Senate

General Assembly **File No. 300**

January Session, 2009 Substitute Senate Bill No. 582

Senate, March 30, 2009

The Committee on Commerce reported through SEN. LEBEAU of the 3rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CREATING A STRONGER STATE ECONOMY AND BETTER BUSINESS CLIMATE.

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

Section 1. Section 12-217ii of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) As used in this section:

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

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

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

(4) "High-impact job applicant" means any Connecticut business that creates a minimum of two hundred new jobs in the state;

(5) "Applicant" means taxpayer or high-impact job applicant;

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

(7) "Baseline employees" means the total number of an applicant's full-time employees as of the first day of the month of the application;

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

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

[(7)**]** (10) "Related person" means (A) a corporation, limited liability company, partnership, association or trust controlled by the **[**taxpayer**]** applicant, (B) an individual, corporation, limited liability company, partnership, association or trust that is in control of the **[**taxpayer**]** applicant, (C) a corporation, limited liability company, partnership, association or trust controlled by an individual, corporation, limited liability company, partnership, association or trust that is in control of the **[**taxpayer**]** applicant, or (D) a member of the same controlled group as the **[**taxpayer**]** applicant; and

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

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

(2) [For each new employee, credits may be granted] The commissioner may grant credits for [five] three successive years.

(3) [The credit shall be claimed in] Taxpayers shall earn tax credits on a calendar year basis. A taxpayer shall claim a credit for the income year in which it is earned [. Any] if the taxpayer's income year coincides with the calendar year and shall claim a credit for the income year next succeeding the calendar year for which it was earned if the taxpayer's income year does not coincide with the calendar years. Taxpayers may carry forward any credits not used in a tax year [shall expire] for three years.

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

(d) The commissioner shall determine whether (1) the **[**taxpayer making the application**]** applicant is eligible for the tax credit, **[**and**]** (2) the proposed job growth **[**(A) is economically viable only with use of the tax credit, (B)**]** would provide a net benefit to economic development and employment opportunities in the state, and **[**(C) conforms**]** (3) the location of facilities where the new employees will work conforms to the state plan of conservation and development prepared pursuant to section 16a-24. The commissioner may require the applicant to submit such additional information as may be necessary to evaluate the application.

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

(2) The total amount of credits granted to all **[**taxpayers**]** applicants shall not exceed ten million dollars in any one fiscal year.

(3) A credit under this section may be granted to **[**a taxpayer**]** an applicant for not more than five successive income years.

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

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

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

(h) [(1) If (A)] If (1) the number of new employees on account of which a taxpayer claimed the credit allowed by this section decreases to less than the number for which the commissioner issued an eligibility certificate during any of the four years succeeding the first full income year following the issuance of an eligibility certificate, and [(B)] (2) those employees are not replaced by other employees who have not been shifted from an existing location of the taxpayer or a related person in this state, the taxpayer shall [be required to recapture a percentage of the credit allowed under this section on its tax return, as determined under the provisions of subdivision (2) of this subsection] recapture fifteen hundred dollars for each new employee below the number of new employees from the prior calendar year, as determined by the commissioner. The commissioner shall issue no credits to a taxpayer during a year in which there is a recapture. The commissioner shall provide notice of the required recapture amount to both the taxpayer and the Commissioner of Revenue Services.

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

Sec. 2. (*Effective from passage*) (a) On or before February 1, 2010, the Commissioner of Economic and Community Development shall compile a list, which shall be available to the public, of business types and required permits and licenses for such business types and shall develop recommendations for the establishment of a centralized, one-stop office for all state business permitting.

(b) The department shall report the recommendations for a centralized business permitting office developed pursuant to subsection (a) of this section to the joint standing committee of the General Assembly having cognizance of matters relating to commerce on or before February 1, 2010.

Sec. 3. (NEW) (*Effective from passage*) (a) Beginning with the session of the General Assembly convening on February 3, 2010, a jobs impact statement shall be prepared with respect to certain bills and amendments that could, if passed, affect private sector employment in this state.

(b) Not later than February 1, 2010, the joint standing committee of the General Assembly having cognizance of matters relating to commerce shall make recommendations for a provision to be included in the joint rules of the House of Representatives and the Senate concerning the procedure for the preparation of such jobs impact statements, the content of such statements and the types of bills and amendments with respect to which such statements should be prepared.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2009*	12-217ii
Sec. 2	*from passage*	New section
Sec. 3	*from passage*	New section

Statement of Legislative Commissioners:
Section 1(d)(3) was reworded for accuracy and in Sec. 2(a), after "licenses" the phrase "for such business types" was inserted for clarity.

CE *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 $	FY 11 $
Department of Revenue Services	GF - Revenue Impact	See Below	See Below

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill changes the jobs creation tax credit to be worth $1,500 per new employee, allows the credits for up to three successive years, and allows the credits to be carried forward for up to three years. Under current law, any company that creates at least 10 new full-time jobs in the state may be eligible for a jobs creation tax credit of up to 60% of the state income tax withheld from the new employees' wages for up to five successive years.

To the degree that this changes the amount of credits claimed under the $10 million annual cap, this will result in a General Fund revenue impact to the three taxes for which it is available. The revenue impact will depend on the degree these changes make it more attractive for companies to hire additional employees.

The bill also requires that a jobs impact statement be prepared for bills and amendments that, if passed, could affect the state's private-sector employment. Depending on the agency responsible for performing these new duties, additional personnel and resources may be required. These costs may be significant.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis

SB 582

AN ACT CREATING A STRONGER STATE ECONOMY AND BETTER BUSINESS CLIMATE.

SUMMARY:

Under current law, any company that creates at least 10 new full-time jobs in the state may be eligible for a jobs creation tax credit of up to 60% of the state income tax withheld from the new employees' wages for up to five successive years. This bill makes the credit $1,500 per new employee and allows the credits for up to three successive years. By law, total credits for all eligible companies are limited to $10 million per year and the credit applies against the corporation, utility company, and insurance premium taxes.

The bill revises the way in which (1) taxpayers earn, claim, and repay the credits and (2) the Department of Economic and Community Development (DECD) commissioner approves the credits.

The bill requires the DECD commissioner, by February 1, 2010, to (1) compile, and make available to the public, a list of business types and the permits and licenses they require; (2) develop recommendations to establish a one-stop office for all state business permitting; and (3) report on its recommendations to the Commerce Committee.

The bill also requires that, beginning with the 2010 session of the General Assembly, a jobs impact statement be prepared for certain bills and amendments that, if passed, could affect the state's private-sector employment. The Commerce Committee must, by February 1, 2010, recommend a joint rule on the procedure for preparing the statements, their content, and the types of bills and amendments for which they should be prepared.

EFFECTIVE DATE: Upon passage, except for the jobs creation tax credit provisions, which are effective October 1, 2009.

JOBS CREATION TAX CREDIT PROGRAM

Eligibility

The bill creates a new category of businesses, a "high impact job applicant," eligible for the program. It defines a high impact job applicant as any Connecticut company that creates at least 200 new jobs in the state. But the bill does not include any specific provisions for this new category. By law, any company that creates at least 10 new full-time jobs in the state may already be eligible.

By law, a company must apply to the DECD commissioner, who must determine whether the applicant is eligible for the credits. Under current law, the commissioner must also determine whether the proposed increase in jobs (1) is economically viable without the credits, (2) would provide a net benefit to the state's economic development and employment opportunities, and (3) conforms to the State Plan of Conservation and Development. The bill eliminates the requirement that the commissioner determine whether the job growth is economically viable only with the use of the credits and requires that she determine whether the location of the facilities where the new employees will work conforms to the state plan.

The bill also eliminates the requirement that the commissioner approve full or partial credits if she concludes that the increase in jobs is economically viable only with the tax credit. As under current law, the commissioner must determine that the revenue generated from the employment and economic development in the state exceeds the credits she approves and any other credits to be taken.

As under current law, the jobs to which the credit applies must (1) have not existed in Connecticut before the application, (2) require at least 35 hours of work per week and not be temporary or seasonal, and (3) be filled by newly hired employees. An employee who worked in Connecticut for a related party to the applicant within the preceding 12 months is not eligible.

Claiming Credits

Under current law, the company earns the tax credits on an income year basis and must claim them in the same year, or the credits expire. The bill allows a company to earn the credits on a calendar year basis and claim them (1) in the income year in which it earned them, if its income year coincides with the calendar year, or (2) in the next income after year the calendar year in which it is earned if the two do not coincide. The bill also allows a company to carry forward unused credits for three years.

By law, when the DECD commissioner approves a credit, the commissioner must issue an allocation notice. Under current law, within 30 days of the end of the taxpayer's income year, the taxpayer must give the commissioner information about the number of new jobs created during the year and the income taxes withheld from the new employees' wages for the year. The bill eliminates the requirement that the taxpayer provide the income tax information and requires that the taxpayer provide the other information within 30 days of the end of its calendar year.

Under current law, the commissioner must issue an eligibility certificate within 60 days after the close of the taxpayer's income year or 30 days after the taxpayer provides the required information, whichever comes first. The bill requires that she issue the certificate after the information is provided.

Recapture Provision

If, in the four years after the income year in which the credits were issued, the number of new employees falls below that for which a taxpayer claimed the credits and they are not replaced by other new employees (excluding employees transferred from another location or from a related party), current law requires the taxpayer to repay ("recapture") the credit according to a repayment schedule. The bill eliminates the schedule and requires the taxpayer to repay $1,500 for each new employee below the number of new employees from the previous calendar year, as the commissioner determines. Although the bill allows the credits for three successive years, the recapture period continues to apply to the four years after the income year in which the credits were issued.

It prohibits the commissioner from issuing credits to a company in any year in which it repaid any credits.

Baseline Employees

The bill defines "baseline employees" but does not use the term.

COMMITTEE ACTION

Commerce Committee

Joint Favorable
Yea 20 Nay 0 (03/12/2009)