

WEST VIRGINIA LEGISLATURE

FISCAL
NOTE

2024 REGULAR SESSION

Introduced

House Bill 4961

By Delegates Holstein, Rohrbach, Fehrenbacher,
Pushkin, and Chiarelli

[Introduced January 22, 2024; Referred to the
Committee on Prevention and Treatment of
Substance Abuse then Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §11-13NN-1, relating to the creation of an incentive for employers to hire
 3 persons who are pursuing a formal program of recovery from substance abuse issues;
 4 allowing an employer to claim a tax credit for employing eligible individuals, with limits
 5 based upon the employer's total number of employees overall; and providing for an
 6 effective date.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 13NN. TAX CREDIT FOR EMPLOYING PERSONS IN SUBSTANCE ABUSE
 RECOVERY PROGRAMS.**

**§11-13NN-1. Credit to eligible taxpayers for hiring of qualified employees in a program of
 recovery from substance abuse.**

1 (a) Credit allowed. — There is allowed or allowable to eligible taxpayers a credit against
 2 the taxes imposed by §11-21-1 et seq. and §11-24-1-1 et seq. of this code who hire qualified
 3 individuals participating in a program of substance abuse recovery.

4 (b) For the purpose of this section, the term "eligible taxpayer" means a taxpayer who:
 5 (1) Is subject to tax liability under §11-21-1 et seq. and §11-24-1-1 et seq. of this code; and
 6 (2) Hires one or more qualified individuals as defined herein.

7 (c) For the purpose of this section, the term "certified employer" means an employer who:
 8 (1) Is subject to tax liability under §11-21-1 et seq. and §11-24-1-1 et seq. of this code; and
 9 (2) Hires one or more qualified individuals as defined herein.

10 (d) For the purpose of this section, the term "qualified individual" means an individual with a
 11 diagnosed substance use disorder who:

12 (1) At the time of his or her hiring, was a participant in good standing in a drug court
 13 program established pursuant to §62-15-1 et seq. of this code;

14 (2) Is employed for at least 120 hours per month at a wage equal to, or greater than, the

15 prevailing federal minimum wage;

16 (3) Has not, by his or her hiring, displaced an employed individual, other than an individual
17 who is discharged for cause; and

18 (4) Has not previously been employed by the same employer in a seasonal position to
19 which the individual is returning for further seasonal employment.

20 (e) A substance abuse relapse shall not make an individual ineligible, as long as the
21 individual shows a continued commitment to recovery that aligns with an individual's recovery plan
22 and continues with the program established for the individual by the drug court.

23 (f) In addition to the initial year of employment, an eligible taxpayer/employer may claim the
24 credit established herein for as long as the individual remains in good standing in his or her
25 participation in the drug court program and up to two additional years after completion of the drug
26 court program if the employee continues with a substance abuse monitoring program offered or
27 administered by the employer: *Provided*, That only one eligible taxpayer/employer may claim the
28 credit at his or her respective business: *Provided, however*, That the program offered or
29 administered by the employer shall otherwise satisfy standards set forth for substance abuse
30 monitoring programs otherwise set forth in this code.

31 (g) To participate in the program, an employer shall, in a form prescribed by the State Tax
32 Commissioner, apply annually to the division by January 15 to claim the credit based on qualified
33 individuals hired or employed during the preceding calendar year. As part of the application, an
34 employer shall:

35 (1) Allow the State Tax Department and its agents access to limited and specific
36 information necessary to monitor compliance with program eligibility requirements. Information
37 accessed pursuant to this subdivision shall be confidential by law and shall only be used for the
38 stated purpose of this section; and

39 (2) Demonstrate that the employer has satisfied program eligibility requirements and
40 provided all the information necessary, including the number of hours worked by any qualified

41 individual, for the director to compute an actual amount of credit allowed.

42 (h) Nothing in this section may be construed to compel the eligible individual, or health care
43 providers, to disclose information related to the individual's diagnosis and treatment except for the
44 status of the individual's participation in the drug court program and the results of any controlled
45 substance testing administered by or at the direction of the employer.

46 (i) A certified employer may claim a credit, subject to the limitations of subsections (j) and
47 (k) of this section, for each eligible employee during the period starting on the day the employee is
48 hired and ending on December 31 of the immediately preceding calendar year or the last day of
49 the employee's employment by the certified employer, whichever comes first.

50 (j) A certified employer may claim a credit each year for the following number of eligible
51 employees according to the employer's total number of full-time employees:

52 TOTAL EMPLOYEES ELIGIBLE EMPLOYEES CREDITED

53 10 or fewer 1

54 11 to 33 2

55 34 to 66 3

56 67 to 84 4

57 85 to 100 5

58 101 to 200 6

59 201 or greater 7

60 (k) The maximum credit allowed to any eligible taxpayer in any taxable year shall be
61 \$2,000 per eligible individual hired and retained in employment: *Provided*, That the amount of the
62 credit allowed by this section in any one taxable year shall be prorated in proportion to the number
63 of months of employment of the eligible individual during the tax year: *Provided, however*, That the
64 maximum total credit allowed to any eligible taxpayer shall be \$14,000 per year for all eligible
65 individuals so employed. Unused credits do not carry over to any future tax year.

66 (l) For any corporate taxpayer eligible to receive a credit under this section, the credit shall

67 be allowed against the corporate net income tax due from the employer taxpayer for the tax year
68 as calculated under this section. For any eligible individual taxpayer or member of a partnership
69 filing as an individual, the credit shall be against the taxpayer's personal income tax for the
70 relevant tax year.

71 (m) When recapture tax applies. -- Any certified employer who claims a tax credit under
72 this section and who fails to use the tax credit shall pay the recapture tax imposed by subsection
73 (b) of this section.

74 (n) Recapture tax imposed. -- If a certified employer claims the tax credit but fails to certify
75 or meet the standards otherwise set forth in this article, then the certified employer shall pay a
76 recapture amount equal to the amount of credit provided to him or her.

77 (o) Payment of recapture tax. -- The amount of tax recaptured under this section is due and
78 payable on the day the person's annual return is due for the taxable year in which this section
79 applies, under article twenty-one or twenty-four of this chapter. When the employer is a
80 partnership, limited liability company or S corporation for federal income tax purposes, the
81 recapture tax shall be paid by those persons who are partners in the partnership, members in the
82 company, or shareholders in the S corporation, in the taxable year in which recapture occurs under
83 this section.

84 (p) Effective date. -- The provisions of this article shall become effective July 1, 2024.

NOTE: The purpose of this bill is to create an incentive for employers to hire people who are pursuing a formal program of recovery from substance abuse issues by allowing the employer to claim a tax credit for employing eligible individuals, with limits based upon the employer's total number of employees overall. The bill provides for recapture. Finally, the bill provides for an effective date.

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