Senate Engrossed House Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 30

HOUSE BILL 2448

AN ACT

AMENDING SECTIONS 6-502, 9-481, 32-721, 41-725, 41-1511, 41-1512, 43-1507 AND 43-1605, ARIZONA REVISED STATUTES; RELATING TO ACCOUNTANTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 6-502, Arizona Revised Statutes, is amended to read:

6-502. Reports and examinations

A. The superintendent shall examine or cause to be examined each credit union at periodic intervals as provided by section 6-122. The superintendent shall forward a report of the examination to the board of directors of the credit union examined within thirty days after completion of the report. Within thirty days after the receipt of the report the directors shall meet to consider matters contained in the report.

B. In lieu of the examination required by subsection A of this section, the superintendent may accept an examination or audit report of the condition of a credit union made by the national credit union administration or by a certified public accountant WHO IS licensed in this state OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725 or other qualified person or organization approved by the superintendent. The credit union shall bear the cost of any such examination or audit. A certified public accountant or other qualified person or organization making an audit to be submitted in lieu of an examination by the superintendent shall obtain prior approval from the superintendent before conducting such an audit. In approving such an audit the superintendent may prescribe minimum requirements for the audit, including the date by which the audit must be completed and a copy filed with the superintendent.

C. Within thirty days after the end of each calendar quarter a credit union shall report to the superintendent, on forms supplied by the superintendent for that purpose, its financial condition and the results of its operation for ~~such~~ THE quarter.

D. Unless excused for cause before or after the due date, a credit union ~~which~~ THAT fails to file a report when due shall pay the department, as assessed, up to one hundred dollars for each day of delinquency.

Sec. 2. Section 9-481, Arizona Revised Statutes, is amended to read:

9-481. Audits of cities and towns; posting; budget

A. The governing body of each incorporated city or town shall cause an audit to be made by a certified public accountant or public accountant who is currently licensed by the Arizona state board of accountancy OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725 and who is not an employee of the city or town. Audits shall be made for each fiscal year for all incorporated cities. Audits shall be made at least once for every two fiscal years for all incorporated towns, and the audit shall include financial transactions during both fiscal years.

B. The audit and the audit report shall include all of the accounts and funds of the city or town, including operating, special, utility, debt, trust and pension, and all other money or property for which the city or town, or any department or officer of the city or town, is responsible either

directly or indirectly. The audits shall be made in accordance with generally accepted auditing standards. The consequent audit report shall contain financial statements that are in conformity with generally accepted municipal accounting principles and shall set forth the financial position and results of the operations for each fund and account of the city or town. The audit report shall also include the following:

1. The professional opinion of the accountant or accountants with respect to the financial statements or, if an opinion cannot be expressed, a declaration of the reasons an opinion cannot be expressed.

2. A determination as to whether highway user revenue fund monies received by the city or town pursuant to title 28, chapter 18, article 2 and any other dedicated state transportation revenues received by the city or town are being used solely for the authorized transportation purposes.

C. The audit shall begin as soon as possible after the close of the fiscal year, although interim auditing may be performed during the year or years under audit. The audit shall be completed and the final audit report shall be submitted within six months after the close of the fiscal year or years audited.

D. At least ~~four~~ THREE copies of the audit report shall be signed by the auditor and filed with the city or town. The city or town shall immediately do the following:

1. Make one copy of the report a public record that is open to the public for inspection.

2. File one copy of the report with the auditor general pursuant to section 41-1279.07, subsection C.

3. Submit one copy of the report to the secretary of state.

E. The financial statements required to be filed with the auditor general pursuant to section 41-1279.07, including the audit report, must be posted in a prominent location on the official website of the city or town no later than seven business days after the date of filing the financial statements with the auditor general. The financial statements must be retained and accessible in a prominent location on the official website for at least sixty months. If the financial statements are not filed pursuant to section 41-1279.07, the form as prescribed by subsection F of this section shall be posted on the website of the city or town in place of the financial statements until the financial statements are filed.

F. If the financial statements for a city or town are not completed and filed as prescribed by section 41-1279.07 on or before the adoption of the city or town budget in the subsequent fiscal year, the governing body shall include a form, as prescribed by the auditor general, in the published budget in the subsequent fiscal year pursuant to sections 42-17103 and 42-17105 stating that the financial statements required to be filed with the auditor general pursuant to section 41-1279.07 are pending, the reasons for the delay and the estimated date of completion.

G. If the governing body of a city or town is required to complete the form as prescribed by subsection F of this section, the governing body shall send a copy of the form to the auditor general, the speaker of the house of representatives and the president of the senate.

Sec. 3. Section 32-721, Arizona Revised Statutes, is amended to read:

32-721. Certified public accountants; qualifications

A. The board shall issue a certificate of certified public accountant to any individual who complies with all of the following:

1. Meets the requirements of section 41-1080.

2. Is at least eighteen years of age.

3. Is of good moral character.

4. Has not engaged in any conduct that would constitute grounds for revocation or suspension of a certificate or other disciplinary action pursuant to section 32-741.

5. Meets the requirements of subsection B, C or D of this section.

B. If the applicant passes the uniform certified public accountant examination and has never been certified, registered or licensed as a certified public accountant in this state or another jurisdiction, the applicant must comply with both of the following:

1. Have had at least two thousand hours of paid or unpaid experience, either before or after passing all sections of the uniform certified public accountant examination, that has exposed the applicant to and provided the applicant with experience in the practice of accounting. The applicant's experience must be sufficient to demonstrate the applicant's ability for critical inquiry and analysis of financial accounting information, including balance sheets, income statements, cash flow statements ~~and~~ OR tax returns and the applicant's ability to communicate, either orally or in writing, on the results of an inquiry or analysis of that information to an employer, client or third party.

2. Present satisfactory evidence that the person has successfully obtained a baccalaureate degree or higher degree from an accredited institution or a college or university that maintains standards comparable to those of an accredited institution and that the applicant has completed at least one hundred fifty semester hours of education of which:

(a) At least thirty-six semester hours are nonduplicative accounting courses of which at least thirty semester hours are upper-level courses.

(b) At least thirty semester hours are related courses.

C. If the applicant passes the uniform certified public accountant examination or the international qualification examination and has a certificate, registration or license to practice as a certified public accountant in another jurisdiction and the applicant has never had a certificate issued by the board expire or be relinquished or revoked, at least one of the following shall apply:

1. The certificate, registration or license is issued by a jurisdiction whose requirements are determined by the board to be substantially equivalent to the requirements prescribed in subsection B of this section.

2. The applicant has a baccalaureate degree or its equivalent or a higher degree from an accredited institution or a college or university that maintains standards comparable to those of an accredited institution and either of the following applies:

(a) The applicant has been employed as a certified public accountant in the practice of accounting for at least three years and has completed at least one hundred fifty semester hours of education that includes both of the following:

(i) At least twenty-four semester hours of nonduplicative accounting courses, of which twelve semester hours are upper-level courses.

(ii) At least eighteen semester hours in related courses.

(b) The applicant has been employed as a certified public accountant in the practice of accounting for at least five of the ten preceding years and has completed both of the following:

(i) At least twenty-four semester hours of nonduplicative accounting courses, of which twelve semester hours are upper-level courses.

(ii) At least eighteen semester hours in related courses.

3. The applicant has been employed as a certified public accountant in the practice of accounting for at least ten of the fifteen preceding years.

D. If an applicant passes the international uniform certified public accountant qualification examination of the American institute of certified public accountants, all of the following apply:

1. The applicant's country has a mutual recognition agreement with the national association of state boards of accountancy that has been adopted by the board.

2. The board recognizes that the applicant's qualifications are substantially equivalent to the qualifications of certified public accountants in the United States in the areas of education, examination and experience.

Sec. 4. Section 41-725, Arizona Revised Statutes, is amended to read:

41-725. <u>Comprehensive database of receipts and expenditures of state monies; local reporting; definition</u>

A. The department shall establish and maintain an official internet website that is electronically searchable by the public at no cost and that contains a comprehensive database of receipts and expenditures of state monies. The database shall include the information as prescribed in the comprehensive annual financial report of a budget unit that has been made by a certified public accountant or public accountant who is currently licensed by the Arizona state board of accountancy OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725 and who is not an employee of the

department. The report shall be made in accordance with generally accepted auditing standards and shall contain financial statements that are in conformity with generally accepted accounting principles. If the department has a comprehensive annual financial report of a budget unit that has been presented with a certificate of achievement for excellence in financial reporting by the governmental finance officers association, the department may post such a financial report to satisfy the requirements of this subsection.

B. The department must present information in the database in a manner that is intuitive to members of the general public, including graphical representations. The database must allow users to:

1. Search and aggregate payments by individual budget units and programs.

2. Search and aggregate payments by individual vendors, including the total amount of state funding awarded by all budget units to individual vendors.

3. Download information yielded by a search of the database.

4. Access electronic versions of contracts that relate to expenditures.

C. The database shall include the following information:

1. Annual receipts of revenues, including:

(a) Receipts or deposits by each state budget unit into funds established in the state treasury.

(b) Taxes.

(c) Earnings by each budget unit, including amounts collected for merchandise sold, services performed and licenses, certifications and permits issued.

(d) Revenue from the use of publicly owned money or property, including leases and licenses.

(e) Gifts, donations and grants received, including amounts received from the federal government.

(f) Any other type of public revenue, however denominated or derived, deposited into the state treasury.

2. Annual expenditures and disbursements of state revenues by each state budget unit from funds established in the state treasury, as applicable, including:

(a) Bond payments, debt service and redemption charges and fees.

(b) Contractual services and cooperative agreements.

(c) Commodities.

(d) Capital outlay.

(e) Revenue sharing and other aid to other levels of government, including tribal governments.

(f) Any other expenditure or disbursement of state revenue from the state treasury, however denominated or structured.

D. Expenditure data shall list:

1. The manner of payment, including check or warrant or credit, debit or other purchase card.

2. The funding source, including categorical codes and the state accounts the expenditure is appropriated from.

3. A standardized descriptive title of the type and purpose of the transaction.

4. The date and amount of each payment.

5. The state agency or budget unit making the payment.

6. The name of the person or entity receiving the payment, including to the extent ~~practical~~ PRACTICABLE a parent entity of the recipient if the recipient is owned by another entity.

7. The primary location of performance under the contract, including the county, city or town and legislative district.

E. The database shall not include:

1. Tax payment or refund data that include confidential taxpayer information.

2. Data relating to payments of state assistance to individual recipients.

3. Payees' addresses or telephone numbers, but the department may allow public access in the database to information identifying the county in which the payee is located.

4. Work product in anticipation of litigation or information subject to attorney-client privilege.

5. Any other information that is designated by law as confidential or preapproved as confidential by the department pursuant to rule. The department and any officer or employee of the department:

(a) May rely on a determination made by a budget unit regarding confidentiality of information relating to the budget unit's expenditures.

(b) Are immune from civil liability for posting confidential information under this section if the posting is in reliance on the budget unit's determination relating to confidentiality.

F. Each budget unit shall cooperate with the department as necessary to implement and administer this section. Each budget unit shall provide to the department any additional data in a manner and schedule prescribed by the department that are required to be included in the database. The database shall be updated within thirty days after the end of each fiscal year and may be updated as new data become available. The data shall be retained in the database for at least ten full fiscal years.

G. The governor, secretary of state, state treasurer and legislature shall include a link to the database under this section in their individual official websites. Each budget unit that maintains a generally accessible internet website, or for which a generally accessible website is maintained, shall include a link on that website to the database under this section.

H. ~~On or before January 1, 2013,~~ Each local government shall establish and maintain an official internet website that is accessible to the public at no cost and that contains a comprehensive reporting of all revenues and expenditures over five thousand dollars of local monies in as nearly as practicable the same manner and consistent with ~~the provisions of~~ subsections B through E OF THIS SECTION. The database shall include the information as prescribed in the comprehensive annual financial report of a budget unit that has been made by a certified public accountant or public accountant who is currently licensed by the Arizona state board of accountancy OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725 and who is not an employee of the local government. The report shall be made in accordance with generally accepted auditing standards and shall contain financial statements that are in conformity with generally accepted accounting principles. If a local government has a comprehensive annual financial report of a budget unit that has been presented with a certificate of achievement for excellence in financial reporting by the governmental finance officers association, the local government may post such a financial report to satisfy the requirements of this subsection. A link to this data shall be displayed in a prominent place on the local government's official internet website or on a website of an association of cities and towns for cities and towns that do not have official websites and on the department's official internet website as prescribed in this section. The data shall be updated no less frequently than every three months and may be updated as new data becomes available. The data shall be retained and accessible online for at least three fiscal years.

I. For the purposes of this section "local government" means:

1. A county, city or town with a population of more than twenty-five hundred persons.

2. Any community college district and school district having a student count of more than six hundred pupils.

3. A state university.

Sec. 5. Section 41-1511, Arizona Revised Statutes, is amended to read:

41-1511. <u>Renewable energy tax incentives; qualification; definitions</u>

A. Tax incentives are allowed for expanding or locating qualified renewable energy operations in this state, including income tax credits pursuant to sections 43-1083.01 and 43-1164.01 and property tax classification pursuant to section 42-12006, paragraph 8.

B. To be eligible for the tax incentives, a renewable energy business must apply to the authority, on a form prescribed by the authority, for preapproval of the business as qualifying for the incentives. The application must include:

1. The applicant's name, address, telephone number and federal taxpayer identification number or numbers.

2. The name, address, telephone number and e-mail address of a contact person for the applicant.

3. The address of the site where the qualifying renewable energy operation will be located.

4. A detailed description of the qualifying renewable energy operation and fixed capital assets.

5. An estimate of the capital investment and number of employment positions at the qualifying renewable energy operation, including:

(a) A schedule of qualifying investments.

(b) A list of full-time employment positions, the estimated number of employees to be hired for the positions each year during the first five years of operation and the annual wages for each position, calculated without employee-related benefits.

6. A nonrefundable processing fee in an amount determined by the authority.

7. Other information as required by the authority to determine eligibility for the tax incentives, and the amount of income tax credits, as prescribed by this section.

8. An affirmation, signed by an authorized executive representing the business, that the applicant:

(a) Agrees to furnish records of expenditures for qualifying investments to the authority on request.

(b) Will continue in business at the qualifying renewable energy operation for five full calendar years after postapproval for a tax incentive, other than for reasons beyond the control of the applicant.

(c) Agrees to furnish to the authority information regarding the amount of tax benefits claimed each year.

(d) Authorizes the department of revenue to provide tax information to the authority pursuant to section 42-2003 for the purpose of determining any inconsistency in information furnished by the applicant.

(e) Agrees to allow site visits and audits to verify the applicant's continuing qualification and the accuracy of information submitted to the authority.

(f) Consents to the adjustment or recapture of any amount of income tax credit or property tax incentive due to noncompliance with this section.

9. Letters of good standing from the department of revenue and the county treasurer of the county in which the project is located stating that the applicant is in good standing and is not delinquent in the payment of taxes.

C. To be eligible for the tax incentives, the applicant must make new capital investment in this state after September 30, 2009 in a manufacturing facility or headquarters facility or any combination of qualifying facilities, as follows:

1. The applicant may qualify for income tax credits pursuant to section 43-1083.01 or 43-1164.01, as applicable, if:

(a) At least fifty-one ~~per cent~~ PERCENT of the net new full-time employment positions at the renewable energy operation pay a wage that equals or exceeds one hundred twenty-five ~~per cent~~ PERCENT of the median annual wage in this state, as determined by the most recent annual Arizona commerce authority occupational wage and employment estimates issued before the preapproval is issued pursuant to subsection I of this section.

(b) All net new full-time employment positions include health insurance coverage for the employees for which the applicant pays at least eighty ~~per cent~~ PERCENT of the premium or membership cost.

2. The fixed capital assets shall be classified as class six for the purposes of property taxation pursuant to section 42-12006, paragraph 8 if the qualifying investment amounts to at least twenty-five million dollars, if the applicant pays at least eighty ~~per cent~~ PERCENT of the health insurance costs or membership costs for all net new employees and if at least fifty-one ~~per cent~~ PERCENT of the net new full-time employment positions at the qualifying renewable energy operation pay a wage that equals:

(a) At least one hundred twenty-five, but less than two hundred, ~~per cent~~ PERCENT of the median annual wage in this state, as determined by the most recent annual Arizona commerce authority occupational wage and employment estimates issued before the preapproval is issued pursuant to subsection I of this section, the property may be classified as class six for ten tax years.

(b) At least two hundred ~~per cent~~ PERCENT of the median annual wage in this state, as determined by the most recent annual Arizona commerce authority occupational wage and employment estimates issued before the preapproval is issued pursuant to subsection I of this section, the property may be classified as class six for fifteen tax years.

D. Final eligibility for the tax incentives is subject to any additional requirements prescribed by sections 42-12006, 43-1083.01 and 43-1164.01, as applicable.

E. An applicant may separately apply and qualify with respect to investments for:

1. Renewable energy operations in separate locations.

2. Separate expansions of a renewable energy operation.

F. To determine the amount of income tax credit to be preapproved to a qualifying applicant, the authority shall use one of the following computations:

1. Ten ~~per cent~~ PERCENT of the amount the applicant has projected in total qualifying investment in renewable energy operations meeting the following minimum employment requirements:

(a) For renewable energy manufacturing operations, at least one and one-half new full-time employment positions projected by the applicant for each five hundred thousand dollar increment of capital investment.

(b) For renewable energy business headquarters, at least one new full-time employment position projected by the applicant for each two hundred thousand dollar increment of capital investment.

2. For other qualifying renewable energy investment, ten ~~per cent~~ PERCENT of the amount computed as follows:

(a) Five hundred thousand dollars for each one and one-half new full-time employment positions projected by the applicant in new renewable energy manufacturing operations.

(b) Two hundred thousand dollars for each new full-time employment position projected by the applicant at a new renewable energy business headquarters.

G. Beginning with income tax credits allocated for 2010, an approved income tax credit:

1. Must be claimed on a timely filed original income tax return, including extensions.

2. Must be claimed in five equal installments as provided in section 43-1083.01 or 43-1164.01.

H. The authority shall establish a process for qualifying and preapproving applicants for the tax incentives. The authority shall not preapprove an applicant as qualifying for tax incentives under this section for taxable years beginning from and after December 31, 2019. Preapproval is based on:

1. Priority placement established by the date that the applicant files its initial application with the authority.

2. The availability of income tax credit capacity under the dollar limit prescribed by subsection J of this section.

I. Within thirty days after receiving a complete and correct application, the authority shall review the application to determine whether the applicant satisfies all of the criteria prescribed by this section and either preapprove the project as qualifying for the purposes of the tax incentives or provide reasons for its denial. The authority shall send copies of the preapproval to the department of revenue and the applicable county assessor.

J. The authority shall not preapprove income tax credits under this section and section 41-1512 that combined would exceed seventy million dollars in any calendar year, except as provided by this subsection and subsection K of this section. The authority shall not preapprove income tax credits under this section for any one taxpayer in excess of thirty million dollars in any calendar year. A preapproved amount applies against the dollar limit for the year in which the application was submitted regardless of whether the initial preapproval period extends into the following year or

years. If, at the end of any year, an unused balance occurs under the dollar limit prescribed by this subsection:

1. The balance shall be allocated to businesses that successfully appeal the denial of approval under this section or section 41-1512. Any amount of income tax credits due to successful appeals that are not paid from an unused balance at the end of any year shall be paid against the dollar limit in the following year.

2. Any remaining unused balance accruing through December 31, 2011 shall be reallocated for the purposes of this section and section 41-1512 in the following year.

3. Any remaining unused balance accruing in 2012 and thereafter lapses and shall not be reallocated in the following year.

K. The authority shall reallocate the amount of income tax credits that are voluntarily relinquished under subsection L of this section, that lapse under subsection M of this section or that lapse under subsection P of this section. The reallocation shall be to other businesses that applied under this section or section 41-1512 in the original credit year based on priority placement. Once reallocated, the amount of the credit applies against the dollar limit of the original credit year regardless of the year in which the reallocation occurs.

L. A taxpayer may voluntarily relinquish unused credit amounts.

M. Preapproval under this section lapses, the application is void and the amount of the preapproved income tax credits does not apply against the dollar limit prescribed by subsection J of this section if, within twelve months after preapproval, the renewable energy business fails to provide to the authority documentation of its expenditure of two hundred fifty thousand dollars in qualifying investment or, if the period over which the qualifying investment will be made exceeds twelve months, documentation of additional expenditures as required in this subsection for each twelve month period.

N. Beginning in 2010, after October 31 of each year, if the authority has preapproved the maximum calendar year income tax credit amount pursuant to subsection J of this section, the authority may accept initial applications for the next calendar year, but the preapproval of any application pursuant to this subsection shall not be effective before the first business day of the following calendar year.

O. Before an applicant applies for postapproval under subsection P of this section, the applicant must enter into a written managed review agreement with the chief executive officer of the authority that establishes the requirements of a managed review to be conducted under this subsection at the applicant's expense. The managed review must be conducted by a certified public accountant who is selected by the applicant, who is licensed in this state OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725 and who is approved by the chief executive officer. The certified public accountant and the firm the certified public accountant is affiliated with

shall not regularly perform services for the applicant or its affiliates. The managed review shall include an analysis of the applicant's invoices, checks, accounting records and other documents and information to verify its base investment and other requirements prescribed by section 42-12006, 43-1083.01 or 43-1164.01 to confirm the amount of credit or property tax incentive. The certified public accountant shall furnish written findings of the managed review to the chief executive officer. The chief executive officer shall review the findings and may examine records and perform other reviews that the chief executive officer considers necessary to verify that the managed review substantially conforms to the terms of the managed review agreement. The chief executive officer shall accept or reject the findings of the managed review. If the chief executive officer rejects all or part of the managed review, the chief executive officer shall provide written reasons for the rejection.

P. When the renewable energy operation begins operations, a renewable energy business that was preapproved for income tax credits under this section shall apply to the authority in writing for postapproval of the credits and submit documentation certifying the total amount and dates of the qualifying investments and identifying the fixed capital assets associated with the renewable energy operation incurred from and after September 30, 2009 through the date of application for postapproval. From and after December 31, 2009, the authority shall provide postapproval to a renewable energy business that it has met the eligibility requirements of this section and shall notify the department of revenue that the renewable energy business may claim the tax credits pursuant to section 43-1083.01 or 43-1164.01. If the amount of qualifying investment actually spent is less than the amount preapproved for income tax credits, the preapproved amount not incurred lapses and does not apply against the dollar limit prescribed by subsection J of this section for that year. The authority shall not allow a credit under section 43-1083.01 or 43-1164.01 that exceeds the amount of the postapproval for the project under this subsection. For the purposes of this subsection, "begins operations" means:

1. A headquarters facility opens for public business.

2. A manufacturing facility begins producing commercial quantities of usable products.

Q. The authority may rescind the business' postapproval if the business no longer meets the terms and conditions required for qualifying for the tax incentives. The authority may give special consideration, or allow temporary exemption from recapture of tax benefits, in the case of extraordinary hardship due to factors beyond the control of the qualifying business.

R. If the authority rescinds an applicant's preapproval or postapproval under subsection Q of this section, it shall notify the department of revenue and the county assessor of the action and the

conditions of noncompliance. If the department of revenue obtains information indicating a possible failure to qualify and comply, it shall provide that information to the authority. The department of revenue may require the business to file appropriate amended tax returns reflecting any recapture of income tax credits under section 43-1083.01 or 43-1164.01.

S. Preapproval and postapproval of a business for the purposes of tax incentives under this section do not constitute or imply compliance with any other provision of law or any regulatory rule, order, procedure, permit or other measure required by law. To maintain qualification for tax incentives under this section, a business must separately comply with all environmental, employment and other regulatory measures.

T. For five years after postapproval for tax incentives under this section, in any action involving the liquidation of the business assets or relocation out of state, this state claims the position of a secured creditor of the business in the amount of income tax credits and property tax incentives the business received pursuant to section 42-12006, 43-1083.01 or 43-1164.01.

U. Any information gathered from a renewable energy business for the purposes of this section is considered to be confidential taxpayer information and shall be disclosed only as provided in section 42-2003, subsection B, paragraph 12, except that the authority shall publish the following information in its annual report:

1. The name of each renewable energy business and the amount of income tax credits preapproved for each qualifying investment.

2. The amount of credits postapproved with respect to each qualifying investment.

V. The authority shall:

1. Keep annual records of the information provided on applications for renewable energy businesses. These records shall reflect a percentage comparison of the annual amount of monies exempted or credited to qualifying renewable energy businesses to the estimated amount of monies spent in this state in the form of qualifying investments.

2. Maintain annual data on growth in this state of renewable energy businesses and industry employment and wages.

3. Not later than April 30 of each year, prepare and publish a report summarizing the information collected pursuant to this subsection. The authority shall make copies of the annual report available to the public on request.

W. The authority shall adopt rules and prescribe forms and procedures as necessary for the purposes of this section. The authority and the department of revenue shall collaborate in adopting rules as necessary to avoid duplication and inconsistencies while accomplishing the intent and purposes of this section.

X. For the purposes of this section:

1. "Capital investment" means an expenditure to acquire, lease or improve property that is used in operating a business, including land, buildings, machinery and fixtures.

2. "Headquarters" means a principal central administrative office where primary headquarters related functions and services are performed, including financial, personnel, administrative, legal, planning and similar business functions.

3. "Manufacturing" means fabricating, producing or manufacturing raw or prepared materials into usable products, imparting new forms, qualities, properties and combinations. Manufacturing does not include generating electricity for off-site consumption.

4. "Primarily engaged" means that more than fifty ~~per cent~~ PERCENT of a company's business activity at a particular facility directly involves renewable energy operations, measured by revenues received, expenses incurred, square footage or the number of individuals employed.

5. "Qualifying investment" means investment in land, buildings, machinery and fixtures for expansion of an existing renewable energy operation or establishment of a new renewable energy operation in this state after September 30, 2009. Qualifying investment does not include relocating an existing renewable energy operation in this state to another location in this state without additional capital investment of at least two hundred fifty thousand dollars.

6. "Qualifying renewable energy operation" means the facility where a qualifying investment was made.

7. "Renewable energy" means usable energy, including electricity, fuels, gas and heat, produced through the conversion of energy provided by sunlight, water, wind, geothermal, heat, biomass, biogas, landfill gas or other nonfossil renewable resource.

8. "Renewable energy business" means a person primarily engaged in the business of renewable energy manufacturing operations or renewable energy headquarters operations.

9. "Renewable energy operations" are limited to manufacturers of, and headquarters for, systems and components that are used or useful in manufacturing renewable energy equipment for the generation, storage, testing and research and development, transmission or distribution of electricity from renewable resources, including specialized crates necessary to package the renewable energy equipment manufactured at the qualifying renewable energy operation.

10. "Renewable energy resource" means a resource that is replaced by natural and assisted processes at a rate that is comparable to or faster than the rate of natural depletion and consumption by humans.

1 Sec. 6. Section 41-1512, Arizona Revised Statutes, is amended to read:
2 41-1512. Qualified facility income tax credits; qualification;
3 definitions
4 A. For taxable years beginning from and after December 31, 2012,
5 income tax credits are allowed for expanding or locating a qualified facility
6 in this state pursuant to sections 43-1083.03 and 43-1164.04. Only capital
7 investments in a qualified facility that are made on or after July 1, 2012
8 are included in the computation of the credit.
9 B. To be eligible for the income tax credits, a taxpayer must apply to
10 the authority, on a form prescribed by the authority, for preapproval of the
11 business as qualifying for the credits. The application must include:
12 1. The applicant's name, address, telephone number and federal
13 taxpayer identification number or numbers.
14 2. The name, address, telephone number and e-mail address of a contact
15 person for the applicant.
16 3. The address of the site where the qualified facility will be
17 located.
18 4. A detailed description of the qualified facility and fixed capital
19 assets.
20 5. An estimate of the capital investment and number of employment
21 positions at the qualified facility, including:
22 (a) A schedule of qualifying investments.
23 (b) A list of full-time employment positions, the estimated number of
24 employees to be hired for the positions each year during the first five years
25 of operation and the annual wages for each position, calculated without
26 employee-related benefits.
27 6. A nonrefundable processing fee in an amount determined by the
28 authority.
29 7. Other information as required by the authority to determine
30 eligibility for the income tax credits and the amount of income tax credits,
31 as prescribed by this section.
32 8. An affirmation, signed by an authorized executive representing the
33 business, that the applicant:
34 (a) Agrees to furnish records of expenditures for qualifying
35 investments to the authority on request.
36 (b) Will continue in business at the qualified facility for five full
37 calendar years after postapproval for the credit, other than for reasons
38 beyond the control of the applicant.
39 (c) Agrees to furnish to the authority information regarding the
40 amount of income tax credits claimed each year.
41 (d) Authorizes the department of revenue to provide tax information to
42 the authority pursuant to section 42-2003 for the purpose of determining any
43 inconsistency in information furnished by the applicant.

(e) Agrees to allow site visits and audits to verify the applicant's continuing qualification and the accuracy of information submitted to the authority.

(f) Consents to the adjustment or recapture of any amount of income tax credit due to noncompliance with this section.

9. Letters of good standing from the department of revenue stating that the applicant is not delinquent in the payment of taxes.

C. The applicant may qualify for the income tax credits pursuant to section 43-1083.03 or 43-1164.04, as applicable, if:

1. The applicant makes new capital investment in this state after June 30, 2012 in a qualified facility that is completed in a taxable year beginning from and after December 31, 2012.

2. At least fifty-one ~~per cent~~ PERCENT of the net new full-time employment positions at the qualified facility pay a wage that equals or exceeds one hundred twenty-five ~~per cent~~ PERCENT of the median annual wage in this state, as determined by the most recent annual Arizona commerce authority occupational wage and employment estimates issued before the preapproval is issued pursuant to subsection I of this section.

3. All net new full-time employment positions include health insurance coverage for the employees for which the applicant pays at least eighty ~~per cent~~ PERCENT of the premium or membership cost.

D. Final eligibility for an income tax credit is subject to any additional requirements prescribed by section 43-1083.03 or 43-1164.04, as applicable.

E. An applicant may separately apply and qualify with respect to investments for separate expansions of a qualified facility.

F. The amount of the income tax credit to be preapproved by the authority to a qualifying applicant is ten ~~per cent~~ PERCENT of the lesser of:

1. The amount the applicant has projected in total qualifying investment in the qualified facility.

2. Two hundred thousand dollars for each net new full-time employment position projected by the applicant at a qualified facility.

G. Beginning with income tax credits allocated for 2013, an approved credit:

1. Must be claimed on a timely filed original income tax return, including extensions.

2. Must be claimed in five equal installments as provided by section 43-1083.03 or 43-1164.04.

H. The authority shall establish a process for qualifying and preapproving applicants for the income tax credits. The authority shall not preapprove applicants as qualifying for credits under this section for any taxable year beginning from and after December 31, 2019. Preapproval is based on:

1. Priority placement established by the date that the applicant files its initial application with the authority.

2. The availability of income tax credit capacity under the dollar limit prescribed by section 41-1511, subsection J.

I. Within thirty days after receiving a complete and correct application, the authority shall review the application to determine whether the applicant satisfies all of the criteria prescribed by this section and either preapprove the project as qualifying for the purposes of an income tax credit or provide reasons for its denial. The authority shall send copies of each preapproval to the department of revenue.

J. The authority shall not preapprove income tax credits under this section and section 41-1511 that combined would exceed the limits prescribed by section 41-1511, subsection J. A preapproved amount applies against the dollar limit for the year in which the application was submitted regardless of whether the initial preapproval period extends into the following year or years. A business shall not be preapproved for credits under both this section and section 41-1511 for the same capital investment. The authority shall not preapprove income tax credits under this section for any taxpayer in excess of thirty million dollars in any calendar year.

K. The authority shall reallocate the amount of income tax credits that are voluntarily relinquished under subsection L of this section, that lapse under subsection M of this section or that lapse under subsection P of this section. The reallocation shall be to other businesses that applied under this section or section 41-1511 in the original credit year based on priority placement. Once reallocated, the amount of the credit applies against the dollar limit of the original credit year regardless of the year in which the reallocation occurs.

L. A taxpayer may voluntarily relinquish unused credit amounts in writing to the authority.

M. Preapproval under this section lapses, the application is void and the amount of the preapproved income tax credits does not apply against the dollar limit prescribed by section 41-1511, subsection J if, within twelve months after preapproval, the business fails to provide to the authority documentation of its expenditure of two hundred fifty thousand dollars in qualifying investment or, if the period over which the qualifying investment will be made exceeds twelve months, documentation of additional expenditures as required in this subsection for each twelve-month period.

N. After October 31 of each year, if the authority has preapproved the maximum calendar year income tax credit amount pursuant to section 41-1511, subsection J, the authority may accept initial applications for the next calendar year, but the preapproval of any application pursuant to this subsection shall not be effective before the first business day of the following calendar year.

1 O. Before an applicant applies for postapproval under subsection P of
2 this section, the applicant must enter into a written managed review
3 agreement with the chief executive officer of the authority that establishes
4 the requirements of a managed review to be conducted under this subsection at
5 the applicant's expense. The managed review must be conducted by a certified
6 public accountant who is selected by the applicant, who is licensed in this
7 state OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725
8 and who is approved by the chief executive officer. The certified public
9 accountant and the firm the certified public accountant is affiliated with
10 shall not regularly perform services for the applicant or its affiliates.
11 The managed review shall include an analysis of the applicant's invoices,
12 checks, accounting records and other documents and information to verify its
13 base investment and other requirements prescribed by section 43-1083.03 or
14 43-1164.04 to confirm the amount of credit. The certified public accountant
15 shall furnish written findings of the managed review to the chief executive
16 officer. The chief executive officer shall review the findings and may
17 examine records and perform other reviews that the chief executive officer
18 considers necessary to verify that the managed review substantially conforms
19 to the terms of the managed review agreement. The chief executive officer
20 shall accept or reject the findings of the managed review. If the chief
21 executive officer rejects all or part of the managed review, the chief
22 executive officer shall provide written reasons for the rejection.
23 P. When the qualified facility begins operations, a business that was
24 preapproved for income tax credits under this section shall apply to the
25 authority in writing for postapproval of the credits and submit documentation
26 certifying the total amount and dates of the qualifying investments and
27 identifying the fixed capital assets associated with the qualified facility
28 incurred after June 30, 2012 through the date of application for
29 postapproval. For taxable years beginning from and after December 31, 2012,
30 the authority shall provide postapproval to a business that has met the
31 eligibility requirements of this section and shall notify the department of
32 revenue that the business may claim an income tax credit pursuant to section
33 43-1083.03 or 43-1164.04. If the amount of qualifying investment actually
34 spent is less than the amount preapproved for income tax credits, the
35 preapproved amount not incurred lapses and does not apply against the dollar
36 limit prescribed by section 41-1511, subsection J for that year. The
37 department of revenue shall not allow an income tax credit under section
38 43-1083.03 or 43-1164.04 that exceeds the amount of the postapproval for the
39 project under this subsection. For the purposes of this subsection, "begins
40 operations" means the qualified facility opens for public business.
41 Q. The authority may rescind an applicant's postapproval if the
42 business no longer meets the terms and conditions required for qualifying for
43 the credit. The authority may give special consideration, or allow temporary

exemption from recapture of the credit, in the case of extraordinary hardship due to factors beyond the control of the qualifying business.

R. If the authority rescinds an applicant's preapproval or postapproval under subsection Q of this section, it shall notify the department of revenue of the action and the conditions of noncompliance. If the department of revenue obtains information indicating a possible failure to qualify and comply, it shall provide that information to the authority. The department of revenue may require the business to file appropriate amended tax returns reflecting any recapture of the credit under section 43-1083.03 or 43-1164.04.

S. Preapproval and postapproval of an applicant for the purposes of income tax credits under this section do not constitute or imply compliance with any other provision of law or any regulatory rule, order, procedure, permit or other measure required by law. To maintain qualification for a credit under this section, a business must separately comply with all environmental, employment and other regulatory measures.

T. For five years after postapproval of an income tax credit under this section, in any action involving the liquidation of the business assets or relocation out of state, this state claims the position of a secured creditor of the business in the amount of the credit the business received pursuant to section 43-1083.03 or 43-1164.04. The transfer of part or all of a company's assets that are then leased back by the company is not considered a liquidation under this section.

U. Any information gathered from a business for the purposes of this section is considered to be confidential taxpayer information and shall be disclosed only as provided in section 42-2003, subsection B, paragraph 12, except that the authority shall publish the following information in its annual report:

1. The name of each business and the amount of income tax credits preapproved for each qualifying investment.

2. The amount of income tax credits postapproved with respect to each qualifying investment.

V. The authority shall:

1. Keep annual records of the information provided on applications for qualified facilities. These records shall reflect a percentage comparison of the annual amount of monies credited to qualified facilities to the estimated amount of monies spent in this state in the form of qualifying investments.

2. Maintain annual data on growth in this state of qualified facilities and related employment and wages.

3. Not later than April 30 following each calendar year, prepare and publish a report summarizing the information collected pursuant to this subsection. The authority shall make copies of the annual report available to the public on request.

W. The authority shall adopt rules and prescribe forms and procedures as necessary for the purposes of this section. The authority and the department of revenue shall collaborate in adopting rules as necessary to avoid duplication and inconsistencies while accomplishing the intent and purposes of this section.

X. For the purposes of this section:

1. "Capital investment" means an expenditure to acquire, lease or improve property that is used in operating a business, including land, buildings, machinery, equipment and fixtures.

2. "Facility" means a single parcel or contiguous parcels of owned or leased land in this state, the structures and personal property contained on the land or any part of the structures occupied by the owner. Parcels that are separated only by a public thoroughfare or right-of-way are considered to be contiguous.

3. "Headquarters" means a principal central administrative office where primary headquarters related functions and services are performed, including financial, personnel, administrative, legal, planning and similar business functions.

4. "Manufacturing" means fabricating, producing or manufacturing raw or prepared materials into usable products, imparting new forms, qualities, properties and combinations. Manufacturing does not include generating electricity.

5. "Qualified facility" means a facility in this state that devotes at least eighty ~~per cent~~ PERCENT of the property and payroll at the facility to one or more of the following:

(a) Qualified manufacturing.

(b) Qualified headquarters.

(c) Qualified research.

6. "Qualified headquarters" means a global, national or regional headquarters for a taxpayer that is involved in manufacturing and that derives at least sixty-five ~~per cent~~ PERCENT of its revenue from out-of-state sales.

7. "Qualified manufacturing" means manufacturing tangible products in this state if at least sixty-five ~~per cent~~ PERCENT of the product will be sold out-of-state.

8. "Qualified research" has the same meaning prescribed by section 41(d) of the internal revenue code, as defined by section 43-105, except that the research must be conducted by a taxpayer involved in manufacturing that derives at least sixty-five ~~per cent~~ PERCENT of its revenue from out-of-state sales.

9. "Qualifying investment" means investment in land, buildings, machinery, equipment and fixtures for expansion of an existing qualified facility or establishment of a new qualified facility in this state after June 30, 2012 for a facility completed in a taxable year beginning from and

after December 31, 2012. Qualifying investment does not include relocating an existing qualified facility in this state to another location in this state without additional capital investment of at least two hundred fifty thousand dollars.

Sec. 7. Section 43-1507, Arizona Revised Statutes, is amended to read:

43-1507. Audits and financial reviews

A. On or before September 30 of each year, each school tuition organization that received one million dollars or more in total donations in the previous fiscal year shall provide for a financial audit of the organization. The audit must be conducted in accordance with generally accepted auditing standards and must evaluate the organization's compliance with section 43-1503, subsection B, paragraph 1. The audit must be conducted by an independent certified public accountant WHO IS licensed in this state OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted auditing standards.

B. On or before September 30 of each year, each school tuition organization that received less than one million dollars in total donations in the previous fiscal year shall provide for a financial review of the organization. The review must be conducted in accordance with standards for accounting and review services and must evaluate the organization's compliance with the fiscal requirements of this article. The review must be conducted by an independent certified public accountant WHO IS licensed in this state OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted auditing standards.

C. Within five days after receiving the audit or financial review, the school tuition organization shall file a signed copy of the audit or financial review with the department.

D. The school tuition organization shall pay the fees and costs of the certified public accountant under this section from the organization's operating monies. The fees and costs shall be excluded from the calculation of total revenues spent on scholarships and tuition grants.

Sec. 8. Section 43-1605, Arizona Revised Statutes, is amended to read:

43-1605. Audits and financial reviews

A. On or before September 30 of each year, each school tuition organization that received one million dollars or more in total donations in the previous fiscal year shall provide for a financial audit of the organization. The audit must be conducted in accordance with generally

accepted auditing standards and must evaluate the organization's compliance with section 43-1603, subsection B, paragraph 1. The audit must be conducted by an independent certified public accountant WHO IS licensed in this state OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted auditing standards.

B. On or before September 30 of each year, each school tuition organization that received less than one million dollars in total donations in the previous fiscal year shall provide for a financial review of the organization. The review must be conducted in accordance with standards for accounting and review services and must evaluate the organization's compliance with the fiscal requirements of this article. The review must be conducted by an independent certified public accountant WHO IS licensed in this state OR WHO HAS A LIMITED RECIPROCITY PRIVILEGE PURSUANT TO SECTION 32-725. The certified public accountant and the firm the certified public accountant is affiliated with shall be independent with respect to the organization, its officers and directors, services performed and all other independent relationships prescribed by generally accepted auditing standards.

C. Within five days after receiving the audit or financial review the school tuition organization shall file a signed copy of the audit or financial review with the department.

D. The school tuition organization shall pay the fees and costs of the certified public accountant under this section from the organization's operating monies. The fees and costs shall be excluded from the calculation of total revenues spent on scholarships and tuition grants.

APPROVED BY THE GOVERNOR MARCH 14, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 15, 2016.

Passed the House February 18, 20 16

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Speaker of the House

☐ Pro Tempore

Jim Drake

Chief Clerk of the House

Passed the Senate March 10, 20 16

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Susan Aceves

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____

Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

_____

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____

Secretary of State

H.B. 2448

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

March 14, 2016,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Jim Drake
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

14th day of March, 2016,

at 3:36 o'clock P. M.

Secretary to the Governor

Approved this 14th day of

March, 2016,

at 4:48 o'clock P M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 15 day of March, 2016,

at 9:32 o'clock A M.

Michele Reagan
Secretary of State

H.B. 2448