

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

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 20, 2002

CHAPTER _____

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

1 this Act; providing for the termination of certain provisions of this Act; and
2 generally relating to the Pilot Program for Long-Term Employment of Qualified
3 Ex-Felons.

4 BY adding to

5 Article - Labor and Employment Section 11-701 through 11-705 to be under
6 the new subtitle "Subtitle 7. Pilot Program for the Long-Term
7 Employment of Qualified Ex-Felons"
8 Annotated Code of Maryland
9 (1999 Replacement Volume and 2001 Supplement)

10 ~~BY adding to~~

11 ~~Article - Correctional Services~~
12 ~~Section 2-401 through 2-405 to be under the new subtitle "Subtitle 4. Pilot~~
13 ~~Program for Long Term Employment of Qualified Ex Felons"~~
14 ~~Annotated Code of Maryland~~
15 ~~(1999 Volume and 2001 Supplement)~~

16 BY repealing and reenacting, with amendments,

17 Article - Tax - General
18 Section 10-205(b) and 10-306(b)
19 Annotated Code of Maryland
20 (1997 Replacement Volume and 2001 Supplement)

21 BY repealing and reenacting, with amendments,

22 Article - Tax - General
23 Section 10-205(b) and 10-306(b)
24 Annotated Code of Maryland
25 (1997 Replacement Volume and 2001 Supplement)
26 (As enacted by Chapter 492 of the Acts of 1995)

27 BY adding to

28 Article - Tax - General
29 Section 10-704.10
30 Annotated Code of Maryland
31 (1997 Replacement Volume and 2001 Supplement)

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

1 **Article - ~~Correctional Services~~ Labor and Employment**

2 SUBTITLE 4. 7. PILOT PROGRAM FOR LONG-TERM EMPLOYMENT OF QUALIFIED
3 EX-FELONS.

4 ~~2-401.~~ 11-701.

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (B) "BOARD" MEANS THE GOVERNOR'S WORKFORCE INVESTMENT BOARD
8 ESTABLISHED BY THE GOVERNOR UNDER ~~TITLE 11, SUBTITLE 5 OF THE LABOR AND~~
9 ~~EMPLOYMENT ARTICLE~~ SUBTITLE 5 OF THIS TITLE.

10 (C) "BUSINESS ENTITY" MEANS:

11 (1) A PERSON CONDUCTING OR OPERATING A TRADE OR BUSINESS IN
12 MARYLAND; OR

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

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

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

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

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

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

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

1 (I) "WORKFORCE INVESTMENT AREA" MEANS A WORKFORCE INVESTMENT
2 AREA DESIGNATED BY THE GOVERNOR UNDER ~~TITLE 11, SUBTITLE 5 OF THE LABOR~~
3 ~~AND EMPLOYMENT ARTICLE~~ SUBTITLE 5 OF THIS TITLE.

4 ~~2-402.~~ 11-702.

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

8 (B) (1) ON OR BEFORE JANUARY 1, 2003, THE DEPARTMENT, IN
9 CONSULTATION WITH THE BOARD, SHALL ESTABLISH A PILOT PROGRAM FOR THE
10 EMPLOYMENT OF EX-FELONS PROVIDED IN ~~§ 2-403~~ § 11-703 OF THIS SUBTITLE.

11 (2) THE PILOT PROGRAM ESTABLISHED UNDER THIS SUBTITLE SHALL
12 REMAIN IN PLACE FOR A PERIOD OF ~~3~~ 2 YEARS AND SHALL TERMINATE AT THE END
13 OF DECEMBER 31, ~~2005~~ 2004.

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

18 (D) THE DEPARTMENT SHALL:

19 (1) PURCHASE THE NECESSARY AMOUNT OF FIDELITY BONDS TO
20 PROVIDE BONDS TO BUSINESS ENTITIES FOR A FULL YEAR OF EMPLOYMENT FOR UP
21 TO ~~600~~ 200 QUALIFIED EX-FELONS EACH YEAR; AND

22 (2) PROVIDE THE FIDELITY BONDS PURCHASED EACH YEAR TO THE
23 ONE-STOP CENTERS IN THE WORKFORCE INVESTMENT AREAS DESIGNATED UNDER
24 ~~§ 2-403~~ § 11-703 OF THIS SUBTITLE.

25 (E) THE PILOT PROGRAM SHALL:

26 (1) BE IMPLEMENTED IN ONE-STOP CENTERS IN AT LEAST TWO
27 WORKFORCE INVESTMENT AREAS OF THE STATE AS DESIGNATED BY THE
28 DEPARTMENT IN CONSULTATION WITH THE BOARD UNDER ~~§ 2-403~~ § 11-703 OF THIS
29 SUBTITLE; AND

30 (2) PROVIDE FIDELITY BONDS TO BUSINESS ENTITIES THROUGH THE
31 ONE-STOP CENTERS IN TWO OR MORE AREAS OF THE STATE AS DESIGNATED UNDER
32 ~~§ 2-403~~ § 11-703 FOR THE EMPLOYMENT OF UP TO ~~600~~ 200 QUALIFIED EX-FELONS
33 EACH YEAR.

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

36 (1) WORK WITH APPROPRIATE COMMUNITY ORGANIZATIONS AND STATE
37 AND LOCAL GOVERNMENT ENTITIES THAT PROVIDE SERVICES TO QUALIFIED

1 EX-FELONS TO ENCOURAGE THE REFERRAL AND PARTICIPATION OF QUALIFIED
2 EX-FELONS IN THE PROGRAM;

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

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

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

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

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

17 ~~2-403. 11-703.~~

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

20 (B) THE APPLICATION SHALL DESCRIBE THE PLAN TO BE IMPLEMENTED BY
21 THE ONE-STOP CENTER TO ADMINISTER THE REQUIREMENTS OF THE PILOT
22 PROGRAM AS PROVIDED IN ~~§ 2-402~~ § 11-702 OF THIS SUBTITLE.

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

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

31 ~~2-404. 11-704.~~

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

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

3 (1) 30% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO THE
4 QUALIFIED EX-FELON EMPLOYEE DURING THE FIRST YEAR OF EMPLOYMENT; AND

5 (2) 20% OF UP TO THE FIRST \$6,000 OF THE WAGES PAID TO THE
6 QUALIFIED EX-FELON EMPLOYEE DURING THE SECOND YEAR OF EMPLOYMENT.

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

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

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

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

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

19 (I) VOLUNTARILY TERMINATES EMPLOYMENT WITH THE
20 EMPLOYER;

21 (II) IS UNABLE TO CONTINUE EMPLOYMENT DUE TO A DISABILITY
22 OR DEATH; OR

23 (III) IS TERMINATED FOR CAUSE.

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

28 (5) (I) IF A BUSINESS ENTITY IS ENTITLED TO A TAX CREDIT FOR AN
29 EMPLOYEE WHO IS EMPLOYED FOR LESS THAN 1 YEAR BECAUSE THE EMPLOYEE
30 VOLUNTARILY TERMINATES EMPLOYMENT WITH THE EMPLOYER TO TAKE ANOTHER
31 JOB, THE BUSINESS ENTITY MAY CLAIM A TAX CREDIT OF 30% OF UP TO THE FIRST
32 \$6,000 OF THE WAGES PAID TO THE EMPLOYEE DURING THE COURSE OF
33 EMPLOYMENT.

34 (II) IF A BUSINESS ENTITY IS ENTITLED TO A TAX CREDIT FOR AN
35 EMPLOYEE WHO IS EMPLOYED FOR LESS THAN 1 YEAR FOR A REASON OTHER THAN
36 THAT DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE AMOUNT OF THE

1 CREDIT SHALL BE REDUCED BY THE PROPORTION OF A YEAR THAT THE EMPLOYEE
2 DID NOT WORK.

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

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

8 (2) THE EXPIRATION OF THE FIFTH TAXABLE YEAR AFTER THE
9 TAXABLE YEAR IN WHICH THE WAGES FOR WHICH THE CREDIT IS CLAIMED ARE
10 PAID.

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

14 ~~2-405~~ 11-705.

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

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

20 **Article - Tax - General**

21 10-704.10.

22 (A) AN INDIVIDUAL OR CORPORATION MAY CLAIM A CREDIT AGAINST THE
23 INCOME TAX FOR WAGES PAID TO A QUALIFIED EX-FELON EMPLOYEE AS PROVIDED
24 UNDER ~~§ 2-404 OF THE CORRECTIONAL SERVICES~~ § 11-704 OF THE LABOR AND
25 EMPLOYMENT ARTICLE.

26 (B) (1) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER §
27 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE MAY APPLY THE CREDIT UNDER
28 THIS SECTION:

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

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

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

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

3 (2) IF THE CREDIT ALLOWED UNDER THIS SUBSECTION IN ANY TAXABLE
4 YEAR EXCEEDS THE SUM OF THE STATE INCOME TAX OTHERWISE PAYABLE BY THE
5 ORGANIZATION FOR THAT TAXABLE YEAR AND THE TAXES THAT THE ORGANIZATION
6 HAS WITHHELD FROM THE WAGES OF EMPLOYEES AND IS REQUIRED TO PAY TO THE
7 COMPTROLLER UNDER § 10-906(A) OF THIS TITLE FOR THE TAXABLE YEAR, THE
8 ORGANIZATION MAY APPLY THE EXCESS AS A CREDIT UNDER PARAGRAPH (1)(I) OR (II)
9 OF THIS SUBSECTION IN SUCCEEDING TAXABLE YEARS FOR THE CARRY FORWARD
10 PERIOD PROVIDED IN ~~§ 2-404 OF THE CORRECTIONAL SERVICES~~ § 11-704 OF THE
11 LABOR AND EMPLOYMENT ARTICLE.

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

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

17 **Article - Tax - General**

18 10-205.

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

21 (1) § 10-702 of this title for wages paid to an employee in an enterprise
22 zone;

23 (2) § 10-704.3 of this title or § 8-213 of this article for wages paid and
24 qualified child care or transportation expenses incurred with respect to qualified
25 employment opportunity employees; [or]

26 (3) § 10-704.7 of this title or § 8-216 of this article for wages paid and
27 qualified child care or transportation expenses incurred with respect to a qualified
28 employee with a disability; OR

29 (4) § 10-704.10 OF THIS TITLE FOR WAGES PAID TO A QUALIFIED
30 EX-FELON EMPLOYEE.

31 10-306.

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

34 (1) § 10-205(b) of this title (Enterprise zone wage credit, employment
35 opportunity credit, [and] disability credit, AND QUALIFIED EX-FELON EMPLOYEE
36 CREDIT);

1 further force and effect. This Act may not be interpreted to have any effect on that
2 termination provision.

3 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in
4 Section 4 of this Act, this Act shall take effect July 1, 2002, and shall be applicable to
5 all taxable years beginning after December 31, 2001, but before January 1, ~~2007~~
6 2006; provided, however, that the tax credit under ~~§ 2-404 § 11-704~~ of the
7 ~~Correctional Services Labor and Employment~~ Article, as enacted under Section 1 of
8 this Act, shall be allowed for employees hired on or after July 1, 2002 but before
9 December 31, ~~2005~~ 2004; and provided further that any excess credits under ~~§ 2-404~~
10 ~~§ 11-704~~ of the ~~Correctional Services Labor and Employment~~ Article may be carried
11 forward and, subject to the limitations under ~~§ 2-404 § 11-704~~, may be applied as a
12 credit for taxable years beginning on or after January 1, ~~2007~~ 2006. This Act shall
13 remain in effect for a period of 2 years 6 months and at the end of December 31, 2004,
14 with no further action required by the General Assembly, this Act shall be abrogated
15 and of no further force and effect.