

THE STATE SENATE
Wednesday, April 13, 2005

Committee Substitute for
ENGROSSED

House Bill No. 1713

COMMITTEE SUBSTITUTE FOR ENGROSSED HOUSE BILL NO. 1713 - By: CALVEY and NANCE of the House and ADELSON, BRANAN, GUMM and MAZZEI of the Senate.

[revenue and taxation - tax exemption for certain manufacturers - effective date - emergency]

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 manufacturer 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 employees in this state paid annualized wages totaling at least Ninety Million Dollars (\$90,000,000.00) for the preceding twelve-month period, and

1 d. which experienced a decline in payment of annualized
2 wages as a result of the terrorist attacks on the
3 United States on September 11, 2001, and as a result of
4 such decline, had an application for a tax exemption
5 pursuant to the provisions of Section 2902 of Title 68
6 of the Oklahoma Statutes denied or rejected by the
7 Oklahoma Tax Commission or a county assessor for one or
8 more years beginning after such terrorist attacks and
9 prior to July 1, 2005; and

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

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

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

17 a. maintain Oklahoma taxable payroll during the period of
18 the agreement in an amount not less than one hundred
19 percent (100%) of the manufacturer's Oklahoma taxable
20 payroll as of July 1, 2005,

21 b. maintain or increase its investment in real and
22 personal property in this state in an amount not less

1 than one hundred percent (100%) of the manufacturer's
2 level of investment as of July 1, 2005, and
3 c. meet all other qualifications specified in this section
4 and provide documentation of such to the Tax
5 Commission; and

6 2. The Tax Commission shall agree to make payments to the
7 qualified aircraft manufacturer in the amount of ad valorem taxes
8 actually paid by the manufacturer in any year following the
9 terrorist attacks of September 11, 2001, but which would have been
10 exempt from ad valorem taxes pursuant to the provisions of Section
11 2902 of Title 68 of the Oklahoma Statutes if the manufacturer had
12 not experienced a decline in payment of annualized wages as a result
13 of such terrorist attacks. Payments to a manufacturer shall not
14 exceed the amount of such taxes actually paid by the manufacturer
15 prior to the date of the payment, nor shall payments to a single
16 manufacturer exceed a total of Two Million Five Hundred Thousand
17 Dollars (\$2,500,000.00) over the five-year period of the agreement
18 or a total of Five Hundred Thousand Dollars (\$500,000.00) in any
19 single fiscal year. If such amount is insufficient to reimburse the
20 manufacturer for ad valorem taxes actually paid by the manufacturer
21 in any year following the terrorist attacks of September 11, 2001,
22 but which would have been exempt from ad valorem taxes pursuant to
23 the provisions of Section 2902 of Title 68 of the Oklahoma Statutes

1 if the manufacturer had not experienced a decline in payment of
2 annualized wages as a direct result of such terrorist attacks, any
3 amount not reimbursed shall carry forward and may be paid in a
4 subsequent fiscal year subject to the limitations of this section;
5 provided, in no event shall payments be made after the expiration of
6 the agreement.

7 C. A qualified aircraft manufacturer shall make an initial
8 application to the Tax Commission to enter into an agreement
9 pursuant to the provisions of this section not later than September
10 1, 2005, and upon approval, shall submit a claim for payment
11 annually thereafter for the remainder of the five-year period of the
12 agreement on a date specified by the Tax Commission. Such
13 application and claim shall be on a form prescribed by the Tax
14 Commission and shall contain such information as may be necessary
15 for the Tax Commission to determine if the qualifications and other
16 requirements of this section have been met. The determination shall
17 be made upon application of the establishment and annually
18 thereafter as a condition of receiving a payment pursuant to the
19 provisions of this section. Prior to approving a claim for payment,
20 the Tax Commission shall verify the information contained in the
21 claim and shall verify that all requirements of this section have
22 been met as a condition of making the payment.

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

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

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

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

1 investment payments under this section shall be limited to the
2 balance contained in the fund created by this subsection.

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

6 I. Any person making an application, claim for payment or any
7 report, return, statement or other instrument or providing any other
8 information pursuant to the provisions of this section who willfully
9 makes a false or fraudulent application, claim, report, return,
10 statement, invoice or other instrument or who willfully provides any
11 false or fraudulent information, or any person who willfully aids or
12 abets another in making such false or fraudulent application, claim,
13 report, return, statement, invoice or other instrument or who
14 willfully aids or abets another in providing any false or fraudulent
15 information, upon conviction, shall be guilty of a felony punishable
16 by the imposition of a fine not less than One Thousand Dollars
17 (\$1,000.00) and not more than Fifty Thousand Dollars (\$50,000.00) or
18 imprisonment in the State Penitentiary for not less than two (2)
19 years and not more than five (5) years, or by both such fine and
20 imprisonment. Any person convicted of a violation of this section
21 shall be liable for the repayment of all investment payments which
22 were paid to the establishment. Interest shall be due on such
23 payments at the rate of ten percent (10%) per annum.

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

2 SECTION 3. It being immediately necessary for the preservation
3 of the public peace, health and safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.

6 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 4-5-05 - DO PASS,
7 As Amended and Coauthored.