
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 360 Session of
2013

INTRODUCED BY THOMAS, BISHOP, BIZZARRO, LONGIETTI, RAVENSTAHL,
O'BRIEN, READSHAW, BROWNLEE, KORTZ, DEASY, YOUNGBLOOD,
SCHLOSSBERG, FARINA, CALTAGIRONE, HARKINS, MURT, KINSEY,
PARKER, COHEN AND BRADFORD, JANUARY 29, 2013

REFERRED TO COMMITTEE ON FINANCE, JANUARY 29, 2013

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," further providing for the Tax Credit for New
11 Jobs; and providing for the Keystone Job Training Tax Credit.

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

14 Section 1. Section 1801-B of the act of March 4, 1971
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended or
16 added June 22, 2001 (P.L.353, No.23) and July 2, 2012 (P.L.751,
17 No.85), is amended to read:

18 Section 1801-B. Definitions.

19 The following words and phrases when used in this article
20 shall have the meanings given to them in this section unless the
21 context clearly indicates otherwise:

1 "Base period." The three years immediately preceding the
2 date on which a company may begin creating new jobs which may be
3 eligible for job creation tax credits.

4 "Department." The Department of Community and Economic
5 Development of the Commonwealth.

6 "Job creation tax credits." Tax credits for which the
7 department has issued a certificate under this article.

8 "New job." A full-time job, the average hourly rate,
9 excluding benefits, for which must be at least 150% of the
10 Federal minimum wage, created within a municipality located in
11 this Commonwealth by a company within three years from the start
12 date. This term does not include a temporary or seasonal job.

13 "Small business." A company that is engaged in a for-profit
14 enterprise and that employs 100 or fewer individuals.

15 "Start date." The date on which a company may begin creating
16 new jobs which may be eligible for job creation tax credits.

17 "Unemployed individual." An individual who at the time of
18 hiring meets all of the following:

19 (1) Is hired on or after July 1, 2012.

20 (2) Certifies by signed affidavit, under penalty of
21 perjury, that the individual has not been employed during the
22 60-day period ending on the date the individual begins
23 employment.

24 (3) Is not employed by the company to replace another
25 employee of the company unless the other employee separated
26 from employment voluntarily or for cause.

27 (4) Will perform duties connected to the new job for at
28 least 52 consecutive weeks.

29 "Year one." A one-year period immediately following the
30 start date.

1 "Year three." A one-year period immediately following the
2 end of year two.

3 "Year two." A one-year period immediately following the end
4 of year one.

5 Section 2. Section 1802-B, added June 22, 2001 (P.L.353,
6 No.23), is amended to read:

7 Section 1802-B. Eligibility.

8 In order to be eligible to receive job creation tax credits,
9 a company must demonstrate to the department the following:

10 (1) The company's ability to create the number of jobs
11 required by the department within three years from the start
12 date.

13 [(2) Leadership in the application, development or
14 deployment of leading technologies.]

15 (3) [Financial] The company's financial stability and
16 the project's financial viability.

17 (4) The company's express intent to maintain operations
18 in this Commonwealth for a period of five years from the date
19 the company submits its tax credit certificate to the
20 Department of Revenue.

21 (5) An affirmation by the company that the decision to
22 expand or locate in this Commonwealth was due in large part
23 to the availability of a job creation tax credit.

24 Section 3. Sections 1803-B and 1804-B of the act, amended or
25 added June 22, 2001 (P.L.353, No.23) and July 2, 2012 (P.L.751,
26 No.85), are amended to read:

27 Section 1803-B. Application process.

28 (a) Application.--A company must complete and submit to the
29 department a job creation tax credit application.

30 (b) Creation of jobs.--Except as provided under this

1 subsection, an applicant must agree to create at least 25 new
2 jobs or to increase the applicant's number of employees by at
3 least 20% within three years of the start date. A small business
4 applicant must agree to increase the applicant's number of
5 employees by at least 10% within three years after the start
6 date.

7 (b.1) Priority.--The department shall review and approve or
8 disapprove applications in the order in which they are received
9 and shall give priority to applications from taxpayers applying
10 for credits for the following types of new employees:

11 (1) A dislocated worker as defined in the act of
12 December 18, 2001 (P.L.949, No.114), known as the Workforce
13 Development Act, who meets any one of the following criteria:

14 (i) Has been terminated or laid off or has received
15 notice of termination or layoff, and is eligible for or
16 has exhausted unemployment compensation benefits.

17 (ii) Is unlikely to return to the industry or
18 occupation in which the individual was employed.

19 (iii) Has been terminated or received notice of
20 termination as a result of the permanent closure or
21 relocation of a plant, facility or plant operation in
22 which the individual was employed.

23 (iv) Is chronically unemployed.

24 (v) Has limited opportunities of employment in the
25 geographic area in which the individual resides.

26 (vi) Is an individual who may face substantial
27 barriers to employment because of age or disability.

28 (2) An individual who has been unemployed for at least
29 six consecutive months.

30 (c) Approval.--If the department approves the company's

1 application, the department and the company shall execute a
2 commitment letter containing the following:

- 3 (1) A description of the project.
- 4 (2) The number of new jobs to be created.
- 5 (3) The amount of private capital investment in the
6 project.

- 7 (3.1) A statement authorizing the per job credit as a
8 single year or multiple year credit.

- 9 (4) The maximum job creation tax credit amount the
10 company may claim.

- 11 (5) A signed statement that the company intends to
12 maintain its operation in this Commonwealth for five years
13 from the start date.

- 14 (6) Such other information as the department deems
15 appropriate.

16 (d) Commitment letter.--After a commitment letter has been
17 signed by both the Commonwealth and the company, the company
18 shall receive a job creation tax credit certificate and filing
19 information.

20 Section 1804-B. Tax credits.

21 (a) Maximum amount.--A company may claim a tax credit of
22 \$1,000 per new job created, or \$2,500 per each new job created
23 if the newly created job is filled by an unemployed individual,
24 up to the maximum job creation tax credit amount specified in
25 the commitment letter, which may not exceed \$100,000 annually.

26 (b) Determination of new jobs created.--

27 (1) New jobs shall be deemed created in year one to the
28 extent that the company's average employment by quarter
29 during year one exceeds the company's average employment
30 level during the company's base period.

1 (2) New jobs shall be deemed created in year two to the
2 extent that the company's average employment by quarter
3 during year two exceeds the company's average employment by
4 quarter during year one.

5 (3) New jobs shall be deemed created in year three to
6 the extent that the company's average employment by quarter
7 during year three exceeds the company's average employment by
8 quarter during year two.

9 (c) Applicable taxes.--A company may apply the tax credit to
10 100% of the company's State corporate net income tax, capital
11 stock and franchise tax or the capital stock and franchise tax
12 of a shareholder of the company if the company is a Pennsylvania
13 S corporation, gross premiums tax, gross receipts tax, bank and
14 trust company shares tax, mutual thrift institution tax, title
15 insurance company shares tax, personal income tax or the
16 personal income tax of shareholders of a Pennsylvania S
17 corporation or any combination thereof.

18 (d) Tax credit term.--A company may claim the job creation
19 tax credit for each new job created, as approved by the
20 department, for a one-year, two-year or three-year period as
21 authorized by the department, except that no tax credit may be
22 claimed for more than five years from the date the company first
23 submits a job creation tax credit certificate.

24 (e) Availability of tax credits.--[Each] Subject to section
25 1804-C(b), each fiscal year, \$10,100,000 in tax credits shall be
26 made available to the department and may be awarded by the
27 department in accordance with this article. In addition, in any
28 fiscal year, the department may reissue or assign prior fiscal
29 year tax credits which have been recaptured under section 1806-
30 B(a) or (b) and may award prior fiscal year credits not

1 previously issued. Prior fiscal year credits may be reissued,
2 assigned or awarded by the department without limitation by
3 section 1805-B(b).

4 Section 4. Section 1805-B of the act, added June 22, 2001
5 (P.L.353, No.23), is amended to read:

6 Section 1805-B. Prohibitions.

7 (a) Prohibitions.--The following actions with regard to job
8 creation tax credits are prohibited:

9 (1) Approval of jobs that have been created prior to the
10 start date.

11 (2) Approval for a company which is relocating
12 operations from one municipality in this Commonwealth to
13 another unless special circumstances exist and the
14 municipality that is losing the existing jobs has an
15 opportunity to submit comments prior to action by the
16 department. If the department approves the tax credits, the
17 company must commit to preserving the existing employees, and
18 the credit shall apply only to the new jobs.

19 (3) The assignment, transfer or use of credits by any
20 other company, provided, however, that tax credits may be
21 assigned in whole or in part to an affiliated entity. As used
22 in this paragraph, the term "affiliated entity" means an
23 entity which is part of the same "affiliated group," as
24 defined by section 1504(a)(1) of the Internal Revenue Code of
25 1986 (Public Law 99-514, 26 U.S.C. § 1504(a)(1)), as the
26 company awarded the credit.

27 (b) Allocations.--Twenty-five percent of the total amount of
28 all tax credits authorized in any fiscal year under section
29 1804-B(e) shall be available to companies with fewer than 100
30 employees. Any portion of this allocation not committed by April

1 30 of each year shall be available to any [business] company
2 which meets the remaining program criteria.

3 Section 5. The act is amended by adding sections to read:

4 Section 1807-B. Annual reports.

5 (a) Contents.--The department shall prepare an annual report
6 on job creation tax credits which at a minimum shall include:

7 (1) A list of all job creation tax credit certificates
8 provided during the previous fiscal year.

9 (2) The name and location of each company receiving job
10 creation tax credit certificates.

11 (3) An analysis of the effectiveness of the job creation
12 tax credits in creating jobs in this Commonwealth.

13 (4) Any other information that may be deemed relevant by
14 the department.

15 (b) Submission.--The annual report shall be submitted to the
16 Governor, the Majority Leader of the Senate, the Minority Leader
17 of the Senate, the Majority Leader of the House of
18 Representatives and the Minority Leader of the House of
19 Representatives by March 1 of the first full year following the
20 effective date of this section and March 1 of each year
21 thereafter.

22 Section 1808-B. Notice of availability of tax credits.

23 The department shall publish notice of the availability of
24 the job creation tax credits on its publicly accessible Internet
25 website and make information available annually to the
26 Department of Labor and Industry Workforce Investment Board for
27 distribution to local boards.

28 Section 6. The heading of Article XVIII-C of the act, added
29 July 9, 2008 (P.L.922, No.66), is amended to read:

30 ARTICLE XVIII-C

2 KEYSTONE JOB TRAINING TAX CREDIT

3 Section 7. The act is amended by adding sections to read:

4 Section 1801-C. Definitions.

5 The following words and phrases when used in this article
6 shall have the meanings given to them in this section unless the
7 context clearly indicates otherwise:

8 "Department." The Department of Community and Economic
9 Development of the Commonwealth.

10 "Eligible job." A full-time job in this Commonwealth, the
11 annual wage, excluding benefits, for which is at least equal to
12 150% of the Federal minimum wage. The term shall not include a
13 temporary or seasonal job.

14 "Job training." Training designed to provide a trainee with
15 the skills and knowledge necessary to meet a company's
16 specifications for an occupation or trade that results in the
17 trainee's employment or continued employment in an eligible job
18 with the company in this Commonwealth.

19 "Job training tax credits." Tax credits for providing job
20 training authorized under this article.

21 "Qualified tax liability." The liability for taxes imposed
22 under Article III, IV, VI, VII, VIII, IX or XV. The term shall
23 not include liability for any tax withheld or required to be
24 withheld by a taxpayer from an employee under Article III.

25 "Small business." Any of the following with fewer than 100
26 employees at the time the taxpayer applies for a job training
27 tax credit under this article and which is operating in this
28 Commonwealth:

29 (1) A for-profit corporation.

30 (2) A limited liability company.

1 (3) A partnership.

2 (4) A proprietorship.

3 "Start date." The effective date of this section.

4 "Taxpayer." A small business subject to a tax imposed under
5 Article III, IV, VI, VII, VIII, IX or XV.

6 "Trainee." An individual receiving job training for which a
7 taxpayer applies for a job training tax credit under this
8 article.

9 "Year four." A one-year period immediately following the end
10 of year three.

11 "Year one." A one-year period immediately following the
12 start date.

13 "Year three." A one-year period immediately following the
14 end of year two.

15 "Year two." A one-year period immediately following the end
16 of year one.

17 Section 1802-C. Job training tax credits.

18 (a) Criteria.--A taxpayer that provides job training from
19 and after the start date shall be entitled to a job training tax
20 credit against the taxpayer's qualified liability as provided
21 under this article. To be eligible for a tax credit, the
22 taxpayer must certify and agree in the taxpayer's application to
23 all of the following:

24 (1) The taxpayer shall maintain the operation of its
25 small business in this Commonwealth for at least five years
26 following the taxable year for which the taxpayer first
27 claims a job training tax credit awarded under this article.

28 (2) The taxpayer has the ability to provide a level of
29 job training appropriate for the employment or continued
30 employment of the trainee, as determined by the department.

1 (3) During each taxable year that the taxpayer claims a
2 job training tax credit, the taxpayer shall dedicate at least
3 25% of a trainee's work time to job training for at least six
4 months during the trainee's first year of employment.

5 (4) If the job training credit is for a new employee,
6 the individual was hired for a new position in the taxpayer's
7 small business or was hired to fill the position of another
8 employee who voluntarily separated from employment with the
9 taxpayer.

10 (b) Amount.--The following shall apply:

11 (1) The tax credit shall be equal to \$1,500 for each
12 trainee and shall be available for each taxable year that the
13 taxpayer provides job training through the end of the taxable
14 year in which the end of year four occurs.

15 (2) Notwithstanding paragraph (1), a taxpayer may not
16 claim more than an aggregate of \$100,000 of job training tax
17 credits in any taxable year.

18 (c) Eligibility for other tax credits.--A taxpayer that
19 claims tax credits under any other Federal or State law shall be
20 eligible for a job training tax credit if the taxpayer also
21 meets the requirements of this article.

22 Section 1803-C. Application and award.

23 (a) Application.--A taxpayer wishing to claim a job training
24 tax credit shall apply to the department on a form required by
25 the department. The application shall contain information as the
26 department deems necessary for the department to determine that
27 the taxpayer is entitled to the tax credit or credits for which
28 the taxpayer is applying.

29 (b) Priority.--The department shall review and approve or
30 disapprove applications in the order in which they are received

1 and shall give priority to applications from taxpayers applying
2 for tax credits for the following types of trainees:

3 (1) A dislocated worker as defined in section 701-A of
4 the act of December 18, 2001 (P.L.949, No.114), known as the
5 Workforce Development Act, who meets any of the following
6 criteria:

7 (i) Has been terminated or laid off or has received
8 notice of termination or layoff and is eligible for or
9 has exhausted unemployment compensation benefits.

10 (ii) Is unlikely to return to the industry or
11 occupation in which the individual was employed.

12 (iii) Has been terminated or received notice of
13 termination as a result of the permanent closure or
14 relocation of a plant, facility or plant operation in
15 which the individual was employed.

16 (iv) Is chronically unemployed.

17 (v) Has limited opportunities of employment in the
18 geographic area in which the individual resides.

19 (vi) Is an individual who may face substantial
20 barriers to employment because of age or disability.

21 (2) An individual who has been unemployed for at least
22 six consecutive months.

23 (3) An underemployed individual who requires training to
24 meet industry demands or increased employment opportunities.

25 (4) An individual who will receive job training related
26 to a high priority occupation within this Commonwealth, as
27 identified in consultation with the Department of Labor and
28 Industry, including a green job, a clean and renewable energy
29 job or a job within an industry cluster.

30 (c) Award.--Upon determining that the taxpayer is entitled

1 to one or more job training tax credits, the department shall
2 award the credits and issue a job training tax credit
3 certificate to the taxpayer.

4 Section 1804-C. Limitations.

5 (a) Use by taxpayer.--A taxpayer may not carry over, carry
6 back, assign or obtain a refund of any portion of a job training
7 tax credit.

8 (b) Aggregate amount of awards.--Twenty-five percent of the
9 amount available for tax credits under section 1804-B(e) in any
10 fiscal year shall be available for job training credits under
11 this article.

12 (c) Length of program.--A taxpayer shall not be entitled to
13 a job training tax credit in taxable years ending December 31 of
14 the year in which the end of year four occurs and beyond.

15 Section 1805-C. Repayment and penalty.

16 (a) Repayment.--A taxpayer who has claimed one or more job
17 training tax credits and fails to meet any of the criteria
18 required under section 1802-C or a taxpayer who has received a
19 job training tax credit in error shall repay to the Commonwealth
20 the amount of all tax credits claimed.

21 (b) Penalty.--If it is determined that the failure or error
22 referred to under subsection (a) occurred as a result of fraud
23 perpetrated by the taxpayer, the taxpayer, in addition to being
24 required to repay the amount of all tax credits claimed, shall
25 be subject to other appropriate penalties and remedies as
26 provided by law.

27 Section 1806-C. Reports.

28 (a) Taxpayer reports.--Within 30 days following the close of
29 each taxable year that a taxpayer claims a job training tax
30 credit awarded under this article, the taxpayer shall submit a

1 written report to the department describing all job training
2 provided to trainees hired in new positions in the taxpayer's
3 small business during the taxable year.

4 (b) Department reports.--On or before March 1 of each
5 calendar year, the department shall submit a written report to
6 the Governor, the Majority Leader of the Senate, the Minority
7 Leader of the Senate, the Majority Leader of the House of
8 Representative and the Minority Leader of the House of
9 Representatives containing the following information:

10 (1) A list of all job training tax credit certificates
11 issued by the department during the previous calendar year
12 and the name and location of each taxpayer to whom the
13 certificates were issued.

14 (2) An analysis of the effectiveness of the job training
15 tax credits issued in creating new eligible jobs or retaining
16 existing eligible jobs.

17 (3) Any other information the department deems relevant
18 with respect to the job training tax credit program
19 established under this article.

20 Section 1807-C. Notice.

21 The department shall, no later than 60 days following the
22 effective date of this section, post the following on its
23 publicly accessible Internet website:

24 (1) The availability and start date of the job training
25 tax credits.

26 (2) Guidelines for the awarding of the job training tax
27 credits.

28 (3) A downloadable copy of the application form.

29 Section 8. This act shall take effect in 30 days.