

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2606 Session of 2010

INTRODUCED BY WHITE, M. SMITH, BARBIN, BELFANTI, CALTAGIRONE, DALEY, DEASY, DeLUCA, DePASQUALE, DERMODY, FRANKEL, GERGELY, GIBBONS, GOODMAN, HARHAI, HORNAMAN, KOTIK, LONGIETTI, MARSHALL, MATZIE, MELIO, MURPHY, PYLE, SAINATO, SHAPIRO, SIPTROTH, SWANGER, VULAKOVICH AND WAGNER, JUNE 24, 2010

REFERRED TO COMMITTEE ON FINANCE, JUNE 24, 2010

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 Marcellus Shale employs
11 Pennsylvania workers - job tax credits.

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

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

17 ARTICLE XIX-B

18 MARCELLUS SHALE EMPLOYS PENNSYLVANIA WORKERS - JOB TAX CREDIT

19 Section 1901-B. Definitions.

20 The following words and phrases when used in this article
21 shall have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Department." The Department of Labor and Industry of the
3 Commonwealth.

4 "Job." A full-time employment position, the average hourly
5 rate, excluding benefits, for which must be at least 150% of the
6 Federal minimum wage, created within three years from a
7 company's start date within this Commonwealth. The term does not
8 include temporary or seasonal work.

9 "Pennsylvania Marcellus Shale job tax credit." Tax credits
10 for which the Department of Labor and Industry has issued a
11 certificate under this article.

12 "Qualified apprenticeship training program." A program
13 registered with the Apprenticeship and Training Council within
14 the Department of Labor and Industry that is in compliance with
15 applicable Federal and State laws and regulations and which
16 requires at least 2,000 but not more than 10,000 hours of on-
17 the-job apprenticeship training.

18 "Resident." Any natural person who is considered a resident
19 under the act of March 4, 1971 (P.L.6, No.2), known as the Tax
20 Reform Code of 1971, and who has completed a qualified
21 apprenticeship training program or a job training program
22 approved by the Department of Labor and Industry.

23 "Start date." The date on which a company may begin
24 employing residents which may be eligible for job creation tax
25 credits.

26 Section 1902-B. Eligibility.

27 In order to be eligible to receive Pennsylvania Marcellus
28 Shale job tax credits, a company must demonstrate to the
29 department the following:

30 (1) The ability to conduct business in Pennsylvania,

1 including the appropriate licenses and certifications.

2 (2) Leadership in the Marcellus Shale drilling industry,
3 including conformity to industry laws and regulations
4 overseen and enforced by the Department of Environmental
5 Protection.

6 (3) Financial stability and the company's financial
7 viability.

8 (4) The intent to maintain operations in this
9 Commonwealth and employ residents for a period of five years
10 from the date the company submits its tax credit certificate
11 to the Department of Revenue.

12 (5) The intent to employ residents with full-time
13 family-sustaining jobs with an average hourly rate and
14 benefits.

15 Section 1903-B. Application process.

16 (a) Application.--A company must complete and submit to the
17 department a Pennsylvania Marcellus Shale job tax credit
18 application along with a copy of the permit issued by the
19 Department of Environmental Protection providing that the
20 company has obtained the necessary permit allowing the company
21 to drill in this Commonwealth or a statement from the Department
22 of Environmental Protection stating the same. The Department of
23 Environmental Protection shall notify the department and the
24 Department of Revenue upon suspension or revocation of drilling
25 permits or other changes that affect the company's ability to
26 continuously drill in this Commonwealth.

27 (b) Employment of residents.--At least 75% of the
28 applicant's workforce in the Commonwealth must be composed of
29 residents.

30 (c) Approval.--If the department approves the company's

1 application, the department and the company shall execute a
2 commitment letter containing the following:

3 (1) A description of the project.

4 (2) The number of Pennsylvania residents employed.

5 (3) The amount of private capital investment in the
6 project.

7 (4) The maximum Pennsylvania Marcellus Shale job tax
8 credits amount the company may claim.

9 (5) A signed statement that the company intends to
10 maintain its operation in this Commonwealth and employ
11 residents for five years from the start date.

12 (6) A signed statement from the company that the company
13 will provide to the department a list of workers for which
14 the company will claim tax credit, including documentation of
15 each worker's status as a Pennsylvania resident and
16 fulfillment of apprenticeship or job training requirements.

17 (7) A signed statement that the company will refund the
18 Commonwealth all Pennsylvania Marcellus Shale job tax credits
19 in accordance with section 1906-B for noncompliance.

20 (8) Such other information as the department deems
21 appropriate.

22 (d) Commitment letter.--After a commitment letter has been
23 signed by both the Commonwealth and the company, the company
24 shall receive a Pennsylvania Marcellus Shale job tax credit
25 certificate and filing information.

26 Section 1904-B. Tax credits.

27 (a) Maximum amount.--A company may claim a tax credit of
28 \$2,500 per resident employed up to the maximum tax credit amount
29 specified in the commitment letter.

30 (b) Applicable taxes.--A company may apply the tax credit to

1 100% of the company's State corporate net income tax, capital
2 stock and franchise tax or the capital stock and franchise tax
3 of a shareholder of the company if the company is a Pennsylvania
4 S corporation, gross premiums tax, gross receipts tax, bank and
5 trust company shares tax, mutual thrift institution tax, title
6 insurance company shares tax, personal income tax or the
7 personal income tax of shareholders of a Pennsylvania S
8 corporation or any combination thereof.

9 (c) Tax credit term.--A company may claim Pennsylvania
10 Marcellus Shale job tax credits for each resident employed, as
11 approved by the department, for a period determined by the
12 department but not to exceed five years from the date the
13 company first submits a Pennsylvania Marcellus Shale job tax
14 credit certificate.

15 (d) Availability of tax credits.--Each fiscal year,
16 \$25,000,000 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 1906-B(a) or (b) and
21 may award prior fiscal year credits not previously issued. Prior
22 fiscal year credits may be reissued, assigned or awarded by the
23 department.

24 Section 1905-B. Prohibitions.

25 (a) Prohibitions.--The following actions with regard to
26 Pennsylvania Marcellus Shale job tax credits are prohibited:

27 (1) Approval of residents who were employed prior to the
28 start date.

29 (2) The assignment, transfer or use of credits by any
30 other company, provided, however, that tax credits may be

1 assigned in whole or in part to an affiliated entity. As used
2 in this paragraph, the term "affiliated entity" means an
3 entity which is part of the same "affiliated group," as
4 defined by section 1504(a)(1) of the Internal Revenue Code of
5 1986 (Public Law 99-514, 26 U.S.C. § 1504(a)(1)), as the
6 company awarded the credit.

7 Section 1906-B. Penalties.

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

17 (b) Failure to employ residents.--A company which receives
18 Pennsylvania Marcellus Shale job tax credits and fails to
19 continuously employ the approved number of qualified residents
20 within three years of the start date will be required to refund
21 to the Commonwealth the total monetary amount of credit or
22 credits granted. It shall not be considered failure to employ
23 residents under this section if a company continues to provide
24 remuneration to employees during a work stoppage that is due to
25 an event or circumstances beyond the employer's control.

26 (c) Waiver.--The department may waive the penalties outlined
27 in subsections (a) and (b) if it is determined that a company's
28 operations were not maintained or the residents were not
29 employed because of circumstances beyond the company's control.
30 Such circumstances include natural disasters, unforeseen

1 industry trends or a loss of a major supplier or market.

2 Section 1907-B. Annual reports.

3 (a) Report.--The department shall provide an annual report
4 on the operation of the program, which at a minimum shall
5 include:

6 (1) A list of all Marcellus Shale job tax credit
7 certificates provided during the previous fiscal year.

8 (2) The name and location of each company receiving
9 Marcellus Shale job tax credit certificates.

10 (3) An analysis of the Marcellus Shale job tax credit
11 program's ability to create jobs in this Commonwealth.

12 (4) Any other information that may be deemed relevant by
13 the department.

14 (b) Submission.--The annual report shall be submitted to the
15 Governor, the Majority Leader of the Senate, the Minority Leader
16 of the Senate, the Majority Leader of the House of
17 Representatives and the Minority Leader of the House of
18 Representatives by March 1 of the first full year following the
19 implementation of this section and March 1 of each year
20 thereafter.

21 Section 1908-B. Notice of availability of tax credits.

22 The department shall publish notice of the availability of
23 this tax credit on its publicly accessible Internet website and
24 make information available annually to the Statewide Workforce
25 Investment Board for distribution to local boards.

26 Section 2. This act shall take effect in 60 days.