



General Assembly

Amendment

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Offered by:

SEN. MCKINNEY, 28th Dist.

SEN. FASANO, 34th Dist.

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To: Subst. Senate Bill No. 1033

File No. 409

Cal. No. 337

"AN ACT ESTABLISHING A TAX CREDIT FOR GREEN BUILDINGS."

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

3 "Sec. 501. Section 12-217ii of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2009, and*
5 *applicable to income years commencing on or after January 1, 2009*):

6 (a) As used in this section:

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

9 (2) "Income year" means, with respect to entities subject to the
10 insurance premiums tax under chapter 207, the corporation business
11 tax under this chapter or the utilities company tax under chapter 212,

12 the income year as determined under each of said chapters, as the case
13 may be;

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

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

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

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

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

35 (8) "Control", with respect to a corporation, means ownership,
36 directly or indirectly, of stock possessing fifty per cent or more of the
37 total combined voting power of all classes of the stock of such
38 corporation entitled to vote. "Control", with respect to a trust, means
39 ownership, directly or indirectly, of fifty per cent or more of the
40 beneficial interest in the principal or income of such trust. The
41 ownership of stock in a corporation, of a capital or profits interest in a
42 partnership, limited liability company or association or of a beneficial

43 interest in a trust shall be determined in accordance with the rules for
44 constructive ownership of stock provided in Section 267(c) of the
45 Internal Revenue Code of 1986, or any subsequent corresponding
46 internal revenue code of the United States, as from time to time
47 amended, other than paragraph (3) of said Section 267(c).

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

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) (1) On and after July 1, 2009, and for income years commencing
143 on or after January 1, 2009, any credit allowed pursuant to this section
144 may be sold, assigned or otherwise transferred, in whole or in part, to
145 one or more taxpayers, provided no credit, after issuance, may be sold,
146 assigned or otherwise transferred, in whole or in part, more than three
147 times.

148 (2) If a taxpayer sells, assigns or otherwise transfers a credit under
149 this section to another taxpayer, the transferor and the transferee shall
150 jointly submit written notification of such transfer to the commissioner
151 not later than thirty days after such transfer. If such transferee sells,
152 assigns or otherwise transfers a credit under this section to a
153 subsequent transferee, such transferee and such subsequent transferee
154 shall jointly submit written notification of such transfer to the
155 commission not later than thirty days after such transfer. The
156 notification after each transfer shall include the credit voucher number,
157 the date of transfer, the amount of such credit transferred, the tax
158 credit balance before and after the transfer, the tax identification
159 numbers for both the transferor and the transferee, and any other
160 information required by the commissioner. Failure to comply with this
161 subdivision will result in a disallowance of the tax credit until there is
162 full compliance on the part of the transferor and the transferee, and for
163 a second or third transfer, on the part of all subsequent transferors and
164 transferees.

165 (h) The provisions of section 12-233 shall apply to any tax return
166 claiming the credit authorized pursuant to this section.

167 Sec. 502. (NEW) *(Effective July 1, 2009, and applicable to taxable years*
168 *commencing on or after January 1, 2009)* (a) As used in this section:

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

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

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

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

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

184 (6) "Related person" means (A) a corporation, limited liability
185 company, partnership, association or trust controlled by the taxpayer,
186 (B) an individual, corporation, limited liability company, partnership,
187 association or trust that is in control of the taxpayer, (C) a corporation,
188 limited liability company, partnership, association or trust controlled
189 by an individual, corporation, limited liability company, partnership,
190 association or trust that is in control of the taxpayer, or (D) a member
191 of the same controlled group as the taxpayer;

192 (7) "Control", with respect to a corporation, means ownership,
193 directly or indirectly, of stock possessing fifty per cent or more of the
194 total combined voting power of all classes of the stock of such
195 corporation entitled to vote. "Control", with respect to a trust, means
196 ownership, directly or indirectly, of fifty per cent or more of the
197 beneficial interest in the principal or income of such trust. The
198 ownership of stock in a corporation, of a capital or profits interest in a
199 partnership, limited liability company or association or of a beneficial
200 interest in a trust shall be determined in accordance with the rules for
201 constructive ownership of stock provided in Section 267(c) of the
202 Internal Revenue Code of 1986, or any subsequent corresponding

203 internal revenue code of the United States, as from time to time
204 amended, other than paragraph (3) of said Section 267(c); and

205 (8) "Taxable year" means taxable year, for federal income tax
206 purposes.

207 (b) (1) There is established a jobs creation tax credit program
208 whereby a taxpayer who creates at least one new job in Connecticut
209 may be allowed a credit against the tax imposed under chapter 229 of
210 the general statutes, in an amount equal to fifteen hundred dollars per
211 new employee.

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

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

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

227 (d) The commissioner shall determine whether (1) the taxpayer
228 making the application is eligible for the tax credit, and (2) the
229 proposed job growth (A) is economically viable only with use of the
230 tax credit, (B) would provide a net benefit to economic development
231 and employment opportunities in the state, and (C) conforms to the
232 state plan of conservation and development prepared pursuant to
233 section 16a-24 of the general statutes. The commissioner may require

234 the applicant to submit such additional information as may be
235 necessary to evaluate the application.

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

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

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

253 (f) (1) If (A) the number of new employees on account of which a
254 taxpayer claimed the credit allowed by this section decreases to less
255 than the number for which the taxpayer claimed a credit pursuant to
256 this section during any of the four years succeeding the first full
257 taxable year following such year in which the credit was first taken,
258 and (B) those employees are not replaced by other employees who
259 have not been shifted from an existing location of the taxpayer or a
260 related person in this state, the taxpayer shall be required to recapture
261 a percentage of the credit allowed under this section on its tax return,
262 as determined under the provisions of subdivision (2) of this
263 subsection.

264 (2) If the taxpayer is required under the provisions of subdivision
265 (1) of this subsection to recapture a portion of the credit during (A) the

266 first of such four years, then ninety per cent of the credit allowed shall
267 be recaptured on the tax return required to be filed for such year, (B)
268 the second of such four years, then sixty-five per cent of the credit
269 allowed for the entire period of eligibility shall be recaptured on the
270 tax return required to be filed for such year, (C) the third of such four
271 years, then fifty per cent of the credit allowed for the entire period of
272 eligibility shall be recaptured on the tax return required to be filed for
273 such year, (D) the fourth of such four years, then thirty per cent of the
274 credit allowed for the entire period of eligibility shall be recaptured on
275 the tax return required to be filed for such year.

276 (g) (1) On and after July 1, 2009, and for income years commencing
277 on or after January 1, 2009, any credit allowed pursuant to this section
278 may be sold, assigned or otherwise transferred, in whole or in part, to
279 one or more taxpayers, provided no credit, after issuance, may be sold,
280 assigned or otherwise transferred, in whole or in part, more than three
281 times.

282 (2) If a taxpayer sells, assigns or otherwise transfers a credit under
283 this section to another taxpayer, the transferor and the transferee shall
284 jointly submit written notification of such transfer to the commissioner
285 not later than thirty days after such transfer. If such transferee sells,
286 assigns or otherwise transfers a credit under this section to a
287 subsequent transferee, such transferee and such subsequent transferee
288 shall jointly submit written notification of such transfer to the
289 commission not later than thirty days after such transfer. The
290 notification after each transfer shall include the credit voucher number,
291 the date of transfer, the amount of such credit transferred, the tax
292 credit balance before and after the transfer, the tax identification
293 numbers for both the transferor and the transferee, and any other
294 information required by the commissioner. Failure to comply with this
295 subdivision will result in a disallowance of the tax credit until there is
296 full compliance on the part of the transferor and the transferee, and for
297 a second or third transfer, on the part of all subsequent transferors and
298 transferees.

299 (h) The provisions of section 12-728 of the general statutes shall
300 apply to any tax return claiming the credit authorized pursuant to this
301 section."