

HB359 INTRODUCED



1 HB359
2 XD5I9E7-1
3 By Representative Whitt
4 RFD: Economic Development and Tourism
5 First Read: 29-Jan-26



SYNOPSIS:

Under current law, the Sweet Home Alabama Tourism Investment Act provides tax rebates to companies with certain tourism destination projects in amounts equal to the company's tax liability for state and local sales and use tax, lodgings tax, and other transactional taxes associated with the project.

This bill clarifies that the annual one-time two million five hundred thousand dollar (\$2,500,000) award is supplemental to the initial award.

This bill would also require approved companies to document actual cost of projects through certification by an independent certified public accountant.

Finally, this bill would require certification of project costs.

A BILL
TO BE ENTITLED
AN ACT

Relating to the Sweet Home Alabama Tourism Investment Act; to amend Sections 40-18-470, 40-18-471, 40-18-472, and 40-18-473, Code of Alabama 1975, to provide further for



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definitions; to provide further for a supplemental tax rebate;
and to require certification of project costs.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-18-470, 40-18-471, 40-18-472,
and 40-18-473, Code of Alabama 1975, are amended to read as
follows:

"§40-18-470

(a) This article shall be known and may be cited as the
Sweet Home Alabama Tourism Investment Act.

(b) For purposes of this article, the following words
and phrases have the following meanings:

(1) APPLICANT. Any corporation, limited liability
company, partnership, sole proprietorship, business trust, or
other legal entity authorized to do business in the State of
Alabama.

(2) APPROVED COMPANY. Any company approved for tax
rebates for operating a certified tourism destination project.

(3) APPROVED COSTS. Costs relating to the following:

a. Land acquisition.

b. Construction.

c. Engineering.

d. Design.

e. Costs of contract bonds and insurances.

f. Installation of utilities paid by the applicant,
including project-specific off-site extensions.

(4) BOARD. Alabama Tourism Advisory Board established
pursuant to Section 41-7-3.

(5) CAPITAL INVESTMENT. All costs and expenses incurred



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by the incentivized company in connection with the acquisition, construction, installation, and equipping of a qualifying project, if such costs are required to be capitalized for purposes of the federal income tax, determined without regard to any rule that permits expenditures properly chargeable to a capital account to be treated as current expenditures. However, any project involving the extraction of natural resources shall not be included as a capital investment expenditure.

(6) CERTIFIED TOURISM DESTINATION PROJECT.

a. A certified tourism destination project must conduct an activity specified in subparagraphs 1. through 8.

1. A qualifying project that has seventy-five million dollars (\$75,000,000) of capital investments may be considered a mega project.

2. A qualifying project may be a tourist destination attraction with a minimum private investment of not less than fifty million dollars (\$50,000,000).

3. A qualifying project may be a tourism attraction with a minimum private investment of thirty-five million dollars (\$35,000,000) ~~located within an entertainment district~~. The attraction must be open to the public at least five days per week, serve food and beverages, and provide live entertainment at least three nights per week.

4. A qualifying project may be a resort development with a minimum investment of thirty-five million dollars (\$35,000,000) and consist~~s~~ of a hotel with a minimum of 200 guest rooms and or 200 units that may be used for vacation



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rental. The development must also include guest amenities such as restaurants, golf courses, spas, entertainment activities, and other amenities.

5. A qualifying project may be a tourism destination attraction with a minimum investment of thirty-five million dollars (\$35,000,000) located within a historic district where the district is listed in the National Register of Historic Places.

6. Retail related to a qualifying project must consist primarily of upscale brands or their equivalent. Retail activities not eligible for a rebate include the following:

~~A.i.~~ i. Department stores.

~~B.ii.~~ ii. Convenience stores.

~~C.iii.~~ iii. Grocery stores.

~~D.iv.~~ iv. Liquor and tobacco stores.

~~E.v.~~ v. Discount stores.

~~F.vi.~~ vi. Multiplex theaters.

~~G.vii.~~ vii. Facilities that perform cleaning, repair, or alteration services.

~~H.viii.~~ viii. Facilities that perform personal salon services such as tanning, nail, and beauty.

7. A qualifying project may be any combination of qualifying tourist attractions, hotels, marinas, and resorts with a minimum private investment of thirty-five million dollars (\$35,000,000) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities, and other related approved soft costs.

b. Projects that cannot be certified as an eligible



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certified tourism destination project include the following:

1. Expansions of any existing projects previously approved that are not equal to the lesser of 75 percent of the original capital investment or thirty-five million dollars (\$35,000,000).

2. Facilities that are primarily developed for retail sales that are not certified as a resort development. Pro shops, souvenir shops, gift shops, concessions, and similar retail activities may not be included within the definition of a "tourism destination project."

(7) COMPLETION DATE. A date by which the approved company shall have completed the tourism destination project. The completion date must occur within three years of the date of the financial incentive agreement unless an extension is granted by the board. Completion date is the date the project is placed in service and is generating revenue.

~~(7)~~ (8) DEPARTMENT. The Alabama Tourism Department.

~~(8)~~ (9) PROJECT. Any land, building, or other improvement, and all real and personal property, whether or not contiguous and whether or not previously in existence, if in Alabama and if deemed necessary or useful in connection with certified destination projects.

~~(9)~~ (10) QUALIFYING PROJECT. Any project to be undertaken by an approved company that is deemed a certified tourism destination project.

~~(10)~~ (11) TOURISM DESTINATION ATTRACTION. Tourist attractions that qualify include the following:

a. Theme parks.



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- 141 b. Water parks.
- 142 c. Entertainment parks or outdoor adventure parks.
- 143 d. Cultural or historical interpretive educational
- 144 centers or museums.
- 145 e. Motor speedways.
- 146 f. Indoor or outdoor entertainment centers or
- 147 complexes.
- 148 g. Convention centers.
- 149 h. Professional sports facilities.
- 150 i. Attractions created around a natural phenomenon or
- 151 scenic landscape.
- 152 j. Waterfront marina facilities, including, but not
- 153 limited to, indoor marine vessel storage, restaurants, and
- 154 marine sales and service.
- 155 k. Aquariums."

156 "§40-18-471

157 (a) Prior to the allowance of a tax rebate on

158 transactional taxes, an application shall be filed with the

159 tourism department in the manner established by the

160 department.

161 (b) The tourism department shall adopt standards to be

162 used by the Alabama Tourism Advisory Board for the review and

163 approval of certified tourism destination projects for which a

164 tax rebate for transactional taxes is sought ~~pursuant to~~

165 ~~Section 40-18-473.~~

166 (c) The tourism department shall establish deadlines

167 for applications. Applications shall solicit whatever

168 information the department deems important to its



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determination of authorizing a tax rebate."

"§40-18-472

(a) In order for an applicant ~~that~~ that proposes a certified tourism destination project to be an approved company, the board shall make both of the following findings:

(1) That the project is in fact a certified tourism destination project.

(2) That the amount of tourism rebates sought are exceeded by anticipated revenues for the state, including income, property, business privilege, utility, gross receipts, and sales ~~and~~ and use tax revenues that are generated by the economic activity resulting from the project.

(b) The Alabama Tourism Advisory Board shall review qualifying projects meeting the criteria established ~~pursuant to Section 40-18-473~~ and approve eligible projects for tax rebates. Upon a determination that all program requirements are met, the board shall issue an Alabama Tourism Advisory Board Act Certificate. Each certificate shall include the amount of the approved project costs, the maximum rebate available, and the rebate term of 10 years from the completion date or the date on or which five million dollars (\$5,000,000) of the approved project costs has been rebated to the applicant, whichever threshold is met first."

"§40-18-473

(a) A tax rebate from taxes generated within the tourism destination attraction by the certified tourism destination project over a 10-year period from the commencement of operation, which must occur after June 15,



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2023, in the amount of up to five million dollars (\$5,000,000) may be claimed. No approved company may receive more than one million dollars (\$1,000,000) in tourism rebates in a calendar year.

(b) (1) The tax rebates authorized by this article are limited to an aggregate amount for all certified tourism destination projects of ten million dollars (\$10,000,000) annually with 10 percent set aside annually for certified tourism destination projects located in targeted or jumpstart counties.

(2) An approved company with a certified tourism destination project may be granted a tax rebate on any combination of the state and local sales and use taxes, lodging taxes, or other transactional taxes generated by or arising within the tourism destination project after June 15, 2023.

(3) An approved company shall have no obligation to refund or otherwise return any amount of taxes authorized for rebate to the persons from whom the taxes were collected.

(4) Rebates authorized under this article shall be for up to 10 years, commencing on the date the tourism attraction opens for business, which must occur after June 15, 2023, and begins to collect taxes generated by, or arising within, the tourism destination project.

(5) Tax rebates may be a combination of state and local retail sales tax, state and local lodging taxes, and any other taxes generated by, or arising within, the tourism destination project after June 15, 2023. The municipality or the taxing



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district where the tourism destination project will be located must support and approve the facility. The approval must be in the form of a resolution of the governing authority acknowledging support of the project and acknowledging that a portion no less than 20 percent of the tax rebates will be comprised of municipal taxes.

(6) The Alabama Department of Revenue, in consultation with the Alabama Tourism Department, shall adopt rules and require the filing of a rebate form designed by the [Alabama](#) Department of Revenue to reflect the intent of this article. To begin the rebate process, once project phases open for business after June 15, 2023, the approved company must provide a listing of all sales tax accounts and account numbers related to the project. The Alabama Department of Revenue will provide these accounts and will begin making the required diversions into the Tourism Project Sales Tax Incentive Fund the month following notification. Rebate payments from the fund will be made each January and July to the approved company.

(7) No tax rebate shall be granted to an approved company during a tax year that the approved company is simultaneously receiving any other state tax incentive associated with any individual tourism attraction project.

(8) Any tax rebate shall be first applied to any outstanding tax obligation of the approved company that is due and payable to the state.

(9) Rebates under this article shall be made without interest.



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(10) Tax rebates authorized under this article are transferrable to future owners of the qualifying tourism destination project.

(11) The tax rebate allowed under this article shall be effective beginning August 1, 2023, for projects placed into service after June 15, 2023, and shall continue through July 31, 2028, unless continued by an act of the Legislature.

(12) Tax rebates for certified tourism destination projects are to be administered by the Alabama Department of Revenue.

(c) Notwithstanding the ten million dollar (\$10,000,000) annual aggregate cap on tax rebates allowed, the board may approve an annual ~~onetime~~one-time designation of an additional two million five hundred thousand dollars (\$2,500,000) in tax rebates for one project per calendar year with a minimum capital investment amount of seventy-five million dollars (\$75,000,000). Additionally, a company that is awarded the supplemental rebate may claim up to seven million five hundred thousand dollars (\$7,500,000) in total, up to one million five hundred thousand dollars annually (\$1,500,000) and is not subject to the caps otherwise provided for in this article.

(d) Within three months after the completion date, the approved company shall document the actual cost of the project through certification of the costs by an independent certified public accountant acceptable to the board.

(e) For purposes of determining whether a project has met the minimum capital investment requirements, only bona



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fide, third-party, arms-length capital expenditures shall be included. The certification of project costs required under this subsection shall expressly verify all of the following:

(1) Each cost included in the capital investment calculation represents an actual expenditure paid to an independent, third-party vendor not related to the applicant, developer, or any affiliate thereof.

(2) No cost included in the calculation consists of any payment, fee, or charge paid directly or indirectly to the project developer, any member, partner, shareholder, manager, officer, affiliate, parent entity, subsidiary, or any entity under common ownership or control, including, but not limited to, developer fees, consulting fees, project-management fees, internal labor allocations, overhead charges, reimbursed salaries, or similar related-party payments.

(3) All costs included are properly capitalizable under the Internal Revenue Code and represent legitimate project expenditures necessary for the acquisition, construction, or completion of the certified tourism destination project.

(4) Any related-party transactions, if disclosed, are excluded from the capital investment amount used to determine eligibility for the supplemental rebate or any other investment-based incentive threshold."

Section 2. This act shall become effective immediately.