

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: H2/26/97 H3/5/97

A Bill

HOUSE BILL 1714

4
5 *By: Representatives Cunningham, Bond, Shoffner, Broadway, Choate, Bisbee, Wooldridge, Brown, George, Joe Hudson, Jones,*
6 *Miller, Schexnayder, Wagner, Young, Baker, Courtway, Malone, Teague, and Lancaster*
7 *By: Senators Hill, Canada, Brown, Gwatney, Smith, Todd, Scott, Wilson, Ross, Edwards, Bradford, and Roebuck*

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For An Act To Be Entitled

10 "AN ACT TO AMEND THE ENTERPRISE ZONE ACT OF 1993 TO PERMIT
11 REGIONAL HEADQUARTERS AND STEEL SERVICE CENTERS TO QUALIFY
12 FOR TAX INCENTIVES PROVIDED BY THE ACT; TO PROVIDE FOR
13 DECERTIFICATION OF A BUSINESS WHICH HAS CEASED TO QUALIFY
14 FOR BENEFITS UNDER THE ARKANSAS ENTERPRISE ZONE ACT OF
15 1993; AND TO REDEFINE 'NEW PERMANENT EMPLOYEE' FOR
16 PURPOSES OF THE ARKANSAS ECONOMIC DEVELOPMENT INCENTIVE
17 ACT OF 1993, THE ARKANSAS ENTERPRISE ZONE ACT OF 1993, THE
18 ARKANSAS ECONOMIC DEVELOPMENT ACT OF 1995, AND TO AMEND
19 THE ECONOMIC DEVELOPMENT ACT OF 1995 TO PERMIT REGIONAL
20 HEADQUARTERS TO QUALIFY FOR BENEFITS, AND TO AMEND THE
21 ECONOMIC DEVELOPMENT INCENTIVE ACT TO REDUCE THE NUMBER OF
22 NEW EMPLOYEES REQUIRED FOR AN OFFICE SECTOR BUSINESS FROM
23 ONE HUNDRED (100) TO FIFTY (50); LIMITS THE TIME PERIOD
24 FOR PURCHASES TO QUALIFY FOR SALES TAX CREDIT; ALLOWS AN
25 EXTENSION OF TIME FOR BUSINESSES TO REGAIN THE REQUISITE
26 NUMBER OF EMPLOYEES; LIMITS INCOME TAX CREDIT TO INCOME
27 TAX LIABILITY OF THE PROJECT FACILITY; AND FOR OTHER
28 PURPOSES."

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Subtitle

31 "AMENDS THE VARIOUS TAX INCENTIVE
32 PROGRAM ACTS."

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

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36

SECTION 1. Ark. Code Ann. § 15-4-1702 is amended to add the following

1 subsections:

2 "(14) 'Regional headquarters' means the center of operations for a
3 specific geographical area.

4 "(15) 'Steel service centers' means a business that comes within
5 Standard Industrial Classification number 5051."

6

7 SECTION 2. Ark. Code Ann. § 15-4-1704(b)(1)(A) is amended to read as
8 follows:

9 "(A) The qualified business is an industry ~~that~~ whose operations fit
10 into Standard Industrial Classification numbers 20-39, 7375, 7376, 4231, ~~or~~
11 8731, 5051, continuously and throughout the project term, or a distribution
12 center, corporate headquarters, regional headquarters, office sector business,
13 trucking sector business, or a research, development, testing business, as
14 defined in §15-4-1702, and located within Arkansas;"

15

16 SECTION 3. Ark. Code Ann. § 15-4-1704(b)(8)(A) is amended to read as
17 follows:

18 "(A) The requisite number of new permanent employees must be employed
19 by the industry, distribution center, corporate headquarters, office sector
20 business, ~~or~~ trucking sector business, regional headquarters, or steel service
21 center within twenty-four (24) months of the date the endorsement resolution
22 was adopted or passed by the governing body approving the business'
23 participation in the program."

24

25 SECTION 4. Ark. Code Ann. § 15-4-1704(b) is amended to add the
26 following subsections:

27 "(9) For a regional headquarters to qualify for the benefits of this
28 section it must employ fifty (50) or more new permanent employees and must not
29 make retail sales to the general public.

30 "(10) For a steel service center to qualify for the benefits of this
31 section it must employ fifty (50) or more new permanent employees and must not
32 make retail sales to the general public."

33

34 SECTION 5. Ark. Code Ann. § 15-4-1704(b)(5) is amended to read as
35 follows:

36 "(5) For an office sector business to qualify for the benefits of this

1 section, it must employ ~~one hundred (100)~~ fifty (50) or more new permanent
2 employees and must not make retail sales to the general public."

3

4 SECTION 6. Ark. Code Ann. § 15-4-1704(c)(2)(B) is amended to read as
5 follows:

6 "(c)(2)(B) However, with respect to projects approved prior to the
7 effective date of this act, if the entire credit cannot be used in the year
8 earned, the remainder may be applied against the income tax for the succeeding
9 four (4) years or until the credit is entirely used, whichever occurs first.
10 For projects approved on or after the effective date of this act, the credit
11 may be applied against income tax for the succeeding nine (9) years or until
12 the credit is entirely used, whichever occurs first."

13

14 SECTION 7. Ark. Code Ann. § 15-4-1704(b)(4) is amended to read as
15 follows:

16 "(4) ~~If a distribution center, office sector business, corporate~~
17 ~~headquarters, or trucking sector~~ the business does not continuously and
18 throughout the project term meet the requirements of subdivisions (b)(1)-(8)
19 of this section, then that business will automatically be disqualified from
20 receiving any benefits under this section and will be required to repay any
21 tax benefits already received under this subchapter plus penalty and interest
22 as allowed by law."

23

24 SECTION 8. Ark. Code Ann. § 15-4-1704(d)(2) is amended to read as
25 follows:

26 "(2) In the event it is found that any business receiving the benefits
27 contained in subsection (c) of this section has failed to comply with the
28 conditions contained in this ~~sub~~section, that business shall be disqualified
29 from receiving any further benefits under the program and shall be liable for
30 the payment of such additional income taxes as may be due after the income tax
31 credits provided for in subsection (c) of this section are disallowed, plus
32 penalty and interest."

33

34 SECTION 9. Ark. Code Ann. § 15-4-1704 shall be amended by adding the
35 following subsection:

36 "(f) If the Department of Finance and Administration determines that a

1 business is no longer qualified to participate in the program, it shall
2 decertify the business. Any business so decertified shall not receive any
3 benefits under the program."

4

5 SECTION 10. Section 10 of Act 947 of 1993 is amended to read as
6 follows:

7 "The provisions of this Act will expire on June 30, ~~1999~~ 2001."

8

9 SECTION 11. Ark. Code Ann. § 15-4-1602(6) is amended to read as
10 follows:

11 "(6) 'New permanent employee' means ~~an employee who has worked at least~~
12 ~~thirty (30) hours per week for at least twenty-six (26) consecutive weeks and~~
13 ~~who was hired as a result of a financial incentive plan entered into with the~~
14 ~~department;~~ a position or job which was created as a result of the project and
15 which is filled by one (1) or more employees or contractual employees who were
16 Arkansas taxpayers during the year in which the tax credits or incentives were
17 earned.

18 (A) The position or job held by such employee or employees must
19 have had someone working in it for at least twenty six (26) consecutive weeks
20 with an average of at least thirty (30) hours per week.

21 (B) Provided, however, in order to qualify for the provisions of
22 this subchapter, a contractual employee must be offered a benefits package
23 comparable to a direct employee of the business seeking incentives under this
24 subchapter;"

25

26 SECTION 12. Ark. Code Ann. §15-4-1702(7)(A)(i) is amended to read as
27 follows:

28 "(7)(A)(i) 'New permanent employee' means a position or job which was
29 created as a result of a project and which is filled by one (1) or more
30 employees or contractual employees who were Arkansas ~~residents when hired, as~~
31 ~~well as taxpayers~~ taxpayers during the year in which the tax credits or incentives were
32 earned."

33

34 SECTION 13. Ark. Code Ann. §15-4-1704(e) is amended to read as follows:

35 "(e) To be counted as a new permanent employee for the purpose of
36 qualifying for the tax credits and incentives provided in this section, the

1 employee in the position or job must have been an Arkansas ~~resident~~ taxpayer
2 during the year in which the tax credits or incentives were earned."

3

4 SECTION 14. Ark. Code Ann. §15-4-1902(9)(A) is amended to read as
5 follows:

6 "(9)(A) 'New permanent employee' means a position or job which was
7 created as a result of a project, and which is filled by one (1) or more
8 employees or contractual employees who were Arkansas ~~residents when hired, as~~
9 ~~well as taxpayers~~ during the year in which the tax credits or incentives were
10 earned or claimed."

11

12 SECTION 15. Ark. Code Ann. §15-4-1902 is amended to add a new
13 subsection (13) to read as follows:

14 "(13) 'Regional headquarters' means the center of operations for a
15 specific geographical area."

16

17 SECTION 16. Ark. Code Ann. §15-4-1904(1)(B) is amended to read as
18 follows:

19 "(B) An office sector business, corporate headquarters, regional
20 headquarters, or distribution center which will not make retail sales to the
21 general public;"

22

23 SECTION 17. Ark. Code Ann. § 15-4-1906(b)(1)(A) is amended to read as
24 follows:

25 "(A) The qualified business is an industry that fits into Standard
26 Industrial Classification numbers 20-39, 7375, or 7376, ~~and~~ or is a
27 distribution center, corporate headquarters, regional headquarters, or office
28 sector business located within Arkansas;"

29

30 SECTION 18. Ark. Code Ann. § 15-4-1906(b)(2) is amended to read as
31 follows:

32 "For an office sector business, a corporate headquarters, regional
33 headquarters, or a distribution center to qualify for the benefits of this
34 subchapter, it must not make retail sales to the general public."

35

36 SECTION 19. Ark. Code Ann. § 15-4-1605(1)(B) is amended to read as

1 follows:

2 "(B) An office sector business which will employ ~~one hundred (100)~~
3 fifty (50) or more new permanent employees and not make retail sales to the
4 general public; or"

5

6 SECTION 20. Ark. Code Ann. § 15-4-1605(4)(B) is amended to read as
7 follows:

8 ~~"One hundred (100)~~ fifty (50) for an office sector business;"

9

10 SECTION 21. Ark. Code Ann. § 26-52-705 is amended to add a new
11 paragraph to read as follows:

12 "(d) For all projects approved after July 1, 1997, in order to receive
13 credit for project costs, such costs must be incurred within five (5) years
14 from the date of certification of the project plan by the Director of the
15 Arkansas Industrial Development Commission."

16

17 SECTION 22. Ark. Code Ann. § 15-4-1606(3)(A) is amended to read as
18 follows:

19 "(3)(A) If the number of net new permanent employees drops below the
20 requisite number provided in §15-4-1605, all benefits under the financial
21 incentive plan entered into with the department shall be terminated, unless
22 the Chief Fiscal Officer of the State approves a written request filed by the
23 business explaining why the number of new permanent employees fell below the
24 requisite number. The Chief Fiscal Officer may grant the business up to
25 twenty-four (24) months to bring the number of new permanent employees back up
26 to the requisite number and may approve the continuation of benefits during
27 that period."

28

29 SECTION 23. Ark. Code Ann. § 15-4-1902 is amended to add the following
30 subsections:

31 "(13) The sales factor of a project plant or facility is a fraction,
32 the numerator of which is the total sales of the project plant or facility in
33 this State during the tax period, and the denominator of which is the total
34 sales of the taxpayer's Arkansas operations during the tax period.

35 (14) The payroll factor of a project plant or facility is a fraction,
36 the numerator of which is the total amount paid in this State during the tax

1 period by the project plant or facility for compensation to employees working
2 in the plant or facility, and the denominator of which is the total
3 compensation paid in the taxpayer's Arkansas operations during the tax period.

4 (15) The property factor of a project plant or facility is a fraction,
5 the numerator of which is the average value of the taxpayer's real and
6 tangible personal property owned or rented and used at the project plant or
7 facility during the tax period and the denominator of which is the average
8 value of all the taxpayer's real and tangible personal property owned or
9 rented and used during the tax period in Arkansas."

10

11 SECTION 24. Ark. Code Ann. § 15-4-1906(c)(1) is amended to read as
12 follows:

13 "(c)(1)(A) The Revenue Division of the Department of Finance and
14 Administration shall authorize an income tax credit for the project debt
15 service payments made by the business during that tax year, ~~which will be~~
16 ~~specified in the financial incentive plan.~~

17 ~~(B) However, the amount of the credit shall not exceed the amount~~
18 ~~specified in the financial incentive plan, which will be designated as a~~
19 ~~percentage of the businesses' annual income tax liability. The amount of~~
20 income tax credit taken during any tax year shall not exceed the Arkansas
21 income tax liability resulting from the project plant or facility. The income
22 tax liability of the project plant or facility shall be determined by adding
23 the sales factor, payroll factor and property factor of the plant or facility
24 and dividing the sum by three (3) to arrive at the project apportionment
25 percentage. The total Arkansas corporate income tax liability of the
26 corporation shall be multiplied by the project apportionment percentage to
27 arrive at the income tax liability arising from the project. The income tax
28 credit available may then be used to offset the income tax liability arising
29 from the project as agreed for in the financial incentive plan."

30

31 SECTION 25. All provisions of this act of a general and permanent
32 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
33 Code Revision Commission shall incorporate the same in the Code.

34

35 SECTION 26. If any provision of this act or the application thereof to
36 any person or circumstance is held invalid, such invalidity shall not affect

1 other provisions or applications of the act which can be given effect without
2 the invalid provision or application, and to this end the provisions of this
3 act are declared to be severable.

4

5 SECTION 27. All laws and parts of laws in conflict with this act are
6 hereby repealed.

7

8 SECTION 28. EMERGENCY. It is hereby found and determined by the General
9 Assembly of this State that unemployment and economic underdevelopment has
10 reached intolerable levels in certain portions of this State, and that the
11 establishment of tax incentives afforded by this Act are critical to the
12 development and expansion of job opportunities in those areas. Therefore, an
13 emergency is declared to exist and this act being immediately necessary for
14 the preservation of the public peace, health and safety shall become effective
15 on the date of its approval by the Governor. If the bill is neither approved
16 nor vetoed by the Governor, it shall become effective on the expiration of the
17 period of time during which the Governor may veto the bill. If the bill is
18 vetoed by the Governor and the veto is overridden, it shall become effective
19 on the date the last house overrides the veto.

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/s/Rep. Cunningham et al

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