



Senate

General Assembly

File No. 384

February Session, 2010

Substitute Senate Bill No. 23

Senate, April 8, 2010

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 ESTABLISHING A QUALIFIED SMALL BUSINESS JOB CREATION TAX CREDIT.

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

1 Section 1. (NEW) (*Effective from passage and applicable to income years*
2 *commencing on or after January 1, 2010*) (a) As used in this section:

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

5 (2) "Income year" means the income year or taxable year, as
6 determined under chapter 207, 208 or 229 of the general statutes, as the
7 case may be;

8 (3) "Qualified small business" means an employer, subject to tax
9 under chapter 207, 208 or 229 of the general statutes, who employs less
10 than twenty-five employees in Connecticut on the date of its
11 application under subsection (c) of this section;

12 (4) "New employee" means a person hired after the effective date of

13 this section by the qualified small business during its income years
14 commencing on or after January 1, 2010, and prior to January 1, 2013,
15 to fill a new full-time job. A new employee does not include a person
16 who was employed in Connecticut by a related person with respect to
17 the qualified small business during the twelve months prior to such
18 hiring, or any person who was employed by the qualified small
19 business in any position on the effective date of this section;

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

23 (6) "Related person" means (A) a corporation, limited liability
24 company, partnership, association or trust controlled by the qualified
25 small business, (B) an individual, corporation, limited liability
26 company, partnership, association or trust that is in control of the
27 qualified small business, (C) a corporation, limited liability company,
28 partnership, association or trust controlled by an individual,
29 corporation, limited liability company, partnership, association or trust
30 that is in control of the qualified small business, or (D) a member of the
31 same controlled group as the qualified small business; and

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

45 (b) (1) There is established a qualified small business job creation tax

46 credit program for qualified small businesses, whereby a qualified
47 small business that hires a new employee in a new full-time job may be
48 allowed a tax credit against the tax imposed under chapter 207, 208 or
49 229 of the general statutes, other than the liability imposed by section
50 12-707 of the general statutes.

51 (2) Except as otherwise provided in subdivision (3) of this
52 subsection, the tax credit shall be in an amount equal to two thousand
53 five hundred dollars for each new employee hired during the first six
54 months of the income year of the qualified small business or one
55 thousand two hundred fifty dollars for each new employee hired after
56 the first six months, but prior to the last month, of the income year of
57 the qualified small business.

58 (3) For each new employee hired during the income year of the
59 qualified small business commencing on or after January 1, 2010, and
60 prior to January 1, 2011, the tax credit shall be equal to two thousand
61 five hundred dollars if the new employee is hired prior to the last
62 month of the income year of the qualified small business.

63 (4) For each of the two successive income years after the new
64 employee is hired, the tax credit shall be in an amount equal to two
65 thousand five hundred dollars for each new employee employed for a
66 full year.

67 (5) No tax credit shall be allowed for any new employee hired by a
68 qualified small business in any income year commencing on or after
69 January 1, 2013.

70 (6) Notwithstanding the provisions of subdivision (4) of this
71 subsection, no qualified small business may claim a tax credit for any
72 new employee that is not employed at the close of the income year of
73 the qualified small business.

74 (7) The qualified small business shall claim the tax credit for the
75 income year in which the qualified small business hires a new
76 employee and, if eligible, the two immediately succeeding income

77 years. Any tax credit not used in an income year shall expire.

78 (c) To be eligible to claim the tax credit, a qualified small business
79 shall apply to the commissioner in accordance with the provisions of
80 this section before hiring each new employee. The application shall be
81 on a form provided by the commissioner and shall contain sufficient
82 information as required by the commissioner, including the activities
83 that the qualified small business primarily engages in, the North
84 American Industrial Classification System code of the qualified small
85 business, the current number of employees employed by the qualified
86 small business as of the application date, and the name and position or
87 job title of the new employee to be hired.

88 (d) (1) Upon receipt of an application, the commissioner shall render
89 a decision on the application, in writing, not later than thirty days after
90 the date of its receipt by the commissioner. If the commissioner
91 approves the application of the qualified small business, the
92 commissioner shall issue a certification letter indicating that the tax
93 credit will be available to be claimed by the qualified small business if
94 the qualified small business otherwise meets the requirements of this
95 section.

96 (2) The total amount of tax credits granted under this section and
97 under section 12-217ii of the general statutes, as amended by this act,
98 shall not exceed ten million dollars in any one fiscal year.

99 (3) No qualified small business claiming the tax credit under this
100 section with respect to a new employee may claim any other credit
101 against any tax under any other provision of the general statutes with
102 respect to the same new employee.

103 (e) If the qualified small business is an S corporation or an entity
104 treated as a partnership for federal income tax purposes, the tax credit
105 may be claimed by the shareholders or partners of the qualified small
106 business. If the qualified small business is a single member limited
107 liability company that is disregarded as an entity separate from its
108 owner, the tax credit may be claimed by the limited liability company's

109 owner. No credit allowed under this section shall exceed the amount of
110 tax imposed by chapter 229 of the general statutes.

111 (f) The commissioner shall annually provide to the Commissioner of
112 Revenue Services a list detailing all tax credits that have been
113 approved and all qualified small businesses that have been issued a
114 certification letter under subsection (d) of this section.

115 Sec. 2. Subdivision (2) of subsection (e) of section 12-217ii of the
116 general statutes is repealed and the following is substituted in lieu
117 thereof (*Effective from passage and applicable to income years commencing*
118 *on or after January 1, 2010*):

119 (2) The total amount of credits granted to all taxpayers under this
120 section and section 1 of this act shall not exceed ten million dollars in
121 any one fiscal year.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage and applicable to income years commencing on or after January 1, 2010</i>	New section
Sec. 2	<i>from passage and applicable to income years commencing on or after January 1, 2010</i>	12-217ii(e)(2)

Statement of Legislative Commissioners:

In section 1, grammatical and technical corrections were made to subsection (a)(4), (b) and (d) for accuracy, clarity and to reflect the intent of the committee; section 1(e) and (f) were combined and (g) was relettered accordingly for clarity and accuracy. The effective date of section 2 was changed to reflect the intent of the committee and to conform with the style of the general statutes. In section 2(2), "section 12-217ii" was changed to "this section" for accuracy.

CE Joint Favorable Subst.-LCO

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 \$	FY 12 \$
Department of Revenue Services	GF - Revenue Loss	3.5 million	7.0 million
Department of Economic & Community Development	GF - Cost	246,392	253,786
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	65,688	168,793

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill will result in a revenue loss to the General Fund of approximately \$3.5 million in FY 11 and \$7.0 million per year beginning in FY 12. The revenue loss will be from the personal income tax, the corporation business tax, and the insurance premiums tax. The revenue loss is a result of the creation of a small business job creation tax credit of between \$1,250 and \$2,500 per job.

The credit is subject to the same \$10 million limit as the already existing job creation tax credit (CGS 12-217ii). The revenue loss indicated above assumes the current job creation credit accounts for \$3 million of the \$10 million cap in FY 12. The fiscal impact of the bill may be more or less depending on the use of the existing tax credit but the total impact of the two credits is estimated to reach the \$10 million per year cap beginning in FY 12.

¹ The estimated non-pension fringe benefit rate as a percentage of payroll is 26.66% which includes health insurance, social security, Medicare, life insurance, and unemployment compensation. Fringe benefit costs for new positions do not include pension costs as new positions will not impact the state's pension contribution until FY 12 after the next scheduled actuarial valuation.

The bill requires businesses seeking credits to apply to the Department of Economic and Community Development (DECD). It is anticipated that a significant number of businesses would be eligible. Assuming 100 businesses apply, DECD would incur costs of \$246,392 in FY 11 to hire two Economic and Community Development Agents (with a salary of \$64,511 each), and two Account Examiners (with a salary of \$58,685 each). Fringe benefit costs would be \$65,688 in FY 11 and \$168,793 in FY 12.

The Out Years

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

OLR Bill Analysis**sSB 23*****AN ACT ESTABLISHING A QUALIFIED SMALL BUSINESS JOB CREATION TAX CREDIT.*****SUMMARY:**

This bill authorizes insurance premium, corporation business, and personal income tax credits for small businesses (fewer than 25 Connecticut-based employees) creating new full-time jobs. The maximum credit is \$2,500 per job for each year the new employee fills the job. Businesses qualify for the credits only for jobs they create between January 1, 2010 and December 31, 2012. The bill imposes a \$10 million per year cap on these credits and those authorized under the existing job incentive tax credit program.

Businesses must apply for the credits to the Department of Economic and Community Development (DECD) commissioner before hiring new employees. A business may claim a credit for up to three years, depending on when it created the job and whether the new employee is still on the payroll for the entire second or third year after the year he or she was hired. The bill specifies how certain types of businesses may claim credits against the personal income tax.

EFFECTIVE DATE: Upon passage and applicable to income years beginning on or after January 1, 2010

CREDIT AMOUNT

The bill authorizes three-year credits for small businesses that create new jobs filled by new employees. The maximum credit is \$2,500 per new employee per year. But the credit could be lower for a new employee's first year, depending on the year or the month he or she was hired. A business hiring new employees during its income year between January 1, 2010 and December 31, 2010 qualifies for the \$2,500

credit per new employee if it hired the employee before the last full month of its income year. It may also claim the full credit in each of the next two income years if the new employee held the job for a full income year.

The credit amount for businesses hiring new employees in the income years between 2011 and 2012 depends on when the employee was hired. Those hiring a new employee during the first six months of the income year qualify for the \$2,500 credit; those hiring new employees during months seven through 11 of the income year qualify for a \$1,250 credit per employee. The credit increases to \$2,500 per employee in each of the next two income years if the employee held the job for a full year.

Businesses can apply the credits against the insurance premium, corporation business, or personal income taxes. Authorizing credits against the personal income tax distinguishes the bill's credits from those authorized under existing tax credit programs. Depending on how they are organized, some businesses do not pay business taxes, but their owners pay personal income taxes on the income they received from the business. Most existing tax credit programs do not allow these taxpayers to claim credits against the income tax. The bill does, but specifies that a credit cannot exceed the tax owed.

Businesses claiming the bill's credits for hiring new employees cannot count these employees toward other credits the law allows. These credits include those authorized under the job incentive and the enterprise zone (CGS § 12-217) programs.

QUALIFYING FOR THE CREDIT

The bill's credits are available to all businesses (1) employing fewer than 25 employees in Connecticut and (2) that are liable for insurance premium, corporation business, or personal income taxes. (Businesses that are not liable for these taxes cannot benefit from the credits by reassigning them to businesses that are subject to the taxes.) These businesses qualify for a credit if they create a new job and hire a new

employee to fill it. The employee cannot be someone who already works in Connecticut for a related business. The bill describes the conditions under which two or more businesses may be related. The new job must require the employee to work at least 35 hours per week on a regular, full-time basis. New temporary or seasonal jobs do not count toward the credit.

As noted above, a business qualifies for the credit only for jobs it created between January 1, 2010 and December 31, 2012. The business can claim the credit for each job it creates during this period for up to three years, depending on when it created the job and whether the same employee holds the job.

ACCESSING THE CREDIT

Application to DECD

To claim the credits, businesses must apply to the DECD commissioner for a certification letter before hiring new employees. In doing so, the business must use the commissioner's form and provide enough information for her to determine the business's eligibility. The information must describe the business' activities, indicate its North American Industrial Classification System code, state how many people it employs as of the application date, and list the position or job title of each new employee it plans to hire.

The commissioner must act on the application within 30 days of receiving it. She must issue the certification letter if she approves the application. In doing so, she must state that the business may claim the credit if it meets the bill's requirements.

The commissioner must monthly provide the revenue services commissioner a list of the businesses that she approved for credits and the credit amounts.

Apportioning Credits against the Income Tax

The bill extends its credits to people who own a business or shares in a business that is not liable for business taxes. These owners, shareholders, and partners pay income taxes on their share of the

income the business generates.

The bill requires the credit to be apportioned among the shareholders or partners of S corporations and partnerships on a pro rata basis. With respect to single member limited liability companies that are disregarded as entities separate from their owners, only the company's owner may claim the credit.

BACKGROUND

Related Bill

sHB 5209 (File 270) authorizes similar credits, but for four years (2010 to 2013) instead of this bill's three (2010 to 2012). sHB 5209's criteria and procedures are identical and the credit amount is slightly less (\$2,496 per employee, per year). The bill does not reduce the credit for employees hired between the seventh and eleventh month of an income year.

COMMITTEE ACTION

Commerce Committee

Joint Favorable

Yea 20 Nay 0 (03/23/2010)