

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

HOUSE BILL NO. 2592

By: Mass

AS INTRODUCED

An Act relating to rural economic development;
amending Sections 3, 4 and 6, Chapter 275, O.S.L.
1993 (68 O.S. Supp. 1993, Sections 3603, 3604 and
3606), which relate to the Oklahoma Quality Jobs
Program Act; modifying definition; modifying
criteria for eligibility for incentive payments;
specifying requirements based upon average annual
earnings as determined by certain standard;
providing for differential gross payroll amounts
based upon average annual earnings; providing for
new direct jobs engaged in work based upon certain
criteria; requiring verified gross payroll for
particular period to equal or exceed certain
predetermined level; and providing an effective
date.

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

SECTION 1. AMENDATORY Section 3, Chapter 275, O.S.L.
1993 (68 O.S. Supp. 1993, Section 3603), is amended to read as
follows:

Section 3603. A. As used in this act:

1. "Basic industry" means manufacturing, as defined or classified under Division D of the Standard Industrial Classification (SIC) Manual, latest version, administrative and auxiliary services that are not assigned a code in the SIC Manual, but are entitled and described therein as Central Administrative Offices, which means central centers that influence the environment in which data processing, customer service, credit accounting, telemarketing, claims processing and other administrative functions are accomplished, and Research, Development and Testing Laboratories, or the following, if an establishment classified therein has sales of at least seventy-five percent (75%) of its total sales as determined by the Incentive Approval Committee pursuant to the provisions of subsection B of this section to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use or to the federal government or for an establishment located in an area which is not a Standard Metropolitan Statistical Area as provided by subsection D of Section 3604 of this title, if fifty percent (50%) of its total sales as determined by the Incentive Approval Committee are made to out-of-state customers or buyers, or to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use or to the federal government:

- a. motor freight transportation and warehousing, as defined or classified under Major Group 42 of the SIC Manual, latest version,
- b. transportation by air, as defined or classified under Major Group 45 of the SIC Manual, latest version,
- c. arrangement of passenger transportation, as defined or classified under Industry Group 472 of the SIC Manual, latest version,

- d. arrangement of transportation of freight or cargo, as defined or classified under Industry Group 473 of the SIC Manual, latest version,
- e. insurance carriers, as defined or classified under Major Group 63 of the SIC Manual, latest version,
- f. mailing, reproduction, commercial art and photography and stenographic services, as defined or classified under Industry Group 733 of the SIC Manual, latest version,
- g. services to dwellings and other buildings, as defined or classified under Industry Group 734 of the SIC Manual, latest version,
- h. miscellaneous equipment rental and leasing, as defined or classified under Industry Group 735 of the SIC Manual, latest version,
- i. personnel supply services, as defined or classified under Industry Group 736 of the SIC Manual, latest version,
- j. computer programming, data processing and other computer-related services, as defined or classified under Industry Group 737 of the SIC Manual, latest version,
- k. miscellaneous business services, as defined or classified under Industry Group 738 of the SIC Manual, latest version,
- l. medical and dental laboratories, as defined or classified under Industry Group 807 of the SIC Manual, latest version, and
- m. engineering and management services, as defined or classified under Major Group 87 of the SIC Manual, latest version;

provided, an establishment shall not be considered to be engaged in a basic industry unless it offers, or will offer within one hundred eighty (180) days of the date it receives the first incentive payment pursuant to the provisions of this act, a basic health benefits plan which meets the requirements of Section 6506 of Title 36 of the Oklahoma Statutes or which is certified by the Oklahoma Basic Health Benefits Board as being substantially equivalent to meeting such requirements;

2. "New direct job" means full-time-equivalent employment in this state in an establishment which has qualified to receive an incentive payment pursuant to the provisions of this act which did not exist in this state prior to the date of approval by the Department of Commerce of the application of the establishment pursuant to the provisions of Section 4 3604 of this ~~act~~ title;

3. "Estimated direct state benefits" means the tax revenues projected by the Department of Commerce to accrue to the state as a result of new direct jobs;

4. "Estimated direct state costs" means the costs projected by the Department of Commerce to accrue to the state as a result of new direct jobs. Such costs shall include but not be limited to:

- a. the costs of education of new state resident children,
- b. the costs of public health, public safety and transportation services to be provided to new state residents,
- c. the costs of other state services to be provided to new state residents, and
- d. the costs of other state services;

5. "Estimated net direct state benefits" means the estimated direct state benefits less the estimated direct state costs;

6. "Net benefit rate" means the estimated net direct state benefits computed as a percentage of gross payroll; provided, the

net benefit rate may be variable and shall not exceed five percent (5%);

7. "Gross payroll" means wages for new direct jobs as defined in Section 1-218 of Title 40 of the Oklahoma Statutes; and

8. "Establishment" means any business or governmental entity, no matter what legal form, including but not limited to, a sole proprietorship, partnership, corporation, federal agency, political subdivision of the State of Oklahoma, trust authority, or combination thereof.

B. The Incentive Approval Committee is hereby created and shall consist of the Director of State Finance, the Director of the Department of Commerce and one member of the Oklahoma Tax Commission appointed by the Tax Commission. It shall be the duty of the Committee to determine, upon initial application on a form approved by the Committee, if an establishment is engaged in a basic industry as defined in subparagraphs a through m of paragraph 1 of subsection A of this section.

SECTION 2. AMENDATORY Section 4, Chapter 275, O.S.L. 1993 (68 O.S. Supp. 1993, Section 3604), is amended to read as follows:

Section 3604. An establishment which meets the qualifications specified in this act may receive quarterly incentive payments for a ten-year period from the Oklahoma Tax Commission pursuant to the provisions of the Oklahoma Quality Jobs Program Act in an amount which shall be equal to the net benefit rate multiplied by the actual gross payroll of new direct jobs for a calendar quarter as verified by the Oklahoma Employment Security Commission.

B. In order to receive incentive payments, an establishment shall apply to the Oklahoma Department of Commerce. The application shall be on a form prescribed by the Department and shall contain such information as may be required by the Department to determine if the applicant is qualified.

C. ~~In~~ Except as otherwise provided by this section, in order to qualify to receive such payments, the establishment applying shall be required to:

1. Be engaged in a basic industry;

2. Have an annual gross payroll for new direct jobs projected by the Department of Commerce to equal or exceed Two Million Five Hundred Thousand Dollars (\$2,500,000.00) within three (3) years of the date of application; and

3. Have a number of full-time employees working an average of twenty-five (25) or more hours per week in new direct jobs equal to or in excess of eighty percent (80%) of the total number of new direct jobs.

D. For an establishment which locates its principal business activity in a community which is not included within a Standard Metropolitan Statistical Area, in order to qualify to receive the payments provided by the Oklahoma Quality Jobs Program Act, the establishment shall be required to:

1. Be engaged in a basic industry;

2. Have an annual gross payroll for new direct jobs as prescribed by this paragraph within three (3) years of the date of application as projected by the Department of Commerce. Such projection shall be based upon the average annual earnings within the county in which the establishment locates its principal business operations, as determined by the Oklahoma Employment Security Commission County Employment and Wage Data Report:

a. if the average annual earnings of the county are less than Fourteen Thousand Dollars (\$14,000.00) per year, the annual gross payroll shall be One Million Five Hundred Thousand Dollars (\$1,500,000.00),

b. if the average annual earnings of the county are at least Fourteen Thousand Dollars (\$14,000.00) but not in excess of Fifteen Thousand Dollars (\$15,000.00),

the annual gross payroll shall be One Million Six Hundred Thousand Dollars (\$1,600,000.00),

c. if the average annual earnings of the county are at least Fifteen Thousand and One Dollars (\$15,001.00) but not in excess of Sixteen Thousand Dollars (\$16,000.00), the annual gross payroll shall be One Million Seven Hundred Thousand Dollars (\$1,700,000.00),

d. if the average annual earnings of the county are at least Sixteen Thousand and One Dollars (\$16,001.00) but not in excess of Seventeen Thousand Dollars (\$17,000.00), the annual gross payroll shall be One Million Eight Hundred Thousand Dollars (\$1,800,000.00),

e. if the average annual earnings of the county are at least Seventeen Thousand and One Dollars (\$17,001.00) but not in excess of Eighteen Thousand Dollars (\$18,000.00), the annual gross payroll shall be One Million Nine Hundred Thousand Dollars (\$1,900,000.00),

f. if the average annual earnings of the county are at least Eighteen Thousand and One Dollars (\$18,001.00) but not in excess of Nineteen Thousand Dollars (\$19,000.00), the annual gross payroll shall be Two Million Dollars (\$2,000,000.00),

g. if the average annual earnings of the county are at least Nineteen Thousand and One Dollars (\$19,001.00) but not in excess of Twenty Thousand Dollars (\$20,000.00), the annual gross payroll shall be Two Million Two Hundred Thousand Dollars (\$2,200,000.00),
and

h. if the average annual earnings of the county are Twenty Thousand and One Dollars (\$20,001.00) or more,

the annual gross payroll shall be Two Million Three Hundred Thousand Dollars (\$2,300,000.00); and

3. Have a number of full-time employees working an average of twenty-five (25) or more hours per week in new direct jobs equal to or in excess of eighty percent (80%) of the total number of new direct jobs.

E. The Department shall determine if the applicant is qualified to receive incentive payments.

~~E.~~ F. If the applicant is determined to be qualified by the Department of Commerce, the Department shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate applicable for a ten-year period and to estimate the amount of gross payroll for a ten-year period. In conducting such cost/benefit analysis, the Department shall consider quantitative factors, such as the anticipated level of new tax revenues to the state along with the added cost to the state of providing services, and such other criteria as deemed appropriate by the Department. In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits.

~~F.~~ G. Upon approval of such an application, the Department shall notify the Oklahoma Tax Commission and shall provide it with a copy of the application and the results of the cost/benefit analysis. The Tax Commission may require the qualified establishment to submit such additional information as may be necessary to administer the provisions of this act. The approved establishment shall report to the Tax Commission periodically to show its continued eligibility for incentive payments, as provided in Section ~~6~~ 3606 of this ~~act~~ title. The establishment may be audited by the Tax Commission to verify such eligibility. Once the establishment is approved, an agreement shall be deemed to exist between the establishment and the State of Oklahoma, requiring the continued incentive payment to be made as long as the establishment

retains its eligibility as defined in and established pursuant to this section and Sections ~~3~~ 3603 and ~~6~~ 3606 of ~~the Oklahoma Quality Jobs Program Act~~ this title and within the limitations contained in the Oklahoma Quality Jobs Program Act, which existed at the time of such approval.

SECTION 3. AMENDATORY Section 6, Chapter 275, O.S.L. 1993 (68 O.S. Supp. 1993, Section 3606), is amended to read as follows:

Section 3606. A. As soon as practicable after the end of a calendar quarter for which an establishment has qualified to receive an incentive payment, the establishment shall file a claim for the payment with the Oklahoma Tax Commission and shall specify the actual number and gross payroll of new direct jobs for the establishment for the calendar quarter. The Tax Commission shall verify the actual gross payroll for new direct jobs for the establishment for such calendar quarter. If the Tax Commission is not able to provide such verification utilizing all available resources, the Tax Commission may request such additional information from the establishment as may be necessary or may request the establishment to revise its claim.

B. ~~If~~ Except as otherwise provided by this section, if the actual verified gross payroll for four (4) consecutive calendar quarters does not equal or exceed a total of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) within three (3) years of the date of the first incentive payment, or does not equal or exceed a total of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) at any other time during the ten-year period after the date the first payment was made, the incentive payments shall not be made and shall not be resumed until such time as the actual verified gross payroll equals or exceeds the amounts specified in this subsection. Provided, in no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits.

C. If an establishment qualifies for an incentive payment pursuant to subsection D of Section 3604 of this title, if the actual verified gross payroll for four (4) consecutive calendar quarters does not equal or exceed the applicable amount pursuant to which the establishment qualifies for incentive payments as provided by subparagraphs a,b,c,d,e,f,g or h of paragraph 2 of subsection D of that section or does not equal the applicable amount at any other time during the ten-year period after the date the first payment was made, the incentive payments shall not be made and shall not be resumed until such time as the actual verified gross payroll equals or exceeds the amount as may be applicable to such establishment as provided by subsection D of Section 3604 of this title. Provided, in no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits.

D. An establishment that has qualified pursuant to Section 4 3604 of this ~~act~~ title may receive payments only in accordance with the provisions under which it initially applied and was approved. If an establishment that is receiving incentive payments expands, it may apply for additional incentive payments based on the gross payroll anticipated from the expansion only, pursuant to Section 4 3604 of this ~~act~~ title.

~~D.~~ E. As soon as practicable after such verification, the Tax Commission shall issue a warrant to the establishment in the amount of the net benefit rate multiplied by the actual gross payroll as determined pursuant to subsection A of this section for the calendar quarter.

SECTION 4. This act shall become effective September 1, 1994.

44-2-8193

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