

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Committee Substitute

for

Senate Bill 191

BY SENATORS SWOPE AND BOSO

[Originating in the Committee on the Workforce;

reported on February 16, 2017]

1 A BILL to amend and reenact §11-13W-1 of the Code of West Virginia, 1931, as amended, relating
2 to tax credits for apprenticeship training in construction trades; removing requirement that
3 eligibility is limited to programs jointly administered by labor and management trustees;
4 and requiring that taxpayers seeking to take advantage of the apprenticeship tax credit
5 must perform an employment eligibility check with the E-verify system and maintain those
6 records for a minimum of five years.

Be it enacted by the Legislature of West Virginia:

1 That §11-13W-1 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 13W. APPRENTICESHIP TRAINING TAX CREDITS.

§11-13W-1. Tax credits for apprenticeship training in construction trades.

1 (a) *Credit allowed.* — For those tax years beginning on or after January 1, 2008, there
2 shall be allowed a credit for any taxpayer against certain taxes imposed by this state as described
3 in subsection (d) of this section for wages paid to apprentices in the construction trades who are
4 registered with the United States Department of Labor, Office of Apprenticeship, West Virginia
5 State Office, by the taxpayer in the tax year that an apprentice and taxpayer participate in a
6 qualified apprenticeship training program, as described in this section, which is:

- 7 ~~(1) Jointly administered by labor and management trustees;~~
- 8 ~~(2) (1)~~ Administered pursuant to 29 U. S. C. Section 50; and
- 9 ~~(3) (2)~~ Certified in accordance with regulations adopted by the United States Bureau of
10 Apprenticeship and Training or the successor agency of that bureau.

11 (b) *Amount of credit.* — The tax credit ~~shall be in an amount equal to~~ equals \$1 per hour
12 multiplied by the total number of hours worked during the tax year by an apprentice working for
13 the taxpayer participating in the qualified apprenticeship training program.,~~provided~~ The amount
14 of credit allowed for any tax year with respect to each ~~such~~ apprentice may not exceed \$1,000 or
15 fifty percent of the actual wages paid in the tax year for the apprenticeship, whichever is less:

16 *Provided*, That for tax years beginning on and after January 1, 2012, the tax credit ~~shall be in an~~
17 ~~amount equals to~~ equals \$2 per hour multiplied by the total number of hours worked during the
18 tax year by an apprentice working for the participating taxpayer, and the amount of credit allowed
19 for any tax year with respect to each apprentice may not exceed \$2,000 or fifty percent of actual
20 wages paid in that tax year for the apprenticeship, whichever is less.

21 (c) *Qualified apprenticeship training program requirements.* — In addition to the
22 qualifications specified in subsection (a) of this section, a qualified apprenticeship training
23 program ~~shall consist~~ consists of at least two thousand but not more than ten thousand hours of
24 on the job apprenticeship training for certification of the apprenticeship by the United States
25 Bureau of Apprenticeship and Training or the successor agency of the bureau.

26 (d) Apprentices shall be legal residents. — In addition to other requirements of this section,
27 in order for a taxpayer to claim the credit created in this section, the taxpayer shall require any
28 apprentice who it claims a credit for to submit to an employment eligibility check through E-verify.
29 The participating taxpayer shall keep the result of the employment eligibility check on record for
30 no less than five years.

31 ~~(d)~~(e) *Application of annual credit allowance.* — The amount of credit as determined under
32 subsection (b) of this section is allowed as a credit against the taxpayer's state tax liability applied
33 as provided in subdivisions (1) through (3), inclusive, of this subsection, and in that order.

34 (1) *Business franchise tax.* — The credit must first be applied to reduce the taxes imposed
35 by article twenty-three of this chapter for the taxable year.

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

39 (3) *Personal income taxes.* —

40 (A) If the person making the qualified investment is an electing small business corporation,
41 as defined in Section 1361 of the United States Internal Revenue Code of 1986, as amended, a

42 partnership, a limited liability company that is treated as a partnership for federal income tax
43 purposes, or a sole proprietorship, then any unused credit, after application of subdivisions (1)
44 and (2) of this subsection, is allowed as a credit against the taxes imposed by article twenty-one
45 of this chapter on the income from business or other activity subject to tax under article twenty-
46 three of this chapter or on income of a sole proprietor attributable to the business.

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

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

52 ~~(e)~~(f) *Unused credit.* — If any credit remains after application of subsection (d) of this
53 section, that amount is forfeited. A carryback to a prior taxable year is not allowed for the amount
54 of any unused portion of any annual credit allowance.