

# WEST VIRGINIA LEGISLATURE

## 2017 REGULAR SESSION

**Introduced**

### **House Bill 2570**

**FISCAL  
NOTE**

BY DELEGATES MARCUM, ELDRIDGE, RODIGHIERO,

MILLER, R., HICKS AND PHILLIPS

[Introduced February 20, 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 article,  
 2 designated §11-13DD-1, relating to creating tax credits for new and/or existing small  
 3 businesses in this state and operating entirely within West Virginia.

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

**ARTICLE 13DD. SMALL BUSINESS TAX CREDITS.**

**§11-13DD-1. Tax credits for small business economic impact.**

1 (a) Credit allowed. -- In order to assist and encourage the creation and growth of small  
 2 business owners in the State of West Virginia, as well as promoting job growth from within this  
 3 state by hiring residents of the state, for those tax years beginning on or after January 1, 2017,  
 4 through June 2026, there is allowed a credit, for any taxpayer based in and operating entirely  
 5 within this state employing less than one hundred employees, against certain taxes imposed by  
 6 this state as described in subsection (c) of this section for wages paid to newly hired employees  
 7 who are employed on a full-time basis (thirty-two hours a week or more) for a period of not less  
 8 than one year and who are full-time residents of West Virginia. Employees may not be terminated  
 9 after one year of employment, without cause, in order to be replaced by then newly hired  
 10 employees in order to gain additional tax credits under this section.

11 (b) Amount of credit. -- The tax credit is in an amount equal to \$2,500 per each new hired  
 12 employee during each of the calendar years of 2017 through June 2026, except the amount of  
 13 credit allowed for any tax year with respect to each new employee may not exceed fifty percent  
 14 of the actual wages paid in the tax year for the new employee, whichever is less.

15 (c) Application of annual credit allowance. -- The amount of credit as determined under  
 16 subsection (b) of this section is allowed as a credit against the taxpayer's state tax liability applied  
 17 as provided in subdivisions (1) through (3), inclusive of this subsection, and in that order.

18 (1) Business franchise tax. -- The credit must first be applied to reduce the taxes imposed

19 by article twenty-three of this chapter for the taxable year.

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

23 (3) Personal income taxes. --

24 (A) If the person making the qualified employment is an electing small business  
25 corporation (as defined in Section 1361 of the United States Internal Revenue Code of 1986, as  
26 amended), a partnership, a limited liability company that is treated as a partnership for federal  
27 income tax purposes, or a sole proprietorship, then any unused credit (after application of  
28 subdivisions (1) and (2) of this subsection) is allowed as a credit against the taxes imposed by  
29 article twenty-one of this chapter on the income from business or other activity subject to tax under  
30 article twenty-three of this chapter or on income of a sole proprietor attributable to the business.

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

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

36 (d) Unused credit. -- If any credit remains after application of subsection (c) of this section,  
37 that amount is forfeited. A carryback to a prior taxable year is not allowed for the amount of any  
38 unused portion of any annual credit allowance.

NOTE: The purpose of this bill is to create tax credits for new small businesses in order to assist and encourage the growth of small business owners in the State of West Virginia, as well as promoting job growth from within this state by hiring residents of the state, for those tax years beginning on or after January 1, 2017, through June 2026.

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