

# WEST VIRGINIA LEGISLATURE

## 2016 REGULAR SESSION

Introduced

### House Bill 4437

FISCAL  
NOTE

BY DELEGATES HICKS, MARCUM, REYNOLDS,  
RODIGHERO, SHAFFER, FAIRCLOTH, FRICH, MOFFATT, J.

NELSON AND PERDUE

[Introduced February 8, 2016; Referred  
to the Committee on Small Business,  
Entrepreneurship and Economic Development then  
Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §11-13DD-1, relating to creating tax credits for small businesses created in  
3 this state and operating entirely within West Virginia.

*Be it enacted by the Legislature of West Virginia:*

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
2 article, designated §11-13DD-1, to read as follows:

**ARTICLE 13DD. SMALL BUSINESS TAX CREDITS.**

**§11-13DD-1. Tax credits for small business economic impact.**

3 (a) Credit allowed. -- In order to assist and encourage the creation and growth of small  
4 business owners in the State of West Virginia, as well as promoting job growth from within this  
5 state by hiring residents of the state, for those tax years beginning on or after January 1, 2016,  
6 through June, 2024, there shall be allowed a credit, for any taxpayer based in and operating  
7 entirely within this state employing less than one hundred employees, against certain taxes  
8 imposed by this state as described in subsection (c) of this section for wages paid to newly hired  
9 employees who are employed on a full-time basis (thirty-two hours a week or more) for a period  
10 of not less than one year and who are full-time residents of West Virginia. Employees may not  
11 be terminated after one year of employment, without cause, in order to be replaced by then newly  
12 hired employees in order to gain additional tax credits under this section.

13 (b) Amount of credit. -- The tax credit shall be in an amount equal to \$2,500 per each new  
14 hired employee during each of the calendar years of 2016 through June 2024, except the amount  
15 of credit allowed for any tax year with respect to each new employee may not exceed fifty percent  
16 of the actual wages paid in the tax year for the new employee, whichever is less.

17 (c) Application of annual credit allowance. -- The amount of credit as determined under  
18 subsection (b) of this section is allowed as a credit against the taxpayer's state tax liability applied  
19 as provided in subdivisions (1) through (3), inclusive of this subsection, and in that order.

20 (1) Business franchise tax. -- The credit must first be applied to reduce the taxes imposed

21 by article twenty-three of this chapter for the taxable year.

22 (2) Corporation net income taxes. -- After application of subdivision (1) of this subsection,  
23 any unused credit is next applied to reduce the taxes imposed by article twenty-four of this chapter  
24 for the taxable year.

25 (3) Personal income taxes. --

26 (A) If the person making the qualified employment is an electing small business  
27 corporation (as defined in Section 1361 of the United States Internal Revenue Code of 1986, as  
28 amended), a partnership, a limited liability company that is treated as a partnership for federal  
29 income tax purposes, or a sole proprietorship, then any unused credit (after application of  
30 subdivisions (1) and (2) of this subsection) is allowed as a credit against the taxes imposed by  
31 article twenty-one of this chapter on the income from business or other activity subject to tax under  
32 article twenty-three of this chapter or on income of a sole proprietor attributable to the business.

33 (B) Electing small business corporations, limited liability companies, partnerships and  
34 other unincorporated organizations shall allocate the credit allowed by this article among its  
35 members in the same manner as profits and losses are allocated for the taxable year.

36 (4) A credit is not allowed under this section against any employer withholding taxes  
37 imposed by article twenty-one of this chapter.

38 (d) Unused credit. -- If any credit remains after application of subsection (c) of this section,  
39 that amount is forfeited. A carryback to a prior taxable year is not allowed for the amount of any  
40 unused portion of any annual credit allowance.

NOTE: The purpose of this bill is to create tax credits for small businesses in order to assist and encourage the growth of small business owners in the State of West Virginia, as well as promoting job growth from within this state by hiring residents of the state, for those tax years beginning on or after January 1, 2016, through June, 2024.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.