

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

HOUSE BILL 2030

5 By: Representatives Sabin, Sullivan
6

For An Act To Be Entitled

8 AN ACT TO CREATE THE ARKANSAS ECONOMIC INCENTIVE
9 TRANSPARENCY ACT; TO REQUIRE REPORTING OF INFORMATION
10 CONCERNING THE ECONOMIC INCENTIVES OFFERED BY THE
11 STATE; AND FOR OTHER PURPOSES.
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Subtitle

14 TO CREATE THE ARKANSAS ECONOMIC INCENTIVE
15 TRANSPARENCY ACT; AND TO REQUIRE
16 REPORTING OF INFORMATION CONCERNING THE
17 ECONOMIC INCENTIVES OFFERED BY THE STATE.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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23 SECTION 1. Arkansas Code Title 15, Chapter 4, is amended to add an
24 additional subchapter to read as follows:

25 Subchapter 38 – Arkansas Economic Incentive Transparency Act

26
27 15-4-3801. Title.

28 This subchapter shall be known and may be cited as the "Arkansas
29 Economic Incentive Transparency Act".
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31 15-4-3802. Legislative intent.

32 The General Assembly finds that:

33 (1) Information technology has evolved to allow unprecedented
34 levels of accessibility to information pertinent to the economic incentives
35 provided by the state;

36 (2) Information technology allowing access to information



1 concerning economic incentives via the internet now exists and is available
 2 to state government; and

3 (3) Access to information concerning economic incentives on an
 4 ongoing and regular basis will:

5 (A) Assist citizens and members of the General Assembly in
 6 overseeing the operation, effectiveness, and availability of economic
 7 incentives in Arkansas; and

8 (B) Allow for a higher degree of accountability and
 9 efficiency in the workings of the economic development incentive programs
 10 offered by the state.

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 12 15-4-3803. Definitions.

13 As used in this subchapter:

14 (1) "Economic development incentive program" means a program or
 15 policy administered by the state that offers economic incentives to a
 16 particular firm or industry;

17 (2) "Economic development incentive project" means a project
 18 subject to a financial incentive agreement;

19 (3) "Economic incentive" means targeted or privileged treatment
 20 provided by the state to attract, retain, or expand business operations in
 21 the state, including without limitation targeted:

22 (A) Outlays such as direct subsidies or grants;

23 (B) Safety nets such as loan guarantees; and

24 (C) Tax expenditures provided to private entities;

25 (4) "Financial incentive agreement" means an agreement entered
 26 into by an entity and the state to provide the entity an economic incentive
 27 to locate a new business or to expand an existing business in Arkansas; and

28 (5) "Fiscal year" means July 1 of one (1) year through June 30
 29 of the next year.

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 31 15-4-3804. Economic development incentive programs – Report.

32 For the purpose of publishing the data under § 15-4-3808, the Arkansas
 33 Economic Development Commission shall create a report containing the
 34 following information for each economic development incentive program
 35 provided by the state during the fiscal year for which the report is created:

36 (1) A summary of the economic development incentive program,

1 including without limitation:

2 (A) The name of the economic development incentive
 3 program;

4 (B) The type of economic incentives provided by the
 5 economic development incentive program;

6 (C) The eligibility requirements for the economic
 7 incentives provided by the economic development incentive program; and

8 (D) Any other rules related to the economic development
 9 incentive program;

10 (2) The purpose of the economic development incentive program;

11 (3) The key assumption of the economic development incentive
 12 program;

13 (4) The clawback terms and conditions of the economic
 14 development incentive program, including without limitation how audits will
 15 be conducted and the formula for determining how much of an economic
 16 incentive provided by the economic development incentive program will be
 17 recouped if the clawback is triggered;

18 (5) The year of enactment of the economic development incentive
 19 program;

20 (6) The annual cost of the economic development incentive
 21 program, including without limitation:

22 (A) The tax credits issued under the economic development
 23 incentive program;

24 (B) The tax credits used under the economic development
 25 incentive program;

26 (C) Any payments authorized under the economic development
 27 incentive program; and

28 (D) All other economic incentive payments made under the
 29 economic development incentive program;

30 (7) The annual number of financial incentive agreements that
 31 include the use of the economic development incentive program;

32 (8) Cumulative data for:

33 (A) The cost of the economic development incentive program
 34 over the life of the economic development incentive program; and

35 (B) The number of financial incentive agreements that
 36 include the use of the economic development incentive program over the life

1 of the economic development incentive program; and

2 (9) A discussion of the existence or absence of a market
 3 failure, including without limitation a monopoly power or an incomplete
 4 market, that justifies the use of economic incentives.

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 6 15-4-3805. Economic development incentive projects – Report.

7 For the purpose of publishing the data under § 15-4-3808, the Arkansas
 8 Economic Development Commission shall create a report containing the
 9 following information for each economic development incentive project that
 10 was active for any part of the fiscal year for which the report is created:

11 (1) The entity that received an economic incentive for an
 12 economic development incentive project;

13 (2) The three-digit North American Industry Classification
 14 System code for the entity that received an economic incentive for an
 15 economic development incentive project;

16 (3) The county in which the economic development incentive
 17 project is located;

18 (4) The number of full-time jobs at the location of the economic
 19 development incentive project at the time the financial incentive agreement
 20 was signed;

21 (5) Whether the economic development incentive project is a new
 22 business location, an expansion of a business, or the retention of a
 23 business;

24 (6) The date of the financial incentive agreement for the
 25 economic development incentive project;

26 (7) A copy of the financial incentive agreement for the economic
 27 development incentive project;

28 (8) The economic incentives provided to the entity by the state
 29 for the economic development incentive project;

30 (9) The projected:

31 (A) Costs of the economic incentives received by the
 32 entity for the economic development incentive project;

33 (B) Number of full-time employees that the economic
 34 development incentive project will create or retain;

35 (C) Average hourly wage of the full-time employees the
 36 economic development incentive project will create or retain;

1 (D) Median hourly wage of the full-time employees that the
2 economic development incentive project will create or retain;

3 (E) Investment the entity receiving the economic
4 incentives will make in the local economy;

5 (F) Cost-benefit ratio of the economic development
6 incentive project;

7 (G) Impact that the economic development incentive project
8 will have on the median wage in the county in which the economic development
9 incentive project is located; and

10 (H) Impact that the economic development incentive project
11 will have on full-time employment in the county in which the economic
12 development incentive project is located;

13 (10) The annual data for:

14 (A) The realized cost of each economic incentive the
15 entity received for the economic development incentive project;

16 (B) The realized average number of full-time jobs created
17 or retained for the economic development incentive project by the entity
18 during the most recent fiscal year;

19 (C) The realized average hourly wage of the full-time jobs
20 created or retained for the economic development incentive project by the
21 entity during the most recent fiscal year;

22 (D) The realized median hourly wage of the full-time jobs
23 created or retained for the economic development incentive project by the
24 entity during the most recent fiscal year;

25 (E) The realized investment the entity receiving economic
26 incentives for an economic development incentive project made in the local
27 economy during the most recent fiscal year;

28 (F) The realized cost-benefit ratio of the economic
29 development incentive project during the most recent fiscal year; and

30 (G) Any clawbacks, including without limitation:

31 (i) Whether the entity involved in the economic
32 development incentive project filed for extension to meet expectations within
33 the most recent fiscal year;

34 (ii) Whether the entity involved in the economic
35 development incentive project triggered clawbacks during the most recent
36 fiscal year; and

1 (iii) The amount of money recovered under the
 2 clawback provision from the entity during the most recent fiscal year;

3 (11) Cumulative data for:

4 (A) The realized cost of each economic incentive the
 5 entity received over the lifespan of the economic development incentive
 6 project;

7 (B) The realized average number of full-time jobs created
 8 or retained by the entity over the lifespan of the economic development
 9 incentive project;

10 (C) The realized average hourly wage of the full-time jobs
 11 created or retained by the entity over the lifespan of the economic
 12 development incentive project;

13 (D) The realized median hourly wage of the full-time jobs
 14 created or retained by the entity over the lifespan of the economic
 15 development incentive project;

16 (E) The realized investment the entity receiving an
 17 economic incentive made in the local economy over the life span of the
 18 economic development incentive project;

19 (F) The realized cost-benefit ratio of the economic
 20 development incentive project over the lifespan of the economic development
 21 incentive project; and

22 (G) Any clawbacks, including without limitation:

23 (i) The number of clawback extensions the entity has
 24 filed for over the lifespan of the economic development incentive project;

25 (ii) Whether the entity involved in the economic
 26 development incentive project triggered clawbacks over the lifespan of the
 27 economic development incentive project; and

28 (iii) The amount of money recovered under clawback
 29 provisions over the lifespan of the economic development incentive project;
 30 and

31 (12) A discussion of the existence or absence of a market
 32 failure, including without limitation a monopoly power or an incomplete
 33 market, that justifies the use of economic incentives.

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 35 15-4-3806. County, state, and federal information – Report.

36 (a) For the purpose of publishing the data under § 15-4-3808, the

1 Arkansas Economic Development Commission shall create a report containing
2 annual and cumulative data for each Arkansas county for the fiscal year for
3 which the report is created for:

4 (1) The number of financial incentive agreements signed with
5 entities within the county;

6 (2) The economic development incentive projects remaining in the
7 county;

8 (3) The projected aggregate:

9 (A) Cost of financial incentive agreements signed with
10 entities within the county in the most recent fiscal year;

11 (B) Full-time jobs created or retained by economic
12 development incentive projects in the county in the most recent fiscal year;

13 (C) Average hourly wage of full-time jobs created or
14 retained by economic development incentive projects in the county in the most
15 recent fiscal year;

16 (D) Median hourly wage of full-time jobs created or
17 retained by economic development incentive projects in each county in the
18 most recent fiscal year; and

19 (E) Investment made by entities receiving an economic
20 incentive in the county in the most recent fiscal year; and

21 (3) The realized aggregate:

22 (A) Cost of economic incentives in the county in the most
23 recent fiscal year;

24 (B) Full-time jobs created or retained by economic
25 development incentive projects in the county in the most recent fiscal year;

26 (C) Average hourly wage of full-time jobs created or
27 retained by economic development incentive projects in the county in the most
28 recent fiscal year;

29 (D) Median hourly wage of full-time jobs created or
30 retained by economic development incentive projects in the county in the most
31 recent fiscal year; and

32 (E) Investment made by economic development incentive
33 projects in the county in the most recent fiscal year.

34 (b) For the purpose of publishing the data under § 15-4-3808, the
35 commission shall create a report containing the five-year percentage of
36 growth, based on the most recent data from the United States Bureau of Labor

1 Statistics, at the county, state, and federal level for the fiscal year for
 2 which the report is created for:

- 3 (1) Private employment;
- 4 (2) Number of private entities;
- 5 (3) Average wage; and
- 6 (4) Population.

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 8 15-4-3807. Unsuccessful economic development incentive projects –
 9 Report.

10 For the purpose of publishing the data under § 15-4-3808, the Arkansas
 11 Economic Development Commission shall create a report containing the
 12 following information for each unsuccessful economic development incentive
 13 project during the fiscal year for which the report is created:

14 (1) For each entity that was offered an economic incentive but a
 15 economic development incentive project did not materialize:

16 (A) The three-digit North American Industry Classification
 17 System code of the entity offered the economic incentive for an economic
 18 development incentive project;

19 (B) The proposed location of the economic development
 20 incentive project, if established;

21 (C) Whether the proposed economic development incentive
 22 project was a new business location, an expansion of a business, or the
 23 retention of a business;

24 (D) The projected:

25 (i) Number of full-time jobs to be created or
 26 retained by an economic development incentive project;

27 (ii) Average hourly wage of the full-time jobs to be
 28 created or retained by an economic development incentive project; and

29 (iii) Median hourly wage of the full-time jobs to be
 30 created or retained by an economic development incentive project;

31 (E) Economic development incentive programs offered to the
 32 entity for an economic development incentive project;

33 (F) The projected cost of the economic incentives offered
 34 to the entity by an economic development incentive project; and

35 (G) The reason the entity did not locate or remain in the
 36 state; and

1 (2) For each entity that applied for an economic incentive but
 2 the economic development incentive project was rejected:

3 (A) The three-digit North American Industry Classification
 4 System code of the entity offered the economic incentive for an economic
 5 development incentive project;

6 (B) The proposed location, if any of the economic
 7 development incentive project;

8 (C) Whether the proposed economic development incentive
 9 project was a new business location, an expansion of a business, or the
 10 retention of a business;

11 (D) The projected:

12 (i) Number of full-time jobs to be created or
 13 retained by an economic development incentive project, if established;

14 (ii) Average hourly wage of the full-time jobs to be
 15 created or retained by an economic development incentive project, if
 16 established; and

17 (iii) Median hourly wage of the full-time jobs to be
 18 created or retained by an economic development incentive project, if
 19 established;

20 (E) Economic development incentive programs the entity
 21 applied for;

22 (F) Whether the entity located, expanded, or remained in
 23 Arkansas; and

24 (G) The reason the entity was rejected.

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 26 15-4-3808. Duties of Arkansas Economic Development Commission.

27 The Arkansas Economic Development Commission shall:

28 (1) Develop and maintain a database of information concerning
 29 economic incentives as provided for in this subchapter; and

30 (2) Develop a website presenting the data required to be
 31 reported under this subchapter concerning economic incentives that shall:

32 (A) Report data concerning economic incentives in a common
 33 format;

34 (B) Allow searches of data concerning economic incentives
 35 in a common format; and

36 (C)(i) Be updated on a regular basis to present data

1 concerning economic incentives for the current fiscal year and prior fiscal
2 year's annual economic incentives, starting with the 2018 fiscal year.

3 (ii) The website shall retain data concerning
4 economic incentives for each fiscal year, starting with the 2018 fiscal year,
5 until ten (10) such fiscal years are available, after which the website shall
6 retain at least ten (10) fiscal years of data concerning economic incentives.

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8 15-4-3809. Rules.

9 The Executive Director of the Arkansas Economic Development Commission
10 shall promulgate rules to implement and administer this subchapter.

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