

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1878 Session of 2013

INTRODUCED BY EVANKOVICH, SIMMONS, MACKENZIE, MILLARD, O'NEILL, SCHLOSSBERG, AUMENT, KAUFFMAN, LUCAS, SAYLOR, DUNBAR, THOMAS, COHEN, GROVE, TURZAI, KORTZ, EVERETT, BOBACK, TOOHL, OBERLANDER, MURT, QUINN, GINGRICH, MIRABITO, REGAN, FLECK AND DAVIS, DECEMBER 9, 2013

AS REPORTED FROM COMMITTEE ON LABOR AND INDUSTRY, HOUSE OF REPRESENTATIVES, AS AMENDED, DECEMBER 10, 2013

AN ACT

1 Providing for Pennsylvania Workforce Investment Strategy
2 Program, for Cooperative Workforce Investment Partnerships,
3 for employee training programs and for Pennsylvania Workforce
4 Investment Strategy Tax Credit; imposing duties on the
5 Department of Community and Economic Development and the
6 Department of Revenue; providing for carryover, carryback,
7 refund and assignment, for pass-through entity, for
8 administration, for limitation and for interim and annual
9 reports.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Short title.

13 This act shall be known and may be cited as the Pennsylvania
14 Workforce Investment Strategy Act.

15 Section 2. 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 "Department." The Department of Labor and Industry of the

1 Commonwealth.

2 "Designated representative." A designated representative of
3 a business which participates in the program.

4 "Local workforce investment board." As defined in section
5 103 of the act of December 18, 2001 (P.L.949, No.114), known as
6 the Workforce Development Act.

7 "Program." The Pennsylvania Workforce Investment Strategy
8 Program established in section 3(a).

9 "Qualified tax liability." Tax liability imposed on a
10 taxpayer under Article III, IV, VI, VII, VIII, IX, XI or XV of
11 the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform
12 Code of 1971, excluding a tax withheld by an employer under
13 Article III of the Tax Reform Code of 1971.

14 "Qualifying workforce expenditure." Money spent by a
15 participating business for purposes directly attributable to the
16 implementation and utilization of an employee training program
17 established under this act. THE TERM SHALL INCLUDE MONEY PAID TO <--
18 A LOCAL WORKFORCE INVESTMENT BOARD BY A PARTICIPATING BUSINESS
19 FOR ADMINISTRATIVE COSTS ASSOCIATED WITH THE IMPLEMENTATION OF
20 AND COMPLIANCE WITH THIS ACT.

21 "Taxpayer." A natural person, corporation, business trust,
22 limited liability company, partnership, limited liability
23 partnership, association or other form of legal business entity
24 that:

25 (1) is subject to a tax imposed under Article III, IV,
26 VI, VII, VIII, IX, XI or XV of the act of March 4, 1971
27 (P.L.6, No.2), known as the Tax Reform Code of 1971,
28 excluding a tax withheld by an employer under Article III of
29 the Tax Reform Code of 1971; and

30 (2) is participating in the program.

1 Section 3. Pennsylvania Workforce Investment Strategy Program.

2 (a) Establishment.--There is hereby established within the
3 department a program to be known as the Pennsylvania Workforce
4 Investment Strategy Program.

5 (b) Legislative intent.--It is the purpose of the program to
6 incentivize businesses to organize and collaborate with each
7 other to address common personnel needs and training shortfalls.
8 Participating businesses shall, with the assistance and
9 oversight of the department and the local workforce investment
10 board, develop employee training programs and implement them
11 utilizing preexisting infrastructure that is readily available.
12 The businesses shall be eligible for a tax credit to subsidize a
13 portion of their incurred expenses for participation in the
14 program.

15 (c) Administration.--The program shall be administered by
16 the department and shall require local workforce investment
17 boards to do the following:

18 (1) Identify and actively solicit eligible local
19 businesses organized under section 4 for participation in the
20 program.

21 (2) Work collaboratively with program participants to
22 develop and administer training programs in conformity with
23 section 5.

24 (3) Assist program participants in applying for and
25 securing tax credits available under this act.

26 (4) Collect quantitative and qualitative data on
27 critical program metrics and make a report to the department
28 in accordance with section 11.

29 Section 4. Cooperative Workforce Investment Partnerships.

30 (a) Solicitation.--The local workforce investment board

1 shall, in a manner prescribed by the department, biannually
2 notify businesses in its jurisdiction of the businesses' ability
3 to confederate for the purpose of participation in the program.

4 (b) Name.--For the purposes of program participation,
5 businesses that elect to confederate under this section shall
6 form an entity known as a Cooperative Workforce Investment
7 Partnership.

8 (c) Unlimited participation.--There shall be no limit to the
9 number of Cooperative Workforce Investment Partnerships formed
10 in the jurisdiction of a local workforce investment board. There
11 shall be no limit to the number of participating businesses
12 within a single Cooperative Workforce Investment Partnership.

13 (d) Standards for business participation.--Businesses
14 forming or participating in a Cooperative Workforce Investment
15 Partnership need not be linked by common industry practices,
16 products, services, technologies or supply chains but must, in
17 the judgment of the local workforce investment board, endure
18 similar chronic or immediate personnel needs and training
19 shortfalls for similar classes and types of employees who:

20 (1) perform substantively similar essential job
21 functions;

22 (2) possess or require similar knowledge bases and
23 critical skills; or

24 (3) undergo similar physical demands.

25 (e) Application requirements.--A business that elects to
26 form a Cooperative Workforce Investment Partnership shall submit
27 an application to the local workforce investment board on a form
28 and in a manner promulgated by the department. An application
29 must include, at minimum, the following:

30 (1) date of application;

- 1 (2) name and location of each participating business;
- 2 (3) a declaration of interest signed by a designated
3 representative of each participating business;
- 4 (4) the relevant contact information of each designated
5 representative;
- 6 (5) the total number of full-time and part-time
7 employees of each participating business and the expected
8 number of employee program participants;
- 9 (6) if applicable, the name of a labor organization that
10 represents the employees of each participating business;
- 11 (7) the chronic or immediate personnel needs and
12 training shortfalls commonly endured by a participating
13 business;
- 14 (8) a basic description of proposed training curriculum
15 designed to relieve or eliminate the needs and shortfalls
16 described under paragraph (7);
- 17 (9) a projection of resources needed to effectively
18 implement training programs developed under section 5; and
- 19 (10) a mutually agreeable date of commencement for the
20 proposed training program.

21 (f) Approval process.--The department shall approve an
22 application for the formation of a Cooperative Workforce
23 Investment Partnership if each business satisfies the basic
24 standards for program participation in subsection (d) and
25 satisfactorily demonstrates its ability and intention to work
26 with the local workforce investment board to develop and
27 implement a comprehensive employee training program. The
28 department may remove a single business participant from the
29 Cooperative Workforce Investment Partnership if the business
30 does not meet the basic standards for program participation in

1 subsection (d) or fails to satisfactorily demonstrate its
2 ability and intention to work with the local workforce
3 investment board to develop and implement a comprehensive
4 employee training program.

5 (g) Disbandment or removal.--The local workforce investment
6 board may, with approval from the department, disband a
7 Cooperative Workforce Investment Partnership or remove a single
8 participating business for failure to comply with program
9 requirements.

10 (h) Replacement.--Consistent with the application and
11 approval requirements of this section, a new Cooperative
12 Workforce Investment Partnership may be instituted to replace a
13 partnership that has been disbanded under subsection (g).

14 (i) Business participant penalty period.--A participating
15 business that has been removed from the Cooperative Workforce
16 Investment Partnership may reapply in a manner consistent with
17 the application and approval requirements of this section after
18 serving a six-month penalty period.

19 (j) Authority of department.--The department may institute
20 and establish additional guidelines and procedures as are
21 necessary to implement the requirements of this section.

22 Section 5. Employee training programs.

23 (a) Preliminary meeting.---Upon the formation of a
24 Cooperative Workforce Investment Partnership, the local
25 workforce investment board shall meet with a designated
26 representative of each participating business to define and
27 establish:

28 (1) the broad needs and critical challenges facing the
29 business participants, including global, national, regional,
30 State and local industry trends;

1 (2) infrastructure, technology and skill needs of the
2 participating businesses and their employees;

3 (3) immediately available resources and services;

4 (4) information and resources needed to address gaps in
5 the business's understanding of the business's industry;

6 (5) current barriers to economic success, regional
7 competitiveness, innovation, long-term financial health and
8 industrial viability;

9 (6) short-term and long-term personnel needs and current
10 skill gaps amongst incumbent workers;

11 (7) inefficiencies and inadequacies of current employee
12 training programs, if applicable; and

13 (8) other logistical or infrastructural barriers to
14 meeting business goals and objectives.

15 (b) Action plan.--In consultation and with final approval
16 from the local workforce investment board, designated
17 representatives of each participating business shall establish
18 an action plan for the implementation of an employee training
19 program. At minimum, the action plan shall include:

20 (1) the name of each employee participating in the
21 employee training program;

22 (2) employee training program instructors and minimum
23 certification;

24 (3) the curriculum of the employee training program;

25 (4) the venue of the employee training program;

26 (5) frequency and duration of the employee training
27 program; and

28 (6) any and all resources needed to adequately implement
29 the employee training program.

30 (c) Implementation.--No employee training program may

1 commence before an action plan has been submitted to and
2 approved by the local workforce investment board. Upon approval
3 of the action plan by the local workforce investment board, the
4 Cooperative Workforce Investment Partnership may implement its
5 employee training program.

6 (d) Utilization of preexisting infrastructure.--An employee
7 training program proposed under subsection (b) and approved
8 under subsection (c) must emphasize the utilization of
9 preexisting infrastructure for the purpose of training program
10 implementation.

11 (e) Skill-specific focus.--Curricula proposed under
12 subsection (b) and approved under subsection (c) must be focused
13 on providing employees with skill-specific occupational
14 training.

15 Section 6. Pennsylvania Workforce Investment Strategy Tax
16 Credit.

17 (a) Tax credit certificate.--The following apply:

18 (1) A taxpayer shall complete and submit to the
19 Department of Community and Economic Development a
20 Pennsylvania Workforce Investment Strategy Tax Credit
21 application on the form required by the Department of
22 Community and Economic Development. The application must
23 include the following:

- 24 (i) name and address of the taxpayer;
- 25 (ii) proof of participation in the program;
- 26 (iii) documentation supporting the qualifying
27 workforce expenditures; and
- 28 (iv) any other information as requested by the
29 Department of Community and Economic Development.

30 (2) The Department of Community and Economic

1 Development, in conjunction with the department and the
2 Department of Revenue, shall review the applications on a
3 first-come, first-served basis.

4 (3) If the Department of Community and Economic
5 Development approves the taxpayer's application, the
6 Department of Community and Economic Development shall issue
7 a tax credit certificate equal to ~~60%~~ 90% of the total <--
8 qualifying workforce expenditures.

9 (4) In granting tax credit certificates under this act,
10 the Department of Community and Economic Development:

11 (i) may not grant more than \$3 million in tax credit
12 certificates in fiscal year 2014-2015;

13 (ii) may not grant more than \$7 million in tax
14 credit certificates in fiscal year 2015-2016;

15 (iii) may not grant more than \$10 million in tax
16 credit certificates in fiscal year 2016-2017; and

17 (iv) may not grant more than \$75,000 in tax credit
18 certificates to a single taxpayer in any fiscal year.

19 (b) Claiming tax credit.--Upon presenting a tax credit
20 certificate to the Department of Revenue, the taxpayer may claim
21 a tax credit against the qualified tax liability.

22 Section 7. Carryover, carryback, refund and assignment.

23 (a) General rule.--If a qualified taxpayer cannot use the
24 entire amount of the tax credit for the taxable year in which
25 the tax credit is first approved, the excess may be carried over
26 to succeeding taxable years and used as a credit against the
27 qualified tax liability of the qualified taxpayer for those
28 taxable years. When the tax credit is carried over to a
29 succeeding taxable year, it shall be reduced by the amount that
30 was used as a credit during the immediately preceding taxable

1 year. The tax credit provided by this act may be carried over
2 and applied to succeeding taxable years for not more than seven
3 taxable years following the first taxable year for which the
4 qualified taxpayer was entitled to claim the credit.

5 (b) Application.--A tax credit certificate received by the
6 department in a taxable year first shall be applied against the
7 qualified taxpayer's qualified tax liability for the current
8 taxable year as of the date on which the credit was issued
9 before the tax credit can be applied against any qualified tax
10 liability under subsection (a).

11 (c) No carryback or refund.--A qualified taxpayer may not
12 carry back or obtain a refund of all or any portion of an unused
13 tax credit granted to the qualified taxpayer under this act.

14 (d) Sale or assignment.--The following shall apply:

15 (1) A qualified taxpayer, upon application to and
16 approval by the Department of Community and Economic
17 Development, may sell or assign, in whole or in part, a tax
18 credit granted to the qualified taxpayer under this act.

19 (2) Before an application is approved, the department
20 must find that the applicant filed the required State tax
21 reports and returns for all applicable taxable years and paid
22 any balance of State tax due as determined at settlement,
23 assessment or determination by the department.

24 (e) Purchasers and assignees.--The purchaser or assignee of
25 all or a portion of a tax credit obtained under section 6 shall
26 immediately claim the credit in the taxable year in which the
27 purchase or assignment is made. The purchaser or assignee may
28 not carry forward, carry back or obtain a refund of or sell or
29 assign the tax credit. The purchaser or assignee shall notify
30 the department of the seller or assignor of the tax credit in

1 compliance with procedures specified by the department.

2 Section 8. Pass-through entity.

3 (a) General rule.--If a pass-through entity has any unused
4 tax credit under section 6, it may elect in writing, according
5 to procedures established by the department, to transfer all or
6 a portion of the credit to shareholders, members or partners in
7 proportion to the share of the entity's distributive income to
8 which the shareholder, member or partner is entitled.

9 (b) Limitation.--A pass-through entity and a shareholder,
10 member or partner of a pass-through entity may not claim the
11 credit under subsection (a) for the same qualified expenditure.

12 (c) Application.--A shareholder, member or partner of a
13 pass-through entity to whom a credit is transferred under
14 subsection (a) shall immediately claim the credit in the taxable
15 year in which the transfer is made. The shareholder, member or
16 partner may not carry forward, carry back, obtain a refund of or
17 sell or assign the credit.

18 Section 9. Administration.

19 The Department of Community and Economic Development, the
20 Department of Revenue and the department shall jointly develop
21 written guidelines for the implementation of the tax credit
22 provisions of this act.

23 Section 10. Limitation.

24 A taxpayer may not apply for or utilize tax credits after
25 June 30, 2018.

26 Section 11. Interim and annual reports.

27 (a) Interim reports.--A local workforce investment board
28 that has participated in the program shall, in a manner
29 promulgated by the department, submit a biannual report to the
30 department in accordance with subsection (c).

1 (b) Annual report.--On an annual basis, the department shall
2 compile the interim reports collected under subsection (a) and
3 submit a final report in accordance with subsection (c) to:

4 (1) the Governor;

5 (2) the Auditor General;

6 (3) the chairman and minority chairman of the
7 Appropriations Committee of the Senate;

8 (4) the chairman and minority chairman of the Labor and
9 Industry Committee of the Senate;

10 (5) the chairman and minority chairman of the
11 Appropriations Committee of the House of Representatives; and

12 (6) the chairman and minority chairman of the Labor and
13 Industry Committee of the House of Representatives.

14 (c) Report contents.--In addition to information or analysis
15 deemed necessary by the department, the interim and final
16 reports must include, at minimum, the number of Cooperative
17 Workforce Investment Partnerships formed, employee training
18 programs implemented, program participation, notable progress
19 and outcomes for program participants and financial costs
20 endured.

21 Section 12. Effective date.

22 This act shall take effect immediately.