



## Legislation Details (With Text)

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**Type:** Ordinance      **Status:** Passed

**File created:** 6/23/2014      **In control:** Development Committee

**On agenda:** 7/14/2014      **Final action:** 7/17/2014

**Title:** To amend Ordinances 1868-2008 and 1751-2010 to correct authorizing language and to modify job creation requirements regarding the Job Creation Tax Credit Agreement with Whirlpool Corporation et al; and to declare an emergency.

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
7/17/2014	1	CITY CLERK	Attest	
7/16/2014	1	MAYOR	Signed	
7/14/2014	1	COUNCIL PRESIDENT	Signed	
7/14/2014	1	Columbus City Council	Approved	Pass

**BACKGROUND:** Columbus City Council, by Ordinance 1212-2007, passed July 23, 2007, authorized the City to enter into a Job Creation Tax Credit Agreement (Agreement) with Whirlpool Corporation (Enterprise) and Penske Logistics (Employer) for a tax incentive of sixty-five percent (65%) for a period of seven (7) years in consideration of a total investment of \$162.8 million and the creation of 301 permanent full-time jobs related to the construction of a new 1,560,000 square foot facility at 1912 London-Groveport Road with the actual physical address of the project site being 6241 Shook Road, Lockbourne, Ohio 43127. The Agreement was made and entered into to be effective May 13, 2008.

The need existed to amend the Agreement for the first time for the purpose of replacing Penske Logistics as Employer and party to the Agreement with Kenco Logistic Services, LLC as Employer and party to the Agreement and Ordinance 1868-2008, passed December 1, 2008, was the vehicle utilized to accomplish this. Ordinance 1868-2008 was inadvertently and incorrectly written to amend Ordinance 1212-2007 when it should have been written to authorize the Director of Development to amend the Agreement; this being so, the first amendment to the Agreement was made and entered into effective January 7, 2010.

This Agreement was subsequently authorized by Council to be amended for the second time to amend the job creation requirements as set forth in the Agreement from the creation of 301 permanent full-time jobs to the creation of 200 permanent full-time jobs by Ordinance 1751-2010, passed December 6, 2010. This amendment to the Agreement was never executed by the parties to the Agreement.

On February 5, 2013 the City received a letter dated the same on behalf of Enterprise indicating that effective March 1, 2013, Penske Logistics would be replacing Kenco Logistic Services, LLC as the third party employer at the project site and requested that the Agreement be amended to reflect this change. The Agreement was subsequently again authorized by Council to be amended to replace Kenco Logistic Services, LLC as the third party employer at the project site with Penske Logistics as the third party employer at the project site by Ordinance 1350-2013, passed June 10, 2013. A second amendment to the Agreement was again prepared, this one combining the actions authorized in Ordinance 1751-2010 and Ordinance 1350-2013 but the amendment to the Agreement was never executed by the parties to the Agreement.

On May 30, 2014 the City received a letter dated the same from Enterprise requesting that while they wished “to uphold to the overall commitment of 200 full-time positions, we respectfully request that all full-time employees in the facility, regardless of employer, qualify towards the headcount commitment. Of the 200 or more employees, Whirlpool will maintain a minimum of 100 Penske employees, and only Penske employees would qualify for the Job Creation Tax Credit.” This request parallels the authorized job commitments in the companion Community Reinvestment Area Agreement which were also authorized in Ordinance 1751-2010 to allow the non- Enterprise and non- Employer jobs at the project site that were created as a result of the project to be counted towards the job creation goal of the Agreement. This would allow Penske to claim the tax credit for 100 or more employees and help maintain a total facility headcount of at least 200 full time permanent employees.

This legislation seeks to (1) amend Ordinance 1868-2008, to instead of amending Ordinance 1212-2007 which authorized the replacing of Penske Logistics with Kenco Logistic Services, to authorize the amending of the Agreement to replace Penske Logistics with Kenco Logistic Services, so that the first amendment to the Agreement, made and entered into effective January 7, 2010 would be formally authorized; and (2) to amend Ordinance 1751-2010 to not only authorize the reduction of the job creation requirements as set forth in the Agreement from 301 permanent full-time jobs to the creation of 200 permanent full-time jobs, but to also allow the non- Enterprise and non- Employer jobs at the project site that were created as a result of the project to be counted towards the job creation goal of the Agreement and that of the 200 or more employees, Enterprise will maintain a minimum of 100 Employer employees, and only Employer employees would qualify for the Job Creation Tax Credit.

The incentive percentage terms and the length of the Job Creation Tax Credit incentive are not modified by this amendment.

This legislation is presented as an emergency measure in order for this amendment to be legislated in an expedient manner as is possible so as not to delay opportunity for the parties to this Agreement to receive the benefits of this incentive.

**FISCAL IMPACT:** No funding is required for this legislation.

To amend Ordinances 1868-2008 and 1751-2010 to correct authorizing language and to modify job creation requirements regarding the Job Creation Tax Credit Agreement with Whirlpool Corporation et al; and to declare an emergency.

**WHEREAS**, the Columbus City Council approved the Job Creation Tax Credit Agreement (Agreement) with Whirlpool Corporation (Enterprise) and Penske Logistics (Employer) on July 23, 2007 by Ordinance 1212-2007 and entered into effective March 13, 2008; and

**WHEREAS**, the Agreement granted a tax incentive of sixty-five percent (65%) for a period of seven (7) years in consideration of a total investment of \$162.8 million and the creation of 301 permanent full-time jobs related to the construction of a new 1,560,000 square foot facility at 1912 London-Groveport Road with the actual physical address of the project site being 6241 Shook Road, Lockbourne, Ohio 43127; and

**WHEREAS**, the need existed to amend the Agreement for the first time for the purpose of replacing Penske Logistics as Employer and party to the Agreement with Kenco Logistic Services, LLC as Employer and party to the Agreement and Ordinance 1868-2008, passed December 1, 2008 was the vehicle utilized to accomplish this; and

**WHEREAS**, Ordinance 1868-2008 was inadvertently and incorrectly written to amend Ordinance 1212-2007 when it should have been written to authorize the Director of Development to amend the Agreement; this being so, the first amendment to the Agreement was made and entered into effective January 7, 2010; and

**WHEREAS**, the Agreement was subsequently authorized by Council to be amended for the second time to amend the job

creation requirements as set forth in the Agreement from the creation of 301 permanent full-time jobs to the creation of 200 permanent full-time jobs by Ordinance 1751-2010, passed December 6, 2010 but the amendment to the Agreement was never executed by the parties to the Agreement; and

**WHEREAS**, the Agreement was subsequently authorized by Council to again be amended for the second time for the purpose of replacing Kenco Logistic Services, LLC as Employer and party to the Agreement with Penske Logistics as Employer and party to the Agreement by Ordinance 1350-2013, passed June 10, 2013 but the amendment to the Agreement was never executed by the parties to the Agreement; and

**WHEREAS**, on May 30, 2014 the City received a letter dated the same from Enterprise requesting that while they wished “to uphold to the overall commitment of 200 full-time positions, we respectfully request that all full-time employees in the facility, regardless of employer, qualify towards the headcount commitment” and that of the “200 or more employees, Whirlpool will maintain a minimum of 100 Penske employees, and only Penske employees would qualify for the Job Creation Tax Credit;” and

**WHEREAS**, this request parallels the authorized job commitments in the companion Community Reinvestment Area Agreement which were also authorized in Ordinance 1751-2010 to allow the non- Enterprise and non- Employer jobs at the project site that were created as a result of the project to be counted towards the job creation goal of the Agreement; and

**WHEREAS**, this will allow Penske to claim the tax credit for 100 or more employees and help maintain a total facility headcount of at least 200 full time permanent employees; and

**WHEREAS**, as Enterprise has been fully compliant with the terms of the Agreement, the City desires to amend Ordinance 1868-2008 to correct authorizing language, and to amend Ordinance 1751-2010 to modify job creation requirements; and

**WHEREAS**, an emergency exists in the usual daily operation of the Department of Development, in that it is immediately necessary to take action on this Agreement in order for these amendments to be legislated in as expedient a manner as is possible so as not to delay opportunity for the parties to this Agreement to receive the benefits of this incentive, and to preserve the public health, property, safety and welfare; **NOW, THEREFORE**,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That Ordinance 1868-2008 be amended to instead of amending Ordinance 1212-2007 which authorized the replacing of Penske Logistics with Kenco Logistic Services, to authorize the amending of the Agreement to replace Penske Logistics with Kenco Logistic Services, in order to authorize the first amendment to the Agreement, made and entered into effective January 7, 2010, and that such amendment is hereby ratified.

**SECTION 2.** That Ordinance 1751-2010 be amended to not only authorize the reduction of the job creation requirements as set forth in the Agreement from 301 permanent full-time jobs to the creation of 200 permanent full-time jobs, but to also allow the non-Enterprise and non- Employer jobs at the project site that were created as a result of the project to be counted towards the job creation goal of the Agreement and that of the 200 or more employees, Enterprise will maintain a minimum of 100 Employer employees, and only Employer employees would qualify for the Job Creation Tax Credit.

**SECTION 3.** For the reasons stated in the preamble hereto, which is made a part hereof, this Ordinance is declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor, or ten (10) days after passage if the Mayor neither approves nor vetoes this Ordinance.