
SENATE BILL 5899

State of Washington

61st Legislature

2009 Regular Session

By Senators Kilmer, Franklin, Kastama, Shin, Marr, McAuliffe, Haugen, Brown, Berkey, Prentice, Fairley, Regala, Keiser, Eide, Rockefeller, Murray, Hatfield, Hargrove, Sheldon, Oemig, and Kline

Read first time 02/05/09. Referred to Committee on Ways & Means.

1 AN ACT Relating to providing a business and occupation tax credit
2 for qualified employment positions; adding a new section to chapter
3 82.04 RCW; and providing an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 82.04 RCW
6 to read as follows:

7 (1) A credit is allowed against the tax due under this chapter for
8 new qualified employment positions created as provided in this section.

9 (2) The credit equals:

10 (a) Four thousand dollars for each qualified employment position
11 with wages and benefits greater than forty thousand dollars annually
12 that is directly created in an eligible business project; or

13 (b) Two thousand dollars for each qualified employment position
14 with wages and benefits no less than one hundred fifty percent of the
15 minimum wage and no more than forty thousand dollars annually.

16 (3) For purposes of calculating the amount of credit under
17 subsection (2) of this section with respect to qualified employment
18 positions, the following applies:

1 (a) In determining the number of qualified employment positions, a
2 fractional amount is rounded down to the nearest whole number; and

3 (b) Wages and benefits for each qualified employment position are
4 equal to the quotient derived by dividing:

5 (i) The sum of the wages and benefits earned for the four
6 consecutive full calendar quarters for which a credit under this
7 chapter is earned by all of the person's new seasonal employees hired
8 during that period; by

9 (ii) The number of qualified employment positions plus any
10 fractional amount subject to rounding as provided under (a) of this
11 subsection.

12 (4) For purposes of this section, a credit is earned for the four
13 consecutive full calendar quarters after the calendar quarter during
14 which the first qualified employment position is filled.

15 (5) The department shall keep a running total of all credits
16 allowed under this chapter during each fiscal year. The department
17 shall not allow any credits which would cause the total to exceed six
18 million dollars in any fiscal year. If all or part of an application
19 for credit is disallowed under this subsection, the disallowed portion
20 shall be carried over to the next fiscal year. However, the carryover
21 into the next fiscal year is only permitted to the extent that the cap
22 for the next fiscal year is not exceeded.

23 (6) No recipient may use the tax credits to decertify a union or to
24 displace existing jobs in any community in the state.

25 (7) The credit may be used against any tax due under this chapter,
26 and may be carried over until used. No refunds may be granted for
27 credits under this section.

28 (8) Application for tax credits under this section must be made
29 within ninety consecutive days after the first qualified employment
30 position is filled. The application must be made to the department in
31 a form and manner prescribed by the department. The application must
32 contain information regarding the location of the business project, the
33 applicant's average employment, if any, at the facility for the four
34 consecutive full calendar quarters immediately preceding the earlier of
35 the calendar quarter during which the application required by this
36 section is submitted to the department or the first qualified
37 employment position is filled, estimated or actual new employment
38 related to the project, estimated or actual wages of employees related

1 to the project, estimated or actual costs, time schedules for
2 completion and operation, and other information required by the
3 department. The department must prescribe a method for calculating a
4 seasonal employer's average employment levels. The department must
5 rule on the application within sixty days.

6 (9)(a) Each recipient must submit a report to the department by the
7 last day of the month immediately following the end of the four
8 consecutive full calendar quarters for which a credit under this
9 chapter is earned. The report must contain information, as required by
10 the department, from which the department may determine whether the
11 recipient is meeting the requirements of this section. If the
12 recipient fails to submit a report or submits an inadequate report, the
13 department may declare the amount of taxes for which a credit has been
14 used to be immediately assessed and payable. The recipient must keep
15 records, such as payroll records showing the date of hire and
16 employment security reports, to verify eligibility under this
17 subsection (9).

18 (b) If, on the basis of a report under this section or other
19 information, the department finds that a business project is not
20 eligible for tax credit under this section for reasons other than
21 failure to create the required number of qualified employment
22 positions, the amount of taxes for which a credit has been used for the
23 project is immediately due.

24 (c) If, on the basis of a report under this subsection (9) or other
25 information, the department finds that a business project has failed to
26 create the specified number of qualified employment positions, the
27 department must assess interest, but not penalties, on the credited
28 taxes for which a credit has been used for the project. The interest
29 must be assessed at the rate provided for delinquent excise taxes, must
30 be assessed retroactively to the date of the tax credit, and must
31 accrue until the taxes for which a credit has been used are repaid.

32 (10) The employment security department must make, and certify to
33 the department, all determinations of employment and wages requested by
34 the department under this section.

35 (11) Applications, reports, and any other information received by
36 the department under this section are not confidential and are subject
37 to disclosure.

1 (12) The following definitions apply throughout this section,
2 unless the context clearly requires otherwise.

3 (a) "Applicant" means a person applying for a tax credit under this
4 chapter.

5 (b) "Eligible business" means a business located within the state
6 of Washington with ten or fewer employees.

7 (c) "First qualified employment position" means the first qualified
8 employment position filled for which a credit under this chapter is
9 sought.

10 (d)(i)(A) "Qualified employment position" means a permanent full-
11 time employee employed in the eligible business in Washington during
12 four consecutive full calendar quarters.

13 (B) For seasonal employers, "qualified employment position" also
14 includes the equivalent of a full-time employee in work hours for four
15 consecutive full calendar quarters.

16 (ii) For purposes of this subsection (12)(d), "full time" means a
17 normal work week of at least thirty-five hours.

18 (iii) Once a permanent, full-time employee has been employed, a
19 position does not cease to be a qualified employment position solely
20 due to periods in which the position goes vacant, as long as:

21 (A) The cumulative period of any vacancies in that position is not
22 more than one hundred twenty days in the four quarter period; and

23 (B) During a vacancy, the employer is training or actively
24 recruiting a replacement permanent, full-time employee for the
25 position.

26 (e) "Recipient" means a person receiving tax credits under this
27 section.

28 (f) "Seasonal basis" means a continuous employment period of less
29 than twelve consecutive months, for the purposes of "seasonal employee"
30 and "seasonal employer" under this section.

31 (g) "Seasonal employee" means an employee of a seasonal employer
32 who works on a seasonal basis.

33 (h) "Seasonal employer" means a person who regularly hires more
34 than fifty percent of its employees to work on a seasonal basis.

35 (13) This section expires June 30, 2011.

36 NEW SECTION. **Sec. 2.** If any provision of this act or its

1 application to any person or circumstance is held invalid, the
2 remainder of the act or the application of the provision to other
3 persons or circumstances is not affected.

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