



# MEMO

Tax Policy and Research Division

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Subject: SB 609 PROPOSED CONFERENCE COMMITTEE SUBSTITUTE

SB 609 proposes to amend 62 O.S. §§ 856 & 860 removing criteria that must be included in an ordinance or resolution adopted by a governing body for proposed boundaries of districts and extending the exemption time period for certain businesses from 5 years to 25 years for certain local taxes. This measure proposes to amend 62 O.S. § 866 amending the listed possible inclusions to a written agreement between a governing body and the property owners granted tax incentives and exemptions under this section. SB 609 also proposes to amend 68 O.S. § 2902 modifying the definitions of "manufacturing facilities" and "facility"/"facilities".

Section 1 of SB 609 proposes to amend 62 O.S. § 856 removing criteria that must be included in an ordinance or resolution adopted by a governing body for proposed boundaries of districts. The criteria removed includes restrictions on the amount of aggregate net assessed value of the taxable property. The amendatory language relates to districts that are wholly or partially comprised or become comprised of industries operating under NAICS code 518210.

Section 2 of SB 609 proposes to amend 62 O.S. § 860 extending the exemption time period for certain businesses from 5 years to 25 years for certain local taxes. This measure removes the language allowing an enterprise zone incentive or exemption to be granted for up to 6 years and adds language allowing businesses described in the NAICS Manual under Industry No. 518210 to be granted an incentives or exemption period not to exceed 25 years.

Section 3 of SB 609 proposes to amend 62 O.S. § 866 amending the listed possible inclusions to a written agreement between a governing body and the property owners



granted tax incentives and exemptions under this section. This measure replaces the specific language “[l]ist the kind, number, and location...” with more general language, “[a] description...”, of all proposed improvements to the property, as a possible inclusion to a written agreement as required under this section.

Section 4 of SB 609 proposes to amend 68 O.S. § 2902 as outlined below:

Currently, the definition of “manufacturing facilities” includes facilities for which the investment cost of the construction, acquisition or expansion of the manufacturing facility is \$250,000 or more. SB 609 proposes to increase the investment cost threshold to \$500,000 or more for assets placed in service during calendar year 2022. This measure proposes that for all subsequent calendar years, the investment required shall increase annually by a percentage equal to the previous year’s increase in the Consumer Price Index-All Urban Consumers and such adjusted amount shall be the required investment cost in order to qualify for the exemption authorized by this section. This measure requires the Oklahoma Department of Commerce to determine the amount of increase, if any, on January 1 of each year and requires the Oklahoma Tax Commission to publish on their website at least annually the adjusted dollar amount in order to qualify for the exemption authorized by this section and shall include the adjusted dollar amount in any of its relevant forms or publications with respect to the exemption.

The current definition of “manufacturing facilities” also applies to establishments primarily engaged in distribution as defined under Industry Numbers 49311, 49312, 49313, and 49319 and Industry Sector Number 42 of the NAICS Manual which meet certain qualifications, including payment of wages or salaries to its employees at a wage which equals or exceeds 175% of the federally mandated minimum wage as certified by the Oklahoma Employment Security Commission (“OESC”). SB 609 proposes to alter this threshold requirement to a wage which equals or exceeds the average wage requirement in the Oklahoma Quality Jobs Program Act for the year in which the real property was placed into service.

SB 609 further proposes to expand the definition of “manufacturing facilities” to include facilities engaged in the manufacturing, compounding, processing or fabrication of materials into articles of tangible personal property according to the special order of a customer by manufacturers classified as operating in NAICS Sectors 32 and 33. This measure also proposes that all entities making an application for the exemption on or after January 1, 2023 for property acquired or improved beginning January 1, 2022, pay new direct jobs as defined by 68 O.S. 3603 an average annualized wage which equals or exceeds the average wage requirement in the Oklahoma Quality Jobs Program Act for the year the property was placed into service. The Oklahoma Tax Commission may request verification from the Oklahoma Department of Commerce that an establishment meets this requirement. For purposes of meeting the proposed payroll requirement, it is not necessary for the establishment to qualify for incentive payments pursuant to the Oklahoma Quality Jobs Program Act.

Currently, “facility” or “facilities” is defined to include the land, buildings, structures, improvements, machinery, fixtures, equipment and other personal property used directly and exclusively in the manufacturing process. SB 609 proposes to amend this definition such that the “facility”/“facilities” includes the land, buildings, structures and improvements used directly and exclusively in the manufacturing process and beginning January 1, 2022, and for each calendar year thereafter, establishments which have received a manufacturer exemption permit pursuant to 68 O.S. § 1359.2 or facilities engaged in manufacturing activities defined in the NAICS Manual under Industry Nos. 311111 through 339999, inclusive, but for no other establishments does “facility”/“facilities” include the land, buildings,

structures, improvements, machinery, fixtures, equipment and other personal property used directly and exclusively in the manufacturing process.

SB 609 removes language allowing for a waiver to the base payroll requirement in certain situations and removes the language allowing for a waiver of payroll requirements for acquired or expanded automotive final assembly manufacturing facilities that meet certain requirements.

The measure further allows an establishment classified under NAICS 518210 that has applied for and been granted an exemption for personal property within five years prior to November 1, 2021 to apply for exemption for other eligible personal property located within improvements to real property and such real property and improvements have been exempt from ad valorem taxation prior to November 1, 2021 pursuant to Section 2902 if such personal property is placed in service not later than December 31, 2036. No additional personal property of such establishment placed in service after such date shall qualify for exempt treatment pursuant to Section 2902.

The measure also proposes that a facility engaged in manufacturing defined under U.S. Industry Number 327310 of the NAICS Manual shall have the payroll requirements of paragraph 4 of subsection (C) waived for tax year 2021 which is based in part on the 2020 calendar year payroll reported to the Oklahoma Employment Security Commission, and may continue to receive the exemption for the five-year period provided in Section 2902 only if all other requirements of the section are met.

It also requires the OTC to use one or more of the cost, income and expense and sales comparison approaches to estimate fair cash value in accordance with the Uniform Standards of Professional Appraisal when valuing and assessing property for purposes of the five year manufacturing exemption.

The application of the immediately preceding provisions results in an unknown impact to reimbursement claims against the Ad Valorem Reimbursement Fund for FY 22 and FY 23. Otherwise SB 609 has no impact to state revenues for the referenced periods. This proposed measure has an associated minimal administrative impact.