

ENROLLED SENATE  
BILL NO. 909

By: Mazzei, Gumm and Branan of  
the Senate

and

Sullivan, Jackson and Tibbs  
of the House

An Act relating to revenue and taxation; amending 68 O.S. 2001, Section 3607, as amended by Section 7, Chapter 406, O.S.L. 2008 (68 O.S. Supp. 2008, Section 3607), which relates to the Oklahoma Quality Jobs Program Act; providing exception to certain limit on eligibility; specifying requirements for an establishment eligible to receive certain credit; defining terms; and providing an effective date.

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

SECTION 1. AMENDATORY 68 O.S. 2001, Section 3607, as amended by Section 7, Chapter 406, O.S.L. 2008 (68 O.S. Supp. 2008, Section 3607), is amended to read as follows:

Section 3607. A. Notwithstanding any other provision of law, if a qualified establishment receives an incentive payment pursuant to the provisions of Section 3601 et seq. of this title, neither the qualified establishment nor its contractors or subcontractors shall be eligible to receive the credits or exemptions provided for in the following provisions of law in connection with the activity for which the incentive payment was received:

1. Paragraphs 16 and 17 of Section 1357 of this title;
2. Paragraph 7 of Section 1359 of this title;

3. Section 2357.4 of this title; except as provided in subsection B of this section;

4. Section 2357.7 of this title;

5. Section 2-11-303 of Title 27A of the Oklahoma Statutes;

6. Section 2357.22 of this title;

7. Section 2357.31 of this title;

8. Section 54003 of this title;

9. Section 54006 of this title;

10. Section 625.1 of Title 36 of the Oklahoma Statutes;

11. Subsections C and D of Section 2357.59 of this title;

12. Section 2357.13 of this title; or

13. Section 4201 of this title.

B. Any establishment which has qualified to receive quarterly incentive payments pursuant to subsection B of Section 3604 of this title for a ten-year period with a project start date after January 1, 2010, shall be eligible to receive the credit provided for in Section 2357.4 of this title if such establishment:

1. Qualifies for the credit allowed pursuant to paragraph 1 of subsection B of Section 2357.4 of this title based on an investment made after January 1, 2010;

2. Pays an average annualized wage which equals or exceeds the average state wage as determined by the Oklahoma State Data Center based on the most recent U.S. Department of Commerce data; and

3. Obtains a determination letter from the Oklahoma Department of Commerce that the business activity of the entity will result in a positive net benefit rate.

C. For purposes of the exception provided for in this section:

1. "Estimated direct state benefits" has the meaning set out in paragraph 4 of subsection A of Section 3603 of this title;

2. "Estimated indirect state benefits" means the indirect new tax revenues projected by the Oklahoma Department of Commerce to accrue to the state, including, but not limited to, revenue generated from ancillary support jobs directly related to the primary business;

3. "Estimated direct state costs" has the meaning set out in paragraph 5 of subsection A of Section 3603 of this title; and

4. "Estimated indirect state costs" means the costs projected by the Oklahoma Department of Commerce to accrue to the state as a result of new indirect jobs. Such costs shall include, but not be limited to, costs enumerated in paragraph 3 of this subsection.

D. Any establishment which has qualified to receive quarterly incentive payments pursuant to subsection B of Section 3604 of this title for a ten-year period with a project start date after January 1, 2010, shall be eligible to receive the credit provided for in Section 2357.4 of this title pursuant to the provisions of this section if such establishment obtains a determination letter from the Oklahoma Department of Commerce that the business activity of the entity will result in a positive net benefit rate, to be computed by the Oklahoma Department of Commerce using a methodology which provides for the analysis of estimated direct state benefits, estimated indirect state benefits, estimated direct state costs and estimated indirect state costs. The Oklahoma Department of Commerce shall use such information as it determines to be relevant for the analysis required by this subsection including, but not limited to, the type of business activity in which the entity is engaged or will be engaged, amount of capital investment, type of assets acquired or utilized by the business entity, economic impact of the business activity within the relevant geographic region and such other factors as the Department determines to be relevant. The Oklahoma Department of Commerce may use information regarding the business entity alone or in conjunction with relevant information regarding other business activity in a geographically relevant area surrounding the principal business location of the primary business entity in order to perform the computation of the net benefit rate.

If the result of the analysis is a positive net benefit rate, the establishment shall be allowed to qualify to receive quarterly incentive payments pursuant to subsection B of Section 3604 of this title for a ten-year period and shall be eligible to receive the credit provided for in Section 2357.4 of this title. The Oklahoma Department of Commerce shall transmit a determination letter to the authorized representative of the establishment and shall also transmit a copy of the determination letter to the Oklahoma Tax Commission, regardless of whether the result is a positive or negative net benefit rate.

SECTION 2. This act shall become effective January 1, 2010.

Passed the Senate the 14th day of May, 2009.

\_\_\_\_\_  
Presiding Officer of the Senate

Passed the House of Representatives the 18th day of May, 2009.

\_\_\_\_\_  
Presiding Officer of the House  
of Representatives