

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

CONFERENCE COMMITTEE SUBSTITUTE

FOR ENGROSSED

HOUSE BILL NO. 3284

By: Leist and Roach of the
House

and

Shurden of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to economic development; amending Section 4, Chapter 275, O.S.L. 1993, as last amended by Section 2, Chapter 258, O.S.L. 1997 (68 O.S. Supp. 1997, Section 3604), which relates to incentive payments for Oklahoma Quality Jobs Program Act; adding eligibility for certain environmental establishments; and providing an effective date.

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

SECTION 1. AMENDATORY Section 4, Chapter 275, O.S.L. 1993, as last amended by Section 2, Chapter 258, O.S.L. 1997 (68 O.S. Supp. 1997, Section 3604), is amended to read as follows:

Section 3604. A. An establishment which meets the qualifications specified in the Oklahoma Quality Jobs Program 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. Except as otherwise provided by subsection D or E of 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 anticipated date on which the establishment will receive its first incentive payment; 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. In order to qualify to receive incentive payments as authorized by this act, an establishment engaged in an activity described under:

1. Any Industry Group Number under Major Group 20 of Division D of the Standard Industrial Classification (SIC) Manual shall be required to:

- a. have an annual gross payroll for new direct jobs projected by the Department of Commerce to equal or exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) within three (3) years of the anticipated date on which the establishment will receive its first incentive payment and make, or which will make within one (1) year, 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 Section 3603 of this title, 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, unless the annual gross payroll equals or exceeds Two Million Five Hundred Thousand Dollars (\$2,500,000.00) in which

- case the requirements for purchase of output provided by this subparagraph shall not apply, and
- b. 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;

2. Major Group 87 of the Standard Industrial Classification (SIC) Manual, as described in division (4) of subparagraph a of paragraph 1 of subsection A of Section 3603 of this title, shall be required to:

- a. have an annual gross payroll for new direct jobs projected by the Department of Commerce to equal or exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) within three (3) years of the anticipated date on which the establishment will receive its first incentive payment and makes, or which will make within one (1) year, at least seventy-five percent (75%) of its total sales, as determined by the Incentive Approval Committee pursuant to the provisions of subsection C of Section 3603 of this title, 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, unless the annual gross payroll equals or exceeds Two Million Five Hundred Thousand Dollars (\$2,500,000.00) in which case the requirements for purchase of output provided by this subparagraph shall not apply, and
- b. 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;

3. Auxiliary Code Number 2 of the Standard Industrial Classification (SIC) Manual, as described in division (5) of subparagraph a of paragraph 1 of subsection A of Section 3603 of this title, shall be required to:

- a. have an annual gross payroll for new direct jobs projected by the Department of Commerce to equal or exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) within three (3) years of the anticipated date on which the establishment will receive its first incentive payment, and
- b. have a number of full-time equivalent 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. An establishment which locates its principal business activity on a site consisting of at least ten (10) acres which has been determined to be contaminated by any substance regulated by a federal or state statute governing environmental conditions for real property and which ~~is~~:

1. Is a federal Superfund removal site, ~~is~~;
2. Is listed on the National Priorities List established under Section 9605 of Title 42 of the United States Code ~~or has~~;
3. Has been formally deferred to the state in lieu of listing on the National Priorities List, ~~has~~; or
4. Has been remediated pursuant to an order of the Department of Environmental Quality,

shall qualify for incentive payments irrespective of:

1. ~~Its~~ its actual gross payroll; or
2. ~~The~~ the number of full-time-equivalent employees engaged in new direct jobs.

In order to qualify for the incentive payments pursuant to this subsection, the establishment shall conduct the activity resulting in at least eighty percent (80%) of its total annual gross revenue, whether from the sale of products or services or both products and services, at the physical location which has

been determined not to comply with the federal or state statutes described in this subsection with respect to environmental conditions for real property. The establishment shall be subject to all other requirements of the Oklahoma Quality Jobs Program Act other than the exemptions provided by this subsection.

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

G. 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.

H. 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 3606 of this 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 3603 and 3606 of this title and within the limitations contained in the Oklahoma

Quality Jobs Program Act, which existed at the time of such approval.

SECTION 2. This act shall become effective November 1, 1998.

46-2-11487 KSM