

STATE OF OKLAHOMA

2nd Session of the 49th Legislature (2004)

SENATE BILL 1282

By: Kerr

AS INTRODUCED

An Act relating to revenue and taxation; creating income tax credit for expenditures of qualifying entities for premium electric service; defining terms; establishing amount and criteria for tax credit; limiting total tax credit; providing for implementation and promulgation of rules by Oklahoma Tax Commission and Oklahoma Department of Commerce; providing for transferability of tax credit for specified period; amending 68 O.S. 2001, Section 3607, which relates to the Oklahoma Quality Jobs Program Act; prohibiting receipt of certain tax credit under specified circumstances; providing for codification; and providing an effective date.

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

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2357.67 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. For tax years beginning after December 31, 2004, there shall be allowed a credit against the tax imposed by Section 2355 of Title 68 of the Oklahoma Statutes for any qualifying entity which requires and must make expenditures for premium electric service. As used in this section:

1. "Qualifying entity" means a basic industry as defined in Section 3603 of Title 68 of the Oklahoma Statutes which has an electric service demand of five hundred kilowatts (500 kW) or greater of connected load, and which:

- a. obtains a certification by the Incentive Approval Committee pursuant to subsection B of Section 3603 of Title 68 of the Oklahoma Statutes that the industry is likely to create a minimum of fifty (50) and a maximum

of five hundred (500) new direct jobs over a period of three (3) years from the date of certification, or

b. obtains a certification by the Incentive Approval Committee pursuant to subsection B of Section 3603 of Title 68 of the Oklahoma Statutes that the industry is likely to create greater than five hundred (500) new direct jobs over a period of three (3) years from the date of certification; and

2. "Expenditures for premium electric service" means the cost to a qualifying entity for provision of power over and above what is provided as standard electric service, including but not limited to redundant service, extra switching or other nonstandard service.

B. The amount of the tax credit for qualifying entities shall be equal to a percentage of the extra cost for premium electric service over and above the cost for standard electric service. Such credit shall be available for a period of five (5) years from the date of initial certification. For qualifying entities which meet the requirements of subparagraph a of paragraph 1 of subsection A of this section, the credit shall be equal to fifty percent (50%) of the extra cost for premium electric service over and above the cost for standard electric service. For qualifying entities which meet the requirements of subparagraph b of paragraph 1 of subsection A of this section, the credit shall be equal to seventy-five percent (75%) of the extra cost for premium electric service over and above the cost for standard electric service. Provided, no qualifying entity shall receive total tax credits of greater than Two Million Dollars (\$2,000,000.00) for all taxable years for which the credit is claimed.

C. The provisions of this act shall be administered by the Oklahoma Tax Commission and the Oklahoma Department of Commerce and each agency shall promulgate necessary rules for its implementation.

D. The amount of the credit allowed, but not used, shall be freely transferable at any time during the five (5) years following the year when such credit is earned. Any person or entity to whom or to which a tax credit is transferred shall have only such rights to claim and use the credit under the terms that would have applied to the person or entity by whom or by which the tax credit was transferred. The provisions of this subsection shall not limit the ability of a tax credit transferee to reduce the tax liability of the transferee, regardless of the actual tax liability of the tax credit transferor, for the relevant taxable period. The transferor initially allowed the credit and any subsequent transferees shall jointly file a copy of any written transfer agreement with the Tax Commission within thirty (30) days of the transfer. The written agreement shall contain the name, address and taxpayer identification number or social security number of the parties to the transfer, the amount of the credit being transferred, the year the credit was originally allowed to the transferor, and the tax year or years for which the credit may be claimed. The Tax Commission may promulgate rules to permit verification of the validity and timeliness of the tax credit claimed upon a tax return pursuant to this subsection but shall not promulgate any rules that unduly restrict or hinder the transfers of such tax credit. The tax credit allowed by this section, upon the election of the taxpayer, may be claimed as a payment of tax, a prepayment of tax or a payment of estimated tax for purposes of Section 1803 or 2355 of this title.

SECTION 2. AMENDATORY 68 O.S. 2001, Section 3607, is amended to read as follows:

Section 3607. Notwithstanding any other provision of law, if a qualified establishment receives an incentive payment pursuant to the provisions of Section 3601 et seq. of this title, neither the qualified establishment nor its contractors or subcontractors shall be eligible to receive the credits or exemptions provided for in the

following provisions of law in connection with the activity for which the incentive payment was received:

1. Paragraphs 14 and 15 of Section 1357 of this title;
2. Paragraph 7 of Section 1359 of this title;
3. Section 2357.4 of this title;
4. Section 2357.7 of this title;
5. Section 2-11-303 of Title 27A of the Oklahoma Statutes;
6. Section 2357.22 of this title;
7. Section 2357.31 of this title;
8. Section 54003 of this title;
9. Section 54006 of this title;
10. Section 625.1 of Title 36 of the Oklahoma Statutes;
11. Subsections C and D of Section 2357.59 of this title; ~~or~~
12. Section 2357.13 of this title; or
13. Section 1 of this act.

SECTION 3. This act shall become effective November 1, 2004.

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