

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL**

**No. 1758** Session of  
2005

INTRODUCED BY GEORGE, BELARDI, BELFANTI, BIANCUCCI, BISHOP,  
BUNT, CALTAGIRONE, CASORIO, CAWLEY, CLYMER, COHEN, DALLY,  
DeWEESE, DONATUCCI, D. EVANS, FABRIZIO, FAIRCHILD, GERGELY,  
GOOD, GOODMAN, GRUCELA, HARHAI, KIRKLAND, KOTIK, LaGROTTA,  
LEDERER, LEVDANSKY, MANN, MARKOSEK, McCALL, McGEEHAN,  
McILHATTAN, PETRARCA, PISTELLA, READSHAW, SAINATO, SANTONI,  
SATHER, SCAVELLO, SHANER, SOLOBAY, THOMAS, TIGUE, WALKO,  
WANSACZ AND YOUNGBLOOD, JUNE 21, 2005

REFERRED TO COMMITTEE ON COMMERCE, JUNE 21, 2005

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 companies that  
11 create new jobs in manufactured products in this Commonwealth  
12 and for a low-interest loan program; and making an  
13 appropriation.

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

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

ARTICLE XVIII-C

TAX CREDIT FOR PENNSYLVANIA-MADE PRODUCTS

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 "Department." The Department of Community and Economic  
6 Development of the Commonwealth.

7 "Pennsylvania-made product." A good or product that is  
8 manufactured in this Commonwealth of, in whole or in part, raw  
9 materials or recycled goods originating in this Commonwealth.

10 "Start date." The date on which a company may begin creating  
11 new jobs which may be eligible for tax credits.

12 "Tax credits." Tax credits for which the Department of  
13 Community and Economic Development has issued a certificate  
14 under this article.

15 Section 1802-C. Application process.

16 (a) Application.--A company must complete and submit to the  
17 department a job creation tax credit application.

18 (b) Creation of jobs.--The applicant must agree to create at  
19 least one new job for up to \$1,000 received in tax credit  
20 benefit, which amount shall be prorated by the approximate  
21 percentage value of the raw materials or recycled goods  
22 originating in this Commonwealth and used in the Pennsylvania-  
23 made product in proportion to the full market value of the  
24 Pennsylvania-made product.

25 (c) Approval.--If the department approves the company's  
26 application, the department and the company shall execute a  
27 commitment letter containing the following:

28 (1) A description of the project.

29 (2) The number of new jobs to be created.

30 (3) The amount of private capital investment in the

1 project.

2 (4) The maximum tax credit amount the company may claim.

3 (5) A signed statement that the company intends to  
4 maintain its operation in this Commonwealth for five years  
5 from the start date.

6 (6) Such other information as the department deems  
7 appropriate.

8 (d) Commitment letter.--After a commitment letter has been  
9 signed by both the Commonwealth and the company, the company  
10 shall receive a tax credit certificate and filing information.

11 Section 1803-C. Tax credits.

12 (a) Maximum amount.--A company may claim a tax credit of up  
13 to \$1,000 per new job created, which amount shall be prorated by  
14 the approximate percentage value of the raw materials or  
15 recycled goods originating in this Commonwealth and used in the  
16 Pennsylvania-made product in proportion to the full market value  
17 of the Pennsylvania-made product as specified in the commitment  
18 letter.

19 (b) Determination of new jobs created.--

20 (1) New jobs shall be deemed created in year one to the  
21 extent that the company's average employment by quarter  
22 during year one exceeds the company's average employment  
23 level during the company's base period.

24 (2) New jobs shall be deemed created in year two to the  
25 extent that the company's average employment by quarter  
26 during year two exceeds the company's average employment by  
27 quarter during year one.

28 (3) New jobs shall be deemed created in year three to  
29 the extent that the company's average employment by quarter  
30 during year three exceeds the company's average employment by

1 quarter during year two.

2 (c) Applicable taxes.--A company may apply the tax credit to  
3 100% of the company's State corporate net income tax, capital  
4 stock and franchise tax or the capital stock and franchise tax  
5 of a shareholder of the company if the company is a Pennsylvania  
6 S corporation, gross premiums tax, gross receipts tax, bank and  
7 trust company shares tax, mutual thrift institution tax, title  
8 insurance company shares tax, personal income tax or the  
9 personal income tax of shareholders of a Pennsylvania S  
10 corporation or any combination thereof.

11 (d) Tax credit term.--A company may claim the tax credit for  
12 each new job created, as approved by the department, for a  
13 period determined by the department but not to exceed five years  
14 from the date the company first submits a credit certificate.

15 (e) Availability of tax credits.--Each fiscal year,  
16 \$15,000,000 in tax credits shall be made available to the  
17 department and may be awarded by the department in accordance  
18 with this article. In addition, in any fiscal year, the  
19 department may reissue or assign prior fiscal year tax credits  
20 which have been recaptured under section 1807-C(a) or (b)  
21 (relating to penalties) and may award prior fiscal year credits  
22 not previously issued. Prior fiscal year credits may be  
23 reissued, assigned or awarded by the department without  
24 limitation by section 1806-C(b) (relating to prohibitions).

25 (f) Priority of applications.--The department may prioritize  
26 applications for the tax credit based on the unemployment rate  
27 in the area of the proposed project or the unemployment rate of  
28 area within this Commonwealth where the raw materials or  
29 recycled goods originate.

30 Section 1804-C. Low-interest loan program.

1     (a) Establishment.--The department shall establish and  
2 administer a program to provide, from funds appropriated or made  
3 available to the department for that purpose, low-interest loans  
4 for economic development projects that have received tax credits  
5 under this article and that demonstrate a significant commitment  
6 to the goals of this article.

7     (b) Regulations.--The department shall promulgate  
8 regulations to implement this section.

9 Section 1805-C. Regulations.

10     The department shall promulgate rules and regulations  
11 necessary to administer this article.

12 Section 1806-C. Prohibitions.

13     (a) General rule.--The following actions with regard to job  
14 creation tax credits are prohibited:

15         (1) Approval of jobs that have been created prior to the  
16 start date.

17         (2) Approval for a company which is relocating  
18 operations from one municipality in this Commonwealth to  
19 another unless special circumstances exist and the  
20 municipality that is losing the existing jobs has an  
21 opportunity to submit comments prior to action by the  
22 department. If the department approves the tax credits, the  
23 company must commit to preserving the existing employees and  
24 the credit shall apply only to the new jobs.

25         (3) The assignment, transfer or use of credits by any  
26 other company, provided, however, that tax credits may be  
27 assigned in whole or in part to an affiliated entity. As used  
28 in this paragraph, the term "affiliated entity" means an  
29 entity which is part of the same "affiliated group," as  
30 defined by section 1504(a)(1) of the Internal Revenue Code of

1 1986 (Public Law 99-514, 26 U.S.C. § 1504(a)(1)), as the  
2 company awarded the credit.

3 (b) Allocations.--Not less than 25% of the total amount of  
4 all tax credits authorized in any fiscal year under section  
5 1803-C(e) (relating to tax credits) shall be available to  
6 companies with fewer than 100 employees. Any portion of this  
7 allocation not committed by April 30 of each year shall be  
8 available to any business which meets the remaining program  
9 criteria.

10 Section 1807-C. Penalties.

11 (a) Failure to maintain operations.--A company which  
12 receives tax credits and fails to substantially maintain  
13 existing operations and the operations related to the tax  
14 credits in this Commonwealth for a period of five years from the  
15 date the company first submits a tax credit certificate to the  
16 Department of Revenue shall be required to refund to the  
17 Commonwealth the total amount of credit or credits granted.

18 (b) Failure to create jobs.--A company which receives tax  
19 credits and fails to create the approved number of new jobs  
20 within three years of the start date will be required to refund  
21 to the Commonwealth the total amount of credit or credits  
22 granted.

23 (c) Waiver.--The department may waive the penalties outlined  
24 in subsections (a) and (b) if it is determined that a company's  
25 operations were not maintained or the new jobs were not created  
26 because of circumstances beyond the company's control. Such  
27 circumstances include natural disasters, unforeseen industry  
28 trends or a loss of a major supplier or market.

29 Section 2. The sum of \$5,000,000 is hereby appropriated to  
30 the Department of Community and Economic Development for the

1 purpose of making low-interest loans under section 1804-C of the  
2 act.

3 Section 3. This act shall take effect in 60 days.