
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1125 Session of
2021

INTRODUCED BY NEILSON, GALLOWAY, BRIGGS, SANCHEZ, HOHENSTEIN,
SCHLOSSBERG, McNEILL, CIRESI, ZABEL, MALAGARI, MERSKI,
SCHWEYER, DRISCOLL, DELLOSO AND KINKEAD, APRIL 7, 2021

REFERRED TO COMMITTEE ON FINANCE, APRIL 7, 2021

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," providing for a construction job tax credit and
11 for compliance with prevailing wage for tax credits.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as
15 the Tax Reform Code of 1971, is amended by adding an article to
16 read:

17 ARTICLE XVII-M

18 CONSTRUCTION JOB TAX CREDIT

19 Section 1701-M. Scope of article.

20 This article establishes a construction job tax credit.

21 Section 1702-M. Definitions.

22 The following words and phrases when used in this article

1 shall have the meanings given to them in this section unless the
2 context clearly indicates otherwise:

3 "Company." A corporation, partnership, limited liability
4 company, limited liability partnership, business trust,
5 affiliate, unincorporated joint venture or other business entity
6 doing business within this Commonwealth.

7 "Completion date." The date on which the completion of the
8 construction of the project facility occurs, evidenced by an
9 occupancy permit or certificate of completion by project
10 engineer.

11 "Construction period." The period, not to exceed five years
12 unless approved by the department, during which the project
13 facility is constructed beginning with the start date and ending
14 with the completion date.

15 "Department." The Department of Revenue of the Commonwealth.

16 "Full-time equivalent construction job." A total of at least
17 2,080 hours worked, on a full-time or part-time basis, over a
18 consecutive 12-month period to construct a project facility
19 during the construction period, including paid leave, by at
20 least one employee or independent contractor of the qualified
21 taxpayer.

22 "Job tax credit." The construction job tax credit
23 established under this article.

24 "Manufacturing or processing." The performance of
25 manufacturing, fabricating, compounding, processing or other
26 operations, engaged in as a business, which places tangible
27 personal property in a form, composition or character different
28 from that in which the tangible personal property is acquired,
29 whether for sale or use by the manufacturer.

30 "New job." A full-time equivalent construction job created

1 by the construction of a project facility during the
2 construction period and paying the prevailing minimum wage rate
3 for each craft or classification as determined by the Department
4 of Labor and Industry under the Prevailing Wage Act.

5 "Pass-through entity." Any of the following:

6 (1) A partnership as defined under section 301(n.0).

7 (2) A Pennsylvania S corporation as defined under
8 section 301(n.1).

9 (3) An unincorporated entity subject to section 307.21.

10 "Prevailing Wage Act." The act of August 15, 1961 (P.L.987,
11 No.442), known as the Pennsylvania Prevailing Wage Act.

12 "Project facility." A manufacturing or processing facility
13 located in this Commonwealth requiring a private capital
14 investment of at least \$450,000,000 to construct.

15 "Qualified tax liability." The liability for taxes imposed
16 under Articles III, IV, VII, VIII, IX, XI and XV. The term does
17 not include tax withheld under section 316.1.

18 "Qualified taxpayer." A qualified taxpayer that satisfies
19 all of the following:

20 (1) Has constructed a project facility during the
21 construction period and operates the project facility in this
22 Commonwealth.

23 (2) Has created at least 200 new jobs during the
24 construction period at the project facility.

25 (3) Has made good faith efforts to recruit and employ,
26 and to encourage any contractors or subcontractors to recruit
27 and employ, workers from the local labor market for
28 employment at the project facility during the construction
29 period.

30 (4) Has sourced, from this Commonwealth, at least 50% of

1 the raw materials used for the construction of the project
2 facility during the construction period.

3 (5) For all aspects of construction, demolition,
4 alteration and modification of the project facility, has
5 utilized only contractors that participate in an approved
6 apprenticeship and training program that is registered with
7 the United States Department of Labor or the Department of
8 Labor and Industry of the Commonwealth that has graduated
9 registered apprentices to journeyman status in at least
10 three of the previous five years immediately preceding
11 commencement of construction on the project facility.

12 "Start date." As determined by the department, the date on
13 which a qualified taxpayer may begin creating new jobs which may
14 be eligible for a job tax credit.

15 Section 1703-M. Eligibility.

16 In order to be eligible to receive a job tax credit, a
17 company shall comply with the Prevailing Wage Act for each new
18 job and shall demonstrate the following to the department:

19 (1) The company meets the requirements of a qualified
20 taxpayer.

21 (2) The company's financial stability and the project
22 facility's financial viability.

23 (3) The intent to substantially maintain the project
24 facility operations in this Commonwealth for a period of at
25 least 10 years from the completion date.

26 (4) An affirmation that the decision to expand or locate
27 in this Commonwealth was due in large part to the
28 availability of the job tax credit.

29 (5) An affirmation that neither the company, nor any of
30 its principal owners, proprietors, partners, officers, parent

1 or subsidiary organizations, directors or agents, has been
2 charged with a violation of, has entered a guilty plea
3 regarding, has been adjudicated guilty or is subject to a
4 consent decree or administrative or judicial order regarding
5 any of the following within the past five years immediately
6 preceding the date of its bid submission:

7 (i) the National Labor Relations Act (49 Stat. 449,
8 29 U.S.C. §§ 151-169);

9 (ii) the Equal Employment Opportunities Act (42
10 U.S.C. § 2000e et seq.);

11 (iii) the Americans with Disabilities Act of 1990
12 (Public Law 101-336, 104 Stat. 327, 42 U.S.C. § 12101 et
13 seq.);

14 (iv) the Occupational Safety and Health Act of 1970
15 (Public Law 91-596, 29 U.S.C. § 651 et seq.);

16 (v) the National Apprenticeship Act (29 U.S.C. §
17 50), also known as the Fitzgerald Act;

18 (vi) the act of June 2, 1915 (P.L.736, No.338),
19 known as the Workers' Compensation Act;

20 (vii) the act of December 5, 1936 (2nd Sp.Sess.,
21 1937 P.L.2897, No.1), known as the Unemployment
22 Compensation Law;

23 (viii) the act of June 1, 1937 (P.L.1168, No.294),
24 known as the Pennsylvania Labor Relations Act;

25 (ix) the act of October 27, 1955 (P.L.744, No.222),
26 known as the Pennsylvania Human Relations Act;

27 (x) the act of July 14, 1961 (P.L.604, No.304),
28 known as The Apprenticeship and Training Act;

29 (xi) the act of August 15, 1961 (P.L.987, No.442),
30 known as the Pennsylvania Prevailing Wage Act; or

1 (xii) the act of January 17, 1968 (P.L.11, No.5),
2 known as The Minimum Wage Act of 1968.

3 Section 1704-M. Application process.

4 (a) Application.--A company shall complete and submit to the
5 department a job tax credit application on a form prescribed by
6 the department. The application must contain the following:

7 (1) A description of the project.

8 (2) The estimated number of new jobs to be created.

9 (3) The estimated number of permanent direct full-time
10 jobs to be created after the completion date at the project
11 facility and maintained by the company.

12 (4) The amount of private capital investment in the
13 project facility.

14 (5) A signed statement that the company intends to
15 substantially maintain its operation at the project facility
16 for a period of 10 years from the completion date.

17 (6) A signed statement that at least 50% of the raw
18 materials used by the company for the construction of the
19 project facility during the construction period are sourced
20 from this Commonwealth.

21 (7) Any other information the department deems
22 appropriate.

23 (b) Approval.--If the department approves the company's
24 application, the department shall reserve job tax credits not to
25 exceed the estimated number of new jobs specified in the
26 application of the qualified taxpayer.

27 Section 1705-M. Job tax credits.

28 (a) Maximum amount.--A qualified taxpayer may claim a job
29 tax credit of \$20,000 per new job created against its qualified
30 tax liability.

1 (b) Determination of new jobs created.--The qualified
2 taxpayer shall provide the department with the following
3 information for each new job created:

4 (1) identification of the employer of record, including
5 name, address and Federal employer identification number;

6 (2) job titles;

7 (3) employee or independent contractor identification,
8 including name, address and Social Security number;

9 (4) hours worked during the construction period;

10 (5) classification, craft and hourly rate of wage paid
11 to each employee or independent contractor; and

12 (6) any other information deemed necessary by the
13 department.

14 (c) Job tax credit term.--A qualified taxpayer may claim the
15 job tax credit for each new job created, as awarded and
16 authorized by the department, except that a job tax credit may
17 not be claimed for more than five years from the date the job
18 tax credit is awarded.

19 (d) Availability of job tax credits.--Each fiscal year,
20 \$20,000,000 in job tax credits shall be made available to the
21 department and may be awarded by the department in accordance
22 with this article.

23 (e) Limit.--A qualified taxpayer that has been granted a job
24 tax credit under this article shall be ineligible for any other
25 tax credit provided under this act.

26 Section 1706-M. Prohibitions.

27 The department shall determine the start date. The start date
28 may not precede the effective date of this section. A company
29 may not receive a job tax credit for a new job created prior to
30 the start date or after the completion date.

1 Section 1707-M. Penalties.

2 (a) Failure to maintain operations.--A qualified taxpayer
3 that receives job tax credits and fails to substantially
4 maintain the project facility operations as determined by the
5 department for a period of at least 10 years from the completion
6 date shall be required to refund to the Commonwealth the total
7 amount of credits granted.

8 (b) Failure to comply with the Prevailing Wage Act.--If the
9 Department of Labor and Industry determines that a qualified
10 taxpayer that received a job tax credit failed to comply with
11 the Prevailing Wage Act, the qualified taxpayer must refund to
12 the Commonwealth the total amount of credits granted.

13 (c) Waiver.--The department may waive the penalties outlined
14 in subsection (a) if the department determines that a qualified
15 taxpayer's operations were not substantially maintained for 10
16 years from the completion date because of circumstances beyond
17 the qualified taxpayer's control.

18 Section 1708-M. Use of credits.

19 (a) Utilization.--A qualified taxpayer shall first use a job
20 tax credit against the qualified tax liability incurred in the
21 taxable year for which the job tax credit was awarded.

22 (b) Authorization.--If a qualified taxpayer holds a job tax
23 credit through the end of the calendar year in which the job tax
24 credit was granted, the qualified taxpayer may sell or assign
25 the remaining job tax credits.

26 (c) Application.--

27 (1) To sell or assign a job tax credit, a qualified
28 taxpayer shall file an application for the sale or assignment
29 of the job tax credit with the department. The application
30 must be on a form required by the department.

1 (2) To approve an application, the department must
2 confirm that the proposed purchaser or assignee has filed all
3 required State tax reports and returns for all applicable
4 taxable years and paid any balance of State tax due as
5 determined at settlement or assessment by the department,
6 unless the tax due is currently under appeal.

7 (d) Approval.--Upon approval by the department, a qualified
8 taxpayer may sell or assign, in whole or in part, a job tax
9 credit.

10 Section 1709-M. Purchasers and assignees.

11 (a) Time.--The purchaser or assignee approved under section
12 1708-M shall claim the job tax credit in the calendar year in
13 which the purchase or assignment is made.

14 (b) Amount.--An approved purchaser or assignee under section
15 1708-M may apply the job tax credit against 100% of the
16 purchaser's or assignee's qualified tax liabilities for the
17 taxable year.

18 (c) Resale and reassignment.--

19 (1) An approved purchaser under section 1708-M may not
20 sell or assign the purchased job tax credit.

21 (2) An approved assignee under section 1708-M may not
22 sell or assign the assigned job tax credit.

23 (d) Notice.--The purchaser or assignee under section 1708-M
24 shall notify the department of the seller or assignor of the job
25 tax credit in compliance with procedures specified by the
26 department.

27 Section 1710-M. Pass-through entity.

28 (a) Election.--If a pass-through entity has an unused job
29 tax credit, the pass-through entity may elect in writing,
30 according to procedures established by the department, to

1 transfer all or a portion of the credit to shareholders, members
2 or partners in proportion to the share of the entity's
3 distributive income to which the shareholders, members or
4 partners are entitled.

5 (b) Limitation.--The same unused job tax credit under
6 subsection (a) may not be claimed by:

- 7 (1) the pass-through entity; and
8 (2) a shareholder, member or partner of the pass-through
9 entity.

10 (c) Amount.--A transferee under subsection (a) may apply
11 the job tax credit against 100% of the transferee's qualified
12 tax liabilities for the taxable year.

13 (d) Time.--A transferee under subsection (a) shall claim the
14 job tax credit in the calendar year in which the transfer is
15 made.

16 (e) Sale and assignment.--A transferee under subsection (a)
17 may not sell or assign the job tax credit.

18 Section 1711-M. Administration.

19 (a) Audits and assessments.--The department shall have the
20 following powers:

21 (1) To audit a qualified taxpayer claiming a job tax
22 credit to ascertain the validity of the amount claimed.

23 (2) To issue an assessment against a qualified taxpayer
24 for an improperly awarded job tax credit. The procedures,
25 collection, enforcement and appeals of any assessment made
26 under this section shall be governed by Article IV.

27 (b) Guidelines.--The department shall develop written
28 guidelines for the implementation of this article.

29 Section 1712-M. Reports to General Assembly.

30 (a) Annual report.--No later than one year after the job tax

1 credits are first awarded under this article, and October 1 of
2 each year thereafter, the department shall submit a report on
3 the job tax credit provided by this article to the chairperson
4 and minority chairperson of the Appropriations Committee of the
5 Senate, the chairperson and minority chairperson of the Finance
6 Committee of the Senate, the chairperson and minority
7 chairperson of the Appropriations Committee of the House of
8 Representatives and the chairperson and minority chairperson of
9 the Finance Committee of the House of Representatives. The
10 report must include the names of the qualified taxpayers that
11 were awarded the credit, the amount of the credit awarded to
12 each qualified taxpayer and the amount of credit sold or
13 assigned by a qualified taxpayer.

14 (b) Reconciliation report.--On May 1, 2024, the department
15 shall submit to the Secretary of the Senate and the Chief Clerk
16 of the House of Representatives a reconciliation report on the
17 effectiveness of this article. The report shall include, at a
18 minimum, the following information for the preceding five years:

19 (1) The name and business address of all qualified
20 taxpayers who have been awarded job tax credits under this
21 article.

22 (2) The amount of job tax credits awarded to each
23 qualified taxpayer.

24 (3) The total number of new jobs created by the
25 qualified taxpayer, including the average annual salary and
26 hourly wage information.

27 (4) The amount of qualified taxes paid by qualified
28 taxpayers.

29 (5) The amount of taxes under Article III withheld from
30 employees or paid by members, partners or shareholders of the

1 pass-through entities of the qualified taxpayer.

2 (c) Publication.--The reports required under this section
3 shall be public records and shall be available electronically on
4 the department's publicly accessible Internet website. The
5 reports required under this section shall not contain
6 "confidential proprietary information" as defined in section 102
7 of the act of February 14, 2008 (P.L.6, No.3), known as the
8 Right-to-Know Law.

9 Section 1713-M. Prevailing wage.

10 (a) Public funds.--A tax credit awarded after the effective
11 date of this section shall constitute public funds as
12 contemplated by the Prevailing Wage Act and a taxpayer awarded
13 tax credits after the effective date of this section must comply
14 with all provisions of the Prevailing Wage Act for all aspects
15 of construction, demolition, alteration and modification of the
16 project facility for which tax credits are sought.

17 (b) Definition.--As used in this section, the term "tax
18 credit" means a tax incentive program in existence on the
19 effective date of this section allowing a taxpayer to reduce its
20 tax liability by meeting certain program requirements or a
21 similar program created on or after the effective date of this
22 section.

23 Section 2. This act shall take effect immediately.