)

Reps. Schuring, Beck, Brenner, Grossman, Henne, Hood, McGregor, Hackett, Amstutz, Blair, Boose, Brown, Burkley, Duffey, Green, C. Hagan, Hayes, Hottinger, Huffman, Letson, McClain, O'Brien, Romanchuk, Ruhl, Scherer, Sheehy, Smith, Thompson, Batchelder

BILL SUMMARY

- Renames municipal-only joint economic development zones (JEDZs) "municipal utility districts" (MUDs).
- Terminates, on January 1, 2015, the authority of municipal corporations, or of municipal corporations and townships, to submit a new alternative JEDZ contract to the electors or to substantially amend an existing alternative JEDZ contract.
- Expressly requires subdivisions that enter into or substantially amend an alternative JEDZ contract between the bill's effective date and December 31, 2014, to create and include an economic development plan for the zone and a schedule for implementation of new or expanded services, facilities, or improvements.
- Requires that at least 50% of any income tax revenue generated within an alternative JEDZ created after the bill's effective date be used for the new or expanded services, facilities, or improvements until they have been completed.
- Requires subdivisions that enter into or substantially amend an alternative JEDZ contract between the bill's effective date and December 31, 2014, to create a review council to review the economic development plan for the zone.
- Requires that the council be composed of the county auditor, owners of the four businesses that employ the most persons within the JEDZ, a person affiliated with an economic development organization, and a member of the public.

* This analysis was prepared before the report of the Senate Finance Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Requires the council to hold at least one public meeting before voting on the economic development plan and to allow time at that meeting for the contracting subdivisions and members of the public to present testimony.
- Requires subdivisions that have submitted a proposed JEDZ contract to a board of elections for submission to the electors at an election occurring after the bill's effective date to recall the JEDZ contract and comply with the bill's new procedures and requirements.
- Declares an emergency.

CONTENT AND OPERATION

JEDZ overview

Joint economic development zones (JEDZs) are territorial regions created by two or more municipal corporations, or one or more municipal corporations and one or more townships, to "facilitate new or expanded growth for commercial or economic development in the state."¹

There are two statutory procedures for creating a JEDZ. The "municipal-only" procedure is available only to municipal corporations. Municipal-only JEDZs are governed by the municipal corporations that are parties to the JEDZ contract. The contract must specify the contributions that each contracting municipal corporation will make to the JEDZ. The contributions may include the provision of services, money, or equipment. The municipal corporation in which a municipal-only JEDZ is located may levy an income tax within the JEDZ. However, the creation of a municipal-only JEDZ does not empower the contracting municipal corporations to levy an income tax in an unincorporated area or levy an income tax within the JEDZ at a different rate than is levied throughout the rest of the municipal corporation.²

The "alternative" JEDZ procedure applies to combinations of municipal corporations or of townships and municipal corporations. Alternative JEDZs are governed by a board of directors appointed by the contracting subdivisions. As with the "municipal-only" JEDZ, the contracting subdivisions may contribute services, money, or equipment to the "alternative" JEDZ. In addition, the board of directors of the JEDZ may levy an income tax within the JEDZ, including unincorporated township territory, at a

¹ R.C. 715.69(B).

² R.C. 715.69.

rate not exceeding the highest rate levied by a municipal corporation that is a party to the JEDZ contract.³

Municipal utility districts

The bill renames municipal-only JEDZs "municipal utility districts" (MUDs). The powers and functions of MUDs are identical to those granted to municipal-only JEDZs under current law, but a new Revised Code section (R.C. 715.84) is designated to describe those powers and functions. MUDs are not subject to the bill's new requirements for alternative JEDZs. As such, a municipal corporation may create a MUD without submitting an economic development plan to a review council for approval.⁴

Prohibition of future alternative JEDZs

The bill terminates, effective January 1, 2015, the authority of municipal corporations and townships to submit a new alternative JEDZ to the electors or substantially amend an existing alternative JEDZ. This prohibition does not apply to municipal-only JEDZs. Municipal corporations may substantially amend existing municipal-only JEDZs under authority of R.C. 715.84 and may create new MUDs, which are identical to municipal-only JEDZs, pursuant to that section. The bill also preserves alternative JEDZs created on or before December 31, 2014, but restricts the types of amendments that may be made to such JEDZ contracts after that date. Since there is no statutory limit on the duration of a JEDZ contract, an existing alternative JEDZ could continue to operate for an indefinite period of time so long as the contract does not require substantial amendment after December 31, 2014.⁵

For the purposes of the bill, a "substantial amendment" is any change to the JEDZ contract that increases the rate of municipal income tax that may be imposed within the zone, changes the purposes for which municipal income tax may be used, or changes the area or areas included within the zone. Other changes to the contract, such as those pertaining to the composition of a board of directors, the contributions of the contracting subdivisions, or the subdivisions that are parties to the contract do not invoke the bill's restrictions.⁶

³ R.C. 715.691.

⁴ R.C. 715.84.

⁵ R.C. 715.69(B) and (J) and 715.691(B) and (K).

⁶ R.C. 715.69(A)(5), 715.691(A)(3), and 715.692(A)(8).

Requirements for newly created or amended alternative JEDZs

The bill imposes several new procedural requirements for subdivisions entering into or substantially amending an alternative JEDZ contract between the bill's effective date and December 31, 2014 (the bill's cutoff date for creating or substantially amending an alternative JEDZ contract). The bill's requirements apply to all alternative JEDZ contracts (other than contracts entered into by "impacted cities") that have not yet been approved by electors. A subdivision that has submitted such a contract to the board of elections is required to recall the contract and comply with the additional procedures prescribed by the bill.⁷

Economic development plan

The bill requires such an alternative JEDZ contract to include an economic development plan for the zone created by the contract. The economic development plan must include a schedule for the implementation or provision of any new, expanded, or additional services, facilities, or improvements within the JEDZ or the area surrounding the JEDZ.⁸ The economic development plan is subject to the approval of the joint economic development review council for the JEDZ (see below).⁹

Current law requires such an economic development plan to be available for public inspection before the JEDZ is created but does not expressly call for the plan to be incorporated into the contract.

Use of income tax revenue

The bill requires the board of directors of an alternative JEDZ to use at least 50% of the income tax revenue derived from the JEDZ to provide the new, expanded, or additional services, facilities, or improvements specified in the economic development plan. This limitation on revenue use applies until all of the services, facilities, or improvements have been completed as specified in the economic development plan.¹⁰

Current law does not expressly require any of the income tax revenue to be used to fulfill the economic development plan.

⁷ R.C. 715.692(G).

⁸ R.C. 715.69(C) and 715.691(C).

⁹ R.C. 715.692(D).

¹⁰ R.C. 715.691(H).

Creation of a joint economic development review council

The bill requires the contracting subdivisions to appoint a joint economic development review council for the purposes of reviewing the economic development plan included in the zone contract or amendment to the zone contract. The contracting subdivisions may not adopt ordinances or resolutions approving the contract or the amendment before the council votes to approve the economic development plan.¹¹

Composition of the council

Generally, the joint economic development review council consists of seven members. The council is chaired by the county auditor of the county in which the largest portion of the territory of the JEDZ is located.¹² The remaining members of the council are appointed by the contracting subdivisions.

One of the appointed members must be an individual affiliated with an economic development organization that provides services for, or advocates on behalf of, businesses operating within the JEDZ. (A business "operates within" the JEDZ if the net profits of the business or the income of employees of the business would be subject to an income tax levied within the JEDZ.) If there are no businesses operating within the JEDZ, the appointee must represent an economic development organization that provides services for businesses operating in the area surrounding the JEDZ.¹³

One member of the council must be a member of the public. The contracting subdivisions may appoint this council member in any manner they agree to.¹⁴

Up to four of the appointed council members are to be owners of businesses operating within the JEDZ or individuals designated by such owners to serve on their behalf. ("Business" includes nonprofit organizations and governments; their "owners" include officers, employees, or agents authorized to act on their behalf.) The contracting subdivisions must first appoint the owners of the four businesses that employ the most persons within the JEDZ. If one or more of these owners is unwilling or unable to serve on the council, the contracting subdivisions must appoint the owner of the business that employs the next most number of persons within the JEDZ, and so on until each of the

¹¹ R.C. 715.692(B).

¹² R.C. 715.692(C)(1).

¹³ R.C. 715.692(C)(2)(a).

¹⁴ R.C. 715.692(C)(2)(b).



four positions is filled. No business may have more than one owner or designee serving as a member of the council at the same time.¹⁵

If there are not enough owners of businesses operating within the JEDZ who will accept an appointment to the council, the contracting subdivisions are required to appoint the record owner of the parcel or parcels with the greatest aggregate assessed value within the JEDZ or an individual designated to serve on the record owner's behalf. If the record owner is unwilling or unable to serve on the council, the contracting subdivisions are required to appoint the record owner of the parcel or parcels with the next greatest aggregate value within the JEDZ, and so on until each of the positions are filled. If there are not enough record owners of property located within the zone who will accept an appointment or designate a person to serve on the council on their behalf, the number of members on the council is reduced accordingly.¹⁶

Duties of the council

The bill requires the joint economic development review council to review the economic development plan proposed by the contracting subdivisions for the JEDZ before the creation or substantial amendment of the JEDZ. The council must consider the question of whether the economic development plan is "in the best interest of the zone." If the council determines, by majority vote, that the plan is in the best interests of the zone, the plan is approved and the contracting subdivisions are authorized to enact ordinances or resolutions approving the JEDZ contract or the substantial amendment thereto. If the council does not approve the economic development plan, the contracting subdivisions may not create or substantially amend the JEDZ. If the council does not approve the economic development plan, the bill requires the council to provide recommendations to the contracting subdivisions as to how the plan may be modified to meet the council's approval. The recommendations must be in writing and must be sent to each contracting subdivision within 14 days after the council's vote.¹⁷

Public meeting on economic development plan

The bill requires the joint economic development review council to hold at least one public meeting before voting on whether to approve the economic development plan for the JEDZ. The chairperson of the council is required to give public notice of the time and place of that meeting in a newspaper of general circulation in the area or areas included in the zone.

¹⁵ R.C. 715.692(C)(2)(c).

¹⁶ R.C. 715.692(C)(2)(d).

¹⁷ R.C. 715.692(D)(3).

At the meeting, the council must allow time for each contracting subdivision, or a representative thereof, to present testimony on the economic development plan and on any other relevant provisions of the JEDZ contract. The council must also allow time for public comment and recommendations on the economic development plan and the JEDZ contract. The council may hold executive session in the same manner permitted for other public bodies subject to open meetings law.¹⁸

Funding the council

The bill requires the contracting subdivisions to the JEDZ to make appropriations to pay the costs incurred by the joint economic development review council in the exercise of its functions. The costs incurred by the council may not exceed \$10,000 in any year.¹⁹

Sunshine laws

Open meetings and public records laws apply to the joint economic development review council. Members of the council hold a "public office" for the purposes of Ohio ethics laws.²⁰

Dissolution of the council

The bill specifies that the joint economic development review council dissolves by operation of law upon approving the economic development plan for the JEDZ.²¹

Emergency clause

The bill declares an emergency to prevent the unfair imposition of income taxes by local governments through the use of JEDZs.²² Therefore, the bill's provisions are effective immediately upon the signature of the Governor and filing with the Secretary of State. If the bill is signed into law before August 5, 2014, any subdivision that has submitted a JEDZ contract to a county board of elections for voter approval at the August 5 election would be required to recall the contract and comply with the bill's new procedures and requirements. Such a subdivision would have one more opportunity to submit the contract to the electors at the election to be held on

¹⁸ R.C. 715.692(D)(1) and (2).

¹⁹ R.C. 715.692(F).

²⁰ R.C. 715.692(B).

²¹ R.C. 715.692(E).

²² Section 3.



November 4, 2014, presuming the subdivision is able to appoint and obtain the approval of a joint economic development review council in time.

HISTORY

ACTION	DATE
Introduced	10-08-13
Reported, H. State & Local Gov't	02-19-14
Passed House (89-8)	02-26-14
Reported, S. Finance	---

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