HB 2814

Introduced by
Representatives Dunn: Biasucci, Blackman, Bowers, Campbell, Cobb, Cook, Fernandez, Finchem, Griffin, Nutt, Osborne, Peten, Pierce, Shope, Sierra, Teller, Thorpe, Tsosie, Senators Borrelli, Gowan, Kerr, Otondo, Pratt, Rios

AN ACT

AMENDING TITLE 41, CHAPTER 10, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 6; AMENDING SECTION 42-12006, ARIZONA REVISED STATUTES; RELATING TO ECONOMIC DEVELOPMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 41, chapter 10, Arizona Revised Statutes, is amended by adding article 6, to read:

ARTICLE 6. RURAL ECONOMIC DEVELOPMENT IMPROVEMENT PROGRAMS

41-1546. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "PROGRAM" MEANS A RURAL ECONOMIC DEVELOPMENT IMPROVEMENT PROGRAM DESIGNATED PURSUANT TO THIS ARTICLE.

2. "PROJECT" MEANS A PROJECT TO CONSTRUCT WATER, WASTEWATER, TRANSPORTATION, BROADBAND, NATURAL GAS AND STORM WATER RETENTION INFRASTRUCTURE IMPROVEMENTS FOR ANY COMMERCIAL OR INDUSTRIAL PURPOSE, INCLUDING INDUSTRIAL PARKS, MANUFACTURING FACILITIES, OFFICES, RETAIL, RESTAURANTS, SERVICE BUSINESSES, HOTELS, ENTERTAINMENT, RECREATIONAL FACILITIES OR PARKING FACILITIES.

41-1546.01. Rural economic development improvement programs; designation; renewal process; development agreements

A. A COUNTY WITH A POPULATION OF LESS THAN EIGHT HUNDRED THOUSAND PERSONS MAY PROPOSE ESTABLISHING A RURAL ECONOMIC DEVELOPMENT IMPROVEMENT PROGRAM UNDER THIS ARTICLE IN THE UNINCORPORATED AREAS OF THE COUNTY.

B. A CITY OR TOWN LOCATED IN A COUNTY WITH A POPULATION OF LESS THAN EIGHT HUNDRED THOUSAND PERSONS MAY PROPOSE ADOPTING A PROGRAM IN THE CITY OR TOWN UNDER THIS ARTICLE.

C. BEFORE ADOPTING A PROGRAM, THE CITY, TOWN OR COUNTY SHALL APPLY TO THE AUTHORITY FOR DESIGNATION AS A RURAL ECONOMIC DEVELOPMENT IMPROVEMENT PROGRAM. THE APPLICATION SHALL BE IN A FORM PRESCRIBED BY THE AUTHORITY AND INCLUDE A PLAN FOR PROJECTS THAT MEET THE CAPITAL INVESTMENT REQUIREMENTS PRESCRIBED IN SECTION 41-1546.02 AND THAT CREATE THE MINIMUM NUMBER OF EMPLOYMENT POSITIONS, AS DETERMINED BY THE CITY, TOWN OR COUNTY. THE PROJECT'S EMPLOYMENT POSITIONS MUST BE PAID AN AVERAGE OF ONE HUNDRED PERCENT OF THE COUNTY MEDIAN WAGE.

D. PROGRAM DESIGNATION IS VALID FOR TEN YEARS AFTER THE DATE THE PROGRAM IS ADOPTED OR UNTIL THE INFRASTRUCTURE INVESTMENTS FOR THE PROJECT ARE RECOUPED. DURING THE LAST YEAR BEFORE THE PROGRAM DESIGNATION ENDS, THE CITY, TOWN OR COUNTY MAY APPLY TO RENEW THE PROGRAM DESIGNATION IF THE PROJECT CONTINUES TO MEET THE CRITERIA PRESCRIBED BY THIS ARTICLE. THE AUTHORITY SHALL ESTABLISH A PROGRAM DESIGNATION RENEWAL PROCESS.

E. AFTER RECEIVING A PROGRAM DESIGNATION AND ADOPTING A PROGRAM, THE CITY, TOWN OR COUNTY MAY ENTER INTO DEVELOPMENT AGREEMENTS WITH PROPERTY OWNERS TO CONSTRUCT PROJECTS TO BE CERTIFIED UNDER THIS ARTICLE. THE DEVELOPMENT AGREEMENT SHALL BE RECORDED IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY WHERE THE PROPERTY IS LOCATED.
41-1546.02. Project certification; required minimum capital investment; preapproval; annual recertification; development cost report

A. THE AUTHORITY SHALL ANNUALLY CERTIFY PROJECTS THAT QUALIFY FOR PROPERTY TAX INCENTIVES UNDER SECTION 41-1546.03. TO QUALIFY FOR CERTIFICATION, THE PROJECT MUST MEET THE MINIMUM CAPITAL INVESTMENT IN FIXED ASSETS PRESCRIBED BY SUBSECTION B OF THIS SECTION. SUBJECT TO SUBSECTION E OF THIS SECTION, CERTIFICATION IS EFFECTIVE ON JANUARY 1 OF THE VALUATION YEAR, AS DEFINED IN SECTION 42-11001, FOLLOWING COMPLETION OF THE REQUIRED MINIMUM CAPITAL INVESTMENT.

B. TO QUALIFY FOR CERTIFICATION, A PROJECT MUST INVEST AT LEAST THE FOLLOWING AMOUNT, AS APPLICABLE, IN FIXED ASSETS IN THE DESIGNATED PROGRAM AREA:

1. IN COUNTIES WITH A POPULATION OF TWO HUNDRED FIFTY THOUSAND PERSONS OR MORE BUT LESS THAN EIGHT HUNDRED THOUSAND PERSONS, $25,000,000, EXCEPT AS PROVIDED IN PARAGRAPH 2 OF THIS SUBSECTION.

2. IN COUNTIES WITH A POPULATION OF LESS THAN TWO HUNDRED FIFTY THOUSAND PERSONS, AND FOR CITIES AND TOWNS LOCATED IN A COUNTY WITH A POPULATION OF TWO HUNDRED FIFTY THOUSAND PERSONS OR MORE BUT LESS THAN EIGHT HUNDRED THOUSAND PERSONS:
   (a) FOR CITIES WITH A POPULATION OF EIGHTY THOUSAND PERSONS OR MORE, $10,000,000.
   (b) FOR CITIES WITH A POPULATION OF AT LEAST FIFTEEN THOUSAND PERSONS BUT LESS THAN EIGHTY THOUSAND PERSONS AND IN UNINCORPORATED AREAS OF THE COUNTY, $5,000,000.
   (c) FOR CITIES AND TOWNS WITH A POPULATION OF LESS THAN FIFTEEN THOUSAND PERSONS, $1,000,000.

C. A PROJECT INITIALLY APPLYING FOR CERTIFICATION UNDER THIS SECTION SHALL APPLY TO THE AUTHORITY, ON A FORM PRESCRIBED BY THE AUTHORITY, FOR PREAPPROVAL OF THE PROJECT. THE APPLICATION MUST INCLUDE:

1. THE PROJECT NAME AND ADDRESS AND ANY OTHER CONTACT INFORMATION REQUESTED BY THE AUTHORITY.

2. THE PROJECT LOCATION AND THE PROGRAM AREA WHERE THE PROJECT IS LOCATED.

3. THE NUMBER OF FULL-TIME EMPLOYEES AT THE TIME OF APPLICATION AND THE WAGES PROVIDED TO THOSE EMPLOYEES.

4. THE COUNTY ASSessor'S PARCEL NUMBER FOR THE REAL PROPERTY TO WHICH THE CLASS SIX ASSESSMENT CLASSIFICATION WILL APPLY.

5. IF AVAILABLE, THE COUNTY ASSessor'S ACCOUNT NUMBER FOR THE PERSONAL PROPERTY TO WHICH CLASS SIX ASSESSMENT CLASSIFICATION WILL APPLY.

6. FOR THE PROGRAM AREA, THE GROSS RECEIPTS, GROSS PAYROLL AND AVERAGE HOURLY WAGES PAID TO EMPLOYEES FOR THE PRECEDING TAXABLE YEAR.

7. A STATEMENT OF OWNERSHIP AND A DESCRIPTION OF OPERATIONS OF THE PROJECT.

9. DOCUMENTATION THAT ESTABLISHES THE TYPE OF PROJECT AND AMOUNT OF ACTIVITY CONDUCTED IN THE PROGRAM AREA.

10. OWNERSHIP INFORMATION AND THE FULL CASH VALUE OF THE REAL AND PERSONAL PROPERTY TO BE CERTIFIED.

11. OTHER INFORMATION NECESSARY TO MANAGE AND REPORT THE PROGRAM AS DETERMINED BY THE AUTHORITY.

D. TO QUALIFY FOR CLASSIFICATION AS CLASS SIX PROPERTY, ON OR BEFORE DECEMBER 10 EACH YEAR THE CERTIFIED PROJECT MUST SUBMIT TO THE COUNTY ASSESSOR OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED A COPY OF THE AUTHORITY’S INITIAL CERTIFICATION AND EACH ANNUAL RECERTIFICATION WITH A WRITTEN REQUEST TO RECLASSIFY THE PROPERTY.

E. THE PROJECT SHALL APPLY TO THE AUTHORITY FOR INITIAL CERTIFICATION AND ANNUAL RECERTIFICATION NOT LATER THAN OCTOBER 1 OF EACH YEAR. THE AUTHORITY SHALL NOTIFY THE APPROPRIATE COUNTY ASSESSOR NOT LATER THAN DECEMBER 1 OF EACH YEAR OF ALL PROPERTIES THAT QUALIFY UNDER THIS SECTION AND THAT ARE LOCATED WITHIN THAT COUNTY.

F. THE DEVELOPER OF A PROJECT THAT IS CERTIFIED UNDER THIS SECTION AND LOCATED WITHIN A PROGRAM AREA SHALL REPORT ALL DEVELOPMENT COSTS OF THE PROJECT TO THE COUNTY ASSESSOR AND FILE A REPORT ANNUALLY WITH THE COUNTY ASSESSOR DISCLOSING THE REALIZED AND UNREALIZED DEVELOPMENT COSTS OF THE PROJECT. DEVELOPMENT COSTS DO NOT INCLUDE FINANCING COSTS BEYOND MONIES BORROWED TO CONSTRUCT THE REAL OR PERSONAL PROPERTY AND IMPROVEMENTS.

41-1546.03. Tax incentives

A. A CERTIFIED PROJECT THAT MEETS THE ELIGIBILITY REQUIREMENTS PRESCRIBED BY THIS ARTICLE MAY RECEIVE THE QUALIFIED FACILITIES TAX CREDIT ALLOWED UNDER SECTION 43-1083.03 OR 43-1164.04 IN ADDITION TO THE PROPERTY TAX RELIEF UNDER THIS ARTICLE.

B. A PROJECT THAT IS CERTIFIED BY THE AUTHORITY PURSUANT TO SECTION 41-1546.02 SHALL BE ASSESSED AS CLASS SIX PROPERTY AS PROVIDED BY SECTION 42-12006 AND VALUED AT THE PROPERTY’S FULL CASH VALUE.

C. IF OWNERSHIP OF THE PROPERTY THAT IS CLASSIFIED AS CLASS SIX PROPERTY UNDER THIS SECTION CHANGES, THE PROPERTY NO LONGER QUALIFIES FOR THE PROPERTY TAX INCENTIVE.

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

42-12006. Class six property

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

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

2. Real and personal property that is located within the area of a foreign trade zone or subzone established under 19 United States Code
sections 81a THROUGH 81u and title 44, chapter 18, that is activated for foreign trade zone use by the district director of the United States customs service pursuant to 19 Code of Federal Regulations section 146.6 and that is valued at full cash value. Property that is classified under this paragraph shall not thereafter be classified under paragraph 6 of this section.

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

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

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

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

(d) Property that is classified under this paragraph shall not thereafter be classified under paragraph 6 of this section.

4. Real and personal property and improvements or a portion of such property comprising an environmental technology manufacturing, producing or processing facility that qualified under section 41-1514.02, valued at full cash value and subject to the following terms and conditions:

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

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

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

(d) Property that is classified under this paragraph shall not thereafter be classified under paragraph 6 of this section.

5. That portion of real and personal property that is used on or after January 1, 1999 specifically and solely for remediation of the environment by an action that has been determined to be reasonable and necessary to respond to the release or threatened release of a hazardous substance by the department of environmental quality pursuant to section 49-282.06 or pursuant to its corrective action authority under rules adopted pursuant to section 49-922, subsection B, paragraph 4 or by the United States environmental protection agency pursuant to the national
contingency plan (40 Code of Federal Regulations part 300) and that is
duly valued at full cash value. Property that is not being used specifically
and solely for the remediation objectives described in this paragraph
shall not be classified under this paragraph. For the purposes of this
paragraph, "remediation of the environment" means one or more of the
following actions:
(a) Monitoring, assessing or evaluating the release or threatened
release.
(b) Excavating, removing, transporting, treating and disposing of
contaminated soil.
(c) Pumping and treating contaminated water.
(d) Treatment, containment or removal of contaminants in
groundwater or soil.
6. Real and personal property and improvements constructed or
installed from and after December 31, 2004 through December 31, 2024 and
owned by a qualified business under section 41-1516 and used solely for
the purpose of harvesting, transporting or processing qualifying forest
products removed from qualifying projects as defined in section 41-1516.
The classification under this paragraph is subject to the following terms
and conditions:
(a) Property may be initially classified under this paragraph only
in valuation years 2005 through 2024.
(b) Property may not be classified under this paragraph for more
than five years.
(c) Any new addition or improvement, constructed or installed from
and after December 31, 2004 through December 31, 2024, to property already
classified under this paragraph qualifies separately for classification
and assessment under this paragraph for not more than five years.
(d) Property that is classified under this paragraph shall not
thereafter be classified under paragraph 2, 3 or 4 of this section.
7. Real and personal property and improvements to the property that
are used specifically and solely to manufacture from and after December
31, 2006 through December 31, 2023 biodiesel fuel that is one hundred \text{\textpercnt}\ biodiesel and its by-products or motor vehicle biofuel and
its by-products and that are valued at full cash value. This paragraph
applies only to the portion of property that is used specifically for
manufacturing and processing one hundred \text{\textpercnt}\ biodiesel fuel,
or its related by-products, or motor vehicle biofuel, or its related
by-products, from raw feedstock obtained from off-site sources, including
necessary on-site storage facilities that are intrinsically associated
with the manufacturing process. Any other commercial or industrial use
disqualifies the entire property from classification under this paragraph.
For the purposes of this paragraph, "motor vehicle biofuel" means a solid,
liquid or gaseous fuel that is derived from biological material such as
plant or animal matter, excluding organic material that has been
transformed by geological processes into substances such as coal or petroleum or derivatives thereof, and that:

(a) Contains fuel additives in compliance with federal and state law.

(b) Is manufactured exclusively for use in a motor vehicle.

8. Real and personal property and improvements that are certified pursuant to section 41-1511, subsection C, paragraph 2 and that are used for renewable energy manufacturing or headquarters operations as provided by section 42-12057. This paragraph applies only to property that is used in manufacturing and headquarters operations of renewable energy companies, including necessary on-site research and development, testing and storage facilities that are associated with the manufacturing process. Up to ten percent of the aggregate full cash value of the property may be derived from uses that are ancillary to and intrinsically associated with the manufacturing process or headquarters operation. Any additional ancillary property is not qualified for classification under this paragraph. No new properties may be classified pursuant to this paragraph from and after December 31, 2014. Classification under this paragraph is limited to the time periods determined by the Arizona commerce authority pursuant to section 41-1511, subsection C, paragraph 2, subdivision (a) or (b). Property that is classified under this paragraph shall not thereafter be classified under any other paragraph of this section.

9. REAL AND PERSONAL PROPERTY AND IMPROVEMENTS THAT ARE CERTIFIED BY THE ARIZONA COMMERCE AUTHORITY PURSUANT TO SECTION 41-1546.02 AND THAT ARE VALUED AT FULL CASH VALUE, SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

(a) PROPERTY MAY NOT BE CLASSIFIED UNDER THIS PARAGRAPH IF OWNERSHIP OF THE PROPERTY CHANGES OR FOR MORE THAN TEN YEARS AFTER THE DATE THE PROJECT IS CERTIFIED OR UNTIL THE DEVELOPMENT COSTS FOR THE PROJECT ARE RECOUPED. FOR THE PURPOSES OF THIS SUBDIVISION, DEVELOPMENT COSTS DO NOT INCLUDE FINANCING COSTS BEYOND MONIES BORROWED TO CONSTRUCT THE REAL OR PERSONAL PROPERTY AND IMPROVEMENTS.

(b) PROPERTY THAT IS CLASSIFIED UNDER THIS PARAGRAPH MAY NOT THEREAFTER BE CLASSIFIED UNDER PARAGRAPH 6 OF THIS SECTION.