



## **EMPIRE ZONES**

**By Robert Coly**

**University at Buffalo Law Student**

### **What is an Empire Zone?**

An Empire Zone is a community or neighborhood that has been designated by New York State for the provision of a variety of state tax incentives in order to attract new businesses as well as to enable the growth of existing businesses and the creation of new jobs.<sup>1</sup>

### **Who runs Empire Zones?**

The Empire Zones program is administered by the Empire State Development Corporation (ESDC). This Corporation is affiliated with the New York State Department of Economic Development but operates as a separate entity.<sup>2</sup> The designation of Empire Zones as well as approval of businesses is overseen by the office of the Commissioner of Economic Development and the Empire Zones Designation Board. Ultimately, the commissioner decides which areas and businesses deserve Empire Zone benefits and makes his recommendations to the board for final approval. The current commissioner of the Empire State Development Corporation is Robert Wilmers. Wilmers, who is also the CEO of M & T Bank, was appointed by Governor Patterson in June, 2008.<sup>3</sup> In addition, each Empire Zone is administered by an Empire Zone Coordinator. There are two Empire Zones located in Buffalo and both are supervised by the Buffalo Economic Renaissance Corporation. BEREC can be reached by phone at (716) 851-5035.

### **How does a municipality become eligible for Empire Zone benefits?**

In order for a specific zone to become eligible for Empire Zone benefits, a county, city, town or village must submit an application to the ESDC. This application must include a copy of a local law or resolution by the governing body of the municipality, which concurs in the application.<sup>4</sup> The application must show that the proposed zone fits into one of four (b, c, d, or e) designated Empire Zone subdivisions. Each of these subdivisions has different criteria that the zone must meet to achieve designation. The requirements for these subdivisions as well as other criteria for applicants are detailed in section 10 of the Regulations of the Commissioner of Economic Development. They are published on the web at <http://www.empire.state.ny.us/pdf/EmpireZonesRegulations.pdf>.

Once a municipality has shown that its proposed zone meets the criteria of one of the subdivisions, it is considered along with other applications on a competitive basis by the

Commissioner of Economic Development. The commissioner judges each applicant based on several criteria, including the level of economic distress, the area's potential to attract business, and the demonstrated commitment of the area to its economic development plan. The commissioner then makes recommendations to the Empire Zones Designation Board for final approval.<sup>5</sup>

### Which geographic areas have been designated Empire Zones?

By 2007, New York State had approved approximately 85 localities for Empire Zones benefits. In a few municipalities, the State designated more than one Empire Zone. For example, there are currently two Empire Zone approved localities in the City of Buffalo. All of the approved areas are shown in Figure 1.

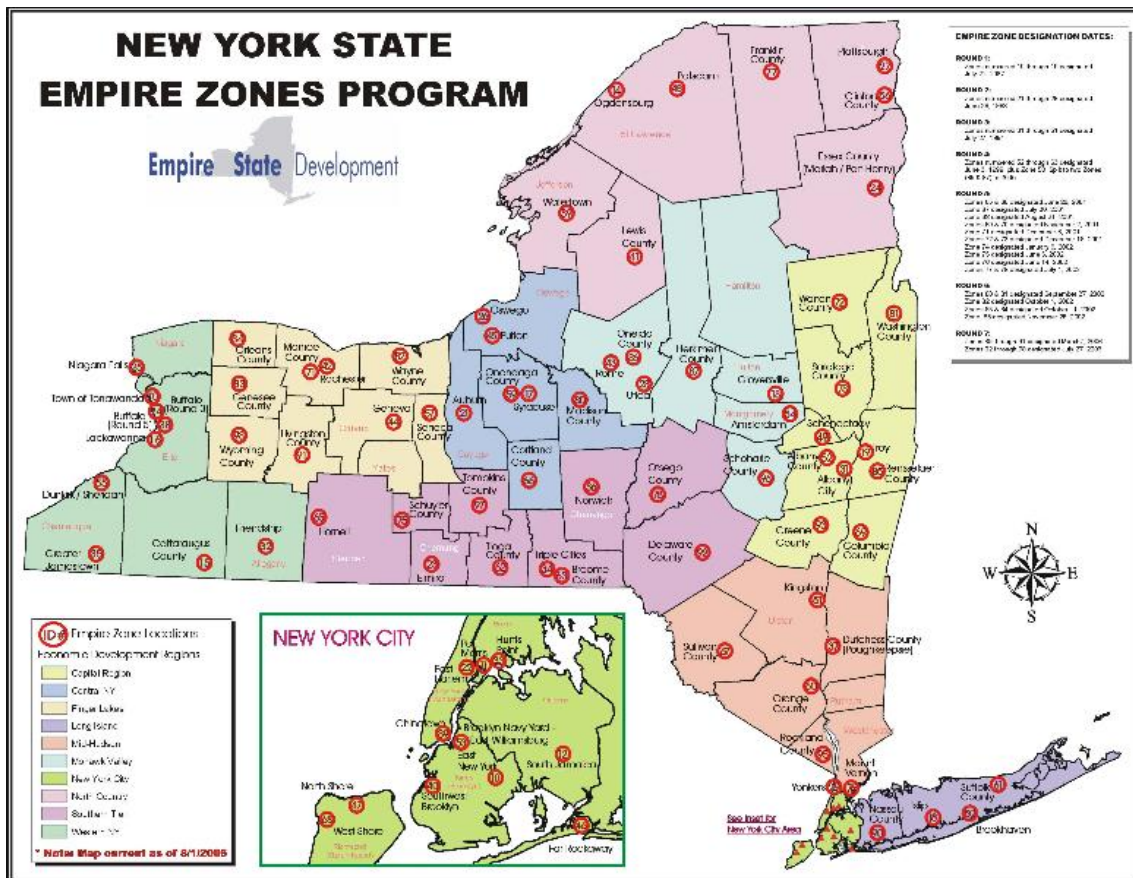


Figure 1<sup>6</sup>

### What benefits are offered by the Empire Zones program?

Empire Zone eligible communities can offer local and perspective businesses several incentives in order to attract them to their areas. Among these are:

- **Wage Tax Credit:** Tax credits ranging from \$1500 to \$3000 per employee, per year, are offered to business for up to five consecutive years.
- **Investment Tax Credit:** Companies making investments within an Empire Zone for depreciable property or equipment may receive a tax credit equaling 10% of

the investments value. An additional *Employment Incentive Credit* equal to 30% of the investment tax credit may be granted if employment is raised when the investment is made.

- *Zone Capital Credits*: A 25% tax credit is available for eligible investments within Empire Zones or contributions to approved community development projects.
- *NYS Sales Tax Refund*: A refund of 4% of the sales tax is available for the purchase of building materials used in the construction or renovation of an industrial or commercial property located within an Empire Zone.

Enhanced benefits are provided for businesses that pass additional tests based on their employment history and operations. These businesses are designated as Qualified Empire Zone Enterprises (QEZE). QEZE benefits include further sales tax exemptions, credits for real property tax, and a tax reduction credit. In addition, localities designated as empire zones may offer additional benefits such as sales tax refunds, property tax abatements, and rate reductions for utilities.<sup>7</sup>

### Empire Zone Tax Credits: 2003-2005 By Tax Credit Type

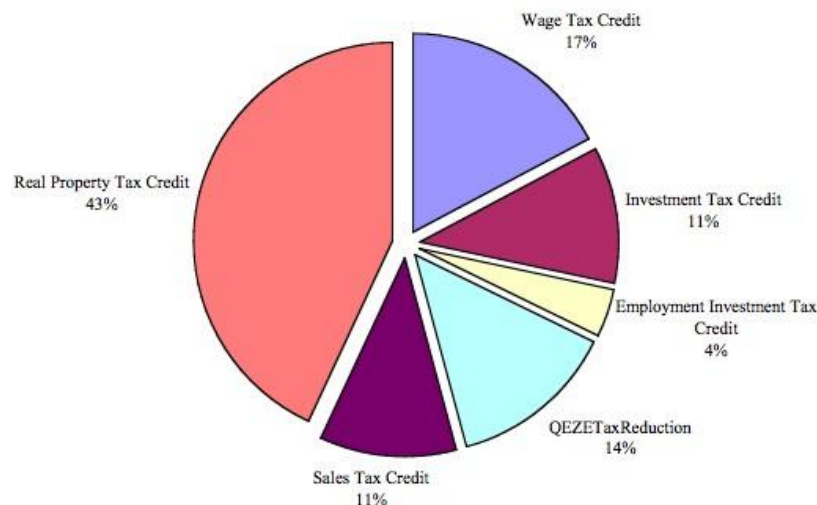


Figure 2<sup>8</sup>

#### How does a business become eligible for Empire Zone benefits?

To become eligible for benefits, a business must own or operate a facility within an Empire Zone and it must submit an application to the ESDC. The application should include a detailed description of the business, a description of the plans to be carried out within the Empire Zone (including investment to be made, and plans for additional employment).

Businesses applications are submitted to and judged by local empire zone administrative boards. Each designated Empire Zone throughout the state has its own administrative board which asks several questions when judging which businesses are deserving of Empire Zone benefits.<sup>9</sup> These questions include:

- Is the business likely to create new employment or prevent a loss of employment within the Empire Zone?
- Will the new employment opportunities be for individuals who will perform a substantial part of their activities within the Empire Zone?
- Is the business enterprise likely to enhance the economic climate of the Empire Zone?
- Will this enterprise result in individuals transferring employment from similar businesses within the Empire Zone or from other municipalities within New York? In other words, will this enterprise result in job poaching from existing business?

Upon approval by the local empire zone administrative board, an application is submitted to the NYS Commissioner of Labor and the NYS Commissioner of Economic Development. Once approved a business will be granted Empire Zones certification and will be eligible for Empire Zones benefits.

### **What are some examples of Empire Zones projects?**

Currently there are over 9800 certified Empire Zones businesses, which employ over 380,000 workers statewide. Within the City of Buffalo, many businesses have secured Empire Zones benefits (see Figure 3<sup>10</sup>).

Within Buffalo, areas that have benefited from the Empire Zones program include; the Erie Canal Harbor, Downtown, the Port of Buffalo, Lackawanna, and Tonawanda. Businesses which have benefited include M&T Bank, the Buffalo Sabres, Delaware North Companies, Hodgson Russ, and Benderson Development Company. These businesses are among nearly 9,000 companies in New York State and 1,434 in Western New York, which receive benefits.

*Figure 3*

### **How effective is the Empire Zones program?**

Throughout its history, the Empire Zones program has received a great deal of criticism. The New York State Comptroller's Office identified the one major problem in the

program as a lack of reliable data and evidence of the program's success.<sup>11</sup> Many specific issues have contributed to the dysfunction of the program. These include:

- Inaccurate data due to the lack of verification by each zone.
- Failures to decertify businesses that have had performance shortfalls leading to the unchecked expansion of the program and overuse of resources.
- Incomplete or missing annual reports from most zones and no measurement of zones' success compared to their goals.
- Only one zone, Friendship, established a performance measurement system.
- Only one zone, Tonawanda, conducted a cost benefit analysis to determine the effectiveness of their program.<sup>12</sup>

These problems have contributed to the one major public criticism of the Empire Zones program; that businesses are failing to live up to their promises. In the past, because of unreliable or wholly lacking data, businesses were rarely held accountable for their failures.

### **What can New York State do to improve the Empire Zones program?**

In 2004, the New York State Comptroller's Office under Alan G. Hevesi proposed reforming the Zone Designation Board and renaming it the Empire Zone Oversight and Designation Board. This proposal would give greater power to the Board, allowing it to evaluate zones and decertify existing zones and businesses. The proposed Oversight and Designation Board would be able to:

- Develop standards of performance for recipients of benefits.
- Develop procedures that allow State and local governments to recoup benefits from businesses that fail to meet their standards.
- Decertify zones and businesses that demonstrate a substantial failure to meet standards.
- Rely on the Department of Economic Development to gather necessary data for evaluations.



*Figure 4 – Former NYS Comptroller Alan Hevesi<sup>13</sup>*

The Comptroller's Office hoped that by expanding the responsibilities of the Empire Zone Oversight and Designation Board, individual zones and businesses will be held responsible for their shortcomings.<sup>14</sup> However, the New York State Assembly failed to institute any of the Comptroller's proposed reforms. Shortly after the Comptroller's report, the Assembly voted to add the Empire Zones reforms to a growing list of unfinished business in Albany. Though the Assembly recognized significant problems with the program, it voted to extend Empire Zones, as is, until it could be re-examined at

a later time.<sup>15</sup> Despite the failure of the Assembly to make the proposed changes, the reforms proposed by the Comptroller continue to be recognized as important steps for the improvement of the Empire Zones program.

### **What else can be done to reform the Empire Zones program?**

In addition to this proposal, New York State has adopted other strategies for holding businesses accountable for their lagging success rates. One way which the State has chosen to hold companies accountable is by publishing lists of businesses which have failed to live up to their promises. The State considers this list as a warning, but also promises that it will demand repayment of benefits if improvements are not made by the companies.<sup>16</sup> The potential of this strategy is twofold: it paves the way for decertification of businesses and withdrawal of benefits; and it potentially improves data collection as Empire Zone businesses are forced to show that they are working to meet their goals.

### **What is the Empire Zones website and contact information?**

New York State's Empire Zones project is directed by the Empire State Development Corporation. ESDC can be contacted by phone at 1-800-STATE-NY (1-800-782-8369). The Empire Zones website can be found at the Empire State Development homepage under Doing Business. The homepage is found at [www.empire.state.ny.us/](http://www.empire.state.ny.us/) and the Empire Zones page is found at

[www.empire.state.ny.us/Tax\\_and\\_Financial\\_Incentives/Empire\\_Zones/default.asp](http://www.empire.state.ny.us/Tax_and_Financial_Incentives/Empire_Zones/default.asp).

In the City of Buffalo, you can reach the local Empire Zone Coordinator at the Office of the Buffalo Economic Renaissance Corporation. The phone number for BERC is (716) 851-5035.

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<sup>1</sup>[http://www.empire.state.ny.us/Tax\\_and\\_Financial\\_Incentives/Empire\\_Zones/default.asp](http://www.empire.state.ny.us/Tax_and_Financial_Incentives/Empire_Zones/default.asp)

<sup>2</sup> [www.abetterchoiceforny.org/taxfacts.html](http://www.abetterchoiceforny.org/taxfacts.html), "New York State's Empire Zones Program," Fiscal Policy Institute, Page 1

<sup>3</sup> <http://www.observer.com/2008/paterson-said-install-buffalo-based-bank-ceo-esdc-chair>

<sup>4</sup> <http://www.empire.state.ny.us/pdf/EmpireZonesRegulations.pdf>, section 10.3

<sup>5</sup> <http://www.empire.state.ny.us/pdf/EmpireZonesRegulations.pdf>, section 10.7

<sup>6</sup> <http://www.empire.state.ny.us/pdf/Zonemap.pdf>

<sup>7</sup> [http://www.empire.state.ny.us/Tax\\_and\\_Financial\\_Incentives/Empire\\_Zones/description\\_s\\_benefits.asp](http://www.empire.state.ny.us/Tax_and_Financial_Incentives/Empire_Zones/description_s_benefits.asp)

<sup>8</sup> "New York State's Empire Zones Program", Fiscal Policy Institute, Trudi Renwick, Slide 6

<sup>9</sup> <http://www.empire.state.ny.us/pdf/EmpireZonesRegulations.pdf>, section 11.4

<sup>10</sup> [http://www.ecidany.com/pdf/EmpireZoneMap\\_04-06.pdf](http://www.ecidany.com/pdf/EmpireZoneMap_04-06.pdf)

<sup>11</sup> <http://www.osc.state.ny.us/reports/empirezone3-2005.pdf>, Page 1

<sup>12</sup> <http://www.osc.state.ny.us/press/releases/feb08/021108.htm>

<sup>13</sup> <http://www.nysscpa.org/cpajournal/2004/1004/images/Image.jpg>

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<sup>14</sup> <http://www.osc.state.ny.us/reports/empirezone3-2005.pdf>, Page 5

<sup>15</sup> “Albany Puts Off Fixing an Economic Development Plan That All Agree Needs Repairs,” New York Times. August 16, 2004.

<http://query.nytimes.com/gst/fullpage.html?res=9D06E4DF133FF935A2575BC0A9629C8B63&sec=&spon=&pagewanted=all>

<sup>16</sup> Buffalo News, August 9, 2007 Thursday, Central Edition, News; Focus: Empire Zones; Pg. A1, 1259 words, Accountability in Empire Zones is state priority; Companies not meeting goals to get warning, By Sharon Linstedt and Tom Precious – News Staff Reporters

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