State of Arkansas *As Engrossed: S3/5/01*
83rd General Assembly

A Bill

Regular Session, 2001 SENATE BILL 646

By: Senator Wooldridge
By: Representative Ferguson

For An Act To Be Entitled

AN ACT TO AMEND THE ARKANSAS ENTERPRISE ZONE ACT OF 1993 TO REDEFINE “DISTRIBUTION CENTER”, TO REDEFINE “HIGH UNEMPLOYMENT”, TO REDUCE THE NUMBER OF REQUIRED JOBS FOR COMPUTER RELATED BUSINESSES, TO PROVIDE FOR DISLOCATED WORKER BENEFITS; AND FOR OTHER PURPOSES.

Subtitle

AMEND THE ENTERPRISE ZONE ACT OF 1993 TO REDEFINE “DISTRIBUTION CENTER”, REDEFINE “HIGH UNEMPLOYMENT”, REDUCE NUMBER OF REQUIRED JOBS FOR COMPUTER RELATED BUSINESSES, PROVIDE FOR DISLOCATED WORKER BENEFITS.

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

SECTION 1. Arkansas Code 15-4-1702 is amended to read as follows:

15-4-1702. Definitions.

As used in this subchapter:

(1)(A) "Average hourly wage" means the average wage of the net new full-time permanent employees based on payroll for the most recent quarter reported to the Arkansas Employment Security Department ~~and is computed by using the total of the net new full-time permanent employees' reported taxable earnings, including overtime pay, divided by the number of weeks worked, divided by the average hours worked per week per net new full-time~~

~~permanent employee~~.

~~(B) Twenty-five percent (25%) of the net new full-time permanent employees' annual bonus may be added to the reported taxable earnings;~~

<u>(B) "Average hourly wage" is computed by using the total of the net new full-time permanent employee's reported taxable earnings, including overtime pay and one quarter (1/4) of the employee's annual bonus amount, divided by the number of weeks worked during the most recent quarter, divided by the average hours worked per week per net new full-time permanent employee;</u>

(2) "Corporate headquarters" means the home or center of operations, including research and development, of a national or multinational corporation;

(3) "Department" means the Department of Economic Development;

(4) "Director" means the Director of the Department of Economic Development;

(5) "Distribution center" means a facility for the reception, storage, or shipping<u>:</u>

<u>(A)</u> of a business' own products or products which the business wholesales to retail businesses or ships to its own retail outlets; <u>or</u>

<u>(B) of products owned by other companies with which the business has contracts for storage and shipping if seventy-five percent (75%) of the sales revenues are from out-of-state customers; or</u>

<u>(C) of products for sale to the general public if seventy-five percent (75%) of the sales revenues are from out-of-state customers;</u>

(6)(A) "Existing employees" means those employees hired by the business prior to the date of the financial incentive plan.

(B) Existing employees may be considered net new full-time permanent employees only if:

(i) The position or job filled by the existing employee was created as a result of the project; and

(ii) The position vacated by the existing employee was either filled by a subsequent employee or no subsequent employee will be hired because the business no longer conducts the particular business activity requiring such classification;

~~(8)~~*(7)* "Governing authority" means the quorum court of a county or the governing body of a municipality;

(8) "High unemployment" means an unemployment rate equal to or in excess of one hundred fifty percent (150%) of the state's average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the Arkansas Employment Security Department, when the state's annual average unemployment rate is six percent (6%) or below. When the state's annual average unemployment rate is above six percent (6%), "high unemployment" means an unemployment rate equal to or in excess of three percent (3%) above the state's average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the Arkansas Employment Security Department:

(9) "Modernization" means to increase efficiency or to increase productivity of the business through investment in machinery or equipment, or both, and shall not include costs for routine maintenance.

(10)(A)(i) "Net new full-time permanent employee" means a position or job which was created pursuant to a signed financial incentive plan and which is filled by one (1) or more employees or contractual employees who were Arkansas taxpayers during the year in which the tax credits or incentives were earned.

(ii) The position or job held by such employee or employees must have been filled for at least twenty-six (26) consecutive weeks with an average of at least thirty (30) hours per week.

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

(C) Employees could not have been claimed for tax credits or incentives under this subchapter during the preceding taxable year.

(D) The number of net new full-time permanent employees shall be equal to the total number of new full-time permanent employees for the current year minus the total number of new full-time permanent employees for the previous tax year;

(11) "Office sector business" means control centers that influence the environment in which data processing, customer service, credit accounting, telemarketing, claims processing, and other administrative functions that act as production centers are performed;

(12) "Program" means the Arkansas Enterprise Zone Act of 1993, § 15-4-

1701 et seq.;

(13)(A) "Project" means:

(i) All activities and costs associated with the construction of a new plant or facility;

(ii) The expansion of an established plant or facility by adding to the building or production equipment or support infrastructure, or both; or

(iii) Modernization through the replacement of production or processing equipment or support infrastructure, or both.

(B) Expenditures for routine repair and maintenance that do not result in new construction or expansion are ineligible for benefits under this subchapter.

(C) In order to receive credit for project costs, such costs must be incurred within four (4) years from the date the ~~endorsement~~ ~~*resolution was received by the department*~~ *project plan was approved by the department.*

(14) "Project plan" means the plan submitted to the department containing such information as may be required by the director to determine eligibility for benefits;

~~(14)~~(15) "Regional headquarters" means the center of operations for a specific geographical area;

~~(15)~~(16) "Routine maintenance" means the replacement of existing machinery parts with like parts; and

~~(16)~~(17) "Trucking sector business" means a business that is classified within the Standard Industrial Classification code number 4231.

SECTION 2. Arkansas Code 15-4-1704(b)(2)(B) is amended to read as follows:

(B) All businesses in this group must create ~~twenty-five (25)~~ five (5) or more net new full-time permanent jobs after July 1, 2001, derive at least ~~sixty percent (60%)~~ seventy-five percent (75%) of their revenue from out-of-state sales and have no retail sales to the general public;

SECTION 3. Arkansas Code 15-4-1704(b)(5) is amended to read as follows:

(5) A distribution center with no retail sales to the general public, unless seventy-five percent (75%) of the sales revenues are from out-of-state customers, that creates twenty-five (25) or more net new full-time permanent jobs;

SECTION 4. Arkansas Code 15-4-1704(h)(3) is amended to read as follows:

(3) The ~~credit~~ multiplier allowed under this section shall ~~increase by a factor of four (4)~~ be four hundred (400) times the average hourly wage paid with a maximum credit of six thousand dollars ($6,000) if the business is located in a high unemployment county ~~that had an unemployment rate equal to or in excess of one hundred fifty percent (150%) of the state's average unemployment rate for the preceding calendar year as specified by statewide annual labor force statistics compiled by the Arkansas Employment Security Department~~.

SECTION 5. Dislocated worker benefits.

A county that does not qualify as a high unemployment county, as defined in Arkansas Code 15-4-1702(9), but has experienced a sudden and severe period of economic distress caused by the closing of a business entity that results in the loss of a minimum of five hundred (500) full-time permanent jobs or a minimum of five percent (5%) of the employed labor force, as determined by the most recent "Labor Market Information" publication published by the Arkansas Employment Security Department, may be designated as a high unemployment county by the Arkansas Economic Development Commission. The designation as a high unemployment county shall be in effect for one (1) year after the closing of the business.

SECTION 6. EMERGENCY CLAUSE. It is found and determined by the General Assembly that this act is designed to bring new jobs to this state; that current financial conditions dictate that unless industries can take advantage of the provisions of this act immediately they may forced to locate in another state; that unless this bill takes effect immediately significant numbers of jobs will be lost to this state. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on *the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.*

/s/ Wooldridge