

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Introduced

House Bill 2891

FISCAL
NOTE

BY DELEGATES HICKS, RODIGHIERO, TOMBLIN, EVANS,

ZUKOFF, R. THOMPSON, WALKER AND SKAFF

[Introduced February 7, 2019; 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 §11-13EE-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:

ARTICLE 13EE. SMALL BUSINESS TAX CREDITS.

§11-13EE-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, 2019,
4 through June 2028, there is allowed a credit, for any taxpayer based in and operating entirely
5 within this state employing less than 100 employees, against certain taxes imposed by this state
6 as described in subsection (c) of this section for wages paid to newly hired employees who are
7 employed on a full-time basis (32 hours a week or more) for a period of not less than one year
8 and who are full-time residents of West Virginia. Employees may not be terminated after one
9 year of employment, without cause, in order to be replaced by then newly hired employees in
10 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 2019 through June 2028, except the amount of
13 credit allowed for any tax year with respect to each new employee may not exceed 50 percent of
14 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 §11-23-1 *et seq.* of this code 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 §11-24-1 et seq. of this code
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 §11-21-1 et seq. of this code on the income from business or other activity subject to tax under
30 §11-23-1 et seq. of this code 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 §11-21-1 et seq. of this code.

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, 2019, through June 2028.

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