

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
90th General Assembly
Regular Session, 2015

As Engrossed: H3/16/15

A Bill

HOUSE BILL 1948

By: Representatives Leding, D. Douglas

For An Act To Be Entitled

AN ACT CONCERNING NEW JOBS TRAINING PROGRAMS; TO
CREATE THE ARKANSAS NEW JOBS TRAINING PROGRAM; AND
FOR OTHER PURPOSES.

Subtitle

TO CREATE THE ARKANSAS NEW JOBS TRAINING
PROGRAM.

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

*SECTION 1. Arkansas Code Title 15, Chapter 4, is amended to add an
additional subchapter to read as follows:*

Subchapter 37 – Arkansas New Jobs Training Program

15-4-3701. Title.

*This subchapter shall be known and may be cited as the "Arkansas New
Jobs Training Program".*

15-4-3702. Definitions.

As used in this subchapter:

*(1) "Agreement" means an agreement between an employer and a
two-year college concerning a project;*

(2)(A) "Employee" means a person who is employed in a new job.

*(B) "Employee" does not include a person who is not
subject to the withholding of Arkansas income tax;*

(3) "Employer" means an industry that:

(A) Provides new jobs in the area served by the two-year



college; and

(B) Enters into an agreement;

(4)(A) "Industry" means a business engaged in interstate or intrastate commerce for the purpose of:

(i) Manufacturing, processing, or assembling products;

(ii) Conducting research and development;

(iii) Providing service as an e-commerce fulfillment center; or

(iv) Providing services in interstate commerce.

(B) "Industry" does not include:

(i) Retail, health, or professional services; or

(ii) A business that closes or substantially reduces its operation in one (1) area of the state and relocates substantially the same operation in another area of the state;

(5)(A) "New job" means a job that:

(i) Is in a new or expanding industry; and

(ii) Did not exist during the six (6) months before the employer entered into an agreement with a two-year college.

(B) "New job" does not include a job of a recalled worker or a replacement job or other job that formerly existed in the industry in this state;

(6) "New jobs training program" means the project or projects established by a two-year college under this subchapter for the creation of new jobs by providing education and training of workers for new jobs for a new or expanding industry;

(7) "Program costs" means the necessary and incidental costs of providing program services;

(8) "Program services" means without limitation the following:

(A) New jobs training;

(B) Adult basic education and job-related instruction;

(C) Vocational and skills-assessment services and testing;

(D) Training facilities, equipment, materials, and supplies;

(E) On-the-job training for new jobs;

(F) Administrative expenses for the new jobs training

program;

(G) Subcontracted services with an institution of higher education or other federal, state, or local agency;

(H) Contracted or professional services; and

(I) Issuance of bonds;

(9) "Project" means a training arrangement that is the subject of an agreement entered into between a two-year college and an employer to provide program services; and

(10) "Two-year college" means a two-year institution of higher education established under Arkansas law, including without limitation:

(A) A two-year institution of higher education established under the Two-Year Postsecondary Education Reorganization Act of 1991, § 6-53-101 et seq.; and

(B) A member of the Arkansas Technical and Community College System under the coordination of the Arkansas Higher Education Coordinating Board.

15-4-3703. Agreement.

(a)(1) A two-year college may establish a new jobs training program by entering into an agreement with one (1) or more employers to establish one (1) or more projects.

(2) If an agreement is entered into, the two-year college and the employer shall notify the Arkansas Economic Development Commission and the Department of Finance and Administration within five (5) business days.

(3) An agreement shall describe and provide for the payment of program costs, including without limitation deferred costs, that may be paid from either or both of the following sources:

(1) New jobs credit from withholding under § 15-4-3704 to be received or derived from new jobs resulting from the project; and

(2) Tuition, student fees, or special charges fixed by the governing body of the two-year college to defray program costs in whole or in part.

(b) Payment of program costs shall not be deferred for a period longer than ten (10) years from the date the agreement is executed.

(c) Costs of on-the-job training for employees shall not exceed fifty percent (50%) of the annual gross wages, salaries, and benefits for the new

jobs in the project.

(d) An agreement shall set the new jobs credit from withholding or the tuition and fee payments that shall be used to pay program costs.

(e)(1) Payments required to be made by an employer under an agreement:

(A) Are a lien on the employer's business property until paid;

(B) Have equal precedence with ordinary taxes; and

(C) Are not divested by a judicial sale.

(2)(A) Property subject to the lien created under this subsection may be sold for sums due and delinquent at a tax sale with the same forfeitures, penalties, and consequences as for the nonpayment of ordinary taxes.

(B) A purchaser at tax sale of property subject to a lien under this subsection obtains the property subject to the remaining payments owed under the agreement.

15-4-3704. New jobs credit from withholding.

(a) If an agreement provides that all or part of the program costs are to be met by receipt of new jobs credit from withholding, the new jobs credit from withholding shall be determined as follows:

(1) New jobs credit from withholding shall be based on the wages paid to the employees in the new jobs; and

(2)(A) An amount equal to one and five-tenths percent (1.5%) of the gross wages paid by the employer to each employee participating in a project shall be credited from the payment made by an employer under the Arkansas Income Tax Withholding Act of 1965, § 26-51-901 et seq.

(B) However, if an employee's hourly wage exceeds the average hourly wage for the county in which the industry is located, an amount equal to three percent (3%) of the gross wages paid by the employer to the employee shall be credited from the payment made by an employer under the Arkansas Income Tax Withholding Act of 1965, § 26-51-901 et seq.

(C) If the amount of the withholding by an employer for an employee covered by the agreement is less than the percentage stated in this subdivision (a)(2) of the gross wages paid to the employee, then the employer shall receive a credit against other withholding taxes due by the employer.

(b)(1) The employer shall remit to the two-year college the amount of

the new jobs credit from withholding quarterly in the same manner as withholding payments are reported to the Department of Finance and Administration to be allocated to and paid into a separate fund of the two-year college to pay the principal of and interest on bonds issued by the two-year college to finance or refinance, in whole or in part, the project.

(2) When the principal and interest on the bonds have been paid, the employer new jobs credits from withholding shall cease, and any money received after the bonds have been paid shall be remitted to the Treasurer of State to be deposited as general revenues of the state.

(c) The new jobs credit from withholding and the separate fund into which it is paid may be irrevocably pledged by a two-year college for the payment of the principal of and interest on the bonds issued by a two-year college to finance or refinance, in whole or in part, the project.

(d) The employer shall:

(1) Certify to the department that the new jobs credit from withholding is in accordance with an agreement; and

(2) Provide any other information the department requires.

(e) A two-year college shall:

(1) Certify to the department the amount of new jobs credit from withholding an employer has remitted to the two-year college; and

(2) Provide any other information the department requires.

(f) An employee participating in a project shall receive full credit for the amount withheld from the employee's wages under the Arkansas Income Tax Withholding Act of 1965, § 26-51-901 et seq.

15-4-3705. Bonds.

(a)(1) To provide funds for the present payment of the costs of a new jobs training program, a two-year college may borrow money and issue and sell bonds payable from a sufficient portion of the future receipts of payments authorized by an agreement.

(2) Before bonds may be issued under this section, the two-year college shall:

(A)(i) Solicit and obtain advice regarding the agreement and the issuance of bonds from the Arkansas Economic Development Commission and the Arkansas Development Finance Authority.

(ii) The commission shall provide advice and

guidance concerning the economic and workforce development aspect of the proposed new jobs training program and bond issuance.

(iii) The authority shall provide advice and guidance concerning the financial aspect and procedures of the bond issuance; and

(B)(i) Receive approval of the issuance of the bonds by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

(ii) The governing body of a two-year college shall provide the information required by the Legislative Council or Joint Budget Committee for review of the bonds for approval.

(b) Bonds may be issued with respect to a single project or multiple projects and may contain terms or conditions as the governing body of the two-year college may provide by resolution authorizing the issuance of the bonds.

(c) Bonds issued under this subchapter shall:

(1) Be authorized by a resolution of the governing body of the two-year college, which may contain the provisions and covenants that the governing body of the two-year college determines to be necessary; and

(2) Have the form and characteristics and bear the designations provided in the resolution and permitted under this subchapter.

(d)(1) The governing body of a two-year college may provide by resolution for the issuance of refunding bonds to refund outstanding bonds issued under this subchapter and any accrued interest on the outstanding bonds.

(2) The governing body of a two-year college may:

(1) Sell the refunding bonds and use the proceeds to retire the outstanding bonds issued under this subchapter;

(2) Exchange the refunding bonds for the outstanding bonds; and

(3) Refund the bonds in the manner provided by any other applicable statute.

(e)(1) The bonds may be sold in the manner, either at public or private sale, and upon terms determined by the governing body of the two-year college to be reasonable and expedient for effectuating the purposes of this subchapter.

(2) The bonds may be sold at the price the governing body of the two-year college determines acceptable, including sale at a discount or a premium.

(3)(A) If the bonds are to be sold at public sale, the governing body of the two-year college shall give notice of the offering of the bonds in a manner reasonably designed to notify participants in the public finance sector that the offering is being made.

(B) The governing body of the two-year college shall set the terms and conditions of bidding, including the basis on which the winning bid will be selected.

(4) The governing body of the two-year college may structure the sale of bonds using financing techniques recommended by its underwriters or other professional advisors in order to take advantage of market conditions and obtain the most favorable interest rates consistent with the purposes of this subchapter.

(f) The interest on the bonds issued under this subchapter shall be exempt from state, county, and municipal income, inheritance, and estate taxes.

15-4-3706. Review and report – Rules.

(a)(1) In consultation with the Department of Higher Education, the Department of Finance and Revenue, and the Department of Workforce Services, the Arkansas Economic Development Commission shall coordinate and review each new jobs training program annually.

(2) The commission shall promulgate rules for:

(A) The administration and implementation of this subchapter;

(B) A two-year college to use in developing a new jobs training program; and

(C) The review of each new jobs training program under this section.

(b) The Department of Finance and Administration may promulgate rules concerning the administration of the new jobs credit from withholding.

(c)(1)(A) In consultation with the two-year colleges participating in a new jobs training program, the commission shall identify the information necessary to effectively coordinate and review each new jobs training

program.

(B) The two-year colleges participating in a new jobs training program shall provide the information required by the commission under this section.

(d) Based on the review conducted under this section, the commission, in consultation with the two-year colleges participating in a new jobs training program, shall issue a report on the effectiveness of the program to the Legislative Council or, if the General Assembly is in session, to the Joint Budget Committee by July 1 of each year.

15-4-3707. Right of first refusal – Appeal.

(a)(1) An employer that would like to participate in a new jobs training program shall first propose an agreement with the two-year college that serves the area in which the employer intends to locate the new jobs.

(2) If the employer is unable to negotiate an agreement with the two-year college as described in subdivision (a)(1) of this section, the employer may pursue an agreement with any other two-year college in the state.

(3) A two-year college that is approached by an employer intending to locate new jobs outside of the area served by the two-year college shall contact the two-year college that serves the area in which the new jobs will be located to confirm that the employer has complied with subdivision (a)(1) of this section.

(4) A two-year college that does not intend to enter into an agreement with an employer shall notify the employer within a reasonable amount of time.

(b)(1) If a two-year college or an employer believes this section has been violated, the two-year college or the employer may request a hearing before the Arkansas Economic Development Commission on the issue.

(2) A hearing held under this subsection is subject to Arkansas Administrative Procedure Act, § 25-15-201 et seq.

/s/Leding