

CS FOR HOUSE BILL NO. 232(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered: 4/18/95

Referred: Labor and Commerce, Finance

Sponsor(s): REPRESENTATIVE KOTT

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing an economic development tax credit; and providing for an
2 effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 43.20 is amended by adding a new section to read:

5 Sec. 43.20.043. ECONOMIC DEVELOPMENT TAX CREDIT. (a) Subject to
6 the conditions set out in this section, and in addition to any other credit authorized to the
7 taxpayer by this chapter, a taxpayer may apply as a credit against the state tax liability
8 that may be imposed on the taxpayer under this chapter for a taxable year after
9 December 31, 1995, the amount approved as a credit by the Alaska Industrial
10 Development and Export Authority under AS 44.88.088 for that taxable year.

11 (b) The credit allowed by this section may not

12 (1) exceed the amount approved as a credit by the Alaska Industrial
13 Development and Export Authority under AS 44.88.088;

14 (2) be awarded for more than 10 consecutive taxable years after approval;

1 and

2 (3) be used in a tax year by a taxpayer in conjunction with any other tax
3 credit program.

4 (c) If the commissioner determines that a taxpayer who has received a credit
5 under this section is not complying with the requirements of the tax credit agreement or
6 all of the provisions of this section and AS 44.88.088, the commissioner shall, after
7 giving the taxpayer an opportunity to explain the noncompliance, begin an enforcement
8 action against the taxpayer under AS 43.10.

9 (d) On or before March 31 each year, the commissioner shall submit a report to
10 the Alaska Industrial Development and Export Authority on the tax credit program under
11 this section. The report must include information on the number of agreements that were
12 entered into under AS 44.88.088 during the preceding calendar year, a description of the
13 project that is the subject of each agreement, a summary of the status of projects under
14 agreements entered into before the preceding calendar year, and the sum of the credits
15 awarded under this section.

16 * **Sec. 2.** AS 44.88 is amended by adding a new section to article 3 to read:

17 Sec. 44.88.088. ECONOMIC DEVELOPMENT TAX CREDIT. (a) The
18 membership of the authority may make economic development tax credit awards under
19 this section to foster job creation or to expand value-added manufacturing or processing
20 industries in the state. The credit may only be claimed for the taxable years specified
21 in the taxpayer's tax credit agreement and may not be applied retrospectively.

22 (b) A person that proposes a project to create new jobs or to expand value-added
23 manufacturing or processing industries in the state may apply to the authority to enter
24 into an agreement for a tax credit under this section. The authority shall prescribe the
25 form of the application.

26 (c) After receipt of an application, the authority shall negotiate with the applicant
27 and may enter into an agreement with the applicant for a credit under this section if the
28 membership of the authority determines that

29 (1) the applicant's project satisfies at least one of the following:

30 (A) the authority

31 (i) verifies that at least one other state is being considered
32 for the project;

1 (ii) determines, using best available data, that the
2 projected costs for the applicant's project in this state would exceed the
3 costs of the project in the competing state, taking into account the
4 probable effect of the competing state's incentive programs based on state,
5 local, private, and federal funds available to the competing state; and

6 (iii) finds that receiving the tax credit is a beneficial
7 factor in the applicant's decision to proceed with the project and not
8 receiving the tax credit will result in the applicant not creating new jobs
9 in the state;

10 (B) the applicant's project will, upon completion, provide a net
11 increase of at least 25 percent in the number of new employees employed by the
12 applicant; or

13 (C) the applicant's project is economically feasible and will, upon
14 completion, benefit the people of the state by increasing opportunities for
15 employment and strengthening the economy of the state, and significantly
16 expands existing facilities in the state;

17 (2) awarding the tax credit will result in a net increase in jobs, in value-
18 added manufacturing or processing industries, or in a net fiscal gain to this state, as
19 certified by the office of management and budget, using the best available data; and

20 (3) the credit is not prohibited by (g) of this section.

21 (d) A person is not entitled to claim the credit provided by this section for jobs
22 that the person relocates from one site in the state to another site in the state.
23 Determinations under this subsection shall be made by the membership of the authority.

24 (e) In negotiating the credit amount that should be awarded, the membership of
25 the authority shall take into consideration the following factors:

26 (1) the economy of the area where the proposed investment is to occur;

27 (2) the potential effect on the economy of the state;

28 (3) the magnitude of the cost differential between the state and the
29 competing state;

30 (4) the incremental payroll attributable to the project;

31 (5) the extent to which new or expanded value-added manufacturing or
32 processing will take place;

- 1 (6) the capital investment attributable to the project;
- 2 (7) the amount the average wage paid by the applicant exceeds the
- 3 average wage paid within the area in which the project will be located;
- 4 (8) the costs to the state with respect to the project; and
- 5 (9) the financial assistance that is otherwise provided by the state and the
- 6 municipalities in the affected area.

7 (f) The membership shall determine the amount and duration of a tax credit

8 awarded under this section. The credit amount may not exceed the lesser of

9 (1) the amount of the credit approved under (c) of this section, which

10 credit amount may not exceed five percent of the amount of gross wages payable as

11 compensation for new employees; or

12 (2) 25 percent of the tax due and payable by the taxpayer under this

13 chapter.

14 (g) The membership of the authority shall enter into an agreement with an

15 applicant that is awarded a credit under this section. The agreement must include

16 (1) a detailed description of the project that is the subject of the

17 agreement;

18 (2) the duration of the tax credit and the first taxable year for which the

19 credit may be claimed;

20 (3) the credit amount that will be allowed for each taxable year;

21 (4) a requirement that the taxpayer shall maintain operations at the

22 project location for at least two times the number of years as the term of the tax credit;

23 (5) a specific method for determining the number of new employees

24 employed during a taxable year who are performing jobs not previously performed by

25 an employee;

26 (6) a requirement that the taxpayer shall annually report to the authority

27 the number of new employees who are performing jobs not previously performed by an

28 employee and any other information the membership of the authority needs to perform

29 its duties under this section;

30 (7) a requirement that the membership of the authority is authorized to

31 verify with the appropriate state agencies the amounts reported under (6) of this

32 subsection and after doing so shall issue a certificate of verification to the taxpayer

1 stating that the amounts have been verified;

2 (8) a requirement that the taxpayer shall provide written notification to
3 the authority and the membership of the authority not more than 30 days after the
4 taxpayer makes or receives a proposal that would transfer the taxpayer's state tax liability
5 obligations to a successor taxpayer; and

6 (9) any other performance conditions that the membership of the
7 authority determines are appropriate.

8 (h) A taxpayer claiming a credit under this section shall submit to the department
9 a copy of the certificate of verification under (g) of this section for the taxable year.
10 However, failure to submit a copy of the certificate does not invalidate a claim for a
11 credit.

12 (i) Biennially, the authority shall provide for an evaluation of the tax credit
13 program authorized by this section. The evaluation must include an assessment of the
14 effectiveness of the program in creating new jobs in the state and of the revenue effect
15 of the program, and may include a review of the practices and experiences of other states
16 with similar programs. The membership of the authority shall submit a report on the
17 evaluation to the governor and the legislature.

18 (j) In this section,

19 (1) "credit amount" means the amount agreed to between the membership
20 of the authority and applicant under this section;

21 (2) "full-time employee" means an individual who is employed for
22 consideration for at least 35 hours each week or who renders any other standard of
23 service generally accepted by custom or specified by contract as full-time employment;

24 (3) "new employee"

25 (A) means

26 (i) a full-time employee employed by a taxpayer in the
27 project that is the subject of a tax credit agreement and who is first
28 employed by the taxpayer after the taxpayer enters into the tax credit
29 agreement;

30 (ii) notwithstanding (B)(i) of this paragraph, a new
31 employee who performs a job that was previously performed by an
32 employee who was treated under the agreement as a new employee and

1 was promoted by the taxpayer to another job;

2 (B) does not include

3 (i) an employee of the taxpayer who performs a job that
4 was previously performed by another employee if that job existed for at
5 least six months before hiring the new employee;

6 (ii) an employee of the taxpayer who was previously
7 employed in the state by a related member of the taxpayer and whose
8 employment was shifted to the taxpayer after the taxpayer entered into the
9 tax credit agreement; or

10 (iii) a child, grandchild, parent, or spouse, other than a
11 spouse who is legally separated from the individual, of any individual
12 who is an employee of the taxpayer and who has a direct or an indirect
13 ownership interest of at least five percent in the profits, capital, or value
14 of the taxpayer, as determined in accordance with 26 U.S.C. 1563.

15 * **Sec. 3.** This Act takes effect January 1, 1996.