

HB359 INTRODUCED



1 HB359
2 XD519E7-1
3 By Representative Whitt
4 RFD: Economic Development and Tourism
5 First Read: 29-Jan-26



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4 SYNOPSIS:

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

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

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

18 Finally, this bill would require certification
19 of project costs.

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22 A BILL

23

 TO BE ENTITLED

24 AN ACT

25

26 Relating to the Sweet Home Alabama Tourism Investment
27 Act; to amend Sections 40-18-470, 40-18-471, 40-18-472, and
28 40-18-473, Code of Alabama 1975, to provide further for

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

31 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

35 "§40-18-470

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

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

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

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

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

47 a. Land acquisition.

48 b. Construction.

49 c. Engineering.

50 d. Design.

51 e. Costs of contract bonds and insurances.

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

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

56 (5) CAPITAL INVESTMENT. All costs and expenses incurred



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

66 (6) CERTIFIED TOURISM DESTINATION PROJECT.

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

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

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

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

81 4. A qualifying project may be a resort development
82 with a minimum investment of thirty-five million dollars
83 (\$35,000,000) and consists ~~s~~ of a hotel with a minimum of 200
84 guest rooms and or 200 units that may be used for vacation



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

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

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

96 A.i. Department stores.

97 B.ii. Convenience stores.

98 C.iii. Grocery stores.

99 D.iv. Liquor and tobacco stores.

100 E.v. Discount stores.

101 F.vi. Multiplex theaters.

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

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

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

112 b. Projects that cannot be certified as an eligible



113 certified tourism destination project include the following:

114 1. Expansions of any existing projects previously
115 approved that are not equal to the lesser of 75 percent of the
116 original capital investment or thirty-five million dollars
117 (\$35,000,000).

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

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

129 ~~(7)~~(8) DEPARTMENT. The Alabama Tourism Department.

130 ~~(8)~~(9) PROJECT. Any land, building, or other
131 improvement, and all real and personal property, whether or
132 not contiguous and whether or not previously in existence, if
133 in Alabama and if deemed necessary or useful in connection
134 with certified destination projects.

135 ~~(9)~~(10) QUALIFYING PROJECT. Any project to be
136 undertaken by an approved company that is deemed a certified
137 tourism destination project.

138 ~~(10)~~(11) TOURISM DESTINATION ATTRACTION. Tourist
139 attractions that qualify include the following:

140 a. Theme parks.



- b. Water parks.
- c. Entertainment parks or outdoor adventure parks.
- d. Cultural or historical interpretive educational centers or museums.
- e. Motor speedways.
- f. Indoor or outdoor entertainment centers or complexes.
- g. Convention centers.
- h. Professional sports facilities.
- i. Attractions created around a natural phenomenon or scenic landscape.
- j. Waterfront marina facilities, including, but not limited to, indoor marine vessel storage, restaurants, and marine sales and service.
- k. Aquariums."

"§40-18-471

- (a) Prior to the allowance of a tax rebate on transactional taxes, an application shall be filed with the tourism department in the manner established by the department.
- (b) The tourism department shall adopt standards to be used by the Alabama Tourism Advisory Board for the review and approval of certified tourism destination projects for which tax rebate for transactional taxes is sought ~~pursuant to Section 40-18-473.~~
- (c) The tourism department shall establish deadlines for applications. Applications shall solicit whatever information the department deems important to its

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169 determination of authorizing a tax rebate."

170 "§40-18-472

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

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

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

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

192 "§40-18-473

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



197 2023, in the amount of up to five million dollars (\$5,000,000)
198 may be claimed. No approved company may receive more than one
199 million dollars (\$1,000,000) in tourism rebates in a calendar
200 year.

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

207 (2) An approved company with a certified tourism
208 destination project may be granted a tax rebate on any
209 combination of the state and local sales and use taxes,
210 lodging taxes, or other transactional taxes generated by or
211 arising within the tourism destination project after June 15,
212 2023.

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

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

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



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

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

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

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

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



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

256 (11) The tax rebate allowed under this article shall be
257 effective beginning August 1, 2023, for projects placed into
258 service after June 15, 2023, and shall continue through July
259 31, 2028, unless continued by an act of the Legislature.

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

263 (c) Notwithstanding the ten million dollar
264 (\$10,000,000) annual aggregate cap on tax rebates allowed, the
265 board may approve an annual ~~onetime~~one-time designation of an
266 additional two million five hundred thousand dollars
267 (\$2,500,000) in tax rebates for one project per calendar year
268 with a minimum capital investment amount of seventy-five
269 million dollars (\$75,000,000). Additionally, a company that is
270 awarded the supplemental rebate may claim up to seven million
271 five hundred thousand dollars (\$7,500,000) in total, up to one
272 million five hundred thousand dollars annually (\$1,500,000)
273 and is not subject to the caps otherwise provided for in this
274 article.

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



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

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

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

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

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

304 Section 2. This act shall become effective immediately.