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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2181 Session of  
2012

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INTRODUCED BY D. EVANS, TAYLOR, BRENNAN, BROWNLEE, COHEN, DALEY,  
DAVIS, FRANKEL, HARKINS, JOSEPHS, LONGIETTI, MAHONEY, MATZIE,  
MIRABITO, MURPHY, MYERS, M. O'BRIEN, PRESTON, READSHAW,  
SABATINA, SANTARSIERO, SANTONI, STABACK, WATERS, WHEATLEY,  
YOUNGBLOOD AND GOODMAN, FEBRUARY 22, 2012

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REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 22, 2012

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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 manufacturing jobs 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:

16 ARTICLE XVIII-E

17 MANUFACTURING JOBS TAX CREDIT

18 Section 1801-E. Definitions.

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

1 context clearly indicates otherwise:

2 "Approval." A document submitted by the Department of  
3 Community and Economic Development to the qualified  
4 manufacturing facility or qualified supplier that states the  
5 benefits that may be provided under this article.

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

8 "Employee." A person employed by a qualified manufacturing  
9 facility or qualified supplier.

10 "NAICS." The 1997 edition of the North American Industry  
11 Classification System as prepared by the Executive Office of the  
12 President, Office of Management and Budget.

13 "New job." The number of full-time employees located at the  
14 project facility that exceeds the project facility base  
15 employment, less any decrease in the number of full-time  
16 employees at related facilities below the related facility base  
17 employment. The term does not include a job that was created  
18 prior to the date of the notice of intent. An employee that  
19 spends less than 50% of the employee's work time at the facility  
20 is deemed to be located at a facility if:

21 (1) the employee receives direction and control from  
22 that facility;

23 (2) is on the facility's payroll;

24 (3) one hundred percent of the employee's income from  
25 such employment is Pennsylvania income; and

26 (4) the employee is paid at or above the industry  
27 average wage for Pennsylvania, as determined by the  
28 Department of Community and Economic Development using NAICS  
29 industry classifications.

30 "Notice of intent." A form developed by the Department of

1 Community and Economic Development, completed by the qualified  
2 manufacturing facility or qualified supplier and submitted to  
3 the department, which states the qualified manufacturing  
4 facility's or qualified supplier's intent to hire individuals  
5 for new jobs or retain current jobs and request benefits under  
6 this article.

7 "Qualified manufacturing facility." A taxpayer that meets  
8 all of the following:

9 (1) Manufactures goods in this Commonwealth.

10 (2) Derives more than 10% of total sales revenues of the  
11 facility from goods produced at the facility, which are  
12 exported outside the United States or sold to the Federal  
13 Government for export outside the United States or that  
14 derives more than 20% of all total sales revenues of the  
15 facility from goods produced at the facility which are  
16 exported outside this Commonwealth.

17 (3) Makes an additional capital investment of at least  
18 \$50,000 per full-time employee equivalent retained at the  
19 facility.

20 (4) Manufactures a new product that has not been  
21 manufactured in this Commonwealth by the company that owns  
22 the facility at any time prior to the date of the notice of  
23 intent.

24 (5) Continues to manufacture goods under paragraphs (1),  
25 (2), (3) and (4) for a period of at least five years from the  
26 date of the notice of intent.

27 "Qualified supplier." A taxpayer that meets all of the  
28 following:

29 (1) Derives more than 10% of the total annual revenues  
30 of the company from sales to a qualified manufacturing

1 facility.

2 (2) Adds five or more new jobs.

3 (3) Pays wages for the new jobs that are equal to or  
4 exceed the industry average wage for Pennsylvania as  
5 determined by the Department of Community and Economic  
6 Development using NAICS industry classifications.

7 (4) Provides health insurance to employees and pays at  
8 least 50% of the premiums of the insurance.

9 "Retained job." The number of full-time employees located at  
10 the project facility that existed in the taxable year  
11 immediately preceding the year in which application for the  
12 program is made.

13 "Taxpayer." Any individual or entity subject to the tax  
14 imposed under Article III, IV or VI.

15 Section 1802-E. Notice of intent.

16 (a) Department response.--The department shall respond  
17 within 30 days to a qualified manufacturing facility or a  
18 qualified supplier that provides a notice of intent to receive  
19 benefits under this article with either an approval or a  
20 rejection of the notice of intent.

21 (b) Deemed approval.--Failure to respond on behalf of the  
22 department shall result in the notice of intent being deemed an  
23 approval for the purposes of this article.

24 (c) Effect of approval.--A qualified manufacturing facility  
25 or qualified supplier that is provided an approval shall be  
26 allowed a benefit as provided in this article.

27 Section 1803-E. Benefit for qualified manufacturing facility.

28 (a) General rule.--A qualified manufacturing facility may  
29 retain, upon approval of a notice of intent by the department,  
30 50% of the amount of tax required to be withheld under section

1 316 from retained jobs for a period of ten years.

2 (b) Department of Revenue regulation.--The method of  
3 determining the amount to be withheld shall be prescribed by  
4 regulation of the Department of Revenue.

5 Section 1804-E. Benefit for qualified supplier.

6 A qualified supplier may retain, upon approval of a notice of  
7 intent by the department, the total amount of tax required to be  
8 withheld under section 316 from new jobs for a period of:

9 (1) three years from the date of approval of the notice  
10 of intent; or

11 (2) five years if the supplier pays wages for the new  
12 jobs equal to or greater than 120% of the industry average  
13 wage for Pennsylvania as determined by the department using  
14 NAICS industry classifications.

15 Section 1805-E. Limitation.

16 The total aggregate amount of retained withholding tax  
17 authorized under this article shall not exceed \$35,000,000 per  
18 year.

19 Section 1806-E. Other tax credits and hiring.

20 (a) Ineligibility to receive other tax credit.--  
21 Notwithstanding any provision of law to the contrary, any  
22 qualified manufacturing facility that is awarded benefits under  
23 this article shall not simultaneously receive tax credits  
24 otherwise under this act or any other law of this Commonwealth.

25 (b) Certain hiring prohibited.--Any taxpayer who is awarded  
26 benefits under this article who knowingly hires individuals who  
27 are not allowed to work legally in the United States shall  
28 immediately forfeit the benefits and shall repay the  
29 Commonwealth an amount equal to any withholding taxes already  
30 retained.

1 Section 1807-E. Regulations.

2 The department may promulgate regulations to implement the  
3 provisions of this article.

4 Section 1808-E. Report.

5 Prior to March 1 each year, the department shall provide a  
6 report to the General Assembly. The report shall include:

7 (1) The names of participating qualified manufacturing  
8 facilities or qualified suppliers.

9 (2) The location of participating qualified  
10 manufacturing facilities or qualified suppliers.

11 (3) The annual amount of benefits provided.

12 (4) The estimated net State fiscal impact.

13 (5) The number of new jobs created or jobs retained.

14 Section 2. The addition of Article XVIII-E of the act shall  
15 apply to taxable years beginning after December 31, 2012.

16 Section 3. This act shall take effect immediately.