



## Ohio enacts new limitations on joint economic development zones

June 6, 2014

On June 5, 2014, Ohio Governor John Kasich signed [Sub. H.B. 289](#) into law. The bill imposes sweeping limitations on the use of joint economic development zones (JEDZs) and establishes municipal utility districts for economic development purposes. The authority to create a new JEDZ, or to make a substantial amendment to an existing JEDZ agreement, expires January 1, 2015. The bill was passed as an emergency measure and takes effect immediately.

### Background

Under prior law, two or more municipal corporations, or one or more townships and one or more municipal corporations (the “contracting parties”) may enter into contracts pursuant to which the contracting parties agree to share in the costs of improvements undertaken for economic development purposes. However, prior law contained few limitations on the formation and operation of the JEDZ. Significantly, the law permitted the extension of a municipal income tax in effect in any of the contracting parties to tax the wages paid to any worker and the earnings of any business located in the JEDZ, without restriction as to the use of the money.

Under the bill, the authority to create a new JEDZ or to make a substantial amendment to an existing JEDZ agreement expires January 1, 2015. Between the effective date of the bill (June 5, 2014) and January 1, 2015, the contracting parties must comply with the new provisions that are put in place.

New R.C. 715.691(A)(3) provides that a “substantial amendment” means an amendment to an existing agreement that increases the rate of taxation, changes the purposes for which the tax may be used, or that changes the area or areas included within the JEDZ.

### New JEDZ Agreement Procedures

Amendments to R.C. 71.691(C) provide that the contract must include the following provisions:

- An economic development plan for the JEDZ;
- A schedule for implementing any new, expanded or additional services, facilities, or improvements within the JEDZ or the surrounding area; and
- A joint economic development review council to review the economic development plan.

Continuing law requires public hearings to be held before legislation can be passed creating or making a substantial amendment to a JEDZ. In addition to the public hearings, the economic development plan must be developed and submitted to the joint economic development review council prior to the enactment of legislation authorizing the agreement.

#### JEDZ Council

New R.C. 715.692 addresses the formation, make-up, and duties of the joint economic development review council. Before a new JEDZ agreement or a substantial amendment to an existing agreement may be approved, the contracting parties must create a council. The county auditor is the chair of the council. One member of the council shall be an individual affiliated with an economic development organization that provides services for, or advocates on behalf of, business operating within the JEDZ or in the surrounding area. One member must be a member of the general public. Finally, four members shall be owners of businesses located within the JEDZ. If there are not four businesses located within the JEDZ willing to serve on the council, the owners of parcels of real estate located within the JEDZ may be appointed.

#### Council Duties

At least one public meeting must be held by the council before a new contract is approved or a substantial amendment is made to an existing agreement. At the meeting, the council must review the proposed economic development plan for the JEDZ and consider whether the plan is in the best interests of the JEDZ. It must allow the contracting parties to present evidence regarding the plan and the JEDZ, and provide for a period of public comment as well.

If it believes the plan is in the best interests of the JEDZ, the council may approve the plan, after which the contracting parties may enact legislation approving the agreement. If the council does not approve the plan, the agreement may not be

approved, and the council must provide recommendations to the contracting parties for ways to modify the plan to meet the approval of the council.

The council is dissolved upon approval of the plan, and the contracting parties bear the costs of the council.

As of June 5, 2014, any JEDZ agreement that has not yet been approved by the electorate as required under existing law must be recalled and submitted to the council for review.

#### Municipal Utility Districts

New R.C. 715.84 establishes procedures relating to the creation and operation of municipal utility districts and their contracts.

Two or more municipal corporations may enter into agreements pursuant to which they agree to share the costs of improvements for areas located in one or more of the contracting parties in order to facilitate new or expanded utility services for economic development. "Utility services" means water, sewer, electric, or other utility services necessary to the public health, safety and welfare.

Contracting parties must hold public hearings concerning the contract and district before entering into such contracts. Like the new JEDZ requirements, an economic development plan for the district must be established. At the public hearing, an opportunity for public comment and recommendations must be provided. Following the public hearing, legislation may be passed to approve the agreement, in which case the issue must be presented to the electors of the contracting parties for approval.

An existing JEDZ created under the law as it existed prior to H.B. 289, shall thereafter be known as municipal utility districts and are subject to the new law without any further action taken with respect to them.

#### Conclusion:

This bill was enacted in response to perceived abuses in the creation and expansion of JEDZs into areas without the authority to otherwise enact a municipal income tax. The bill prohibits the creation of new JEDZs after January 1, 2014, and imposes new requirements regarding the amendment of existing JEDZ agreements made after January 5, 2014.