

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)  
CONFERENCE COMMITTEE SUBSTITUTE  
FOR ENGROSSED  
SENATE BILL NO. 336

By: Williams (Don) and Weedn  
of the Senate

and

Begley of the House

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to public finance and revenue and taxation; amending 62 O.S. 1991, Section 193, as amended by Section 1, Chapter 396, O.S.L. 1992 (62 O.S. Supp. 1992, Section 193), which relates to the Ad Valorem Reimbursement Fund and 68 O.S. 1991, Section 2902, as last amended by Section 1 of Enrolled Senate Bill No. 86 of the 1st Session of the 44th Oklahoma Legislature, which relates to ad valorem taxes; deleting certain limitation on amount of reimbursement to counties from Fund; defining term; clarifying date by which application for five-year ad valorem tax exemption must be submitted for certain provisions to apply; modifying number of full-time-equivalent employees required to qualify for certain ad valorem tax exemption; modifying method of calculation of number of new employees; requiring certain affidavit and verification; providing conditions for new, acquired or expanded manufacturing facility to qualify for certain ad valorem tax exemption and specifying requirements related thereto; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 62 O.S. 1991, Section 193, as amended by Section 1, Chapter 396, O.S.L. 1992 (62 O.S. Supp. 1992, Section 193), is amended to read as follows:

Section 193. A. There is hereby created in the State Treasury a revolving fund for the Oklahoma Tax Commission to be designated the "Ad Valorem Reimbursement Fund". The fund shall be a continuing fund, not subject to fiscal year limitations. Monies apportioned to this fund shall be expended to reimburse counties of this state for loss of revenue due to exemptions of ad valorem taxes for new or expanded manufacturing or research and development facilities. ~~Provided, for each year an exemption is~~

~~granted pursuant to Section 2902 of Title 68 of the Oklahoma Statutes, reimbursement shall not be made for the amount of ad valorem tax assessed on the increased valuation of the facility which is directly attributable to its construction, acquisition or expansion but shall only be made for an amount equal to the average of the ad valorem tax assessed on the value of the property for the three tax years immediately preceding the first tax year of the five-year exemption granted for the construction, acquisition or expansion of a facility.~~ Provided further that it shall be the duty of the Oklahoma Tax Commission to assess the valuation of all property for new or expanded manufacturing or research and development facilities which are exempt from ad valorem taxes. Monies apportioned to this fund also may be transferred to other state funds as directed by the Legislature by law.

B. The county commissioners of each county seeking reimbursement for lost revenue from the Ad Valorem Reimbursement Fund shall make one claim for reimbursement on forms prescribed by the Oklahoma Tax Commission prior to April 30 of each year. Provided, the assessed valuation of a school district as stated in the claim for reimbursement shall be the same as reported to the State Department of Education on the Estimate of Need and shall include the total valuation of property exempt from taxation pursuant to Section 2902 of Title 68 of the Oklahoma Statutes. Said claims shall be either approved or disapproved in whole or in part by the Commission by June 15 of each year. If the Commission determines that an exemption has been erroneously or unlawfully granted, it shall notify the appropriate county assessor who shall immediately value and assess the property and place it on the rolls for ad valorem taxation. Disbursements from the fund shall be made on warrants issued by the State Treasurer against claims filed by the Commission with the Office of State Finance for payment. For the fiscal year ending June 30, 1988, and for each fiscal year thereafter, such disbursements shall be exempt from all agency expenditure ceilings. The county treasurer shall

apportion or disburse such funds for expenditures in the same manner as other ad valorem tax collections.

C. In the event monies apportioned to the Ad Valorem Reimbursement Fund are insufficient to pay all claims for reimbursement made pursuant to subsection B of this section, the available funds shall be distributed proportionally among the counties making claims according to the amount of the claim made by each county.

SECTION 2. AMENDATORY 68 O.S. 1991, Section 2902, as last amended by Section 1 of Enrolled Senate Bill No. 86 of the 1st Session of the 44th Oklahoma Legislature, is amended to read as follows:

Section 2902. A. A qualifying manufacturing concern, as defined by Section 6B of Article X of the Oklahoma Constitution, and as further defined herein, shall be exempt from the levy of any ad valorem taxes upon new, expanded or acquired manufacturing facilities, including facilities engaged in research and development, for a period of five (5) years. Such facilities are hereby classified for the purposes of taxation as provided in Section 22 of Article X of the Constitution of the State of Oklahoma.

B. For purposes of this section, the following definitions shall apply:

1. "Manufacturing facilities" shall mean facilities engaged in the mechanical or chemical transformation of materials or substances into new products and shall include:

- a. establishments as defined or classified under Division D of the Standard Industrial Classification (SIC) Manual, latest revision,
- b. facilities, including repair and replacement parts, primarily engaged in aircraft repair, building and rebuilding whether or not on a factory basis,
- c. establishments primarily engaged in computer services and data processing as defined under Industrial Group Numbers 7372 and 7373 of the SIC Manual, latest revision, and which derive at least

fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and as defined under Industrial Group Number 7374 of the SIC Manual, latest revision, which derive at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer. Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Oklahoma Tax Commission, by annually filing an affidavit with the Oklahoma Tax Commission stating that the facility so qualifies and such other information as required by the Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers, all sales to the federal government shall be considered to be an out-of-state buyer, or

d. establishments primarily engaged in distribution as defined under Industrial Group Number 4221, 4222, 4225 or 4226 or Major Group Number 50 or 51 of the SIC Manual, latest revision, and which were constructed with an initial capital investment of at least Five Million Dollars (\$5,000,000.00) and which employ at least one hundred (100) full-time-equivalent employees, as certified by the Employment Security Commission. Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Oklahoma Tax Commission, by annually filing an affidavit with the Oklahoma Tax Commission stating that the facility so qualifies and such other information as required by the Commission. The exemption provided for in this subparagraph shall apply only to an establishment for which construction of the facility has commenced prior to October 1, 1993.

Provided, eating and drinking places, as well as other retail establishments, shall not qualify as manufacturing facilities for purposes of this section, nor shall publicly regulated utilities.

2. For tax years beginning after December 31, 1992, "manufacturing facilities" shall mean those facilities as defined in paragraph 1 of this subsection for which the investment cost of the construction, acquisition or expansion of the manufacturing facility is Two Hundred Fifty Thousand Dollars (\$250,000.00) or more;

3. "Facility" and "facilities" shall mean and include the land, buildings, structures, improvements, machinery, fixtures, equipment and other personal property used directly and exclusively in the manufacturing process; ~~and~~

4. "Research and development" shall mean activities directly related to and conducted for the purpose of discovering, enhancing, increasing or improving future or existing products or processes or productivity; and

5. "Expand" and "expansion" shall mean and include any increase to the size or scope of a facility as well as any renovation, restoration, replacement or remodeling of a facility which permits the manufacturing of a new or redesigned product.

C. For applications for a five-year exemption ~~in tax years beginning on or before December 31, 1992~~ submitted on or before December 31, 1993, the exemption herein provided for shall apply to new or acquired manufacturing facilities as defined by Section 6B of Article X of the Oklahoma Constitution and to the expansion of existing facilities on the same site. Any exemption as to expansions of existing facilities shall be limited to the increase in ad valorem taxes directly attributable to the expansion.

Provided further, any exemption as to equipment used in the manufacturing process for manufacturing facilities which qualify pursuant to subparagraph b of paragraph 1 of subsection B of this section shall be granted only if such equipment results in a net increase in the number of full-time-equivalent employees of the facility in the year for which the exemption is initially granted and in each of the four (4) subsequent years only if the level of

new employees is maintained in the subsequent year. Calculation of the number of new employees shall be made in the same manner as required under Section 2357.4 of this title for an investment tax credit.

D. For applications for a five-year exemption ~~in tax years beginning after December 31, 1992~~ submitted after December 31, 1993, the following provisions shall apply:

1. A manufacturing concern shall be entitled to the exemption herein provided for each new manufacturing facility constructed, each existing manufacturing facility acquired and the expansion of existing manufacturing facilities on the same site, as such terms are defined by Section 6B of Article X of the Oklahoma Constitution and by this section;

2. No manufacturing concern shall receive more than one five-year exemption for any one manufacturing facility unless the expansion which qualifies the manufacturing facility for an additional five-year exemption meets the requirements of paragraph 4 of this subsection, provided the employment level established for any previous exemption is maintained;

3. Any exemption as to the expansion of an existing manufacturing facility shall be limited to the increase in ad valorem taxes directly attributable to the expansion; ~~and~~

4. ~~Any~~ Except as provided in paragraph 5 of this subsection, any exemption for a new, acquired or expanded manufacturing facility shall be granted only if the construction, acquisition or expansion results in a net increase of twenty-five (25) or more full-time-equivalent employees of said manufacturing facility in the year for which the exemption is initially granted and in each of the four (4) subsequent years only if the level of new employees is maintained in the subsequent year. ~~Calculation For~~ purposes of this section, calculation of the number of new employees shall be ~~made in the same manner as required under Section 2357.4 of this title for an investment tax credit~~ measured from the start of initial construction or expansion to the completion of such construction or expansion or for three (3) years from the start of initial construction or expansion,

whichever occurs first. In the instance where construction or expansion is expected to exceed one (1) year, the manufacturing concern shall state in an affidavit, signed by an officer, the number of full-time-equivalent employees that is reasonably expected to meet the requirements provided for in this paragraph. The net increase in employees shall be verified by the Oklahoma Employment Security Commission; and

5. Any new, acquired or expanded manufacturing facility which does not meet the requirements of paragraph 4 of this subsection shall be granted an exemption only if all other requirements of this section are met and only if the investment costs of the construction, acquisition or expansion of the manufacturing facility is Fifty Million Dollars (\$50,000,000.00) or more and the manufacturing facility retains employment of one thousand or more full-time-equivalent employees in the year in which the exemption is initially granted and in each of the four (4) subsequent years only if employment of one thousand or more full-time-equivalent employees is maintained in the subsequent year. Calculation of the number of employees shall be made in the same manner as required under Section 2357.4 of this title for an investment tax credit.

E. Any person, firm or corporation claiming the exemption herein provided for shall file each year for which exemption is claimed, an application therefor with the county assessor of the county in which the new, expanded or acquired facility is located. Said application shall be on a form or forms prescribed by the Oklahoma Tax Commission, and shall be filed before March 15 of each year in which the facility desires to take the exemption or within thirty (30) days from and after receipt by such person, firm or corporation of notice of valuation increase, whichever is later. In a case where completion of the facility or facilities will occur after January 1 of a given year, a facility may apply to claim the ad valorem tax exemption for said year. If such facility is found to be qualified for exemption, the ad valorem tax exemption provided for herein shall be granted for that entire year and shall apply to the ad valorem valuation as of January 1st

of that given year. For applicants which qualify under the provisions of subparagraph b of paragraph 1 of subsection B of this section, the application shall include a copy of the affidavit and any other information required to be filed with the Oklahoma Tax Commission pursuant to said provisions.

F. Said application shall be examined by the county assessor and approved or rejected by him in the same manner as provided by law for approval or rejection of claims for homestead exemptions. The taxpayer shall have the same right of review by and appeal from the county board of equalization, in the same manner and subject to the same requirements as provided by law for review and appeals concerning homestead exemption claims. Approved applications shall be filed by the county assessor with the Oklahoma Tax Commission no later than June 15 of the year in which the facility desires to take the exemption. Incomplete applications and applications filed after said date will be declared null and void by the Commission.

G. Nothing herein shall in any manner affect, alter or impair any law relating to the assessment of property, and all property, real or personal, which may be entitled to exemption hereunder shall be valued and assessed as is other like property and as provided by law. The valuation and assessment of property for which an exemption is granted hereunder shall be performed by the Oklahoma Tax Commission.

H. The Oklahoma Tax Commission shall have the authority and duty to prescribe forms and to promulgate rules and regulations as may be necessary to carry out and administer the terms and provisions of this section.

SECTION 3. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.