

REFERENCE TITLE: renewable energy enterprise zones

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

HB 2691

Introduced by
Representatives Mason, Saradnik, Senator O'Halleran: Representatives
Ableser, Alvarez, Brown, Konopnicki

AN ACT

AMENDING SECTION 41-1525.01, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 10, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 41-1525.02 AND 41-1525.03; AMENDING SECTION 42-12006, ARIZONA REVISED STATUTES; RELATING TO ENTERPRISE ZONES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 41-1525.01, Arizona Revised Statutes, is amended to
3 read:

4 41-1525.01. Certification of small manufacturing or small
5 commercial printing businesses; definitions

6 A. Through June 30, 2011, the department of commerce shall annually
7 certify small manufacturing or small commercial printing businesses that
8 qualify for property tax incentives under section 41-1525, subsection E. To
9 qualify under this section:

10 1. A small manufacturing or small commercial printing business must
11 meet the minimum investment requirements prescribed by this paragraph. The
12 investments may be cumulative. A small manufacturing or small commercial
13 printing business shall not include fixed assets purchased from an enterprise
14 zone manufacturing or small commercial printing company already certified
15 under this section. Subject to subsection E of this section, certification
16 is effective on January 1 of the valuation year, as defined in section
17 42-11001, following completion of the required investment. To qualify, the
18 small manufacturing or small commercial printing business must invest at
19 least the following amount, as applicable, in fixed assets in the zone after
20 December 31, 2000:

21 (a) In counties with a population of two hundred fifty thousand
22 persons or more, two million dollars, except as provided in subdivision (b)
23 of this paragraph.

24 (b) In all other counties, and for cities and towns located in
25 counties with a population of two hundred fifty thousand persons or more and
26 that have no portion of the corporate boundaries located within twenty-five
27 air miles from the exterior corporate boundary of the largest city in the
28 county:

29 (i) Cities with a population of eighty thousand persons or more, two
30 million dollars.

31 (ii) Cities and towns with a population of at least fifteen thousand
32 but less than eighty thousand persons and in unincorporated areas of the
33 county, one million dollars.

34 (iii) Cities and towns with a population of less than fifteen thousand
35 persons, five hundred thousand dollars.

36 2. A business initially applying for certification under this section
37 must report the following with supporting documentation to the department of
38 commerce on a form and in a manner prescribed by the department:

39 (a) Business name and mailing address and any other contact
40 information requested by the department.

41 (b) Business location and the enterprise zone in which the business is
42 located.

43 (c) The number of full-time employees at the time of application and
44 the benefits provided to employees.

1 (d) The assessor's parcel number of real property to which class six
2 assessment classification will apply.

3 (e) If available, the assessor's account number for personal property
4 to which class six assessment classification will apply.

5 (f) For the zone location, the gross receipts, gross payroll and
6 average hourly wage paid to employees for the preceding taxable year.

7 (g) A statement of the ownership and description of operations of the
8 zone business.

9 (h) Documentation of the required investment in fixed assets that
10 identifies the fixed assets and establishes the cost of the fixed assets and
11 the time of investment.

12 (i) Documentation that establishes the type and amount of
13 manufacturing or printing activity conducted at the zone location.

14 (j) Ownership and full cash value of real and personal property to be
15 certified.

16 (k) Other information necessary for the management and reporting of
17 this program as determined by the department.

18 B. The department shall not certify any business for qualification for
19 property tax incentives after June 30, 2011. However, certification under
20 this section is valid for five years subject to annual recertification
21 regardless of whether under changing circumstances the business grows beyond
22 ninety-nine full-time employees at the zone location or gross annual receipts
23 of more than four million dollars and regardless of whether the enterprise
24 zone continues in existence if it continues to meet the other eligibility
25 requirements.

26 C. In order to be annually recertified pursuant to subsection B of
27 this section, a small manufacturing or small commercial printing business
28 must continue to meet all the eligibility requirements of this section and
29 must annually report the following and provide supporting documentation to
30 the department of commerce on a form and in a manner approved by the
31 department:

32 1. Information required by subsection A, paragraph 2, subdivisions
33 (a), (b), (d), (e), (f), (i), (j) and (k) of this section.

34 2. Changes in location, ownership and operations of the business in
35 the immediately preceding year.

36 3. The average number of full-time employees at the zone location for
37 the immediately preceding year.

38 D. To qualify for classification as class six property for tax
39 purposes, the certified business must submit a copy of the department's
40 initial certification, and each annual recertification, with a written
41 request to reclassify the property to the county assessor of the county in
42 which the property is located by December 10 each year.

43 E. A manufacturer or commercial printer shall submit its application
44 for initial certification or annual recertification to the department not
45 later than October 1 of each year. The department shall notify the

1 appropriate county assessors of all qualified enterprise zone properties
2 located within their county not later than December 1 of each year.

3 F. If a manufacturer or commercial printer moves from the originally
4 certified location, it loses its eligibility. The manufacturer or commercial
5 printer may apply for certification at a new zone location for the remainder
6 of its five years if it meets the minimum investment requirements in fixed
7 assets that were not moved from the prior zone location, meets all other
8 eligibility requirements of this section and has not reached the five year
9 eligibility limit.

10 G. Once a manufacturer or commercial printer establishes the basis for
11 eligibility and the department certifies the manufacturer or commercial
12 printer, the business may change its basis of eligibility during the four
13 remaining years of potential eligibility as long as the manufacturer or
14 commercial printer meets the requirements for the new basis of eligibility.

15 H. If a certified manufacturing or commercial printer business is
16 purchased by another entity or changes by more than twenty per cent of the
17 ownership interest through reorganization, stock purchase or merger, the
18 certification is terminated. The new manufacturer or small commercial
19 printer may apply for certification according to eligibility requirements of
20 this section.

21 I. A small business that was originally certified for a ten year
22 period of property reclassification loses eligibility for any year in which
23 the size limits are exceeded or the business is no longer independently owned
24 and operated.

25 J. The department of commerce shall notify the department of revenue
26 and the county assessor if a certified small manufacturing or small
27 commercial printing business closes, moves from the enterprise zone or fails
28 to maintain its eligibility, and the assessor shall make the appropriate
29 changes to the tax roll.

30 K. The department of commerce may make site visits to a taxpayer's
31 facilities if it is necessary to further document or clarify reported
32 information. The taxpayer must freely provide the access.

33 L. Documents filed with the department of commerce pursuant to this
34 section shall contain either a sworn statement or certification, signed by an
35 officer of the company under penalty of perjury, that the information
36 contained is true and correct according to the best belief and knowledge of
37 the person submitting the information after a reasonable investigation of the
38 facts. If the document contains information that is materially false, the
39 taxpayer is ineligible for the tax benefits under this section and is subject
40 to recovery of the amount of tax benefits allowed in preceding years based on
41 the false information, including penalties and interest.

42 M. The department by rule may prescribe additional reporting
43 requirements for persons who claim a tax benefit pursuant to this section.

44 N. For the purposes of this section:

- 1 1. "Closely held" means five or fewer individuals own more than fifty
2 per cent of the ownership interest in the company, corporation or
3 partnership.
- 4 2. "Commercial printing" means producing printed product through a
5 lithographic or flexographic process, from material cut to press size on the
6 premises, transferred with pressure and finished with a process that may
7 include scoring, folding, die cutting, gluing, stamping, embossing or
8 packaging. Commercial printing does not include businesses regulated
9 pursuant to section 42-5065.
- 10 3. "Family owned" means more than fifty per cent of the ownership
11 interest in the company, corporation or partnership is owned by members of
12 the same family.
- 13 4. "Fixed assets" means property that is used in operating a business,
14 such as furniture, land, buildings and machinery, and that is not ordinarily
15 converted into cash after they are declared fixed assets.
- 16 5. "Independently owned and operated" means not more than fifty per
17 cent of the ownership interest in the small manufacturing or small commercial
18 printer business is held by another entity unless the final ownership of the
19 entity is family owned or closely held.
- 20 6. "Manufacturing" means fabricating, producing or manufacturing
21 products, wares or articles for use from raw or prepared materials and
22 imparting to those materials new forms, qualities, properties and
23 combinations. Manufacturing does not include generating electricity at a
24 facility assessed pursuant to title 42, chapter 14, article 4 **UNLESS THE**
25 **FACILITY GENERATES AT LEAST ONE MEGAWATT OF ELECTRICITY USING RENEWABLE**
26 **ENERGY EQUIPMENT, AS DEFINED IN SECTION 42-14155, THAT IS SUPPLIED THROUGH A**
27 **GRID CONNECTION TO A PUBLIC OR PRIVATE ELECTRIC TRANSMISSION OR DISTRIBUTION**
28 **UTILITY SYSTEM PURSUANT TO A POWER PURCHASE AGREEMENT.**
- 29 7. "Minority owned business" means an independently owned and operated
30 business of which a majority of the business is owned by African Americans,
31 persons of Hispanic or Latin American ancestry and persons of Native
32 American, Asian or other minority origin or descent.
- 33 8. "Small commercial printing business" means a minority owned
34 business or a woman owned business or a concern, that is independently owned
35 and operated and employs less than one hundred full-time employees at the
36 location in the enterprise zone when certified by the department of commerce
37 or had gross annual receipts of less than four million dollars in its last
38 fiscal year.
- 39 9. "Small manufacturing business" means a minority owned business or a
40 woman owned business or a concern, that is independently owned and operated
41 and employs less than one hundred full-time employees at the location in the
42 enterprise zone when certified by the department of commerce or had gross
43 annual receipts of less than four million dollars in its last fiscal year.
- 44 10. "Woman owned business" means an independently owned and operated
45 business of which a majority of the business is owned by one or more women.

1 11. "Zone location" has the same meaning prescribed in section 41-1525.
2 Sec. 2. Title 41, chapter 10, article 2, Arizona Revised Statutes, is
3 amended by adding sections 41-1525.02 and 41-1525.03, to read:

4 41-1525.02. Renewable energy enterprise zones; certification of
5 central station renewable energy generator

6 A. THE OWNER OF A CENTRAL STATION ELECTRIC GENERATION FACILITY LOCATED
7 IN AN ENTERPRISE ZONE THAT GENERATES AT LEAST ONE MEGAWATT OF ELECTRICITY
8 USING RENEWABLE ENERGY EQUIPMENT, AS DEFINED IN SECTION 42-14155, THAT IS
9 SUPPLIED THROUGH A GRID CONNECTION TO A PUBLIC OR PRIVATE ELECTRIC
10 TRANSMISSION OR DISTRIBUTION UTILITY SYSTEM PURSUANT TO A POWER PURCHASE
11 AGREEMENT IS ELIGIBLE FOR AN INCOME TAX CREDIT UNDER SECTION 43-1074 OR
12 43-1161. REAL AND PERSONAL PROPERTY ON WHICH THE RENEWABLE ENERGY EQUIPMENT
13 IS LOCATED AND THAT IS CERTIFIED BY THE DEPARTMENT PURSUANT TO SECTION
14 41-1525.01 BEFORE JULY 1, 2011 SHALL BE ASSESSED AS CLASS SIX PROPERTY AS
15 PROVIDED BY SECTION 42-12006.

16 B. TO QUALIFY UNDER THIS SECTION, THE OWNER MUST:

17 1. CERTIFY TO THE DEPARTMENT THAT IT HAS A GRID CONNECTION TO A PUBLIC
18 OR PRIVATE ELECTRIC TRANSMISSION OR DISTRIBUTION UTILITY SYSTEM IN THIS
19 STATE.

20 2. CERTIFY TO THE DEPARTMENT THAT IT GENERATES ELECTRICITY DERIVED
21 FROM SOLAR, WIND, FOREST THINNINGS, AGRICULTURAL WASTE, HUMAN REFUSE OR OTHER
22 NONPETROLEUM RENEWABLE SOURCES. ELECTRICITY DERIVED FROM NUCLEAR OR NATURAL
23 GAS STEAM GENERATION OR A NATURAL GAS REFORMER FOR USE IN FUEL CELLS DOES NOT
24 QUALIFY FOR THE PURPOSES OF THIS PARAGRAPH.

25 3. REPORT AND CERTIFY THE FOLLOWING INFORMATION TO THE DEPARTMENT AND
26 PROVIDE SUPPORTING DOCUMENTATION, ON A FORM AND IN A MANNER APPROVED BY THE
27 DEPARTMENT FOR EACH TAXABLE YEAR IN WHICH THE OWNER CLAIMS, USES OR CARRIES
28 FORWARD AMOUNTS FOR PURPOSES OF A TAX CREDIT UNDER SECTION 43-1074 OR
29 43-1161:

30 (a) THE BUSINESS NAME AND MAILING ADDRESS AND ANY OTHER CONTACT
31 INFORMATION REQUESTED BY THE DEPARTMENT.

32 (b) THE BUSINESS LOCATION AND THE NAME OF THE ENTERPRISE ZONE IN WHICH
33 THE BUSINESS IS LOCATED.

34 (c) THE ESTIMATED AMOUNT OF TAX CREDIT TO BE USED IN THE TAXABLE YEAR
35 TO OFFSET TAX LIABILITY.

36 (d) THE ESTIMATED AMOUNTS OF TAX CREDITS TO BE CARRIED FORWARD FROM
37 PREVIOUS TAXABLE YEARS, AND THE TAXABLE YEAR IN WHICH THE AMOUNTS EXPIRE.

38 (e) THE AMOUNT OF CAPITAL INVESTMENT MADE IN THE ZONE DURING THE
39 TAXABLE YEAR AND THE PRECEDING TAXABLE YEAR.

40 (f) THE TOTAL NUMBER OF MEGAWATT HOURS OF ELECTRICITY GENERATED BY THE
41 FACILITY FROM RENEWABLE ENERGY SOURCES.

42 (g) THE TOTAL NUMBER OF EMPLOYEE POSITIONS AT THE FACILITY DURING THE
43 TAXABLE YEAR.

44 (h) ANY OTHER INFORMATION NECESSARY FOR THE MANAGEMENT AND REPORTING
45 OF THE INCENTIVES UNDER THIS SECTION.

1 C. THE DEPARTMENT BY RULE MAY PRESCRIBE ADDITIONAL REPORTING
2 REQUIREMENTS FOR TAXPAYERS WHO CLAIM TAX BENEFITS PURSUANT TO THIS SECTION.

3 D. ANY INFORMATION SUBMITTED TO THE DEPARTMENT UNDER THIS SECTION IS
4 EXEMPT FROM TITLE 39, CHAPTER 1, ARTICLE 2, IS CONSIDERED CONFIDENTIAL AND IS
5 NOT SUBJECT TO DISCLOSURE EXCEPT:

6 1. TO THE EXTENT THAT THE PERSON OR ORGANIZATION THAT PROVIDED THE
7 INFORMATION CONSENTS TO THE DISCLOSURE.

8 2. TO THE DEPARTMENT OF REVENUE FOR USE IN TAX ADMINISTRATION.

9 E. DOCUMENTS FILED WITH THE DEPARTMENT UNDER THIS SECTION MUST CONTAIN
10 EITHER A SWORN STATEMENT OR CERTIFICATION, SIGNED BY AN OFFICER OF THE
11 COMPANY UNDER PENALTY OF PERJURY, THAT THE INFORMATION CONTAINED IS TRUE AND
12 CORRECT ACCORDING TO THE BEST BELIEF AND KNOWLEDGE OF THE PERSON SUBMITTING
13 THE INFORMATION AFTER A REASONABLE INVESTIGATION OF THE FACTS. IF THE
14 DOCUMENT CONTAINS INFORMATION THAT IS MATERIALLY FALSE, THE TAXPAYER IS
15 INELIGIBLE FOR THE TAX INCENTIVES UNDER THIS SECTION AND IS SUBJECT TO
16 RECOVERY OF THE AMOUNT OF TAX INCENTIVES ALLOWED IN PRECEDING TAXABLE YEARS
17 BASED ON THE FALSE INFORMATION, PLUS PENALTIES AND INTEREST.

18 F. THE DEPARTMENT MAY MAKE SITE VISITS TO A TAXPAYER'S FACILITIES IF
19 IT IS NECESSARY TO FURTHER DOCUMENT OR CLARIFY REPORTED INFORMATION. THE
20 TAXPAYER MUST FREELY PROVIDE THE ACCESS.

21 41-1525.03. Renewable energy enterprise zones; renewable energy
22 component manufacturer

23 A. A MANUFACTURER OF RENEWABLE ENERGY EQUIPMENT, AS DEFINED IN SECTION
24 42-14155 OR COMPONENTS USED IN THE CONSTRUCTION OF A CENTRAL STATION ELECTRIC
25 GENERATION FACILITY DESCRIBED IN SECTION 41-1525.02 IS ELIGIBLE FOR AN INCOME
26 TAX CREDIT UNDER SECTION 43-1074 OR 43-1161 IF IT MEETS THE FOLLOWING
27 CRITERIA:

28 1. THE MANUFACTURER ESTABLISHES A NEW FACILITY AFTER DECEMBER 31, 2006
29 IN THE SAME ENTERPRISE ZONE AS THE CENTRAL STATION ELECTRIC GENERATION
30 FACILITY.

31 2. THE MANUFACTURER SELLS NEW MANUFACTURED PARTS TO THE CENTRAL
32 STATION ELECTRIC GENERATION FACILITY HAVING AN INVOICE VALUE OF MORE THAN ONE
33 MILLION DOLLARS PER YEAR.

34 B. IF THE MANUFACTURER CEASES THE SUPPLY OF PARTS TO THE CENTRAL
35 STATION ELECTRIC GENERATION FACILITY IN THE QUALIFYING QUANTITY, ITS
36 ELIGIBILITY FOR THE INCOME TAX CREDIT DESCRIBED BY THIS SECTION TERMINATES.
37 IF THE MANUFACTURER RESUMES THE SUPPLY OF PARTS TO A CENTRAL STATION ELECTRIC
38 GENERATION FACILITY IN ANOTHER ENTERPRISE ZONE IN THIS STATE, THE
39 MANUFACTURER MAY REQUALIFY FOR THE TAX CREDITS IF IT MEETS THE OTHER CRITERIA
40 PRESCRIBED BY THIS SECTION.

1 Sec. 3. Section 42-12006, Arizona Revised Statutes, is amended to
2 read:

3 42-12006. Class six property

4 For purposes of taxation, class six is established consisting of:

5 1. Noncommercial historic property as defined in section 42-12101 and
6 valued at full cash value.

7 2. Real and personal property that is located within the area of a
8 foreign trade zone or subzone established under 19 United States Code section
9 81 and title 44, chapter 18, that is activated for foreign trade zone use by
10 the district director of the United States customs service pursuant to
11 19 Code of Federal Regulations section 146.6 and that is valued at full cash
12 value. Property that is classified under this paragraph shall not thereafter
13 be classified under paragraph 7 of this section.

14 3. Real and personal property and improvements that are located in a
15 military reuse zone that is established under title 41, chapter 10, article 3
16 and that is devoted to providing aviation or aerospace services or to
17 manufacturing, assembling or fabricating aviation or aerospace products,
18 valued at full cash value and subject to the following terms and conditions:

19 (a) Property may not be classified under this paragraph for more than
20 five tax years.

21 (b) Any new addition or improvement to property already classified
22 under this paragraph qualifies separately for classification under this
23 paragraph for not more than five tax years.

24 (c) If a military reuse zone is terminated, the property in that zone
25 that was previously classified under this paragraph shall be reclassified as
26 prescribed by this article.

27 (d) Property that is classified under this paragraph shall not
28 thereafter be classified under paragraph 4 or 7 of this section.

29 4. Real and personal property and improvements that are located in an
30 enterprise zone, that are owned or used by a small manufacturing BUSINESS or
31 A small commercial printer PRINTING business OR ON WHICH IS LOCATED RENEWABLE
32 ENERGY EQUIPMENT, AS DEFINED IN SECTION 42-14155, that is certified by the
33 department of commerce pursuant to section 41-1525.01 OR 41-1525.02 and that
34 are valued at full cash value, OR IN THE CASE OF RENEWABLE ENERGY EQUIPMENT,
35 PURSUANT TO SECTION 42-14155, subject to the following terms and conditions:

36 (a) Property may not be classified under this paragraph for more than
37 five tax years.

38 (b) Property that is classified under this paragraph shall not
39 thereafter be classified under paragraph 3, ~~or~~ 7 OR 8 of this section.

40 5. Real and personal property and improvements or a portion of such
41 property comprising a qualified environmental technology manufacturing,
42 producing or processing facility as described in section 41-1514.02, valued
43 at full cash value and subject to the following terms and conditions:

44 (a) Property shall be classified under this paragraph for twenty tax
45 years from the date placed in service.

1 (b) Any addition or improvement to property already classified under
2 this paragraph qualifies separately for classification under this subdivision
3 for an additional twenty tax years from the date placed in service.

4 (c) After revocation of certification under section 41-1514.02,
5 property that was previously classified under this paragraph shall be
6 reclassified as prescribed by this article.

7 (d) Property that is classified under this paragraph shall not
8 thereafter be classified under paragraph 7 of this section.

9 6. That portion of real and personal property that is used on or after
10 January 1, 1999 specifically and solely for remediation of the environment by
11 an action that has been determined to be reasonable and necessary to respond
12 to the release or threatened release of a hazardous substance by the
13 department of environmental quality pursuant to section 49-282.06 or pursuant
14 to its corrective action authority under rules adopted pursuant to section
15 49-922, subsection B, paragraph 4 or by the United States environmental
16 protection agency pursuant to the national contingency plan (40 Code of
17 Federal Regulations part 300) and that is valued at full cash value. Property
18 that is not being used specifically and solely for the remediation objectives
19 described in this paragraph shall not be classified under this paragraph.
20 For the purposes of this paragraph, "remediation of the environment" means
21 one or more of the following actions:

22 (a) Monitoring, assessing or evaluating the release or threatened
23 release.

24 (b) Excavating, removing, transporting, treating and disposing of
25 contaminated soil.

26 (c) Pumping and treating contaminated water.

27 (d) Treatment, containment or removal of contaminants in groundwater
28 or soil.

29 7. Real and personal property and improvements constructed or
30 installed from and after December 31, 2004 through December 31, 2010 and
31 owned by a qualified business under section 41-1516 and used solely for the
32 purpose of harvesting, transporting or the initial processing of qualifying
33 forest products removed from qualifying projects as defined in section
34 41-1516. The classification under this paragraph is subject to the following
35 terms and conditions:

36 (a) Property may be initially classified under this paragraph only in
37 valuation years 2005 through 2010.

38 (b) Property may not be classified under this paragraph for more than
39 five years.

40 (c) Any new addition or improvement, constructed or installed from and
41 after December 31, 2004 through December 31, 2010, to property already
42 classified under this paragraph qualifies separately for classification and
43 assessment under this paragraph for not more than five years.

44 (d) Property that is classified under this paragraph shall not
45 thereafter be classified under paragraph 2, 3, 4 or 5 of this section.

1 8. Real and personal property and improvements to the property that
2 are used specifically and solely to manufacture from and after December 31,
3 2006 through December 31, 2016 biodiesel fuel that is one hundred per cent
4 biodiesel and its by-products and that are valued at full cash value. This
5 paragraph applies only to the portion of property that is used specifically
6 for manufacturing and processing one hundred per cent biodiesel fuel, or its
7 related by-products, from raw feedstock obtained from off-site sources,
8 including necessary on-site storage facilities that are intrinsically
9 associated with the manufacturing process. Any other commercial or
10 industrial use disqualifies the entire property from classification under
11 this paragraph.