

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 2103

4
5 By: Representatives Cowling, Bolin, Adams, Blair, Clemons, L. Evans, Flowers, Hardy, Harrelson,
6 Jeffrey, Mack, Maxwell, Ormond, Rankin, Reep, Roebuck, Sample, Saunders, Scroggin, Wells, Willis
7 By: Senators Horn, J. Jeffress, G. Jeffress, T. Smith, J. Taylor

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For An Act To Be Entitled

11 AN ACT TO PROVIDE FOR THE CONTINUED ECONOMIC
12 DEVELOPMENT OF THE STATE OF ARKANSAS' NATURAL
13 RESOURCE MANUFACTURING BASE; AND FOR OTHER
14 PURPOSES.

15
16

Subtitle

17 AN ACT TO PROVIDE FOR THE CONTINUED
18 ECONOMIC DEVELOPMENT OF THE STATE OF
19 ARKANSAS' NATURAL RESOURCE MANUFACTURING
20 BASE.

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

24

25 SECTION 1. Legislative findings.

26 The General Assembly finds that:

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28 (1) Attracting and retaining industry is vital to the Arkansas
economy;

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30 (2) It is difficult and often impossible to compete with tax
incentives offered to manufacturers and other businesses by surrounding
31 states;

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33 (3) Many states exempt electricity, natural gas, and other fuel
used by manufacturers from sales and use tax;

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35 (3) Providing the tax incentives under this act to manufacturers
will allow existing manufacturers to continue to operate profitably and to
36 employ Arkansans, will increase the available jobs in Arkansas through the



1 expansion of existing manufacturing businesses and attraction of new
2 business, and will improve the Arkansas economy by providing additional
3 sources of state and local revenue; and

4 (4) The tax incentives provided in this act are designed to be
5 implemented gradually to reduce the immediate impact on existing revenues.

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

9 26-52-438. Wood product, paper, and gypsum manufacturers.

10 (a) As used in this section “reduced gross receipts and compensating
11 use tax rate” means the state gross receipts and compensating use tax rate in
12 effect under subsection (b) of this section and § 26-53-145 during the month
13 in which the sale or purchase of natural gas, electricity, or solid wood
14 waste under this section or § 26-53-145 occurred, including the gross
15 receipts and compensating tax levied by Amendment 75 to the Arkansas
16 Constitution.

17 (b) The gross receipts or gross proceeds derived from the sale of
18 electricity, natural gas, and solid wood waste used as fuel in the process of
19 manufacturing wood products, paper, and gypsum building products by
20 manufacturers classified in North American Industry Classification System
21 industry groups 3211, 3212, 3221, 3222, and 3274 as of January 1, 2005, shall
22 be taxed as follows:

23 (1) Sales of electricity, natural gas, and solid wood waste
24 during the calendar year 2006 shall be subject to state gross receipts tax at
25 the rate of four percent (4%), which includes the one-eighth percent (1/8%)
26 tax levied by Amendment 75 to the Arkansas Constitution and a portion of tax
27 levied by §§ 26-52-301 and 26-52-302;

28 (2) Sales of electricity, natural gas, and solid wood waste
29 during the calendar year 2007 shall be subject to state gross receipts tax at
30 the rate of two percent (2%), which includes the one-eighth percent (1/8%)
31 tax levied by Amendment 75 to the Arkansas Constitution and a portion of tax
32 levied by §§ 26-52-301 and 26-52-302; and

33 (3) Sales of electricity, natural gas, and solid wood waste
34 during the calendar year 2008 and each year thereafter shall be exempt from
35 state gross receipts tax levied under the Arkansas Gross Receipts Act of
36 1941, § 26-52-101 et seq.

1 (c)(1) On the last day of each month beginning in February 2006, the
2 Chief Fiscal Officer of the State shall certify to the Treasurer of State the
3 amount of gross receipts and compensating use tax attributable to the sale or
4 purchase of natural gas, electricity, and solid wood waste under this section
5 and § 26-53-145 that was:

6 (A) Deposited to the Revenue Holding Fund Account of the
7 State Apportionment Fund pursuant to § 19-6-484(1); and

8 (B) Derived from the levy of all applicable state gross
9 receipts and compensating tax, including Amendment 75 to the Arkansas
10 Constitution.

11 (2) The amount of tax certified pursuant to subdivision (c)(1)
12 of this section shall be distributed as follows:

13 (A) That percentage of tax equal to a fraction in which
14 the denominator is the reduced gross receipts and compensating use tax rate
15 and the numerator is one hundred twenty-five thousandths percent (0.125%)
16 shall be transferred to the Special Revenue Fund Account for subsequent
17 distribution to the Conservation Tax Fund in accordance with § 19-6-484;

18 (B) That percentage of tax equal to a fraction in which
19 the denominator is the reduced gross receipts and compensating use tax rate
20 and the numerator is one-half of one percent (0.5%) shall be transferred to
21 the Property Tax Relief Trust Fund; and

22 (C) The tax remaining after the distributions under
23 subdivisions (c)(2)(A) and (B) of this section shall be credited as follows:

24 (i) Fifteen percent (15%) shall be credited to the
25 Educational Adequacy Fund; and

26 (ii) Eighty-five percent (85%) shall be credited to
27 the General Revenue Fund Account of the State Apportionment Fund.

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29 SECTION 3. Arkansas Code Title 26, Chapter 53, Subchapter 1 is amended
30 to add a new section as follows:

31 26-53-145. Wood product, paper, and gypsum manufacturers.

32 The sale or purchase of electricity, natural gas, and solid wood waste
33 used as fuel in the process of manufacturing wood products, paper, and gypsum
34 building products by manufacturers classified in North American Industry
35 Classification System industry groups 3211, 3212, 3221, 3222, and 3274 as of
36 January 1, 2005, shall be taxed as follows:

1 (1) Purchases of electricity, natural gas, and solid wood waste
 2 during the calendar year 2006 shall be subject to state compensating tax at
 3 the rate of four percent (4%), which includes the one-eighth percent (1/8%)
 4 tax levied by Amendment 75 to the Arkansas Constitution and a portion of tax
 5 levied by §§ 26-53-106 and 26-53-107;

6 (2) Purchases of electricity, natural gas, and solid wood waste
 7 during the calendar year 2007 shall be subject to state compensating tax at
 8 the rate of two percent (2%), which includes the one-eighth percent (1/8%)
 9 tax levied by Amendment 75 to the Arkansas Constitution and a portion of tax
 10 levied by §§ 26-53-106 and 26-53-107; and

11 (3) Purchases of electricity, natural gas, and solid wood waste
 12 during the calendar year 2008 and each year thereafter shall be exempt from
 13 state compensating use tax levied under the Arkansas Compensating Tax Act of
 14 1949, § 26-53-101 et seq.

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 16 SECTION 4. (a) By January 1, 2012, the Legislative Auditor shall
 17 provide a report to the chairs of the House Interim Revenue and Taxation
 18 Committee and the Senate Interim Revenue and Taxation Committee and the
 19 Legislative Council which provides the following information:

20 (1) The number and location by county of manufacturers engaging
 21 in business in Arkansas and classified in North American Industry
 22 Classification System industry groups 3211, 3212, 3221, 3222, or 3274 as of
 23 January 1 of each calendar year 2006 through 2009;

24 (2) The number of full-time permanent employees employed on each
 25 January 1 by each manufacturer meeting the requirements of subdivision (a)(1)
 26 of this section for each calendar year 2006 through 2009;

27 (3) The annual salary including bonuses and overtime paid to
 28 each full-time permanent employee described in subdivision (a)(2) of this
 29 section as of January 1 of each calendar year 2006 through 2009;

30 (4) The approximate amount of state sales and use tax not paid
 31 by each manufacturer on purchases of electricity, natural gas, and solid wood
 32 waste as a result of the exemptions provided in Arkansas Code §§ 26-52-438
 33 and 26-53-145;

34 (5) A determination of whether any increase in the number of
 35 manufacturers, employees of manufacturers, or salaries of employees of
 36 manufacturers is attributable to the exemptions provided in Arkansas Code

1 §§ 26-52-438 and 26-53-145; and

2 (6) The recommendation of the Legislative Auditor on whether the
3 exemptions provided in Arkansas Code §§ 26-52-438 and 26-53-145 should
4 continue in effect.

5 (b)(1) The Director of the Department of Finance and Administration
6 and the Director of the Department of Economic Development shall provide
7 information to the Legislative Auditor as requested in order to allow the
8 Legislative Auditor to compile his or her report under this section.

9 (2)(A) The provisions against disclosure under Arkansas Code
10 § 26-18-303(a) shall not apply to information provided by the Director of the
11 Department of Finance and Administration under this section to the
12 Legislative Auditor.

13 (B) However, the Legislative Auditor shall not disclose or
14 include in his or her report any information provided by the Director of the
15 Department of Finance and Administration if the information would have
16 otherwise been confidential under Arkansas Code § 26-18-303(a).

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18 SECTION 5. EFFECTIVE DATE. Sections 2 and 3 of this act shall become
19 effective on the first day of the calendar month following the effective date
20 of this act.

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