

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 153

(SENATORS KLEMPA, BEACH AND KESSLER (MR. PRESIDENT), *original sponsors*)

[Passed March 10, 2012; in effect ninety days from passage.]

AN ACT to amend and reenact §11-13W-1 of the Code of West Virginia, 1931, as amended, relating to increasing the tax credits for apprenticeship training in construction trades.

Be it enacted by the Legislature of West Virginia:

That §11-13W-1 of the Code of West Virginia, 1931, as amended, be amended and 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
2 after January 1, 2008, there shall be allowed a credit for any
3 taxpayer against certain taxes imposed by this state as
4 described in subsection (d) of this section for wages paid to
5 apprentices in the construction trades who are registered
6 with the United States Department of Labor, Office of
7 Apprenticeship, West Virginia State Office, by the taxpayer
8 in the tax year that an apprentice and taxpayer participate

9 in a qualified apprenticeship training program, as described
10 in this section, which is: (1) Jointly administered by labor
11 and management trustees; (2) administered pursuant to 29 U.
12 S. C. Section 50; and (3) certified in accordance with regula-
13 tions adopted by the United States Bureau of Apprenticeship
14 and Training or the successor agency of that bureau.

15 (b) *Amount of credit.* - The tax credit shall be in an
16 amount equal to \$1 per hour multiplied by the total number
17 of hours worked during the tax year by an apprentice
18 working for the taxpayer participating in the qualified
19 apprenticeship training program, provided the amount of
20 credit allowed for any tax year with respect to each such
21 apprentice may not exceed \$1000 or fifty percent of the actual
22 wages paid in the tax year for the apprenticeship, whichever
23 is less: *Provided*, That for tax years beginning on and after
24 January 1, 2012, the tax credit shall be in an amount equal
25 to \$2 per hour multiplied by the total number of hours
26 worked during the tax year by an apprentice working for the
27 participating taxpayer, and the amount of credit allowed for
28 any tax year with respect to each apprentice may not exceed
29 \$2,000, or fifty percent of actual wages paid in that tax year
30 for the apprenticeship, whichever is less.

31 (c) *Qualified apprenticeship training program require-*
32 *ments.* - In addition to the qualifications specified in
33 subsection (a) of this section, a qualified apprenticeship
34 training program shall consist of at least two thousand but
35 not more than ten thousand hours of on the job apprentice-
36 ship training for certification of the apprenticeship by the
37 United States Bureau of Apprenticeship and Training or the
38 successor agency of the bureau.

39 (d) *Application of annual credit allowance.* - The amount
40 of credit as determined under subsection (b) of this section is
41 allowed as a credit against the taxpayer's state tax liability
42 applied as provided in subdivisions (1) through (3), inclusive,
43 of this subsection, and in that order.

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

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

51 (3) *Personal income taxes.* —

52 (A) If the person making the qualified investment is an
53 electing small business corporation (as defined in Section
54 1361 of the United States Internal Revenue Code of 1986, as
55 amended), a partnership, a limited liability company that is
56 treated as a partnership for federal income tax purposes, or
57 a sole proprietorship, then any unused credit (after applica-
58 tion of subdivisions (1) and (2) of this subsection) is allowed
59 as a credit against the taxes imposed by article twenty-one
60 of this chapter on the income from business or other activity
61 subject to tax under article twenty-three of this chapter or
62 on income of a sole proprietor attributable to the business.

63 (B) Electing small business corporations, limited liability
64 companies, partnerships and other unincorporated organiza-
65 tions shall allocate the credit allowed by this article among
66 its members in the same manner as profits and losses are
67 allocated for the taxable year.

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

71 (e) *Unused credit.* — If any credit remains after applica-
72 tion of subsection (d) of this section, that amount is forfeited.
73 A carryback to a prior taxable year is not allowed for the
74 amount of any unused portion of any annual credit allow-
75 ance.