

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2527

By: Glenn

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending 68
8 O.S. 2001, Section 3904, as last amended by Section
9 67, Chapter 1, O.S.L. 2007 (68 O.S. Supp. 2007,
10 Section 3904), which relates to the Small Employer
Quality Jobs Incentive Act; removing certain sales
eligibility requirement; and providing an effective
date.

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

14 SECTION 1. AMENDATORY 68 O.S. 2001, Section 3904, as
15 last amended by Section 67, Chapter 1, O.S.L. 2007 (68 O.S. Supp.
16 2007, Section 3904), is amended to read as follows:

17 Section 3904. A. An establishment which meets the
18 qualifications specified in the Small Employer Quality Jobs
19 Incentive Act may receive quarterly incentive payments for a seven-
20 year period from the Oklahoma Tax Commission pursuant to the
21 provisions of the Small Employer Quality Jobs Incentive Act in an
22 amount equal to the net benefit rate multiplied by the actual gross
23 taxable payroll of new direct jobs as verified by the Tax
24 Commission.

1 B. In order to receive incentive payments, an establishment
2 shall apply to the Oklahoma Department of Commerce. The application
3 shall be on a form prescribed by the Department and shall contain
4 such information as may be required by the Department to determine
5 if the applicant is qualified. The establishment may apply for an
6 effective date for a project, which shall not be more than twelve
7 (12) months from the date the application is submitted to the
8 Department.

9 C. Before approving an application for incentive payments, the
10 Department must first determine that the applicant meets the
11 following requirements:

12 1. Be engaged in a basic industry;

13 2. Has no more than ninety full-time employees in this state on
14 the date of application nor an average of more than ninety full-time
15 employees in this state during the four calendar quarters
16 immediately preceding the date of application;

17 3. Has a projected minimum employment, as determined by the
18 Department, of new direct jobs within twelve (12) months of the date
19 of application as follows:

20 a. if the establishment is located in a municipality with
21 a population less than three thousand five hundred
22 (3,500) persons, as determined by the Oklahoma State
23 Data Center based on the most recent U.S. Department
24 of Commerce data, or if the establishment is located

1 in an unincorporated area and the largest municipality
2 within twenty (20) miles of the establishment is such
3 a municipality, five new direct jobs,

4 b. if the establishment is located in a municipality with
5 a population of three thousand five hundred (3,500)
6 persons or more but less than seven thousand (7,000)
7 persons, as determined by the Oklahoma State Data
8 Center based on the most recent U.S. Department of
9 Commerce data, or if the establishment is located in
10 an unincorporated area and the largest municipality
11 within twenty (20) miles of the establishment is such
12 a municipality, ten new direct jobs, and

13 c. if the establishment is located in a municipality with
14 a population of seven thousand (7,000) persons or
15 more, as determined by the Oklahoma State Data Center
16 based on the most recent U.S. Department of Commerce
17 data, or if the establishment is located in an
18 unincorporated area and the largest municipality
19 within twenty (20) miles of the establishment is such
20 a municipality, fifteen new direct jobs.

21 Provided, for an establishment engaged in software publishing as
22 defined or classified in the NAICS Manual under Industry Group No.
23 5112, data processing, hosting and related services as defined or
24 classified in the NAICS Manual under Industry Group No. 5182,

1 computer systems design and related services as defined or
2 classified in the NAICS Manual under Industry Group No. 5415,
3 scientific research and development services as defined or
4 classified in the NAICS Manual under Industry Group No. 5417,
5 medical and diagnostic laboratories as defined or classified in the
6 NAICS Manual under Industry Group No. 6215 or testing laboratories
7 as defined or classified in the NAICS Manual under U.S. Industry No.
8 541380, the projected minimum employment requirements of this
9 paragraph must be achieved within thirty-six (36) months of the date
10 of application;

11 ~~4. Has or will have within twelve (12) months of the date of~~
12 ~~application, as determined by the Department, sales of at least~~
13 ~~seventy five percent (75%) of its total sales to out of state~~
14 ~~customers or buyers, to in state customers or buyers if the product~~
15 ~~or service is resold by the purchaser to an out of state customer or~~
16 ~~buyer for ultimate use, or to the federal government, except that:~~

17 ~~a. those establishments in the NAICS Manual under the~~
18 ~~U.S. Industry No. 541710 or 541380 are excused from~~
19 ~~the seventy five percent (75%) out of state sales~~
20 ~~requirement,~~

21 ~~b. warehouses that serve as distribution centers for~~
22 ~~retail or wholesale businesses shall be required to~~
23 ~~distribute forty percent (40%) of inventory to out of~~
24 ~~state locations, and~~

1 ~~e. adjustment and collection services activities defined~~
2 ~~or classified in the NAICS Manual under U.S. Industry~~
3 ~~No. 561440 shall be required to have seventy-five~~
4 ~~percent (75%) of loans to be serviced made by out of~~
5 ~~state debtors;~~

6 5. Will pay the individuals it employs in new direct jobs an
7 average annualized wage which equals or exceeds:

8 a. one hundred twenty-five percent (125%) of the average
9 county wage as that percentage is determined by the
10 Oklahoma State Data Center based on the most recent
11 U.S. Department of Commerce data for the county in
12 which the new direct jobs are located. For purposes
13 of this subparagraph, health care premiums paid by the
14 applicant for individuals in new direct jobs shall be
15 included in the annualized wage, or

16 b. one hundred ten percent (110%) of the average county
17 wage as that percentage is determined by the Oklahoma
18 State Data Center based upon the most recent U.S.
19 Department of Commerce data for the county in which
20 the new direct jobs are located. For purposes of this
21 subparagraph, health care premiums paid by the
22 applicant for individuals in new direct jobs shall not
23 be included in the annualized wage; or

1 c. one hundred percent (100%) of the average county wage,
2 excluding health care premiums paid by the applicant
3 for individuals in new direct jobs if the county in
4 which the new jobs are located has:

5 (1) according to the most recent annual determination
6 by the Oklahoma Employment Security Commission, a
7 county unemployment rate more than ten percent
8 (10%) higher than the state unemployment rate,
9 and

10 (2) according to the most recent United States Census
11 Bureau Data, a county personal poverty rate above
12 fifteen percent (15%);

13 ~~6.~~ 5. Has a basic health benefit plan which, as determined by
14 the Department, meets the elements established under divisions (1)
15 through (7) of subparagraph b of paragraph 1 of subsection A of
16 Section 3603 of this title and which will be offered to individuals
17 within twelve (12) months of employment in a new direct job;

18 ~~7.~~ 6. Has not received incentive payments under the Oklahoma
19 Quality Jobs Program Act, the Saving Quality Jobs Act, or the Former
20 Military Facility Development Act; and

21 ~~8.~~ 7. Is not qualified for approval of an application for
22 incentive payments under the Oklahoma Quality Jobs Program Act, the
23 Saving Quality Jobs Act, or the Former Military Facility Development
24 Act.

1 D. The Oklahoma Department of Commerce shall determine if an
2 applicant is qualified to receive the incentive payment. Upon
3 qualifying the applicant, the Department shall notify the Tax
4 Commission and shall provide it with a copy of the application, and
5 approval which shall provide the number of persons employed by the
6 applicant upon the date of approval and the maximum total incentives
7 which may be paid to the applicant during the seven-year period.
8 The Tax Commission may require the qualified establishment to submit
9 additional information as may be necessary to administer the
10 provisions of the Small Employer Quality Jobs Incentive Act. The
11 approved establishment shall report to the Tax Commission quarterly
12 to show its continued eligibility for incentive payments, as
13 provided in Section 3905 of this title. Establishments may be
14 audited by the Tax Commission to verify such eligibility. Once the
15 establishment is approved, an agreement shall be deemed to exist
16 between the establishment and the State of Oklahoma, requiring
17 incentive payments to be made for a seven-year period as long as the
18 establishment retains its eligibility and within the limitations of
19 the Small Employer Quality Jobs Incentive Act which existed at the
20 time of such approval. Any establishment which has been approved
21 for incentive payments prior to July 1, 2002, shall continue to
22 receive such payments pursuant to the laws as they existed prior to
23 July 1, 2002, for any period of time of the original five-year
24 period for such payments remaining after July 1, 2002.

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SECTION 2. This act shall become effective January 1, 2009.

51-2-8577 CJB 01/08/08