

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2035

By Delegates Holstein, Fehrenbacher, Rohrbach,
Pushkin and Keaton

[Introduced January 11, 2023; Referred to the
Committee on Health and Human Resources then
Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §11-13MM-1, relating to establishing a tax credit for employers who hire
 3 qualified employees in a program of recovery from substance abuse; authorizing tax credit;
 4 defining terms; specifying the application process for tax credit; determining the amount of
 5 the credit; restricting disclosure of diagnosis and treatment information; establishing
 6 maximum allowable credits; and providing that unused credits do not carry over to
 7 subsequent years.

Be it enacted by the Legislature of West Virginia:

ARTICLE 13MM. TAX CREDIT FOR EMPLOYING PERSONS IN SUBSTANCE ABUSE

RECOVERY PROGRAMS.

§11-13MM-1. Credit to eligible taxpayers for hiring of qualified employees in a program of recovery from substance abuse.

1 (a) A credit shall be allowed against taxes imposed on personal and corporate income in
 2 this state to eligible taxpayers who hire qualified individuals participating in a program of
 3 substance abuse recovery.

4 (b) For the purpose of this section, the term "eligible taxpayer" means a taxpayer who:

5 (1) Is subject to tax liability under the provisions of this article; and

6 (2) Hires one or more qualified individuals as defined herein.

7 (c) For the purpose of this section, the term "qualified individual" means an individual with a
 8 diagnosed substance use disorder who:

9 (1) At the time of his or her hiring, was a participant in good standing in a drug court
 10 program established pursuant to §62-15-1 et seq. of this code;

11 (2) Is employed for at least 120 hours per month at a wage equal to, or greater than, the
 12 prevailing federal minimum wage;

13 (3) Has not, by his or her hiring, displaced an employed individual, other than an individual

14 who is discharged for cause; and

15 (4) Has not previously been employed by the same employer in a seasonal position to
16 which the individual is returning for further seasonal employment.

17 (d) A substance abuse relapse shall not make an individual ineligible, as long as the
18 individual shows a continued commitment to recovery that aligns with an individual's recovery plan
19 and continues with the program established for the individual by the drug court.

20 (e) In addition to the initial year of employment, an eligible taxpayer/employer may claim
21 the credit established herein for as long as the individual remains in good standing in his or her
22 participation in the drug court program and up to two additional years after completion of the drug
23 court program if the employee continues with a substance abuse monitoring program offered or
24 administered by the employer.

25 (f) To participate in the program, an employer shall, in a form prescribed by the State Tax
26 Commissioner, apply annually to the division by January 15 to claim the credit based on qualified
27 individuals hired or employed during the preceding calendar year. As part of the application, an
28 employer shall:

29 (1) Allow the State Tax Department and its agents access to limited and specific
30 information necessary to monitor compliance with program eligibility requirements. Information
31 accessed pursuant to this subdivision shall be confidential by law and shall only be used for the
32 stated purpose of this section; and

33 (2) Demonstrate that the employer has satisfied program eligibility requirements and
34 provided all the information necessary, including the number of hours worked by any qualified
35 individual, for the director to compute an actual amount of credit allowed.

36 (g) Nothing in this section may be construed to compel the eligible individual, or health care
37 providers, to disclose information related to the individual's diagnosis and treatment except for the
38 status of the individual's participation in the drug court program and the results of any controlled
39 substance testing administered by or at the direction of the employer.

40 (h) A certified employer may claim a credit, subject to the limitations of subsections (i) and
 41 (j) of this section, for each eligible employee during the period starting on the day the employee is
 42 hired and ending on December 31 of the immediately preceding calendar year or the last day of
 43 the employee's employment by the certified employer, whichever comes first.

44 (i) A certified employer may claim a credit each year for the following number of eligible
 45 employees according to the employer's total number of full-time employees:

<u>TOTAL EMPLOYEES</u>	<u>ELIGIBLE EMPLOYEES CREDITED</u>
<u>10 or fewer</u>	<u>1</u>
<u>11 to 33</u>	<u>2</u>
<u>34 to 66</u>	<u>3</u>
<u>67 to 84</u>	<u>4</u>
<u>85 to 100</u>	<u>5</u>
<u>101 to 200</u>	<u>6</u>
<u>201 or greater</u>	<u>7</u>

54 (j) The maximum credit allowed to any eligible taxpayer in any taxable year shall be \$2,000
 55 per eligible individual hired and retained in employment: *Provided*, That the amount of the credit
 56 allowed by this section in any one taxable year shall be prorated in proportion to the number of
 57 months of employment of the eligible individual during the tax year: *Provided, however*, That the
 58 maximum total credit allowed to any eligible taxpayer shall be \$14,000 per year for all eligible
 59 individuals so employed. Unused credits do not carry over to any future tax year.

60 (k) For any corporate taxpayer eligible to receive a credit under this section, the credit shall
 61 be allowed against the corporate net income tax due from the employer taxpayer for the tax year
 62 as calculated under this section. For any eligible individual taxpayer or member of a partnership
 63 filing as an individual, the credit shall be against the taxpayer's personal income tax for the
 64 relevant tax year.

NOTE: The purpose of this bill is to create an incentive for employers to hire people who are pursuing a formal program of recovery from substance abuse issues by allowing the employer to claim a tax credit for employing eligible individuals, with limits based upon the employer's total number of employees overall.

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