

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 585 Session of  
1997

INTRODUCED BY BROWNE, TRELLO, BOYES, ORIE, HABAY, GIGLIOTTI,  
SAYLOR, YOUNGBLOOD, HUTCHINSON, DEMPSEY, NAILOR, FICHTER,  
THOMAS, READSHAW, WALKO, BROWN, MAYERNIK, MAITLAND,  
MANDERINO, M. N. WRIGHT, RUBLEY, FLEAGLE, SCHULER, JADLOWIEC,  
LAUGHLIN, VAN HORNE, CAPPABIANCA, FAIRCHILD, SEMMEL, FEESE,  
HARHART, CORRIGAN, E. Z. TAYLOR, LEVDANSKY, GANNON, BATTISTO,  
McCALL, RAMOS, COLAFELLA, DENT, BOSCOLA, GLADECK, STEELMAN,  
WAUGH, D. W. SNYDER, CARONE, MILLER, TRUE, STURLA, BELFANTI,  
ITKIN, STRITTMATTER, B. SMITH, TRICH, GRUPPO, CIVERA, STAIRS,  
FARGO, GEIST, FLICK, L. I. COHEN, RAYMOND, HENNESSEY, GORDNER  
AND MICOZZIE, FEBRUARY 13, 1997

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 13, 1997

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 vocational rehabilitation jobs  
11 tax credit program.

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:

ARTICLE XVIII-A

VOCATIONAL REHABILITATION JOBS TAX CREDIT

1     Section 1801-A. Short Title.--This article shall be known  
2     and may be cited as the Vocational Rehabilitation Jobs Tax  
3     Credit Law.

4     Section 1802-A. Definitions.--The following words, terms and  
5     phrases, when used in this article, shall have the meanings  
6     ascribed to them in this section, except where the context  
7     clearly indicates a different meaning:

8     "Designated agency." The agency designated jointly by the  
9     Secretary of Revenue and the Secretary of Labor and Industry for  
10    the Commonwealth to perform vocational rehabilitation  
11    certifications of employees for employers.

12    "Full-time." A work commitment of not less than one thousand  
13    seven hundred fifty hours of work on an annual basis and not  
14    less than an average of thirty-five hours per week.

15    "Internal Revenue Code." The Federal Internal Revenue Code  
16    of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

17    "Part-time." A work commitment which is not full time but  
18    which is not less than one thousand hours of work on an annual  
19    basis and not less than an average of twenty hours of work per  
20    week.

21    "Qualified tax liability." The liability for taxes imposed  
22    under Articles III, IV and VI of this act. The term shall not  
23    include any taxes withheld from the compensation of an employee  
24    pursuant to section 316 of this act.

25    "Qualified wages." The wages paid to or incurred by the  
26    employer during the taxable year to individuals who are  
27    certified as vocational rehabilitation referrals under section  
28    1805-A over the base amounts for full-time and part-time  
29    employees.

30    "Vocational rehabilitation referral." The certification of

an individual by the designated agency as:

(1) having a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment; and

(2) having been referred to the employer upon completion of or while receiving rehabilitation services pursuant to:

(i) an individualized written rehabilitation plan under a Commonwealth plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 701 et seq.); or

(ii) a program of vocational rehabilitation carried out under 38 U.S.C. Ch. 31 (relating to training and rehabilitation for veterans with service-connected disabilities).

"Wages." The term has the meaning given to wages by section 3306(b) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) to be determined without regard to any dollar limitation contained in this article.

Section 1803-A. Vocational Rehabilitation Jobs Tax Credit.--

(a) Any taxpayer subject to Articles III, IV or VI of this act shall be eligible for and may claim a vocational rehabilitation jobs tax credit against a qualified tax liability, as provided by this article.

(b) For purposes of this section, the amount of the credit determined under this section for a taxable year shall be equal to the following:

(1) Forty per cent of the qualified first-year wages for such year.

(2) Twenty per cent of the qualified second-year wages for such year.

(3) Twenty per cent of the qualified third-year wages for

1 such year.

2 (4) Twenty per cent of the qualified fourth-year wages for  
3 such year.

4 Section 1804-A. Determination of Amount of Wages.--(a) The  
5 amount of the qualified first, second, third or fourth-year  
6 wages, which may be taken into account with respect to any  
7 individual, shall be the amount of wages which exceed the base  
8 amount wage of eight thousand seven hundred fifty dollars  
9 (\$8,750) for a full-time employe and five thousand dollars  
10 (\$5,000) for a part-time employe.

11 (b) The base amount wages will be adjusted on an annual  
12 basis by the Secretary of Revenue to account for any increase or  
13 decrease in the consumer price index for urban consumers (CPI-U)  
14 in the previous calendar year.

15 Section 1805-A. Vocational Rehabilitation Certification.--  
16 (a) (1) Except as provided in paragraph (2), an individual  
17 shall not be treated as an eligible employe for the vocational  
18 rehabilitation job tax credit unless, on or before the day on  
19 which that individual begins work for the employer, that  
20 employer has requested in writing a certification from the  
21 designated agency that such individual is a vocational  
22 rehabilitation referral.

23 (2) If on or before the fifth day on which an individual  
24 begins work for the employer, that individual has received from  
25 a designated agency, or another agency or organization  
26 designated pursuant to a written agreement with that designated  
27 agency, a written preliminary determination that such individual  
28 is a vocational rehabilitation referral.

29 (b) If an individual has been certified as a vocational  
30 rehabilitation referral, and that certification is incorrect

because it was based on false information provided by that individual, then the certification shall be revoked and all wages paid by the employer after the date on which notice of revocation is received by that employer shall not be treated as qualified wages.

Section 1806-A. Ineligible Individuals.--(a) Wages paid to any of the following individuals shall not qualify for the credit under section 1803-A:

(1) An individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) of the Internal Revenue Code to the taxpayer.

(2) If the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than fifty per cent in value of the outstanding stock of the corporation.

(3) If the taxpayer is an entity other than a corporation, to any individual who owns, directly or indirectly, more than fifty per cent of the capital and profits in the entity as determined under section 267 of the Internal Revenue Code.

(4) If the taxpayer is an estate or trust, an individual who is a grantor, beneficiary or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) of the Internal Revenue Code to a grantor, beneficiary or fiduciary of the estate or trust.

(5) If the individual is a dependent described in section 152(a)(9) of the Internal Revenue Code of the taxpayer or, if the taxpayer is a corporation, an individual described in subparagraph (I), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(b) No wages shall be taken into account under section 1803-

A with respect to any individual if, prior to the hiring date of that individual, such individual had been employed by the employer at any time during which that individual was a vocational rehabilitation referral.

(c) No wages shall be taken into account under section 1803-A with respect to any individual unless such individual is employed by the employer at least one hundred eighty days or has completed at least five hundred forty hours of service performed for the employer.

Section 1807-A. Limitation on Qualifying Wages.--In the case of a group of trades or businesses under common control as defined in section 267 of the Internal Revenue Code, the determination amount of credit under this article with respect to wages paid by different employers within the group shall be made in the same manner as if such wages were paid by a single employer. An annual period will be considered to begin with the day the employee first began work for the first employer in the group under common control and the amount of annual wages paid or incurred with respect to the employee by successor-employers within the group must be reduced by the amount of any such wages paid or incurred by the transferor-employer in the group.

Section 1808-A. Administration.--The Department of Revenue, in cooperation with the Department of Labor and Industry, shall administer the provisions of this article, promulgate appropriate rules, regulations and forms for that purpose and make such determinations as may be required. Determinations made with respect to the tax credit provided in this article may be reviewed and appealed in the manner provided by law for other corporate or personal tax credits.

Section 1809-A. Limitations on Aggregate Amount of Credit.--

1 The total amount of credits awarded pursuant to this article  
2 shall not exceed ten million dollars (\$10,000,000) in any fiscal  
3 year.

4 Section 1810-A. Amount of Credit; Carryover and Carryback of  
5 Credit; Refund of Credit.--(a) The amount of the credit  
6 provided by this article that a taxpayer uses during a taxable  
7 year may not exceed fifty per cent of the qualified tax  
8 liability for the taxable year. If the credit provided by this  
9 article exceeds fifty per cent of the qualified tax liability  
10 for the taxable year for which the credit is first claimed, the  
11 excess may be carried over to succeeding taxable years and used  
12 as a credit against the qualified tax liability otherwise due  
13 and payable by the taxpayer during those taxable years; provided  
14 that the total amount of credit used in any tax year may not  
15 exceed fifty per cent of the qualified tax liability for that  
16 taxable year. Each time that the credit is carried over to a  
17 succeeding taxable year, it is to be reduced by the amount which  
18 was used as a credit during the immediately preceding taxable  
19 year. The credit provided by this article may be carried forward  
20 and applied to succeeding taxable years for not more than three  
21 (3) taxable years following the unused credit year.

22 (b) A credit earned by a taxpayer in a particular taxable  
23 year shall be applied against the taxpayer's tax liability for  
24 that taxable year before any credit carryover is applied against  
25 that liability under subsection (a).

26 (c) A taxpayer is not entitled to any carryback or refund of  
27 any unused credit.

28 Section 1811-A. Time Limitations.--Notwithstanding the other  
29 provisions of this article, a taxpayer shall not be entitled to  
30 a credit for qualified wages paid after December 31, 2002.

1     Section 1812-A. Reports Required.--Within four (4) months  
2     after the close of any fiscal year during which tax credits are  
3     awarded pursuant to this article, the Secretary of Labor and  
4     Industry shall furnish to the Labor and Industry Committee and  
5     the Finance Committee of the Senate and the Labor Relations  
6     Committee and the Finance Committee of the House of  
7     Representatives a report detailing the credits awarded pursuant  
8     to this article. Such report shall include the name of any  
9     employer awarded the credit, the primary business location, the  
10    amount of credit awarded and the number of individuals employed  
11    for whom the credit was awarded. The report shall also provide  
12    the aggregate number of employers awarded credit during the most  
13    recent fiscal year, the aggregate number of individuals employed  
14    for whom the credit was awarded and the aggregate number of  
15    credits awarded. The report should also include any  
16    recommendations for changes in the calculation or administration  
17    of the credit.

18    Section 1813-A. Applicability.--This credit shall apply to  
19    all taxable years beginning after December 31, 1996.

20    Section 2. This act shall take effect immediately.