

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 755

By: Leftwich

AS INTRODUCED

An Act relating to revenue and taxation; amending Sections 3 and 4, Chapter 391, O.S.L. 2004 (68 O.S. Supp. 2004, Sections 4103 and 4104), which relate to the Oklahoma Quality Investment Act; modifying definitions; modifying entities eligible to participate in Oklahoma Quality Investment Act; specifying qualifications therefor; limiting amount of capital costs eligible for investment payments; specifying time period for making certain payments; specifying certain duties of Oklahoma Department of Commerce; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 3, Chapter 391, O.S.L. 2004 (68 O.S. Supp. 2004, Section 4103), is amended to read as follows:

Section 4103. For purposes of the Oklahoma Quality Investment Act:

1. "Capital costs" means costs for land, buildings, improvements to buildings, fixtures and for machinery, equipment and other personal property used in and for the manufacturing process incurred by a qualified establishment, on or after ~~the effective date of this act:~~

- a. July 1, 2004, with respect to a business entity engaged in the activity described by Industry Number 3011, Industry Group Number 301, Major Group 30 of the Standard Industrial Classification Manual, latest revision, or

b. July 1, 2005, with respect to any other business entity included within the definition of "qualified establishment" as set forth in this section,

with respect to the manufacturing site located in this state and specified in a quality investment agreement;

2. "Department" means the Oklahoma Department of Commerce;

3. "Qualified establishment" means a business entity engaged in ~~the~~ an activity described by Industry Number 3011, Industry Group Number 301, Major Group 30 of the Standard Industrial Classification manual, latest revision, or described under Sector Numbers 31 through 33 of the North American Industry Classification System (NAICS) Manual, latest version. No establishment that has been certified as eligible to participate in the Oklahoma Quality Jobs Incentive Leverage Act incentive program shall be eligible for any investment payment pursuant to the Oklahoma Quality Investment Act. A qualified establishment shall enter into a quality investment agreement pertaining to a single manufacturing site as that term is defined in Section 1352 of Title 68 of the Oklahoma Statutes. No combination of other locations of an establishment or any related entities of an establishment shall be included in a quality investment agreement. An establishment may enter into additional quality investment agreements for additional sites;

4. "Fiscal year" means the state fiscal year, which shall begin on July 1 of a calendar year and end on June 30 of the next calendar year;

5. "Quality investment agreement" means an agreement with duration, for purposes of computing the total incentive payment amount, of not more than five (5) years entered into between a qualified establishment and the Department; and

6. "Start date" means the date on which a qualified establishment begins accruing benefits because of investment of new capital costs in a manufacturing site that is designated in a

quality investment agreement with the Oklahoma Department of Commerce.

SECTION 2. AMENDATORY Section 4, Chapter 391, O.S.L. 2004 (68 O.S. Supp. 2004, Section 4104), is amended to read as follows:

Section 4104. A. A qualified establishment shall be eligible to enter into a quality investment agreement with the Oklahoma Department of Commerce for a period not to exceed five (5) years.

B. Under such an agreement, the establishment shall agree to abide by the terms of the agreement in accordance with the provisions of ~~this act~~ the Oklahoma Quality Investment Act, including investing capital costs in this state in a projected amount each year during the term of the agreement. Actual investment amounts may vary from those amounts specified in the agreement, but in no event shall the quality investment payments made exceed an amount that is based on the estimated amount in the agreement or the actual investment amount listed in the claim and verified by the Oklahoma Tax Commission. The total amount of capital costs eligible for investment payments to a qualified establishment engaged in the activity described by Industry Number 3011, Industry Group Number 301, Major Group 30 of the Standard Industrial Classification Manual, latest revision shall not exceed Fifty Million Dollars (\$50,000,000.00). The total amount of capital costs eligible for investment payments to a qualified establishment other than one engaged in the activity described by Industry Number 3011, Industry Group Number 301, Major Group 30 of the Standard Industrial Classification Manual, latest revision, shall not exceed Ten Million Dollars (\$10,000,000.00). In exchange, the state shall agree to make an annual payment in an amount equal to ten percent (10%) of the amount of capital costs invested by the qualified establishment in this state during the preceding fiscal year.

C. No investment payment authorized by ~~this act~~ the Oklahoma Quality Investment Act shall be made to a qualified establishment engaged in the activity described by Industry Number 3011, Industry Group Number 301, Major Group 30 of the Standard Industrial Classification Manual, latest revision, until July 1, 2005, or thereafter. ~~The~~ No investment payment authorized by the Oklahoma Quality Investment Act shall be made to a qualified establishment engaged in an activity other than that described by Industry Number 3011, Industry Group Number 301, Major Group 30 of the Standard Industrial Classification Manual, latest revision, until July 1, 2006, or thereafter. For any single establishment, the amount of investment payment shall not exceed a total of One Million Dollars (\$1,000,000.00) for any fiscal year during which a quality investment agreement is in effect.

D. If a qualified establishment makes a capital investment during any period of time in excess of Ten Million Dollars (\$10,000,000.00) and the amount of the investment payment to which the establishment is otherwise entitled by ~~this act~~ the Oklahoma Quality Investment Act would exceed the limit prescribed by subsection C of this section, the establishment may carry over the excess investment payment amount to any subsequent fiscal year and may be paid such amount in a subsequent year if the combined amount of the carryover and investment payment based on actual capital investment for the preceding period does not exceed One Million Dollars (\$1,000,000.00). Not more than Five Million Dollars (\$5,000,000.00) in total investment payments shall be payable or paid to a qualified establishment.

E. Any carryover amount may be carried over for a period of time necessary in order for the qualified establishment to be paid the full amount of investment payments authorized by ~~this act~~ the Oklahoma Quality Investment Act based upon actual capital investment

made in the state during the term of the quality investment agreement.

F. A qualified establishment may enter into a quality investment agreement with the Department according to the following procedures:

1. The establishment shall make an initial application to the Department on a form prescribed by the Department containing such information as may be required by the Department;

2. The Department shall determine if the establishment meets the following requirements:

- a. the establishment is engaged in manufacturing described by Industry Number 3011, Industry Group Number 301, Major Group 30 of the Standard Industrial Classification Manual, latest revision, or is engaged in manufacturing described under Sector Numbers 31 through 33 of the North American Industry Classification System (NAICS) Manual, latest version, at a specified site in this state,
- b. the establishment has been located and doing business in this state for a continuous period of time of not less than ten (10) years prior to the date of the application,
- c. the establishment offers, or will offer within twelve (12) months of entering into a quality investment agreement, a basic health benefits plan as described in subparagraph b of paragraph 1 of subsection A of Section 3603 of Title 68 of the Oklahoma Statutes to its employees in this state,
- d. for establishments engaged in manufacturing described by Industry Number 3011, Industry Group Number 301, Major Group 30 of the Standard Industrial Classification Manual, latest revision, the

establishment will incur, with respect to the manufacturing site which is the subject of the agreement, capital costs projected to equal or exceed Ten Million Dollars (\$10,000,000.00) within the period of the quality investment agreement, and capital costs projected to equal or exceed One Million Dollars (\$1,000,000.00) during the first year of the agreement, and for establishments engaged in manufacturing described under Sector Numbers 31 through 33 of the North American Industry Classification System (NAICS) Manual, latest version, the establishment will incur, with respect to the manufacturing site which is the subject of the agreement, capital costs projected to equal or exceed Five Million Dollars (\$5,000,000.00) within the period of the quality investment agreement, and capital costs projected to equal or exceed One Million Dollars (\$1,000,000.00) during the first year of the agreement,

e. the establishment will maintain Oklahoma taxable payroll as provided in this subparagraph:

(1) for an establishment engaged in manufacturing described by Industry Number 3011, Industry Group Number 301, Major Group 30 of the Standard Industrial Classification Manual, latest revision, the establishment shall maintain Oklahoma taxable payroll during the period of the quality investment agreement and for at least two
(2) years following expiration of the agreement in an amount not less than sixty percent (60%) of the establishment's Oklahoma taxable payroll as of the start date, and

(2) for an establishment other than one specified in division (1) of this subparagraph, the establishment shall maintain Oklahoma taxable payroll during the period of the quality investment agreement and for at least four (4) years following expiration of the agreement in an amount not less than seventy percent (70%) of the establishment's Oklahoma taxable payroll as of the start date, and

- f. the establishment will pay its employees in this state an average annualized wage which equals or exceeds Forty Thousand Dollars (\$40,000.00) exclusive of health care benefits paid for by the establishment; and

3. The determination shall be made upon application of the establishment and annually thereafter as a condition of receiving an investment payment pursuant to the provisions of ~~this act~~ the Oklahoma Quality Investment Act.

Upon approval of an establishment, the Department shall enter into a quality investment agreement with the establishment for a period not to exceed five (5) years. The agreement shall specify the start date and the duration of the agreement. The agreement shall provide that:

- a. the establishment shall receive an investment payment in an amount determined by the provisions of this section,
- b. the establishment shall continue to meet the requirements of paragraph 2 of this subsection and all other provisions of ~~this act~~ the Oklahoma Quality Investment Act for the duration of the agreement, and

c. the establishment shall agree to make an investment in capital costs in this state in a projected amount for each year of the agreement.

SECTION 3. This act shall become effective July 1, 2005.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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