

1 ENGROSSED SENATE
2 BILL NO. 1891

By: Bass and Barrington of the
Senate

3 and

4 Shannon and Dorman of the
5 House

6
7
8 [revenue and taxation - Oklahoma Quality Jobs
9 Incentive Leverage Act - allowing second election -
10 effective date]
11

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

13 SECTION 1. AMENDATORY Section 8, Chapter 299, O.S.L.
14 2002 (68 O.S. Supp. 2007, Section 3658), is amended to read as
15 follows:

16 Section 3658. A. An establishment, as defined in Section ~~3~~
17 3653 of this ~~act~~ title, which is otherwise authorized to receive
18 incentive payments pursuant to the Oklahoma Quality Jobs Program Act
19 and that is in receipt of incentive payments or has qualified for
20 receipt of incentive payments as of the date of the irrevocable
21 election and that intends to use proceeds derived from the sale of
22 obligations issued pursuant to Section ~~4~~ 3654 of this ~~act~~ title
23 shall, as a condition of being eligible to make use of such
24 proceeds, file an irrevocable election with the Oklahoma Department

1 of Commerce to have such incentive payments which would otherwise be
2 paid to the establishment transferred to the Quality Jobs Program
3 Incentive Leverage Fund. An establishment shall file its election
4 with the Oklahoma Department of Commerce not later than August 1,
5 2003, in order to be eligible for use of any proceeds from the sale
6 of obligations authorized by Section 4 3654 of this ~~act~~ title;
7 provided, an establishment that has so filed may file a second
8 irrevocable election with the Department not later than August 1,
9 2009, if it is in receipt of incentive payments pursuant to the
10 Oklahoma Quality Jobs Program Act or has qualified for receipt of
11 incentive payments as of such date and intends to use proceeds
12 derived from a second sale of obligations issued pursuant to Section
13 3654 of this title. No establishment that is not in receipt of or
14 that has not qualified for receipt of incentive payments pursuant to
15 the Quality Jobs Program Act may file an election pursuant to this
16 section.

17 B. Upon filing such election, any incentive payments which
18 would have been paid to the establishment pursuant to the Oklahoma
19 Quality Jobs Program Act after such filing shall be deposited to the
20 Quality Jobs Program Incentive Leverage Fund. Such incentive
21 payments shall be treated as an asset of the establishment which has
22 been paid to the State of Oklahoma for purposes of this act.

23 C. Beginning July 1, 2003, and for each fiscal year thereafter
24 as otherwise required by this act, monies transferred to the Quality

1 Jobs Program Incentive Leverage Fund shall be used for the payment
2 of principal and interest or other costs associated with the
3 issuance of obligations by the Oklahoma Development Finance
4 Authority pursuant to the provisions of Section 4 3654 of this ~~act~~
5 title. Not later than January 1 and July 1 of each year, the
6 Oklahoma Development Finance Authority shall certify to the Oklahoma
7 Department of Commerce and the Oklahoma Tax Commission the amount
8 which will be required for payment of principal, interest and other
9 costs associated with the issuance of such obligations for the
10 succeeding six-month period.

11 D. Notwithstanding any provision of law to the contrary, once
12 an irrevocable election has been made by the establishment pursuant
13 to the provisions of this section:

14 1. The incentive payment made pursuant to the Oklahoma Quality
15 Jobs Program Act for the establishment shall never be less than One
16 Dollar (\$1.00) either during the period of the contract for the
17 incentive payment or during the period of time obligations issued
18 under Section 4 3654 of this ~~act~~ title remain unpaid; and

19 2. Incentive payments shall continue to be paid for the
20 establishment either as provided in the contract for incentive
21 payments in the amount required by the Quality Jobs Program Act or
22 in the amount of One Dollar (\$1.00) after the expiration of the
23 contract period until the Oklahoma Development Finance Authority
24 certifies to the Oklahoma Department of Commerce and the Tax

1 Commission that the indebtedness of the Authority issued pursuant to
2 the provisions of Section 4 3654 of this ~~act~~ title has been repaid.

3 E. Beginning July 1, 2003, and for each fiscal year thereafter
4 as otherwise required by ~~this act~~ the Oklahoma Quality Jobs
5 Incentive Leverage Act, as often as may be necessary for the
6 Oklahoma Development Finance Authority to make payments with respect
7 to indebtedness issued pursuant to the provisions of ~~this act~~ the
8 Oklahoma Quality Jobs Incentive Leverage Act, the Tax Commission
9 shall transfer from the revenues specified in Section 9 3659 of this
10 ~~act~~ title an amount required to equal the difference between the
11 incentive payment deposit and the amount certified pursuant to the
12 provisions of subsection C of this section. The Tax Commission
13 shall then transfer the total amount required pursuant to the
14 certification to the Oklahoma Development Finance Authority.

15 F. An establishment to which proceeds from the sale of any
16 obligations issued by the Oklahoma Development Finance Authority are
17 made available as provided by ~~this act~~ the Oklahoma Quality Jobs
18 Incentive Leverage Act shall not claim any tax credits that would
19 otherwise be authorized pursuant to Section 2357.4 of ~~Title 68 of~~
20 ~~the Oklahoma Statutes~~ this title as a result of jobs created or
21 capital investment made as a direct result of the use of such bond
22 proceeds. For purposes of this subsection and for purposes of
23 computing any tax credit pursuant to Section 2357.4 of ~~Title 68 of~~
24 ~~the Oklahoma Statutes~~ this title, "bond proceeds" shall mean the

1 amount transferred, paid or made available to the establishment
2 together with the total amount of principal and interest paid by the
3 Oklahoma Development Finance Authority with respect to any amount of
4 proceeds transferred, paid or made available to the establishment.

5 G. An establishment that files an irrevocable election
6 authorized by this section and to which proceeds from the sale of
7 obligations authorized by Section 4 3654 of this ~~act~~ title are paid
8 or made available may utilize income tax credits earned prior to the
9 effective date of this act pursuant to Section 2357.4 of ~~Title 68 of~~
10 ~~the Oklahoma Statutes~~ this title for a period of fifteen (15)
11 taxable years subsequent to the year in which the election is filed.

12 H. An establishment that files an irrevocable election
13 authorized by this section and to which any proceeds from the sale
14 of obligations authorized by Section 4 3654 of this ~~act~~ title are
15 paid or made available shall not be eligible to claim any exemption
16 pursuant to Section 6B of Article X of the Oklahoma Constitution or
17 Section 2902 of ~~Title 68 of the Oklahoma Statutes~~ this title with
18 respect to real or personal property constituting the facility
19 described by the establishment pursuant to the disclosure document
20 as provided by Section 5 3655 of this ~~act~~ title. The maximum amount
21 of investment in any facility for purposes of the foregone exemption
22 required by this subsection shall be Two Hundred Fifty Million
23 Dollars (\$250,000,000.00).

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1 I. An establishment that files an irrevocable election
2 authorized by this section and to which any proceeds from the sale
3 of obligations authorized by Section 4 3654 of this ~~act~~ title are
4 paid or made available shall not be eligible to claim any exemption
5 otherwise available pursuant to Section 1359 of ~~Title 68 of the~~
6 ~~Oklahoma Statutes~~ this title with respect to the facility
7 constructed, acquired, improved or equipped with such proceeds. The
8 provisions of this subsection shall not require any waiver of sales
9 tax exemption with respect to personal property acquired for the
10 manufacturing process after completion of construction of the
11 applicable facility.

12 SECTION 2. This act shall become effective November 1, 2008.

13 Passed the Senate the 11th day of March, 2008.

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Presiding Officer of the Senate

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17 Passed the House of Representatives the ____ day of _____,

18 2008.

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Presiding Officer of the House
of Representatives

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