

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

309

By: Senator Allen

For An Act To Be Entitled

"AN ACT TO REENACT THE ARKANSAS ENTERPRISE ZONE ACT, ARKANSAS CODE 15-4-801 ET SEQ.; TO LIMIT THE ELIGIBLE ENUMERATION DISTRICTS AND BLOCK GROUPS TO THOSE IN COUNTIES WITH A SPECIFIC UNEMPLOYMENT RATE; AND FOR OTHER PURPOSES."

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

SECTION 1. Intent. (a) The General Assembly finds and declares that:

(1) The Arkansas Enterprise Zone Act of 1983, Arkansas Code 15-4-801 et seq., has been beneficial in depressed areas in the state in encouraging growth and expansion of the private sector and to help attract private sector investment into the depressed areas;

(2) Section 11 of Act 740 of 1983 and Section 11 of Act 813 of 1983 provide for the expiration of the Arkansas Enterprise Zone Act on June 30, 1989, unless it is affirmatively reenacted by the General Assembly; and

(3) The Arkansas Enterprise Zone Act should be continued, but modifications should be made to limit the provisions of the act to counties with high unemployment.

(b) Therefore, it is the purpose of this act to reenact the Arkansas Enterprise Zone Act of 1983, as is necessary under Section 11 of Act 740 of 1983 and Section 11 of Act 813 of 1983, and to limit the provisions of the Arkansas Enterprise Zone Act of 1983 to counties having high unemployment.

SECTION 2. Arkansas Code Title 15, Chapter 4, Subchapter 8 is hereby amended to read as follows:

"15-4-801. Title. This subchapter may be referred to and cited as the "Arkansas Enterprise Zone Act of 1983."

15-4-802. Legislative intent.

(a) The General Assembly finds and declares that the health, safety, and welfare of the people of this state are dependent upon the continued encouragement, growth, and expansion of the private sector with the state and that there are certain depressed areas in the state that need the particular attention of state government to help attract private sector investment into these areas.

(b) Therefore, it is declared to be the intent of this subchapter to stimulate business and industrial growth in the depressed areas of the state by providing assistance to businesses and industries and by providing tax incentives in these areas.

15-4-803. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Commission" means the Arkansas Industrial Development Commission;

(2) "Department" means the Department of Industrial Development;

(3) "Governing authority" means the quorum court of a county or the governing body of a municipality within which a qualified enterprise zone lies;

(4) "Enterprise zone" means an economically distressed United States Census Department enumeration district or block group in need of expansion of business and industry and the creation of jobs, and which is designated to be eligible for the benefits afforded by this subchapter;

(5) "Public assistance" means any contribution, monetary or otherwise, made by federal, state, county, or local governments to individuals who qualify therefor by reason of indigence or unemployment, as determined by the applicable rules, regulations, or guidelines of each public assistance program.

"15-4-804. Establishment of criteria for enumeration district or block group to qualify as enterprise zone.

(a) The department shall establish criteria for which an enumeration district or block group may qualify as an enterprise zone. In establishing such criteria, the department may consider those factors, measures, and indices commonly recognized as indicia of economic condition, including, but not limited to, the rate of unemployment, the rate of youth unemployment, the number of residents receiving public assistance, and the median income within

the enumeration district or block group.

(b) Not more than twenty-five percent (25%) of the total number of enumeration districts and block groups in the state shall be eligible for designation as an enterprise zone.

(c) An enumeration district or block group in a county having an unemployment rate of seven percent (7%) or less shall not be eligible for designation as an enterprise zone.

15-4-805. Designation as enterprise zones only after notice from appropriate governing authority - Agreement by authority.

The department shall designate qualified United States Census Department enumeration districts and block groups as enterprise zones only after receiving notice from the appropriate governing authority that the governing authority agrees to:

- (1) Analyze the adequacy of police protection within the zone and, if necessary, devise and implement a plan for improvement thereof;
- (2) Give priority to the use, within the zone, of any employment training or community development funds received from the state or federal government;
- (3) Assist the department in certifying employers to be eligible for the benefits of this subchapter;
- (4) Adopt ordinances to supersede any local regulations or ordinances which may serve to discourage economic development within an enterprise zone; and
- (5) Assist the department in evaluating progress made in any enterprise zone within its jurisdiction.

15-4-806. Powers and duties of department.

The department shall administer the provisions of this subchapter and shall have the following powers and duties in addition to those mentioned elsewhere in this subchapter and in other laws of this state:

- (1) To monitor the implementation and operation of this subchapter and conduct a continuing evaluation of the progress made in the enterprise zones;
- (2) To assist the governing authority of an enterprise zone in obtaining assistance from the federal government;
- (3) To assist the governing authority of an enterprise zone in obtaining

assistance from any other department of state government including assistance in providing training, technical assistance, and wage subsidies to new businesses and industries within an enterprise zone;

(4) To assist any employer or prospective employer within an enterprise zone in obtaining the benefits of any incentive or inducement program authorized by state law;

(5) To submit an annual written report, evaluating the effectiveness of the program and presenting any suggestions for improving the program, to be submitted to the Governor no later than March 1 of each year;

(6) To promulgate rules and regulations, in accordance with the Arkansas Administrative Procedure Act, as amended, § 25-15-201 et seq., necessary to carry out the provisions of this subchapter; and

(7) To notify each member of the General Assembly whose district includes any portion of the enterprise zone when the department designates such a zone.

15-4-807. Refund of sales and use tax authorized - Tax credit.

(a) The department, after consultation with the Director of the Department of Finance and Administration shall authorize, by letter to the Revenue Division of the Department of Finance and Administration, a refund of sales and use tax imposed by the State of Arkansas, and upon approval of the governing authority of the enterprise zone, from sales tax imposed by the governing authority on the purchases of the material used in the construction of a building, or any addition or improvement thereon for housing any legitimate business enterprise, and machinery and equipment to be located in or in connection with the building.

(b) A sales and use tax refund as provided for in subsection (a) of this section shall be authorized, provided that:

(1) The qualified business is an industry that fits into Standard Industrial Classifications (SIC) numbers 20 through 39, 7375 or 7376; and such refunds shall apply to the distribution and shipping facilities owned by that qualified business, provided that those facilities distribute or ship only that business's own products; and

(2) The business and its contractors give preference and priority to Arkansas manufacturers, suppliers, contractors, and laborers, except where it is not reasonably possible to do so without added expense, substantial

inconvenience, or sacrifice in operation efficiency; and

(3) The business certifies that at least thirty-five percent (35%) of its employees will be:

(A) Residents of the same county as the location of the business or of counties adjacent thereto; and

(B) (i) Are or were receiving some form of public assistance immediately prior to employment; or

(ii) Are or were considered unemployable by traditional standards or lacking in basic skills at the time of employment with the business;

(4) The request for such refund is accompanied by an endorsement resolution approved by the governing body of a municipality or county in whose jurisdiction the facility is to be located;

(5) The facility is, or shall be located, within the boundaries of an enterprise zone; and

(6) In the event it is found that any business receiving the benefits contained in subsection (a) of this section has failed to comply with the conditions contained in subsection (b) of this section, that business will be liable for the repayment of all sales and use tax which was refunded under subsection (a) of this section. Within twelve (12) months of the completion of a facility, the department shall determine whether this act has been complied with and shall file a report with the Department of Finance and Administration.

(c) The department, after consultation with the Director of the Department of Finance and Administration, shall authorize, by letter to the Revenue Division of the Department of Finance and Administration, a two thousand dollar (\$2,000) income tax credit per net new employee, as determined by the company's average annual employment as reported to the Employment Security Division. This tax credit shall be used for the taxable year in which the increase in average annual employment occurred. However, if the entire credit cannot be used in the year earned, the remainder may be applied against the income tax for the succeeding two (2) years or until the entire credit is used, whichever occurs first.

(d) An income tax credit as provided for in subsection (c) of this section shall be authorized provided that:

(1) The request for such credit is accompanied by an endorsement

resolution approved by the governing body of the appropriate municipality or county in whose jurisdiction the establishment is to be located;

(2) The facility is or shall be located within the boundaries of an enterprise zone; and

(3) The business certifies that at least thirty-five percent (35%) of its employees:

(A) Are residents of the same county as the location of the business or counties adjacent thereto; and

(B) (i) Are or were receiving some form of public assistance immediately prior to employment; or

(ii) Are or were considered unemployable by traditional standards or lacking in basic skills at the time of employment with the business;

(4) In the event it is found that any business receiving the benefits contained in subsection (c) of this section has failed to comply with the conditions contained in subsection (d) of this section, that business shall be liable for the payment of such additional income taxes as may be due after the income tax credits provided for in subsection (c) of this section are disallowed.

15-4-808. Authority to substitute a nonqualified enumeration district or block group as an enterprise zone - Conditions.

(a) The department is authorized to substitute, as an enterprise zone, an enumeration district or block group that does not meet the qualifications for an enterprise zone as established under 15-4-804, subject to the following conditions:

(1) The substitute enterprise zone is being substituted for an enumeration district or block group that does meet the specifications established under 15-4-804;

(2) The request for substitution is made in writing to the department by the governing body of the enumeration district or block group for which substitution is sought, and the writing contains the reasons for the request;

(3) The reasons for seeking substitution meet the guidelines and criteria established by the department for substituting enterprise zones; and

(4) The substitute enterprise zone is located in the same county as the enumeration district or block group for which substitution is being

sought.

(b) Nothing in this section shall be construed to:

(1) Permit an increase in the number of enterprise zones in any county or the state. If substitution is allowed, the enumeration district or block group for which the substitution was sought shall be designated as no longer qualifying for enterprise zone status;

(2) Exempt the governing body or bodies of the substitute enterprise zone from complying with the provisions of § 15-4-805;

(3) Exempt businesses locating in the substitute enterprise zone from complying with the requirements contained in §§ 15-4-806 and 15-4-807, to the extent that such businesses are seeking the benefits accorded under those sections.

(c) Nothing in this section shall be construed to allow the designation of an enterprise zone in a county having an unemployment rate of seven percent (7%) or less.

15-4-809. Preference to businesses within enterprise zone.

Preference on public financing and assistance will be given to businesses within an enterprise zone.

15-4-810. Decertification of enterprise zone.

(a) The quorum court of a county or governing body of a city or town within which is located an enterprise zone designated as such by the Department of Industrial Development may petition the Department of Industrial Development to decertify the area as an enterprise zone if no business located within the area has applied for the tax credits provided by this subchapter.

(b) If the department decertifies the area, it may designate another area within the county or city as an enterprise zone under this subchapter."

SECTION 2. All provisions of this Act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 3. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 4. Emergency. It is hereby found and determined by the General Assembly of the State of Arkansas that the Arkansas Enterprise Zone Act of 1983, Arkansas Code 15-4-801 et seq., has benefited this state and should be continued with certain modifications; that the Arkansas Enterprise Zone Act will expire on June 30, 1989, unless it is affirmatively reenacted by the General Assembly and that this Act is immediately necessary to avoid the expiration of the Arkansas Enterprise Zone Act. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

