

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 325 Session of  
2005

INTRODUCED BY KASUNIC, LOGAN, O'PAKE, COSTA, KITCHEN,  
TARTAGLIONE, STOUT, BOSCOLA, STACK, RHOADES AND RAFFERTY,  
FEBRUARY 18, 2005

REFERRED TO FINANCE, FEBRUARY 18, 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 job retention tax credit.

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

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

ARTICLE XIX-B

JOB RETENTION TAX CREDIT

18 Section 1901-B. Short Title.--This article shall be known  
19 and may be cited as the Job Retention Tax Credit Act.

20 Section 1902-B. Definitions.--The following words, terms and  
21 phrases, when used in this article, shall have the meanings

1 ascribed to them in this section, except where the context  
2 clearly indicates a different meaning:

3 "Applicable taxes." The term includes the following taxes  
4 imposed under this act:

5 (1) Corporate net income tax.

6 (2) Capital stock and franchise tax.

7 (3) Capital stock and franchise tax of a shareholder of a  
8 company if the company is a Pennsylvania S corporation.

9 (4) Gross premiums tax.

10 (5) Gross receipts tax.

11 (6) Bank and trust company shares tax.

12 (7) Mutual thrift institution tax.

13 (8) Title insurance company shares tax.

14 (9) Personal income tax.

15 (10) Personal income tax of a shareholder of a company if  
16 the company is a Pennsylvania S corporation.

17 (11) Any combination of the taxes enumerated in clauses (1)  
18 through (10).

19 "Credit." The job retention tax credit provided for in this  
20 article.

21 "Department." The Department of Community and Economic  
22 Development of the Commonwealth.

23 "Eligible employer." A sole proprietor, partnership,  
24 association, corporation or other business entity authorized to  
25 do business in this Commonwealth which is required under the  
26 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1  
27 et seq.) to withhold Federal income taxes from wages paid to  
28 employees and which on the date of initial application for a  
29 credit:

30 (1) has been in operation for at least two years, but not

1 more than seven years;

2 (2) has five or more full-time employees on its regular  
3 payroll; and

4 (3) has its principal place of business in a county with a  
5 rate of unemployment that exceeds this Commonwealth's average  
6 county unemployment rate as determined by the Department of  
7 Community and Economic Development.

8 "Secretary." The Secretary of Community and Economic  
9 Development of the Commonwealth.

10 Section 1903-B. Public Policy.--It is hereby declared to be  
11 the public policy of this Commonwealth to encourage retention of  
12 jobs in counties plagued by high unemployment rates.

13 Section 1904-B. Tax Credit.--(a) An eligible employer shall  
14 submit an application for a credit to the department.

15 (b) The applicant must agree to maintain the number of full-  
16 time employees it has on the regular payroll on the date of  
17 initial application for a credit, for a six-year period  
18 commencing in the year the initial application for a credit is  
19 made.

20 (c) If the department determines that the applicant is an  
21 eligible employer under this article and regulations promulgated  
22 by the department, the eligible employer and the department  
23 shall execute a commitment letter containing the following:

24 (1) A description of the type of business engaged in by the  
25 eligible employer.

26 (2) The number and a description of the jobs to be retained.

27 (3) A signed statement by the eligible employer that it  
28 intends to maintain its operation in this Commonwealth for a  
29 period of six years from the date of initial application for a  
30 credit.

1     (4) Such other information as the department deems  
2 appropriate.

3     (d) (1) After the commitment letter has been signed by the  
4 eligible employer and the secretary, the Department of Revenue  
5 shall grant, subject to the limitation in clause (2), an annual  
6 credit against any applicable taxes in the amount of one  
7 thousand dollars (\$1,000) for each job identified in the  
8 commitment letter.

9     (2) The maximum annual tax credit for an eligible employer  
10 shall be one hundred thousand dollars (\$100,000).

11     (e) (1) Following granting of the initial credit, an  
12 eligible employer shall submit annually to the department an  
13 abbreviated application for the tax credit. If the department  
14 determines that the eligible employer has complied with the  
15 terms of the commitment letter and is otherwise in compliance  
16 with this article and regulations of the department, the  
17 department shall approve the application and the Department of  
18 Revenue shall grant the tax credit.

19     (2) An otherwise eligible employer, after qualifying for a  
20 tax credit, shall not thereafter be disqualified from receiving  
21 a credit for the reason that the unemployment rate in the county  
22 where it has its principal place of business changes.

23     Section 1905-B. Limitation on Credit.--(a) An eligible  
24 employer may apply the credit against its tax liability for six  
25 tax years. A credit may not be carried over.

26     (b) An eligible employer may not simultaneously receive a  
27 credit under this article and Chapter 9 of the act of June 29,  
28 1996 (P.L.434, No.67), known as the "Job Enhancement Act."

29     Section 1906-B. Penalty.--(a) An eligible employer which  
30 receives job retention credits and fails to comply with the

1 terms of a commitment letter shall be required to refund to the  
2 Commonwealth the total amount of credits granted.

3 (b) The department may waive the penalty provided for in  
4 subsection (a) if it determines that the eligible employer's  
5 failure to retain the jobs was because of circumstances beyond  
6 the eligible employer's control, including natural disasters,  
7 unanticipated industry trends or loss of a supplier or market.

8 Section 1907-B. Rules and Regulations.--The secretary shall  
9 promulgate rules and regulations to administer and enforce the  
10 provisions of this article.

11 Section 2. This act shall apply to taxable years beginning  
12 after December 31, 2006.

13 Section 3. This act shall take effect immediately.