

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2626 Session of 2012

INTRODUCED BY BENNINGHOFF, AUMENT, BAKER, BOBACK, BRADFORD, CALTAGIRONE, CUTLER, DENLINGER, FLECK, GABLER, GILLEN, GINGRICH, GODSHALL, GROVE, HELM, HENNESSEY, HICKERNELL, KAMPF, KORTZ, MICOZZIE, MILLER, MILNE, QUINN, ROCK, SAYLOR, SCAVELLO, SWANGER, TALLMAN, WATSON AND FABRIZIO, SEPTEMBER 5, 2012

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 2, 2012

AN ACT

1 Establishing the Promoting Employment Across Pennsylvania
2 Program; and providing for tax benefits to qualified
3 companies in the form of withholding tax relief.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 TABLE OF CONTENTS

7 Chapter 1. Preliminary Provisions

8 Section 101. Short title.

9 Section 102. Scope of act.

10 Section 103. Definitions.

11 Chapter 3. Promoting Employment Across Pennsylvania

12 Section 301. Qualification.

13 Section 302. Benefits.


14 Section 303. Application and review.

15 Section 304. Agreement.

16 ~~Section 305. Recapture of withholding taxes.~~



1 ~~Section 306. Annual form.~~
2 ~~Section 307. Prohibitions.~~
3 ~~Section 308. Administration and regulation.~~
4 ~~Section 309. Review.~~
5 ~~Section 310. Report to General Assembly.~~

6 SECTION 305. OPTIONAL REMITTANCE. 
7 SECTION 306. RECAPTURE OF WITHHOLDING TAXES.
8 SECTION 307. QUARTERLY REPORT.
9 SECTION 308. ANNUAL FORM.
10 SECTION 309. PROHIBITIONS.
11 SECTION 310. NEW EMPLOYEE CREDIT.
12 SECTION 311. ADMINISTRATION AND REGULATION.
13 SECTION 312. REVIEW.
14 SECTION 313. REPORT TO GENERAL ASSEMBLY.

15 Chapter 51. Miscellaneous Provisions

16 Section 5101. Effective date.

17 CHAPTER 1

18 PRELIMINARY PROVISIONS

19 Section 101. Short title.

20 This act shall be known and may be cited as the Promoting
21 Employment Across Pennsylvania Act.

22 Section 102. Scope of act.

23 This act relates to fostering economic development, creating
24 new jobs and opportunities for the citizens of this Commonwealth
25 and providing incentives to locate business facilities, other
26 operations and jobs in this Commonwealth.

27 Section 103. Definitions.

28 The following words and phrases when used in this act shall
29 have the meanings given to them in this section unless the
30 context clearly indicates otherwise:

1 "Agreement." An agreement entered into under section 304.

2 "County average wage." The average annual wage paid to
3 employees, IN THE SAME OCCUPATION, located in the county where ←
4 the qualified company intends to employ new employees, as
5 reported by the Center for Workforce Information and Analysis.

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

8 "High-impact project." A business development project in
9 which a qualified company agrees to hire at least 100 new
10 employees within five years from the date the agreement is
11 entered into under section 304.

12 "New employee." Any of the following:

13 (1) An employee who meets all of the following:

14 (i) Has never been employed by the qualified company
15 in the qualified company's business operating in this
16 Commonwealth during the taxable year for which benefits
17 are sought under section 301.

18 (ii) Performs duties in this Commonwealth in
19 connection with the business operating in this
20 Commonwealth on:

21 (A) a regular, full-time basis; or

22 (B) a part-time basis if the individual is
23 customarily performing the duties at least 20 hours
24 per week throughout the taxable year.

25 (2) An individual who is acquired or relocated to this
26 Commonwealth from another state through an expansion or
27 relocation of a business operation, notwithstanding if the
28 individual was previously employed by the qualified company.

29 "Qualified company." As follows:

30 (1) A for-profit corporation, partnership or other

1 entity that makes available to its full-time employees health
2 insurance coverage, pays at least 50% of the premium for the
3 health insurance and meets the requirements of section 301.
4 The term includes a company whose headquarters or
5 administrative offices, located in this Commonwealth, serve
6 an international or multistate territory and the company
7 meets the requirements of section 301.

8 (2) The term shall not include any corporation,
9 partnership or other entity which meets any of the following:

10 (i) Is identified by any of the following North
11 American Industry Classification System code groups,
12 sectors or subsectors:

13 (A) Industry group 7132 or 8131.

14 (B) Sectors 44, 45, 61, 92 or 221, including
15 water and sewer services.

16 (C) Subsector 722.

17 (ii) Is delinquent in the payment of any taxes or
18 any other amounts to the Federal Government, the
19 Commonwealth or any political subdivision.

20 (iii) Has filed for or has publicly announced its
21 intention to file for bankruptcy protection.

22 "Third party." A third party as described under section 301.

23 "Withholding tax." The tax required to be withheld under
24 section 316 of the act of March 4, 1971 (P.L.6, No.2), known as
25 the Tax Reform Code of 1971.

26 CHAPTER 3

27 PROMOTING EMPLOYMENT ACROSS PENNSYLVANIA

28 Section 301. Qualification.

29 In order to qualify for benefits under this act a qualified
30 company must ~~relocate an existing business facility, office,~~



1 ~~department or other operation located outside this Commonwealth~~
2 ~~and the jobs from the business facility, office, department or~~
3 ~~other operation to this Commonwealth~~ BE LOCATED IN THIS ←
4 COMMONWEALTH AND MEET THE REQUIREMENTS UNDER SECTION 302 (A). A
5 qualified company may meet the requirements of this section by
6 contracting with an unrelated third party to perform services as
7 follows:

8 (1) the third party serves as the legal employer of the
9 new employees providing services to the qualified company;

10 (2) the services are performed in this Commonwealth; and

11 (3) the third party and the new employees are subject to
12 withholding tax.

13 Section 302. Benefits.

14 (a) Requirement.--A qualified company that enters into an
15 agreement must meet one of the following:

16 (1) The business operations of the qualified company
17 must be located in a first, second or second class A county
18 and at least 15 new employees must be hired within two years
19 of the date the qualified company enters into the agreement.

20 (2) The business operations of the qualified company
21 must be located in a third, fourth or fifth class county and
22 at least ten new employees must be hired within two years
23 from the date the qualified company enters into the
24 agreement.

25 (3) The business operations of the qualified company
26 must be located in a sixth, seventh or eighth class county
27 and at least five new employees must be hired within two
28 years from the date the qualified company enters into the
29 agreement.

30 (b) Normal retention.--A qualified company that meets the

1 requirements of subsection (a) shall be eligible to retain 95%
2 of the qualified company's withholding taxes for the new
3 employees for one of the following periods:

4 (1) Five years, if the new employees are compensated at
5 a rate equal to at least 100% of the county average wage.

6 (2) Six years, if the new employees are compensated at a
7 rate equal to at least 110% of the county average wage.

8 (3) Seven years, if the new employees are compensated at
9 a rate equal to at least 120% of the county average wage.

10 (c) High-impact project retention.--A qualified company that
11 meets the requirements of subsection (a) and engages in a high-
12 impact project shall be eligible to retain 95% of the qualified
13 company's withholding taxes for new employees for one of the
14 following periods:

15 (1) Seven years, if the new employees are compensated at
16 a rate equal to at least 100% of the county average wage.

17 (2) Eight years, if the new employees are compensated at
18 a rate equal to at least 110% of the county average wage.

19 (3) Nine years, if the new employees are compensated at
20 a rate equal to at least 120% of the county average wage.

21 (4) Ten years, if the new employees are compensated at a
22 rate equal to at least 140% of the county average wage.

23 (d) Third party.--If a qualified company contracts with a
24 third party, the third party shall remit payments equal to the
25 amount of withholding taxes the qualified company is eligible to
26 retain under this section to the qualified company and shall
27 report the amount to the Department of Revenue as required under
28 section 304.

29 (E) EMPLOYEE NOTIFICATION.--A QUALIFIED COMPANY OR THIRD
30 PARTY CONTRACTED BY THE QUALIFIED COMPANY SHALL PROVIDE A NOTICE



1 TO EACH EMPLOYEE THAT THE QUALIFIED COMPANY IS RECEIVING
2 BENEFITS UNDER THIS ACT THAT EXPLAINS THE BENEFITS RECEIVED BY
3 THE QUALIFIED COMPANY UNDER SECTION 302 IN THE SAME TIME FRAME
4 AND MANNER BY WHICH THE EMPLOYEE RECEIVES HIS PAYCHECK OR PAY
5 PERIOD DEDUCTIONS. THE INFORMATION PROVIDED TO THE EMPLOYEES
6 MUST BE EASILY UNDERSTANDABLE AND AT THE MINIMUM EXPLAIN THAT
7 THE EMPLOYEE'S WITHHOLDING TAX OR TAXES ARE BEING RETAINED BY
8 THE QUALIFIED COMPANY PURSUANT TO THIS ACT.

9 Section 303. Application and review.

10 (a) Application.--A qualified company that meets the
11 requirements of section 301 may apply to the department for
12 benefits under this act. The application shall be on a form
13 required by the department and shall include all of the
14 following:

15 (1) The name and address of the applicant.

16 (2) Documentation that the applicant is a qualified
17 company.

18 (3) Documentation that the applicant meets the
19 requirements of section 301.

20 (4) Documentation that the applicant does not owe any
21 delinquent taxes or any other amounts to the Federal
22 Government, this Commonwealth or any political subdivision.

23 (5) An affidavit that the applicant has not filed for or
24 publicly announced its intention to file for bankruptcy
25 protection.

26 (6) Any other information required by the department.

27 (b) Review.--Within 30 days of receipt of the application,
28 the department, in conjunction with the Department of Revenue,
29 shall review the application and determine if the applicant is a
30 qualified company and that the requirements of section 301 have

1 been met.

2 (c) Approval.--Upon approval of an application, the
3 department shall notify the applicant in writing and, under
4 section 304, enter into an agreement with the qualified company
5 for benefits under this act. The department may enter into an
6 agreement with a third party, or the third party may be a party
7 to the agreement between the qualified company and the
8 department.

9 (d) Additional benefits.--A qualified company that is
10 receiving benefits under this act may apply to the department
11 for additional benefits if the qualified company meets the
12 requirements of section 301.

13 Section 304. Agreement.

14 The agreement between the qualified company and the
15 department shall be entered into before any benefits may be
16 provided under this act. The agreement shall do all of the
17 following:

18 (1) Specify the terms and conditions the qualified
19 company must comply with in order to receive benefits under
20 this act.

21 (2) State that the department must certify all of the
22 following to the Department of Revenue every taxable year:

23 (i) That the qualified company is eligible to
24 receive benefits under this act.

25 (ii) The number of new employees hired by the
26 company during the taxable year.

27 (iii) The amount of gross wages being paid to each
28 new employee.

29 (3) Include any other information deemed necessary by
30 the department.

1 SECTION 305. OPTIONAL REMITTANCE. ←

2 (A) REMITTANCE.--THE DEPARTMENT OF REVENUE MAY ALLOW
3 QUALIFIED COMPANIES WHO ARE APPROVED TO RECEIVE BENEFITS UNDER
4 THIS ACT TO REMIT 100% OF EMPLOYEE WITHHOLDING TAX TO THE
5 COMMONWEALTH AND RECEIVE A REBATE EQUIVALENT TO THE AMOUNT
6 AUTHORIZED TO BE RETAINED UNDER SECTION 302(B) AND (C).

7 (B) FEE.--THE DEPARTMENT OF REVENUE MAY ASSESS A FEE OF NOT
8 MORE THAN \$15 PER NEW EMPLOYEE OF THE QUALIFIED COMPANY WHOSE
9 WITHHOLDING TAX IS SUBJECT TO THIS ACT.

10 (C) ELECTION.--A QUALIFIED COMPANY MUST ELECT THE OPTION
11 UNDER SUBSECTION (A), IF OFFERED BY THE DEPARTMENT OF REVENUE,
12 PRIOR TO ENTERING INTO THE AGREEMENT ESTABLISHED UNDER SECTION
13 304.

14 Section ~~305~~ 306. Recapture of withholding taxes. ←

15 (A) COMPLIANCE WITH TERMS AND CONDITIONS.--If the qualified ←
16 company fails to comply with the terms and conditions set forth
17 in the agreement or fails to comply with this act, the
18 department shall immediately terminate the agreement. The
19 qualified company shall not be entitled to any further benefits
20 provided for under this act and shall be required to remit to
21 the Commonwealth an amount equal to the aggregate withholding
22 taxes retained by the qualified company or remitted to the
23 qualified company by a third party under this act as of the date
24 the agreement is terminated.

25 (B) RELOCATION.--IF A QUALIFIED COMPANY RELOCATES OUTSIDE OF ←
26 THIS COMMONWEALTH WITHIN THE FIVE-YEAR PERIOD IMMEDIATELY
27 FOLLOWING THE LAST YEAR THE COMPANY RECEIVED BENEFITS UNDER THIS
28 ACT, THE FOLLOWING APPLY:

29 (1) IF A QUALIFIED COMPANY RELOCATES WITHIN THREE YEARS
30 FROM THE LAST YEAR THE COMPANY RECEIVED BENEFITS UNDER THIS

1 ACT, AN AMOUNT EQUAL TO 66% OF THE AGGREGATE WITHHOLDING
2 TAXES RETAINED BY THE QUALIFIED COMPANY OR REMITTED TO THE
3 QUALIFYING COMPANY BY A THIRD PARTY UNDER THIS ACT SHALL BE
4 REFUNDED TO THE COMMONWEALTH.

5 (2) IF A QUALIFIED COMPANY RELOCATES WITHIN THREE TO
6 FIVE YEARS FROM THE LAST YEAR THE COMPANY RECEIVED BENEFITS
7 UNDER THIS ACT, AN AMOUNT EQUAL TO 33% OF THE AGGREGATE
8 WITHHOLDING TAXES RETAINED BY THE QUALIFIED COMPANY OR
9 REMITTED TO THE QUALIFYING COMPANY BY A THIRD PARTY UNDER
10 THIS ACT SHALL BE REFUNDED TO THE COMMONWEALTH.

11 (C) WAIVER.--THE DEPARTMENT MAY WAIVE OR MODIFY RECAPTURE
12 REQUIREMENTS UNDER SUBSECTION (B) IF THE DEPARTMENT DETERMINES
13 THAT THE QUALIFIED COMPANY'S RELOCATION WAS DUE TO CIRCUMSTANCES
14 BEYOND THE CONTROL OF THE COMPANY, INCLUDING, BUT NOT LIMITED
15 TO:

16 (1) NATURAL DISASTER; OR

17 (2) LOSS OF A MAJOR SUPPLIER OR MARKET.

18 SECTION 307. QUARTERLY REPORT.

19 (A) FILING.--WITHIN 30 DAYS FROM THE END OF EACH CALENDAR
20 QUARTER FOR THE DURATION OF THE AGREEMENT, A QUALIFIED COMPANY
21 SHALL FILE A QUARTERLY REPORT WITH THE DEPARTMENT OF REVENUE ON
22 A FORM PRESCRIBED BY THE DEPARTMENT OF REVENUE, IN CONJUNCTION
23 WITH THE DEPARTMENT.

24 (B) CONTENTS.--THE FORM UNDER SUBSECTION (A) SHALL REQUEST
25 THE FOLLOWING INFORMATION:

26 (1) THE NAME AND EMPLOYER IDENTIFICATION NUMBER OF THE
27 QUALIFIED COMPANY.

28 (2) THE EFFECTIVE DATE OF THE AGREEMENT.

29 (3) THE REPORTING PERIOD END DATE.

30 (4) ALL INFORMATION RELATING TO EACH NEW EMPLOYEE OF THE

1 QUALIFIED COMPANY, INCLUDING:

2 (I) THE NAME OF THE NEW EMPLOYEE.

3 (II) THE LAST FOUR DIGITS OF THE NEW EMPLOYEE'S
4 SOCIAL SECURITY NUMBER.

5 (III) THE EMPLOYEE'S START OR HIRE DATE.

6 (IV) THE EMPLOYEE'S TERMINATION DATE.

7 (V) THE WAGES PAID FOR THE QUARTER AND THE TOTAL
8 WITHHOLDING TAXES FOR EACH NEW EMPLOYEE.

9 (5) THE AMOUNT RETAINED BY THE QUALIFIED COMPANY.

10 (6) THE AMOUNT REMITTED TO THE DEPARTMENT OF REVENUE.

11 (7) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

12 Section ~~306~~ 308. Annual form. ←

13 (a) Development.--The Department of Revenue, in conjunction
14 with the department, shall develop a form which must be
15 completed annually by any qualified company or third party that
16 is subject to an agreement under section 304.

17 (b) Contents.--The form shall request:

18 (1) The amount of withholding tax being retained by the
19 qualified company or remitted by a third party to the
20 qualified company.

21 (2) The number of new employees hired.

22 (3) The wages of the new employees.

23 (4) Any other information as required by the Department
24 of Revenue and the department.

25 (c) Filing.--The qualified company or third party completing
26 the form shall file the form with the Department of Revenue as
27 prescribed by the Department of Revenue.

28 (d) Confidentiality.--The contents of the completed form
29 shall be confidential except as provided under the act of March
30 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, and

1 the act of February 14, 2008 (P.L.6, No.3), known as the Right-
2 to-Know Law.

3 Section ~~307~~ 309. Prohibitions. ←

4 A qualified company claiming benefits under this act may not
5 do any of the following:

6 (1) Participate in any program in which any portion of
7 the qualified company's NEW EMPLOYEES withholding taxes have ←
8 been pledged to finance indebtedness or transferred to or for
9 the benefit of the qualified company.

10 (2) Claim any ~~payments~~ GRANTS or credits authorized by ←
11 the General Assembly or any other program established by the
12 Commonwealth, if the payments or credits would be earned for
13 the hiring of new employees.

14 SECTION 310. NEW EMPLOYEE CREDIT. ←

15 A NEW EMPLOYEE WHOSE WITHHOLDING TAX IS SUBJECT TO THIS ACT
16 SHALL BE CREDITED 100% OF THE WITHHOLDING TAX WITHHELD FROM THE
17 NEW EMPLOYEE'S PAYCHECK AS IF THE QUALIFIED COMPANY REMITTED
18 100% OF THE WITHHOLDING TAX TO THE COMMONWEALTH.

19 Section ~~308~~ 311. Administration and regulation. ←

20 The department, in conjunction with the Department of
21 Revenue, shall adopt guidelines necessary to implement and
22 administer this act.

23 Section ~~309~~ 312. Review. ←

24 (a) Duty.--The department shall conduct an annual review of
25 the activities undertaken by a qualified company under this act
26 to ensure that the qualified company is in compliance with this
27 act, any guidelines adopted under section ~~308~~ 311 and any ←
28 agreement.

29 (b) Inspection.--The books and records concerning employment
30 and wages of any employees for which the qualified company or

1 third party has retained any withholding taxes shall be
2 available for inspection by the department at all times during
3 business hours. The department may request the Department of
4 Revenue to audit the qualified company or third party for
5 compliance with this act.

6 Section ~~310~~ 313. Report to General Assembly. ←

7 (a) Duty.--The department shall submit an annual report to
8 the General Assembly indicating the effectiveness of the tax
9 benefits provided by this act no later than March 15 following
10 the year in which the benefits were approved. The report shall
11 include the following information:

12 (1) The names of all qualified companies and taxpayers
13 utilizing the benefit as of the date of the report.

14 (2) The types of qualified companies utilizing this act.

15 (3) The location of the qualified companies and the
16 location of the qualified companies' business operations in
17 this Commonwealth.

18 (4) The number of new employees hired.

19 (5) The wages paid for the new employees.

20 (6) The annual amount of benefits provided under this
21 act.

22 (7) The estimated net Commonwealth fiscal impact,
23 including the direct and indirect new Commonwealth taxes
24 derived from the new employees hired.

25 (8) An estimate of the multiplier effect on the
26 Commonwealth's economy of the benefits received under this
27 act.

28 (b) Confidentiality.--Notwithstanding any law providing for
29 the confidentiality of tax records, the information contained in
30 the report shall be public information. The report shall include

1 any recommendations for changes in the calculation or
2 administration of the benefit.

3 CHAPTER 51

4 MISCELLANEOUS PROVISIONS

5 Section 5101. Effective date.

6 This act shall take effect in 60 days.