

SHORT TITLE: Economic development; making certain establishments eligible for special incentive payments for natural disaster at-risk jobs; codification; effective date.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1037

By: Roberts

AS INTRODUCED

An Act relating to economic development; amending Sections 2, 3, 10 and 11, Chapter 322, O.S.L. 1994 (68 O.S. Supp. 1995, Sections 3702, 3703, 3710 and 3711), which relate to incentive payments for certain jobs; making certain exception to new job creation requirement; defining terms; making certain establishments eligible for special incentive payments for natural disaster at-risk jobs; requiring approval of Department of Commerce; stating requirements for approval and continued payment of special incentive payments; stating beginning date for payment and payment period; setting payment limits; stating basis for determination of payment amount; providing for cessation of payment if certain conditions are not met; requiring notification of Oklahoma Tax Commission and authorizing Commission to request certain information; making information subject to audit; providing for issuance of quarterly payments; making certain prohibitions apply; creating revolving fund for certain purpose; providing for funding; limiting liability; limiting total annual payments; providing for promulgation of rules; conforming language; providing for codification; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 2, Chapter 322, O.S.L. 1994 (68 O.S. Supp. 1995, Section 3702), is amended to read as follows:

Section 3702. It is the intent of the Legislature that:

1. The State of Oklahoma provide appropriate incentives to support establishments:
 - a. that hold promise of retaining and gaining jobs when the State of Oklahoma is in competitive situations with other states or nations,

- b. when there is a direct threat to the existing revenue base and wealth of the state because existing jobs are at risk, and
- c. provided, however, except for natural disaster at-risk jobs, new jobs must be created in conjunction with provisions of incentives to retain at-risk jobs;

2. The State of Oklahoma provide appropriate incentives to support establishments that hold the promise of growth in strategic industries that yield higher long-term benefits for job retention and increasing the wealth of the state and which create competitive advantages for the State of Oklahoma in attracting and retaining industries and thus jobs;

3. The State of Oklahoma provide appropriate incentives to establishments that locate in areas of the state that would be highly impacted statistically in their labor forces when establishments locate in such an area;

4. The State of Oklahoma provide appropriate incentives to establishments that reduce continuing unemployment for citizens by employing the chronically unemployed;

5. The Oklahoma Department of Commerce and the Oklahoma Tax Commission implement the provisions of the Saving Quality Jobs Act and exercise all powers as authorized in this act. The exercise of powers conferred by the Saving Quality Jobs Act shall be deemed and held to be the performance of essential public purposes; and

6. Nothing herein shall be construed to constitute a guarantee or assumption by the State of Oklahoma of any debt of any individual, company, corporation or association nor to authorize the credit of the State of Oklahoma to be given, pledged or loaned to any individual, company, corporation or association.

SECTION 2. AMENDATORY Section 3, Chapter 322, O.S.L. 1994 (68 O.S. Supp. 1995, Section 3703), is amended to read as follows:

Section 3703. Unless otherwise indicated in the Saving Quality Jobs Act, the definitions contained in Section 3603 of ~~Title 68 of the Oklahoma Statutes~~ this title shall apply to the Saving Quality Jobs Act.

Other definitions of the Saving Quality Jobs Act are:

1. "At-risk jobs" are those jobs of a qualifying establishment, presently existing in Oklahoma which the Director of the Department of Commerce finds would be lost within the state based on changes in establishment structure; consolidation attempts of establishments; and other such factors as determined on a case-by-case basis, unless incentives are offered. Provided, that the Department shall limit the number of at-risk jobs for each establishment so that the number of at-risk jobs shall not exceed the number of new direct jobs anticipated to be created. However, under no circumstances shall the number of at-risk jobs exceed two hundred jobs for any single establishment;

2. "Fiscal year" means July 1 through June 30;

3. "High impact projects" means those projects described in Section ~~§~~ 3708 of this ~~act~~ title;

4. "Natural disaster" means a flood or tornado, occurring on or after January 1, 1995;

5. "Natural disaster at-risk jobs" are those jobs which the Director of the Department of Commerce finds would be lost within the state because of extensive physical damage to an establishment which meets the requirements of Section 3 of this act, as a result of a natural disaster, as determined on a case-by-case basis, unless

special incentives are offered as set forth in Section 3 of this act;

6. "Premium net benefit rate" means the percentage rate determined by the Oklahoma Department of Commerce and utilized by the Oklahoma Tax Commission to calculate quarterly premium payments which are further described in Section ~~5~~ 3705 of this ~~act~~ title; and

~~5.~~ 7. "Premium payments" means those payments made in addition to incentive payments to approved establishments under the terms of the Saving Quality Jobs Act which are calculated in accordance with the provisions of Section ~~5~~ 3705 of this ~~act~~ title; and

8. "Special incentive payment" means the payments described in Section 3 of this act.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3708.1 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. An establishment which, at the time of a natural disaster, is engaged in a basic industry in this state, offers the basic health benefits plan required of a basic industry, and has an instate minimum annual gross payroll of Two Million Five Hundred Thousand Dollars (\$2,500,000.00), is eligible to receive special incentive payments for natural disaster high-risk jobs. Payments shall be made from the Special Incentive Payments Fund created in Section 4 of this act pursuant to approval by the Oklahoma Department of Commerce if the establishment, during its rebuilding period, maintains all benefits for and retains on its payroll, at a level of sixty percent (60%) or above its instate gross payroll at the time of the natural disaster, all persons employed in natural disaster high-risk jobs. For the remainder of the special incentive period, as determined by the Department, all such employees shall be

retained at or above the pay and benefits they were receiving at the time of the natural disaster.

B. 1. Establishments, approved for special incentive payments by the Oklahoma Department of Commerce, may receive quarterly incentive payments, beginning with July 1 of the first fiscal year following the date of approval by the Department. Payments may be received for a ten-year period from the Oklahoma Tax Commission in an amount which shall not exceed, for any one year on average, five percent (5%) of instate annual gross payroll for natural disaster high-risk jobs at the time of the natural disaster. The amount of the incentive payment shall be determined by the Department of Commerce on a case-by-case basis and shall be based on documented losses of the establishment, which shall include, but are not limited to, the cost of rebuilding or replacing structures and equipment and the cost of lost production and business, less any insurance, federal or other state aid, grants, or other similar payments. In no case shall the total annual payments received by an establishment pursuant to this section, the Oklahoma Quality Jobs Program, and any other provision of the Saving Quality Jobs Act exceed in total One Million Dollars (\$1,000,000.00).

2. If an establishment fails at any time to retain employees as required under subsection A of this section, payments will cease and will not be resumed.

3. Upon approval by the Oklahoma Department of Commerce of an establishment to receive special incentive payments, the Department shall notify the Oklahoma Tax Commission in writing and shall provide it with a copy of the application and the approval. The Tax Commission may require the establishment to submit additional information as is necessary for the Tax Commission to verify continuing eligibility for receipt of special incentive payments.

Any information submitted in response to such inquiries shall be considered a part of the documentation for qualification and shall be subject to audit by the Tax Commission.

C. As soon as practicable after receipt of departmental approval, the Tax Commission shall notify the establishment of procedures and requirements to receive warrants. Once the establishment has complied, the Tax Commission shall issue quarterly warrants as long as eligibility continues.

D. The prohibition set forth in Section 3607 of Title 68 of the Oklahoma Statutes shall apply to an establishment which receives special incentive payments pursuant to the provisions of this section.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3709.1 of Title 68, unless there is created a duplication in numbering, reads as follows:

There is hereby created within the State Treasury a special fund for the Oklahoma Tax Commission to be designated the "Special Incentive Payments Fund". The Oklahoma Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Section 2355 of Title 68 of the Oklahoma Statutes for deposit into the fund. The amount deposited each July 1 shall equal the sum of amounts approved for payment during the subsequent fiscal year for each establishment by the Oklahoma Department of Commerce pursuant to Section 3 of this act. All of the amounts deposited in such fund may be used and expended by the Tax Commission for the purposes and in the amounts authorized pursuant to Section 3 of this act. Liability of the State of Oklahoma for payments made pursuant to Section 3 of this act is limited to the balance contained in the fund created by this section. The total payments from the fund created by this section

shall not exceed Five Million Dollars (\$5,000,000.00) for any one fiscal year.

SECTION 5. AMENDATORY Section 10, Chapter 322, O.S.L. 1994 (68 O.S. Supp. 1995, Section 3710), is amended to read as follows:

Section 3710. The Department of Commerce and the Tax Commission shall promulgate rules necessary to implement their respective duties and responsibilities under the provisions of the Saving Quality Jobs Act and Sections 3 and 4 of this act.

SECTION 6. AMENDATORY Section 11, Chapter 322, O.S.L. 1994 (68 O.S. Supp. 1995, Section 3711), is amended to read as follows:

Section 3711. A. Once a project is approved pursuant to the Saving Quality Jobs Act or Section 3 of this act, an agreement shall be deemed to exist between the establishment implementing the project and the State of Oklahoma requiring continuing payments to be made as established pursuant to this section and within the limitations herein.

B. Any person making an application, claim for payment or any report, return, statement or other instrument or providing any other information pursuant to the provisions of the Saving Quality Jobs Act or Section 3 of this act who willfully makes a false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully provides any false or fraudulent information, or any person who willfully aids or abets another in making such false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully aids or abets another in providing any false or fraudulent information, upon conviction, shall be guilty of a felony punishable by the imposition of a fine of not less than One Thousand Dollars (\$1,000.00) and not

more than Fifty Thousand Dollars (\$50,000.00), or imprisonment in the State Penitentiary for not less than two (2) years and not more than five (5) years, or by both such fine and imprisonment. Any person convicted of a violation of this section shall be liable for the repayment of all incentive payments which were paid to the establishment. Interest shall be due on such payments at the rate of ten percent (10%) per annum.

SECTION 7. 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.

45-2-2016

JY