

Hall of the House of Representatives
83rd General Assembly - Regular Session, 2001
Amendment Form

Subtitle of House Bill No. 2537

"AN ACT TO PROVIDE SALES AND USE TAX REFUNDS AND INCOME TAX CREDITS
TO QUALIFIED PUMPED STORAGE PROJECTS."

Amendment No. 2 to House Bill No. 2537.

Amend House Bill No. 2537 as engrossed, H3/19/01:

Page 1, delete everything after the enacting clause and substitute:

"SECTION 1. Definitions. For the purposes of this act:

(1) "Average hourly wage" means the average wage of the net new full-time permanent employees based on payroll for the most recent quarter reported to the Arkansas Employment Security Department and is computed by using the total of the net new full-time permanent employee's reported taxable earnings, including overtime pay and one-quarter (1/4) of the employee's annual bonus amount, divided by the number of weeks worked during the most recent quarter, divided by the average hours worked per week per net new full-time permanent employee;

(2) "Endorsement resolution" means a resolution passed by a city council or quorum court approving the location and operation of the qualified pumped storage project and indicating whether the project is authorized to receive a refund of any applicable local sales and use taxes;

(3) "Existing employees" means those employees hired by the business prior to the date of the endorsement resolution;

(4)(A)(i) "Net new full-time permanent employee" means a position or job which is filled by one (1) or more employees or contractual employees who were Arkansas taxpayers during the year in which the tax credits or incentives were earned.

(i) The position or job held by the employee or employees shall have been filled for at least twenty-six (26) consecutive weeks with an average of at least thirty (30) hours per week.

(B) However, in order to qualify for the provisions of this act, a contractual employee shall be offered a benefits package comparable to a direct employee of the qualified pumped storage project seeking incentives under this act.

(C) Employees shall not have been claimed for tax credits or incentives under this act during the preceding taxable year.

(D) The number of net new full-time permanent employees shall be equal to the total number of new full-time permanent employees for the current year minus the total number of new full-time permanent employees for

the previous tax year; and

(5) "Qualified pumped storage project" means:

(A) All activities and costs associated with the construction of a new facility with a generating capacity of at least four hundred (400) megawatts of electricity by releasing stored water to turn turbines; and

(B) A pumped storage facility costing in excess of fifty million dollars (\$50,000,000).

SECTION 2. Refund of sales and use tax – Tax credit.

(a) The Revenue Division of the Department of Finance and Administration shall authorize a refund of sales and use taxes imposed by the state and a municipality or county, if the municipality or county authorized the refund of its local tax on the purchases of the material used in the construction of a qualified pumped storage project, or any buildings or equipment necessary for the operations of the project.

(b) In order to qualify for the benefits of subsection (a) and subsection (g) of this section, a qualified pumped storage project shall create ten (10) or more net new full-time permanent jobs.

(c)(1) The qualified pumped storage project shall file an endorsement resolution with the Department of Finance and Administration.

(2) The endorsement resolution shall be approved by the governing body of a municipality or county in whose jurisdiction the qualified pumped storage project is located and shall:

(A) Approve the specific entity's location and operation in the municipality or county; and

(B)(i) Specifically state whether the municipality or county authorizes the Department of Finance and Administration to refund local sales and use taxes to the qualified pumped storage project.

(ii) A municipality or county may authorize the refund of all or part of a tax levied by it, but shall not authorize the refund of any tax not levied by it.

(d) In order to receive a credit for project costs, the costs shall be incurred within five (5) years after the date of the endorsement resolution.

(e) In the event it is found that a qualified pumped storage project receiving the benefits contained in subsection (a) of this section has failed to comply with the conditions contained in subsections (b) and (c) of this section, the qualified pumped storage project shall be liable for the payment of all sales and use taxes which were refunded under subsection (a) of this section.

(f)(1) In the event that a qualified pumped storage project fails to notify the Department of Finance and Administration that the number of employees has fallen below the required number to continue to receive benefits under this subchapter, that qualified pumped storage project shall be liable for the repayment of all benefits which were paid to the qualified pumped storage project after it no longer qualified for the benefits.

(2) Interest shall also be due at the rate of ten percent (10%) per annum.

(g)(1) The requisite number of net new full-time permanent employees shall be employed by the qualified pumped storage project within sixty (60) months following the date of the endorsement resolution.

(2)(A) In the event that the requisite number of net new full-time permanent employees cannot be employed within the sixty (60) month

period, the qualified pumped storage project may file a written application with the Commissioner of Revenues explaining why additional time is necessary.

(B) The qualified pumped storage project may be given an additional twenty-four (24) months to hire the requisite number of employees if the Commissioner of Revenues finds that the need for additional time is due to:

(i) Unanticipated and unavoidable delay in the construction of the project before the employees can be hired;

(ii) The project as originally planned will require more than sixty (60) months to complete; or

(iii) A change in the ownership or business structure due to a merger or acquisition.

(h)(1) The Revenue Division of the Department of Finance and Administration shall authorize an income tax credit equal to one hundred (100) times the hourly average wage paid, with a maximum of three thousand dollars (\$3,000) per net new full-time permanent employee of a qualified pumped storage project qualifying under this act.

(2)(A) This tax credit shall be used for the taxable year in which the net new full-time permanent employee was hired.

(B) However, for qualified pumped storage projects with an endorsement resolution dated after March 1, 2001, the credit may be applied against income tax for the succeeding nine (9) years or until the credit is entirely used, whichever occurs first.

(i)(1) An income tax credit as provided for in this section shall be authorized, provided that:

(A) The request for the credit is accompanied by an endorsement resolution approved by the governing body of the appropriate municipality or county in whose jurisdiction the qualified pumped storage facility is to be located; and

(B) All of the net new full-time permanent employees are employed at the qualified pumped storage facility.

(2)(A) In the event it is found that any qualified pumped storage project receiving the benefits contained in this act has failed to comply with the conditions contained in this act, that qualified pumped storage project shall be disqualified from receiving any further benefits and shall be liable for the payment of such additional income taxes as may be due after the income tax credits provided for this act are disallowed.

(B) Interest shall also be due at the rate of ten percent (10%) per annum.

(j) To be counted as a net new full-time permanent employee for the purpose of qualifying for the tax credits and incentives provided in this act, the employee in the position or job must have been an Arkansas taxpayer during the year in which the tax credits or incentives were earned."

The Amendment was read
By: Representative Gillespie
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Chief Clerk