

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

As Engrossed: H3/12/07 S3/27/07

# A Bill

HOUSE BILL 2536

5 By: Representative Burris  
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## For An Act To Be Entitled

9 AN ACT TO AMEND THE EXISTING WORKFORCE TRAINING  
10 ACT TO UPDATE DEFINITIONS; TO FURTHER DEFINE THE  
11 ROLE OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT;  
12 TO INCREASE THE HOURLY RATE FOR TRAINING; AND FOR  
13 OTHER PURPOSES.  
14

## Subtitle

15 AN ACT TO AMEND THE EXISTING WORKFORCE  
16 TRAINING ACT.  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
21

22 SECTION 1. Arkansas Code § 6-50-702 is amended to read as follows:  
23 6-50-702. Definitions.

24 As used in this subchapter, unless the context otherwise requires:

25 (1) "Basic skills training" means those math, reading, English,  
26 listening, oral and written communication, and computer literacy skills that  
27 a person can reasonably be expected to have attained by the end of the  
28 twelfth grade except in the instance of potential new workforce training;

29 (2) "Classroom training" means instructor-led training that is  
30 provided outside the process of the production of goods or the delivery of a  
31 service;

32 ~~(3) "Company" means an entity currently operating in the state~~  
33 ~~that has filed a corporate income tax return for the year prior to the year~~  
34 ~~in which the application was submitted and that is classified in one (1) of~~  
35 ~~the following ways:~~

36 ~~(A) Manufacturers classified in North American Industry~~



1 ~~Classification System codes 31-33, as in effect January 1, 2003, including~~  
2 ~~semiconductor and microelectronic manufacturers;~~

3 ~~(B)(i) Computer firms primarily engaged in providing~~  
4 ~~computer programming services; the design and development of or in designing~~  
5 ~~and developing prepackaged software; businesses engaged in digital content~~  
6 ~~production; computer processing and data preparation services; information~~  
7 ~~retrieval services; computer and data processing consultants and developers.~~

8 ~~(ii) All firms in this group must derive at least~~  
9 ~~seventy five percent (75%) of their revenue from out of state sales and not~~  
10 ~~be engaged in retail sales to the general public; or~~

11 ~~(C) Firms primarily engaged in commercial physical and~~  
12 ~~biological research, North American Industry Classification System code~~  
13 ~~541710, as in effect January 1, 2003;~~

14 ~~(4)(3)(A) "Consortium" means a group of companies that includes~~  
15 ~~at least three (3) eligible companies as defined in subdivision (3)(4) of~~  
16 ~~this section and which for fiscal purposes is either a private, not-for-~~  
17 ~~profit corporation or an organized group that has a coordinating board or~~  
18 ~~committee and a mission statement, that has or is in the process of~~  
19 ~~developing bylaws, and that is establishing a bank account requiring at least~~  
20 ~~two (2) consortium members' signatures.~~

21 (B) Consortia may have members that are not eligible  
22 companies so long as at least three (3) of the consortium member companies  
23 are eligible companies.

24 (C) Fifty percent (50%) of the eligible participants  
25 completing each course must be employees of eligible companies;

26 (4)(A) "Eligible company" means an entity currently operating in  
27 the state that has filed a corporate income tax return for the year prior to  
28 the year in which the application was submitted and is classified in one (1)  
29 of the following ways:

30 (i) Manufacturers classified in sectors 31-33 under  
31 the North American Industrial Classification System as it existed on  
32 January 1, 2007.

33 (ii) Manufacturers classified in sectors 20-39  
34 according to the Standard Industrial Classification standards as they existed  
35 on January 1, 2007 but which are classified in another sector under the North  
36 American Industrial Classification System as it existed on January 1, 2007;

1 (iii)(a) Businesses primarily engaged in the design  
2 and development of prepackaged software, digital content production and  
3 preservation, computer processing and data preparation services, or  
4 information retrieval services.

5 (b) All businesses under subdivision  
6 (4)(A)(ii)(a) shall derive at least seventy-five percent (75%) of their sales  
7 revenue from out of state;

8 (iv)(a) Businesses primarily engaged in motion  
9 picture productions.

10 (b) All businesses under subdivision  
11 (4)(A)(iii)(a) shall derive at least seventy-five percent (75%) of their  
12 sales revenue from out of state;

13 (v) An intermodal facility or distribution center,  
14 if seventy-five percent (75%) of its sales revenue is from out of state;

15 (vi) An office sector business if seventy-five  
16 percent (75%) of its sales revenue is from out of state;

17 (vii) Firms primarily engaged in commercial,  
18 physical and biological research as classified under the North American  
19 Industry Classification System code 541710 as it existed on January 1, 2003;

20 (viii) A national or regional corporate headquarters  
21 as classified under North American Industry Classification System code 551114  
22 as it existed on January 1, 2003, if the national or regional headquarters  
23 serves more than one (1) state;

24 (ix)(a) A scientific and technical services  
25 business.

26 (b)(1) All businesses under subdivision  
27 (4)(A)(ix)(a) shall derive at least seventy-five percent (75%) of their sales  
28 revenue from out of state.

29 (2)(A) The average hourly wages  
30 paid by businesses in this group shall not exceed one hundred fifty percent  
31 (150%) of the county average hourly wage or the state average hourly wage,  
32 whichever is less.

33 (B) The average hourly wage  
34 threshold determined at the signing of the financial incentive agreement  
35 shall be the threshold for the term of the agreement;

36 (x)(a) All building trade industries classified

1 under North American Industry Classification System codes 236 and 238 as they  
2 existed on January 1, 2003.

3 (b) A business classified under North American  
4 Industry Classification System code 23899 shall not qualify as a building  
5 trade industry; and

6 (xi) Air transport businesses primarily engaged in  
7 aircraft maintenance, repair services, and aircraft testing as classified  
8 under North American Industry Classification System code 488190 as it existed  
9 on January 1, 2007.

10 (B) The Director of the Department of Economic Development  
11 may classify a nonretail business as an eligible company if:

12 (i) The business receives at least seventy-five  
13 percent (75%) of its sales revenue from out of state; and

14 (ii) The business proposes to pay wages in excess of  
15 one hundred ten percent (110%) of the county average hourly wage or state  
16 average hourly wage, whichever is less;

17 (5) "Eligible recipient" means a full-time permanent employee of  
18 an Arkansas company or consortium who is subject to the Arkansas personal  
19 income tax;

20 ~~(6) "Full time instructor or trainer" means a person who works a~~  
21 ~~minimum of thirty (30) hours per week on at least a nine month contract and~~  
22 ~~has the normal fringe benefit package available to any employee the~~  
23 ~~institution considers to be a full time employee;~~

24 ~~(7)~~(6) "Governing council" means the directors or their  
25 designees of the Department of Economic Development, the Department of Higher  
26 Education, and the Department of Workforce Education;

27 ~~(8)~~(7) "Internal training" means classroom training provided to  
28 company employees by company trainers who may be either full-time employees  
29 of the company or consultants paid by the company; ~~and~~

30 (8) "Potential new workforce" means two (2) or more eligible  
31 companies with common job skill requirements requiring a minimum of fifteen  
32 (15) new employees and conducting a minimum of fifteen (15) hours of  
33 preemployment training, thereby allowing prospective employees and employers  
34 an opportunity to evaluate one another before making employment commitments;  
35 and

36 (9)(A) "State-supported educational institution" means a

1 secondary or postsecondary Arkansas educational institution that receives the  
2 majority of its funding from state or local tax revenues.

3 (B) However, for purposes of this subchapter, Texarkana  
4 College may be considered a state-supported educational institution for the  
5 purpose of delivering training services to eligible companies located in  
6 Miller County, if Texarkana College continues to waive out-of-state tuition  
7 for residents of Arkansas.

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9 SECTION 2. Arkansas Code § 6-50-703(b), concerning the Arkansas  
10 Existing Workforce Training Program, is amended to read as follows:

11 (b) The primary purpose of the program shall be to provide financial  
12 assistance to Arkansas business and industry for upgrading the knowledge and  
13 skills of the existing work force or a potential new workforce and to  
14 increase the capacity of state-supported educational institutions to supply  
15 the ongoing training needs of Arkansas companies.

16  
17 SECTION 3. Arkansas Code § 6-50-704 is amended to read as follows:

18 6-50-704. Rules and regulations for program.

19 (a) The Department of Economic Development shall promulgate rules ~~and~~  
20 ~~regulations in accord with~~ under the Arkansas Administrative Procedure Act,  
21 § 25-15-201 et seq., for implementation of this subchapter by the department.

22 (b) Rules ~~and regulations~~ shall include, but not be limited to, the  
23 following:

24 (1) Training shall be conducted for the purpose of meeting  
25 specific business goals and performance objectives;

26 (2) As part of the application process, a company or consortium  
27 shall be responsible for determining that participants involved in the  
28 training program possess the appropriate prerequisite literacy skills;

29 (3)(A) The amount of financial support a company or consortium  
30 receives shall be determined and approved by the department, ~~approved by the~~  
31 ~~governing council~~, and set forth in writing prior to any funds' being  
32 committed and distributed or prior to any tax credits' being approved.

33 (B) For companies or consortia that use state-supported  
34 educational institutions to deliver classroom training to their employees,  
35 the amount of support shall be the lesser of:

36 (i) One-half (1/2) of the amount paid by the company

1 to the state-supported educational institution for the training;

2 (ii)(a) The instructional hour rate established by  
3 the governing council, not to exceed ~~sixty dollars (\$60.00)~~ eighty dollars  
4 (\$80.00) per instructional hour, times the number of instructional hours  
5 delivered ~~by a full-time instructor or trainer~~ with fifty percent (50%) or  
6 more of the eligible participants completing the course.

7 (b) For companies that use company employees  
8 or company-paid consultants to deliver classroom training to their employees,  
9 the amount of the tax credit shall not be more than ~~fifteen dollars (\$15.00)~~  
10 twenty-five dollars (\$25.00) per instructional hour.

11 (c) The minimum class size needed to receive  
12 full benefits is five (5) trainees. For classes smaller than five (5), the  
13 amount of support will be reduced proportionally;

14 ~~(iii) The instructional hour rate established by the~~  
15 ~~governing council, not to exceed fifty dollars (\$50.00) per instructional~~  
16 ~~hour, times the number of instructional hours by adjunct or part-time~~  
17 ~~instructors or trainers with fifty percent (50%) or more of the eligible~~  
18 ~~participants completing each course;~~

19 ~~(iv)(iii)~~ The instructional hour rate established by  
20 the governing council, not to exceed thirty-five dollars (\$35.00) per  
21 instructional hour, times the number of instructional hours for safety-  
22 related training; or

23 ~~(v)(iv)~~ The instructional hour rate established by  
24 the governing council, not to exceed thirty-five dollars (\$35.00) per  
25 instructional hour, times the number of instructional hours for all courses  
26 with less than fifty percent (50%) of the eligible participants completing  
27 each course;

28 (4) Training delivered by means other than traditional classroom  
29 training may be considered by the governing council. For approved training  
30 delivered by means other than traditional classroom training, a flat rate of  
31 reimbursement will be established by the governing council;

32 (5) Applications for tax credits afforded by this subchapter  
33 shall be available on and after January 1, 2000;

34 (6) The maximum amount of total tax credits allowed by the  
35 department pursuant to this subchapter shall not exceed four hundred fifty  
36 thousand dollars (\$450,000) per year;

1 (7) Neither grant funds nor tax credits shall be used to support  
2 any training, including remedial basic skills training, that is authorized  
3 under any other state or federal program; and

4 (8) Neither grant funds nor tax credits shall be used to support  
5 any training that is mandated by any state or federal law or regulation  
6 ~~without a unanimous vote of the governing council.~~

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8 SECTION 4. The provisions of this act shall not be effective until the  
9 Chief Fiscal Officer of the State certifies that additional funding has been  
10 provided to state general revenues from other funding sources and is  
11 available for use during fiscal year 2008 and fiscal year 2009 in an amount  
12 sufficient to replace the general revenue reduction for each of the fiscal  
13 years 2008 and 2009 that would result from the adoption of this act.

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15 /s/ Burris  
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