

SENATE BILL 454

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Q3
SB 809/01 - B&T

2002 Regular Session
2lr1915
CF 2lr0760

By: **Senators McFadden, Blount, Conway, Currie, Exum, Hughes, Kelley,
Lawlah, and Mitchell**

Introduced and read first time: January 31, 2002

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **Pilot Program for Long-Term Employment of Qualified Ex-Felons**

3 FOR the purpose of creating a Pilot Program for Long-Term Employment of Qualified
4 Ex-Felons; requiring the Department of Public Safety and Correctional Services
5 to establish the pilot program in consultation with the Governor's Workforce
6 Investment Board; requiring the Department to purchase certain bonds for a
7 certain number of qualified ex-felons each year and to provide certain bonds to
8 certain one-stop career centers; requiring that the pilot program be
9 implemented by certain one-stop career centers in a certain number of
10 Workforce Investment Areas; requiring a one-stop center that participates in
11 the pilot program to work with certain entities to encourage referral and
12 participation of qualified ex-felons, to provide certain outreach and education,
13 and to develop a certain evaluation process; requiring a one-stop center to apply
14 to the Department for designation as a pilot program location; requiring the
15 Department in consultation with the Governor's Workforce Investment Board to
16 designate certain one-stop centers as pilot program locations and to consider
17 certain information; allowing a credit against the State income tax for certain
18 wages paid by certain business entities with respect to certain ex-felon
19 employees; providing for the calculation and use of the credit; defining certain
20 terms; requiring a certain addition modification if a certain credit is claimed;
21 requiring a certain certification prior to claiming the credit; prohibiting an
22 employer from claiming the credit under certain circumstances; providing for
23 the administration of the tax credits; requiring the Department of Public Safety
24 and Correctional Services to adopt certain regulations; requiring the
25 Comptroller to adopt certain regulations; providing for the application of this
26 Act; providing for the termination of this Act; providing for the effective date of
27 certain provisions of this Act; providing for the termination of certain provisions
28 of this Act; and generally relating to the Pilot Program for Long-Term
29 Employment of Qualified Ex-Felons.

30 BY adding to

31 Article - Correctional Services

32 Section 2-401 through 2-405 to be under the new subtitle "Subtitle 4. Pilot

33 Program for Long-Term Employment of Qualified Ex-Felons"

1 Annotated Code of Maryland
2 (1999 Volume and 2001 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - Tax - General
5 Section 10-205(b) and 10-306(b)
6 Annotated Code of Maryland
7 (1997 Replacement Volume and 2001 Supplement)

8 BY repealing and reenacting, with amendments,
9 Article - Tax - General
10 Section 10-205(b) and 10-306(b)
11 Annotated Code of Maryland
12 (1997 Replacement Volume and 2001 Supplement)
13 (As enacted by Chapter 492 of the Acts of 1995)

14 BY adding to
15 Article - Tax - General
16 Section 10-704.10
17 Annotated Code of Maryland
18 (1997 Replacement Volume and 2001 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Correctional Services**

22 **SUBTITLE 4. PILOT PROGRAM FOR LONG-TERM EMPLOYMENT OF QUALIFIED**
23 **EX-FELONS.**

24 2-401.

25 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
26 INDICATED.

27 (B) "BOARD" MEANS THE GOVERNOR'S WORKFORCE INVESTMENT BOARD
28 ESTABLISHED BY THE GOVERNOR UNDER TITLE 11, SUBTITLE 5 OF THE LABOR AND
29 EMPLOYMENT ARTICLE.

30 (C) "BUSINESS ENTITY" MEANS:

31 (1) A PERSON CONDUCTING OR OPERATING A TRADE OR BUSINESS IN
32 MARYLAND; OR

33 (2) AN ORGANIZATION OPERATING IN MARYLAND THAT IS EXEMPT
34 FROM TAXATION UNDER § 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE.

1 (D) "FIDELITY BOND" MEANS A BOND PROVIDED TO AN EMPLOYER FOR THE
2 BONDING OF EX-OFFENDERS PROVIDED THROUGH THE FEDERAL BONDING
3 PROGRAM OR OTHER SIMILAR PROGRAM APPROVED BY THE UNITED STATES
4 DEPARTMENT OF LABOR.

5 (E) "ONE-STOP CENTER" MEANS AN ENTITY DESIGNATED WITHIN A
6 WORKFORCE INVESTMENT AREA THAT PROVIDES EMPLOYMENT TRAINING AND
7 SERVICES UNDER TITLE 11, SUBTITLE 5 OF THE LABOR AND EMPLOYMENT ARTICLE.

8 (F) "PILOT PROGRAM" MEANS THE PILOT PROGRAM FOR LONG-TERM
9 EMPLOYMENT OF QUALIFIED EX-FELONS ESTABLISHED UNDER THIS SUBTITLE.

10 (G) (1) "QUALIFIED EX-FELON EMPLOYEE" MEANS A QUALIFIED EX-FELON,
11 WITHIN THE MEANING OF § 51(D)(4) OF THE INTERNAL REVENUE CODE, WHO IS
12 EMPLOYED BY A BUSINESS ENTITY THROUGH THE PILOT PROGRAM UNDER THIS
13 SUBTITLE.

14 (2) "QUALIFIED EX-FELON EMPLOYEE" DOES NOT INCLUDE AN
15 INDIVIDUAL WHO IS THE SPOUSE OF, OR HAS ANY OF THE RELATIONSHIPS
16 SPECIFIED IN § 152(A)(1) THROUGH (8) OF THE INTERNAL REVENUE CODE TO, A
17 PERSON WHO CONTROLS, DIRECTLY OR INDIRECTLY, MORE THAN 50% OF THE
18 OWNERSHIP OF THE BUSINESS ENTITY.

19 (H) "WAGES" MEANS WAGES WITHIN THE MEANING OF § 51(C)(1), (2), AND (3) OF
20 THE INTERNAL REVENUE CODE WITHOUT REGARD TO § 51(C)(4) OF THE INTERNAL
21 REVENUE CODE THAT ARE PAID BY A BUSINESS ENTITY TO AN EMPLOYEE FOR
22 SERVICES PERFORMED IN A TRADE OR BUSINESS OF THE EMPLOYER.

23 (I) "WORKFORCE INVESTMENT AREA" MEANS A WORKFORCE INVESTMENT
24 AREA DESIGNATED BY THE GOVERNOR UNDER TITLE 11, SUBTITLE 5 OF THE LABOR
25 AND EMPLOYMENT ARTICLE.

26 2-402.

27 (A) THERE IS A PILOT PROGRAM FOR LONG-TERM EMPLOYMENT OF
28 EX-FELONS TO PROVIDE INCENTIVES TO BUSINESS ENTITIES TO ENCOURAGE THE
29 LONG-TERM EMPLOYMENT OF QUALIFIED EX-FELON EMPLOYEES.

30 (B) (1) ON OR BEFORE JANUARY 1, 2003, THE DEPARTMENT, IN
31 CONSULTATION WITH THE BOARD, SHALL ESTABLISH A PILOT PROGRAM FOR THE
32 EMPLOYMENT OF EX-FELONS PROVIDED IN § 2-403 OF THIS SUBTITLE.

33 (2) THE PILOT PROGRAM ESTABLISHED UNDER THIS SUBTITLE SHALL
34 REMAIN IN PLACE FOR A PERIOD OF 3 YEARS AND SHALL TERMINATE AT THE END OF
35 DECEMBER 31, 2005.

36 (C) THE PURPOSE OF THE PILOT PROGRAM IS TO IMPLEMENT A PROGRAM IN
37 AT LEAST TWO AREAS OF THE STATE TO PROVIDE FIDELITY BONDS AND TO QUALIFY
38 BUSINESS ENTITIES FOR TAX CREDITS TO ENCOURAGE THE LONG-TERM
39 EMPLOYMENT OF QUALIFIED EX-FELON EMPLOYEES UNDER THE PILOT PROGRAM.

1 (D) THE DEPARTMENT SHALL:

2 (1) PURCHASE THE NECESSARY AMOUNT OF FIDELITY BONDS TO
3 PROVIDE BONDS TO BUSINESS ENTITIES FOR A FULL YEAR OF EMPLOYMENT FOR UP
4 TO 600 QUALIFIED EX-FELONS EACH YEAR; AND

5 (2) PROVIDE THE FIDELITY BONDS PURCHASED EACH YEAR TO THE
6 ONE-STOP CENTERS IN THE WORKFORCE INVESTMENT AREAS DESIGNATED UNDER
7 § 2-403 OF THIS SUBTITLE.

8 (E) THE PILOT PROGRAM SHALL:

9 (1) BE IMPLEMENTED IN ONE-STOP CENTERS IN AT LEAST TWO
10 WORKFORCE INVESTMENT AREAS OF THE STATE AS DESIGNATED BY THE
11 DEPARTMENT IN CONSULTATION WITH THE BOARD UNDER § 2-403 OF THIS
12 SUBTITLE; AND

13 (2) PROVIDE FIDELITY BONDS TO BUSINESS ENTITIES THROUGH THE
14 ONE-STOP CENTERS IN TWO OR MORE AREAS OF THE STATE AS DESIGNATED UNDER
15 § 2-403 FOR THE EMPLOYMENT OF UP TO 600 QUALIFIED EX-FELONS EACH YEAR.

16 (F) THE PILOT PROGRAM SHALL REQUIRE A ONE-STOP CENTER THAT IS
17 DESIGNATED FOR PARTICIPATION IN THE PILOT PROGRAM TO:

18 (1) WORK WITH APPROPRIATE COMMUNITY ORGANIZATIONS AND STATE
19 AND LOCAL GOVERNMENT ENTITIES THAT PROVIDE SERVICES TO QUALIFIED
20 EX-FELONS TO ENCOURAGE THE REFERRAL AND PARTICIPATION OF QUALIFIED
21 EX-FELONS IN THE PROGRAM;

22 (2) PROVIDE OUTREACH AND EDUCATION EFFORTS TO ENCOURAGE
23 BUSINESS ENTITIES TO HIRE QUALIFIED EX-FELONS FOR LONG-TERM
24 EMPLOYMENT UNDER THE PILOT PROGRAM;

25 (3) PROVIDE A BUSINESS ENTITY THAT HIRES A QUALIFIED EX-FELON
26 UNDER THE PROGRAM WITH:

27 (I) A FIDELITY BOND FOR THE QUALIFIED EX-FELON THAT
28 COVERS AT LEAST 12 MONTHS OF EMPLOYMENT; AND

29 (II) INFORMATION ON THE TAX CREDITS AVAILABLE TO A
30 BUSINESS ENTITY THAT HIRES A QUALIFIED EX-FELON THROUGH THE PILOT
31 PROGRAM; AND

32 (4) DEVELOP AN EVALUATION PROCESS FOR THE PILOT PROGRAM THAT
33 INCLUDES A MECHANISM TO EVALUATE WHETHER THE PILOT PROGRAM HAS
34 OPERATED TO SECURE STABLE EMPLOYMENT OF QUALIFIED EX-FELONS THAT
35 HAVE PARTICIPATED IN THE PROGRAM.

1 2-403.

2 (A) A ONE-STOP CENTER SHALL APPLY TO THE DEPARTMENT FOR
3 DESIGNATION AS A LOCATION FOR THE PILOT PROGRAM.

4 (B) THE APPLICATION SHALL DESCRIBE THE PLAN TO BE IMPLEMENTED BY
5 THE ONE-STOP CENTER TO ADMINISTER THE REQUIREMENTS OF THE PILOT
6 PROGRAM AS PROVIDED IN § 2-402 OF THIS SUBTITLE.

7 (C) (1) THE DEPARTMENT, IN CONSULTATION WITH THE BOARD, SHALL
8 EVALUATE THE APPLICATIONS SUBMITTED BY ONE-STOP CENTERS AND SHALL
9 DESIGNATE ONE-STOP CENTERS IN AT LEAST TWO WORKFORCE INVESTMENT AREAS
10 AS PILOT PROGRAM LOCATIONS.

11 (2) THE DESIGNATION OF ONE-STOP CENTERS UNDER PARAGRAPH (1)
12 OF THIS SUBSECTION SHALL INCLUDE A CONSIDERATION OF THE NUMBER OF
13 QUALIFIED EX-FELONS RESIDING IN THE WORKFORCE INVESTMENT AREA IN WHICH
14 THE ONE-STOP CENTER IS LOCATED.

15 2-404.

16 (A) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A BUSINESS
17 ENTITY THAT HIRES A QUALIFIED EX-FELON EMPLOYEE THROUGH THE PILOT
18 PROGRAM ESTABLISHED UNDER THIS SUBTITLE MAY CLAIM A TAX CREDIT IN THE
19 AMOUNTS DETERMINED UNDER SUBSECTION (B) OF THIS SECTION FOR WAGES PAID
20 TO A QUALIFIED EX-FELON EMPLOYEE.

21 (B) FOR EACH TAXABLE YEAR, FOR THE WAGES PAID TO EACH QUALIFIED
22 EX-FELON EMPLOYEE, A CREDIT IS ALLOWED IN AN AMOUNT EQUAL TO:

23 (1) 30% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO THE
24 QUALIFIED EX-FELON EMPLOYEE DURING THE FIRST YEAR OF EMPLOYMENT; AND

25 (2) 20% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO THE
26 QUALIFIED EX-FELON EMPLOYEE DURING THE SECOND YEAR OF EMPLOYMENT.

27 (C) (1) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS
28 SECTION FOR AN EMPLOYEE:

29 (I) WHO IS HIRED TO REPLACE A LAID OFF EMPLOYEE OR TO
30 REPLACE AN EMPLOYEE WHO IS ON STRIKE; OR

31 (II) FOR WHOM THE BUSINESS ENTITY SIMULTANEOUSLY
32 RECEIVES FEDERAL OR STATE EMPLOYMENT TRAINING BENEFITS.

33 (2) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS
34 SECTION UNTIL IT HAS NOTIFIED THE DEPARTMENT THAT A QUALIFIED EX-FELON
35 EMPLOYEE HAS BEEN HIRED.

1 (3) A BUSINESS ENTITY MAY CLAIM A CREDIT IN THE AMOUNT
2 PROVIDED IN PARAGRAPH (5) OF THIS SUBSECTION FOR AN EMPLOYEE WHOSE
3 EMPLOYMENT LASTS LESS THAN 1 YEAR IF THE EMPLOYEE:

4 (I) VOLUNTARILY TERMINATES EMPLOYMENT WITH THE
5 EMPLOYER;

6 (II) IS UNABLE TO CONTINUE EMPLOYMENT DUE TO A DISABILITY
7 OR DEATH; OR

8 (III) IS TERMINATED FOR CAUSE.

9 (4) A BUSINESS ENTITY MAY NOT CLAIM THE CREDIT UNDER THIS
10 SECTION IF THE BUSINESS ENTITY IS CLAIMING A TAX CREDIT FOR THE SAME
11 EMPLOYEE UNDER ARTICLE 88A, § 54 OF THE CODE OR § 21-309 OF THE EDUCATION
12 ARTICLE.

13 (5) (I) IF A BUSINESS ENTITY IS ENTITLED TO A TAX CREDIT FOR AN
14 EMPLOYEE WHO IS EMPLOYED FOR LESS THAN 1 YEAR BECAUSE THE EMPLOYEE
15 VOLUNTARILY TERMINATES EMPLOYMENT WITH THE EMPLOYER TO TAKE ANOTHER
16 JOB, THE BUSINESS ENTITY MAY CLAIM A TAX CREDIT OF 30% OF UP TO THE FIRST
17 \$6,000 OF THE WAGES PAID TO THE EMPLOYEE DURING THE COURSE OF
18 EMPLOYMENT.

19 (II) IF A BUSINESS ENTITY IS ENTITLED TO A TAX CREDIT FOR AN
20 EMPLOYEE WHO IS EMPLOYED FOR LESS THAN 1 YEAR FOR A REASON OTHER THAN
21 THAT DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE AMOUNT OF THE
22 CREDIT SHALL BE REDUCED BY THE PROPORTION OF A YEAR THAT THE EMPLOYEE
23 DID NOT WORK.

24 (D) IF THE CREDIT ALLOWED UNDER THIS SECTION IN ANY TAXABLE YEAR
25 EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY THE BUSINESS ENTITY FOR THAT
26 TAXABLE YEAR, A BUSINESS ENTITY MAY APPLY THE EXCESS AS A CREDIT FOR
27 SUCCEEDING TAXABLE YEARS UNTIL THE EARLIER OF:

28 (1) THE FULL AMOUNT OF THE EXCESS IS USED; OR

29 (2) THE EXPIRATION OF THE FIFTH TAXABLE YEAR AFTER THE
30 TAXABLE YEAR IN WHICH THE WAGES FOR WHICH THE CREDIT IS CLAIMED ARE
31 PAID.

32 (E) IF A CREDIT IS CLAIMED UNDER THIS SECTION, THE CLAIMANT MUST
33 MAKE THE ADDITION REQUIRED IN § 10-205 OR § 10-306 OF THE TAX - GENERAL
34 ARTICLE.

35 2-405.

36 (A) THE DEPARTMENT, IN CONSULTATION WITH THE BOARD, SHALL ADOPT
37 REGULATIONS NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SUBTITLE.

1 (B) THE COMPTROLLER SHALL ADOPT REGULATIONS TO PROVIDE FOR THE
2 COMPUTATION AND CARRYOVER OF THE CREDIT UNDER § 10-704.10 OF THE TAX -
3 GENERAL ARTICLE.

4 **Article - Tax - General**

5 10-704.10.

6 (A) AN INDIVIDUAL OR CORPORATION MAY CLAIM A CREDIT AGAINST THE
7 INCOME TAX FOR WAGES PAID TO A QUALIFIED EX-FELON EMPLOYEE AS PROVIDED
8 UNDER § 2-404 OF THE CORRECTIONAL SERVICES ARTICLE.

9 (B) (1) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER §
10 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE MAY APPLY THE CREDIT UNDER
11 THIS SECTION:

12 (I) AS A CREDIT AGAINST INCOME TAX DUE ON UNRELATED
13 BUSINESS TAXABLE INCOME AS PROVIDED UNDER §§ 10-304 AND 10-812 OF THIS
14 TITLE; OR

15 (II) AS A CREDIT FOR THE PAYMENT TO THE COMPTROLLER OF
16 TAXES THAT THE ORGANIZATION:

17 1. IS REQUIRED TO WITHHOLD FROM THE WAGES OF
18 EMPLOYEES UNDER § 10-908 OF THIS TITLE; AND

19 2. IS REQUIRED TO PAY TO THE COMPTROLLER UNDER §
20 10-906(A) OF THIS TITLE.

21 (2) IF THE CREDIT ALLOWED UNDER THIS SUBSECTION IN ANY TAXABLE
22 YEAR EXCEEDS THE SUM OF THE STATE INCOME TAX OTHERWISE PAYABLE BY THE
23 ORGANIZATION FOR THAT TAXABLE YEAR AND THE TAXES THAT THE ORGANIZATION
24 HAS WITHHELD FROM THE WAGES OF EMPLOYEES AND IS REQUIRED TO PAY TO THE
25 COMPTROLLER UNDER § 10-906(A) OF THIS TITLE FOR THE TAXABLE YEAR, THE
26 ORGANIZATION MAY APPLY THE EXCESS AS A CREDIT UNDER PARAGRAPH (1)(I) OR (II)
27 OF THIS SUBSECTION IN SUCCEEDING TAXABLE YEARS FOR THE CARRY FORWARD
28 PERIOD PROVIDED IN § 2-404 OF THE CORRECTIONAL SERVICES ARTICLE.

29 (3) THE COMPTROLLER SHALL ADOPT REGULATIONS TO PROVIDE
30 PROCEDURES FOR CLAIMING AND APPLYING CREDITS AUTHORIZED UNDER
31 PARAGRAPH (1)(II) OF THIS SUBSECTION.

32 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
33 read as follows:

Article - Tax - General

10-205.

(b) The addition under subsection (a) of this section includes the amount of a credit claimed under:

(1) § 10-702 of this title for wages paid to an employee in an enterprise zone;

(2) § 10-704.3 of this title or § 8-213 of this article for wages paid and qualified child care or transportation expenses incurred with respect to qualified employment opportunity employees; [or]

(3) § 10-704.7 of this title or § 8-216 of this article for wages paid and qualified child care or transportation expenses incurred with respect to a qualified employee with a disability; OR

(4) § 10-704.10 OF THIS TITLE FOR WAGES PAID TO A QUALIFIED EX-FELON EMPLOYEE.

10-306.

(b) The addition under subsection (a) of this section includes the additions required for an individual under:

(1) § 10-205(b) of this title (Enterprise zone wage credit, employment opportunity credit, [and] disability credit, AND QUALIFIED EX-FELON EMPLOYEE CREDIT);

(2) § 10-205(c) of this title (Reforestation and timber stand modification);

(3) § 10-205(e) of this title (Net operating loss modification);

(4) § 10-205(g) of this title (Unlicensed child care facility operating expenses); and

(5) § 10-205(i) of this title (Maryland research and development tax credit).

SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article - Tax - General

10-205.

(b) The addition under subsection (a) of this section includes the amount of a credit claimed under:

1 (1) § 10-702 of this title for wages paid to an employee in an enterprise
2 zone; OR

3 (2) § 10-704.10 OF THIS TITLE FOR WAGES PAID TO A QUALIFIED
4 EX-FELON EMPLOYEE.

5 10-306.

6 (b) The addition under subsection (a) of this section includes the additions
7 required for an individual under:

8 (1) § 10-205(b) of this title (Enterprise zone wage credit AND QUALIFIED
9 EX-FELON CREDIT);

10 (2) § 10-205(c) of this title (Reforestation and timber stand
11 modification);

12 (3) § 10-205(e) of this title (Net operating loss modification);

13 (4) § 10-205(g) of this title (Unlicensed child care facility operating
14 expenses); and

15 (5) § 10-205(i) of this title (Maryland research and development tax
16 credit).

17 SECTION 4. AND BE IT FURTHER ENACTED, That Section 3 of this Act shall
18 take effect on the taking effect of the termination provision specified in Section 3 of
19 Chapter 492 of the Acts of the General Assembly of 1995, as amended. If that
20 termination provision takes effect, Section 2 of this Act shall be abrogated and of no
21 further force and effect. This Act may not be interpreted to have any effect on that
22 termination provision.

23 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
24 Section 4 of this Act, this Act shall take effect July 1, 2002, and shall be applicable to
25 all taxable years beginning after December 31, 2001, but before January 1, 2007;
26 provided, however, that the tax credit under § 2-404 of the Correctional Services
27 Article, as enacted under Section 1 of this Act, shall be allowed for employees hired on
28 or after July 1, 2002 but before December 31, 2005; and provided further that any
29 excess credits under § 2-404 of the Correctional Services Article may be carried
30 forward and, subject to the limitations under § 2-404, may be applied as a credit for
31 taxable years beginning on or after January 1, 2007. This Act shall remain in effect
32 for a period of 2 years 6 months and at the end of December 31, 2004, with no further
33 action required by the General Assembly, this Act shall be abrogated and of no further
34 force and effect.