



General Assembly

Amendment

February Session, 2008

LCO No. 4258

SB0065204258SRO

Offered by:

SEN. MCKINNEY, 28th Dist.
SEN. FASANO, 34th Dist.
SEN. RORABACK, 30th Dist.
SEN. CALIGIURI, 16th Dist.
SEN. CAPIELLO, 24th Dist.
SEN. DEBICELLA, 21st Dist.
SEN. FREEDMAN, 26th Dist.

SEN. GUGLIELMO, 35th Dist.
SEN. HERLIHY, 8th Dist.
SEN. KANE, 32nd Dist.
SEN. KISSEL, 7th Dist.
SEN. NICKERSON, 36th Dist.
SEN. RUSSO, 22nd Dist.

To: Subst. Senate Bill No. 652

File No. 603

Cal. No. 399

"AN ACT CONCERNING SMALL BUSINESS RETIREMENT PLANS."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 12-217ii of the 2008 supplement to the general
4 statutes is repealed and the following is substituted in lieu thereof
5 (*Effective July 1, 2008, and applicable to income years commencing on or after*
6 *January 1, 2008*):

7 (a) As used in this section:

8 (1) "Commissioner" means the Commissioner of Economic and
9 Community Development;

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

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

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

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

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

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

36 (8) "Control", with respect to a corporation, means ownership,
37 directly or indirectly, of stock possessing fifty per cent or more of the
38 total combined voting power of all classes of the stock of such
39 corporation entitled to vote. "Control", with respect to a trust, means
40 ownership, directly or indirectly, of fifty per cent or more of the

41 beneficial interest in the principal or income of such trust. The
42 ownership of stock in a corporation, of a capital or profits interest in a
43 partnership, limited liability company or association or of a beneficial
44 interest in a trust shall be determined in accordance with the rules for
45 constructive ownership of stock provided in Section 267(c) of the
46 Internal Revenue Code of 1986, or any subsequent corresponding
47 internal revenue code of the United States, as from time to time
48 amended, other than paragraph (3) of said Section 267(c).

49 (b) (1) There is established a jobs creation tax credit program
50 whereby a taxpayer who creates at least [ten new jobs] five new jobs in
51 Connecticut may be allowed a credit against the tax imposed under
52 chapter 207, this chapter or chapter 212, in an amount up to sixty per
53 cent of the income tax deducted and withheld from the wages of new
54 employees and paid over to the state pursuant to chapter 229.

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

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

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

70 (d) The commissioner shall determine whether (1) the taxpayer
71 making the application is eligible for the tax credit, and (2) the
72 proposed job growth (A) is economically viable only with use of the

73 tax credit, (B) would provide a net benefit to economic development
74 and employment opportunities in the state, and (C) conforms to the
75 state plan of conservation and development prepared pursuant to
76 section 16a-24. The commissioner may require the applicant to submit
77 such additional information as may be necessary to evaluate the
78 application.

79 (e) (1) The commissioner, upon consideration of the application and
80 any additional information the commissioner requires, may approve
81 the credit application, in whole or in part, if the commissioner
82 concludes that the increase in the number of jobs is economically
83 viable only with the use of the tax credit and that the revenue
84 generated due to economic development and employment
85 opportunities created in the state exceeds the credit and any other
86 credits to be taken. If the commissioner disapproves an application, the
87 commissioner shall specifically identify the defects in the application
88 and specifically explain the reasons for the disapproval. The
89 commissioner shall render a decision on an application not later than
90 ninety days after the date of its receipt by the commissioner.

91 (2) The total amount of credits granted to all taxpayers pursuant to
92 this section and to section 502 of this act, shall not exceed ten million
93 dollars in any one fiscal year.

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

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

99 (f) Upon approving a taxpayer's credit application, the
100 commissioner shall issue a credit allocation notice certifying that the
101 credits will be available to be claimed by the taxpayer if the taxpayer
102 otherwise meets the requirements of this section. No later than thirty
103 days after the close of the taxpayer's income year, the taxpayer shall
104 provide information to the commissioner regarding the number of new

105 jobs created for the year and the income tax deducted and withheld
106 from the wages of such new employees and paid over to the state for
107 such year. The commissioner shall issue a certificate of eligibility that
108 includes the taxpayer's name, the number of new jobs created, and the
109 amount of the credit certified for the year. The certificate shall be
110 issued by the commissioner sixty days after the close of the taxpayer's
111 income year or thirty days after the information is provided,
112 whichever comes first.

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

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

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

138 eligibility shall be recaptured on the tax return required to be filed for
139 such year, (D) the fourth of such four years, then thirty per cent of the
140 credit allowed for the entire period of eligibility shall be recaptured on
141 the tax return required to be filed for such year.

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

144 Sec. 502. (NEW) *(Effective July 1, 2008, and applicable to taxable years*
145 *commencing on or after January 1, 2008)*

146 (a) As used in this section:

147 (1) "Commissioner" means the Commissioner of Economic and
148 Community Development;

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

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

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

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

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

167 by an individual, corporation, limited liability company, partnership,
168 association or trust that is in control of the taxpayer, or (D) a member
169 of the same controlled group as the taxpayer;

170 (7) "Control", with respect to a corporation, means ownership,
171 directly or indirectly, of stock possessing fifty per cent or more of the
172 total combined voting power of all classes of the stock of such
173 corporation entitled to vote. "Control", with respect to a trust, means
174 ownership, directly or indirectly, of fifty per cent or more of the
175 beneficial interest in the principal or income of such trust. The
176 ownership of stock in a corporation, of a capital or profits interest in a
177 partnership, limited liability company or association or of a beneficial
178 interest in a trust shall be determined in accordance with the rules for
179 constructive ownership of stock provided in Section 267(c) of the
180 Internal Revenue Code of 1986, or any subsequent corresponding
181 internal revenue code of the United States, as from time to time
182 amended, other than paragraph (3) of said Section 267(c); and

183 (8) "Taxable year" means taxable year, for federal income tax
184 purposes.

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

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

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

195 (c) Any taxpayer planning to claim a credit under the provisions of
196 this section shall apply to the commissioner in accordance with the
197 provisions of this section. The application shall be on a form provided

198 by the commissioner, and shall contain sufficient information
199 concerning the number of new jobs to be created, feasibility studies or
200 business plans for the increased number of jobs, projected state and
201 local revenue that might derive as a result of the job growth and other
202 information necessary to demonstrate that there will be net benefits to
203 the economy of the municipality and the state. The commissioner shall
204 impose a fee for such application as the commissioner deems
205 appropriate.

206 (d) The commissioner shall determine whether (1) the taxpayer
207 making the application is eligible for the tax credit, and (2) the
208 proposed job growth (A) is economically viable only with use of the
209 tax credit, (B) would provide a net benefit to economic development
210 and employment opportunities in the state, and (C) conforms to the
211 state plan of conservation and development prepared pursuant to
212 section 16a-24 of the general statutes. The commissioner may require
213 the applicant to submit such additional information as may be
214 necessary to evaluate the application.

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

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

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

233 (f) (1) If (A) the number of new employees on account of which a
234 taxpayer claimed the credit allowed by this section decreases to less
235 than the number for which the taxpayer claimed a credit pursuant to
236 this section during any of the four years succeeding the first full
237 taxable year following such year in which the credit was first taken,
238 and (B) those employees are not replaced by other employees who
239 have not been shifted from an existing location of the taxpayer or a
240 related person in this state, the taxpayer shall be required to recapture
241 a percentage of the credit allowed under this section on its tax return,
242 as determined under the provisions of subdivision (2) of this
243 subsection.

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

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