

AN ACT

To amend sections 1724.05, 1724.06, 1726.11, 1726.12, 5709.67, and 5709.68 of the Revised Code to modify requirements concerning the Department of Development's annual enterprise zone report, to increase the penalty assessed against municipal corporations and counties that fail to meet annual enterprise zone agreement reporting requirements from \$500 to \$1,000, and to transfer the oversight of community improvement corporations and development corporations from the Director of Development to the Auditor of State.

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

SECTION 1. That sections 1724.05, 1724.06, 1726.11, 1726.12, 5709.67, and 5709.68 of the Revised Code be amended to read as follows:

Sec. 1724.05. ~~Annually, before the thirty-first day of January, each~~ each community improvement corporation shall ~~submit a~~ prepare an annual financial report that conforms to RULES PRESCRIBED BY THE AUDITOR OF STATE PURSUANT TO SECTION 117.20 OF THE REVISED CODE, THAT IS PREPARED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, AND THAT IS CERTIFIED BY THE BOARD OF TRUSTEES OF THE CORPORATION OR ITS TREASURER OR OTHER CHIEF FISCAL OFFICER. THE FINANCIAL REPORT SHALL BE FILED WITH THE AUDITOR OF STATE WITHIN ONE HUNDRED TWENTY DAYS FOLLOWING THE LAST DAY OF THE CORPORATION'S FISCAL YEAR, UNLESS the ~~director of development~~ auditor of state EXTENDS THAT DEADLINE. THE AUDITOR OF STATE MAY ESTABLISH TERMS AND CONDITIONS FOR GRANTING ANY EXTENSION OF THAT DEADLINE ~~The director, by rule, shall establish guidelines governing the scope and frequency of audits of such corporations. Each~~ Each community improvement corporation, when required shall submit

~~to audits by the director auditor of state, shall submit an audit~~ THE SCOPE AND FREQUENCY OF WHICH SHALL BE IN ACCORDANCE WITH SECTION 117.11 OF THE REVISED CODE AS IF THE CORPORATION WERE A PUBLIC OFFICE SUBJECT TO THAT SECTION. HOWEVER, A COMMUNITY IMPROVEMENT CORPORATION MAY REQUEST IN ACCORDANCE WITH SECTION 115.56 OF THE REVISED CODE, AS IF THE CORPORATION WERE A PUBLIC OFFICE SUBJECT TO THAT SECTION, THE PERFORMANCE OF ANY OF THOSE AUDITS by a an independent certified public accountant. ~~The director~~

The auditor of state is hereby authorized to receive and file the annual financial reports required by this section and the reports of all audits performed in accordance with this section. ~~Annual reports shall cover all financial and other transactions of the corporation for the preceding year. Audits shall cover such period of time as the director specifies. The director auditor of state shall analyze the those annual financial reports and the reports of those audits to determine whether or not the activities of the community improvement corporation involved are in accordance with Chapter 1724. of the Revised Code this chapter.~~

Sec. 1724.06. If any community improvement corporation fails to prepare an annual financial report as required by SECTION 1724.05 OF THE REVISED CODE AND TO FILE THAT REPORT WITH THE AUDITOR OF STATE WITHIN NINETY DAYS OF THE TIME PRESCRIBED FOR THAT FILING BY THAT section 1724.05 of the Revised Code to submit reports or audits fails or neglects to make the annual report to the director of development as required by law for ninety days after the time prescribed by law for making such report, or fails to submit the results of an audit within ninety days of the date for submission of the audit as specified by the director, OR IF THE AUDITOR OF STATE DETERMINES BY APPLYING THE STANDARDS APPLICABLE TO A PUBLIC OFFICE UNDER SECTION 117.41 OF THE REVISED CODE THAT ANY COMMUNITY IMPROVEMENT CORPORATION CANNOT BE AUDITED AND DECLARES IT TO BE UNAUDITABLE AND THE CORPORATION FAILS TO THEN PREPARE AN ANNUAL FINANCIAL REPORT AS REQUIRED BY SECTION 1724.05 OF THE REVISED CODE AND TO FILE THAT REPORT WITH THE AUDITOR OF STATE WITHIN NINETY DAYS OF THE TIME THAT THE AUDITOR OF STATE DECLARED THE CORPORATION TO BE UNAUDITABLE, ~~the director~~ auditor of state shall certify such that fact to the secretary of state. The secretary of state then shall ~~thereupon~~ cancel the articles of the community improvement corporation involved by filing and

recording the certificate of the ~~director~~ auditor of state or a true copy ~~thereof~~ of it. ~~Thereupon all~~ All of the rights, privileges, and franchises conferred upon ~~such~~ that community improvement corporation by ~~such~~ those articles of incorporation ~~then~~ shall cease. The secretary of state shall immediately notify ~~the~~ that community improvement corporation of the action taken. Reinstatement may be accomplished within two years after ~~such~~ that cancellation upon proper filing of all delinquent annual financial reports ~~and audits~~ to the satisfaction of the ~~director~~ auditor of state and ~~the~~ filing his of the auditor of state's certificate ~~thereof~~ reflecting that satisfaction with the secretary of state, who shall be entitled to a fee of ten dollars for recording the ~~same~~ certificate in the corporate records. ~~Such~~ That filing may be made by any officer, member, creditor, receiver, lessee, or sublessee of the community improvement corporation involved, and any such person or ~~his~~ agent of any such person shall be granted access to the books and records of the corporation for ~~such~~ that purpose. The rights, privileges, and franchises of a community improvement corporation whose articles have been reinstated are subject to section 1702.60 of the Revised Code.

Sec. 1726.11. ~~Annually before the thirty first day of January, a~~ Each development corporation incorporated under ~~Chapter 1726. of the Revised Code~~ this chapter shall ~~submit a~~ prepare an annual financial report ~~that conforms~~ to RULES PRESCRIBED BY THE AUDITOR OF STATE PURSUANT TO SECTION 117.20 OF THE REVISED CODE, THAT IS PREPARED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, AND THAT IS CERTIFIED BY THE BOARD OF TRUSTEES OF THE CORPORATION OR ITS TREASURER OR OTHER CHIEF FISCAL OFFICER. THE FINANCIAL REPORT SHALL BE FILED WITH THE AUDITOR OF STATE WITHIN ONE HUNDRED TWENTY DAYS FOLLOWING THE LAST DAY OF THE CORPORATION'S FISCAL YEAR, UNLESS the director of development together with an audit by a certified public accountant and the director of development AUDITOR OF STATE EXTENDS THAT DEADLINE. THE AUDITOR OF STATE MAY ESTABLISH TERMS AND CONDITIONS FOR GRANTING ANY EXTENSION OF THAT DEADLINE.

EACH DEVELOPMENT CORPORATION SHALL SUBMIT TO AUDITS BY THE AUDITOR OF STATE, THE SCOPE AND FREQUENCY OF WHICH SHALL BE IN ACCORDANCE WITH SECTION 117.11 OF THE REVISED CODE AS IF THE CORPORATION WERE A PUBLIC OFFICE SUBJECT TO THAT SECTION. HOWEVER, A DEVELOPMENT CORPORATION MAY REQUEST IN

RDANCE WITH SECTION 115.56 OF THE REVISED CODE, AS IF THE CORPORATION WERE A PUBLIC OFFICE SUBJECT TO THAT SECTION, THE PERFORMANCE OF ANY OF THOSE AUDITS BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

~~The auditor of state is hereby authorized to receive and file the same annual financial reports required by this section and the reports of all audits performed in accordance with this section. Such reports and audits shall cover all financial and other transactions of said corporation for the preceding year. Said director of development~~ The auditor of state shall analyze ~~said~~ those annual financial reports and the reports of those audits to determine whether ~~or not~~ the activities of ~~such corporations~~ the development corporation involved are in accordance with ~~Chapter 1726. of the Revised Code this chapter.~~

Sec. 1726.12. If any development corporation fails to prepare an annual financial report as required by SECTION 1726.11 OF THE REVISED CODE AND TO FILE THAT REPORT WITH THE AUDITOR OF STATE WITHIN NINETY DAYS OF THE TIME PRESCRIBED FOR THAT FILING BY THAT ~~section 1726.11 of the Revised Code fails or neglects to make the annual report to the director of development as required by law for ninety days after the time prescribed by law for making such report,~~ OR IF THE AUDITOR OF STATE DETERMINES BY APPLYING THE STANDARDS APPLICABLE TO A PUBLIC OFFICE UNDER SECTION 117.41 OF THE REVISED CODE THAT ANY DEVELOPMENT CORPORATION CANNOT BE AUDITED AND DECLARES IT TO BE UNAUDITABLE AND THE CORPORATION FAILS TO THEN PREPARE AN ANNUAL FINANCIAL REPORT AS REQUIRED BY SECTION 1726.11 OF THE REVISED CODE AND TO FILE THAT REPORT WITH THE AUDITOR OF STATE WITHIN NINETY DAYS OF THE TIME THAT THE AUDITOR OF STATE DECLARED THE CORPORATION TO BE UNAUDITABLE, or if any ~~such~~ annual financial report discloses that ~~the~~ any development corporation has failed to begin business for a period of three years from the effective date of the filing of its articles of incorporation, the ~~director of development~~ auditor of state shall certify ~~such~~ that fact to the secretary of state. The secretary of state then shall ~~thereupon~~ cancel the articles of the development corporation involved by appropriate entry upon the margin of the record ~~thereof of the articles~~ Thereupon, all All the powers, privileges, and franchises conferred upon ~~such~~ that development corporation by ~~such~~ those articles of incorporation then shall cease. The secretary of state shall immediately notify ~~the~~ that development corporation of the action taken.

Sec. 5709.67. (A) Except as otherwise provided in sections 5709.61 to 5709.69 of the Revised Code, the director of development shall administer those sections and shall adopt such rules as are necessary to ensure that no zone is certified or remains certified unless it meets any applicable requirements of division (A) of section 5709.61 of the Revised Code, and to determine the number of positions attributable to an enterprise for the purposes of division (A)(3) of section 5709.64 of the Revised Code. The director shall assign to each zone currently certified a unique designation by which the zone shall be identified for purposes of administering sections 5709.61 to 5709.69 of the Revised Code. The tax commissioner shall administer all other tax incentives provided under sections 5709.61 to 5709.69 of the Revised Code and shall adopt such rules as are necessary to carry out that duty. No tax incentive qualification certificate or employee tax credit certificate shall be issued or remain in effect unless the enterprise applying for or holding the certificate complies with all such rules. The director of job and family services shall administer the incentive provided under division (B)(1) of section 5709.66 of the Revised Code and shall adopt such rules as are necessary to carry out that duty. No extension of benefits certificate shall be issued or remain in effect unless the enterprise applying for or holding the certificate complies with all such rules.

(B) Annually Not later than the first day of August each year, the director of development shall report to the general assembly ~~the~~ on all of the following for the preceding calendar year:

(1) The cost to the state of the tax and other incentives provided under sections 5709.61 to 5709.69 of the Revised Code, ~~the~~;

(2) The number of tax incentive qualification certificates, employee tax credit certificates, and extension of benefits certificates issued, ~~the~~;

(3) The names of the municipal corporations and counties that have entered agreements under sections 5709.62, 5709.63, and 5709.632 of the Revised Code, ~~and the~~;

(4) The number of new employees hired as a result of the tax and other incentives provided under sections 5709.61 to 5709.69 of the Revised Code;

(5) Information on agreement terms concerning school district revenue that are not provided for in section 5709.631 of the Revised Code and that are forwarded to the director under division (H) of section 5709.62, division (H) of section 5709.63, or division (G) of section 5709.632 of the Revised Code. The

The report shall include a finding by the director as to whether the incentives provided under sections 5709.61 to 5709.69 of the Revised Code have resulted in the creation of more positions in the state than would have

been created without the incentives. The director shall send a copy of the report to each member of the general assembly and to the director of the legislative service commission.

(C) All forms used in connection with the administration of sections 5709.61 to 5709.69 of the Revised Code, except forms administered directly by the tax commissioner, by the director of job and family services, or by a county or municipal corporation, are subject to review and approval by the state forms management control center under sections 125.91 to 125.98 of the Revised Code.

Sec. 5709.68. (A) On or before the thirty-first day of March each year, a municipal corporation or county that has entered into an agreement with an enterprise under section 5709.62, 5709.63, or 5709.632 of the Revised Code shall submit to the director of development and the board of education of each school district of which a municipal corporation or township to which such an agreement applies is a part a report on all ~~such of those~~ agreements in effect during the preceding calendar year. The report shall include all of the following information ~~described in divisions (A)(1) to (7) of this section.:~~

(1) The designation, assigned by the director of development, of each urban jobs and enterprise zone within the municipal corporation or county, the date each zone was certified, the name of each municipal corporation or township within each zone, and the total population of each zone according to the most recent data available.;

(2) The number of enterprises that are subject to ~~such~~ those agreements and the number of full-time employees subject to those agreements within each zone, each according to the most recent data available and identified and categorized by the appropriate standard industrial code, and the rate of unemployment in the municipal corporation or county in which the zone is located for each year since each zone was certified.;

(3) The number of agreements approved and executed during the calendar year for which the report is submitted, the total number of agreements in effect on the thirty-first day of December of the preceding calendar year, the number of agreements that expired during the calendar year for which the report is submitted, and the number of agreements scheduled to expire during the calendar year in which the report is submitted. For each agreement that expired during the calendar year for which the report is submitted, the municipal corporation or county shall include the amount of taxes exempted and the estimated dollar value of any other incentives provided under the agreement.

(4) The number of agreements receiving compliance reviews by the tax

incentive review council in the municipal corporation or county during the calendar year for which the report is submitted, including all of the following information:

(a) The number of agreements the terms of which an enterprise has complied with, indicating separately for each ~~such~~ agreement the value of the real and personal property exempted pursuant to the agreement and a comparison of the stipulated and actual schedules for hiring new employees, for retaining existing employees, for the amount of payroll of the enterprise attributable to these employees, and for investing in establishing, expanding, renovating, or occupying a facility;

(b) The number of agreements the terms of which an enterprise has failed to comply with, indicating separately for each ~~such~~ agreement the value of the real and personal property exempted pursuant to the agreement and a comparison of the stipulated and actual schedules for hiring new employees, for retaining existing employees, for the amount of payroll of the enterprise attributable to these employees, and for investing in establishing, expanding, renovating, or occupying a facility;

(c) The number of agreements about which the tax incentive review council made recommendations to the legislative authority of the municipal corporation or county, and the number of ~~such~~ those recommendations that have not been followed;

(d) The number of agreements rescinded during the calendar year for which the report is submitted.

(5) The number of enterprises that are subject to agreements that expanded within each zone, including the number of new employees hired and existing employees retained by each ~~such~~ enterprise, and the number of new enterprises that are subject to agreements and that established within each zone, including the number of new employees hired by each ~~such~~ enterprise-;

(6)(a) The number of enterprises that are subject to agreements and that closed or reduced employment at any place of business within the state for the primary purpose of establishing, expanding, renovating, or occupying a facility, indicating separately for each ~~such~~ enterprise the political subdivision in which the enterprise closed or reduced employment at a place of business and the number of full-time employees transferred and retained by each such place of business-;

(b) The number of enterprises that are subject to agreements and that closed or reduced employment at any place of business outside the state for the primary purpose of establishing, expanding, renovating, or occupying a facility.

(7) For each agreement in effect during any part of the preceding year, the number of employees employed by the enterprise at the project site immediately prior to formal approval of the agreement, the number of employees employed by the enterprise at the project site on the thirty-first day of December of the preceding year, the payroll of the enterprise for the preceding year, the amount of taxes paid on tangible personal property situated at the project site and the amount of ~~such those~~ taxes that were not paid because of the exemption granted under the agreement, and the amount of taxes paid on real property constituting the project site and the amount of ~~such those~~ taxes that were not paid because of the exemption granted under the agreement. If an agreement was entered into under section 5709.632 of the Revised Code with an enterprise described in division (B)(2) of that section, the report shall include the number of employee positions at all of the enterprise's locations in this state. If an agreement is conditioned on a waiver issued under division (B) of section 5709.633 of the Revised Code on the basis of the circumstance described in division (B)(3)(a) or (b) of that section, the report shall include the number of employees at the facilities referred to in division (B)(3)(a)(i) or (b)(i) of that section, respectively.

(B) Upon the failure of a municipal corporation or county to comply with division (A) of this section:

(1) Beginning on the first day of April of the calendar year in which the municipal corporation or county fails to comply with that division, the municipal corporation or county shall not enter into any agreements with an enterprise under section 5709.62, 5709.63, or 5709.632 of the Revised Code until the municipal corporation or county has complied with division (A) of this section.

(2) On the first day of each ensuing calendar month until the municipal corporation or county complies with ~~that~~ division (A) of this section, the director of development shall either order the proper county auditor to deduct from the next succeeding payment of taxes to the municipal corporation or county under section 321.31, 321.32, 321.33, or 321.34 of the Revised Code an amount equal to ~~five hundred one thousand~~ dollars for each calendar month the municipal corporation or county fails to comply with that division, or order the county auditor to deduct ~~such an~~ that amount from the next succeeding payment to the municipal corporation or county from the undivided local government fund under section 5747.51 of the Revised Code. At the time such a payment is made, the county auditor shall comply with the director's order by issuing a warrant, drawn on the fund from which ~~such the~~ money would have been paid, to the director of development, who shall deposit the warrant into the state ~~urban jobs and~~

enterprise zone program administration fund created in division (C) of this section.

(C) The director, by rule, shall establish the state's application fee for applications submitted to a municipal corporation or county to enter into an agreement under section 5709.62, 5709.63, or 5709.632 of the Revised Code. In establishing the amount of the fee, the director shall consider the state's cost of administering the enterprise zone program, including the cost of reviewing the reports required under division (A) of this section. The director may change the amount of the fee at ~~such the~~ times and in ~~such the~~ increments ~~as he deems~~ the director considers necessary. Any municipal corporation or county that receives an application shall collect the application fee and remit the fee for deposit in the state treasury to the credit of the state enterprise zone program administration fund, which is hereby created. Money credited to the fund shall be used by the department of development to pay the costs of administering the enterprise zone program, including the cost of reviewing the reports required under division (A) of this section.

(D) On or before the thirtieth day of June each year, the director of development shall certify to the tax commissioner the information described under division (A)(7) of this section, derived from the reports submitted to the director under this section.

On the basis of the information certified under this division, the tax commissioner annually shall submit a report to the governor, the speaker of the house of representatives, the president of the senate, and the chairpersons of the ways and means committees of the respective houses of the general assembly, indicating for each enterprise zone the amount of state and local taxes that were not required to be paid because of exemptions granted under agreements entered into under section 5709.62, 5709.63, or 5709.632 of the Revised Code and the amount of additional taxes paid from the payroll of new employees.

SECTION 2. That existing sections 1724.05, 1724.06, 1726.11, 1726.12, 5709.67, and 5709.68 of the Revised Code are hereby repealed.

Speaker _____ *of the House of Representatives.*

President _____ *of the Senate.*

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____