

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

State of Arkansas
91st General Assembly
Regular Session, 2017

A Bill

HOUSE BILL 2030

By: Representatives Sabin, Sullivan

For An Act To Be Entitled

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

Subtitle

TO CREATE THE ARKANSAS ECONOMIC INCENTIVE
TRANSPARENCY ACT; AND TO REQUIRE
REPORTING OF INFORMATION CONCERNING THE
ECONOMIC INCENTIVES OFFERED BY THE STATE.

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 38 – Arkansas Economic Incentive Transparency Act

15-4-3801. Title.

This subchapter shall be known and may be cited as the "Arkansas Economic Incentive Transparency Act".

15-4-3802. Legislative intent.

The General Assembly finds that:

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

(2) Information technology allowing access to information



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

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

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

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

15-4-3803. Definitions.

As used in this subchapter:

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

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

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

(A) Outlays such as direct subsidies or grants;

(B) Safety nets such as loan guarantees; and

(C) Tax expenditures provided to private entities;

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

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

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

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

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

including without limitation:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) Cumulative data for:

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

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

of the economic development incentive program; and

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

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

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

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

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

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

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

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

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

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

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

(9) The projected:

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

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

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

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

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

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

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

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

(10) The annual data for:

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

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

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

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

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

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

(G) Any clawbacks, including without limitation:

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

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

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

(11) Cumulative data for:

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

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

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

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

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

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

(G) Any clawbacks, including without limitation:

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

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

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

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

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

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

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

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

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

(3) The projected aggregate:

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

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

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

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

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

(3) The realized aggregate:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(D) The projected:

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

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

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

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

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

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

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

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

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

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

(D) The projected:

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

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

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

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

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

(G) The reason the entity was rejected.

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

The Arkansas Economic Development Commission shall:

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

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

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

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

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

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

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

15-4-3809. Rules.

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