

1 SB312
2 173885-6
3 By Senator Marsh
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 01-MAR-16

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Sections 1, 2, and 3 of Act 2015-27, now
12 appearing as Sections 40-18-370 and 40-18-376.2, Code of
13 Alabama 1975, relating to the Alabama Jobs Act, to provide
14 that companies that employed eligible employees by or through
15 a qualifying project located within a former active duty
16 military installation closed by the Base Realignment and
17 Closure process are entitled to an additional jobs credit.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 1, 2, and 3 of Act 2015-27, now
20 appearing as Sections 40-18-370 and 40-18-376.2, and Section
21 41-23-21, Code of Alabama 1975, are amended to read as
22 follows:

23 "§40-18-370.

24 "(a) This article shall be known and may be cited as
25 the Alabama Jobs Act.

26 "(b) The Legislature makes the following findings:

1 "(1) The economic well-being of the citizens of the
2 state will be enhanced by the increased development and growth
3 of employment within Alabama.

4 "(2) It is in the best interests of the state to
5 provide certain incentives to allow the state to foster
6 economic development through the recruitment of quality
7 projects and the expansion of existing businesses within
8 Alabama.

9 "(3) The incentives provided for in this article do
10 not raise any taxes for any individuals or businesses in
11 Alabama under state law.

12 "(4) The incentives provided in this article will
13 allow the state to encourage the creation of new jobs that may
14 not otherwise exist within the State of Alabama.

15 "(5) The incentives provided in this article will
16 increase revenues for the state without increasing taxes.

17 "(6) The Constitution of the State of Alabama grants
18 the Legislature the authority to approve and authorize
19 exemptions, exclusions, deductions, and credits from taxation
20 in order to define the net proceeds of any tax payable under
21 state law.

22 "(7) The Constitution of the State of Alabama was
23 framed, and the laws of the state were enacted, with the goal
24 of protecting, encouraging, and developing individual
25 enterprise.

26 "(8) The incentives provided in this article will
27 not decrease the salary paid to any education personnel.

1 "(9) The powers to be granted and the purposes to be
2 accomplished by this article will create an environment for
3 the recruitment of quality projects and the expansion of
4 existing businesses within Alabama.

5 "(10) Economic development through tax and financial
6 incentives benefits the citizens of the state and is a public
7 purpose of the state.

8 "(c) In addition to the definitions found at Section
9 40-18-1, the following words and phrases shall have the
10 following meanings:

11 "(1) APPROVED COMPANY. Any company determined by the
12 Secretary of Commerce and the Governor to meet the criteria
13 provided in Section 40-18-373.

14 "(2) CAPITAL INVESTMENT. All costs and expenses
15 incurred by the incentivized company in connection with the
16 acquisition, construction, installation, and equipping of a
17 qualifying project, if such costs are required to be
18 capitalized for purposes of the federal income tax, determined
19 without regard to any rule that permits expenditures properly
20 chargeable to a capital account to be treated as current
21 expenditures. However, for any project involving the
22 extraction of natural resources, the capital investment shall
23 not include the costs of acquiring land, land recording fees,
24 architectural and engineering services, environmental studies
25 and environmental mitigation.

26 "(3) COMPANY. Anyone or anything which has the
27 powers to own a project and have employees.

1 "(4) ELIGIBLE EMPLOYEES. Those employee positions
2 set forth in a project agreement that will be the result of
3 new jobs created by or through a qualifying project.

4 "(5) EMPLOYEES. Some or all of those persons
5 employed and residing in Alabama:

6 "a. Who are being paid directly by an approved
7 company, related company, common paymaster, joint venturer, or
8 leasing company for working at a qualifying project;

9 "b. Whom the approved company, related company,
10 common paymaster, joint venturer or leasing company identifies
11 as its employees to the U.S. Internal Revenue Service, the
12 Department of Revenue, or the Department of Labor on returns
13 or reports filed with the foregoing, including, but not
14 limited to, IRS Form 941; and

15 "c. Who are assigned to a qualifying project for a
16 period of at least one year.

17 "(6) INCENTIVE PERIOD. The period or periods of time
18 during which an incentivized company can receive one or more
19 of the jobs act incentives.

20 "(7) INCENTIVIZED COMPANY. An approved company and
21 any related company that are allowed to claim ~~either or both~~
22 one or more of the jobs act incentives as provided for in the
23 project agreement.

24 "(8) INVESTMENT CREDIT. The annual incentive
25 provided in Section 40-18-376.

1 "(9) JOBS ACT INCENTIVES. The jobs credit and the
2 investment credit as authorized and provided for in this
3 article.

4 "(10) JOBS CREDIT. The annual incentive provided in
5 Section 40-18-375.

6 "(11) NAICS CODE. Any sector, subsector, industry
7 group, industry or national industry of the 2012 North
8 American Industry Classification System, or any similar
9 classification system developed in conjunction with the United
10 States Department of Commerce or Office of Management and
11 Budget.

12 "(12) PROJECT. Any land, building, or other
13 improvements, and all real and personal properties, whether or
14 not contiguous and whether or not previously in existence, if
15 in Alabama and if deemed necessary or useful in connection
16 with an activity listed in Section 40-18-372(a).

17 "(13) PROJECT AGREEMENT. The agreement entered into
18 between an approved company and the Governor establishing the
19 terms and conditions for the provision of the jobs act
20 incentives, as provided for in Section 40-18-374.

21 "(14) QUALIFYING PROJECT. Any project to be
22 undertaken by an approved company that satisfies Section
23 40-18-372.

24 "(15) RELATED COMPANY. Any company that is under
25 common ownership, management, or control with a company or an
26 approved company, as the case may be.

1 "(16) UTILITY TAXES. The taxes imposed by Sections
2 40-21-82 and 40-21-102.

3 "(17) WAGES. Total wages of an employee (including
4 gross wages, salaries, overtime and bonuses), defined by
5 reference to Section 25-4-16(b), without application of
6 Sections 25-4-16(b) (1), 25-4-16(b) (2) a., 25-4-16(b) (3), and
7 25-4-16(b) (4).

8 "§40-18-376.2.

9 "(a) The provisions in this section shall apply to
10 the following:

11 "~~any~~ (1) Any incentivized company that employed, in
12 the prior year, at least 12 percent of its eligible employees
13 as veterans who received an honorable or general discharge.
14 The calculation of the percentage of eligible employees who
15 are veterans shall be made using the method provided in a
16 project agreement.

17 "(2) Any incentivized company that employed eligible
18 employees by or through a qualifying project located within a
19 former active duty military installation closed by the Base
20 Realignment and Closure process.

21 "(b) (1) Any incentivized company described by
22 subdivision (1) of subsection (a) shall receive an additional
23 0.5 percent jobs credit provided in Section 40-18-375(a) on
24 the wages paid during the prior year to eligible employees who
25 are veterans.

26 "(2) Any incentivized company described by
27 subdivision (2) of subsection (a) shall receive an additional

1 0.5 percent jobs credit provided in Section 40-18-375(a) on
2 the wages paid during the prior year to its eligible
3 employees.

4 "(c) No incentivized company claiming the credit
5 provided by subdivision (1) of subsection (b) shall also claim
6 the credit provided by Article 13 of this chapter for any
7 portion of the project.

8 "(d) The Department of Labor shall periodically
9 verify the actual number of veterans employed by the
10 incentivized company described in subdivision (1) of
11 subsection (a) and the wages of the veterans during the
12 relevant year. If the Department of Labor is not able to
13 provide the verification utilizing all available resources, it
14 may request any additional information from the incentivized
15 company as may be necessary."

16 "§41-23-21.

17 "For purposes of this article, the following terms
18 shall have the meaning hereinafter ascribed to them, unless
19 the context clearly indicates otherwise:

20 "(1) COUNCIL. The Enterprise Zone Advisory Council.

21 "(2) DEPARTMENT. The Alabama Department of Economic
22 and Community Affairs.

23 "(3) GOVERNING AUTHORITY. The governing body of a
24 county or municipality.

25 "(4) ENTERPRISE ZONE. A geographic area which is
26 economically depressed, in need of expansion of business and
27 industry and the creation of jobs and designated to be

1 eligible for the benefits of this article, and is a target by
2 governments for development by providing tax and nontax
3 incentives to private enterprise. Effective October 1, 2016,
4 the definition of an Enterprise Zone shall mean any Alabama
5 county that is described by Section 40-18-376.1(a), Code of
6 Alabama, 1975. Notwithstanding any other law or agreement to
7 the contrary, any eligible business having received an
8 approved application from the department prior to October 1,
9 2016 shall continue to receive those approved exemptions for
10 the period of time specified in those agreements.

11 "(5) RURAL ENTERPRISE ZONE. An enterprise zone
12 located in a non-MSA county, as such is defined by the United
13 States Bureau of the Census.

14 "(6) URBAN ENTERPRISE ZONE. An enterprise zone
15 located in an MSA county, as such is defined by the United
16 States Bureau of the Census."

17 Section 2. This act shall become effective
18 immediately following its passage and approval by the
19 Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Fiscal Responsibility and Economic
Development..... 01-MAR-16

Read for the second time and placed on the calen-
dar..... 10-MAR-16

Read for the third time and passed as amended 15-MAR-16

Yeas 29
Nays 0

Patrick Harris
Secretary