

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

CONFERENCE COMMITTEE
SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1713

By: Calvey and Nance of the
House

and

Adelson, Branam, Gumm and
Mazzei of the Senate

CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to revenue and taxation; defining terms; authorizing certain agreement with Oklahoma Tax Commission; specifying required terms for agreement; providing for payments to certain qualifying entity pursuant to agreement; imposing limitation upon amount of payments; providing for carryforward of certain amounts; requiring initial application and prescribing deadline for application; providing form for use in application process; requiring determination by Oklahoma Tax Commission; providing for cessation of payments; providing for payments based upon qualification as of certain date; providing for issuance of warrant in payment; creating Aircraft Manufacturer Payment Fund; providing for withholding of certain taxes; providing for amount of deposit; limiting liability of State of Oklahoma; authorizing promulgation of rules by Oklahoma Tax Commission; providing for certain offenses; imposing criminal penalties for violations; requiring repayment of certain monies based upon conviction; providing for imposition of interest; providing for codification; providing an effective date; and declaring an emergency.

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 2902.3 of Title 68, unless there is created a duplication in numbering, reads as follows:

A. As used in this section:

1. "Qualified aircraft manufacturer" means a corporation:

- a. primarily engaged in the manufacture or repair of aircraft components and replacement parts,

- b. which is headquartered in this state and the primary facilities of which are located in this state,
- c. which, as of July 1, 2005, has wages in this state totaling at least Eighty Million Dollars (\$80,000,000.00) for the preceding twelve-month period, and
- d. which experienced a decline in annualized wages as a result of the terrorist attacks on the United States on September 11, 2001, and as a result of such decline, had an application for a tax exemption pursuant to the provisions of Section 2902 of Title 68 of the Oklahoma Statutes denied or rejected by the Oklahoma Tax Commission or a county assessor for one (1) or more years beginning after such terrorist attacks and prior to July 1, 2005; and

2. "Tax Commission" or "Commission" means the Oklahoma Tax Commission.

B. A qualified aircraft manufacturer shall be eligible to enter into an agreement with the Tax Commission for a period not to exceed five (5) years. The agreement shall provide for the following:

1. For each year of the term of the agreement, the qualified aircraft manufacturer shall agree to:

- a. maintain Oklahoma wages during the period of the agreement in an amount not less than one hundred percent (100%) of the manufacturer's wages for the twelve (12) months preceding July 1, 2005,
- b. maintain or increase its investment, based on original cost, in real and personal property in this state in an amount not less than one hundred percent (100%) of the manufacturer's level of investment, based on original cost, as of July 1, 2005, and

c. meet all other qualifications specified in this section and provide documentation of such to the Tax Commission; and

2. The Tax Commission shall agree to make payments to the qualified aircraft manufacturer in the amount of ad valorem taxes actually paid by the manufacturer in any year following the terrorist attacks of September 11, 2001, but which would have been exempt from ad valorem taxes pursuant to the provisions of Section 2902 of Title 68 of the Oklahoma Statutes if the manufacturer had not experienced a decline in annualized wages as a result of such terrorist attacks. Payments to a manufacturer shall not exceed the amount of such taxes actually paid by the manufacturer prior to the date of the payment, nor shall payments to a single manufacturer exceed a total of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) over the five-year period of the agreement or a total of Five Hundred Thousand Dollars (\$500,000.00) in any single fiscal year. If such amount is insufficient to reimburse the manufacturer for ad valorem taxes actually paid by the manufacturer in any year following the terrorist attacks of September 11, 2001, but which would have been exempt from ad valorem taxes pursuant to the provisions of Section 2902 of Title 68 of the Oklahoma Statutes if the manufacturer had not experienced a decline in annualized wages as a result of such terrorist attacks, any amount not reimbursed shall carry forward and may be paid in a subsequent fiscal year subject to the limitations of this section; provided, in no event shall payments be made after the expiration of the agreement.

C. A qualified aircraft manufacturer shall make an initial application to the Tax Commission to enter into an agreement pursuant to the provisions of this section not later than September 1, 2005, and upon approval, shall submit a claim for payment annually thereafter for the remainder of the five-year period of the

agreement on a date specified by the Tax Commission. Such application and claim shall be on a form prescribed by the Tax Commission and shall contain such information as may be necessary for the Tax Commission to determine if the qualifications and other requirements of this section have been met. The determination shall be made upon application of the manufacturer and annually thereafter as a condition of receiving a payment pursuant to the provisions of this section. Prior to approving a claim for payment, the Tax Commission shall verify the information contained in the claim and shall verify that all requirements of this section have been met as a condition of making the payment.

D. If the qualified aircraft manufacturer does not meet the terms of the agreement and all provisions of this section, payments shall cease and shall not be resumed, and the agreement shall expire and be void.

E. A qualified aircraft manufacturer that has qualified pursuant to this section may receive payments only in accordance with the provisions under which it initially applied and was approved.

F. As soon as practicable after verification of the eligibility of the qualified aircraft manufacturer as required by this section, the Tax Commission shall issue a warrant to the manufacturer.

G. There is hereby created within the State Treasury a special fund for the Tax Commission to be designated the "Aircraft Manufacturer Payment Fund". The Tax Commission is hereby authorized and directed to withhold a portion of the taxes levied and collected pursuant to Sections 1354 and 2355 of Title 68 of the Oklahoma Statutes which would otherwise be apportioned to the General Revenue Fund for deposit into the fund. The amount deposited shall equal the sum of an amount required for making payments, as determined pursuant to the provisions of this section. All of the amounts deposited in such fund shall be used and expended by the Tax

Commission solely for the purposes and in the amounts authorized by this section. The liability of the State of Oklahoma to make the investment payments under this section shall be limited to the balance contained in the fund created by this subsection.

H. The Tax Commission may promulgate rules necessary to implement its duties and responsibilities under the provisions of this section.

I. Any person making an application, claim for payment or any report, return, statement or other instrument or providing any other information pursuant to the provisions of this section who willfully makes a false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully provides any false or fraudulent information, or any person who willfully aids or abets another in making such false or fraudulent application, claim, report, return, statement, invoice or other instrument or who willfully aids or abets another in providing any false or fraudulent information, upon conviction, shall be guilty of a felony punishable by the imposition of a fine not less than One Thousand Dollars (\$1,000.00) and not more than Fifty Thousand Dollars (\$50,000.00) or imprisonment in the State Penitentiary for not less than two (2) years and not more than five (5) years, or by both such fine and imprisonment. Any person convicted of a violation of this section shall be liable for the repayment of all investment payments which were paid to the manufacturer. Interest shall be due on such payments at the rate of ten percent (10%) per annum.

SECTION 2. This act shall become effective July 1, 2005.

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.

50-1-7640 MAH 05/25/05