

HOUSE BILL No. 1665

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-13.

Synopsis: EDGE tax credits. Provides that the credit amount for the economic development for a growing economy tax credit may not exceed an amount equal to the total amount of incremental income tax withholdings attributable to employees and the amount of incremental income tax withholdings that would be collected from employees who reside in a different state, if that state has an income tax reciprocal provision under IC 6-3-5-1.

Effective: July 1, 2019.

Smaltz

January 24, 2019, read first time and referred to Committee on Ways and Means.



First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1665

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.1-13-2, AS AMENDED BY P.L.4-2005,
2 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 2. As used in this chapter, "credit amount" means
4 the amount agreed to between the corporation and applicant under this
5 chapter, but not to exceed, in the case of a credit awarded for a project
6 to create new jobs in Indiana **an amount equal to the total of the:**

7 **(1) incremental income tax withholdings attributable to the**
8 **applicant's project; and**

9 **(2) amount of incremental income tax withholdings that would**
10 **otherwise be collected by the applicant from employees who**
11 **reside in a different state, if that state has a reciprocal**
12 **provision under IC 6-3-5-1.**

13 SECTION 2. IC 6-3.1-13-17, AS AMENDED BY P.L.197-2005,
14 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2019]: Sec. 17. In determining the credit amount that should
16 be awarded to an applicant under section 15 of this chapter that
17 proposes a project to create jobs in Indiana, the corporation may take



into consideration the following factors:

- (1) The economy of the county where the projected investment is to occur.
- (2) The potential impact on the economy of Indiana.
- (3) The incremental payroll attributable to the project, **including payroll attributable to employees who reside in a different state, if that state has a reciprocal provision under IC 6-3-5-1.**
- (4) The capital investment attributable to the project.
- (5) The amount the average wage paid by the applicant exceeds the average wage paid:
 - (A) within the county in which the project will be located, in the case of an application submitted before January 1, 2006; or
 - (B) in the case of an application submitted after December 31, 2005:
 - (i) to all employees working in the same NAICS industry sector to which the applicant's business belongs in the county in which the applicant's business is located, if there is more than one (1) business in that NAICS industry sector in the county in which the applicant's business is located;
 - (ii) to all employees working in the same NAICS industry sector to which the applicant's business belongs in Indiana, if the applicant's business is the only business in that NAICS industry sector in the county in which the applicant's business is located but there is more than one (1) business in that NAICS industry sector in Indiana; or
 - (iii) to all employees working in the same county as the county in which the applicant's business is located, if there is no other business in Indiana in the same NAICS industry sector to which the applicant's business belongs.
- (6) The costs to Indiana and the affected political subdivisions with respect to the project.
- (7) The financial assistance and incentives that are otherwise provided by Indiana and the affected political subdivisions.
- (8) The extent to which the incremental income tax withholdings attributable to the applicant's project are needed for the purposes of an incremental tax financing fund or industrial development fund under IC 36-7-13 or a certified technology park fund under IC 36-7-32.

As appropriate, the corporation shall consider the factors in this section to determine the credit amount awarded to an applicant for a project to retain existing jobs in Indiana under section 15.5 of this chapter.

SECTION 3. IC 6-3.1-13-18, AS AMENDED BY P.L.86-2018,



SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 18. (a) The corporation shall determine the amount and duration of a tax credit awarded under this chapter. The duration of the credit may not exceed ten (10) taxable years. The credit may be stated as a percentage of the:

(1) incremental income tax withholdings attributable to the applicant's project; **plus**

(2) **amount of incremental income tax withholdings that would otherwise be collected by the applicant from employees who reside in a different state, if that state has a reciprocal provision under IC 6-3-5-1;** and

may include a fixed dollar limitation. In the case of a credit awarded for a project to create new jobs in Indiana, the credit amount may not exceed the ~~incremental income tax withholdings~~. **amount described in section 2 of this chapter.** However, the credit amount claimed for a taxable year may exceed the taxpayer's state tax liability for the taxable year, in which case the excess may, at the discretion of the corporation, be refunded to the taxpayer.

(b) For state fiscal year 2006 and each state fiscal year thereafter, the aggregate amount of credits awarded under this chapter for projects to retain existing jobs in Indiana may not exceed ten million dollars (\$10,000,000) per year.

(c) This subsection does not apply to a business that was enrolled and participated in the E-Verify program (as defined in IC 22-5-1.7-3) during the time the taxpayer conducted business in Indiana in the taxable year. A credit under this chapter may not be computed on any amount withheld from an individual or paid to an individual for services provided in Indiana as an employee, if the individual was, during the period of service, prohibited from being hired as an employee under 8 U.S.C. 1324a.

SECTION 4. IC 6-3.1-13-19, AS AMENDED BY P.L.145-2016, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 19. In the case of a credit awarded for a project to create new jobs in Indiana, the corporation shall enter into an agreement with an applicant that is awarded a credit under this chapter. The agreement must include all of the following:

(1) A detailed description of the project that is the subject of the agreement.

(2) The duration of the tax credit and the first taxable year for which the credit may be claimed.

(3) The credit amount that will be allowed for each taxable year.

(4) A requirement that the taxpayer shall maintain operations at



the project location for at least two (2) years following the last taxable year in which the applicant claims the tax credit or carries over an unused part of the tax credit under section 18 of this chapter. A taxpayer is subject to an assessment under section 22 of this chapter for noncompliance with the requirement described in this subdivision.

(5) A specific method for determining the number of new employees employed during a taxable year who are performing jobs not previously performed by an employee.

(6) A requirement that the taxpayer shall annually report to the corporation the number of new employees who are performing jobs not previously performed by an employee, the:

(A) new income tax revenue withheld in connection with the new employees; and

(B) new income tax revenue that would otherwise be withheld in connection with the new employees who reside in a different state, if that state has a reciprocal provision under IC 6-3-5-1; and

any other information the corporation needs to perform the corporation's duties under this chapter.

(7) A requirement that the corporation is authorized to verify with the appropriate state agencies the amounts reported under subdivision (6), and after doing so shall issue a certificate to the taxpayer stating that the amounts have been verified.

(8) A requirement that the taxpayer shall provide written notification to the corporation not more than thirty (30) days after the taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability obligations to a successor taxpayer.

(9) Any other performance conditions that the corporation determines are appropriate.

SECTION 5. [EFFECTIVE JULY 1, 2019] (a) IC 6-3.1-13-2, IC 6-3.1-13-17, IC 6-3.1-13-18, and IC 6-3.1-13-19, all as amended by this act, apply to taxable years beginning after December 31, 2019.

(b) This SECTION expires June 30, 2022.

