

**Hall of the House of Representatives**  
88th General Assembly - Regular Session, 2011  
**Amendment Form**

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**Subtitle of House Bill No. 1955**

TO AMEND THE ARKANSAS AMENDMENT 82 IMPLEMENTATION ACT CONCERNING  
ECONOMIC DEVELOPMENT.

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**Amendment No. 1 to House Bill No. 1955**

Amend House Bill No. 1955 as originally introduced:

Page 1, delete lines 8 - 10 and substitute:

"AN ACT TO AMEND ENABLING LEGISLATION FOR AMENDMENT 82 TO THE ARKANSAS CONSTITUTION; TO MAKE CHANGES CONSISTENT WITH CHANGES TO AMENDMENT 82 ENACTED BY THE VOTERS IN NOVEMBER 2010; AND FOR OTHER PURPOSES."

AND

Delete the subtitle in its entirety and substitute:

"AN ACT TO AMEND ENABLING LEGISLATION  
FOR AMENDMENT 82."

AND

Page 1, delete lines 21 and 22 and substitute:

"SECTION 1. Arkansas Code § 15-4-3202(1), concerning the definition of "Amendment 82 agreement" is amended to read as follows:

(1) "Amendment 82 agreement" means a contract between the state and a sponsor under which the state is to provide Amendment 82 bond financing in exchange for the sponsor's agreeing to make an investment and to locate a new business or substantially expand an existing business in the State of Arkansas in accordance with the requirements of Arkansas Constitution, Amendment 82, and this subchapter. At a minimum, the agreement shall contain the following provisions:

(A) The infrastructure needs to be provided by the state in support of the qualified Amendment 82 project and financed under Arkansas Constitution, Amendment 82, and this subchapter;

(B) A description of all other economic incentives to be provided by the state in connection with the qualified Amendment 82 project;

(C) The commitments of the sponsor, if any, with regard to investment and job creation associated with the qualified Amendment 82



project, including timetables for meeting and maintaining any ~~the~~ investment and job creation requirements;

(D) The agreement of the sponsor to make all specified records pertaining to the sponsor's commitments ~~investment and job creation requirements under Arkansas Constitution, Amendment 82~~ available for annual audit by the Chief Fiscal Officer of the State and, upon request, but no more often than annually, by the Office of Economic and Tax Policy of the Bureau of Legislative Research or a person or entity retained by the office;

(E) Performance benchmarks and economic goals of the qualified Amendment 82 project; and

(F) The penalties to be applied if the sponsor does not satisfy its commitments under the Amendment 82 agreement;

SECTION 2. Arkansas Code § 15-4-3202(13), concerning the definition of "Letter of commitment" is amended to read as follows:

(13) "Letter of commitment" means a binding agreement signed by a sponsor and the Arkansas Economic Development Commission, ~~which~~ that at minimum contains the following provisions:

(A) A determination by the commission that the sponsor has the financial capability, business history, and corporate intent to implement and maintain a qualified Amendment 82 project;

(B) A commitment by the sponsor that the sponsor intends to locate a new business or substantially expand an existing business in the State of Arkansas, and a description of any other commitments made by the sponsor; ~~that will require an investment by the sponsor of more than five hundred million dollars (\$500,000,000) and will create more than five hundred (500) new jobs;~~

(C) A tentative timetable for development of the proposed project;

(D) The consequences if the sponsor does not satisfy its obligations under the letter of commitment; and

(E) A statement from the commission that its obligation under the letter of commitment is limited to presenting the letter of commitment and supporting documentation to the Governor, who may or may not elect to present the proposal to the General Assembly for its consideration;

SECTION 3. Arkansas Code § 15-4-3203(a), concerning Amendment 82 project qualifications, is amended to read as follows:

(a)(1)(A) Constitution Amendment 82, the General Assembly delegates, in exercising its responsibilities under Section 1 of Amendment 82 to the Arkansas Constitution Amendment 82, the General Assembly delegates, authorizes, and directs the Arkansas Economic Development Commission, the Arkansas Development Finance Authority, and the Chief Fiscal Officer of the State to undertake a review of all proposed projects following the procedures described in this section.

(B) In order to be considered for qualification, a sponsor must fall within the definition of an "eligible business", as defined in § 15-4-2703.

(2) If the Governor refers a proposed project to the General Assembly under subsection (h) of this section, the commission and the authority shall prepare and provide to each member of the General Assembly the reports described in subsection (i) of this section, after which the

General Assembly shall make the final and definitive decisions concerning the proposed project as set forth in subsection (j) of this section.

SECTION 4. Arkansas Code § 15-4-3203(i)(2), concerning Amendment 82 project qualifications, is amended to read as follows:

(2) The commission's report shall include:

(A) A description of the proposed project;

(B)(i) An itemization of the proposed infrastructure needs and other needs to be financed with the proceeds derived from the sale of Amendment 82 bonds.

(ii) The itemization shall include estimated costs and details to the maximum extent available at the time of the report;

(C) A description of all other economic incentives to be provided by the state in connection with the proposed project;

(D) A description of the economic impact and cost-benefit analyses of the proposed project for a period of at least ten (10) years that includes:

(i) The annual projected benefit to the state from increased sales and use tax and income tax revenue;

(ii) The annual projected cost to the state for each economic incentive offered to the sponsor in connection with the proposed project; and

(iii) The overall net present value benefit-to-cost ratio for the period of at least ten (10) years;

(E) The amount of bonds necessary to be issued to defray project costs and a budget of the project costs;

(F) A tentative time schedule setting forth the period of time during which the proceeds of the Amendment 82 bonds are to be expended;

(G) A certification statement by the Director of the Arkansas Economic Development Commission ~~that, under~~ based on and outlining the:

(i) Terms ~~terms~~ of the letter of the commitment,;

(ii) Estimated dollar amount of investment in the state from the proposed project shall consist of an investment in the state of not less than five hundred million dollars (\$500,000,000); and

(iii) Estimated number of new jobs to be created by the proposed project shall create no fewer than five hundred (500) new jobs;

(H) A copy of the signed letter of commitment for the proposed project; and

(I) A copy of the unexecuted Amendment 82 agreement for the proposed project.

SECTION 5. Arkansas Code § 15-4-3206 is amended to read as follows:  
15-4-3206. Compliance time period – Audit requirements.

(a)(1) The Amendment 82 agreement shall specify a time period in which the sponsor must comply with the ~~investment and job creation thresholds~~ terms and conditions specified in the Amendment 82 agreement.

(2) Except as provided in subsection (b) of this section, the time period shall not exceed four (4) years from the date of enactment of related legislation under § 15-4-3203(j).

(3) ~~If in the event that~~ the sponsor does not comply with the applicable time period, then the penalty provisions set forth in the

~~Arkansas Constitution, Amendment 82, and agreement and enacted in related legislation~~ under § 15-4-3203(j) shall apply.

(b)(1)(A) The sponsor may request a one-year extension of the time period specified in the Amendment 82 agreement by submitting to the Director of the Arkansas Economic Development Commission a written request with an explanation as to why the extension is necessary.

(B) The request shall be submitted at least ninety (90) days ~~prior to~~ before the expiration of the time period specified in the Amendment 82 agreement.

(2)(A) Upon receipt of a request to extend the applicable time period, the director shall immediately notify the President of the Arkansas Development Finance Authority, the Chief Fiscal Officer of the State, and the Governor.

(B) The director, the president, and the Chief Fiscal Officer of the State may approve a request for a one-year extension upon a determination that there is a valid economic reason for granting the extension.

(3) The sponsor shall ~~not~~ be granted not more than three (3) one-year extensions of the applicable time period.

(c)(1) The sponsor shall maintain and make available records pertaining to ~~investment and job creation requirements~~ items contained in the terms and agreements of the Amendment 82 agreement for annual audit by the Chief Fiscal Officer of the State and upon request no more often than annually by the Office of Economic and Tax Policy of the Bureau of Legislative Research or a person or entity retained by the office.

(2) The Arkansas Tax Procedure Act, § 26-18-101 et seq., shall apply to records maintained under this subsection and any audits conducted of the records, including any audit conducted through the office.

(3)(A) Records obtained or reviewed by the office under this section:

(i) Shall be considered working papers of the President Pro Tempore of the Senate and the Speaker of the House of Representatives under § 25-19-105(b)(7) and shall not be open to inspection and copying by any citizen of the State of Arkansas; and

(ii) Are specifically exempt from the requirements of § 25-19-105(a).

(B) However, a report of the audit shall be presented to the Legislative Council with respect to the status of the applicable qualified Amendment 82 project which details the sponsor's compliance with the provisions of the Amendment 82 agreement.

SECTION 6. Arkansas Code § 15-4-3221(b), concerning monitoring and reporting, is amended to read as follows:

(b) The commission ~~shall be~~ is responsible for monitoring and reporting to the Arkansas Development Finance Authority, the Governor, and the General Assembly on the ongoing economic impact of the project and the sponsor's progress in meeting the terms and conditions under the Amendment 82 agreement ~~economic development investment requirements under Arkansas Constitution, Amendment 82, and this subchapter.~~"

**The Amendment was read**  
**By: Representative McCrary**  
**MAG/CDS - 03/21/11 08:56**  
**MAG325**

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**Chief Clerk**