

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1891

By: Bass

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5
6 AS INTRODUCED

7 An Act relating to revenue and taxation; amending
8 Section 8, Chapter 299, O.S.L. 2002 (68 O.S. Supp.
9 2007, Section 3658), which relates to the Oklahoma
10 Quality Jobs Incentive Leverage Act; allowing
11 establishment to file second irrevocable election to
12 use certain payments for certain purpose; clarifying
13 statutory references; and providing an effective
14 date.

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

16 SECTION 1. AMENDATORY Section 8, Chapter 299, O.S.L.
17 2002 (68 O.S. Supp. 2007, Section 3658), is amended to read as
18 follows:

19 Section 3658. A. An establishment, as defined in Section 3
20 3653 of this ~~act~~ title, which is otherwise authorized to receive
21 incentive payments pursuant to the Oklahoma Quality Jobs Program Act
22 and that is in receipt of incentive payments or has qualified for
23 receipt of incentive payments as of the date of the irrevocable
24 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

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

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

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1 C. Beginning July 1, 2003, and for each fiscal year thereafter
2 as otherwise required by this act, monies transferred to the Quality
3 Jobs Program Incentive Leverage Fund shall be used for the payment
4 of principal and interest or other costs associated with the
5 issuance of obligations by the Oklahoma Development Finance
6 Authority pursuant to the provisions of Section 4 3654 of this ~~act~~
7 title. Not later than January 1 and July 1 of each year, the
8 Oklahoma Development Finance Authority shall certify to the Oklahoma
9 Department of Commerce and the Oklahoma Tax Commission the amount
10 which will be required for payment of principal, interest and other
11 costs associated with the issuance of such obligations for the
12 succeeding six-month period.

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

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

21 2. Incentive payments shall continue to be paid for the
22 establishment either as provided in the contract for incentive
23 payments in the amount required by the Quality Jobs Program Act or
24 in the amount of One Dollar (\$1.00) after the expiration of the

1 contract period until the Oklahoma Development Finance Authority
2 certifies to the Oklahoma Department of Commerce and the Tax
3 Commission that the indebtedness of the Authority issued pursuant to
4 the provisions of Section 4 3654 of this ~~act~~ title has been repaid.

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

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

1 computing any tax credit pursuant to Section 2357.4 of ~~Title 68 of~~
2 ~~the Oklahoma Statutes~~ this title, "bond proceeds" shall mean the
3 amount transferred, paid or made available to the establishment
4 together with the total amount of principal and interest paid by the
5 Oklahoma Development Finance Authority with respect to any amount of
6 proceeds transferred, paid or made available to the establishment.

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

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

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