



General Assembly

**Substitute Bill No. 5780**

February Session, 2008

\*           HB05780CE\_FIN031808           \*

**AN ACT CONCERNING THE JOB CREATION TAX CREDIT PROGRAM.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. Section 12-217ii of the 2008 supplement to the general  
2 statutes is repealed and the following is substituted in lieu thereof  
3 (*Effective July 1, 2008, and applicable to income years commencing on or after*  
4 *January 1, 2008*):

5       (a) As used in this section:

6       (1) "Commissioner" means the Commissioner of Economic and  
7 Community Development;

8       (2) "Income year" means, with respect to entities subject to the  
9 insurance premiums tax under chapter 207, the corporation business  
10 tax under this chapter or the utilities company tax under chapter 212,  
11 the income year as determined under each of said chapters, as the case  
12 may be;

13       (3) "Taxpayer" means a person subject to tax under chapter 207, this  
14 chapter or chapter 212;

15       (4) "New job" means a full-time job which (A) did not exist in this  
16 state prior to a taxpayer's application to the commissioner for an  
17 eligibility certificate under this section for a job creation credit, and (B)

18 is filled by a new employee;

19 (5) "New employee" means a person hired by the taxpayer to fill a  
20 new full-time job. A new employee does not include a person who was  
21 employed in Connecticut by a related person with respect to the  
22 taxpayer during the prior twelve months;

23 (6) "Full-time job" means a job in which an employee is required to  
24 work at least thirty-five or more hours per week. A full-time job does  
25 not include a temporary or seasonal job;

26 (7) "Related person" means (A) a corporation, limited liability  
27 company, partnership, association or trust controlled by the taxpayer,  
28 (B) an individual, corporation, limited liability company, partnership,  
29 association or trust that is in control of the taxpayer, (C) a corporation,  
30 limited liability company, partnership, association or trust controlled  
31 by an individual, corporation, limited liability company, partnership,  
32 association or trust that is in control of the taxpayer, or (D) a member  
33 of the same controlled group as the taxpayer; and

34 (8) "Control", with respect to a corporation, means ownership,  
35 directly or indirectly, of stock possessing fifty per cent or more of the  
36 total combined voting power of all classes of the stock of such  
37 corporation entitled to vote. "Control", with respect to a trust, means  
38 ownership, directly or indirectly, of fifty per cent or more of the  
39 beneficial interest in the principal or income of such trust. The  
40 ownership of stock in a corporation, of a capital or profits interest in a  
41 partnership, limited liability company or association or of a beneficial  
42 interest in a trust shall be determined in accordance with the rules for  
43 constructive ownership of stock provided in Section 267(c) of the  
44 Internal Revenue Code of 1986, or any subsequent corresponding  
45 internal revenue code of the United States, as from time to time  
46 amended, other than paragraph (3) of said Section 267(c).

47 (b) (1) There is established a jobs creation tax credit program  
48 whereby a taxpayer who creates at least [ten new jobs] five new jobs in  
49 Connecticut may be allowed a credit against the tax imposed under

50 chapter 207, this chapter or chapter 212, in an amount up to sixty per  
51 cent of the income tax deducted and withheld from the wages of new  
52 employees and paid over to the state pursuant to chapter 229.

53 (2) For each new employee, credits may be granted for five  
54 successive years.

55 (3) The credit shall be claimed in the income year in which it is  
56 earned. Any credits not used in a tax year shall expire.

57 (c) Any taxpayer planning to claim a credit under the provisions of  
58 this section shall apply to the commissioner in accordance with the  
59 provisions of this section. The application shall be on a form provided  
60 by the commissioner, and shall contain sufficient information  
61 concerning the number of new jobs to be created, feasibility studies or  
62 business plans for the increased number of jobs, projected state and  
63 local revenue that might derive as a result of the job growth and other  
64 information necessary to demonstrate that there will be net benefits to  
65 the economy of the municipality and the state. The commissioner shall  
66 impose a fee for such application as the commissioner deems  
67 appropriate.

68 (d) The commissioner shall determine whether (1) the taxpayer  
69 making the application is eligible for the tax credit, and (2) the  
70 proposed job growth (A) is economically viable only with use of the  
71 tax credit, (B) would provide a net benefit to economic development  
72 and employment opportunities in the state, and (C) conforms to the  
73 state plan of conservation and development prepared pursuant to  
74 section 16a-24. The commissioner may require the applicant to submit  
75 such additional information as may be necessary to evaluate the  
76 application.

77 (e) (1) The commissioner, upon consideration of the application and  
78 any additional information the commissioner requires, may approve  
79 the credit application, in whole or in part, if the commissioner  
80 concludes that the increase in the number of jobs is economically  
81 viable only with the use of the tax credit and that the revenue

82 generated due to economic development and employment  
83 opportunities created in the state exceeds the credit and any other  
84 credits to be taken. If the commissioner disapproves an application, the  
85 commissioner shall specifically identify the defects in the application  
86 and specifically explain the reasons for the disapproval. The  
87 commissioner shall render a decision on an application not later than  
88 ninety days after the date of its receipt by the commissioner.

89 (2) The total amount of credits granted to all taxpayers pursuant to  
90 this section and to section 2 of this act, shall not exceed ten million  
91 dollars in any one fiscal year.

92 (3) A credit under this section may be [granted to] claimed by a  
93 taxpayer for not more than five successive income years.

94 [(4) The commissioner may combine approval of a credit application  
95 with the exercise of any of the commissioner's other powers, including,  
96 but not limited to, the provision of other forms of financial assistance.

97 (f) Upon approving a taxpayer's credit application, the  
98 commissioner shall issue a credit allocation notice certifying that the  
99 credits will be available to be claimed by the taxpayer if the taxpayer  
100 otherwise meets the requirements of this section. No later than thirty  
101 days after the close of the taxpayer's income year, the taxpayer shall  
102 provide information to the commissioner regarding the number of new  
103 jobs created for the year and the income tax deducted and withheld  
104 from the wages of such new employees and paid over to the state for  
105 such year. The commissioner shall issue a certificate of eligibility that  
106 includes the taxpayer's name, the number of new jobs created, and the  
107 amount of the credit certified for the year. The certificate shall be  
108 issued by the commissioner sixty days after the close of the taxpayer's  
109 income year or thirty days after the information is provided,  
110 whichever comes first.

111 (g) The commissioner shall, upon request, provide a copy of the  
112 certificate of eligibility issued under subsection (f) of this section to the  
113 Commissioner of Revenue Services.]

114 [(h)] (f) (1) If (A) the number of new employees on account of which  
115 a taxpayer claimed the credit allowed by this section decreases to less  
116 than the number for which the [commissioner issued an eligibility  
117 certificate] taxpayer claimed a credit pursuant to this section during  
118 any of the four years succeeding the first full income year following  
119 [the issuance of an eligibility certificate] such year in which the credit  
120 was first taken, and (B) those employees are not replaced by other  
121 employees who have not been shifted from an existing location of the  
122 taxpayer or a related person in this state, the taxpayer shall be required  
123 to recapture a percentage of the credit allowed under this section on its  
124 tax return, as determined under the provisions of subdivision (2) of  
125 this subsection. [The commissioner shall provide notice of the required  
126 recapture amount to both the taxpayer and the Commissioner of  
127 Revenue Services.]

128 (2) If the taxpayer is required under the provisions of subdivision  
129 (1) of this subsection to recapture a portion of the credit during (A) the  
130 first of such four years, then ninety per cent of the credit allowed shall  
131 be recaptured on the tax return required to be filed for such year, (B)  
132 the second of such four years, then sixty-five per cent of the credit  
133 allowed for the entire period of eligibility shall be recaptured on the  
134 tax return required to be filed for such year, (C) the third of such four  
135 years, then fifty per cent of the credit allowed for the entire period of  
136 eligibility shall be recaptured on the tax return required to be filed for  
137 such year, (D) the fourth of such four years, then thirty per cent of the  
138 credit allowed for the entire period of eligibility shall be recaptured on  
139 the tax return required to be filed for such year.

140 (g) The provisions of section 12-233 shall apply to any tax return  
141 claiming the credit authorized pursuant to this section.

142 Sec. 2. (NEW) *(Effective July 1, 2008, and applicable to taxable years*  
143 *commencing on or after January 1, 2008)*

144 (a) As used in this section:

145 (1) "Commissioner" means the Commissioner of Economic and

146 Community Development;

147 (2) "Taxpayer" means a person subject to tax under chapter 229 of  
148 the general statutes;

149 (3) "New job" means a full-time job which (A) did not exist in this  
150 state prior to a taxpayer's application to the commissioner for an  
151 eligibility certificate under this section for a job creation credit, and (B)  
152 is filled by a new employee;

153 (4) "New employee" means a person hired by the taxpayer to fill a  
154 new full-time job. A new employee does not include a person who was  
155 employed in Connecticut by a related person with respect to the  
156 taxpayer during the prior twelve months;

157 (5) "Full-time job" means a job in which an employee is required to  
158 work at least thirty-five or more hours per week. A full-time job does  
159 not include a temporary or seasonal job;

160 (6) "Related person" means (A) a corporation, limited liability  
161 company, partnership, association or trust controlled by the taxpayer,  
162 (B) an individual, corporation, limited liability company, partnership,  
163 association or trust that is in control of the taxpayer, (C) a corporation,  
164 limited liability company, partnership, association or trust controlled  
165 by an individual, corporation, limited liability company, partnership,  
166 association or trust that is in control of the taxpayer, or (D) a member  
167 of the same controlled group as the taxpayer;

168 (7) "Control", with respect to a corporation, means ownership,  
169 directly or indirectly, of stock possessing fifty per cent or more of the  
170 total combined voting power of all classes of the stock of such  
171 corporation entitled to vote. "Control", with respect to a trust, means  
172 ownership, directly or indirectly, of fifty per cent or more of the  
173 beneficial interest in the principal or income of such trust. The  
174 ownership of stock in a corporation, of a capital or profits interest in a  
175 partnership, limited liability company or association or of a beneficial  
176 interest in a trust shall be determined in accordance with the rules for

177 constructive ownership of stock provided in Section 267(c) of the  
178 Internal Revenue Code of 1986, or any subsequent corresponding  
179 internal revenue code of the United States, as from time to time  
180 amended, other than paragraph (3) of said Section 267(c); and

181 (8) "Taxable year" means taxable year, for federal income tax  
182 purposes.

183 (b) (1) There is established a jobs creation tax credit program  
184 whereby a taxpayer who creates at least five new jobs in Connecticut  
185 may be allowed a credit against the tax imposed under chapter 229 of  
186 the general statutes, in an amount up to sixty per cent of the income  
187 tax deducted and withheld from the wages of new employees and paid  
188 over to the state pursuant to said chapter 229.

189 (2) For each new employee, credits may be granted for five  
190 successive years.

191 (3) The credit shall be claimed in the taxable year in which it is  
192 earned. Any credits not used in a tax year shall expire.

193 (c) Any taxpayer planning to claim a credit under the provisions of  
194 this section shall apply to the commissioner in accordance with the  
195 provisions of this section. The application shall be on a form provided  
196 by the commissioner, and shall contain sufficient information  
197 concerning the number of new jobs to be created, feasibility studies or  
198 business plans for the increased number of jobs, projected state and  
199 local revenue that might derive as a result of the job growth and other  
200 information necessary to demonstrate that there will be net benefits to  
201 the economy of the municipality and the state. The commissioner shall  
202 impose a fee for such application as the commissioner deems  
203 appropriate.

204 (d) The commissioner shall determine whether (1) the taxpayer  
205 making the application is eligible for the tax credit, and (2) the  
206 proposed job growth (A) is economically viable only with use of the  
207 tax credit, (B) would provide a net benefit to economic development

208 and employment opportunities in the state, and (C) conforms to the  
209 state plan of conservation and development prepared pursuant to  
210 section 16a-24 of the general statutes. The commissioner may require  
211 the applicant to submit such additional information as may be  
212 necessary to evaluate the application.

213 (e) (1) The commissioner, upon consideration of the application and  
214 any additional information the commissioner requires, may approve  
215 the credit application, in whole or in part, if the commissioner  
216 concludes that the increase in the number of jobs is economically  
217 viable only with the use of the tax credit and that the revenue  
218 generated due to economic development and employment  
219 opportunities created in the state exceeds the credit and any other  
220 credits to be taken. If the commissioner disapproves an application, the  
221 commissioner shall specifically identify the defects in the application  
222 and specifically explain the reasons for the disapproval. The  
223 commissioner shall render a decision on an application not later than  
224 ninety days after the date of its receipt by the commissioner.

225 (2) The total amount of credits granted to all taxpayers pursuant to  
226 this section and section 12-217ii of the 2008 supplement to the general  
227 statutes, as amended by this act, shall not exceed ten million dollars in  
228 any one fiscal year.

229 (3) A credit under this section may be claimed by a taxpayer for not  
230 more than five successive taxable years.

231 (f) (1) If (A) the number of new employees on account of which a  
232 taxpayer claimed the credit allowed by this section decreases to less  
233 than the number for which the taxpayer claimed a credit pursuant to  
234 this section during any of the four years succeeding the first full  
235 taxable year following such year in which the credit was first taken,  
236 and (B) those employees are not replaced by other employees who  
237 have not been shifted from an existing location of the taxpayer or a  
238 related person in this state, the taxpayer shall be required to recapture  
239 a percentage of the credit allowed under this section on its tax return,

240 as determined under the provisions of subdivision (2) of this  
 241 subsection.

242 (2) If the taxpayer is required under the provisions of subdivision  
 243 (1) of this subsection to recapture a portion of the credit during (A) the  
 244 first of such four years, then ninety per cent of the credit allowed shall  
 245 be recaptured on the tax return required to be filed for such year, (B)  
 246 the second of such four years, then sixty-five per cent of the credit  
 247 allowed for the entire period of eligibility shall be recaptured on the  
 248 tax return required to be filed for such year, (C) the third of such four  
 249 years, then fifty per cent of the credit allowed for the entire period of  
 250 eligibility shall be recaptured on the tax return required to be filed for  
 251 such year, (D) the fourth of such four years, then thirty per cent of the  
 252 credit allowed for the entire period of eligibility shall be recaptured on  
 253 the tax return required to be filed for such year.

254 (g) The provisions of section 12-728 of the general statutes shall  
 255 apply to any tax return claiming the credit authorized pursuant to this  
 256 section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008, and applicable to income years commencing on or after January 1, 2008</i>	12-217ii
Sec. 2	<i>July 1, 2008, and applicable to taxable years commencing on or after January 1, 2008</i>	New section

**Statement of Legislative Commissioners:**

The bill has been divided into two sections to more accurately reflect the chapters affected by the bill.

**CE**

*Joint Favorable Subst. C/R*

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