

By: Senator(s) Farris

To: Finance

SENATE BILL NO. 3027

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:

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

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

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

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

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

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

77 57-62-9. (1) Except as otherwise provided in this section,
78 a qualified business or industry that meets the qualifications
79 specified in the Mississippi Advantage Jobs Act may receive
80 quarterly incentive payments for a period not to exceed ten (10)
81 years from the State Tax Commission pursuant to the provisions of
82 the Mississippi Advantage Jobs Act in an amount which shall be
83 equal to the net benefit rate multiplied by the actual gross
84 payroll of new direct jobs for a calendar quarter as verified by
85 the Mississippi Employment Security Commission, but not to exceed
86 the amount of money previously paid into the fund by the employer.
87 A qualified business or industry that is a project as defined in
88 Section 57-75-5(f)(iv)1 may elect the date upon which the ten-year
89 period will begin. Such date may not be later than sixty (60)
90 months after the date the business or industry applied for
91 incentive payments.

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

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

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

101 (ii) Within five (5) years after the date the
102 business or industry commences commercial production, the average
103 annual wage of the jobs is at least one hundred fifty percent
104 (150%) of the most recently published state average annual wage or
105 the most recently published average annual wage of the county in
106 which the qualified business or industry is located as determined
107 by the Mississippi Employment Security Commission, whichever is
108 the lesser. The criteria for the average annual wage requirement
109 shall be based upon the state average annual wage or the average
110 annual wage of the county whichever is appropriate, at the time of
111 creation of the minimum number of jobs, and the threshold
112 established at that time will remain constant for the duration of
113 the additional period; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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