

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

2ND CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 2904

By: Roach, Tyler and Perry of
the House

and

Williams of the Senate

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to economic development; amending 60 O.S. 2001, Section 178.6, as amended by Section 2 of Enrolled Senate Bill No. 1527 of the 2nd Session of the 48th Oklahoma Legislature, which relates to certain public trusts; modifying provisions related to certain programs; amending 62 O.S. 2001, Section 859, which relates to notice for public hearings; modifying publication requirements for certain public hearings; amending 68 O.S. 2001, Section 2802.1, which relates to Section 8B of Article X of the Oklahoma Constitution; modifying definition; amending 68 O.S. 2001, Section 2823, which relates to visual inspection programs; authorizing payment of costs from certain funds; amending 68 O.S. 2001, Section 2887, which relates to ad valorem exemptions; authorizing audit; prescribing conditions related to occupancy of dwelling units; prohibiting exempt status based upon use of certain proceeds; providing an exception; amending 68 O.S. 2001, Section 2902, as amended by Section 1 of Enrolled Senate Bill No. 980 of the 2nd Session of the 48th Oklahoma Legislature, which relates to an exemption from ad valorem taxation for qualifying manufacturing concerns; modifying provisions related to date of construction or expansion and increased payroll requirement; merging and incorporating duplicate provisions; providing for construction of certain statutory provisions; repealing 68 O.S. 2001, Section 2902, as amended by Section 1 of Enrolled Senate Bill No. 840 of the 2nd Session of the 48th Oklahoma Legislature; providing for noncodification; and declaring an emergency.

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

SECTION 1. AMENDATORY 60 O.S. 2001, Section 178.6, as amended by Section 2 of Enrolled Senate Bill No. 1527 of the 2nd

Session of the 48th Oklahoma Legislature, is amended to read as follows:

Section 178.6 The provisions of Sections 652 and 653 of Title 62 of the Oklahoma Statutes and Sections 178.4 and 178.5 of this title shall not affect: public trusts operating facilities for the aged or disabled persons by nonprofit, religious or benevolent organizations; public trusts operating county, municipal or nonprofit hospitals; public trusts operating college or educational dormitories or student housing facilities; trusts formed for the purpose of constructing buildings for local units of the Department of Human Services under the provisions of Section 189a of Title 56 of the Oklahoma Statutes; public trusts carrying out redevelopment, rehabilitation and conservation activities in accordance with an approved urban renewal plan, provided property owned by said trust shall not be exempt from ad valorem taxation for a period exceeding five (5) years; trusts created under the provisions of Sections 15-141 through 15-147 of Title 2 of the Oklahoma Statutes or other trusts created for the same purpose. Section 176 et seq. of this title shall not prevent public trusts from administering a housing program pursuant to a contract with an agency of the United States Government or the State of Oklahoma, or prevent public trusts from financing housing programs, provided said programs involve only property that is subject to ad valorem taxation and located within the geographic boundaries of the beneficiary or beneficiaries of the public trust or meet the requirements of clauses (i), (ii), (iii), (iv) and (v) of subdivision b of division 2 of subparagraph a of paragraph 8 of Section 2887 of Title 68 of the Oklahoma Statutes.

A public trust with a city or cities, a county or counties, or the state as the beneficiary or beneficiaries thereof may issue its evidences of indebtedness for the purpose of financing housing or housing programs within the geographic boundaries of its beneficiary

or beneficiaries as same represent an authorized and proper public function for public trusts.

SECTION 2. AMENDATORY 62 O.S. 2001, Section 859, is amended to read as follows:

Section 859. A. Before the adoption of a project plan or subsequent amendments thereto, the governing body must hold two public hearings. The primary purpose of the first hearing will be to provide information and to answer questions. A representative of the city, town or county shall present the city, town or county's proposed plan or amendment thereto. The date of the second public hearing shall be ~~fixed~~ announced in the presence of the persons in attendance at the hearing, but such date shall be more than seven (7) days after the date of the first public hearing. The purpose of the second public hearing shall be to give any interested persons the opportunity to express their views on the proposed plan or amendment thereto.

B. Notice of the first public hearing shall be given once by publication in a newspaper with circulation in the city, town or county. Such notice must be published no later than fourteen (14) days before the date of the public hearing. The notice shall include the following:

1. The time and place of the public hearing;
2. The boundaries of the proposed districts and proposed projects by legal description and by street location, if possible, accompanied by a sketch clearly delineating the area in detail as may be necessary to advise the reader of the particular land proposed to be included;
3. A statement that the first public hearing shall be for information and questions purposes only with persons being given the opportunity to be heard at the second public hearing before any votes are taken;

4. A description of the plan or amendment thereto and a location and time where the entire plan may be reviewed by any interested party; and

5. Such other matters as the city, town or county may deem appropriate.

C. ~~The Notice of the second public hearing may be included in the publication notice provided for in subsection B of this section shall apply to the second public hearing.~~ Notice of the second public hearing shall be published in the same manner as the notice provided for in subsection B of this section if:

1. Notice for both public hearings is not included in the notice of the first public hearing;

2. The location, date ~~and~~ or time of the second public hearing is changed after the notice of the first hearing has been published;
or

3. The second public hearing is held more than fourteen (14) days ~~or more~~ after the first public hearing.

D. The provisions of this section shall not apply to the adoption of minor amendments as provided for in Section ~~9~~ 858 of this ~~act~~ title.

E. Technical irregularities in the form of the notice required by this section shall not result in the invalidation of any ordinance enacted or amended subsequent thereto, so long as the notice, as published, reasonably apprises interested parties as to the subject matter of the hearings and correctly describes the date, time and place of such hearings.

SECTION 3. AMENDATORY 68 O.S. 2001, Section 2802.1, is amended to read as follows:

Section 2802.1 A. For purposes of implementing Section 8B of Article X of the Oklahoma Constitution:

1. "Any person" means any person or entity, whether real or artificial, other than the present owner;

2. "Any year when title to the property is transferred, changed, or conveyed to another person or when improvements have been made to the property" means the year next preceding the January 1 assessment date;

3. "Improvement" means a valuable addition made to property amounting to more than normal repairs, replacement, maintenance or upkeep; and

4. "Transfers, change or conveyance of title" means all types of transfers, changes or conveyances of any interest, whether legal or equitable. However, "transfers, change or conveyance of title" shall not include the following:

- a. deeds recorded prior to January 1, 1996,
- b. deeds which secure a debt or other obligation,
- c. deeds which, without additional consideration, confirm, correct, modify or supplement a deed previously recorded,
- d. deeds between husband and wife, or parent and child, or any persons related within the second degree of consanguinity, without actual consideration therefor, or deeds between any person and an express revocable trust created by such person or such person's spouse,
- e. deeds of release of property which is security for a debt or other obligation,
- f. deeds of partition, unless, for consideration, some of the parties take shares greater in value than their undivided interests,
- g. deeds made pursuant to mergers of partnerships, limited liability companies or corporations, or deeds pursuant to which property is transferred from a person to a partnership, limited liability company or corporation of which the transferor or the transferor's spouse, parent, child, or other person

related within the second degree of consanguinity to the transferor, or trust for primary benefit of such persons, are the only owners of the partnership, limited liability company or corporation,

- h. deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock, or
- i. any deed executed pursuant to a foreclosure proceeding in which the grantee is the holder of a mortgage on the property being foreclosed, or any deed executed pursuant to a power of sale in which the grantee is the party exercising such power of sale or any deed executed in favor of the holder of a mortgage on the property in consideration for the release of the borrower from liability on the indebtedness secured by such mortgage except as to cash consideration paid.

B. This section shall be applied effective from the date of the passage of Section 8B of Article X of the Oklahoma Constitution.

C. The Oklahoma Tax Commission shall promulgate rules necessary to implement Section 8B of Article X of the Oklahoma Constitution and this section.

SECTION 4. AMENDATORY 68 O.S. 2001, Section 2823, is amended to read as follows:

Section 2823. A. For each fiscal year, the cost of the comprehensive program of visual inspections for real property and the cost of physical inspections of personal property shall be paid by appropriate warrants from those who receive the revenues of the mill rates levied on the property of the county as prescribed by this section. School districts are hereby authorized to pay such costs from revenues accruing to their building funds. The county assessor shall prepare a budget for the comprehensive program of

visual inspections for real property and the cost of physical inspections of personal property and file such budget with the county excise board or county budget board.

B. The county excise board or county budget board shall apportion such cost among the various recipients of revenues from the mill rates levied, including the county, all cities and towns, all school districts, all sinking funds of such recipients, and all jurisdictions specified in subsection D of this section, in the ratio which each recipient's total tax collection authorized from its mill rates levied for the preceding year bears to the total tax collection authorized of all recipients from all their mill rates levied for the preceding year. The cost shall include only those expenses directly attributable to the visual inspection program and those expenses directly attributable to physical inspections of personal property and shall not include any expenses of the office of the county assessor which, in the judgment of the county excise board or county budget board, are expenses of county assessor's office which would exist in the absence of such program or in the absence of physical inspection of personal property. Expenses that are attributable both to the visual inspection program and physical inspection of personal property, and which would exist in the absence of such program or inspection, including but not limited to salaries, employee benefits, office supplies and equipment, may be prorated; provided, no portion of the salary of the county assessor shall be included in such costs.

C. Upon receipt of the billing statement provided for in subsections D and E of this section by each such recipient, the mill rates to be established by the board for each such recipient for the current year shall include and be based upon such amounts and shall constitute an appropriation of such amounts to the county assessor for expenditure for the expenses of administering the visual inspection program each year. In the case of a sinking fund of a

recipient, if, after approving its budget, the governing body of a recipient notifies the board in writing that there are no funds appropriated to pay the amount of the billing statement for such sinking fund, such notice shall constitute conclusive evidence of a financial obligation of the recipient as it relates to such sinking fund. The board may seek a judgment for the amount of such obligation and court costs in the district court of the county in which the board is located.

D. The county assessor shall render a statement to each of the jurisdictions within the county which receive revenue from an ad valorem mill rate. Such statement shall include the following information:

1. The current fiscal year in which the charge has been incorporated in the jurisdiction's budget;

2. All jurisdictions receiving statements from the county assessor, the mill rate for each in the previous year, and the proportion of each to the combined mill rates of all jurisdictions within the county for the previous year. The proportions specified in this paragraph should equal a total of one hundred percent (100%);

3. The charge for the entity receiving the statement as well as the charge for each jurisdiction of the county based upon the proportions specified in paragraph 2 of this subsection. The total of all current year charges for all county jurisdictions should equal the total visual inspection program budget for the current fiscal year;

4. The amount of the total budget for the office of the county assessor and the percentage that visual inspection program expenses are of such total budget; and

5. A copy of the County Budget Visual Inspection Account and a brief description of the areas to be visually inspected for the

current fiscal year, consistent with the plan on file with the Oklahoma Tax Commission pursuant to Section 2820 of this title.

E. In any county wherein any jurisdiction's budget and mill rates are not subject to review and approval by the county excise board, the county assessor shall nevertheless include any such jurisdiction in the calculations required under subsection A of this section. The county assessor shall also render a billing statement to any such jurisdiction showing the charge for the current fiscal year due from the jurisdiction. Such billing statement shall also show all the information specified in subsection D of this section. Such billing statement shall clearly indicate that the charge payable by the jurisdiction is due and payable by December 31 of the current fiscal year.

SECTION 5. AMENDATORY 68 O.S. 2001, Section 2887, is amended to read as follows:

Section 2887. The following property shall be exempt from ad valorem taxation:

1. All property of the United States, and such property as may be exempt by reason of treaty stipulations existing at statehood between the Indians and the United States government, or by reason of federal laws in effect at statehood, during the time such treaties or federal laws are in force and effect. In instances where a federal agency has obtained title to property through foreclosure, voluntary or involuntary liquidation or bankruptcy, which was previously subject to ad valorem taxation, the property may continue to be assessed for ad valorem taxes if such federal agency has agreed to pay such taxes;

2. All property of this state, and of the counties, school districts, and municipalities of this state, including property acquired for the use of such entities pursuant to the terms of a lease-purchase agreement which provides for the passage of title or

the release of security interest, if applicable, upon payment of all rental payments and an additional nominal amount;

3. All property of any college or school, provided such property is devoted exclusively and directly to the appropriate objects of such college or school within this state and all property used exclusively for nonprofit schools and colleges;

4. The books, papers, furniture and scientific or other apparatus pertaining to any institution, college or society referred to in paragraph 3 of this section, and devoted exclusively and directly for the purpose above contemplated, and the like property of students in any such institution or college, while such property is used for the purpose of their education;

5. All fraternal orphan homes and other orphan homes;

6. All property used for free public libraries, free museums, public cemeteries, or free public schools;

7. All property used exclusively and directly for fraternal or religious purposes within this state.

For purposes of administering the exemption authorized by this section and in order to determine whether a single family residential property is used exclusively and directly for fraternal or religious purposes, the fair cash value of a single family residential property, for which an exemption is claimed as authorized by this subsection, in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) for the applicable assessment year shall not be exempt from taxation;

8. All property of any charitable institution organized or chartered under the laws of this state as a nonprofit or charitable institution, provided the net income from such property is used exclusively within this state for charitable purposes and no part of such income inures to the benefit of any private stockholder, including property which is not leased or rented to any person other than a governmental body, a charitable institution or a member of

the general public who is authorized to be a tenant in property owned by a charitable institution under Section 501(c)(3) of the Internal Revenue Code and which includes but is not limited to an institution that either:

a. additionally satisfies the income standards set forth in Internal Revenue Service Revenue Procedure 96-32, which may be audited by the county assessor of the applicable county, in addition to other requirements of this subparagraph, as a condition of obtaining and maintaining the exemption, if:

(1) the property provides residential rental accommodations regardless of whether services or meals are provided, and

(2) the property:

(a) is occupied as of the applicable January 1 assessment date if the structure is a single-family dwelling, or

(b) has an average seventy-five percent (75%) occupancy rate, based upon the total number of units suitable for occupancy, during the calendar year preceding the applicable January 1 assessment date if the property contains multiple structures suitable for multi-family housing. The owner of any property subject to the occupancy requirements prescribed herein shall submit a report to the county assessor of the county in which the property is located no later than December 15 each year regarding the occupancy rate for the preceding eleven (11) months. If the report indicates that the average occupancy rate was less than

seventy-five percent (75%), the county
assessor shall determine the taxable value
of the property for the succeeding
assessment year and the property shall not
be exempt for any subsequent assessment year
unless the average occupancy rate is at
least seventy-five percent (75%) during the
succeeding eleven-month period. No asset
consisting of a single-family or multi-
family dwelling unit owned by an entity the
property of which would otherwise be exempt
pursuant to subparagraph a of this paragraph
shall be exempt from ad valorem taxation if
any such dwelling unit was improved with or
acquired with any portion of proceeds from
the sale of obligations issued by any entity
organized pursuant to Section 176 of Title
60 of the Oklahoma Statutes if the interest
income derived from such obligations is
exempt from federal income tax unless:

(i) the entity is based in this state and
is incorporated or otherwise organized
as a nonprofit entity and a majority of
the members of the board of directors
are representatives of the community in
which the entity is based,

(ii) the entity or a nonprofit sponsor or
parent organization has at least two
(2) years of experience owning
affordable housing in Oklahoma,

(iii) the entity transfers each year one
hundred percent (100%) of the net

profits derived from the property to
the local government jurisdictions of
the county where the property is
located which would have received
revenue from ad valorem taxes on the
property if the property had not been
exempt from such taxes. For purposes
of this clause, the term "net profits"
shall mean the amount remaining after
payment of all normal and reasonable
expenses, debt service, reserves and
entity-related expenses consistent with
the charitable purpose of the entity as
stated in the charter, articles of
incorporation or equivalent instrument.
For purposes of this clause,
distributions to local government
jurisdictions shall not be in excess of
the ad valorem tax liability of the
entity with respect to assets
qualifying for the exemption authorized
by this paragraph. Distributions to
local government jurisdictions shall be
verified by the county treasurer of the
applicable county,

(iv) the senior bonds constituting at least
seventy percent (70%) of the financing
issued by a public trust on behalf of
the entity, and used to acquire or
improve the dwelling unit are rated as
investment grade bonds or with an
equivalent or higher rating as

determined by Standard & Poor's,
Moody's or an equivalent rating
service, and

(v) the entity and any sponsors or parent
organizations of the entity are not
currently in default and have not had
any previous defaults on any tax-exempt
bond issues in Oklahoma. For purposes
of this clause, "default" shall mean
bankruptcy, receivership or
foreclosure, or

b. is a continuum of care retirement community providing housing for the aged, licensed under Oklahoma law, owned by a nonprofit entity recognized by the Internal Revenue Service as a Section 501(c)(3) tax-exempt entity and located in a county with a population of more than five hundred thousand (500,000) according the latest Federal Decennial Census;

9. All property used exclusively and directly for charitable purposes within this state, provided the charity using said property does not pay any rent or remuneration to the owner thereof unless the owner is a charitable institution described in Section 501(c)(3) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(3), or a veterans' organization described in Section 501(c)(19) of the Internal Revenue Code, 26 U.S.C., Section 501(c)(19);

10. All property of any hospital established, organized and operated by any person, partnership, association, organization, trust, or corporation, as a nonprofit and charitable hospital, provided the property and net income from such hospital are used directly, solely, and exclusively within this state for charitable purposes and that no part of such income shall inure to the benefit of any individual, person, partner, shareholder, or stockholder, and

provided further that such hospital facilities shall be open to the public without discrimination as to race, color or creed and regardless of ability to pay, and that such hospital is licensed and otherwise complies with the laws of this state relating to the licensing and regulation of hospitals;

11. All libraries and office equipment of ministers of the Gospel actively engaged in ministerial work in the State of Oklahoma, where said libraries and office equipment are being used by said ministers in their ministerial work, shall be deemed to be used exclusively for religious purposes and are declared to be within the meaning of the term "religious purposes" as used in Article X, Section 6 of the Constitution of the State of Oklahoma;

12. Household goods, tools, implements and livestock of every person maintaining a home, not exceeding One Hundred Dollars (\$100.00) in value or One Thousand Dollars (\$1,000.00) in value if Article X, Section 6 of the Oklahoma Constitution provides for an exemption in such amount; and in addition thereto, there shall be exempt from taxation on personal property the further sum of Two Hundred Dollars (\$200.00) to all enlisted and commissioned personnel, whether on active duty or honorably discharged, who served in the Armed Forces of the United States during:

- a. the Spanish-American War,
- b. the period beginning on April 6, 1917, and ending on July 2, 1921,
- c. the period beginning on December 6, 1941, and ending on such date as the state of national emergency as declared by the President of the United States shall cease to exist, or
- d. any other or future period during which a state of national emergency shall have been or shall be declared to exist by the Congress or the President of the United States.

All surviving spouses made so by the death of such enlisted or commissioned personnel, who are bona fide residents of this state, shall be entitled to the above additional exemption provided in this paragraph;

13. Family portraits;

14. All food and fuel provided in kind for the use of the family not to exceed provisions for one (1) year's time, and all grain and forage necessary to maintain for one (1) year the livestock used to provide food for the family. No person from whom pay is received or expected for board shall be considered a member of the family within the intent and meaning of this paragraph;

15. All growing crops; and

16. All game animals, fowl and reptile, which are not being grown for food or sale and which are kept exclusively for propagation or exhibition, in private grounds or public parks in this state.

SECTION 6. AMENDATORY 68 O.S. 2001, Section 2902, as amended by Section 1 of Enrolled Senate Bill No. 980 of the 2nd Session of the 48th 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 Oklahoma Constitution.

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 which have received a manufacturer exemption permit pursuant to the provisions of Section 1359.2 of this title,
- 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 Tax Commission stating that the facility so qualifies and such other information as required by the Tax 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~~ meet the following qualifications:

- (1) construction with an initial capital investment of at least Five Million Dollars (\$5,000,000.00) and which employ,
- (2) employment of at least one hundred (100) full-time-equivalent employees, as certified by the Employment Security Commission,
- (3) payment of wages or salaries to its employees at a wage which equals or exceeds one hundred fifty percent (150%) of the federally mandated minimum wage, as certified by the Employment Security Commission, and
- (4) commencement of construction prior to December 31, 2002, with construction to be completed within three (3) years from the date of the commencement of construction.

Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and containing such other information as required by the Tax Commission. ~~The exemption provided for in this subparagraph shall apply only to an establishment for which construction of the facility has commenced prior to December 31, 2001.~~

Provided, eating and drinking places, as well as other retail establishments, except as otherwise provided in subsection E of this section, shall not qualify as manufacturing facilities for purposes of this section, nor shall centrally assessed properties;

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.

C. For applications for a five-year exemption 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. Except as otherwise provided in paragraphs 5 and 6 of this subsection, 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;

4. Except as provided in paragraphs 5 and 6 of this subsection, all initial applications for any exemption for a new, acquired or expanded manufacturing facility shall be granted only if:

- a. there is a net increase of Two Hundred Fifty Thousand Dollars (\$250,000.00) or more in annualized payroll, or a net increase of Two Million Dollars (\$2,000,000.00) or more in capital improvements while maintaining or increasing payroll. The Oklahoma Tax Commission shall verify all payroll information through the Oklahoma Employment Security Commission. Payroll shall be verified by the Oklahoma Tax Commission by using the average of the third and fourth quarter Oklahoma Employment Security Commission reports of the calendar year immediately preceding the year for which initial application is made for base-line payroll, and
- b. the facility offers, or will offer within one hundred eighty (180) days of the date of employment, a basic health benefits plan to the full-time-equivalent employees of the facility, which is determined by the Department of Commerce to consist of the elements specified in subparagraph b of paragraph 1 of subsection A of Section 3603 of this title or elements substantially equivalent thereto.

For purposes of this section, calculation of the amount of increased payroll shall be 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. The For the facilities of any qualified manufacturing concern the construction or expansion of which began on or after January 1, 1996, and for which an application for the exemption authorized by this section was filed prior to the

effective date of this act, the amount of increased payroll shall include payroll for full-time-equivalent employees in this state who are employed by an entity other than the facility which has previously or is currently qualified to receive an exemption pursuant to the provisions of this section and who are leased or otherwise provided to the facility, if such employment did not exist in this state prior to the start of initial construction or expansion of the facility. The manufacturing concern shall submit an affidavit to the Tax Commission, signed by an officer, stating that the construction, acquisition or expansion of the facility will result in a net increase in the annualized payroll as required by this paragraph and that full-time-equivalent employees of the facility are or will be offered a basic health benefits plan as required by this paragraph. If, after the completion of such construction or expansion or after three (3) years from the start of initial construction or expansion, whichever occurs first, the construction, acquisition or expansion has not resulted in a net increase in the amount of annualized payroll, if required, or any other qualification specified in this paragraph has not been met, the manufacturing concern shall pay an amount equal to the amount of any exemption granted, including penalties and interest thereon, to the Tax Commission for deposit to the Ad Valorem Reimbursement Fund; provided, for facilities having previously qualified for an exemption under this section, if the total amount of capital improvements made to the facility during any five-year period is at least Ten Million Dollars (\$10,000,000.00), the requirements for a net increase in the amount of annualized payroll or for maintaining payroll and the requirements for increasing or maintaining payroll for previous years shall be deemed to have been met for purposes of this section for the entire five-year period of the exemption and payment to the Tax Commission shall not be required. In such event,

the facility shall continue to receive the exemption for the entire original five-year period;

5. Any new, acquired or expanded automotive final assembly 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 cost of the construction, acquisition or expansion of the manufacturing facility is Three Hundred Million Dollars (\$300,000,000.00) or more and the manufacturing facility retains an average employment of one thousand seven hundred fifty (1,750) 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 an average employment of one thousand seven hundred fifty (1,750) 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. As used in this paragraph, "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; and

6. Any new, acquired or expanded manufacturing facility which does not meet the requirements of subparagraph a of paragraph 4 of this subsection shall be granted an exemption only if all other requirements of this section are met and only if:

- a. the investment cost of the construction, acquisition or expansion of the manufacturing facility is Two Hundred Million Dollars (\$200,000,000.00) or more and such investment is made on or after July 1, 1997, and
- b. the manufacturing facility retains employment of five hundred (500) or more full-time-equivalent employees in the year in which the exemption provided by this

paragraph is granted and in each of the four (4) subsequent years only if employment of five hundred (500) 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.

As used in this paragraph, "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 or a technological enhancement of the manufacturing process.

D. The five-year period of exemption from ad valorem taxes for any qualifying manufacturing facility property shall begin on January 1 following the initial qualifying use of the property in the manufacturing process.

E. ~~1. As used in this subsection:~~

a. ~~"manufacturing facility" means:~~

- ~~(1) an establishment primarily engaged in distribution as defined under Industrial Group Number 5141 of the SIC Manual, latest revision, and which employs at least one hundred (100) full-time-equivalent employees, as certified by the Oklahoma Employment Security Commission, or~~
- ~~(2) a facility or establishment primarily engaged in property operation of a retail shopping center as defined under Industrial Group Number 6512 of the SIC Manual, latest revision, and which the tenants of such facility or establishment, in the year immediately preceding the natural disaster, collected and remitted more than fifty percent (50%) of the total municipal sales tax revenue of~~

~~the municipality in which the facility or establishment is located, and~~

- ~~b. "natural disaster" means the tornado or similar cyclonic winds occurring on May 3, 1999;~~

~~2. The five-year exemption provided for in this section shall apply to any manufacturing facility as defined in paragraph 1 of this subsection which facility has been damaged or destroyed by the natural disaster occurring on May 3, 1999. In order to qualify for this exemption:~~

- ~~a. the existing facility shall be repaired or rebuilt no later than May 3, 2001, to the same or similar condition as the facility existed prior to the damage or destruction, or the existing facility may be expanded,~~
- ~~b. the facility as defined in division (1) of subparagraph a of paragraph 1 of this subsection shall maintain at least ninety percent (90%) of the average level of full-time-equivalent employees in the year the facility begins operation after the occurrence of the natural disaster as compared to the year immediately before the natural disaster occurred. The tenants of the facility as defined in division (2) of subparagraph a of paragraph 1 of this subsection shall maintain at least seventy percent (70%) of the average level of full-time-equivalent employees in the year the facility begins operation after the occurrence of the natural disaster as compared to the year immediately before the natural disaster occurred. The facility shall submit an affidavit to the Oklahoma Tax Commission, signed by an officer, setting forth the average level of full-time-equivalent employees in the year before the natural disaster and the year the~~

~~facility reopened for business following the natural disaster. The number of full-time-equivalent employees shall be certified by the Oklahoma Employment Security Commission, and~~

~~e. the exemption shall be claimed no later than March 15, 2001.~~

~~F.~~ 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. The application shall be on a form or forms prescribed by the Tax Commission, and shall be filed before March 15, except as provided in Section 2902.1 of this title, 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 that 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 1 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 Tax Commission.

~~G.~~ F. The application shall be examined by the county assessor and approved or rejected 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 Tax Commission no later than June 15, except as provided in Section 2902.1 of this title, of the year in which the facility desires to take the exemption. Incomplete applications and applications filed after June 15 will be declared null and void by the Tax Commission. In the event that a taxpayer qualified to receive an exemption pursuant to the provisions of this section shall make payment of ad valorem taxes in excess of the amount due, the county treasurer shall have the authority to credit the taxpayer's real or personal property tax overpayment against current taxes due. The county treasurer may establish a schedule of up to five (5) years of credit to resolve the overpayment.

~~H.~~ 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 Tax Commission.

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

SECTION 7. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The provisions of Sections 2 and 3 of this act shall be considered and construed to be a clarification of the law as it existed prior to the effective date of this act and shall not be considered or construed to be a change in the law as it existed prior to the effective date of this act.

SECTION 8. REPEALER 68 O.S. 2001, Section 2902, as amended by Section 1 of Enrolled Senate Bill No. 840 of the 2nd Session of the 48th Oklahoma Legislature, is hereby repealed.

SECTION 9. 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.

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