

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

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8 SYNOPSIS: Under existing law, the Alabama Jobs Act
9 provides incentives to certain businesses for
10 certain qualifying projects that create any number
11 of new employees. A company that, in the prior
12 year, employed at least 12 percent of its eligible
13 employees as veterans who received an honorable or
14 general discharge receive an additional 0.5 percent
15 jobs credit.

16 This bill would provide that a company that
17 employs eligible employees by or through a
18 qualifying project located within a former active
19 duty military installation closed by the Base
20 Realignment and Closure process are entitled to the
21 additional 0.5 percent jobs credit.

22
23 A BILL
24 TO BE ENTITLED
25 AN ACT
26

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

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Sections 1, 2, and 3 of Act 2015-27, now
10 appearing as Sections 40-18-370 and 40-18-376.2, Code of
11 Alabama 1975, are amended to read as follows:

12 "§40-18-370.

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

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

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

19 "(2) It is in the best interests of the state to
20 provide certain incentives to allow the state to foster
21 economic development through the recruitment of quality
22 projects and the expansion of existing businesses within
23 Alabama.

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

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

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

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

11 "(7) The Constitution of the State of Alabama was
12 framed, and the laws of the state were enacted, with the goal
13 of protecting, encouraging, and developing individual
14 enterprise.

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

17 "(9) The powers to be granted and the purposes to be
18 accomplished by this article will create an environment for
19 the recruitment of quality projects and the expansion of
20 existing businesses within Alabama.

21 "(10) Economic development through tax and financial
22 incentives benefits the citizens of the state and is a public
23 purpose of the state.

24 "(c) In addition to the definitions found at Section
25 40-18-1, the following words and phrases shall have the
26 following meanings:

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

4 "(2) CAPITAL INVESTMENT. All costs and expenses
5 incurred by the incentivized company in connection with the
6 acquisition, construction, installation, and equipping of a
7 qualifying project, if such costs are required to be
8 capitalized for purposes of the federal income tax, determined
9 without regard to any rule that permits expenditures properly
10 chargeable to a capital account to be treated as current
11 expenditures. However, for any project involving the
12 extraction of natural resources, the capital investment shall
13 not include the costs of acquiring land, land recording fees,
14 architectural and engineering services, environmental studies
15 and environmental mitigation.

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

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

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

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

26 "b. Whom the approved company, related company,
27 common paymaster, joint venturer or leasing company identifies

1 as its employees to the U.S. Internal Revenue Service, the
2 Department of Revenue, or the Department of Labor on returns
3 or reports filed with the foregoing, including, but not
4 limited to, IRS Form 941; and

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

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

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

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

16 "(9) JOBS ACT INCENTIVES. The jobs credit and the
17 investment credit as authorized and provided for in this
18 article.

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

21 "(11) NAICS CODE. Any sector, subsector, industry
22 group, industry or national industry of the 2012 North
23 American Industry Classification System, or any similar
24 classification system developed in conjunction with the United
25 States Department of Commerce or Office of Management and
26 Budget.

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

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

10 "(14) QUALIFYING PROJECT. Any project to be
11 undertaken by an approved company that satisfies Section
12 40-18-372.

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

16 "(16) UTILITY TAXES. The taxes imposed by Sections
17 40-21-82 and 40-21-102.

18 "(17) WAGES. Total wages of an employee (including
19 gross wages, salaries, overtime and bonuses), defined by
20 reference to Section 25-4-16(b), without application of
21 Sections 25-4-16(b) (1), 25-4-16(b) (2)a., 25-4-16(b) (3), and
22 25-4-16(b) (4).

23 "§40-18-376.2.

24 "(a) The provisions in this section shall apply to
25 the following:

26 "~~any~~ (1) Any incentivized company that employed, in
27 the prior year, at least 12 percent of its eligible employees

1 as veterans who received an honorable or general discharge.
2 The calculation of the percentage of eligible employees who
3 are veterans shall be made using the method provided in a
4 project agreement.

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

9 "(b) (1) Any incentivized company described by
10 subdivision (1) of subsection (a) shall receive an additional
11 0.5 percent jobs credit provided in Section 40-18-375(a) on
12 the wages paid during the prior year to eligible employees who
13 are veterans.

14 "(2) Any incentivized company described by
15 subdivision (2) of subsection (a) shall receive an additional
16 0.5 percent jobs credit provided in Section 40-18-375(a) on
17 the wages paid during the prior year to its employees.

18 "(c) No incentivized company claiming the credit
19 provided by subdivision (1) of subsection (b) shall also claim
20 the credit provided by Article 13 of this chapter for any
21 portion of the project.

22 "(d) The Department of Labor shall periodically
23 verify the actual number of veterans employed by the
24 incentivized company described in subdivision (1) of
25 subsection (a) and the wages of the veterans during the
26 relevant year. If the Department of Labor is not able to
27 provide the verification utilizing all available resources, it

1 may request any additional information from the incentivized
2 company as may be necessary."

3 Section 2. This act shall become effective
4 immediately following its passage and approval by the
5 Governor, or its otherwise becoming law.