

Senate Bill No. 380

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(By Senators Barnes, Kessler (Mr. President), Blair, Boley, Cann,
Carmichael, Cole, Cookman, Edgell, Facemire, Fitzsimmons, Green,
D. Hall, M. Hall, Jenkins, Kirkendoll, Laird, McCabe, Miller,
Nohe, Snyder, Stollings, Sypolt, Tucker, Unger, Walters, Wells,
Williams, Yost, Palumbo, Beach and Plymale)

**FISCAL
NOTE**

[Introduced February 27, 2013; referred to the Committee on
Military; and then to the Committee on Finance.]

A BILL to amend and reenact §21A-2C-2, §21A-2C-3 and §21A-2C-4 of
the Code of West Virginia, 1931, as amended, all relating to
the Military Incentive Program; and including all veterans' of
armed conflict.

Be it enacted by the Legislature of West Virginia:

That §21A-2C-2, §21A-2C-3 and §21A-2C-4 of the Code of West
Virginia, 1931, as amended, be amended and reenacted, all to read
as follows:

ARTICLE 2C. MILITARY INCENTIVE PROGRAM.

§21A-2C-2. Declaration of legislative intent and purpose.

1 The Legislature of West Virginia hereby recognizes that
2 disabled veterans and economically disadvantaged veterans ~~of the~~
3 ~~Vietnam era and of the Korean conflict~~, members of the West
4 Virginia National Guard and the reserve forces of the United States
5 have made sacrifices which merit preferential employment treatment
6 in both the public and private sectors. Economically disadvantaged
7 and disabled veterans traditionally suffer a disproportionately
8 higher unemployment rate than that of nonveterans of similar age
9 and skills. Members of the West Virginia National Guard and
10 reserve forces of the United States who are called upon to leave
11 their jobs to perform military obligations are frequently placed in
12 conflict with their employers and as such are frequently
13 discriminated against by prospective employers. It is the intent
14 and purpose of the Legislature to encourage the employment of these
15 veterans and members of the guard and reserve forces in the private
16 sector by providing tax credits for private sector employers who
17 employ economically disadvantaged ~~Vietnam era and Korean conflict~~
18 veterans, disabled veterans, unemployed members of the West
19 Virginia National Guard and unemployed members of the reserve
20 forces of the United States generally.

21 **§21A-2C-3. Definitions.**

22 For the purposes of this article:

23 (a) "Active duty" means full-time duty in the Armed Forces,
24 other than duty for training in the reserves or National Guard.

1 Any period of duty for training in the reserves or National Guard,
2 including authorized travel, during which an individual was
3 disabled from a disease or injury incurred or aggravated in line of
4 duty, is considered "active duty."

5 (b) "Economically disadvantaged" means a person who:

6 (1) Receives, or is a member of a family which receives, cash
7 welfare payments under a federal, state or local welfare program;

8 (2) Has, or is a member of a family which has, received a
9 total family income for the six months prior to application which,
10 in relation to family size, was not in excess of the higher of:

11 (i) The poverty level determined in accordance with criteria
12 established by the federal office of management and budget; or

13 (ii) Seventy percent of the lower living standard income
14 level;

15 (3) Is receiving food stamps pursuant to the food stamp act of
16 1977;

17 (4) Is a foster child on behalf of whom state or local
18 government payments are made; or

19 (5) Is an adult handicapped individual whose own income meets
20 the requirements of subdivisions (1) and (2) of this subsection,
21 but who is a member of a family whose income does not meet such
22 requirements.

23 ~~(c) "Korean conflict veteran" means a person who served in the~~
24 ~~armed services of the United States at least one day during the~~

1 ~~period of time beginning June 27, 1950, and extending through~~
2 ~~January 31, 1955.~~

3 ~~(d)~~ (c) "National guard member" means a member of any
4 component of the West Virginia National Guard.

5 ~~(e)~~ (d) "Reserve member" means a member of any component of
6 the reserve forces of the United States.

7 ~~(f)~~ (e) "Veteran" means a member of the United States Armed
8 Forces who:

9 (1) Served on active duty for a period of more than one
10 hundred eighty days and was discharged or released therefrom with
11 other than a dishonorable discharge; or

12 (2) Was discharged or released from active duty because of a
13 service-connected disability.

14 ~~(g) "Vietnam era veteran" means a person who served in the~~
15 ~~armed services of the United States at least one day during the~~
16 ~~period of time beginning August 5, 1964, and extending through May~~
17 ~~7, 1975.~~

18 **§21A-2C-4. Tax credit; eligibility; amount.**

19 (a) Each person, partnership or corporation which employs an
20 economically disadvantaged ~~Vietnam era or Korean conflict~~ veteran
21 or any disabled veteran, or an unemployed member of the West
22 Virginia National Guard or a member of the reserve forces of the
23 United States for a continuous period of one year, except as
24 otherwise provided in this article, shall be entitled to an

1 appropriate tax credit for each such individual so employed. In
2 the case of a person or partnership so employing such individuals,
3 the tax credit provided for in this section shall be applied
4 against the employer's personal income tax liability. In the case
5 of a corporation so employing such individuals, the tax credit
6 provided for in this section shall be applied against the
7 corporation's corporate net income tax liability. This tax credit
8 shall be nonassignable and may not exceed an employer's total tax
9 liability with respect to the specific tax against which the tax
10 credit is required to be applied.

11 (b) The amount of the tax credit allowed under subsection (a)
12 of this section shall be an amount equal to the following:

13 (1) For each economically disadvantaged ~~Vietnam era or Korean~~
14 ~~conflict~~ veteran employed as described in subsection (a), the
15 amount of the tax credit allowed shall be thirty percent of the
16 employee's wage base. For the purposes of this section, the
17 employee's wage base is the first \$5,000 in wages or compensation
18 actually paid to the employee by the employer;

19 (2) For each disabled veteran employed as described in
20 subsection (a), the amount of the tax credit allowed shall be a
21 percentage equal to the percentage of disability suffered by the
22 veteran multiplied by the employee's wage base. The employee's
23 wage base is the same as provided in subdivision (1) of this
24 subsection. The percentage of disability referred to in this

1 subdivision means the percentage of compensation for service
2 connected disability as determined by the United States Department
3 of Veterans Affairs; and

4 (3) For each member of the West Virginia National Guard or
5 member of the reserve forces of the United States employed as
6 described in subsection (a), the amount of the tax credit allowed
7 shall be twenty-five percent of the employee's wage base. For the
8 purpose of this section, the employee's wage base is the first
9 \$5,000 in wages or compensation actually paid to the employee by
10 the employer.

NOTE: The purpose of this bill is to expand the Military Incentive Program to include all economically disadvantaged veterans.

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