

ARKANSAS SENATE
91st General Assembly - Regular Session, 2017
Amendment Form

Subtitle of Senate Bill No. 688

TO AMEND THE INCOME TAX CREDIT FOR WASTE REDUCTION, REUSE, OR RECYCLING
EQUIPMENT; AND TO DECLARE AN EMERGENCY.

Amendment No. 2 to Senate Bill No. 688

Amend Senate Bill No. 688 as engrossed, S3/14/17 (version: 03/14/2017 9:18:43 AM):

Page 2, delete lines 19 through 29, and substitute the following:

“(C) Has a total investment of at least one billion dollars (\$1,000,000,000);

(D) Is undertaken by a taxpayer that has entered into an agreement with the State of Arkansas in which the taxpayer made a commitment to create at least five hundred (500) net new direct positions and independent direct positions as those terms are defined in Acts 2013, No. 1084, § 8, with an average annual wage of at least seventy-five thousand dollars (\$75,000);

(E) Provides a positive cost-benefit analysis to the state as determined by the Arkansas Economic Development Commission and the Office of Economic Analysis and Tax Research of the Department of Finance and Administration before an incentive agreement between the state and the taxpayer is executed;

(F) Is certified as having a closing date before July 1, 2018, by which the taxpayer has certified and the state has verified that necessary capital acquisition and borrowing for the qualified expansion project has occurred to:

- (i) Secure a site;
- (ii) Obtain engineering services;
- (iii) Purchase equipment; and
- (iv) Commence initial construction; and

(G) Is undertaken by a taxpayer that has elected by agreement with the State of Arkansas for the expansion of the taxpayer's facility to be classified as a qualified expansion project under this section; and"

AND

Page 3, delete lines 5 through 13, and substitute the following:

“(E) That is undertaken by a taxpayer that has entered into an agreement with the State of Arkansas in which the taxpayer made a



commitment to create at least one hundred fifty (150) net new direct positions and independent direct positions as those terms are defined in Acts 2013, No. 1084, § 8, with an average annual wage of at least seventy-five thousand dollars (\$75,000);

(F) That provides a positive cost-benefit analysis to the state as determined by the Arkansas Economic Development Commission and the Office of Economic Analysis and Tax Research of the Department of Finance and Administration before an incentive agreement between the state and the taxpayer is executed;

(G) That is certified as having a closing date before July 1, 2018, by which the taxpayer has certified and the state has verified that necessary capital acquisition and borrowing for the qualified steel specialty products manufacturing facility has occurred to:

(i) Secure a site;

(ii) Obtain engineering services;

(iii) Purchase equipment; and

(iv) Commence initial construction; and

(H) That is undertaken by a taxpayer that has elected by agreement with the State of Arkansas for the facility to be classified as a qualified steel specialty products manufacturing facility under this section."

AND

Page 3, delete lines 18 through 35, and substitute the following:

"(3)(A) Up to eleven million dollars (\$11,000,000) of credit against tax or an amount equal to the tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., whichever is less, issued to the taxpayer making the purchases of waste reduction, reuse, or recycling equipment under subdivision (c)(1) of this section may be claimed each tax year if the tax credits are allowed with respect to a qualified expansion project:

(i) Of a taxpayer that at the time of the agreement described in subdivision (b)(15)(D) of this section is a proprietorship, partnership, limited liability company, or other business organization treated as a proprietorship or partnership for tax purposes; and

(ii) That, as of the end of the taxable year in which such tax credits are first allowed, does not have a public retirement system of the State of Arkansas as a proprietor, partner, member, or shareholder.

(B) Up to the following amounts of credit against tax or an amount equal to the tax imposed by the Income Tax Act of 1929, § 26-51-101 et seq., whichever is less, issued to the taxpayer making the purchases of waste reduction, reuse, or recycling equipment under subdivision (c)(1) of this section may be claimed each tax year if the tax credits are allowed with respect to a qualified steel specialty products manufacturing facility that is owned by a taxpayer that, at the time of the agreement described in subdivision (b)(16)(E) of this section is a proprietorship, partnership, limited liability company, or other business organization treated as a proprietorship or partnership for tax purposes, and that, as of the end of the taxable year in which such tax credits are first allowed, does not have a public retirement system of the State of Arkansas as a proprietor, partner, member, or shareholder:"

AND

Page 4, line 3, delete "three million dollars (\$3,000,000)" and substitute "four million dollars (\$4,000,000)"

AND

Page 4, line 7, delete "four million dollars (\$4,000,000)" and substitute "five million dollars (\$5,000,000)"

AND

Page 4, line 10, delete "five million dollars (\$5,000,000)" and substitute "six million five hundred thousand dollars (\$6,500,000)"

AND

Page 4, line 21, delete "facility" and substitute "facility of a taxpayer that, at the time of the agreement described in subdivision (b)(15)(D) of this section for a qualified expansion project or subdivision (b)(16)(E) of this section for a qualified specialty steel products manufacturing facility, is a proprietorship, partnership, limited liability company or other business organization treated as a proprietorship or partnership for tax purposes"

AND

Page 5, delete lines 4 through 8, and substitute the following:

"(b) Subject to the total recycling tax credit certification for a qualified expansion project, the maximum amount of tax credits allowed under the agreement between the taxpayer and the state, and the annual transfer by the Arkansas Economic Development Commission as agreed by the state and the taxpayer, no more than eleven million dollars (\$11,000,000) of the tax credits in possession and control of the public retirement system with respect to a qualified expansion project under subdivision (c)(3)(D)(i) of this section may be sold or transferred each year."

AND

Page 5, line 16, delete "three million dollars (\$3,000,000)" and substitute "four million dollars (\$4,000,000)"

AND

Page 5, line 20, delete "four million dollars" and substitute "five million dollars (\$5,000,000)"

AND

Page 5, line 21, delete "(\$4,000,000)"

AND

Page 5, line 24, delete "five million dollars" and substitute "six million five hundred thousand dollars (\$6,500,000)"

AND

Page 5, line 25, delete "(\$5,000,000)"

AND

Page 7, delete lines 2 through 16, and substitute the following:

"(E) An expansion project or a manufacturing facility that does not meet the requirements to be a qualified expansion project or a qualified steel specialty products manufacturing facility is not subject to this subdivision (c)(3) and is eligible to receive the tax credits otherwise provided in this section and § 26-51-1215.

(F)(i)(a) A tax credit under this subdivision (c)(3) shall not be authorized without:

(1) A cost-benefit analysis, including an analysis of any other incentives offered by the State of Arkansas with request to the project subject to the tax credit, as certified by the Executive Director of the Arkansas Economic Development Commission in consultation with the Chief Fiscal Officer of the State; and

(2) The performance and claw back agreement required under subdivision (c)(3)(F)(ii) of this section.

(b) The total amount of tax credits that may be authorized under this subdivision (c)(3) shall not exceed the amount determined by the cost-benefit analysis required under this section.

(ii)(a)(1) A tax credit authorized under this subdivision (c)(3) shall be subject to a performance and claw back agreement between the taxpayer and the Arkansas Economic Development Commission.

(2)(A) The performance and claw back agreement required under this subdivision (c)(3)(F)(ii) shall be subject to the approval of the Chief Fiscal Officer of the State to ensure that the cost-benefit analysis required under this section is met and maintained for a test period of the longer of the life of the tax credits or fourteen (14) years.

(B) However, the test period described in this subdivision (c)(3)(F)(ii) shall not be longer than fifteen (15) years.

(b) The performance and claw back agreement required under this subdivision (c)(3)(F)(ii) shall include without limitation the:

(1) Capital investment for the project;
(2) New full-time direct positions and independent direct positions as those terms are defined in Acts 2013, No. 1084, § 8, created by the project;

(3) Annual salary requirements for the new full-time direct positions and independent direct positions as those terms are defined in Acts 2013, No. 1084, § 8, created by the project;

(4) Timeline for fulfilling the

investment of job creation targets stated in the performance and claw back agreement; and

(5) Conditions for the claw back provisions, which shall be triggered if, during the test period stated in this subdivision (c)(3)(F)(ii), the taxpayer:

(A) Does not meet the required targets of the project related to capital investment, job creation, timeline, or annual salary amounts; or

(B) Fails to maintain a positive cost-benefit analysis."

AND

Appropriately renumber the sections of the bill

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator D. Wallace

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Secretary