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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 869 Session of  
2013

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INTRODUCED BY SANKEY, AUMENT, DAVIS, DUNBAR, HAGGERTY,  
C. HARRIS, KAUFFMAN, LAWRENCE, MACKENZIE, MAJOR, PICKETT,  
REED, ROCK, SCHLOSSBERG, STERN, TALLMAN, GROVE, ROSS,  
DENLINGER, MILLER, GABLER, SAYLOR, EVERETT AND STEVENSON,  
MARCH 11, 2013

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REFERRED TO COMMITTEE ON FINANCE, MARCH 11, 2013

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AN ACT

1 Providing for the Manufacturing Innovation Account Program, for  
2 application, for evaluation of application, for approval of  
3 application, for Manufacturing Innovation Account, for  
4 deduction, for tax treatment of withdrawals, for filing  
5 requirements, for duties of the Department of Community and  
6 Economic Development, for exclusions and for applicability.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. Short title.

10 This act shall be known and may be cited as the Manufacturing  
11 Innovation Account Act.

12 Section 2. Definitions.

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

16 "Account." A Manufacturing Innovation Account established  
17 under section 7.

18 "Applicant." A small manufacturer that has applied for

1 approval for participation in the program.

2 "Department." The Department of Community and Economic  
3 Development of the Commonwealth.

4 "Eligible expenditure." The term includes:

5 (1) the purchase of machinery or equipment provided the  
6 machinery or equipment is used for manufacturing in this  
7 Commonwealth;

8 (2) the purchase or improvement of a manufacturing  
9 facility provided the facility is located in this  
10 Commonwealth and used for manufacturing by the small  
11 manufacturer; or

12 (3) a cost or tuition fee for the training of the small  
13 manufacturer's employees provided the training is directly  
14 related to the job duties of the employees.

15 "Pass-through entity." Any of the following:

16 (1) a partnership as defined in section 301(n.0) of the  
17 Tax Reform Code;

18 (2) a single-member limited liability company treated as  
19 a disregarded entity for Federal income tax purposes; or

20 (3) a Pennsylvania S corporation as defined in section  
21 301(n.1) of the Tax Reform Code.

22 "Program." The Manufacturing Innovation Account Program  
23 established under section 3.

24 "Small manufacturer." An entity, including a pass-through  
25 entity, that:

26 (1) is authorized to do business in this Commonwealth;

27 (2) is subject to taxes imposed under Article III or IV  
28 of the Tax Reform Code;

29 (3) is classified by the North American Industry  
30 Classification System as sector 31-33 regarding

1 manufacturing;

2 (4) has 50 or fewer employees at the time of application  
3 under section 4; or

4 (5) is current with taxes or other amounts payable to  
5 the Federal Government, the Commonwealth or a political  
6 subdivision.

7 "Statement of policy." As defined in 1 Pa. Code § 1.4  
8 (relating to definitions).

9 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),  
10 known as the Tax Reform Code of 1971.

11 Section 3. Manufacturing Innovation Account Program.

12 There is established within the department a program to be  
13 known as the Manufacturing Innovation Account Program. The  
14 program shall promote the economic competitiveness of this  
15 Commonwealth by improving the ability of small manufacturers to  
16 acquire or improve machinery or manufacturing facilities or to  
17 provide employee training.

18 Section 4. Application.

19 A small manufacturer may submit an application to the  
20 department requesting approval for participation in the program.  
21 The application must be on a form required by the department and  
22 must include the name, address, State tax identification number  
23 of the applicant and any other information required by the  
24 department.

25 Section 5. Evaluation of application.

26 The department shall evaluate and prioritize applications  
27 consistent with the statement of policy published by the  
28 department under section 11(a).

29 Section 6. Approval of application.

30 (a) Approval.--The department may approve an application if

1 it determines that the applicant is qualified based on the  
2 statement of policy published by the department under section  
3 11(a).

4 (b) Limitations.--

5 (1) During the first year after the effective date of  
6 this act, no more than 30 small manufacturers may be approved  
7 under this act.

8 (2) During the second year after the effective date of  
9 this act, no more than 40 small manufacturers may be approved  
10 under this act.

11 (3) During the third year after the effective date of  
12 this act and thereafter, no more than 50 small manufacturers  
13 may be approved under this act.

14 (c) Replacement.--If a small manufacturer ceases to  
15 participate in the program, the department may approve another  
16 qualified applicant for participation in the program subject to  
17 the limitations in subsection (b).

18 Section 7. Manufacturing Innovation Account.

19 (a) Establishment.--A small manufacturer that is approved by  
20 the department for participation in the program shall establish  
21 a Manufacturing Innovation Account in a bank doing business in  
22 this Commonwealth. Funds in the account may be invested;  
23 however, returns, interest and principal may not be commingled  
24 with other property.

25 (b) Annual contribution limit.--A small manufacturer may not  
26 contribute more than \$100,000 to its account per taxable year.

27 (c) Lifetime contribution limit.--A small manufacturer may  
28 not contribute more than \$500,000 to its account over the  
29 lifetime of the account.

30 (d) Expiration of accounts.--An account expires six years

1 after its establishment.

2 Section 8. Deduction.

3 An amount paid by a small manufacturer as a contribution into  
4 an account is deductible from taxable income under Article III  
5 or IV of the Tax Reform Code. The deduction may not result in  
6 taxable income being less than zero.

7 Section 9. Tax treatment of withdrawals.

8 (a) Amount used for an eligible expense.--An amount  
9 withdrawn from an account by a small manufacturer that is used  
10 for an eligible expense is not subject to tax under Article III  
11 or IV of the Tax Reform Code.

12 (b) Amount not used for an eligible expense.--

13 (1) The following must be added to the small  
14 manufacturer's taxable income under Article III or IV of the  
15 Tax Reform Code:

16 (i) an amount withdrawn from an account that is not  
17 used for an eligible expense;

18 (ii) an amount remaining in the account upon its  
19 expiration; and

20 (iii) an amount remaining in the account upon the  
21 small manufacturer's disqualification from the program  
22 under section 12.

23 (2) A small manufacturer shall pay an additional penalty  
24 of 10% of the amount subject to paragraph (1).

25 Section 10. Filing requirements.

26 (a) Annual accounting.--A small manufacturer participating  
27 in the program shall submit to the department, in a format  
28 prescribed by the department in consultation with the Department  
29 of Revenue, an annual accounting of the deposits, returns,  
30 interest and withdrawals related to the small manufacturer's

1 account. The accounting must:

2 (1) specify the purposes for which the withdrawals were  
3 made; and

4 (2) include the necessary supporting documentation to  
5 establish whether the withdrawal is for an eligible expense.

6 (b) Letter rulings.--The following apply:

7 (1) Prior to a withdrawal of funds from an account, a  
8 small manufacturer may request that the department review a  
9 planned expenditure and issue a letter ruling on whether the  
10 expenditure would be an eligible expense. When necessary and  
11 appropriate, the department may indicate that sufficient  
12 facts have not been furnished and detail certain assumptions.

13 (2) Within 30 days of receiving a request under  
14 paragraph (1), the department shall, in writing, advise the  
15 small manufacturer whether or not the expenditure would be an  
16 eligible expense.

17 (3) A letter ruling issued under this subsection is  
18 advisory in nature and not subject to appeal.

19 (4) A small manufacturer may rely on a letter ruling  
20 issued to the small manufacturer under this subsection that  
21 is based upon the facts supplied and provided the small  
22 manufacturer is acting in good faith.

23 Section 11. Duties of the department.

24 (a) Statement of policy.--The department shall publish a  
25 statement of policy that administers the program and describes  
26 criteria for evaluating and prioritizing qualified applicants.  
27 At a minimum, the statement of policy shall consider the  
28 following:

29 (1) the overall value to be added to this Commonwealth's  
30 economy as the result of the small manufacturer's

1 participation in the program, including considerations of the  
2 size and scope of the small manufacturer's supply chain  
3 within this Commonwealth;

4 (2) the number and compensation of jobs likely to be  
5 created by the applicant with the benefit of participation in  
6 the program; and

7 (3) the prospects for the continued viability of the  
8 applicant.

9 (b) Public disclosure.--The department shall publish and  
10 maintain an up-to-date list of small manufacturers approved for  
11 participation in the program on its publicly available Internet  
12 website.

13 Section 12. Exclusions.

14 If a small business becomes delinquent in the payment of a  
15 tax or other amount to the Federal Government, the Commonwealth  
16 or another political subdivision, the small business becomes  
17 ineligible for continued participation in the program.

18 Section 13. Applicability.

19 Sections 7, 8 and 9 are applicable for tax years beginning  
20 after December 31, 2013.

21 Section 30. Effective date.

22 This act shall take effect immediately.