

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2626 Session of 2012

INTRODUCED BY BENNINGHOFF, AUMENT, BAKER, BOBACK, BRADFORD, CALTAGIRONE, CUTLER, DENLINGER, FLECK, GABLER, GILLEN, GINGRICH, GODSHALL, GROVE, HELM, HENNESSEY, HICKERNELL, KAMPF, KORTZ, MICOZZIE, MILLER, MILNE, QUINN, ROCK, SAYLOR, SCAVELLO, SWANGER, TALLMAN, WATSON AND FABRIZIO, SEPTEMBER 5, 2012

SENATOR BRUBAKER, FINANCE, IN SENATE, AS AMENDED, OCTOBER 15, 2012

AN ACT

1 ~~Establishing the Promoting Employment Across Pennsylvania~~ ←
2 ~~Program; and providing for tax benefits to qualified~~
3 ~~companies in the form of withholding tax relief.~~
4 ESTABLISHING THE PROMOTING EMPLOYMENT ACROSS PENNSYLVANIA ←
5 PROGRAM; AND PROVIDING FOR TAX BENEFITS TO QUALIFIED
6 COMPANIES IN THE FORM OF WITHHOLDING TAX RELIEF.

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11 SECTION 5101. EFFECTIVE DATE.

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

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15 ~~Chapter 1. Preliminary Provisions~~

16 ~~Section 101. Short title.~~

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5 ~~CHAPTER 1~~

6 ~~PRELIMINARY PROVISIONS~~

7 ~~Section 101. Short title.~~

8 ~~This act shall be known and may be cited as the Promoting~~
9 ~~Employment Across Pennsylvania Act.~~

10 ~~Section 102. Scope of act.~~

11 ~~This act relates to fostering economic development, creating~~
12 ~~new jobs and opportunities for the citizens of this Commonwealth~~
13 ~~and providing incentives to locate business facilities, other~~
14 ~~operations and jobs in this Commonwealth.~~

15 ~~Section 103. Definitions.~~

16 ~~The following words and phrases when used in this act shall~~
17 ~~have the meanings given to them in this section unless the~~
18 ~~context clearly indicates otherwise:~~

19 ~~"Agreement." An agreement entered into under section 304.~~

20 ~~"County average wage." The average annual wage paid to~~
21 ~~employees, in the same occupation, located in the county where~~
22 ~~the qualified company intends to employ new employees, as~~
23 ~~reported by the Center for Workforce Information and Analysis.~~

24 ~~"Department." The Department of Community and Economic~~
25 ~~Development of the Commonwealth.~~

26 ~~"High impact project." A business development project in~~
27 ~~which a qualified company agrees to hire at least 100 new~~
28 ~~employees within five years from the date the agreement is~~
29 ~~entered into under section 304.~~

30 ~~"New employee." Any of the following:~~

1 ~~(1) An employee who meets all of the following:~~

2 ~~(i) Has never been employed by the qualified company~~
3 ~~in the qualified company's business operating in this~~
4 ~~Commonwealth during the taxable year for which benefits~~
5 ~~are sought under section 301.~~

6 ~~(ii) Performs duties in this Commonwealth in~~
7 ~~connection with the business operating in this~~
8 ~~Commonwealth on:~~

9 ~~(A) a regular, full time basis; or~~

10 ~~(B) a part time basis if the individual is~~
11 ~~customarily performing the duties at least 20 hours~~
12 ~~per week throughout the taxable year.~~

13 ~~(2) An individual who is acquired or relocated to this~~
14 ~~Commonwealth from another state through an expansion or~~
15 ~~relocation of a business operation, notwithstanding if the~~
16 ~~individual was previously employed by the qualified company.~~
17 ~~"Qualified company." As follows:~~

18 ~~(1) A for profit corporation, partnership or other~~
19 ~~entity that makes available to its full time employees health~~
20 ~~insurance coverage, pays at least 50% of the premium for the~~
21 ~~health insurance and meets the requirements of section 301.~~
22 ~~The term includes a company whose headquarters or~~
23 ~~administrative offices, located in this Commonwealth, serve~~
24 ~~an international or multistate territory and the company~~
25 ~~meets the requirements of section 301.~~

26 ~~(2) The term shall not include any corporation,~~
27 ~~partnership or other entity which meets any of the following:~~

28 ~~(i) Is identified by any of the following North~~
29 ~~American Industry Classification System code groups,~~
30 ~~sectors or subsectors:~~

1 ~~(A) Industry group 7132 or 8131.~~

2 ~~(B) Sectors 44, 45, 61, 92 or 221, including~~
3 ~~water and sewer services.~~

4 ~~(C) Subsector 722.~~

5 ~~(ii) Is delinquent in the payment of any taxes or~~
6 ~~any other amounts to the Federal Government, the~~
7 ~~Commonwealth or any political subdivision.~~

8 ~~(iii) Has filed for or has publicly announced its~~
9 ~~intention to file for bankruptcy protection.~~

10 ~~"Third party." A third party as described under section 301.~~

11 ~~"Withholding tax." The tax required to be withheld under~~
12 ~~section 316 of the act of March 4, 1971 (P.L.6, No.2), known as~~
13 ~~the Tax Reform Code of 1971.~~

14 CHAPTER 3

15 PROMOTING EMPLOYMENT ACROSS PENNSYLVANIA

16 Section 301. Qualification.

17 ~~In order to qualify for benefits under this act a qualified~~
18 ~~company must be located in this Commonwealth and meet the~~
19 ~~requirements under section 302(a). A qualified company may meet~~
20 ~~the requirements of this section by contracting with an~~
21 ~~unrelated third party to perform services as follows:~~

22 ~~(1) the third party serves as the legal employer of the~~
23 ~~new employees providing services to the qualified company;~~

24 ~~(2) the services are performed in this Commonwealth; and~~

25 ~~(3) the third party and the new employees are subject to~~
26 ~~withholding tax.~~

27 Section 302. Benefits.

28 ~~(a) Requirement. A qualified company that enters into an~~
29 ~~agreement must meet one of the following:~~

30 ~~(1) The business operations of the qualified company~~

1 ~~must be located in a first, second or second class A county~~
2 ~~and at least 15 new employees must be hired within two years~~
3 ~~of the date the qualified company enters into the agreement.~~

4 ~~(2) The business operations of the qualified company~~
5 ~~must be located in a third, fourth or fifth class county and~~
6 ~~at least ten new employees must be hired within two years~~
7 ~~from the date the qualified company enters into the~~
8 ~~agreement.~~

9 ~~(3) The business operations of the qualified company~~
10 ~~must be located in a sixth, seventh or eighth class county~~
11 ~~and at least five new employees must be hired within two~~
12 ~~years from the date the qualified company enters into the~~
13 ~~agreement.~~

14 ~~(b) Normal retention. A qualified company that meets the~~
15 ~~requirements of subsection (a) shall be eligible to retain 95%~~
16 ~~of the qualified company's withholding taxes for the new~~
17 ~~employees for one of the following periods:~~

18 ~~(1) Five years, if the new employees are compensated at~~
19 ~~a rate equal to at least 100% of the county average wage.~~

20 ~~(2) Six years, if the new employees are compensated at a~~
21 ~~rate equal to at least 110% of the county average wage.~~

22 ~~(3) Seven years, if the new employees are compensated at~~
23 ~~a rate equal to at least 120% of the county average wage.~~

24 ~~(c) High impact project retention. A qualified company that~~
25 ~~meets the requirements of subsection (a) and engages in a high~~
26 ~~impact project shall be eligible to retain 95% of the qualified~~
27 ~~company's withholding taxes for new employees for one of the~~
28 ~~following periods:~~

29 ~~(1) Seven years, if the new employees are compensated at~~
30 ~~a rate equal to at least 100% of the county average wage.~~

1 ~~(2) Eight years, if the new employees are compensated at~~
2 ~~a rate equal to at least 110% of the county average wage.~~

3 ~~(3) Nine years, if the new employees are compensated at~~
4 ~~a rate equal to at least 120% of the county average wage.~~

5 ~~(4) Ten years, if the new employees are compensated at a~~
6 ~~rate equal to at least 140% of the county average wage.~~

7 ~~(d) Third party. If a qualified company contracts with a~~
8 ~~third party, the third party shall remit payments equal to the~~
9 ~~amount of withholding taxes the qualified company is eligible to~~
10 ~~retain under this section to the qualified company and shall~~
11 ~~report the amount to the Department of Revenue as required under~~
12 ~~section 304.~~

13 ~~(e) Employee Notification. A qualified company or third~~
14 ~~party contracted by the qualified company shall provide a notice~~
15 ~~to each employee that the qualified company is receiving~~
16 ~~benefits under this act that explains the benefits received by~~
17 ~~the qualified company under section 302 in the same time frame~~
18 ~~and manner by which the employee receives his paycheck or pay~~
19 ~~period deductions. The information provided to the employees~~
20 ~~must be easily understandable and at the minimum explain that~~
21 ~~the employee's withholding tax or taxes are being retained by~~
22 ~~the qualified company pursuant to this act.~~

23 ~~Section 303. Application and review.~~

24 ~~(a) Application. A qualified company that meets the~~
25 ~~requirements of section 301 may apply to the department for~~
26 ~~benefits under this act. The application shall be on a form~~
27 ~~required by the department and shall include all of the~~
28 ~~following:~~

29 ~~(1) The name and address of the applicant.~~

30 ~~(2) Documentation that the applicant is a qualified~~

1 company.

2 ~~(3) Documentation that the applicant meets the~~
3 ~~requirements of section 301.~~

4 ~~(4) Documentation that the applicant does not owe any~~
5 ~~delinquent taxes or any other amounts to the Federal~~
6 ~~Government, this Commonwealth or any political subdivision.~~

7 ~~(5) An affidavit that the applicant has not filed for or~~
8 ~~publicly announced its intention to file for bankruptcy~~
9 ~~protection.~~

10 ~~(6) Any other information required by the department.~~

11 ~~(b) Review. Within 30 days of receipt of the application,~~
12 ~~the department, in conjunction with the Department of Revenue,~~
13 ~~shall review the application and determine if the applicant is a~~
14 ~~qualified company and that the requirements of section 301 have~~
15 ~~been met.~~

16 ~~(c) Approval. Upon approval of an application, the~~
17 ~~department shall notify the applicant in writing and, under~~
18 ~~section 304, enter into an agreement with the qualified company~~
19 ~~for benefits under this act. The department may enter into an~~
20 ~~agreement with a third party, or the third party may be a party~~
21 ~~to the agreement between the qualified company and the~~
22 ~~department.~~

23 ~~(d) Additional benefits. A qualified company that is~~
24 ~~receiving benefits under this act may apply to the department~~
25 ~~for additional benefits if the qualified company meets the~~
26 ~~requirements of section 301.~~

27 ~~Section 304. Agreement.~~

28 ~~The agreement between the qualified company and the~~
29 ~~department shall be entered into before any benefits may be~~
30 ~~provided under this act. The agreement shall do all of the~~

1 following:

2 ~~(1) Specify the terms and conditions the qualified~~
3 ~~company must comply with in order to receive benefits under~~
4 ~~this act.~~

5 ~~(2) State that the department must certify all of the~~
6 ~~following to the Department of Revenue every taxable year:~~

7 ~~(i) That the qualified company is eligible to~~
8 ~~receive benefits under this act.~~

9 ~~(ii) The number of new employees hired by the~~
10 ~~company during the taxable year.~~

11 ~~(iii) The amount of gross wages being paid to each~~
12 ~~new employee.~~

13 ~~(3) Include any other information deemed necessary by~~
14 ~~the department.~~

15 ~~Section 305. Optional remittance.~~

16 ~~(a) Remittance. The Department of Revenue may allow~~
17 ~~qualified companies who are approved to receive benefits under~~
18 ~~this act to remit 100% of employee withholding tax to the~~
19 ~~Commonwealth and receive a rebate equivalent to the amount~~
20 ~~authorized to be retained under section 302(b) and (c).~~

21 ~~(b) Fee. The Department of Revenue may assess a fee of not~~
22 ~~more than \$15 per new employee of the qualified company whose~~
23 ~~withholding tax is subject to this act.~~

24 ~~(c) Election. A qualified company must elect the option~~
25 ~~under subsection (a), if offered by the Department of Revenue,~~
26 ~~prior to entering into the agreement established under section~~
27 ~~304.~~

28 ~~Section 306. Recapture of withholding taxes.~~

29 ~~(a) Compliance with terms and conditions. If the qualified~~
30 ~~company fails to comply with the terms and conditions set forth~~

1 ~~in the agreement or fails to comply with this act, the~~
2 ~~department shall immediately terminate the agreement. The~~
3 ~~qualified company shall not be entitled to any further benefits~~
4 ~~provided for under this act and shall be required to remit to~~
5 ~~the Commonwealth an amount equal to the aggregate withholding~~
6 ~~taxes retained by the qualified company or remitted to the~~
7 ~~qualified company by a third party under this act as of the date~~
8 ~~the agreement is terminated.~~

9 ~~(b) Relocation. If a qualified company relocates outside of~~
10 ~~this Commonwealth within the five year period immediately~~
11 ~~following the last year the company received benefits under this~~
12 ~~act, the following apply:~~

13 ~~(1) If a qualified company relocates within three years~~
14 ~~from the last year the company received benefits under this~~
15 ~~act, an amount equal to 66% of the aggregate withholding~~
16 ~~taxes retained by the qualified company or remitted to the~~
17 ~~qualifying company by a third party under this act shall be~~
18 ~~refunded to the Commonwealth.~~

19 ~~(2) If a qualified company relocates within three to~~
20 ~~five years from the last year the company received benefits~~
21 ~~under this act, an amount equal to 33% of the aggregate~~
22 ~~withholding taxes retained by the qualified company or~~
23 ~~remitted to the qualifying company by a third party under~~
24 ~~this act shall be refunded to the Commonwealth.~~

25 ~~(c) Waiver. The department may waive or modify recapture~~
26 ~~requirements under subsection (b) if the department determines~~
27 ~~that the qualified company's relocation was due to circumstances~~
28 ~~beyond the control of the company, including, but not limited~~
29 ~~to:~~

30 ~~(1) natural disaster; or~~

1 ~~(2) loss of a major supplier or market.~~

2 ~~Section 307. Quarterly report.~~

3 ~~(a) Filing. Within 30 days from the end of each calendar~~
4 ~~quarter for the duration of the agreement, a qualified company~~
5 ~~shall file a quarterly report with the Department of Revenue on~~
6 ~~a form prescribed by the Department of Revenue, in conjunction~~
7 ~~with the department.~~

8 ~~(b) Contents. The form under subsection (a) shall request~~
9 ~~the following information:~~

10 ~~(1) The name and Employer Identification Number of the~~
11 ~~qualified company.~~

12 ~~(2) The effective date of the agreement.~~

13 ~~(3) The reporting period end date.~~

14 ~~(4) All information relating to each new employee of the~~
15 ~~qualified company, including:~~

16 ~~(i) The name of the new employee.~~

17 ~~(ii) The last four digits of the new employee's~~
18 ~~Social Security number.~~

19 ~~(iii) The employee's start or hire date.~~

20 ~~(iv) The employee's termination date.~~

21 ~~(v) The wages paid for the quarter and the total~~
22 ~~withholding taxes for each new employee.~~

23 ~~(5) The amount retained by the qualified company.~~

24 ~~(6) The amount remitted to the Department of Revenue.~~

25 ~~(7) Any other information required by the department.~~

26 ~~Section 308. Annual form.~~

27 ~~(a) Development. The Department of Revenue, in conjunction~~
28 ~~with the department, shall develop a form which must be~~
29 ~~completed annually by any qualified company or third party that~~
30 ~~is subject to an agreement under section 304.~~

1 ~~(b) Contents. The form shall request:~~

2 ~~(1) The amount of withholding tax being retained by the~~
3 ~~qualified company or remitted by a third party to the~~
4 ~~qualified company.~~

5 ~~(2) The number of new employees hired.~~

6 ~~(3) The wages of the new employees.~~

7 ~~(4) Any other information as required by the Department~~
8 ~~of Revenue and the department.~~

9 ~~(c) Filing. The qualified company or third party completing~~
10 ~~the form shall file the form with the Department of Revenue as~~
11 ~~prescribed by the Department of Revenue.~~

12 ~~(d) Confidentiality. The contents of the completed form~~
13 ~~shall be confidential except as provided under the act of March~~
14 ~~4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, and~~
15 ~~the act of February 14, 2008 (P.L.6, No.3), known as the Right~~
16 ~~to Know Law.~~

17 ~~Section 309. Prohibitions.~~

18 ~~A qualified company claiming benefits under this act may not~~
19 ~~do any of the following:~~

20 ~~(1) Participate in any program in which any portion of~~
21 ~~the qualified company's new employees withholding taxes have~~
22 ~~been pledged to finance indebtedness or transferred to or for~~
23 ~~the benefit of the qualified company.~~

24 ~~(2) Claim any grants or credits authorized by the~~
25 ~~General Assembly or any other program established by the~~
26 ~~Commonwealth, if the payments or credits would be earned for~~
27 ~~the hiring of new employees.~~

28 ~~Section 310. New employee credit.~~

29 ~~A new employee whose withholding tax is subject to this act~~
30 ~~shall be credited 100% of the withholding tax withheld from the~~

1 ~~new employee's paycheck as if the qualified company remitted~~
2 ~~100% of the withholding tax to the Commonwealth.~~

3 ~~Section 311. Administration and regulation.~~

4 ~~The department, in conjunction with the Department of~~
5 ~~Revenue, shall adopt guidelines necessary to implement and~~
6 ~~administer this act.~~

7 ~~Section 312. Review.~~

8 ~~(a) Duty. The department shall conduct an annual review of~~
9 ~~the activities undertaken by a qualified company under this act~~
10 ~~to ensure that the qualified company is in compliance with this~~
11 ~~act, any guidelines adopted under section 311 and any agreement.~~

12 ~~(b) Inspection. The books and records concerning employment~~
13 ~~and wages of any employees for which the qualified company or~~
14 ~~third party has retained any withholding taxes shall be~~
15 ~~available for inspection by the department at all times during~~
16 ~~business hours. The department may request the Department of~~
17 ~~Revenue to audit the qualified company or third party for~~
18 ~~compliance with this act.~~

19 ~~Section 313. Report to General Assembly.~~

20 ~~(a) Duty. The department shall submit an annual report to~~
21 ~~the General Assembly indicating the effectiveness of the tax~~
22 ~~benefits provided by this act no later than March 15 following~~
23 ~~the year in which the benefits were approved. The report shall~~
24 ~~include the following information:~~

25 ~~(1) The names of all qualified companies and taxpayers~~
26 ~~utilizing the benefit as of the date of the report.~~

27 ~~(2) The types of qualified companies utilizing this act.~~

28 ~~(3) The location of the qualified companies and the~~
29 ~~location of the qualified companies' business operations in~~
30 ~~this Commonwealth.~~

1 ~~(4) The number of new employees hired.~~
2 ~~(5) The wages paid for the new employees.~~
3 ~~(6) The annual amount of benefits provided under this~~
4 ~~act.~~

5 ~~(7) The estimated net Commonwealth fiscal impact,~~
6 ~~including the direct and indirect new Commonwealth taxes~~
7 ~~derived from the new employees hired.~~

8 ~~(8) An estimate of the multiplier effect on the~~
9 ~~Commonwealth's economy of the benefits received under this~~
10 ~~act.~~

11 ~~(b) Confidentiality. Notwithstanding any law providing for~~
12 ~~the confidentiality of tax records, the information contained in~~
13 ~~the report shall be public information. The report shall include~~
14 ~~any recommendations for changes in the calculation or~~
15 ~~administration of the benefit.~~

16 CHAPTER 51

17 MISCELLANEOUS PROVISIONS

18 Section 5101. Effective date.

19 This act shall take effect in 60 days.

20 CHAPTER 1



21 PRELIMINARY PROVISIONS

22 SECTION 101. SHORT TITLE.

23 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE PROMOTING
24 EMPLOYMENT ACROSS PENNSYLVANIA ACT.

25 SECTION 102. SCOPE OF ACT.

26 THIS ACT RELATES TO FOSTERING ECONOMIC DEVELOPMENT, CREATING
27 NEW JOBS AND OPPORTUNITIES FOR THE CITIZENS OF THIS COMMONWEALTH
28 AND PROVIDING INCENTIVES TO LOCATE BUSINESS FACILITIES, OTHER
29 OPERATIONS AND JOBS IN THIS COMMONWEALTH.

30 SECTION 103. DEFINITIONS.

1 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
2 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
3 CONTEXT CLEARLY INDICATES OTHERWISE:

4 "AGREEMENT." AN AGREEMENT ENTERED INTO UNDER SECTION 304.

5 "COUNTY AVERAGE WAGE." THE AVERAGE ANNUAL WAGE PAID TO
6 EMPLOYEES LOCATED IN THE COUNTY WHERE THE QUALIFIED COMPANY
7 INTENDS TO EMPLOY NEW EMPLOYEES, AS REPORTED BY THE CENTER FOR
8 WORKFORCE INFORMATION AND ANALYSIS.

9 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC
10 DEVELOPMENT OF THE COMMONWEALTH.

11 "QUALIFIED COMPANY." AS FOLLOWS:

12 (1) A FOR-PROFIT CORPORATION, PARTNERSHIP OR OTHER
13 ENTITY THAT:

14 (I) AGREES TO CREATE AT LEAST 250 NEW JOBS IN THIS
15 COMMONWEALTH WITHIN FIVE YEARS FROM THE DATE THE
16 AGREEMENT IS ENTERED INTO UNDER SECTION 304; AND

17 (II) MAKES AVAILABLE TO ITS FULL-TIME EMPLOYEES
18 HEALTH INSURANCE COVERAGE, PAYS AT LEAST 50% OF THE
19 PREMIUM FOR THE HEALTH INSURANCE AND MEETS THE
20 REQUIREMENTS OF SECTION 301.

21 (2) THE TERM SHALL NOT INCLUDE ANY CORPORATION,
22 PARTNERSHIP OR OTHER ENTITY WHICH MEETS ANY OF THE FOLLOWING:

23 (I) IS IDENTIFIED BY ANY OF THE FOLLOWING NORTH
24 AMERICAN INDUSTRY CLASSIFICATION SYSTEM CODE GROUPS,
25 SECTORS OR SUBSECTORS:

26 (A) INDUSTRY GROUP 7132 OR 8131.

27 (B) SECTORS 44, 45, 61, 92 OR 221, INCLUDING
28 WATER AND SEWER SERVICES.

29 (C) SUBSECTOR 722.

30 (II) IS DELINQUENT IN THE PAYMENT OF ANY TAXES OR

1 ANY OTHER AMOUNTS TO THE FEDERAL GOVERNMENT, THE
2 COMMONWEALTH OR ANY POLITICAL SUBDIVISION.

3 (III) HAS FILED FOR OR HAS PUBLICLY ANNOUNCED ITS
4 INTENTION TO FILE FOR BANKRUPTCY PROTECTION.

5 "WITHHOLDING TAX." THE TAX REQUIRED TO BE WITHHELD UNDER
6 SECTION 316 OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS
7 THE TAX REFORM CODE OF 1971.

8 CHAPTER 3

9 PROMOTING EMPLOYMENT ACROSS PENNSYLVANIA

10 SECTION 301. QUALIFICATION.

11 IN ORDER TO QUALIFY FOR BENEFITS UNDER THIS ACT A QUALIFIED
12 COMPANY MUST BE LOCATED IN THIS COMMONWEALTH AND MEET THE
13 REQUIREMENTS UNDER SECTION 302 (A) .

14 SECTION 302. BENEFITS.

15 (A) REQUIREMENT.--A QUALIFIED COMPANY THAT ENTERS INTO AN
16 AGREEMENT MUST CREATE 100 OF THE REQUIRED NEW JOBS IN THIS
17 COMMONWEALTH WITHIN TWO YEARS OF ENTERING INTO THE AGREEMENT
18 UNDER SECTION 304.

19 (B) RETENTION.--A QUALIFIED COMPANY THAT MEETS THE
20 REQUIREMENTS OF SUBSECTION (A) SHALL BE ELIGIBLE TO RETAIN 95%
21 OF THE QUALIFIED COMPANY'S WITHHOLDING TAXES FOR INDIVIDUALS
22 EMPLOYED IN THE NEW JOBS FOR ONE OF THE FOLLOWING PERIODS:

23 (1) SEVEN YEARS, IF THE INDIVIDUALS ARE COMPENSATED AT A
24 RATE EQUAL TO AT LEAST 100% OF THE COUNTY AVERAGE WAGE.

25 (2) EIGHT YEARS, IF THE INDIVIDUALS ARE COMPENSATED AT A
26 RATE EQUAL TO AT LEAST 110% OF THE COUNTY AVERAGE WAGE.

27 (3) NINE YEARS, IF THE INDIVIDUALS ARE COMPENSATED AT A
28 RATE EQUAL TO AT LEAST 120% OF THE COUNTY AVERAGE WAGE.

29 (4) TEN YEARS, IF THE INDIVIDUALS ARE COMPENSATED AT A
30 RATE EQUAL TO AT LEAST 140% OF THE COUNTY AVERAGE WAGE.

1 (C) INFORMATION STATEMENT.--A QUALIFIED COMPANY SHALL COMPLY
2 WITH SECTION 317 OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2),
3 KNOWN AS THE TAX REFORM CODE OF 1971, WITHOUT REGARD TO THE
4 BENEFITS RECEIVED UNDER THIS ACT.

5 (D) NOTICE.--THE QUALIFIED COMPANY SHALL PROVIDE TO EACH
6 INDIVIDUAL EMPLOYED IN A NEW JOB NOTICE OF THE BENEFITS THE
7 QUALIFIED COMPANY IS RECEIVING UNDER THIS ACT AT THE TIME THE
8 INDIVIDUAL IS HIRED. THE INFORMATION MUST BE EASILY
9 UNDERSTANDABLE AND MUST STATE THAT THE EMPLOYEE'S WITHHOLDING
10 TAX IS BEING RETAINED BY THE QUALIFIED COMPANY UNDER THIS ACT.
11 SECTION 303. APPLICATION AND REVIEW.

12 (A) APPLICATION.--A QUALIFIED COMPANY THAT MEETS THE
13 REQUIREMENTS OF SECTION 301 MAY APPLY TO THE DEPARTMENT FOR
14 BENEFITS UNDER THIS ACT. THE APPLICATION SHALL BE ON A FORM
15 REQUIRED BY THE DEPARTMENT AND SHALL INCLUDE ALL OF THE
16 FOLLOWING:

17 (1) THE NAME AND ADDRESS OF THE APPLICANT.

18 (2) DOCUMENTATION THAT THE APPLICANT IS A QUALIFIED
19 COMPANY.

20 (3) DOCUMENTATION THAT THE APPLICANT MEETS THE
21 REQUIREMENTS OF SECTION 301.

22 (4) DOCUMENTATION THAT THE APPLICANT DOES NOT OWE ANY
23 DELINQUENT TAXES OR ANY OTHER AMOUNTS TO THE FEDERAL
24 GOVERNMENT, THIS COMMONWEALTH OR ANY POLITICAL SUBDIVISION.

25 (5) AN AFFIDAVIT THAT THE APPLICANT HAS NOT FILED FOR OR
26 PUBLICLY ANNOUNCED ITS INTENTION TO FILE FOR BANKRUPTCY
27 PROTECTION.

28 (6) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

29 (B) REVIEW.--WITHIN 30 DAYS OF RECEIPT OF THE APPLICATION,
30 THE DEPARTMENT, IN CONJUNCTION WITH THE DEPARTMENT OF REVENUE,

1 SHALL REVIEW THE APPLICATION AND DETERMINE IF THE APPLICANT IS A
2 QUALIFIED COMPANY AND THAT THE REQUIREMENTS OF SECTION 301 HAVE
3 BEEN MET.

4 (C) APPROVAL.--THE DEPARTMENT MAY APPROVE OR DENY THE
5 APPLICATION. UPON APPROVAL OF AN APPLICATION, THE DEPARTMENT
6 SHALL NOTIFY THE APPLICANT IN WRITING AND ENTER INTO AN
7 AGREEMENT WITH THE QUALIFIED COMPANY FOR BENEFITS UNDER THIS
8 ACT.

9 SECTION 304. AGREEMENT.

10 THE AGREEMENT BETWEEN THE QUALIFIED COMPANY AND THE
11 DEPARTMENT SHALL BE ENTERED INTO BEFORE ANY BENEFITS MAY BE
12 PROVIDED UNDER THIS ACT. THE AGREEMENT SHALL DO ALL OF THE
13 FOLLOWING:

14 (1) SPECIFY THE TERMS AND CONDITIONS THE QUALIFIED
15 COMPANY MUST COMPLY WITH IN ORDER TO RECEIVE BENEFITS UNDER
16 THIS ACT.

17 (2) REQUIRE THE DEPARTMENT TO CERTIFY ALL OF THE
18 FOLLOWING TO THE DEPARTMENT OF REVENUE EVERY TAXABLE YEAR:

19 (I) THAT THE QUALIFIED COMPANY IS ELIGIBLE TO
20 RECEIVE BENEFITS UNDER THIS ACT.

21 (II) THE NUMBER OF NEW JOBS CREATED BY THE COMPANY
22 DURING EACH TAXABLE YEAR.

23 (III) THE AMOUNT OF GROSS WAGES BEING PAID TO EACH
24 INDIVIDUAL EMPLOYED IN A NEW JOB.

25 (3) INCLUDE ANY OTHER INFORMATION DEEMED NECESSARY BY
26 THE DEPARTMENT.

27 SECTION 305. OPTIONAL REMITTANCE.

28 (A) REMITTANCE.--THE DEPARTMENT OF REVENUE MAY ALLOW
29 QUALIFIED COMPANIES WHO ARE APPROVED TO RECEIVE BENEFITS UNDER
30 THIS ACT TO REMIT 100% OF EMPLOYEE WITHHOLDING TAX TO THE

1 COMMONWEALTH AND RECEIVE A REBATE EQUIVALENT TO THE AMOUNT
2 AUTHORIZED TO BE RETAINED UNDER SECTION 302(B).

3 (B) FEE.--THE DEPARTMENT OF REVENUE MAY ASSESS A FEE OF NOT
4 MORE THAN \$15 PER INDIVIDUAL EMPLOYED IN A NEW JOB OF THE
5 QUALIFIED COMPANY WHOSE WITHHOLDING TAX IS SUBJECT TO THIS ACT.

6 (C) ELECTION.--A QUALIFIED COMPANY MUST ELECT THE OPTION
7 UNDER SUBSECTION (A), IF OFFERED BY THE DEPARTMENT OF REVENUE,
8 PRIOR TO ENTERING INTO THE AGREEMENT ESTABLISHED UNDER SECTION
9 304.

10 SECTION 306. RECAPTURE OF WITHHOLDING TAXES.

11 (A) COMPLIANCE WITH TERMS AND CONDITIONS.--IF THE QUALIFIED
12 COMPANY FAILS TO COMPLY WITH THE TERMS AND CONDITIONS SET FORTH
13 IN THE AGREEMENT OR FAILS TO COMPLY WITH THIS ACT, THE
14 DEPARTMENT SHALL IMMEDIATELY TERMINATE THE AGREEMENT. THE
15 QUALIFIED COMPANY SHALL NOT BE ENTITLED TO ANY FURTHER BENEFITS
16 PROVIDED FOR UNDER THIS ACT AND SHALL BE REQUIRED TO REMIT TO
17 THE COMMONWEALTH AN AMOUNT EQUAL TO THE AGGREGATE WITHHOLDING
18 TAXES RETAINED BY THE QUALIFIED COMPANY UNDER THIS ACT AS OF THE
19 DATE THE AGREEMENT IS TERMINATED.

20 (B) RELOCATION.--IF A QUALIFIED COMPANY RELOCATES OUTSIDE OF
21 THIS COMMONWEALTH WITHIN THE FIVE-YEAR PERIOD IMMEDIATELY
22 FOLLOWING THE LAST YEAR THE COMPANY RECEIVED BENEFITS UNDER THIS
23 ACT, THE FOLLOWING APPLY:

24 (1) IF A QUALIFIED COMPANY RELOCATES WITHIN THREE YEARS
25 FROM THE LAST YEAR THE COMPANY RECEIVED BENEFITS UNDER THIS
26 ACT, AN AMOUNT EQUAL TO 66% OF THE AGGREGATE WITHHOLDING
27 TAXES RETAINED BY THE QUALIFIED COMPANY UNDER THIS ACT SHALL
28 BE REFUNDED TO THE COMMONWEALTH.

29 (2) IF A QUALIFIED COMPANY RELOCATES WITHIN THREE TO
30 FIVE YEARS FROM THE LAST YEAR THE COMPANY RECEIVED BENEFITS

1 UNDER THIS ACT, AN AMOUNT EQUAL TO 33% OF THE AGGREGATE
2 WITHHOLDING TAXES RETAINED BY THE QUALIFIED COMPANY UNDER
3 THIS ACT SHALL BE REFUNDED TO THE COMMONWEALTH.

4 (C) WAIVER.--THE DEPARTMENT MAY WAIVE OR MODIFY RECAPTURE
5 REQUIREMENTS UNDER SUBSECTION (B) IF THE DEPARTMENT DETERMINES
6 THAT THE QUALIFIED COMPANY'S RELOCATION WAS DUE TO CIRCUMSTANCES
7 BEYOND THE CONTROL OF THE COMPANY, INCLUDING, BUT NOT LIMITED
8 TO:

9 (1) NATURAL DISASTER; OR

10 (2) LOSS OF A MAJOR SUPPLIER OR MARKET.

11 SECTION 307. QUARTERLY FILING.

12 (A) FILING.--WITHIN 30 DAYS FROM THE END OF EACH CALENDAR
13 QUARTER FOR THE DURATION OF THE AGREEMENT, A QUALIFIED COMPANY
14 SHALL FILE QUARTERLY WITH THE DEPARTMENT OF REVENUE ON A FORM
15 PRESCRIBED BY THE DEPARTMENT OF REVENUE.

16 (B) CONTENTS.--THE FORM UNDER SUBSECTION (A) SHALL REQUEST
17 THE FOLLOWING INFORMATION:

18 (1) THE NAME AND EMPLOYER IDENTIFICATION NUMBER OF THE
19 QUALIFIED COMPANY.

20 (2) THE EFFECTIVE DATE OF THE AGREEMENT.

21 (3) THE REPORTING PERIOD END DATE.

22 (4) INFORMATION RELATING TO EACH INDIVIDUAL EMPLOYED IN
23 A NEW JOB AS REQUIRED BY THE DEPARTMENT OF REVENUE.

24 (5) INFORMATION ON AMOUNTS RETAINED OR REMITTED.

25 (6) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

26 (C) CONFIDENTIALITY.--THE CONTENTS OF THE COMPLETED FORM
27 SHALL BE CONFIDENTIAL EXCEPT AS PROVIDED UNDER THE ACT OF MARCH
28 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971.

29 SECTION 308. PROHIBITIONS.

30 A QUALIFIED COMPANY CLAIMING BENEFITS UNDER THIS ACT MAY NOT

1 PARTICIPATE IN ANY PROGRAM IN WHICH ANY PORTION OF THE QUALIFIED
2 COMPANY'S WITHHOLDING TAXES ATTRIBUTABLE TO NEW JOBS HAVE BEEN
3 PLEDGED TO FINANCE INDEBTEDNESS OR TRANSFERRED TO OR FOR THE
4 BENEFIT OF THE QUALIFIED COMPANY.

5 SECTION 309. NEW JOB CREDIT.

6 AN INDIVIDUAL EMPLOYED IN A NEW JOB WHOSE WITHHOLDING TAX IS
7 SUBJECT TO THIS ACT SHALL BE CREDITED 100% OF THE WITHHOLDING
8 TAX WITHHELD FROM THE INDIVIDUAL'S PAYCHECK AS IF THE QUALIFIED
9 COMPANY REMITTED 100% OF THE WITHHOLDING TAX TO THE
10 COMMONWEALTH.

11 SECTION 310. ADMINISTRATION AND REGULATION.

12 THE DEPARTMENT, IN CONJUNCTION WITH THE DEPARTMENT OF
13 REVENUE, SHALL ADOPT GUIDELINES NECESSARY TO IMPLEMENT AND
14 ADMINISTER THIS ACT.

15 SECTION 311. REVIEW.

16 (A) DUTY.--THE DEPARTMENT SHALL CONDUCT AN ANNUAL REVIEW OF
17 THE ACTIVITIES UNDERTAKEN BY A QUALIFIED COMPANY TO ENSURE THAT
18 THE QUALIFIED COMPANY IS IN COMPLIANCE WITH THIS ACT, THE
19 AGREEMENTS AND ANY REGULATIONS OR GUIDELINES ADOPTED UNDER THIS
20 ACT.

21 (B) INSPECTION.--THE BOOKS AND RECORDS CONCERNING EMPLOYMENT
22 AND WAGES OF ANY EMPLOYEES FOR WHICH THE QUALIFIED COMPANY HAS
23 RETAINED ANY WITHHOLDING TAXES SHALL BE AVAILABLE FOR INSPECTION
24 BY THE DEPARTMENT DURING REGULAR BUSINESS HOURS. THE DEPARTMENT
25 MAY REQUEST THE DEPARTMENT OF REVENUE TO AUDIT THE QUALIFIED
26 COMPANY FOR COMPLIANCE WITH THIS ACT.

27 SECTION 312. REPORT TO GENERAL ASSEMBLY.

28 (A) DUTY.--THE DEPARTMENT SHALL SUBMIT AN ANNUAL REPORT TO
29 THE GENERAL ASSEMBLY INDICATING THE EFFECTIVENESS OF THE TAX
30 BENEFITS PROVIDED BY THIS ACT NO LATER THAN MARCH 15 FOLLOWING

1 THE YEAR IN WHICH THE BENEFITS WERE APPROVED. THE REPORT SHALL
2 INCLUDE THE FOLLOWING INFORMATION:

3 (1) THE NAME OF EACH QUALIFIED COMPANY PARTICIPATING AS
4 OF THE DATE OF THE REPORT.

5 (2) THE TYPES OF QUALIFIED COMPANIES UTILIZING THIS ACT.

6 (3) THE LOCATION OF THE QUALIFIED COMPANY AND ANY OF ITS
7 BUSINESS OPERATIONS IN THIS COMMONWEALTH.

8 (4) THE NUMBER OF NEW JOBS CREATED.

9 (5) THE WAGES PAID TO INDIVIDUALS EMPLOYED IN THE NEW
10 JOBS.

11 (6) THE ANNUAL AMOUNT OF BENEFITS PROVIDED UNDER THIS
12 ACT.

13 (7) THE ESTIMATED NET COMMONWEALTH FISCAL IMPACT,
14 INCLUDING THE DIRECT AND INDIRECT NEW COMMONWEALTH TAXES
15 DERIVED FROM THE NEW JOBS CREATED.

16 (8) AN ESTIMATE OF THE MULTIPLIER EFFECT OF THE BENEFITS
17 RECEIVED UNDER THIS ACT.

18 (B) CONFIDENTIALITY.--NOTWITHSTANDING ANY LAW PROVIDING FOR
19 THE CONFIDENTIALITY OF TAX RECORDS, THE INFORMATION CONTAINED IN
20 THE REPORT SHALL BE PUBLIC INFORMATION.

21 SECTION 313. LIMITATION.

22 THE AGGREGATE ANNUAL AMOUNT OF BENEFITS RETAINED UNDER THIS
23 ACT MAY NOT EXCEED \$5,000,000.

24 SECTION 314. APPLICABILITY.

25 NO AGREEMENT UNDER THIS ACT MAY BE ENTERED INTO AFTER JANUARY
26 1, 2018.

27 CHAPTER 51

28 MISCELLANEOUS PROVISIONS

29 SECTION 5101. EFFECTIVE DATE.

30 THIS ACT SHALL TAKE EFFECT IMMEDIATELY.