

ENGROSSED

Senate Bill No. 315

ENGROSSED SENATE BILL NO. 315 -- By FISHER of the Senate and ERVIN, TURNER and GILBERT of the House.

An Act relating to economic development; amending Section 4, Chapter 419, O.S.L. 1997, as amended by Section 4, Chapter 379, O.S.L. 1998, and Section 5, Chapter 419, O.S.L. 1997 (68 O.S. Supp. 1998, Sections 3904 and 3905), which relate to the Small Employer Quality Jobs Incentive Act; clarifying application of certain calculation of annualized wage; modifying information provided to Oklahoma Tax Commission by Oklahoma Department of Commerce; modifying reporting requirement and clarifying and conforming related language; modifying requirement for maintaining eligibility for incentive payments; and declaring an emergency.

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

SECTION 1. AMENDATORY Section 4, Chapter 419, O.S.L. 1997, as amended by Section 4, Chapter 379, O.S.L. 1998 (68 O.S. Supp. 1998, Section 3904), is amended to read as follows:

Section 3904. A. An establishment which meets the qualifications specified in the Small Employer Quality Jobs Incentive Act may receive annual incentive payments for a five-year period from the Oklahoma Tax Commission pursuant to the provisions of the Small Employer Quality Jobs Incentive Act in an amount equal to five percent (5%) multiplied by the actual gross payroll of new direct jobs as verified by the Tax 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. Before approving an application for incentive payments, the Oklahoma Department of Commerce must first determine that the applicant meets the following requirements:

1. Be engaged in a basic industry;
2. Has no more than ninety full-time employees in this state on the date of application nor an average of more than ninety full-time employees in this state during the four calendar quarters immediately preceding the date of application;

3. Has a projected minimum employment, as determined by the Department, of ten new direct jobs within twelve (12) months of the date of application;

4. Has or will have within three (3) months of the date of application, as determined by the Department, sales of at least seventy-five percent (75%) of its total sales 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;

5. Will pay at least eighty percent (80%) of the individuals it employs in new direct jobs an annualized wage which equals or exceeds one hundred fifty percent (150%) of the per capita personal income as that percentage is determined by the Oklahoma State Data Center based on the most recent U.S. Department of Commerce data for the county in which the new direct jobs are located. For the purposes of ~~this paragraph~~ the Small Employer Quality Jobs Incentive Act, health care premiums paid by the applicant for individuals in new direct jobs shall be included in the annualized wage;

6. Has a basic health benefit plan which, as determined by the Department, meets the elements established under divisions (1) through (7) of subparagraph b of paragraph 1 of subsection A of Section 3603 of ~~Title 68 of the Oklahoma Statutes~~ this title and which will be offered to individuals within ninety (90) days of employment in a new direct job;

7. Has not received incentive payments under the Oklahoma Quality Jobs Program Act, the Saving Quality Jobs Act, or the Former Military Facility Development Act; and

8. Is not qualified for approval of an application for incentive payments under the Oklahoma Quality Jobs Program Act, the Saving Quality Jobs Act, or the Former Military Facility Development Act.

D. The Oklahoma Department of Commerce shall determine if an applicant is qualified to receive the incentive payment. Upon qualifying the applicant, the Department shall notify the Tax Commission and shall provide it with a copy of the application, and approval which shall provide the number of persons employed by the applicant upon the date of approval and the maximum total incentives which may be paid to the applicant during the five-year period. The Tax Commission may require the qualified establishment to submit additional information as may be necessary to administer the provisions of the Small Employer Quality Jobs Incentive Act. The approved establishment shall report to the Tax Commission ~~quarterly~~ annually to show its continued eligibility for incentive payments, as provided in Section 3905 of this title. Provided, any establishment which has been approved for incentive payments prior to the effective date of this act shall begin reporting annually on a date set for the establishment by the Department. Establishments 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 incentive payments to be made for a five-year period as long as the establishment retains its eligibility and within the limitations of the Small Employer Quality Jobs Incentive Act which existed at the time of such approval.

SECTION 2. AMENDATORY Section 5, Chapter 419, O.S.L. 1997 (68 O.S. Supp. 1998, Section 3905), is amended to read as follows:

Section 3905. A. 1. ~~As soon as practicable after the end of the calendar quarter in which~~ Beginning twelve (12) months after the application of the establishment is approved by the Oklahoma Department of Commerce, the establishment shall begin filing ~~quarterly~~ annual reports with the Oklahoma Tax Commission that specify the actual number and individual gross payroll of new direct jobs for the establishment and such other information as required by the ~~Oklahoma~~ Tax Commission. The Tax Commission shall verify the actual individual gross payroll for new direct jobs. If the Tax Commission is not able to provide such verification utilizing all available resources, the Tax Commission may request additional information from the establishment as may be necessary or may request the establishment to revise its reports.

The establishment shall continue filing such reports during the five-year incentive period or until it is no longer qualified to receive incentive payments. Such reports shall constitute a claim for annual incentive payments by the establishment.

2. Upon receipt of ~~quarterly reports~~ a report for the initial twelve (12) months of the incentive period and for each subsequent twelve-month period thereafter, the Tax Commission shall determine if the establishment has met the following requirements:

- a. created and or maintained a minimum of ten new direct jobs, and
- b. paid at least eighty percent (80%) of the individuals it employed in new direct jobs an annualized wage which equaled or exceeded one hundred fifty percent (150%) of the per capita personal income as that percentage was determined by the Oklahoma Department of Commerce upon approval of the application.

3. Upon determining that an establishment has met the requirements of paragraph 2 of this subsection for the initial twelve (12) months of the incentive period ~~and provided that the establishment continues to meet the requirements specified in subsection C of Section 4 of this act~~, the Tax Commission shall issue a warrant to the establishment in an amount which shall be equal to five percent (5%) of gross payroll of new direct jobs actually paid by the establishment.

B. Except as provided in subsection C of this section, the annual incentive payment provided for in subsection A of this section shall be allowed in each of the four subsequent twelve-month periods.

C. 1. An establishment which does not meet the requirements of paragraph 2 of subsection A of this section within twelve (12) months of the date of its application shall be ineligible to receive any incentive payments pursuant to its application and approval.

2. An establishment which at any time during the four subsequent twelve-month periods does not meet the requirements of paragraph 2 of subsection A of this section, ~~or the requirements specified in subsection C of Section 4 of this act,~~ shall be ineligible to receive an incentive payment during the twelve-month period in which such requirements are not met.

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.