

STATE OF OKLAHOMA

2nd Session of the 48th Legislature (2002)

SENATE BILL 980

By: Herbert

AS INTRODUCED

An Act relating to revenue and taxation and counties and county officers; amending 68 O.S. 2001, Sections 2902, 3112, 3116 and 3118, which relate to ad valorem taxes; requiring certain amounts to be paid to Oklahoma Tax Commission; requiring county treasurer to collect and deposit certain fee for assignment of tax sale certificate; requiring approval and acceptance of certain indemnity bonds by county treasurer; modifying means by which certain notice may be made; modifying persons upon whom certain notice must be served; modifying amount required to redeem certain tax sales; amending 19 O.S. 2001, Section 682, which relates to duties of county officers; modifying amounts authorized to be kept in county offices for certain purposes; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 2902, 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 with an initial capital investment of at least Five

Million Dollars (\$5,000,000.00) and which employ at least one hundred (100) full-time-equivalent employees, as certified by the Employment Security Commission. 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 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 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 county treasurer, who shall cause such amount to be remitted 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 ~~county treasurer~~ 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

c. 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. 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. 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.

I. 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 2. AMENDATORY 68 O.S. 2001, Section 3112, is amended to read as follows:

Section 3112. When any tax sale certificate which has been issued, or by the county treasurer assigned, to an individual is by such individual assigned to another person, it shall be the duty of the assignee to present such assigned certificate, or a separate written assignment duly acknowledged, to the county treasurer who shall note such assignment upon the tax sale record, and no assignment shall be valid until entered upon such record. The county treasurer shall collect Ten Dollars (\$10.00) to be deposited in the Resale Property Fund for making a record of such an assignment.

SECTION 3. AMENDATORY 68 O.S. 2001, Section 3116, is amended to read as follows:

Section 3116. ~~(a)~~ A. If the owner of any tax sale certificate desires to ~~(1) surrender:~~

1. Surrender such certificate for cancellation, ~~(2) surrender;~~
2. Surrender it for payment of redemption money, ~~;~~ or ~~(3) take~~
3. Take a certificate tax deed upon such certificate,

and the certificate has become lost or destroyed, the owner may make proof of such loss or destruction and make indemnity bond to the county treasurer, which bond, upon the approval ~~of the sureties~~ and its acceptance by the county treasurer, shall be deposited with the county treasurer in lieu of the surrender of the tax sale certificate, and shall have the same force and effect as if the tax sale certificate had been surrendered.

~~(b)~~ B. The amount of such bond shall be as follows: ~~(1) for~~

1. For surrender and cancellation, double the amount of the face of the certificate and all endorsements thereon, plus interest and penalty to date, ~~(2) for;~~

2. For obtaining payment of redemption money, double the amount of the money so held by the treasurer, ~~(3) for;~~ and

3. For obtaining a tax deed, a sum equal to the value of the property conveyed.

~~(e)~~ C. An indemnity bond shall not be accepted unless the person making such bond is the record owner of such certificate and makes affidavit that ~~he~~ the person has never assigned or transferred the ~~said~~ certificate, but is the actual owner thereof. Such bond shall be in such form as may be prescribed by the State Auditor and Inspector.

SECTION 4. AMENDATORY 68 O.S. 2001, Section 3118, is amended to read as follows:

Section 3118. A. If no person shall redeem ~~such lands~~ any land on which the tax lien has been sold within two (2) years, at any time after the expiration ~~thereof~~, thereafter and on production of the certificate of purchase, the county treasurer of the county in which the sale of such land took place shall execute to the purchaser, or the heirs or assigns of the purchaser, a deed for land remaining unredeemed. The deed shall vest in the grantee an absolute estate in fee simple in the lands, subject however, to all claims which the state may have on the lands for taxes or other liens or encumbrances and shall extinguish the rights of any mortgagee of record of the lands to whom notice was sent as provided for by law. However, before any holder of a certificate of purchase issued at any tax sale of real estate shall be entitled to a deed as provided in this section, the holder of a certificate of purchase shall cause a written notice signed by such holder to be served, either by process server, by the sheriff or by restricted certified mail with return receipt requested, upon the owner of the land if

the owner is within the state, upon the person in possession of the land, if the same be occupied, and upon all mortgagees and lienholders of record of the land, which notice shall recite the sale of the lands, specifying the date of such sale and notifying such person that unless redemption is made from such sale within sixty (60) days after the date of the service of such notice, a tax deed will be demanded and will issue as provided by law. If the real property to be sold is listed as homestead property on the last tax rolls, then in addition to all other notification requirements, the applicant shall also cause the notice of sale to be posted on the front door of the property by the county sheriff at least thirty (30) days prior to such deed being issued. The cost of the posting of the notice shall be added to the amount necessary to redeem the property from sale.

B. ~~If it shall be made to appear by the return of the service of such notice that the owner or any mortgagee of record of such land cannot be found in the county in which such land is situated, such holder of a certificate of purchase shall cause such notice to be mailed to the last known address of the owner and any mortgagee of record of such land, with return receipt requested.~~ If it shall be made to ~~further~~ appear by the affidavit of the holder of the tax certificate or ~~his~~ such person's agent, filed in the office of the county clerk, that the owner or any mortgagee or lienholder of record of the real estate are nonresidents of the state, or that the residence or place of business of such owner or any mortgagee or lienholder of record is not known to the holder of such tax certificate, and cannot be ascertained by any means within the control of such holder of the tax certificate, and that the holder of such tax certificate cannot by the exercise of reasonable diligence make service upon such owner or any mortgagee or lienholder of record within the state, then in such cases, service shall be made by publication for three (3) successive weeks in some

newspaper of general circulation published at the county seat of the county in which such real estate is situated, and the sixty (60) days shall begin to run from the date of the first publication of such notice. Until the expiration of the sixty (60) days, redemption may be made by any person authorized by law to redeem. All service and return shall be made in the same manner as that of summons in courts of record. The notice, with the tax sale certificate, after being duly served or published, or both, shall be returned and filed in the office of the county clerk, who shall make notation of its date and the date of service on the delinquent sale record, and the fee for such service and publication shall be the same as for like service of summons, and shall be added to the amount necessary to redeem such sales along with any title search fees, if the title search is obtained through the county treasurer's office. The notice provided for in this section may be served at any time after a date not exceeding sixty (60) days prior to the expiration of two (2) years subsequent to the day of sale. Neither failure to send notice to any mortgagee or lienholder of record of ~~said~~ the land nor failure to receive notice as provided for by this section shall invalidate the certificate tax sale, but the certificate tax sale deed shall be ineffective to extinguish any mortgage or lien on the lands of a mortgagee or lienholder to whom no notice was sent.

SECTION 5. AMENDATORY 19 O.S. 2001, Section 682, is amended to read as follows:

Section 682. It shall be the duty of each and every county officer, county board, county commission and all members and employees of either thereof, to deposit daily in the official depository designated in Section 681 of this title, all monies, checks, drafts, orders, vouchers, funds, rentals, penalties, costs, proceeds of sale of property, fees, fines, forfeitures and public charges of every kind received or collected by virtue or under color

of office, except that each county officer, county board, and county commission is hereby authorized to keep in the office, from this deposit, no more than ~~One Hundred Dollars (\$100.00), or Twenty-five Dollars (\$25.00) per cashier, to be used to meet their need to have a fund for change that may arise after the daily deposit has been made.~~ For counties with a population of over five hundred thousand ~~(500,000), each county officer, county board, or county commission may request the board of county commissioners and the district attorney to approve keeping in the office no more than~~ One Thousand Five Hundred Dollars (\$1,500.00) to be used for their change needs. The amount so retained shall not be cumulative so that after each such deposit there shall not be on hand more than authorized by this section. A notation of the retention of this money shall be made in the proper accounting records. All checks, drafts, orders and vouchers so deposited shall be credited and cleared at par, and should payment be refused on any check, draft, order or voucher, should the same prove otherwise worthless, the amount thereof and any costs accruing thereon shall be a charge against the account theretofore credited with the same. Each county officer is hereby authorized to assess and collect a fee of Twenty Dollars (\$20.00) for each worthless check, draft, order or voucher. All monies when so received by the county treasurer, as such official depository, shall be ~~by him~~ deposited in interest-bearing accounts in financial institutions designated and qualified as county depositories as now provided by law and shall draw interest, subject to deduction of financial institution charges for maintaining, processing and collateralizing ~~said~~ the account, at a rate of not less than three percent (3%) per annum on average daily balances, which ~~said~~ interest shall be paid monthly; and, when collected, shall be credited to the respective funds and accounts so earning the same; provided, that all interest collected on monies deposited pursuant to the provisions hereof shall be paid into the county treasury

monthly by the authority to whose financial institution account the same shall have accrued and shall be credited to the general or contingent fund of the county, except that in civil cases all interest earned on funds, other than court costs, deposited in court by litigants shall, when so ordered by the court upon deposit, be disposed of as the court orders. This provision shall only apply to such deposit in excess of One Thousand Dollars (\$1,000.00).

SECTION 6. This act shall become effective November 1, 2002.

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