
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 441 Session of
2023

INTRODUCED BY SANTARSIERO, KANE, MUTH, KEARNEY, L. WILLIAMS,
COLLETT, STREET, HUGHES, HAYWOOD, DILLON, COSTA, COMMITTA,
TARTAGLIONE AND SAVAL, MARCH 14, 2023

REFERRED TO FINANCE, MARCH 14, 2023

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 construction tax credit
11 requirements.

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 XVII-A.2

18 CONSTRUCTION TAX CREDIT REQUIREMENTS

19 Section 1701-A.2. 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
22 context clearly indicates otherwise:

1 "Construction tax credit." A tax credit authorized under any
2 of the following:

3 (1) Article XVII-D.

4 (2) Article XVII-G.

5 (3) Article XVIII-G.

6 (4) Article XIX-C.

7 (5) Article XIX-E.

8 (6) Article XIX-F.

9 (7) Article XXIX-D.

10 "Department." The Department of Revenue of the Commonwealth.
11 Section 1702-A.2. Eligibility for credit.

12 (a) Eligibility.--In addition to any other requirements
13 provided by a law of this Commonwealth, regulation or guideline,
14 before a construction tax credit may be awarded to a taxpayer
15 that has made a capital expenditure of more than \$25,000 to
16 construct, reconstruct, demolish, alter or repair a facility,
17 the department, in consultation with the Department of Labor and
18 Industry, shall verify that the taxpayer has:

19 (1) made good faith efforts to recruit and employ, and
20 to encourage any contractors or subcontractors of the
21 taxpayer to recruit and employ, workers from the local labor
22 market for employment during the construction,
23 reconstruction, demolition, alteration or repair of the
24 facility phase; and

25 (2) demonstrated that individuals employed by the
26 taxpayer or any contractor or subcontractor of the taxpayer
27 for the construction, reconstruction, demolition, alteration
28 or repair of the facility have been paid the prevailing
29 minimum wage rate for each craft or classification as
30 determined by the Department of Labor and Industry under the

1 act of August 15, 1961 (P.L.987, No.442), known as the
2 Pennsylvania Prevailing Wage Act.

3 (b) New jobs.--A facility for which a construction tax
4 credit is sought and awarded shall be deemed to meet each of the
5 minimum requirements necessary to apply the wage and benefit
6 rates and related certification of payroll records required by
7 the Pennsylvania Prevailing Wage Act. A taxpayer or any
8 contractor or subcontractor of the taxpayer engaged to perform
9 on the facility shall comply with all provisions and
10 requirements of the Pennsylvania Prevailing Wage Act for all new
11 jobs and for each craft or classification performing
12 construction, reconstruction, demolition, alteration or repair
13 work, other than maintenance work, undertaken at the facility
14 during the initial construction and during any period when
15 construction tax credit is sought and awarded for the facility.

16 (c) Notification.--Before the solicitation of bids or
17 proposals of any contract or subcontract for a facility for
18 which a construction tax credit is sought, the taxpayer or the
19 taxpayers shall notify the Department of Labor and Industry of
20 the solicitation and request the issuance of a wage and benefit
21 rate determination for each craft and classification anticipated
22 to perform at the project facility. Rate requests shall be in
23 conformity with the procedures of the Pennsylvania Prevailing
24 Wage Act, and the Department of Labor and Industry shall issue
25 rates upon request as required under this subsection and the
26 provisions of the Pennsylvania Prevailing Wage Act.

27 Section 1703-A.2. Enforcement.

28 The Department of Labor and Industry shall enforce this
29 article and shall apply the same administration and enforcement
30 applicable to any construction, reconstruction, demolition,

1 alteration or repair of a facility, other than maintenance work,
2 undertaken in accordance with the act of August 15, 1961
3 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage
4 Act, to ensure compliance.

5 Section 1704-A.2. Violations.

6 (a) Refund requirement.--In addition to enforcement
7 authorized under the act of August 15, 1961 (P.L.987, No.442),
8 known as the Pennsylvania Prevailing Wage Act, and section 1703-
9 A.2, if, after notice and hearing, the Department of Labor and
10 Industry determines that a taxpayer intentionally failed to pay
11 or intentionally caused another person to fail to pay the
12 prevailing wage or benefit rates as specified under section
13 11(h) of the Pennsylvania Prevailing Wage Act for the
14 construction, reconstruction, demolition, alteration or repair
15 of a facility for which a construction tax credit is awarded, or
16 ratified the intentional failure by any contractors or
17 subcontractors of the taxpayer, the taxpayer shall refund 10% of
18 the amount of the construction tax credit as follows:

19 (1) in the case of initial construction, for the first
20 fiscal year for which a tax credit is awarded; or

21 (2) for the fiscal year in which the intentional
22 noncompliance occurred as determined by the Department of
23 Labor and Industry.

24 (b) Appeals.--A finding of a violation under subsection (a)
25 may be appealed under section 2.2(e)(1) of the Pennsylvania
26 Prevailing Wage Act and 34 Pa. Code § 213.3 (relating to appeals
27 from determinations of the Secretary). Any final determination
28 by the Secretary of Labor and Industry or the Appeals Board
29 under the Pennsylvania Prevailing Wage Act may be appealed in
30 accordance with 2 Pa.C.S. (relating to administrative law and

1 procedure).

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