

**BILL SUMMARY**  
1<sup>st</sup> Session of the 58<sup>th</sup> Legislature

<b>Bill No.:</b>	<b>HB 2172</b>
<b>Version:</b>	<b>CS</b>
<b>Request Number:</b>	<b>7329</b>
<b>Author:</b>	<b>Rep. Hilbert</b>
<b>Date:</b>	<b>3/3/2021</b>
<b>Impact:</b>	<b>Tax Commission:</b>

**FY-24 Reimbursement Claims:**  
**Unknown Impact**

**Research Analysis**

The committee substitute to HB 2172 adds facilities engaged in custom order manufacturing to a list of qualifying manufacturing concerns exempt from certain ad valorem taxes for a period of five years. With respect to assets placed in service during calendar year 2022, the measure increases, from \$250,000 or more to \$500,000 or more, the investment cost of construction, acquisition or expansion of a manufacturing facility required to be eligible for the exemption, and provides that the amount be adjusted annually by a percentage equal to the previous year's Consumer Price Index-All Urban Consumers (CPI-U). The measure directs the Oklahoma Department of Commerce to determine the adjustment by January 1 and the Oklahoma Tax Commission publish it on its website.

The measure also requires certain establishments primarily engaged in distribution to pay employees at least 125 percent of the average wage of the county in which the jobs are located in order to qualify for the exemption.

With respect to any entity applying for the exemption, the measure requires the entity to pay new direct jobs an average annual wage of at least 110 percent of the average county wage if health care premiums paid by the applicant are included in the wage, or at least 100 percent if health care premiums paid by the applicant are not included in the wage. No average wage requirement shall exceed \$25,000, and the Tax Commission is directed to index and modify the threshold based on CPI data.

Further, the measure defines *facility* as the land, buildings, structures and improvements used directly and exclusively in the manufacturing process. For some certain facilities, machinery, fixtures, equipment and other personal property used directly and exclusively in the manufacturing process are also included in the definition of *facility*.

Finally, the measure requires applicants for the exemption to enter into an agreement with the Tax Commission and county assessor of each and every county in which the assets are located that establishes fair cash value of the assets and a system or schedule for the depreciation of the assets, which the county assessor(s) shall use to modify the fair cash value of the assets. After the exemption period expires, the owner is prohibited from modifying through request or protest the fair cash value of the assets described in the agreement.

Prepared By: Emily McPherson

**Fiscal Analysis**

Analysis provided by the Tax Commission:

HB 2172 proposes to amend 68 O.S. § 2902 modifying the definitions of “manufacturing facilities” and “facility”/“facilities”. Additionally, this measure requires the Oklahoma Tax Commission (“OTC”) to publish certain information on their website and to enter into agreements with entities that wish to apply early for the exemption authorized by this section.

Currently, the definition of “manufacturing facilities” includes facilities for which the investment cost of the construction, acquisition or expansion of the manufacturing facility is \$250,000 or more. HB 2172 proposes to increase the investment cost threshold to \$500,000 or more for assets placed in service during calendar year 2022. This measure proposes that for all subsequent calendar years, the threshold amount shall increase annually by a percentage equal to the previous year’s increase in the Consumer Price Index-All Urban Consumers and such adjusted amount shall be the required investment cost in order to qualify for the exemption authorized by this section. This measure requires the Oklahoma Department of Commerce to determine the amount of increase, if any, on January 1 of each year and requires the OTC to publish said increase on their website annually.

The current definition of “manufacturing facilities” also applies to establishments primarily engaged in distribution as defined under Industry Numbers 49311, 49312, 49313, and 49319 and Industry Sector Number 42 of the NAICS Manual which meet certain qualifications, including payment of wages or salaries to its employees at a wage which equals or exceeds 175% of the federally mandated minimum wage as certified by the Oklahoma Employment Security Commission (“OESC”). HB 2172 proposes to alter this threshold requirement to wages that equal or exceed the average wage requirements in the Oklahoma Quality Jobs Program Act for the year in which the real property was placed into service.

HB 2172 further proposes to expand the definition of “manufacturing facilities” to include facilities engaged in the manufacturing, compounding, processing or fabrication of material into articles of tangible personal property according to the special order of a customer by manufacturers classified as operating in NAICS Sectors 32 and 33. This measure also proposes including a requirement that all entities making an application for the exemption authorized by this section on or after January 1, 2022, pay an average annualized wage which equals or exceeds the average wage requirements in the Oklahoma Quality Jobs Program Act for the year in which the real property was placed into service. The OTC may request verification that the applicant meets the wage requirement from the Oklahoma Department of Commerce.

Currently, “facility” or “facilities” is defined to include the land, buildings, structures, improvements, machinery, fixtures, equipment and other personal property used directly and exclusively in the manufacturing process. HB 2172 proposes to amend this definition such that the “facility”/“facilities” includes the land, buildings, structures and improvements used directly and exclusively in the manufacturing process and beginning January 1, 2022, and for each calendar year thereafter, facilities which have received a manufacturer exemption permit under 68 O.S. § 1359.2 or are engaged in manufacturing activities defined or classified under the NAICS Manual under Industry Nos. 311111 through 339999, inclusive, but for no other establishments “facility”/“facilities” shall include the land, buildings, structures, improvements, machinery, fixtures, equipment and other personal property used directly and exclusively in the manufacturing process.

HB 2172 removes language allowing for a waiver to the base payroll requirement in certain situations and removes the language allowing for a waiver of payroll requirements for acquired or expanded automotive final assembly manufacturing facilities that meet certain requirements.

Additionally, HB 2172 states that for any application filed to qualify real property, personal property or both for the exemption authorized by this section prior to the first year in which the property can be treated as exempt, the applying entity, the OTC and the county assessor of each county where the qualifying assets are located shall enter into an agreement. This agreement will contain a clause binding successor business entities to the agreement terms which establish fair cash value of the assets. The agreement shall also contain a system or schedule for depreciation which shall be used by the applicable county assessor to modify the fair market cash value of the property for the remaining four years of the exemption period, after the expiration of which the owner will not be able to modify the fair cash value except (1) in the event of functional obsolescence, economic obsolescence, or physical damage to the real or personal property and (2) through the use of the schedule for depreciation contained in the agreement.

HB 2172 has no impact to state revenues for FY 22 and FY 23. The impact to reimbursement claims against the Ad Valorem Reimbursement Fund is unknown for FY 24. This proposed measure has an associated minimal administrative impact.

Reimbursement history including supplemental appropriations:

## Five-Year Exempt Manufacturing

Historical Statistics

Year	Reimbursement Amount	Apportioned Income Tax	Difference	Appropriations/ Transfers
1987	143,257	7,643,539	7,500,282	
1988	2,346,018	9,002,830	6,656,812	
1989	3,671,120	10,265,238	6,594,118	
1990	5,564,981	10,965,622	5,400,641	
1991	9,573,063	13,571,693	3,998,630	
1992	12,583,691	13,697,342	1,113,651	
1993	13,725,074	14,451,434	726,360	
1994	13,555,765	14,818,091	1,262,326	
1995	13,974,501	15,855,081	1,880,580	
1996	13,874,217	16,932,940	3,058,723	
1997	12,764,587	19,122,653	6,358,066	
1998	14,936,129	21,021,814	6,085,685	
1999	15,065,099	22,523,253	7,458,154	
2000	15,265,381	23,034,217	7,768,836	
2001	18,978,365	24,423,967	5,445,602	
2002	20,572,439	24,553,070	3,980,631	
2003	41,306,390	21,671,690	(19,634,700)	14,400,000
2004	48,530,995	24,479,645	(24,051,350)	17,300,000
2005	52,724,671	26,774,976	(25,949,695)	25,000,000
2006	48,192,459	43,350,976	(4,841,483)	11,719,234
2007	53,294,176	33,350,976	(19,943,200)	18,800,000
2008	44,825,245	31,406,475	(13,418,770)	16,100,000
2009	40,262,724	28,803,958	(11,458,766)	0*
2010	36,137,567	24,337,204	(11,800,363)	16,000,000
2011	33,482,090	27,506,407	(5,975,683)	15,655,598
2012	37,828,753	31,360,220	(6,468,533)	12,050,000
2013	43,289,325	34,034,096	(9,255,229)	8,447,673
2014	64,356,276	32,475,733	(31,880,543)	25,523,000
2015	67,619,201	35,422,118	(32,197,083)	28,283,724
2016	80,234,967	32,531,415	(47,703,552)	47,074,091
2017	106,324,555	30,497,338	(75,827,217)	70,000,000
2018	134,381,250	34,413,651	(99,967,599)	92,700,000
2019	143,121,521	37,416,015	(105,705,506)	99,600,000
2020	161,185,445	36,097,737	(125,087,708)	112,000,000

FY-20 Income tax - Estimated based on year-to-date through May

\*Review of documents continues to identify any potential supplemental funding

Prepared By: Mark Tygret

### **Other Considerations**

None.