

Healthy Forest Enterprise Assistance Program Statement

Arizona Chapter 326 of 2004 establishes a Healthy Forest Enterprise Assistance Program, provides sales, use and income tax incentives for qualified businesses until 2014 and allows the state to contract for electrical energy produced from biomass resources. Biomass is any organic matter, which is available on a renewable or recurring basis, including trees, plants, associated residues and plant fiber. Biomass energy can be converted to fuel, serve as a feedstock for electricity and a building block for chemicals.

The bill authorizes cities, towns and counties to adopt and periodically revise an urban-wildland interface code, makes the state forester a position separate from the state land commissioner, establishes the state urban-wildland fire safety committee and requires that the state forester identify pilot programs to promote forest health.

Specifically, this Act:

- Requires the state department of commerce (Commerce) to identify and certify to the state department of revenue (DOR), the relevant information for qualified businesses for the purposes of available tax incentives for economic enterprises that promote forest health in the state;

- Outlines requirements for a business to qualify to receive tax incentives as follows:

- A. The business must be primarily engaged in harvesting, transporting or the initial processing of forest products or biomass into a product having commercial value under the following conditions:

- B. At least one half of the forest product must be from biomass sources and half of the biomass must be from sources in the state.

- C. Qualifying equipment must be for the purposes of harvesting, transporting or the initial processing of biomass.

- D. The business operation must enhance or sustain forest health, sustain or recover watershed or improve public safety.

- E. The business must agree with Commerce to furnish information relating to the amount of tax benefits that the business receives each year.

- F. The business must enter into a Memorandum of Understanding with Commerce containing:

- I. Employment goals; and

- II. A commitment to continue in business in the state including authorization for Commerce to terminate and recapture tax benefits based on noncompliance.

- Outlines terms for a business to qualify for certification for tax incentives and provides grounds for revocation of a certificate;

- Provides transaction privilege (sales) and use tax exemptions and income tax credits for businesses that are engaged in an industry that uses, consumes, or adds value to forest products or biomass;

- Provides an exemption from the retail classification from July 1, 2004 until June 30, 2014 for any machinery or equipment that is installed or used by a qualified business for harvesting, transporting or the initial processing of forest products or biomass. The business must be qualified by Commerce at the time of purchase;

- Provides a similar exemption from use tax for machinery or equipment purchased out of state;

- Provides an exemption for machinery or equipment that is rented for at least five years instead of being purchased;
- Provides an exemption from the prime contracting classification for the construction of any building, structure, project, development or improvement that harvests, transports or provides initial processing of forest products or biomass. Construction must begin before January 1, 2010 and the contractor must be established as a qualifying business by Commerce;
- Creates a new individual and corporate income tax credit for employers, based on net increases in qualified employment positions in qualified business certified by Commerce. The amount of the credit is the lesser of:
 - A. In the first (or partial) year: one-fourth of the taxable wage or \$500.
 - B. In the second year: one-third of the taxable wage or \$1,000.
 - C. In the third year: one-half of the taxable wage or \$1,500. To qualify for the income tax credits:
 - A. The business must employ at least 10 employees.
 - B. The employee must be a resident of the state on the date of hire who has not been previously employed by the taxpayer in the past year and must be in a permanent, full-time position (at least 1,750 hours/year).
 - C. The job duties must primarily involve or directly support the harvesting, transporting or the initial processing of forest products or biomass into a product having commercial value.
 - D. The employer must offer compensation equal to or exceeding the average wage as computed by the department of economic security per county. The employer must also include health insurance and pay for at least half the cost.
 - E. An employee must have been employed at least 90 days in the first year the tax credit is taken. If the position is filled in the last 90 days of the year, it qualifies in the next tax year.
 - F. The number of qualified employment positions that are eligible for the income tax credits cannot exceed 200. The calculation for eligible employees is the lesser of:
 - G. The total number of filled qualified employment positions created or the difference between the average number of full time employees during the current tax year and the average number of full time employees during the immediately preceding tax year.
 - H. A tax credit claimed for an employment position for a qualified business cannot also be claimed under enterprise zone, defense contractor or military reuse zone credits.
- Requires that an eligible business cannot take credits for the second and third year unless they have taken credit for an employee in the first year of employment. Credits may be carried forward for five years. Co-owners of a business or partners may only claim their pro-rata share of the credit;
- Outlines requirements for continuing the credits when an ownership change takes place through purchase, reorganization, stock purchase or merger;
- Authorizes Commerce to recapture credits allowed the business, if within five taxable years after first receiving a credit the certification of qualification of a business is terminated or revoked other than for reasons beyond the control of the business;
 - Adds income tax credits to the income tax credit review schedule;
 - Applies tax incentives from January 1, 2005 through December 31, 2014;
 - Requires the Governor to appoint and the Senate to confirm a state forester;
 - Expands the duties of the state forester to:

- A. Perform all management and administrative functions prescribed by the federal government related to forestry and financial assistance and grants relating to forestry.
- B. Identify sources of information relating to forest management.
- C. Take necessary action to maximize state fire assistance grants.
- D. Conduct education and outreach in forest communities to explain the threat of wildfire to private property.
- E. Monitor forestry projects and wildfire activities.
- F. Intervene on behalf of the state and its citizens in administrative and judicial appeals and litigation that challenge governmental efforts supported by the State Forester if the State Forester determines that intervention is in the best interest of the State.
 - Establishes the state urban-wildland fire safety committee (Committee);
 - Allows the urban-wildland fire safety committee to recommend an urban-wildland interface code;
 - Authorizes cities, towns and counties to adopt and periodically revise an urban-wildland interface code consistent with the recommendations of the state urban-wildland fire safety committee;
 - Requires a city, town or county to provide notification and allow for public participation and comment when the code is adopted or modified;
 - Requires the Committee to develop recommendations for minimum standards for safeguarding life and property from wildfire and issue an annual report with recommendations to the Governor and Legislature by December 31 of each year;
 - Requires the state department of administration to develop a program to enter into contracts to purchase electrical energy produced from biomass resources under the following conditions:
 - A. The term of the initial contracts may not exceed ten years.
 - B. The contracts must contain contingency provisions if biomass does not produce enough energy.
 - Stipulates that the department of administration must make a presentation on the status of the program relating to state contracts for biomass energy to the legislature dealing with natural resources in the 2005 and 2006 legislative sessions; and
 - Requires the state forester to:
 - A. Identify potential pilot programs to promote forest health.
 - B. Identify specific public private partnerships that may be useful in promoting forest health.
 - C. Work in partnership with federal agencies to establish a pilot program.
 - D. Identify necessary steps that may be needed in conjunction with the provisions of the federal Healthy Forests Restoration Act.
 - E. Maximize state fire assistance grants by establishing timelines for use of any monies that are awarded.
 - F. Provide an interim report and a final report to the legislature and governor on progress accomplished regarding forest health, costs and recommendations for statutory changes.

Submitted as:

Arizona

Chapter 326 of 2004

Status: Enacted into law in 2004.