

SENATE FLOOR VERSION

March 3, 2025

SENATE BILL NO. 688

By: Hall

An Act relating to ad valorem tax; amending 68 O.S. 2021, Section 2902, as last amended by Section 1, Chapter 390, O.S.L. 2022 (68 O.S. Supp. 2024, Section 2902), which relates to the exemption from ad valorem tax for manufacturing facilities; providing exception to payroll requirements for certain applications; updating statutory language; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 68 O.S. 2021, Section 2902, as

last amended by Section 1, Chapter 390, O.S.L. 2022 (68 O.S. Supp. 2024, Section 2902), is amended to read as follows:

Section 2902. A. Except as otherwise provided by subsection H

of Section 3658 of this title pursuant to which the exemption authorized by this section may not be claimed, a qualifying manufacturing concern, as defined by Section 6B of Article X of the Oklahoma Constitution, and as further defined herein, shall be exempt from the levy of any ad valorem taxes upon new, expanded or acquired manufacturing facilities including facilities engaged in research and development, for a period of five (5) years. The provisions of Section 6B of Article X of the Oklahoma Constitution

1 | requiring an existing facility to have been unoccupied for a period
2 | of twelve (12) months prior to acquisition shall be construed as a
3 | qualification for a facility to initially receive an exemption, and
4 | shall not be deemed to be a qualification for that facility to
5 | continue to receive an exemption in each of the four (4) years
6 | following the initial year for which the exemption was granted.
7 | Such facilities are hereby classified for the purposes of taxation
8 | as provided in Section 22 of Article X of the Oklahoma Constitution.

9 | B. For purposes of this section, the following definitions
10 | shall apply:

11 | 1. "Manufacturing facilities" means facilities engaged in the
12 | mechanical or chemical transformation of materials or substances
13 | into new products and except as provided by paragraph 6 of
14 | subsection C of this section shall include:

- 15 | a. establishments which have received a manufacturer
16 | exemption permit pursuant to the provisions of Section
17 | 1359.2 of this title,
18 | b. facilities including repair and replacement parts,
19 | primarily engaged in aircraft repair, building and
20 | rebuilding whether or not on a factory basis,
21 | c. establishments primarily engaged in computer services
22 | and data processing as defined under Industrial Group
23 | Numbers 5112 and 5415, and U.S. Industry Number 334611
24 | and 519130 of the NAICS Manual, latest revision, and

which derive at least fifty percent (50%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer, and as defined under Industrial Group Number 5182 of the NAICS Manual, latest revision, which derive at least eighty percent (80%) of their annual gross revenues from the sale of a product or service to an out-of-state buyer or consumer. Eligibility as a manufacturing facility pursuant to this subparagraph shall be established, subject to review by the Oklahoma Tax Commission, by annually filing an affidavit with the Tax Commission stating that the facility so qualifies and such other information as required by the Tax Commission. For purposes of determining whether annual gross revenues are derived from sales to out-of-state buyers, all sales to the federal government shall be considered to be an out-of-state buyer,

- d. facilities that the investment cost of the construction, acquisition or expansion is Five Hundred Thousand Dollars (\$500,000.00) or more with respect to assets placed into service during calendar year 2022. For subsequent calendar years, the investment required shall be increased annually by a percentage equal to

1 the previous year's increase in the Consumer Price
2 Index-All Urban Consumers ("CPI-U") and such adjusted
3 amount shall be the required investment cost in order
4 to qualify for the exemption authorized by this
5 section. The Oklahoma Department of Commerce shall
6 determine the amount of the increase, if any, on
7 January 1 of each year. The Oklahoma Tax Commission
8 shall publish on its website at least annually the
9 adjusted dollar amount in order to qualify for the
10 exemption authorized by this section and shall include
11 the adjusted dollar amount in any of its relevant
12 forms or publications with respect to the exemption.
13 Provided, "investment cost" shall not include the cost
14 of direct replacement, refurbishment, repair or
15 maintenance of existing machinery or equipment, except
16 that ~~"investment cost"~~ investment cost shall include
17 capital expenditures for direct replacement,
18 refurbishment, repair or maintenance of existing
19 machinery or equipment that qualifies for depreciation
20 and/or amortization pursuant to the Internal Revenue
21 Code of 1986, as amended, and such expenditures shall
22 be eligible as a part of an ~~"expansion"~~ expansion that
23 otherwise qualifies under this section,
24

1 e. establishments primarily engaged in distribution as
2 defined under Industry Numbers 49311, 49312, 49313 and
3 49319 and Industry Sector Number 42 of the NAICS
4 Manual, latest revision, and which meet the following
5 qualifications:

- 6 (1) construction with an initial capital investment
7 of at least Five Million Dollars (\$5,000,000.00),
8 (2) employment of at least one hundred (100) full-
9 time-equivalent employees, as certified by the
10 Oklahoma Employment Security Commission,
11 (3) payment of wages or salaries to its employees at
12 a wage which equals or exceeds the average wage
13 requirements in the Oklahoma Quality Jobs Program
14 Act for the year in which the real property was
15 placed into service, and
16 (4) commencement of construction on or after November
17 1, 2007, with construction to be completed within
18 three (3) years from the date of the commencement
19 of construction,

20 f. facilities engaged in the manufacturing, compounding,
21 processing or fabrication of materials into articles
22 of tangible personal property according to the special
23 order of a customer (custom order manufacturing) by
24 manufacturers classified as operating in North

American Industry Classification System (NAICS) Sectors 32 and 33, but does not include such custom order manufacturing by manufacturers classified in other NAICS code sectors, and

g. with respect to any entity making an application for the exemption authorized by this section on or after January 1, 2023, the establishment making application for exempt treatment of real or personal property acquired or improved beginning January 1, 2022, and for any calendar year thereafter, the entity shall be required to pay new direct jobs, as defined by Section 3603 of this title for purposes of the Oklahoma Quality Jobs Program Act, an average annualized wage which equals or exceeds the average wage requirement in the Oklahoma Quality Jobs Program Act for the year in which the real or personal property was placed into service. The Oklahoma Tax Commission may request verification from the Oklahoma Department of Commerce that an establishment seeking an exemption for real or personal property pays an average annualized wage that equals or exceeds the average wage requirement in effect for the year in which the real or personal property was placed into service. For purposes of this subparagraph, it shall not be necessary for the

1 establishment to qualify for incentive payments
2 pursuant to the Oklahoma Quality Jobs Program Act, but
3 the establishment shall be subject to the wage
4 requirements of the Oklahoma Quality Jobs Program Act
5 with respect to new direct jobs in order to qualify
6 for the exempt treatment authorized by this section.

7 Eligibility as a manufacturing facility pursuant to this
8 subparagraph shall be established, subject to review by the Tax
9 Commission, by annually filing an affidavit with the Tax Commission
10 stating that the facility so qualifies and containing such other
11 information as required by the Tax Commission.

12 Provided, eating and drinking places, as well as other retail
13 establishments, shall not qualify as manufacturing facilities for
14 purposes of this section, nor shall centrally assessed properties.

15 Eligibility as a manufacturing facility pursuant to this
16 subparagraph shall be established, subject to review by the Tax
17 Commission, by annually filing an application with the Tax
18 Commission stating that the facility so qualifies and containing
19 such other information as required by the Tax Commission;

20 2. "Facility" and "facilities", except as otherwise provided by
21 this section, means and includes the land, buildings, structures and
22 improvements used directly and exclusively in the manufacturing
23 process. Effective January 1, 2022, and for each calendar year
24 thereafter, for establishments which have received a manufacturer

1 exemption permit pursuant to the provisions of Section 1359.2 of
2 this title, or facilities engaged in manufacturing activities
3 defined or classified in the NAICS Manual under Industry Nos. 311111
4 through 339999, inclusive, but for no other establishments, facility
5 and facilities means and includes the land, buildings, structures,
6 improvements, machinery, fixtures, equipment and other personal
7 property used directly and exclusively in the manufacturing process;
8 and

9 3. "Research and development" means activities directly related
10 to and conducted for the purpose of discovering, enhancing,
11 increasing or improving future or existing products or processes or
12 productivity.

13 C. The following provisions shall apply:

14 1. A manufacturing concern shall be entitled to the exemption
15 herein provided for each new manufacturing facility constructed,
16 each existing manufacturing facility acquired and the expansion of
17 existing manufacturing facilities on the same site, as such terms
18 are defined by Section 6B of Article X of the Oklahoma Constitution
19 and by this section;

20 2. No manufacturing concern shall receive more than one five-
21 year exemption for any one manufacturing facility unless the
22 expansion which qualifies the manufacturing facility for an
23 additional five-year exemption meets the requirements of paragraph 4

1 of this subsection and the employment level established for any
2 previous exemption is maintained;

3 3. Any exemption as to the expansion of an existing
4 manufacturing facility shall be limited to the increase in ad
5 valorem taxes directly attributable to the expansion;

6 4. All initial applications for any exemption for a new,
7 acquired or expanded manufacturing facility shall be granted only
8 if:

9 a. there is a net increase in annualized base payroll
10 over the initial payroll of at least Two Hundred Fifty
11 Thousand Dollars (\$250,000.00) if the facility is
12 located in a county with a population of fewer than
13 seventy-five thousand (75,000), according to the most
14 recent Federal Decennial Census, while maintaining or
15 increasing base payroll in subsequent years, or at
16 least One Million Dollars (\$1,000,000.00) if the
17 facility is located in a county with a population of
18 seventy-five thousand (75,000) or more, according to
19 the most recent Federal Decennial Census, while
20 maintaining or increasing base payroll in subsequent
21 years; provided, the payroll requirement of this
22 subparagraph shall be waived for claims for exemptions
23 including claims previously denied or on appeal on
24 March 3, 2010, for all initial applications for

exemption filed on or after January 1, 2004, and on or before March 31, 2009, and all subsequent annual exemption applications filed related to the initial application for exemption, for an applicant, if the facility has been located in Oklahoma for at least fifteen (15) years engaged in marine engine manufacturing as defined under U.S. Industry Number 333618 of the NAICS Manual, latest revision, and has maintained an average employment of five hundred (500) or more full-time-equivalent employees over a ten-year period. Any applicant that qualifies for the payroll requirement waiver as outlined in the previous sentence and subsequently closes its Oklahoma manufacturing plant prior to January 1, 2012, may be disqualified for exemption and subject to recapture. For an applicant engaged in paperboard manufacturing as defined under U.S. Industry Number 322130 of the NAICS Manual, latest revision, union master payouts paid by the buyer of the facility to specified individuals employed by the facility at the time of purchase, as specified under the purchase agreement, shall be excluded from payroll for purposes of this section.

In order to provide certainty with respect to investments in manufacturing facilities pertaining to all initial applications for exemption filed on or after January 1, 2016, the following definitions shall apply:

- (1) "base payroll" shall mean total payroll adjusted for any nonrecurring bonuses, exercise of stock option or stock rights and other nonrecurring, extraordinary items included in total payroll, and
- (2) "initial payroll" shall mean base payroll for the year immediately preceding the initial construction, acquisition or expansion.

The Tax Commission shall verify payroll information through the Oklahoma Employment Security Commission by using reports from the Oklahoma Employment Security Commission for the calendar year immediately preceding the year for which initial application is made for base-line payroll, which must be maintained or increased for each subsequent year; provided, a manufacturing facility shall have the option of excluding from its payroll, for purposes of this section:

- i. payments to sole proprietors, members of a partnership, members of a limited liability company who own at least ten percent (10%) of the capital of the limited liability company or stockholder-employees of a corporation who own at least ten percent (10%) of the stock in the corporation, and
- ii. any nonrecurring bonuses, exercise of stock option or stock rights or other nonrecurring, extraordinary items included in total payroll numbers as reported by the Oklahoma Employment Security Commission. A manufacturing facility electing either option shall indicate such election upon its application for an exemption under this section. Any manufacturing facility electing either option shall submit such information as the Tax Commission may require in order to verify payroll information. Payroll information submitted pursuant to the provisions of this paragraph shall be submitted to

the Tax Commission and shall be subject to the provisions of Section 205 of this title, and

b. the facility offers, or will offer within one hundred eighty (180) days of the date of employment, a basic health benefits plan to the full-time-equivalent employees of the facility, which is determined by the Oklahoma Department of Commerce to consist of the elements specified in subparagraph b of paragraph 1 of subsection A of Section 3603 of this title or elements substantially equivalent thereto.

For purposes of this section, calculation of the amount of increased base payroll shall be measured from the start of initial construction or expansion to the completion of such construction or expansion or for three (3) years from the start of initial construction or expansion, whichever occurs first. The amount of increased base payroll shall include payroll for full-time-equivalent employees in this state who are employed by an entity other than the facility which has previously or is currently qualified to receive an exemption pursuant to the provisions of this section and who are leased or otherwise provided to the facility, if such employment did not exist in this state prior to the start of initial construction or expansion of the facility. The manufacturing concern shall submit an affidavit to the Tax

Commission, signed by an officer, stating that the construction, acquisition or expansion of the facility will result in a net increase in the annualized base payroll as required by this paragraph and that full-time-equivalent employees of the facility are or will be offered a basic health benefits plan as required by this paragraph. If, after the completion of such construction or expansion or after three (3) years from the start of initial construction or expansion, whichever occurs first, the construction, acquisition or expansion has not resulted in a net increase in the amount of annualized base payroll, if required, or any other qualification specified in this paragraph has not been met, the manufacturing concern shall pay an amount equal to the amount of any exemption granted including penalties and interest thereon, to the Tax Commission for deposit to the Ad Valorem Reimbursement Fund;

15 5. Except as otherwise provided by this paragraph, any new,
16 acquired or expanded computer data processing, data preparation or
17 information processing services provider classified in U.S. Industry
18 Number 518210 of the North American Industrial Classification System
19 (NAICS) Manual, 2017 revision, may apply for exemptions under this
20 section for each year in which new, acquired, or expanded capital
21 improvements to the facility are made for assets placed in service
22 not later than December 31, 2021, if:

1 applicant in this state of at least Two Hundred Fifty
2 Thousand Dollars (\$250,000.00), which is attributable
3 to the capital improvements, or a net increase of
4 Seven Million Dollars (\$7,000,000.00) or more in
5 capital improvements, while maintaining or increasing
6 payroll at the facility or facilities in this state
7 which are included in the application, and
8 b. the facility offers, or will offer within one hundred
9 eighty (180) days of the date of employment of new
10 employees attributable to the capital improvements, a
11 basic health benefits plan to the full-time-equivalent
12 employees of the facility, which is determined by the
13 Oklahoma Department of Commerce to consist of the
14 elements specified in subparagraph b of paragraph 1 of
15 subsection A of Section 3603 of this title or elements
16 substantially equivalent thereto.

17 An establishment described by this paragraph, the primary
18 business activity of which is described by Industry No. 518210 of
19 the North American Industry Classification System (NAICS) Manual,
20 2017 revision, that has applied for and been granted an exemption
21 for personal property at any time within five (5) years prior to
22 November 1, 2021, may apply for exemptions for items of eligible
23 personal property to be located within improvements to real property
24 and such real property and improvements having been exempt from ad

1 valorem taxation prior to November 1, 2021, pursuant to the
2 provisions of this section if such personal property is placed in
3 service not later than December 31, 2036. No additional personal
4 property of such establishment placed in service after such date
5 shall qualify for the exempt treatment otherwise authorized pursuant
6 to this paragraph;

7 6. Effective January 1, 2017, an entity engaged in electric
8 power generation by means of wind, as described by the North
9 American Industry Classification System, No. 221119, shall not be
10 defined as a qualifying manufacturing concern for purposes of the
11 exemption otherwise authorized pursuant to Section 6B of Article X
12 of the Oklahoma Constitution or qualify as a "manufacturing
13 facility" manufacturing facility as defined in this section. No
14 initial application for exemption shall be filed by or accepted from
15 an entity engaged in electric power generation by means of wind on
16 or after January 1, 2018;

17 7. An entity or applicant engaged in an industry as defined
18 under U.S. Industry Number 324110 of the NAICS Manual, latest
19 revision, which has applied for or been granted an exemption for a
20 time period which began on or after calendar year 2012 and before
21 calendar year 2016 but which did not meet the payroll requirements
22 of subparagraph a of paragraph 4 of this subsection because of
23 nonrecurring bonuses, exercise of stock option or stock rights or
24 other nonrecurring, extraordinary items included in total payroll in

1 | the previous year, shall be allowed an exemption, beginning with
2 | calendar year 2016, for the number of years including the calendar
3 | year for which the exemption was denied, remaining in the entity's
4 | five-year exemption period, provided such entity attains or
5 | increases payroll at or above the initial or base payroll
6 | established for the exemption;

7 | 8. A facility engaged in manufacturing defined under U.S.
8 | Industry Number 327310 of the NAICS Manual shall have the payroll
9 | requirements of paragraph 4 of this subsection waived for tax year
10 | 2021, which is based in part on the 2020 calendar year payroll
11 | reported to the Oklahoma Employment Security Commission, and may
12 | continue to receive the exemption for the five-year period provided
13 | in this section only if all other requirements of this section are
14 | met; and

15 | 9. A facility engaged in manufacturing which otherwise
16 | qualifies for the exemption or exemptions pursuant to the provisions
17 | of this section shall have the payroll requirements of paragraph 4
18 | of this subsection waived for tax year 2021, which is based in part
19 | on the 2020 calendar year payroll reported to the Oklahoma
20 | Employment Security Commission, and for tax year 2022, which is
21 | based in part on the 2021 calendar year payroll reported to the
22 | Oklahoma Employment Security Commission, and may continue to receive
23 | the exemption for the five-year period provided in this section only
24 | if all other requirements of this section are met. Provided, a

1 facility engaged in manufacturing as defined under Industrial Group
2 Number 3364 of the NAICS Manual, latest revision, which otherwise
3 qualifies to continue to receive the exemption for the five-year
4 period provided in this section shall have the payroll requirements
5 of paragraph 4 of this subsection waived for the five-year exemption
6 period of those initial exemption applications filed after January
7 1, 2020, and before March 16, 2021.

8 D. 1. Except as provided in paragraph 2 of this subsection,
9 the five-year period of exemption from ad valorem taxes for any
10 qualifying manufacturing facility property shall begin on January 1
11 following the initial qualifying use of the property in the
12 manufacturing process.

13 2. The five-year period of exemption from ad valorem taxes for
14 any qualifying manufacturing facility, as specified in subparagraphs
15 a and b of this paragraph, which is located within a tax incentive
16 district created pursuant to the Local Development Act by a county
17 having a population of at least five hundred thousand (500,000),
18 according to the most recent Federal Decennial Census, shall begin
19 on January 1 following the expiration or termination of the ad
20 valorem exemption, abatement, or other incentive provided through
21 the tax incentive district. Facilities qualifying pursuant to this
22 subsection shall include:

23 a. a manufacturing facility as defined in subparagraph c
24 of paragraph 1 of subsection B of this section, and

1 b. an establishment primarily engaged in distribution as
2 defined under Industry Number 49311 of the North
3 American Industry Classification System for which the
4 initial capital investment was at least One Hundred
5 Eighty Million Dollars (\$180,000,000.00); provided,
6 that the qualifying job creation and depreciable
7 property investment occurred prior to calendar year
8 2017 but not earlier than calendar year 2013.

9 E. Any person, firm or corporation claiming the exemption
10 herein provided for shall file each year for which exemption is
11 claimed, an application therefor with the county assessor of the
12 county in which the new, expanded or acquired facility is located.
13 The application shall be on a form or forms prescribed by the Tax
14 Commission, and shall be filed on or before March 15, except as
15 provided in Section 2902.1 of this title, of each year in which the
16 facility desires to take the exemption or within thirty (30) days
17 from and after receipt by such person, firm or corporation of notice
18 of valuation increase, whichever is later. In a case where
19 completion of the facility or facilities will occur after January 1
20 of a given year, a facility may apply to claim the ad valorem tax
21 exemption for that year. If such facility is found to be qualified
22 for exemption, the ad valorem tax exemption provided for herein
23 shall be granted for that entire year and shall apply to the ad
24 valorem valuation as of January 1 of that given year. For

1 applicants who qualify under the provisions of subparagraph b of
2 paragraph 1 of subsection B of this section, the application shall
3 include a copy of the affidavit and any other information required
4 to be filed with the Tax Commission.

5 F. The application shall be examined by the county assessor and
6 approved or rejected in the same manner as provided by law for
7 approval or rejection of claims for homestead exemptions. The
8 taxpayer shall have the same right of review by and appeal from the
9 county board of equalization, in the same manner and subject to the
10 same requirements as provided by law for review and appeals
11 concerning homestead exemption claims. Approved applications shall
12 be filed by the county assessor with the Tax Commission no later
13 than June 15, except as provided in Section 2902.1 of this title, of
14 the year in which the facility desires to take the exemption.

15 Incomplete applications and applications filed after June 15 will be
16 declared null and void by the Tax Commission. In the event that a
17 taxpayer qualified to receive an exemption pursuant to the
18 provisions of this section shall make payment of ad valorem taxes in
19 excess of the amount due, the county treasurer shall have the
20 authority to credit the taxpayer's real or personal property tax
21 overpayment against current taxes due. The county treasurer may
22 establish a schedule of up to five (5) years of credit to resolve
23 the overpayment.

24

1 G. Nothing herein shall in any manner affect, alter or impair
2 any law relating to the assessment of property, and all property,
3 real or personal, which may be entitled to exemption hereunder shall
4 be valued and assessed as is other like property and as provided by
5 law. The valuation and assessment of property for which an
6 exemption is granted hereunder shall be performed by the Tax
7 Commission using one or more of the cost, income and expense and
8 sales comparison approaches to estimate fair cash value in
9 accordance with the Uniform Standards of Professional Appraisal
10 Practice.

11 H. The Tax Commission shall have the authority and duty to
12 prescribe forms and to promulgate rules as may be necessary to carry
13 out and administer the terms and provisions of this section.

14 SECTION 2. It being immediately necessary for the preservation
15 of the public peace, health or safety, an emergency is hereby
16 declared to exist, by reason whereof this act shall take effect and
17 be in full force from and after its passage and approval.

18 COMMITTEE REPORT BY: COMMITTEE ON REVENUE AND TAXATION
March 3, 2025 - DO PASS