OLR Bill Analysis

HB 5127

AN ACT ESTABLISHING THE JOBSCT TAX REBATE PROGRAM.

SUMMARY

This bill establishes the JobsCT tax rebate program under which companies in specified industries may earn rebates against the insurance premiums, corporation business, and pass-through entity (PE) taxes for reaching certain job creation targets. The rebate is based on (1) the number of new full-time equivalent employees (FTEs) the business creates and maintains, (2) these FTEs' average wage, and (3) the state income tax that would be paid on this average wage for a single filer.

Under the bill, the rebate program is administered by the Department of Economic and Community Development (DECD). A business is eligible for the program (i.e., a qualified business) if it is subject to at least one of the above taxes and in an industry related to finance, insurance, manufacturing, clean energy, bioscience, technology, digital media, or any similar industry, as determined by the DECD commissioner. Generally, the business must create and maintain at least 25 new FTEs to claim a rebate. The bill establishes minimum wage requirements that the new FTEs must meet to qualify for the rebate but allows the DECD commissioner to waive these requirements for FTEs meeting other criteria (i.e., "discretionary FTEs").

Generally, the rebate equals 25% of the state income tax paid by the new FTEs (50% for FTEs in an opportunity zone or distressed municipality). The bill establishes a minimum rebate of $1,000 per new FTE ($750 per discretionary FTE) and a maximum of $5,000 per new or discretionary FTE. However, it doubles the minimum amounts for rebates earned, claimed, or payable before January 1, 2024 (i.e., $2,000 per new FTE and $1,500 per discretionary FTE). It allows businesses to receive rebates in up to seven successive years, beginning with the

second year after it is accepted into the program. The rebate is refundable if it exceeds the business's tax liability and may exceed the existing insurance premiums and corporation business tax credit limits. The bill caps the aggregate rebate amount awarded at $40 million per fiscal year.

Lastly, the bill repeals obsolete language about insurance premiums and corporation business tax credit caps.

EFFECTIVE DATE: July 1, 2022, and applicable to taxable years commencing on or after January 1, 2023, except that a provision about the order of corporation business tax credits is applicable to income years commencing on or after January 1, 2023.

§ 1 — JOBSCT REBATE PROGRAM ELIGIBILITY

Under the bill, an eligible business qualifies for the rebate if it creates and maintains at least 25 new or discretionary FTEs. New FTEs are those that did not exist in the state when the business applies to the DECD commissioner for acceptance into the program. They exclude FTEs (1) acquired due to a merger or acquisition, (2) employed in the state by a related person (e.g., entities controlled by the business) within the previous 12 months, or (3) hired to replace FTEs that existed in the state after January 1, 2020. The bill allows the DECD commissioner to issue implementation guidance.

To qualify as a new FTE, an employee must be paid wages sourced to the state (i.e., qualified wages) of at least 85% of the median household income for the location where the position is primarily located or $37,500, whichever is greater. Both measures are proportionally reduced for fractional FTEs (e.g., the wage floor is $18,750 for a 0.5 FTE).

The bill creates an exception to these wage requirements for new discretionary FTEs (see below).

§ 1 — PROGRAM APPLICATION

Application (§ 1(c))

Under the bill, qualified businesses seeking the rebates must apply to the DECD commissioner on a form he prescribes. The form may require the following information:

1. the number of new FTEs the business will create,

2. the number of FTEs it currently employs,

3. feasibility studies or business plans for the projected number of new FTEs,

4. projected state and local revenue reasonably derived from the increased FTEs, and

5. any other information needed to determine whether there will be net benefits to the economy of the state and the municipality or municipalities where the business is located.

The bill allows the commissioner to require the business to submit additional information to evaluate an application.

DECD Review and Approval (§ 1(c))

The bill requires the DECD commissioner, when reviewing the application, to determine whether (1) the qualified business can reasonably meet the hiring targets and other metrics stated in the application and (2) the proposed job growth would (a) provide a net benefit to economic development and employment opportunities in the state and (b) exceed the number of jobs the business had before January 1, 2020. Under the bill, the business must meet each of these requirements to be eligible for the rebate program.

The bill requires the DECD commissioner to approve or reject the application within 90 days after receiving it. He may approve the application in whole, in part, or with amendments. If he rejects an application, he must identify the defects and explain the specific reasons for the rejection.

The bill allows the commissioner to combine the approval of an application with the exercise of any of his other powers, including providing other financial assistance.

Discretionary FTEs (§ 1(c))

Under the bill, a discretionary FTE is an FTE paid qualified wages who does not meet the bill's wage requirements (see above) but is approved by the DECD commissioner. The bill allows the commissioner to approve an application in whole, in part, or with amendments, if a majority of the new discretionary FTEs meet the following criteria:

1. are receiving, or have received, services from the Department of Aging and Disability Services because of a disability;
2. are receiving employment services from the Department of Mental Health and Addiction Services or participating in employment opportunities or day services operated or funded by the Department of Developmental Services;
3. have been unemployed for at least six of the preceding 12 months;
4. have been convicted of a misdemeanor or felony;
5. are veterans;
6. lack a postsecondary credential and are not currently enrolled in a postsecondary institution or program; or
7. are currently enrolled in a workforce training program fully or substantially funded by the employer that results in the individual earning a postsecondary credential.

§ 1 — AWARDING THE REBATE

Contract and Allocation Notice (§ 1(c))

The bill requires the DECD commissioner to enter into a contract with an approved qualified business. The contract must at least include the business's consent for DECD to access data from other state agencies, including the Labor Department, for audit and enforcement purposes. Additionally, if the commissioner approves the business for new discretionary FTEs, the contract must include the required wage that the business must pay them.

After signing the contract, the bill requires the DECD commissioner to issue the approved qualified business a rebate allocation notice that certifies its eligibility to claim the rebate if it meets the terms stated in the notice. The notice must state the maximum rebate available for the rebate period and the specific terms the business must meet to qualify.

Voucher (§ 1(i) & (j))

The bill requires approved qualified businesses to provide information to the DECD commissioner, annually by January 31 during their rebate period, on the number of new or discretionary FTEs created or maintained during the previous calendar year and their qualified wages. It allows DECD to audit this information.

The bill requires DECD to issue a rebate voucher to an approved qualified business by March 15 in each year of the rebate period. The voucher must state the rebate amount and the taxable year against which the rebate may be claimed. The bill requires the DECD commissioner to annually provide the revenue services commissioner with a report detailing all rebate vouchers. (The bill does not specify a deadline for this report.)

Rebate Period (§ 1(h))

The bill allows a business to receive a rebate for up to seven successive calendar years. It prohibits DECD from granting a rebate until at least 24 months after the commissioner approves the business's application.

Annual Report (§ 1(k))

The bill requires the DECD commissioner to annually report to the Office of Policy and Management beginning January 1, 2023, on the rebate program's expenses and the number of FTEs and discretionary FTEs created and maintained. The commissioner must submit the report in consultation with the state comptroller's office and state auditors.

§ 1 — REBATE CALCULATION

FTE Calculation (§ 1(d))

Under the bill, FTEs may be full-time (i.e., employees who work at least 35 hours per week) or part-time employees. One FTE consists of a job in which an employee works or is expected to work at least 1,750 hours in a calendar year (i.e., 35 hours per week for 50 weeks). For employees who work fewer than 1,750 hours, an FTE fraction is calculated by dividing the number of hours worked by 1,750. The bill allows the DECD commissioner to adjust the FTE calculation.

New FTEs (§ 1(e))

Under the bill, an approved qualified business must employ at least 25 new FTEs in Connecticut by December 31 in the calendar year that is two years before the calendar year in which it claims the rebate. For purposes of calculating the rebate, new FTEs refers to the number of new FTEs (1) created two years before the rebate year or (2) maintained in the year before the rebate year, whichever is less.

The rebate is based on (1) the number of new FTEs created or maintained (see above), (2) their average wage, and (3) the state income tax that would be paid on this average wage for a single filer. Generally, if the new FTEs are in an opportunity zone or distressed municipality (i.e., "designated locations," see BACKGROUND), the rebate equals 50% of the average state income tax that would be paid by these employees, multiplied by the number of employees. If the new FTEs are outside of these locations (i.e., "other locations"), the rebate equals 25% of the average state income tax that would be paid by these employees, multiplied by the number of employees.

Under the bill, the total rebate is calculated by adding the rebate amount from the designated locations to the amount from the other locations, as shown in Figure 1 below.

Figure 1: JobsCT Rebate Calculation

New FTEs in designated locations x 50% of the income tax that would be paid on these employees' average wage	+	New FTEs in other locations x 25% of the income tax that would be paid on these employees' average wage	=	Total rebate amount

Rebate Floor and Ceiling. The bill generally establishes a rebate floor of $1,000 per new FTE, regardless of where it is created. However, for tax credits earned, claimed, or payable before January 1, 2024, the rebate floor equals $2,000 per new FTE. It caps the rebates at $5,000 per new FTE.

Discretionary FTEs (§ 1(f))

Under the bill, the process for calculating the rebates for new discretionary FTEs is the same as the process for calculating the rebates for new FTEs (see above). Additionally, new discretionary FTEs have the same $5,000 per FTE cap as new FTEs. However, the floor for new discretionary FTEs is (1) $750 per FTE generally and (2) $1,500 for credits earned, claimed, or payable before January 1, 2024.

FTE Minimum (§ 1(e), (f) & (h))

The bill prohibits a business from receiving a rebate if it does not maintain at least 25 new FTEs or new discretionary FTEs (as applicable) in the calendar year immediately before the calendar year in which the rebate is being claimed.

Additionally, if a business fails to create 25 new FTEs or new discretionary FTEs in two consecutive calendar years, it must forfeit all remaining rebate allocations unless the DECD commissioner recognizes mitigating circumstances of a regional or national nature, including a recession.

Rebate Caps (§ 1(g))

The bill limits the aggregate rebate amount that may be awarded in a fiscal year to (1) $10 million for discretionary FTEs and (2) $40 million overall. It prohibits the DECD commissioner from approving an application in whole or in part if doing so would result in exceeding the applicable cap in any fiscal year.

§§ 2-5 — REBATES AND TAX CREDIT CAPS

Under the bill, JobsCT rebates are treated as credits against the corporation business and PE taxes and offsets against the insurance premiums tax. If the rebate against any of these taxes exceeds the business's liability for that tax, then the DRS commissioner must treat the excess as an overpayment and refund it to the business without interest.

The bill allows the JobsCT rebate to exceed existing law's caps on insurance premiums (generally 30-70% of the amount of tax owed by the business) and corporation business tax credits (50.01% of the tax due). Additionally, the bill requires that any JobsCT rebate against the corporation business tax be claimed only after the business has claimed any other available credits against the tax.

Under existing law, if a pass-through business (i.e., affected business entity) is subject to the PE tax, its members (i.e., owners) receive an offsetting credit at the personal or corporate income tax level that equals 87.5% of the member's direct and indirect share of the PE tax paid by the pass-through business. The bill requires that the members' personal income tax credit be calculated before any JobsCT rebate is applied to the business's PE tax due.

BACKGROUND

Distressed Municipalities

By law, the DECD commissioner must annually designate distressed municipalities based on a combination of economic, education, demographic, and housing criteria. In 2021, he designated the following 25 municipalities as distressed:

Ansonia	Bridgeport	Chaplin
Derby	East Hartford	East Haven
Griswold	Groton	Hartford
Meriden	Montville	New Britain
New London	Norwich	Plainfield
Putnam	Sprague	Sterling
Stratford	Torrington	Voluntown
Waterbury	West Haven	Winchester
Windham		

Opportunity Zones

The federal Opportunity Zone program, created as part of the 2017 federal Tax Cuts and Jobs Act (P.L. 115-97), is designed to spur economic development and job creation in distressed communities by providing federal tax benefits for private investments in the zones. The program's tax benefits are available to investors that reinvest gains earned on prior investments in a qualified opportunity zone fund that invests in zone businesses. Investors may receive additional tax benefits if they hold their investments in the fund for at least five, seven, or 10 years. Connecticut has 72 opportunity zones in 27 municipalities that were approved by the U.S. Treasury Department in 2018.

COMMITTEE ACTION

Commerce Committee

Joint Favorable Change of Reference - FIN

Yea	21	Nay	1	(03/22/2022)

Finance, Revenue and Bonding Committee

Joint Favorable

Yea	46	Nay	5	(04/06/2022)