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Zone benefits to be voided

STATE CHANGES RULES: Law firm, hydro company, Lewis County wind farm among businesses targeted

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Businesses ranging from Menter, Rudin & Trivelpiece law firm, Watertown, to Erie Boulevard Hydropower, Potsdam, likely will lose their Empire Zone tax benefits following Empire State Development Corp.'s announcement on the status of the 8,000-plus businesses enrolled in program.

In the north country, the biggest losers are Erie Boulevard Hydropower in Potsdam's Empire Development Zone, which filed for about \$9,035,000

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in benefits. Maple Ridge Wind Farm, in Lewis County's zone, would lose \$7,197,197 in tax benefits.

The projected tax benefits are from 2006 filings obtained by The Post-Standard, Syracuse.

Gov. David A. Paterson signed the new Empire Zone requirements into law April 7. Under new regulations, businesses must match wages and capital investments dollar-for-dollar with the tax breaks they received. The reworking of the Empire Zone tax breaks also excludes "shirt-changers" or companies reincorporated as different entities that claimed they created jobs when, in reality, they transferred employees from one entity to the other.

If companies can't meet the new requirements, they are dropped, or decertified from the program.

State budget officials have said the changes will save the state \$90 million during the 2009-10 fiscal year.

Jack T. Bush, chairman of the Lewis County Board of Legislators, said the county will be examining the list.

"The county will certainly do what it deems necessary to keep Maple Ridge in the ED zone," he said.

Because of the tax credits for the wind farm, local jurisdictions including the county, the towns of Martinsburg, Harrisburg, Lowville and Watson, and

the Lowville, South Lewis and Copenhagen school districts receive payments in lieu of taxes based on full-value tax rates.

Under the 15-year PILOT plan, taxing jurisdictions collectively receive about \$8 million per year from the wind farm.

Without the Empire Zone, that amount could fall to less than \$2 million.

Erie Boulevard Hydropower is a former name of Brookfield Power Corp., which runs the hydroelectric plants on the Raquette River. In 2001, the utility agreed to make annual \$1 million payments to the town and village of Potsdam.

"Every year we received those benefits we understood could be the last year that we do. We realized at some point that the deal was going to sunset, so we used funding to do things other than just buy down taxes," village Planning and Development Director Frederick J. Hanss said.

Some of the Brookfield funding was used to bolster Mr. Hanss's salary, while most goes toward capital projects and economic development.

In total, from the four Empire Development Zones in Northern New York, 25 businesses have been told they may lose about \$17,989,249 in tax breaks. Those businesses reported supporting about 1,090 jobs in 2006.

"About 10 percent have received a letter that they will lose their benefits," said Rachael A. Selsky, Watertown Empire Zone coordinator at Camoin Associates, Saratoga Springs. Camoin acts as an administrator for the Watertown zone.

She said the plan now is to have the decertification retroactive to 2008 taxes, but "there is some effort to change that to not make them retroactive," she said.

Empire State Development said Thursday businesses that received decertification notices can appeal for recertification with the Albany-based Empire Zone Designation Board. The Empire State Development commissioner also can recommend to the Division of Budget that a business retain its Empire Zone benefits even if the company failed the one-to-one or shirt-change tests.

Slightly fewer than half of the 165 north country businesses that receive Empire Zone tax breaks — 74 — are expected in coming weeks to receive good news in the form of retention certificates that say they meet the new requirements.

Other companies remain between the good and bad news for now. The state wants these businesses to provide more information so Empire State Development can decide whether they are still eligible for tax breaks. The information includes verification of numbers previously provided, including employment numbers, wages, capital investments and

tax credits. The businesses on that list include 23 in Watertown, 17 in Lewis County, 18 in Ogdensburg and eight in Potsdam.

Kimberly DeChamps, Ogdensburg's economic development program manager and Empire Zone coordinator, said some companies are being disqualified by virtue of filing separately for their real estate and manufacturing arms.

"Under recent legislation, if a company could not demonstrate both investment and job creation, they would be ineligible to access the tax credits that apply to both," she said in an e-mail. "So it would appear that companies that had previously been deemed OK to access Empire Zone benefits under two separate legal structures, are ... being eliminated."

In 2007, for example, Corning Property Management Corp. reported no employees in the Ogdensburg Empire Zone, but 246 for the Canton-based Corning Inc.

In other changes to the program, a property tax credit to eligible companies is being reduced from 100 percent to 75 percent, and sales and use tax exemptions granted to eligible companies are eliminated. The sales tax benefit will convert to a refund, but localities must agree to provide a local sales tax refund for a company also to qualify for the state portion of the refund.

Beginning in the 2010-11 fiscal year, those changes

will save the state \$20 million.

"I think it's going to have a negative impact on smaller businesses; that's my opinion," said Peter L. Clough, chairman of the Watertown Empire Zone. "There's still a lot of talking in Albany on this whole thing."

The Empire Zone program was created in 1986 to lure businesses to the state and to help economically distressed areas of New York. In the program's first year, 10 Empire Zones were created.

Since its creation, however, the program has expanded to 82 zones with more than 9,800 certified businesses. The credits associated with the program cost the state nearly \$500 million a year.

Times staff writers Robert Brauchle, Alex Jacobs and Max R. Mitchell contributed to this report.