

Regional Infrastructure Improvement Zones



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About OKI:

The Ohio-Kentucky-Indiana Regional Council of Governments (OKI) is a council of local governments, business organizations and community groups committed to developing collaborative strategies to improve the quality of life and the economic vitality of the region. Formed in 1964, OKI has spent 42 years cultivating partnerships and alliances that range from the federal government to local councils. Its 103 members represent governmental, social and civic groups from 198 communities in the eight county, three-state region. OKI has final authority over all federal dollars spent on transportation in the region. In 2006, OKI approved over \$30 million in funding for projects in this region. For more information, contact:

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About NARC:

For nearly 40 years, NARC has served as a non-profit 501 (c)(3) organization with an expertise in representing pr-active, multi-functional, full-service organizations that serve local units of government. NARC membership includes Councils of Government (COGs), Metropolitan Planning Organizations (MPOs), Economic Development Districts (EDDs), and other regional government agencies. NARC provides federal education and advocacy on behalf of its regional government, and also serves as a platform for research, education, and information sharing. For more information, contact:

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Introduction

Traditional sources of transportation funding are on the decline. The Federal Highway Trust Fund is projected to be insolvent as early as 2009.

Alternative sources of funding like tolling and impact fees are a part of the solution, but are not the entire solution. New, innovative sources of funding are needed to bridge the gap between the available funds and the funds needed to build the road facilities that we need.

The private sector moves faster than the public sector. The lag in public sector decision-making is a necessary component of public review, prioritization, and local decision-making. Delays are frequently encountered due to a lack of funding for needed transportation projects. These delays in infrastructure construction often frustrate private companies who rely on these facilities to make their businesses grow.

In recent years there has been a movement toward private-sector involvement in infrastructure construction. Privately-operated or built roads, new types of bonding, and exactions are examples of ways private companies have involved themselves in the infrastructure provision process.

This white paper proposes a new, innovative solution to transportation infrastructure construction. This concept was developed by the Ohio-Kentucky-Indiana Regional Council of Governments (OKI) in conjunction with the National Association of Regional Councils (NARC). This proposal establishes Regional Infrastructure Improvement Zones, which encourage private-sector involvement in road building through favorable tax treatment of funds and streamlined approval processes.

Regional Infrastructure Improvement Zones

Regional Infrastructure Improvement Zones will allow private corporations or individuals to contribute funds toward construction of roadways and other infrastructure. These donations will be tax-deductible contributions and can be spent only on transportation upgrades that the whole community is eligible to use.

In many ways, RIIZs are similar to Economic Development Districts. Economic Development District plan for economic viability of their areas,

but can only go as far as budgets will permit. Further, these organizations do not deal strictly with transportation infrastructure. With increased pressure being placed on local budgets as well as a decrease in gas tax collections, local government are forced to give up their plans to build new transportation facilities or are increasing taxes to meet their needs. Neither of these solutions benefit the local economy.

Through the implementation of a Regional Infrastructure Zones local projects can turn to business and individuals to improve their economic climate. The Regional Infrastructure Improvement Zones will also begin to infuse new funding into the transportation system—creating less reliance on the traditional highway trust fund.

How will it Work

Regional Infrastructure Improvement Zones are based on Urban Boundary designations. Businesses and/or individuals who wish to form a Regional Infrastructure Improvement Zone must first apply through their local Metropolitan Planning Organization (MPO). The MPO will be responsible for determining if local governments in the area, as well as other community organizations support the proposed infrastructure improvements. The MPO will also be responsible for determining the eligibility of the proposed projects in local or state long-range plan documents. Final approval of the RIIZ will come from the MPO's Board of Directors. When these conditions are satisfied a certificate of approval will be issued to the Regional Infrastructure Improvement Zone and filed with the state's Attorney General and with the Internal Revenue Service.

When the certificates are properly filed members of the infrastructure zone will be permitted to make contributions. Businesses and individuals may make contributions to the fund. These donations will be tax-deductible contributions on the corporations' or individuals' annual tax forms.

Acceptable projects for Infrastructure Zones may include road repair or construction, transit facility construction, the purchase of right-of-way, historic preservation of transportation facilities (i.e. train stations, covered bridges), water runoff facilities, or other projects that will enhance the transportation system of the designated area.

Infrastructure Zones will not be permitted for upgrades that are considered customary or ordinary for development approval. An example of an improper use would be the construction of roads inside a new subdivision. However, it would be acceptable for the builders or residents to create a RIIZ to support upgrades to the major arterial that borders the subdivision.

Regional Infrastructure Improvement Zones may be as small as a single street or as large as an entire city. One example of an Infrastructure Zone could be an add-a-lane project at a four-way intersection. On one corner is a local bank, another is a department store while the third and fourth corners house an office building and a gas station. Each of these corporations, in concert with their local government can apply to their MPO for RIIZ status in order to add a turn lane, sidewalk, or bus stop that will enhance business and job opportunities.

Membership in these Zones are not limited to businesses, individuals may also join. As with any donation to a charitable cause the Infrastructure Zone will issue individuals a receipt indicating the amount of their contribution as well as the date received. The contributing business or individual could then deduct the amount of their donation from the income taxes.

Sample Legislation

This section lays out sample changes to the Internal Revenue Code that would allow for the creation and tax-deductible nature of Regional Infrastructure Improvement Zones. There are four steps to the Code changes, and those instructions are underlined. The actual text that should be inserted is given in *italics*. This section is meant to serve as a starting point for legislative staff and Members of Congress, and should not be considered complete without the review of a qualified attorney.

Amend existing Section 162 of the Internal Revenue Code as follows:

1) Change existing subsection (b) of section 162 to read as follows:

162 (b) CHARITABLE CONTRIBUTIONS AND GIFTS EXCEPTED.—No deduction shall be allowed under subsection (a) for any contribution or gift which would be allowable as a deduction under section 170 (except for contributions or expenditures described in subsection (o)) were it not for the percentage limitations, the dollar limitations, or the requirements as to time for payment, set forth in such section.

2) Change existing subsection (p) to subsection (q), with appropriate redesignations of the titles of parts or divisions of that subsection.

3) Create new subsection (p) to read as follows:

162 (p) CONTRIBUTIONS TO REGIONAL INFRASTRUCTURE IMPROVEMENT ZONES.—

162 (p) (1) For purposes of this subtitle, a contribution to a qualified regional infrastructure zone by a business having a location within that zone shall be treated as an ordinary and necessary business expense paid or incurred during the taxable year in carrying on a trade or business regardless of whether the contribution would otherwise be required to be capitalized under section 263 or whether the contribution would otherwise qualify as a charitable contribution under section 170.

162 (p) (2) A qualified regional infrastructure zone is created in accordance with this subsection by being designated by the metropolitan planning organization designated for the area of

the district in question under subsection 5303 (c) of Title 49 and by the filing of a certificate of designation of a qualified regional infrastructure zone with the Secretary or designee, and with the Attorney General of each state in which the proposed zone is to be located.

162 (p) (3) Contributions to a qualified regional infrastructure improvement zone shall be used for roadways and other public infrastructure located within the zone and provided for in the applicable transportation improvement plan developed under subsection 134 (h) of Title 23 or in the applicable long range transportation plan developed under subsection 134 (g) of Title 23 for the metropolitan planning organization within whose boundaries the proposed zone is to be located. For purposes of this subsection, "public infrastructure" includes road repair or construction, purchase of right-of-way, improvements to community buildings, historic preservation of transportation infrastructure, public transit capital improvements, stormwater facility construction or other transportation-related project.

162 (p) (4) The qualified regional infrastructure zone shall be administered by an incorporated or unincorporated association designated by the metropolitan planning organization and whose members shall be those businesses located within the proposed zone and those political subdivisions whose boundaries include all or any portion of the zone who voluntarily join such association. A qualified regional infrastructure improvement zone must be located within the boundary of a metropolitan planning area established under subsection 5303 (d) of Title 49.

4) For Internal Revenue Code subsection 170 (c), add new subsection 170 (c) (6) as follows:

170 (c) (6) A qualified regional infrastructure improvement zone as defined in subsection 162 (p) except where the individual making the gift or contribution is engaged in a trade or business and is eligible to deduct the contribution as a trade or business expense under subsection 162 (p).