

ESB 1891

THE HOUSE OF REPRESENTATIVES
Monday, April 14, 2008

ENGROSSED

Senate Bill No. 1891

As Amended

ENGROSSED SENATE BILL NO. 1891 - By: BASS AND BARRINGTON of the Senate
and SHANNON AND DORMAN of the House.

[revenue and taxation - Oklahoma Quality Jobs Incentive Leverage Act -
allowing second election -

effective date]

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

1 SECTION 1. AMENDATORY Section 8, Chapter 299, O.S.L. 2002 (68 O.S.
2 Supp. 2007, Section 3658), is amended to read as follows:
3 Section 3658. A. An establishment, as defined in Section ~~3~~ 3653 of this ~~act~~ title,
4 which is otherwise authorized to receive incentive payments pursuant to the Oklahoma
5 Quality Jobs Program Act and that is in receipt of incentive payments or has qualified for
6 receipt of incentive payments as of the date of the irrevocable election and that intends to
7 use proceeds derived from the sale of obligations issued pursuant to Section 4 3654 of
8 this ~~act~~ title shall, as a condition of being eligible to make use of such proceeds, file an
9 irrevocable election with the Oklahoma Department of Commerce to have such incentive
10 payments which would otherwise be paid to the establishment transferred to the Quality
11 Jobs Program Incentive Leverage Fund. An establishment shall file its election with the

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

10 B. Upon filing such election, any incentive payments which would have been paid
11 to the establishment pursuant to the Oklahoma Quality Jobs Program Act after such
12 filing shall be deposited to the Quality Jobs Program Incentive Leverage Fund. Such
13 incentive payments shall be treated as an asset of the establishment which has been paid
14 to the State of Oklahoma for purposes of this act.

15 C. Beginning July 1, 2003, and for each fiscal year thereafter as otherwise required
16 by this act, monies transferred to the Quality Jobs Program Incentive Leverage Fund
17 shall be used for the payment of principal and interest or other costs associated with the
18 issuance of obligations by the Oklahoma Development Finance Authority pursuant to the
19 provisions of Section 4 3654 of this ~~act~~ title. Not later than January 1 and July 1 of each
20 year, the Oklahoma Development Finance Authority shall certify to the Oklahoma
21 Department of Commerce and the Oklahoma Tax Commission the amount which will be

1 required for payment of principal, interest and other costs associated with the issuance of
2 such obligations for the succeeding six-month period.

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

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

9 2. Incentive payments shall continue to be paid for the establishment either as
10 provided in the contract for incentive payments in the amount required by the Quality
11 Jobs Program Act or in the amount of One Dollar (\$1.00) after the expiration of the
12 contract period until the Oklahoma Development Finance Authority certifies to the
13 Oklahoma Department of Commerce and the Tax Commission that the indebtedness of
14 the Authority issued pursuant to the provisions of Section 4 3654 of this ~~aet~~ title has
15 been repaid.

16 E. Beginning July 1, 2003, and for each fiscal year thereafter as otherwise required
17 by ~~this act~~ the Oklahoma Quality Jobs Incentive Leverage Act, as often as may be
18 necessary for the Oklahoma Development Finance Authority to make payments with
19 respect to indebtedness issued pursuant to the provisions of ~~this act~~ the Oklahoma
20 Quality Jobs Incentive Leverage Act, the Tax Commission shall transfer from the
21 revenues specified in Section 9 3659 of this ~~aet~~ title an amount required to equal the
22 difference between the incentive payment deposit and the amount certified pursuant to

1 the provisions of subsection C of this section. The Tax Commission shall then transfer
2 the total amount required pursuant to the certification to the Oklahoma Development
3 Finance Authority.

4 F. An establishment to which proceeds from the sale of any obligations issued by
5 the Oklahoma Development Finance Authority are made available as provided by ~~this~~
6 ~~act~~ the Oklahoma Quality Jobs Incentive Leverage Act shall not claim any tax credits
7 that would otherwise be authorized pursuant to Section 2357.4 of ~~Title 68 of the~~
8 ~~Oklahoma Statutes~~ this title as a result of jobs created or capital investment made as a
9 direct result of the use of such bond proceeds. For purposes of this subsection and for
10 purposes of computing any tax credit pursuant to Section 2357.4 of ~~Title 68 of the~~
11 ~~Oklahoma Statutes~~ this title, "bond proceeds" shall mean the amount transferred, paid
12 or made available to the establishment together with the total amount of principal and
13 interest paid by the Oklahoma Development Finance Authority with respect to any
14 amount of proceeds transferred, paid or made available to the establishment.

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

21 H. An establishment that files an irrevocable election authorized by this section
22 and to which any proceeds from the sale of obligations authorized by Section 4 3654 of

1 this ~~act~~ title are paid or made available shall not be eligible to claim any exemption
2 pursuant to Section 6B of Article X of the Oklahoma Constitution or Section 2902 of ~~Title~~
3 ~~68 of the Oklahoma Statutes~~ this title with respect to real or personal property
4 constituting the facility described by the establishment pursuant to the disclosure
5 document as provided by Section ~~5~~ 3655 of this ~~act~~ title. The maximum amount of
6 investment in any facility for purposes of the foregone exemption required by this
7 subsection shall be Two Hundred Fifty Million Dollars (\$250,000,000.00).

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

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

17 COMMITTEE REPORT BY: COMMITTEE ON XXXX, dated XX-XX-04 - DO PASS, As
18 Amended and Coauthored.

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.