



General Assembly

Substitute Bill No. 823

January Session, 2001

AN ACT CONCERNING THE ELIGIBILITY OF MANUFACTURING FACILITIES FOR ENTERPRISE ZONE BENEFITS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 32-9r of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 (a) Any person may apply to the department for a determination as
4 to whether the facility described in an application qualifies as a
5 manufacturing facility or service facility. Applications for eligibility
6 certificates are to be made on the forms and in the manner prescribed
7 by the department. In evaluating each application the department may
8 require the submission of all books, records, documents, drawings,
9 specifications, certifications and other evidentiary items which it
10 deems appropriate. No eligibility certificate shall be issued after March
11 1, 1991, for a manufacturing facility located in a distressed
12 municipality which does not qualify as a targeted investment
13 community unless the department has issued to the applicant a
14 commitment letter for such facility prior to March 1, 1991.
15 Notwithstanding the provisions of this subsection, an eligibility
16 certificate may be issued by the department after March 1, 1991, for a
17 qualified manufacturing facility acquired, constructed or substantially
18 renovated in a distressed municipality provided the commissioner
19 determines that such acquisition, construction or substantial
20 renovation was initiated prior to March 1, 1991, and was legitimately

21 induced by the prospect of assistance under section 12-217e and
22 subdivisions (59) and (60) of section 12-81, respectively. The
23 department may issue an eligibility certificate for a qualified
24 [manufacturing facility or a qualified] service facility located in a
25 targeted investment community upon determination by the
26 commissioner (A) that the acquisition, construction or substantial
27 renovation relating to the qualified manufacturing facility or qualified
28 service facility in such community was induced by the prospect of
29 assistance under section 12-217e and subdivisions (59) and (60) of said
30 section 12-81; and (B) the applicant demonstrates an economic need or
31 there is an economic benefit to the state. The department shall issue an
32 eligibility certificate if the commissioner determines (1) that the
33 manufacturing facility is located in a municipality with an enterprise
34 zone designated pursuant to section 32-70 and is a qualified
35 manufacturing facility, or (2) that the facility is a plant, building, other
36 real property improvement, or part thereof, which is located in a
37 municipality with an entertainment district designated under section
38 32-76 or established under section 2 of public act 93-311*, and which
39 qualifies as a "manufacturing facility" under subsection (d) of section
40 32-9p, as amended by this act, in that it is to be used in the production
41 of entertainment products, including multimedia products, or as part
42 of the airing, display or provision of live entertainment for stage or
43 broadcast, including support services such as set manufacturers,
44 scenery makers, sound and video equipment providers and
45 manufacturers, stage and screen writers, providers of capital for the
46 entertainment industry and agents for talent, writers, producers and
47 music properties and technological infrastructure support including,
48 but not limited to, fiber optics, necessary to support multimedia and
49 other entertainment formats, except entertainment provided by or
50 shown at a gambling or gaming facility or a facility whose primary
51 business is the sale or serving of alcoholic beverages.

52 (b) The department shall reach a determination as to the eligibility
53 of a facility within a reasonable time period, but may postpone the
54 determination to the extent required to verify to its satisfaction that

55 there is a high likelihood that any proposed facility will actually be
56 constructed, expanded, substantially renovated or acquired. Upon a
57 favorable finding, the department shall issue to the applicant a
58 certificate to the effect that the facility concerned is a manufacturing
59 facility or a service facility and is eligible for assistance under section
60 12-217e and subdivisions (59) and (60) of section 12-81.

61 (c) Upon an unfavorable determination the department shall issue a
62 notice to the applicant to the effect that the facility concerned has been
63 determined not to be a manufacturing facility or a service facility,
64 together with a statement in reasonable detail as to the reasons for the
65 unfavorable determination. Any aggrieved applicant shall be afforded
66 an opportunity for a public hearing on the matter within thirty days
67 following issuance of the notice. The department shall reconsider the
68 application based upon the information presented at the public
69 hearing and reaffirm or change its earlier determination within ten
70 days of the hearing.

71 (d) The decision of the department to issue an eligibility certificate
72 or to deny an application for the issuance of an eligibility certificate
73 either upon the expiration of thirty days without a public hearing
74 following an initial unfavorable determination or upon any
75 reconsideration of the application pursuant to subsection (c) of this
76 section is conclusive and final as to the matters thereby decided, and
77 chapter 54 shall not apply to the administrative determinations
78 authorized to be made by this section.

79 (e) Any person who claims a benefit under section 12-217e or
80 subdivisions (59) and (60) of section 12-81 shall notify the department
81 of any change in fact or circumstance which may bear upon the
82 continued qualification as a manufacturing facility or a service facility
83 for which an eligibility certificate has been issued. Upon receipt of such
84 information or upon independent investigation, the department may
85 revoke the eligibility certificate in the manner provided in subsection
86 (c) of this section.

87 (f) The commissioner shall adopt regulations in accordance with
88 chapter 54 to carry out the provisions of this section. Such regulations
89 shall provide that establishments in the category of business services,
90 as defined in the Standard Industrial Classification Manual, or in
91 Sector 48, 49, 52, 54, 55, or 62, Subsector 114 or 561, or industry group
92 5621 in the North American Industrial Classification System United
93 States manual, United States Office of Management and Budget, 1997
94 edition, shall be eligible for a certificate if they are located in an
95 enterprise zone.

96 Sec. 2. Section 32-9j of the general statutes is repealed and the
97 following is substituted in lieu thereof:

98 For the purposes of sections 32-9i to 32-9l, inclusive, the following
99 terms shall have the following meanings unless the context indicates
100 another meaning and intent:

101 (a) "Eligible municipality" means any municipality in the state
102 which is a distressed municipality as defined in subsection (b) of
103 section 32-9p, and any other municipality in the state which has a
104 population of not less than ten thousand and which has a rate of
105 unemployment which exceeds one hundred ten per cent of the state's
106 average rate of unemployment, as determined by the Labor
107 Department, for the calendar year preceding the determination of
108 eligibility, provided no such other municipality with an
109 unemployment rate of less than six per cent shall be eligible. Eligible
110 municipalities shall be designated by the Department of Economic and
111 Community Development.

112 (b) "Eligible business facility" means (1) a business facility located in
113 an eligible municipality and for which a certificate of eligibility or
114 commitment letter has been issued by the department prior to March
115 1, 1991, [; or] (2) a business facility for which a certificate of eligibility
116 has been issued by the department and which is located in an
117 enterprise zone designated pursuant to section 32-70, or (3) a business
118 facility which is a manufacturing facility located in a municipality with

119 an enterprise zone designated pursuant to section 32-70 if the
120 commissioner determines the applicant demonstrates an economic
121 need or there is an economic benefit to the state. A business facility for
122 which such a certificate is issued shall be deemed an eligible business
123 facility only during the twenty-four-month period following the day
124 on which the certificate of eligibility is issued. A business facility may
125 not become an eligible business facility for the purposes of sections 32-
126 9i to 32-9l, inclusive, unless it meets each of the following
127 requirements: (A) It is a facility which does not primarily serve said
128 eligible municipality in which it is located. A facility shall be deemed
129 to meet this requirement if it is used primarily for the manufacturing,
130 processing or assembling of raw materials or manufactured products,
131 or for research or industrial warehousing, or any combination thereof
132 or, if located in an enterprise zone designated pursuant to section 32-
133 70, it is to be used by an establishment, an auxiliary or an operating
134 unit of an establishment, as such terms are defined in the Standard
135 Industrial Classification Manual, in the categories of depository
136 institutions, nondepository credit institutions, insurance carriers,
137 holding or other investment offices, business services, health services,
138 fishing, hunting and trapping, motor freight transportation and
139 warehousing, water transportation, transportation by air,
140 transportation services, security and commodity brokers, dealers,
141 exchanges and services or engineering, accounting, research,
142 management and related services from the Standard Industrial
143 Classification Manual, which establishment, auxiliary or operating unit
144 shows a strong performance in exporting goods and services, as
145 defined by the commissioner through regulations adopted in
146 accordance with the provisions of chapter 54. A facility shall not be
147 deemed to meet this requirement if (i) it is used primarily in making
148 retail sales of goods or services to customers who personally visit such
149 facility to obtain such goods or services, or (ii) it is used primarily as a
150 hotel, apartment house or other place of business which furnishes
151 dwelling space or accommodations to either residents or transients; (B)
152 it is a facility which is newly constructed or has undergone major
153 expansion or renovation as determined by the Commissioner of

154 Economic and Community Development, and (C) it is a facility which
155 will create in the eligible municipality in which it is located, as a direct
156 result of such construction, expansion or renovation, not less than five
157 new employment positions, or in the case of a facility located in an
158 enterprise zone designated pursuant to section 32-70, not less than
159 three new employment positions in the enterprise zone.

160 (c) "Commissioner" means the Commissioner of Economic and
161 Community Development.

162 (d) "Department" means the Department of Economic and
163 Community Development.

164 (e) "Eligibility period" means the twenty-four-month period
165 following the day on which the certificate of eligibility is issued.

166 (f) "Full-time employee" means an employee who works a minimum
167 of thirty-five hours per week.

168 Sec. 3. Section 32-9p of the general statutes is repealed and the
169 following is substituted in lieu thereof:

170 As used in subdivisions (59) and (60) of section 12-81 and sections
171 12-217e, 32-9p to 32-9s, inclusive, and 32-23p, the following words and
172 terms have the following meanings:

173 (a) "Area of high unemployment" means, as of the date of any final
174 and official determination by the authority or the department to
175 extend assistance under said sections, any municipality which is a
176 distressed municipality, as defined in subsection (b) of this section, and
177 any other municipality in the state which in the calendar year
178 preceding such determination had a rate of unemployment which
179 exceeded one hundred ten per cent of the average rate of
180 unemployment in the state for the same calendar year, as determined
181 by the Labor Department, provided no such other municipality with
182 an unemployment rate of less than six per cent shall be an area of high
183 unemployment.

184 (b) "Distressed municipality" means, as of the date of the issuance of
185 an eligibility certificate, any municipality in the state which, according
186 to the United States Department of Housing and Urban Development
187 meets the necessary number of quantitative physical and economic
188 distress thresholds which are then applicable for eligibility for the
189 urban development action grant program under the Housing and
190 Community Development Act of 1977, as amended, or any town
191 within which is located an unconsolidated city or borough which
192 meets such distress thresholds. Any municipality which, at any time
193 subsequent to July 1, 1978, has met such thresholds but which at any
194 time thereafter fails to meet such thresholds, according to said
195 department, shall be deemed to be a distressed municipality for a
196 period of five years subsequent to the date of the determination that
197 such municipality fails to meet such thresholds, unless such
198 municipality elects to terminate its designation as a "distressed
199 municipality", by vote of its legislative body, not later than September
200 1, 1985, or not later than three months after receiving notification from
201 the commissioner that it no longer meets such thresholds, whichever is
202 later. In the event a distressed municipality elects to terminate its
203 designation, the municipality shall notify the commissioner and the
204 Secretary of the Office of Policy and Management in writing within
205 thirty days. In the event that the commissioner determines that
206 amendatory federal legislation or administrative regulation has
207 materially changed the distress thresholds thereby established,
208 "distressed municipality" shall mean any municipality in the state
209 which meets comparable thresholds of distress which are then
210 applicable in the areas of high unemployment and poverty, aging
211 housing stock and low or declining rates of growth in job creation,
212 population and per capita income as established by the commissioner,
213 consistent with the purposes of subdivisions (59) and (60) of section 12-
214 81 and sections 12-217e, 32-9p to 32-9s, inclusive, and 32-23p, in
215 regulations adopted in accordance with chapter 54. For purposes of
216 sections 32-9p to 32-9s, inclusive, "distressed municipality" shall also
217 mean any municipality adversely impacted by a major plant closing,
218 relocation or layoff, provided the eligibility of a municipality shall not

219 exceed two years from the date of such closing, relocation or layoff.
220 The Commissioner of Economic and Community Development shall
221 adopt regulations, in accordance with the provisions of chapter 54,
222 which define what constitutes a "major plant closing, relocation or
223 layoff" for purposes of sections 32-9p to 32-9s, inclusive. "Distressed
224 municipality" shall also mean the portion of any municipality which is
225 eligible for designation as an enterprise zone pursuant to subdivision
226 (2) of subsection (b) of section 32-70.

227 (c) "Eligibility certificate" means a certificate issued by the
228 department pursuant to section 32-9r evidencing its determination that
229 a facility for which an application for assistance has been submitted
230 qualifies as a manufacturing facility and is eligible for assistance under
231 section 12-217e and subdivisions (59) and (60) of section 12-81.

232 (d) "Manufacturing facility" means any plant, building, other real
233 property improvement, or part thereof, (1) which (A) is constructed or
234 substantially renovated or expanded on or after July 1, 1978, in a
235 distressed municipality, a targeted investment community as defined
236 in section 32-222, or an enterprise zone designated pursuant to section
237 32-70, or (B) is acquired on or after July 1, 1978, in a distressed
238 municipality, a targeted investment community as defined in section
239 32-222, or an enterprise zone designated pursuant to said section 32-70,
240 by a business organization which is unrelated to and unaffiliated with
241 the seller, after having been idle for at least one year prior to its
242 acquisition and regardless of its previous use; (2) which is to be used
243 for the manufacturing, processing or assembling of raw materials,
244 parts or manufactured products, for research and development
245 facilities directly related to manufacturing, for the significant servicing,
246 overhauling or rebuilding of machinery and equipment for industrial
247 use, or, except as provided in this subsection, for warehousing and
248 distribution or, (A) if located in an enterprise zone designated
249 pursuant to said section 32-70, which is to be used by an establishment,
250 an auxiliary or an operating unit of an establishment as such terms are
251 defined in the Standard Industrial Classification Manual, in the
252 categories of depository institutions, nondepository credit institutions,

253 insurance carriers, holding or other investment offices, business
254 services, health services, fishing, hunting and trapping, motor freight
255 transportation and warehousing, water transportation, transportation
256 by air, transportation services, security and commodity brokers,
257 dealers, exchanges and services, telemarketing or engineering,
258 accounting, research, management and related services including, but
259 not limited to, management consulting services from the Standard
260 Industrial Classification Manual, which establishment, auxiliary or
261 operating unit shows a strong performance in exporting goods and
262 services, as further defined by the commissioner through regulations
263 adopted under chapter 54, or in Sector 48, 49, 52, 54, 55, or 62,
264 Subsector 114 or 561, or industry group 5621 in the North American
265 Industrial Classification System, United States Manual, United States
266 Office of Management and Budget, 1997 edition, or (B) if located in a
267 municipality with an enterprise zone designated pursuant to said
268 section 32-70, which is to be used by an establishment primarily
269 engaged in supplying goods or services in the fields of computer
270 hardware or software, computer networking, telecommunications or
271 communications, or (C) if located in a municipality with an
272 entertainment district designated under section 32-76 or established
273 under section 2 of public act 93-311*, is to be used in the production of
274 entertainment products, including multimedia products, or as part of
275 the airing, display or provision of live entertainment for stage or
276 broadcast, including support services such as set manufacturers,
277 scenery makers, sound and video equipment providers and
278 manufacturers, stage and screen writers, providers of capital for the
279 entertainment industry and agents for talent, writers, producers and
280 music properties and technological infrastructure support including,
281 but not limited to, fiber optics, necessary to support multimedia and
282 other entertainment formats, except entertainment provided by or
283 shown at a gambling or gaming facility or a facility whose primary
284 business is the sale or serving of alcoholic beverages; and (3) for which
285 the department has issued an eligibility certificate in accordance with
286 section 32-9r. In the case of facilities which are acquired, the
287 department may waive the requirement of one year of idleness if it

288 determines that, absent qualification as a manufacturing facility under
289 subdivisions (59) and (60) of section 12-81, and sections 12-217e, 32-9p
290 to 32-9s, inclusive, and 32-23p, there is a high likelihood that the
291 facility will remain idle for one year. In the case of facilities located in
292 an enterprise zone designated pursuant to said section 32-70, (A) the
293 idleness requirement in subparagraph (B) of subdivision (1) of this
294 subsection, for business organizations which over the six months
295 preceding such acquisition have had an average total employment of
296 between six and nineteen employees, inclusive, shall be reduced to a
297 minimum of six months, and (B) the idleness requirement shall not
298 apply to business organizations with an average total employment of
299 five or fewer employees, provided no more than one eligibility
300 certificate shall be issued under this subparagraph for the same facility
301 within a three-year period. Of those facilities which are for
302 warehousing and distribution, only those which are newly constructed
303 or which represent an expansion of an existing facility qualify as
304 manufacturing facilities. In the event that only a portion of a plant is
305 acquired, constructed, renovated or expanded, only the portion
306 acquired, constructed, renovated or expanded constitutes the
307 manufacturing facility. A manufacturing facility which is leased may
308 for the purposes of subdivisions (59) and (60) of section 12-81 and
309 sections 12-217e, 32-9p to 32-9s, inclusive, and 32-23p, be treated in the
310 same manner as a facility which is acquired if the provisions of the
311 lease serve to further the purposes of subdivisions (59) and (60) of
312 section 12-81, and sections 12-217e, 32-9p to 32-9s, inclusive, and 32-
313 23p and demonstrate a substantial, long-term commitment by the
314 occupant to use the manufacturing facility, including a contract for
315 lease for an initial minimum term of five years with provisions for the
316 extension of the lease at the request of the lessee for an aggregate term
317 which shall not be less than ten years, or the right of the lessee to
318 purchase the facility at any time after the initial five-year term, or both.
319 For a facility located in an enterprise zone designated pursuant to said
320 section 32-70, and occupied by a business organization with an average
321 total employment of ten or fewer employees over the six-month period
322 preceding acquisition, such contract for lease may be for an initial

323 minimum term of three years with provisions for the extension of the
324 lease at the request of the lessee for an aggregate term which shall not
325 be less than six years, or the right of the lessee to purchase the facility
326 at any time after the initial three-year term, or both, and may also
327 include the right for the lessee to relocate to other space within the
328 same enterprise zone, provided such space is under the same
329 ownership or control as the originally leased space or if such space is
330 not under such same ownership or control as the originally leased
331 space, permission to relocate is granted by the lessor of such originally
332 leased space, and such relocation shall not extend the duration of
333 benefits granted under the original eligibility certificate. Except as
334 provided in subparagraph (B) of subdivision (1) of this subsection, a
335 manufacturing facility does not include any plant, building, other real
336 property improvement or part thereof used or usable for such
337 purposes which existed before July 1, 1978.

338 (e) "Service facility" means a manufacturing facility described in
339 subparagraph (A) or (B) of subdivision (2) of subsection (d) of this
340 section, provided such facility is located outside of an enterprise zone
341 in a targeted investment community.

342 (f) "Authority", "capital reserve fund bond", "commissioner",
343 "department", "industrial project" and "insurance fund" shall have the
344 meaning such words and terms are given in section 32-23d.

345 (g) "Municipality" means any town, city or borough in the state.

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JOINT FAVORABLE SUBST. C/R

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