

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

House Bill 2591

**FISCAL
NOTE**

BY DELEGATES ATKINSON, HILL, WARD, KELLY, MOORE,
HARSHBARGER, AMBLER, COOPER, HOLLEN, WESTFALL
AND KESSINGER

[Introduced February 21, 2017; 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 section,
2 designated §11-13DD-1, relating to providing a temporary tax credit for small group
3 employers to cover a tax credit of up to fifty percent of the costs of branding, marketing
4 and advertising of agricultural or manufactured products produced or manufactured in
5 West Virginia; establishing limits; and providing that the credit be available for five years.

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 section, designated §11-13DD-1, to read as follows:

ARTICLE 13DD. SMALL BUSINESS TAX CREDIT.

§11-13DD-1. Tax Credit for Small Businesses.

3 (a) Credit allowed. -- Each eligible small group employer with fewer than twenty-five
4 employees is allowed a tax credit of up to fifty percent of the costs of branding, marketing and
5 advertising of agricultural or manufactured products produced or manufactured in West Virginia.
6 An eligible employer must maintain its corporate headquarters in West Virginia and the tax credit
7 is available for the taxable year in which the investment was made.

8 (b) No more than \$100,000 of the tax credits allowed under subsection (a) of this section
9 may be allowed.

10 (c) Business franchise tax. -- The tax credit is applied to reduce the taxes imposed upon
11 the eligible taxpayer by article twenty-three of this chapter for the taxable year as determined after
12 application of the credits against tax provided in section seventeen of that article, but after
13 application of any other allowable credits against tax.

14 (d) Corporation net income taxes. -- After application of subsection (c) of this section, any
15 unused tax credit is next applied to reduce the taxes imposed upon the eligible taxpayer by article
16 twenty-four of this chapter for the taxable year as determined before application of allowable
17 credits against tax.

18 (e) If the eligible taxpayer is a limited liability company, an electing small business

19 corporation, as defined in section 1361 of the United States Internal Revenue Code of 1986, or a
20 partnership, any unused tax credit remaining after application of subsections (c) and (d) of this
21 section is allowed as a tax credit against the taxes imposed by article twenty-four of this chapter
22 on owners of the eligible taxpayer.

23 (1) Electing small business corporations, as defined in subsection (e) of this section,
24 limited liability companies, and partnerships shall allocate the tax credit allowed by this article
25 among their members in the same manner as profits and losses are allocated for the taxable year.

26 (2) No tax credit is allowed under this article against any withholding tax imposed by, or
27 payable under, article twenty-one of this chapter.

28 (f) If the eligible taxpayer is a limited liability company, an electing small business
29 corporation, as identified in subsection (e) of this section, or a partnership, any unused tax credit
30 remaining after application of subsections (c), (d) and (e) of this section is allowed as a tax credit
31 against the taxes imposed by article twenty-one of this chapter on owners of the eligible taxpayer.

32 (1) Electing small business corporations, as defined in subsection (e) of this section,
33 limited liability companies, and partnerships shall allocate the tax credit allowed by this article
34 among their members in the same manner as profits and losses are allocated for the taxable year.

35 (2) No tax credit is allowed under this article against any withholding tax imposed by, or
36 payable under, article twenty-one of this chapter.

37 (g) The total amount of tax credit that may be used in any taxable year by any eligible
38 taxpayer in combination with the owners of the eligible taxpayer under subsections (e) and (f) of
39 this section may not exceed \$10,000.

40 (h) *Unused credit carry forward.* -- If the tax credit allowed under this article in any taxable
41 year exceeds the sum of the taxes enumerated in subsections (c), (d), (e) and (f) of this section
42 for that taxable year, the eligible taxpayer and owners of eligible taxpayers described in
43 subsections (e) and (f) of this section may apply the excess as a tax credit against those taxes,
44 in the order and manner stated in this section, for succeeding taxable years until the earlier of the

45 following:

46 (1) The full amount of the excess tax credit is used; or

47 (2) The expiration of the fourth taxable year after the taxable year in which the investment

48 was made. The tax credit remaining thereafter is forfeited.

49 (i) The tax credit is allowed or may be applied under this article is limited to five years,

50 beginning with tax year after December 31, 2017.

NOTE: The purpose of this bill is to provide a temporary tax credit for small group employers to cover a tax credit of up to fifty percent of the costs of branding, marketing and advertising of agricultural or manufactured products produced or manufactured in West Virginia. The bill establishes limits. The bill provides that the credit be available for five years.

These sections have been completely rewritten; therefore, they have been completely underscored.