

SB 1891

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THE STATE SENATE
Monday, February 25, 2008

Senate Bill No. 1891
As Amended

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:

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

Section 3658. A. An establishment, as defined in Section ~~3~~ 3653 of this ~~act~~ title, which is otherwise authorized to receive incentive payments pursuant to the Oklahoma Quality Jobs Program Act and that is in receipt of incentive payments or has qualified for receipt of incentive payments as of the date of the irrevocable election and that intends to use proceeds derived from the sale of obligations issued pursuant to Section ~~4~~ 3654 of this ~~act~~ title shall, as a condition of being eligible to make use of such proceeds, file an irrevocable election with the Oklahoma Department of Commerce to have such incentive payments which would otherwise be paid to the establishment transferred to the Quality Jobs Program Incentive Leverage Fund. An establishment shall file its election

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

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

20 C. Beginning July 1, 2003, and for each fiscal year thereafter
21 as otherwise required by this act, monies transferred to the Quality
22 Jobs Program Incentive Leverage Fund shall be used for the payment
23 of principal and interest or other costs associated with the

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

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

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

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

1 ~~the Oklahoma Statutes~~ this title, "bond proceeds" shall mean the
2 amount transferred, paid or made available to the establishment
3 together with the total amount of principal and interest paid by the
4 Oklahoma Development Finance Authority with respect to any amount of
5 proceeds transferred, paid or made available to the establishment.

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

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

1 required by this subsection shall be Two Hundred Fifty Million
2 Dollars (\$250,000,000.00).

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

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

15 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-19-08 - DO PASS,
16 As Amended and Coauthored.