

By: Senator(s) Farris

To: Finance

SENATE BILL NO. 2608

1 AN ACT TO AMEND SECTION 57-62-5, MISSISSIPPI CODE OF 1972, TO
2 EXPAND THE DEFINITION OF THE TERM "QUALIFIED BUSINESS OR INDUSTRY"
3 IN THE MISSISSIPPI ADVANTAGE JOBS ACT TO INCLUDE ENTERPRISES WHICH
4 PROVIDE AN ANNUAL AVERAGE SALARY OF AT LEAST 125% OF THE MOST
5 RECENTLY PUBLISHED AVERAGE ANNUAL WAGE OF ANY COUNTY IN THE
6 METROPOLITAN STATISTICAL AREA IN WHERE THE ENTERPRISE IS LOCATED;
7 TO DEFINE THE TERM "METROPOLITAN STATISTICAL AREA"; TO AMEND
8 SECTION 57-62-9, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
9 AND FOR RELATED PURPOSES.

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

11 **SECTION 1.** Section 57-62-5, Mississippi Code of 1972, is
12 amended as follows:

13 57-62-5. As used in this chapter, the following words and
14 phrases shall have the meanings ascribed in this section unless
15 the context clearly indicates otherwise:

16 (a) "Qualified business or industry" means any
17 corporation, limited liability company, partnership, sole
18 proprietorship, business trust or other legal entity and subunits
19 or affiliates thereof, pursuant to rules and regulations of the
20 MDA, which provides an average annual salary, excluding benefits
21 which are not subject to Mississippi income taxes, of at least one
22 hundred twenty-five percent (125%) of (i) the most recently
23 published state average annual wage, (ii) the most recently
24 published average annual wage of the county in which the qualified
25 business or industry is located or (iii) the most recently
26 published average annual wage of any county in the metropolitan
27 statistical area in which the qualified business or industry is
28 located as determined by the Mississippi Employment Security
29 Commission, whichever is the lesser. An establishment shall not
30 be considered to be a qualified business or industry unless it



31 offers, or will offer within one hundred eighty (180) days of the
32 date it receives the first incentive payment pursuant to the
33 provisions of this chapter, a basic health benefits plan to the
34 individuals it employs in new direct jobs in this state which is
35 approved by the MDA. Qualified business or industry does not
36 include retail business or gaming business.

37 (b) "New direct job" means full-time employment in this
38 state in a qualified business or industry that has qualified to
39 receive an incentive payment pursuant to this chapter, which
40 employment did not exist in this state before the date of approval
41 by the MDA of the application of the qualified business or
42 industry pursuant to the provisions of this chapter. "New direct
43 job" shall include full-time employment in this state of employees
44 who are employed by an entity other than the establishment that
45 has qualified to receive an incentive payment and who are leased
46 or otherwise provided to the qualified business or industry, if
47 such employment did not exist in this state before the date of
48 approval by the MDA of the application of the establishment;

49 (c) "Full-time job" means a job of at least thirty-five
50 (35) hours per week;

51 (d) "Estimated direct state benefits" means the tax
52 revenues projected by the MDA to accrue to the state as a result
53 of the qualified business or industry;

54 (e) "Estimated direct state costs" means the costs
55 projected by the MDA to accrue to the state as a result of the
56 qualified business or industry;

57 (f) "Estimated net direct state benefits" means the
58 estimated direct state benefits less the estimated direct state
59 costs;

60 (g) "Net benefit rate" means the estimated net direct
61 state benefits computed as a percentage of gross payroll, provided
62 that:



(i) Except as otherwise provided in this paragraph (g), the net benefit rate may be variable and shall not exceed four percent (4%) of the gross payroll; and shall be set in the sole discretion of the MDA;

(ii) In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits;

(h) "Gross payroll" means wages for new direct jobs of the qualified business or industry; and

(i) "MDA" means the Mississippi Development Authority.

(j) "Metropolitan statistical area" means a metropolitan statistical area as defined and established by the United States Census Bureau.

SECTION 2. Section 57-62-9, Mississippi Code of 1972, is amended as follows:

57-62-9. (1) Except as otherwise provided in this section, a qualified business or industry that meets the qualifications specified in the Mississippi Advantage Jobs Act may receive quarterly incentive payments for a period not to exceed ten (10) years from the State Tax Commission pursuant to the provisions of the Mississippi Advantage Jobs Act in an amount which shall be equal to the net benefit rate multiplied by the actual gross payroll of new direct jobs for a calendar quarter as verified by the Mississippi Employment Security Commission, but not to exceed the amount of money previously paid into the fund by the employer. A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)¹ may elect the date upon which the ten-year period will begin. Such date may not be later than sixty (60) months after the date the business or industry applied for incentive payments.

(2) (a) A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)¹ may apply to the MDA to receive incentive payments for an additional period not to exceed



five (5) years beyond the expiration date of the initial ten-year period if:

(i) The qualified business or industry creates at least three thousand (3,000) new direct jobs within five (5) years after the date the business or industry commences commercial production;

(ii) Within five (5) years after the date the business or industry commences commercial production, the average annual wage of the jobs is at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Employment Security Commission, whichever is the lesser. The criteria for the average annual wage requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of creation of the minimum number of jobs, and the threshold established at that time will remain constant for the duration of the additional period; and

(iii) The qualified business or industry meets and maintains the job and wage requirements of subparagraphs (i) and (ii) of this paragraph (a) for four (4) consecutive calendar quarters.

(b) A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 and qualified to receive incentive payments for the additional period provided in paragraph (a) of this subsection (2) may apply to the MDA to receive incentive payments for an additional period not to exceed ten (10) years beyond the expiration date of the additional period provided in paragraph (a) of this subsection (2) if:

(i) The qualified business or industry creates at least four thousand (4,000) new direct jobs after qualifying for the additional incentive period provided in paragraph (a) of this



subsection (2) but before the expiration of the additional period. For purposes of determining whether the business or industry meets the minimum jobs requirement of this subparagraph (i), the number of jobs the business or industry created in order to meet the minimum jobs requirement of paragraph (a) of this subsection (2) shall be subtracted from the minimum jobs requirement of this subparagraph (i);

(ii) The average annual wage of the jobs is at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Employment Security Commission, whichever is the lesser. The criteria for the average annual wage requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of creation of the minimum number of jobs, and the threshold established at that time will remain constant for the duration of the additional period; and

(iii) The qualified business or industry meets and maintains the job and wage requirements of subparagraphs (i) and (ii) of this paragraph (b) for four (4) consecutive calendar quarters.

(3) In order to receive incentive payments, an establishment shall apply to the MDA. The application shall be on a form prescribed by the MDA and shall contain such information as may be required by the MDA to determine if the applicant is qualified.

(4) In order to qualify to receive such payments, the establishment applying shall be required to:

(a) Be engaged in a qualified business or industry;

(b) Provide an average salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred twenty-five percent (125%) of (i) the most recently published state average annual wage, (ii) the most recently



published average annual wage of the county in which the qualified business or industry is located or (iii) the most recently published average annual wage of any county in the metropolitan statistical area in which the qualified business or industry is located as determined by the Mississippi Employment Security Commission, whichever is the lesser. The criteria for this requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of application, and the threshold established upon application will remain constant for the duration of the project;

(c) The business or industry must create and maintain a minimum of ten (10) full-time jobs in counties that have an average unemployment rate over the previous twelve-month period which is at least one hundred fifty percent (150%) of the most recently published state unemployment rate, as determined by the Mississippi Employment Security Commission or in Tier Three counties as determined under Section 57-73-21. In all other counties, the business or industry must create and maintain a minimum of twenty-five (25) full-time jobs. The criteria for this requirement shall be based on the designation of the county at the time of the application. The threshold established upon the application will remain constant for the duration of the project. The business or industry must meet its job creation commitment within twenty-four (24) months of the application approval. However, if the qualified business or industry is applying for incentive payments for an additional period under subsection (2) of this section, the business or industry must comply with the applicable job and wage requirements of subsection (2) of this section.

(5) The MDA shall determine if the applicant is qualified to receive incentive payments. If the applicant is determined to be qualified by the MDA, the MDA shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and



the net benefit rate applicable for a period not to exceed ten (10) years and to estimate the amount of gross payroll for the period. If the applicant is determined to be qualified to receive incentive payments for an additional period under subsection (2) of this section, the MDA shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate applicable for the appropriate additional period and to estimate the amount of gross payroll for the additional period. In conducting such cost/benefit analysis, the MDA shall consider quantitative factors, such as the anticipated level of new tax revenues to the state along with the cost to the state of the qualified business or industry, and such other criteria as deemed appropriate by the MDA, including the adequacy of retirement benefits that the business or industry provides to individuals it employs in new direct jobs in this state. In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits. Once the qualified business or industry is approved by the MDA, an agreement shall be deemed to exist between the qualified business or industry and the State of Mississippi, requiring the continued incentive payment to be made as long as the qualified business or industry retains its eligibility.

(6) Upon approval of such an application, the MDA shall notify the State Tax Commission and shall provide it with a copy of the approved application and the estimated net direct state benefits. The State Tax Commission may require the qualified business or industry to submit such additional information as may be necessary to administer the provisions of this chapter. The qualified business or industry shall report to the State Tax Commission periodically to show its continued eligibility for incentive payments. The qualified business or industry may be audited by the State Tax Commission to verify such eligibility.

SECTION 3. This act shall take effect and be in force from and after its passage.

