

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL****No. 1316** Session of  
2008

INTRODUCED BY BAKER, WAUGH, RAFFERTY, PUNT, O'PAKE, MADIGAN,  
KASUNIC, FONTANA, ERICKSON, BOSCOLA, ORIE, KITCHEN,  
TOMLINSON, EICHELBERGER, WONDERLING, REGOLA, LOGAN, CORMAN,  
ARMSTRONG, BROWNE, BRUBAKER, ROBBINS, PIPPY, EARLL, COSTA,  
WOZNIAK, C. WILLIAMS, FOLMER, M. WHITE, D. WHITE, RHOADES,  
McILHINNEY, DINNIMAN, STOUT, MUSTO, WASHINGTON AND FERLO,  
MARCH 20, 2008

SENATOR BROWNE, FINANCE, AS AMENDED, APRIL 9, 2008

## 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 tax credit for employers of  
11 volunteer firefighters and emergency medical services  
12 workers.

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

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

ARTICLE XVIII-CVOLUNTEER FIREFIGHTER AND EMERGENCY MEDICALSERVICES WORKER EMPLOYER TAX CREDIT

1 Section 1801-C. Definitions.

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

5 "Active volunteer." A volunteer firefighter or volunteer  
6 emergency medical services worker.

7 "Commissioner." The State Fire Commissioner appointed  
8 pursuant to section 3 of the act of November 13, 1995 (P.L.604,  
9 No.61), known as the State Fire Commissioner Act.

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

11 "Director." The director of the Emergency Medical Services  
12 Office in the Department of Health.

13 "PASS-THROUGH ENTITY." A PARTNERSHIP AS DEFINED IN SECTION ←  
14 301(N.0) OR A PENNSYLVANIA S CORPORATION AS DEFINED IN SECTION  
15 301(N.1).

16 "QUALIFIED EMPLOYEE." AN ACTIVE VOLUNTEER FIREFIGHTER OR  
17 ACTIVE VOLUNTEER EMERGENCY MEDICAL SERVICE WORKER EMPLOYED BY A  
18 TAXPAYER UNDER THIS ARTICLE.

19 "QUALIFIED TAX LIABILITY." THE LIABILITY FOR TAXES IMPOSED  
20 UNDER ARTICLE III, IV OR VI. THE TERM SHALL NOT INCLUDE ANY TAX  
21 WITHHELD BY AN EMPLOYER FROM AN EMPLOYEE UNDER ARTICLE III.

22 "Secretary." The Secretary of Revenue of the Commonwealth.

23 "Tax credit." The tax credit available to employers of  
24 volunteer firefighters or volunteer emergency medical services  
25 workers under this article.

26 "Taxpayer." An individual subject to payment of taxes under  
27 Article III, IV or VI.

28 "Volunteer emergency medical services worker." A person  
29 certified as an active volunteer emergency medical services  
30 provider by the director of the Emergency Medical Services

1 Office of the Department of Health.

2 "Volunteer fire company." A nonprofit chartered corporation,  
3 association or organization located in this Commonwealth that  
4 provides fire protection services and may offer other volunteer  
5 services within this Commonwealth. Voluntary emergency services  
6 provided by a volunteer fire company may include voluntary  
7 ambulance and voluntary rescue services.

8 "Volunteer firefighter." The term shall have the same  
9 meaning given to it under section 2 of the act of June 11, 1968  
10 (P.L.149, No.84), known as the Volunteer Firefighters' Relief  
11 Association Act. The term includes fire police.

12 ~~Section 1802-C. Credit for employment.~~ <—

13 ~~(a) Credit available. A taxpayer is eligible for a tax~~  
14 ~~credit as provided in subsection (b) against the tax imposed~~  
15 ~~under Article III, IV or VI, but shall not include any tax~~  
16 ~~withheld by an employer from an employee under Article III if:~~

17 ~~(1) the taxpayer hires an employee who is an active~~  
18 ~~volunteer; or~~

19 ~~(2) the taxpayer has an employee who becomes an active~~  
20 ~~volunteer during the calendar year.~~

21 SECTION 1802-C. APPLICATION PROCESS. <—

22 (A) APPLICATION TO DEPARTMENT.--A TAXPAYER MAY APPLY TO THE  
23 DEPARTMENT FOR A TAX CREDIT BY FILING AN APPLICATION ON THE FORM  
24 REQUIRED BY THE DEPARTMENT. THE APPLICATION SHALL CONTAIN THE  
25 FOLLOWING INFORMATION:

26 (1) THE NAME AND TAX IDENTIFICATION NUMBER OF ALL  
27 QUALIFIED EMPLOYEES.

28 (2) THE NAME AND LOCATION OF THE VOLUNTEER FIRE COMPANY  
29 OR VOLUNTEER EMERGENCY MEDICAL SERVICES/AMBULANCE DEPARTMENT  
30 WHERE THE QUALIFIED EMPLOYEE IS AN ACTIVE MEMBER.

1           (3) ANY OTHER INFORMATION DEEMED APPROPRIATE BY THE  
2           DEPARTMENT.

3           (B) REVIEW AND APPROVAL.--THE DEPARTMENT SHALL REVIEW AND  
4           APPROVE OR DISAPPROVE THE APPLICATIONS IN THE ORDER IN WHICH  
5           THEY ARE RECEIVED. UPON DETERMINING THAT THE TAXPAYER HAS  
6           EMPLOYED A QUALIFIED EMPLOYEE OR EMPLOYEES, THE DEPARTMENT MAY  
7           APPROVE THE TAXPAYER FOR A TAX CREDIT.  
8           SECTION 1803-C. CREDIT FOR EMPLOYMENT.

9           (A) CREDIT FOR EMPLOYMENT OF VOLUNTEER FIREFIGHTERS AND  
10           EMERGENCY MEDICAL SERVICES PERSONNEL.--A TAXPAYER SHALL BE  
11           ELIGIBLE FOR A TAX CREDIT AS PROVIDED IN SUBSECTION (B) AGAINST  
12           THE TAX IMPOSED UNDER ARTICLE III, IV OR VI IF:

13           (1) THE TAXPAYER EMPLOYS WITHIN THIS COMMONWEALTH A  
14           QUALIFIED EMPLOYEE WHO IS AN ACTIVE VOLUNTEER.

15           (2) THE TAXPAYER ADOPTS AND IMPLEMENTS A POLICY THAT  
16           PERMITS A QUALIFIED EMPLOYEE TO BE ABSENT FROM WORK, WITHOUT  
17           PENALTY, FOR THE PURPOSE OF RESPONDING TO A DUTY CALL, FIRE  
18           PROTECTION, EMERGENCY CALL OR ANNUAL EMERGENCY SERVICES  
19           TRAINING.

20           (3) AT THE REQUEST OF THE TAXPAYER, ANY QUALIFIED  
21           EMPLOYEE LOSING TIME DURING NORMAL WORK TIME HOURS AS  
22           PROVIDED FOR IN PARAGRAPH (2) SHALL SUPPLY HIS EMPLOYER WITH  
23           A STATEMENT FROM THE CHIEF OF THE VOLUNTEER FIRE DEPARTMENT  
24           OR THE SUPERVISOR OR OTHER APPROPRIATE PERSON IN CHARGE OF  
25           THE VOLUNTEER RESPONSE SERVICE STATING THAT THE EMPLOYEE  
26           RESPONDED TO AN EMERGENCY CALL AND THE DATE AND TIME OF THE  
27           CALL.

28           (b) Maximum credit.--A taxpayer may claim a tax credit for  
29           each full-time employee who qualifies under subsection (a) as  
30           follows:

1           (1) The taxpayer may claim a full \$1,000 tax credit for  
2 all employees who qualify under subsection (a). This credit  
3 may be claimed only once with respect to each qualified  
4 employee and may not be claimed if the qualified employee has  
5 been claimed by a previous employer DURING THE SAME TAXABLE <—  
6 YEAR.

7           (2) If the employee is not qualified for the entire tax  
8 year, the amount of tax credit shall be prorated and the  
9 credit amount shall equal \$1,000, divided by 12, multiplied  
10 by the number of months in the tax year the employee was  
11 employed by the taxpayer. The credit shall be rounded to the  
12 nearest \$5. If the taxpayer is an active volunteer during any  
13 part of a month, the taxpayer shall be considered an active  
14 volunteer for the entire month. If the taxpayer is a  
15 volunteer firefighter and a volunteer emergency medical  
16 services worker during the same month, a credit may be  
17 claimed for only one active volunteer position for that  
18 month. This credit may be claimed only once with respect to  
19 each qualified employee and may not be claimed if the  
20 qualified employee has been claimed by a previous employer.

21           (3) The taxpayer's total tax credit under this article  
22 may not exceed more than \$5,000 in any given tax year.

23           (c) Claim period.--Claims for a tax credit must be filed for  
24 the first taxable year for which the taxpayer was eligible for <—  
25 the tax credit. Failure to comply with this subsection shall  
26 constitute a waiver of the credit. BY THE DEPARTMENT UNDER <—  
27 SECTION 1802-C.

28           (D) DEFINITION.--FOR PURPOSES OF THIS SECTION, THE TERM  
29 "PENALTY" INCLUDES:

30           (1) TERMINATION, DISCHARGE OR LAYOFF FROM EMPLOYMENT;

1           (2) ADVERSE DISCRIMINATION IN TERMS OF RATES OF PAY,  
2           BENEFIT LEVELS, ADVANCEMENT OPPORTUNITIES OR SELECTION FOR  
3           JOB TRAINING OPPORTUNITIES.

4 SECTION 1804-C. FIRE AND EMS EMPLOYER CREDITS.

5           A TAXPAYER MAY CLAIM A TAX CREDIT AGAINST THE QUALIFIED TAX  
6           LIABILITY OF THE TAXPAYER.

7 ~~Section 1803-C~~ 1805-C. Carryover and carryback of credit.           <—

8           (a) General rule.--If the taxpayer cannot use the entire  
9           amount of the tax credit for the first taxable year in which the  
10           taxpayer is eligible for the credit, then the excess may be  
11           carried over to succeeding taxable years and used as a credit  
12           against the qualified tax liability of the taxpayer for those  
13           taxable years. Each time that the tax credit is carried over to  
14           a succeeding taxable year, it shall be reduced by the amount  
15           that was used as a credit during the immediately preceding  
16           taxable year. The tax credit provided by this article may be  
17           carried over and applied to succeeding taxable years for no more  
18           than three taxable years following the first taxable year for  
19           which the taxpayer was entitled to claim the credit.

20           ~~(b) No carryback. A taxpayer is not entitled to carry back~~           <—  
21           ~~or obtain a refund of an unused tax credit.~~

22           (B) APPLICATION.--A TAX CREDIT APPROVED BY THE DEPARTMENT IN           <—  
23           A TAXABLE YEAR FIRST SHALL BE APPLIED AGAINST THE TAXPAYER'S  
24           QUALIFIED LIABILITY FOR THE CURRENT TAXABLE YEAR AS OF THE DATE  
25           ON WHICH THE CREDIT WAS APPROVED BEFORE THE TAX CREDIT CAN BE  
26           APPLIED AGAINST ANY TAX LIABILITY UNDER SUBSECTION (A).

27           (C) NO CARRYBACK, REFUND, SALE OR ASSIGNMENT.--A TAXPAYER IS  
28           NOT ENTITLED TO CARRY BACK, OBTAIN A REFUND OF, SELL OR ASSIGN  
29           AN UNUSED TAX CREDIT.

30 SECTION 1806-C. PASS-THROUGH ENTITY.



1 OF ALL CREDITS APPLIED FOR BY ALL APPLICANTS).

2 Section ~~1805-C~~ 1808-C. Active volunteer point system. ←

3 (a) Duty to develop and implement.--The commissioner and the  
4 director shall jointly develop and implement an active volunteer  
5 point system establishing the annual requirements for  
6 designating firefighters and emergency medical services workers,  
7 respectively, as active volunteers.

8 (b) Factors to be considered.--To determine whether a  
9 firefighter or emergency medical services worker is active, the  
10 point system shall consider the following factors:

11 (1) The number of emergency calls responded to.

12 (2) The volunteer's level of training and participation  
13 in formal training and drills.

14 (3) Time spent on administration and support activities,  
15 including fundraising and maintenance of facilities and  
16 equipment.

17 (4) Involvement in other projects that directly benefit  
18 the department's financial viability, emergency response or  
19 operational readiness.

20 Section ~~1806-C~~ 1809-C. Credit verification. ←

21 (a) Volunteer fire company duty to report.--Within ten  
22 business days of the end of each calendar year, the chief of  
23 each volunteer fire company shall submit a report to the  
24 commissioner with the name and address of each volunteer  
25 firefighter who qualified for the tax credit for the previous  
26 calendar year in the format specified by the secretary.

27 (b) Volunteer emergency medical services and ambulance  
28 department duty to report.--Within ten business days of the end  
29 of each calendar year, the chief of each volunteer emergency  
30 medical services or ambulance department shall submit a report

1 to the director. The report shall include the name and address  
2 of each volunteer emergency medical services worker who  
3 qualified for the tax credit for the previous calendar year in  
4 the format required by the secretary.

5 Section ~~1807-C~~ 1810-C. Active volunteer certification. <—

6 (a) General rule.--On or before January 31 of each year, the  
7 commissioner and the director shall certify each volunteer  
8 firefighter or volunteer emergency medical services worker  
9 reported under section ~~1806-C~~ 1809-C as having met the <—  
10 requirements for designation as an active volunteer.

11 (b) Procedures.--The commissioner and the director, in  
12 cooperation with the secretary, shall jointly develop procedures  
13 for documenting volunteer certification for tax credit purposes.

14 Section ~~1808-C~~ 1811-C. Regulations. <—

15 The department shall prepare any forms that may be necessary  
16 to claim a tax credit, may require proof of the claim for tax  
17 credit and may adopt rules and regulations to administer the  
18 credit.

19 SECTION 1812-C. REPORT TO GENERAL ASSEMBLY. <—

20 NO LATER THAN JUNE 1, 2008, AND SEPTEMBER 1 OF EACH YEAR  
21 THEREAFTER, THE SECRETARY SHALL SUBMIT A REPORT TO THE GENERAL  
22 ASSEMBLY SUMMARIZING THE UTILIZATION OF THE TAX CREDIT PROVIDED  
23 BY THIS ARTICLE WITH FIRE AND EMERGENCY SERVICE RETENTION AND  
24 RECRUITMENT EFFORTS. THE REPORT SHALL INCLUDE THE NAME OF THE  
25 EMPLOYERS WHO UTILIZED THE CREDIT AS OF THE DATE OF THE REPORT  
26 AND THE AMOUNT OF THE CREDITS APPROVED. THE REPORT MAY ALSO  
27 INCLUDE ANY RECOMMENDATIONS FOR CHANGES IN THE CALCULATION OR  
28 ADMINISTRATION OF THE TAX CREDIT. THE REPORT SHALL BE SUBMITTED  
29 TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE APPROPRIATIONS  
30 COMMITTEE OF THE SENATE, THE CHAIRMAN AND MINORITY CHAIRMAN OF

1 THE APPROPRIATIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES,  
2 THE CHAIRMAN AND MINORITY CHAIRMAN OF THE FINANCE COMMITTEE OF  
3 THE SENATE AND THE CHAIRMAN AND MINORITY CHAIRMAN OF THE FINANCE  
4 COMMITTEE OF THE HOUSE OF REPRESENTATIVES. THE REPORT MAY  
5 INCLUDE OTHER INFORMATION THAT THE DEPARTMENT BELIEVES WILL  
6 ASSIST IN EVALUATING THE CREDIT PROGRAM.  
7 SECTION 1813-C. PENALTY.

8 (A) REPAYMENT TO COMMONWEALTH.--A TAXPAYER WHO CLAIMS A  
9 CREDIT UNDER THIS ARTICLE BUT FAILS TO MEET THE STANDARDS STATED  
10 IN SECTION 1803-C SHALL REPAY TO THE COMMONWEALTH THE FULL  
11 AMOUNT OF THE TAX CREDIT.

12 (B) REINSTATEMENT OF QUALIFIED EMPLOYEES.--ANY TAXPAYER WHO  
13 WILLFULLY AND KNOWINGLY VIOLATES THE PROVISIONS OF SECTION 1803-  
14 C AND TAKES ADVERSE EMPLOYMENT ACTION AGAINST VOLUNTEERS FOR  
15 RESPONDING TO EMERGENCY CALLS SHALL BE REQUIRED TO REINSTATE THE  
16 QUALIFIED EMPLOYEE TO HIS OR HER FORMER POSITION. THE TAXPAYER  
17 SHALL ALSO PAY THE EMPLOYEE FOR ALL LOST WAGES AND BENEFITS,  
18 INCLUDING SENIORITY, FOR THE PERIOD BETWEEN TERMINATION AND  
19 REINSTATEMENT TO HIS FORMER POSITION.

20 Section 2. This act shall apply to all taxable years  
21 beginning on or after January 1, 2009.

22 Section 3. This act shall take effect immediately.