

HB 445 -- Redline

Introduced to Enrolled -- Relating to economic development; to amend Section 40-18-417.4, Code of Alabama 1975, as amended by Act 2023-34 of the 2023 Regular Session; to amend Section 5 of Act 2023-34 of the 2023 Regular Session, now appearing as Sections 40-18-472 and 40-18-473, Code of Alabama 1975, to correct a date referenced in the Growing Alabama Act; to clarify the tax rebates under the Sweet Home Alabama Tourism Investment Act for certain businesses for certified tourism destination projects are only available for projects placed into service after the effective date of this act; to amend Section 41-7-3, Code of Alabama 1975 to include the Chairs of the Senate Finance and Taxation Education Committee and Ways and Means Education Committee and the ranking minority member of each committee, or their designees, to the Tourism Advisory Board; and to amend Sections 41-10-47.03 and 41-10-47.04, Code of Alabama 1975, from Section 1 of Act 2023-35 of the 2023 Regular Session, to align rural population provisions of the Site Evaluation Economic Development Strategy with the Jobs Act.

Deletions ~~struck~~ · Insertions underlined

HB445 ~~INTRODUCED~~ENROLLED ~~THGP95-1~~THGP95-2 By Representatives Garrett, Baker RFD:

09-May-23 2023 Regular Session Page 0 ~~THGP95-1~~HB445 ~~05/03/2023~~Enrolled ~~JF~~Enrolled, ~~(F)~~JCCAn ~~2023-1869~~Act, 23 ~~SYNOPSIS:~~Relating to economic development;

~~Under to existing~~amend ~~law, Section in~~Section 40-18-417.4, ActCode 2023-34 of the Alabama 20231975, Regular asSession, amended the by ~~Sweet Home Alabama Tourism Investment Act was~~2023-34 established of to theprovide 2023 taxRegular rebatesSession; for certain eligible tourism destination projects.
~~This to bill~~amend wouldSection clarify5 that of taxAct rebates2023-34 would of be the available2023only Regular forSession, projects now placed appearing into as serviceSections after40-18-472 the andeffective40-18-473, dateCode of Alabama 1975, to correct a date referenced in the act.Growing AlabamaAct;

~~12 to A~~clarify ~~BILL the~~TOTax ~~BE~~rebates ~~ENTITLED under~~AN ACT ~~Relating to~~the ~~the~~Sweet Home Alabama TourismInvestment ~~Act;~~Act for certain businesses for certified tourism destination projects are only availablefor projects placed into service after the effective date of this act;

~~to amend Section~~5~~41-7-3, of Act 2023-34 of the 2023 Regular Session, now appearing as Sections~~40-18-472and 40-18-473, ~~Code of Alabama~~1975, 1975 to clarifyinclude the taxChairs rebates of for the certainSenatebusinessesFinance for and certifiedTaxation tourismEducation destinationCommittee projects and arewaysonly and availableMeans forEducation projectsCommittee placed and into the serviceranking afterminoritythe member effective of dateeach of committee to the act.Tourism Advisory Board;

and to amend Sections 41-10-47.03 and 41-10-47.04, Code of Alabama 1975, from Section 1 of Act 2023-35of the 2023 Regular Session, to align rural population provisions of the Site Evaluation EconomicDevelopment Strategy with the Jobs Act.

Section 40-18-417.4, Code of Alabama 1975, as amended by Act 2023-34 of the 2023 Regular Session, isamended to read as follows:

"Sec.40-18-417.4 (a) A taxpayer is allowed a Growing Alabama Credit to be applied against all of thefollowing:

Page 1 HB445 Enrolled (1) To offset the income taxes levied in this chapter, or as an estimated taxpayment of income taxes.

(2) To offset the state portion of the financial institution excise tax levied in Chapter 16.

(3) To offset the insurance premium tax levied by subsection (a) of Section 27-4A-3.

(4) To offset state license taxes levied by Article 2 of Chapter 21.

(b) In no event shall the Growing Alabama Credit cause a taxpayer's tax liability to be reduced by morethan 50 percent.

Unused credits may be carried forward for no more than five years.

(c) Growing Alabama Credits shall be granted to taxpayers using an online system administered by theDepartment of Revenue.

The online system shall allow taxpayers to agree to make a cash contribution to an economic developmentorganization which was approved by the Renewal of Alabama Commission, as provided in Section 40-18-417.3.

The online system shall ensure that credits are not granted for contributions to an economic developmentorganization in excess of the amounts approved by the Renewal of Alabama Commission, as provided inSection 40-18-417.3.

(d) The cumulative amount of funding approved pursuant to this section shall not exceed twenty milliondollars (\$20,000,000) in a calendar year for calendar years ending prior to January 1, 2024, whichamount would increase to twenty-three million dollars (\$23,000,000) for the calendar year ending December31, 2024, twenty-six million dollars ~~Page 2 HB445 Enrolled (\$26,000,000) for the calendar year ending~~December 31, 2025, twenty-nine million dollars (\$29,000,000) for the calendar year ending December 31,2026, thirty-two million dollars (\$32,000,000) for the calendar year ending December 31, 2027, and

thirty-five million dollars (\$35,000,000) for calendar year ending January 1December 31, 2028.

(e) The Renewal of Alabama Commission shall reserve at least 25 percent of the amounts specified in subsection (d) for projects located in targeted or jumpstart counties as defined in Section 40-18-376.1. In the event applications are not received and credits are not allocated for projects in these areas by the close of the second quarter of the program year, the funds may revert for allocations of other project applications.

(f) To the extent that a Growing Alabama Credit is used by a taxpayer, the taxpayer shall not be allowed any deduction that would have otherwise been allowed for the taxpayer's contribution.

Credits may only be claimed by the donating taxpayer and may not be assigned or transferred to any other taxpayer.

For purposes of this section, a donating taxpayer includes a taxpayer who is a shareholder of an Alabama S corporation or a partner or member of a subchapter K entity that made a contribution to an economic development organization which was approved by the Renewal of Alabama Commission.

(g) The Department of Finance shall adopt rules to ensure that the Growing Alabama Credit in no case would reduce the distribution for the Alabama Special Mental Health Trust Page 3 HB445 Enrolled Fund by using any unencumbered funds." Section 2.

~~Page "Sec.40-18-472-1 HB445 INTRODUCED Sec.40-18-472~~ (a) In order for an applicant to be an approved company, all of the following shall occur:

(1) For any applicant that proposes a certified tourism destination ~~project, project to be an approved company,~~ the board shall make ~~all~~allboth of the following findings:

95 a.

Each certificate shall include the amount of the approved project costs, the maximum rebate available, and the rebate term of 10 years with a five-year carry forward from the completion date or the date on or which five million dollars (\$5,000,000) of the approved project costs has been rebated to the applicant, whichever threshold ~~Page 4 HB445 Enrolled is met~~ ~~first, first."~~ "Sec.40-18-473 (a) A tax rebate from taxes generated within the tourism destination attraction by the certified tourism destination project over a 10-year period from the commencement of operation, which must occur after the effective date of the act adding this language, in the amount of up to five million dollars (\$5,000,000) may be claimed.

~~Sec.40-18-473 (a) A tax rebate from taxes generated within the tourism destination attraction by the certified tourism Page 2 HB445 INTRODUCED destination project over a 10-year period from the commencement of operation, which must occur after the effective date of the act adding this language, in the amount of up to five million dollars (\$5,000,000) may be claimed.~~

(c)(b)(1) The tax rebates authorized by this ~~act~~actarticle are limited to an aggregate amount for all certified tourism destination projects of ten million dollars (\$10,000,000) annually with 10 percent set aside annually for certified tourism destination projects located in targeted or ~~Alabama~~jumpstart counties.

(4) Rebates authorized under this article shall be for up to 10 years, commencing on the date the tourism attraction ~~Page 5 HB445 Enrolled~~ opens for business, which must occur after the effective date of the act adding this language, and begins to collect taxes generated by, or arising within, the tourism destination project.

~~Page 3 HB445 INTRODUCED-~~(5) Tax rebates may be a combination of state and local retail sales tax, state and local lodging taxes, and any other taxes generated by, or arising within, the tourism destination project after the effective date of the act adding this language.

Page 6 HB445 Enrolled (7) No tax rebate shall be granted to an approved company during a tax year that the approved company is simultaneously receiving any other state tax incentive associated with any individual tourism attraction project.

~~Page 4 HB445 INTRODUCED-~~(8) Any tax rebate shall be first applied to any outstanding tax obligation of the approved company that is due and payable to the state.

(11) The tax rebate allowed under this article shall be effective beginning August 1, 2023, for projects placed into service after the effective date of the act adding this ~~language,~~language and shall continue through July 31, 2028, unless continued by an act of the Legislature.

~~(d)(c)~~(c) Notwithstanding the ten million dollar (\$10,000,000) annual cap on tax rebates allowed, the board may approve an annual onetime designation of an additional two million five hundred thousand dollars (\$2,500,000) in tax rebates for one project per calendar year with a minimum capital investment amount of seventy-five million dollars ~~(\$75,000,000), (\$75,000,000).~~ " Section 3.

Section 2-41-7-3, Code of Alabama 1975, is Page 7 HB445 Enrolled amended to read as follows:

"Sec.41-7-3 (a) There is established the Advisory Board to the Alabama Tourism Department to advise and assist the director.

The board shall be composed of 2125 members who shall be appointed as follows:

(1) Two members who shall be appointed by the Governor from a list of three persons for each board

position which shall be submitted to the Governor by the Alabama Travel Council, or its successor organization.

(2) Two members who shall be appointed by the Governor from a list of three persons for each board position which shall be submitted to the Governor by the Alabama Hospitality Association, or its successor organization.

(3) Two members who shall be appointed by the Governor from a list of three persons for each board position which shall be submitted to the Governor by the Alabama Association of Convention and Visitor Bureaus, or its successor organization.

(4) Two members who shall be appointed by the Governor from a list of three persons for each board position which shall be submitted to the Governor from the Alabama Restaurant Association, or its successor organization.

(5) Two members who shall be appointed by the Governor from a list of three persons for each board position which shall be submitted to the Governor from the Alabama Cooperative Extension System who shall be representatives of the private sector rural tourism industry.

Page 8 HB445 Enrolled (6) Two members who shall be appointed by the Governor from a list of three persons for each board position which shall be submitted to the Governor from the Economic Development Association of Alabama, or its successor organization.

(7) Three members appointed by the Governor who are not current full-time public officials or public employees, but who are representatives of the private sector of the tourism industry in Alabama.

(8) The Director of the Alabama State Parks who shall serve as an ex officio member.

(9) The Director of the Alabama Historical Commission who shall serve as an ex officio member.

(10) The Director of the Alabama State Council on the Arts who shall serve as an ex officio member.

(11) The Director of the Alabama Cooperative Extension Service who shall serve as an ex officio member.

(12) The Director of the Alabama Department of Public Safety who shall serve as an ex officio member.

(13) The Director of the Alabama Department of Transportation who shall serve as an ex officio member.

(14) The Chair of the Senate Finance and Taxation Education Committee, the Chair of the House Ways and Means Education Committee, and the ranking minority member of each committee, or their designees.

(b) Ex officio members of the board shall be voting members, but shall serve as a member of the board only as long as the ex officio member holds his or her respective office.

Page 9 HB445 Enrolled Each member not serving in an ex officio capacity shall be appointed to a six-year term except for the initial appointments of one of the members for each of the positions designated in subsection (a), subdivisions (1) to (5), inclusive, which shall be appointed to initial three-year terms.

Members shall serve until their successors are appointed and qualified.

Vacancies which occur other than by expiration of the term shall be filled for the unexpired term only.

(c) The members of the board shall serve without compensation but shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties as members.

(d) The director shall be a nonvoting member of the board.

(e) Members of the board shall be residents of the State of Alabama, and to the extent possible, appointments to the board shall be made from all geographic regions of the State of Alabama in order to promote economic diversity from throughout the state.

Appointments to the board shall include Black and other minority representation, and to the extent possible, the appointments shall reflect the percentage of minority population of the state and the gender and urban and rural diversity of the state.

Those members of the board not serving in an ex officio capacity shall be actively employed in the tourism industry throughout the term of their appointment, and if the member ceases to be so employed, that person shall immediately cease to be a member of the board, Page 10 HB445 Enrolled and the appointing authority shall promptly appoint a new member in the manner consistent with the initial appointment procedure to fill the remainder of the term.

(f) All members shall be notified in writing of the time and place of any regular or special meeting.

Any member who misses four consecutive regularly scheduled meetings shall immediately cease to be a member of the board, and the appointing authority shall promptly appoint a new member in the manner consistent with the initial appointment procedure to fill the remainder of the term.

Such meeting requirements shall not apply to the director nor to ex officio members.

(g) The board shall meet at least quarterly, and shall perform the following duties:

(1) Serve as a body to advise the director and private persons on the development and implementation of state policies and programs relating to tourism and recreation and to assist in the coordination of these activities.

(2) Adopt bylaws, elect officers, including a chairperson, and establish procedures for its operation.

(3) Advise and review marketing and annual advertising plans developed by the department.

The comprehensive marketing plan shall be directed toward the accomplishment of at least the following purposes:

a.

Maximizing the return on public and private investment and tourism.

b.

Encouraging longer stays by visitors to Alabama.

c.

Assisting local entities in attracting conferences and conventions.

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Reducing season fluctuations in travel and tourist related industries.

e.

Encouraging visitors to be destination oriented in this state.

f.

Encouraging visitors from foreign countries to visit Alabama.

g.

Encouraging Alabamians to vacation in Alabama.

(h) Seek and review the views of all levels of government and the private sector with respect to state programs and policies for the promotion and assistance of tourism.

(i) Cooperate and provide expertise for communities and tourism marketing associations in the development and promotion of their tourism attractions and businesses.

(j) Establish working committees to advise the department with specific areas of operation including marketing, advertising, regional issues, administration of grant and co-op programs, and product and service development." Section 4.

Sections 41-10-47.03 and 41-10-47.04, Code of Alabama 1975, are amended to read as follows:

"Sec.41-10-47.03 (a) Any local economic development organization may apply to the authority for a site assessment grant.

(b) Before making a site assessment grant, the authority shall make all of the following findings:

(1) The site is owned by a local economic development organization, or a local economic development organization has Page 12 HB445 Enrolled an option to purchase the site.

(2) The site is at least 50 acres.

(3) The application includes proof that the grant funds that are approved by the authority will be matched by funds on hand with, or contingently committed to, the applicant such that one of the following is true:

a.

If the site is located in a targeted county with a population of less than 12,000, for every dollar of grant funds, the applicant will contribute twenty-five cents (\$0.25) of additional funds.

b.

If the site is located in a targeted county with a population of 12,000 or greater but less than 50,00060,000, for every dollar of grant funds, the applicant will contribute fifty cents (\$0.50) of additional funds.

c.

If the site is located in a county with a population of 50,00060,000 or greater but less than 150,000, for every dollar of grant funds, the applicant will contribute seventy-five cents (\$0.75) of additional funds.

d.

If the site is located in a county with a population of 150,000 or greater, for every dollar of grant funds, the applicant will contribute one dollar (\$1) of additional funds.

(c) The authority may impose additional requirements with regard to the sites, including, but not limited to, environmental and geotechnical matters, as well as utility related and transportation related issues.

(d) Each applicant must enter into a project agreement with the authority to establish the terms and conditions of Page 13 HB445 Enrolled the site assessment grant." "Sec.41-10-47.04 (a) Any local economic development organization may apply to the authority for a site development grant.

(b) Before making a site development grant, the authority shall make both of the following findings:

(1) The site is comprised of at least 75 contiguous acres, provided that in addition to the 75 contiguous acres, other proximate but noncontiguous property may be a part of the site.

(2) The application includes proof that the grant funds that are approved by the authority will be matched by funds on hand with, or contingently committed to, the applicant such that one of the following is true:

a.

If the site is located in a targeted county with a population of less than 12,000, for every dollar of grant funds, the applicant will contribute twenty-five cents (\$0.25) of additional funds.

b.

If the site is located in a targeted county with a population of 12,000 or greater but less than 50,000, for every dollar of grant funds, the applicant will contribute fifty cents (\$0.50) of additional funds.

c.

If the site is located in a county with a population of 50,000 or greater but less than 150,000, for every dollar of grant funds, the applicant will contribute seventy-five cents (\$0.75) of additional funds.

d.

If the site is located in a county with a population of 150,000 or greater, for every dollar of grant funds, the applicant will contribute one dollar (\$1) of additional funds.

(c) The authority may impose additional requirements with regard to the sites, including, but not limited to, environmental and geotechnical matters, as well as utility related and transportation related issues.

(d) Each applicant must enter into a project agreement with the authority to establish the terms and conditions of the site development grant." Section 5.

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Speaker of the House of

Representatives

President and Presiding Officer of the

Senate House of Representatives I hereby certify that the within Act originated in and was passed by the House 25-May-23.

John Treadwell Clerk Senate 01-Jun-23 Passed House 01-Jun-23 Concurred in Senate Amendment Page 16