

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011
4
5 By: Senator Crumbly

A Bill

SENATE BILL 771

For An Act To Be Entitled

8 AN ACT TO CREATE A TAX INCENTIVE TO ATTRACT NEW
9 BUSINESS AND EXPAND EXISTING BUSINESSES IN AREAS THAT
10 HAVE HIGH POVERTY OR HIGH UNEMPLOYMENT; AND FOR OTHER
11 PURPOSES.

Subtitle

15 TO CREATE A TAX INCENTIVE TO ATTRACT NEW
16 BUSINESS AND EXPAND EXISTING BUSINESSES
17 IN AREAS THAT HAVE HIGH POVERTY OR HIGH
18 UNEMPLOYMENT.

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

23 SECTION 1. Arkansas Code § 26-51-303(a)(9) and (10), concerning
24 exemption from the Income Tax Act of 1929, § 26-51-101 et seq., are amended
25 to read as follows:

26 (9) Corporations, trusts, and any community chest, fund, or
27 foundation, organized and operated exclusively for religious, charitable,
28 scientific, literary, or educational purposes, or for the prevention of
29 cruelty to children or animals, no part of the net earnings of which inures
30 to the benefit of any private shareholder or individual, no substantial part
31 of the activities of which is carrying on propaganda or otherwise attempting
32 to influence legislation, and which does not participate in, or intervene in,
33 including the publishing or distributing of statements, any political
34 campaign on behalf of or in opposition to any candidate for public office;
35 ~~and~~

36 (10) A political organization that does not have political



1 organization taxable income for the tax year under 26 U.S.C. § 527, as in
2 effect on January 1, 2009; and

3 (11)(A) Except as provided in subdivision (11)(B), beginning
4 January 1, 2012, and ending December 31, 2027, a business, partnership,
5 limited liability company, or corporation that for at least eighteen (18)
6 months:

7 (i)(a) Expands its established business by
8 increasing its workforce by twenty-five percent (25%); or

9 (b)(1) Is a new business, partnership, limited
10 liability company, or corporation with a workforce of at least twenty-five
11 (25) full-time employees that work at least forty (40) hours per week.

12 (2) A new business does not mean a
13 business that has just changed its name or reincorporated in order to take
14 advantage of the exemption provided in this section;

15 (ii) Is located in a county in which a major new
16 business, partnership, limited liability company, or corporation has not
17 opened or begun operating within the last two (2) years; and

18 (a) The poverty rate of the county for the
19 preceding calendar year as reported by the United States Department of
20 Agriculture is at least fifty percent (50%) above the state average; or

21 (b) The unemployment rate is equal to or in
22 excess of one hundred thirty-five percent (135%) of the state's average
23 unemployment rate for the preceding calendar year as specified by statewide
24 annual labor force statistics compiled by the Department of Workforce
25 Services; and

26 (iii) Has submitted an application and been approved
27 as an eligible business, partnership, limited liability company, or
28 corporation by the Arkansas Economic Development Commission as meeting all
29 the criteria contained in this subdivision (a)(11).

30 (a) The application submitted to the Arkansas
31 Economic Development Commission shall contain such information as may be
32 required by the Director of the Arkansas Economic Development Commission to
33 determine eligibility.

34 (b) Upon determination by the Director of the
35 Arkansas Economic Development Commission that the business, partnership,
36 limited liability company, or corporation qualifies for the income tax

1 exemption under this subdivision (a)(11), the Director of the Arkansas
2 Economic Development Commission shall certify to the Director of the
3 Department of Finance and Administration that the business, partnership,
4 limited liability company, or corporation is eligible for the income tax
5 exemption and transmit with the certification the documents upon which the
6 certification was based or copies of the documents.

7 (B) An eligible business, partnership, limited liability
8 company, or corporation that locates in a county that has not had a new
9 business, partnership, limited liability company, or corporation with at
10 least twenty-five (25) employees locate within its borders for more than five
11 (5) years, is eligible for an income tax exemption beginning January 1, 2012,
12 and ending December 31, 2037.

13
14 SECTION 2. Arkansas Code Title 26, Chapter 52, Subchapter 4 is amended
15 to add an additional section to read as follows:

16 26-52-444. Exemption for new and expanded businesses in targeted
17 counties.

18 (a) As used in this section:

19 (1) "Company" means a business, partnership, corporation, or
20 limited liability corporation;

21 (2) "Eligible company" means a company located in a targeted
22 county that that:

23 (A)(i) Expands its established business by increasing its
24 workforce by twenty-five percent (25%); or

25 (ii)(a) Is a new company with a workforce of at
26 least twenty-five full-time employees.

27 (b) A new company does not mean a company that
28 has just changed its name or reincorporated in order to take advantage of the
29 exemption provided in this section;

30 (B) Has submitted an application and been approved as an
31 eligible company by the Arkansas Economic Development Commission as meeting
32 all the criteria contained in this section;

33 (3) "Full-time employee" means an employee that works at least
34 forty (40) hours per week;

35 (4) "Major new company" means a company with at least twenty-
36 five (25) full-time employees; and

1 (5) "Targeted county" means a county in which:

2 (A) A major new company has not opened or begun operating
3 within its boundaries within the last two (2) years; and

4 (i) The poverty rate of the county as reported by
5 the United States Department of Agriculture is at least fifty percent (50%)
6 above the state average; or

7 (ii) The unemployment rate is equal to or in excess
8 of one hundred thirty-five percent (135%) of the state's average unemployment
9 rate for the preceding calendar year as specified by statewide annual labor
10 force statistics compiled by the Department of Workforce Services;

11 (b) Except as provided in subsection (e) of this section, beginning
12 January 1, 2012, and ending December 31, 2027, the gross receipts or gross
13 proceeds derived from the sale of tangible personal property or a service to
14 an eligible company are exempt from the gross receipts tax levied by this
15 chapter and the compensating use tax levied by the Arkansas Compensating Tax
16 Act of 1949, § 26-53-101, et seq.

17 (c) The application submitted to the Arkansas Economic Development
18 Commission shall contain such information as may be required by the Director
19 of the Arkansas Economic Development Commission to determine eligibility.

20 (d)(1) Upon determination by the Director of the Arkansas Economic
21 Development Commission that the company qualifies for the tax exemption under
22 this section, the Director of the Arkansas Economic Development Commission
23 shall certify to the Director of the Department of Finance and Administration
24 that the company is an eligible company and transmit with his or her
25 certification the documents upon which the certification was based or copies
26 of the documents.

27 (2) Upon receipt by the Director of the Department of Finance
28 and Administration of a certification from the Director of the Arkansas
29 Economic Development Commission that the applicant is an eligible company,
30 the Director of the Department of Finance and Administration shall certify
31 the eligible company as being exempt from the gross receipts tax levied by
32 this chapter and the compensating use tax levied by the Arkansas Compensating
33 Tax Act of 1949, § 26-53-101, et seq.

34 (e) An eligible company that locates in a county that has not had a
35 new company with at least twenty-five (25) employees locate within its
36 borders for more than five (5) years, is eligible for the sales and use tax

1 exemption beginning January 1, 2012, and ending December 31, 2037.

2 (f) The Director of the Arkansas Economic Development Commission may
3 promulgate such rules and regulations as are necessary to carry out the
4 intent and purposes of this subchapter.

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6 SECTION 3. EFFECTIVE DATE. This act is effective beginning January 1,
7 2012.

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