
By: **Senators Jones, Britt, Currie, Exum, Gladden, Grosfeld, Hogan, Hughes,
Kasemeyer, Kelley, Kramer, Lawlah, McFadden, Munson, and Ruben**

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Assigned to: Finance

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Committee Report: Favorable

Senate action: Adopted

Read second time: March 28, 2005

CHAPTER _____

1 AN ACT concerning

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

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

1 BY adding to
2 Article - Labor and Employment
3 Section 11-701 through 11-705 to be under the new subtitle "Subtitle 7. Pilot
4 Program for the Long-Term Employment of Qualified Ex-Felons"
5 Annotated Code of Maryland
6 (1999 Replacement Volume and 2004 Supplement)

7 BY adding to
8 Article - Tax - General
9 Section 10-704.10
10 Annotated Code of Maryland
11 (2004 Replacement Volume)

12 BY repealing
13 Article - Tax - General
14 Section 10-205(b) and 10-306(b)(1)
15 Annotated Code of Maryland
16 (2004 Replacement Volume)

17 BY adding to
18 Article - Tax - General
19 Section 10-205(b) and 10-306(b)(1)
20 Annotated Code of Maryland
21 (2004 Replacement Volume)

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

24 **Article - Labor and Employment**

25 **SUBTITLE 7. PILOT PROGRAM FOR THE LONG-TERM EMPLOYMENT OF QUALIFIED**
26 **EX-FELONS.**

27 11-701.

28 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
29 INDICATED.

30 (B) "BOARD" MEANS THE GOVERNOR'S WORKFORCE INVESTMENT BOARD
31 ESTABLISHED BY THE GOVERNOR UNDER SUBTITLE 5 OF THIS TITLE.

32 (C) "BUSINESS ENTITY" MEANS:

33 (1) A PERSON CONDUCTING OR OPERATING A TRADE OR BUSINESS IN
34 MARYLAND; OR

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

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

7 (E) "ONE-STOP CENTER" MEANS AN ENTITY DESIGNATED WITHIN A
8 WORKFORCE INVESTMENT AREA THAT PROVIDES EMPLOYMENT TRAINING AND
9 SERVICES UNDER SUBTITLE 5 OF THIS TITLE.

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

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

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

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

25 (I) "WORKFORCE INVESTMENT AREA" MEANS A WORKFORCE INVESTMENT
26 AREA DESIGNATED BY THE GOVERNOR UNDER SUBTITLE 5 OF THIS TITLE.

27 11-702.

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

31 (B) (1) ON OR BEFORE JANUARY 1, 2006, THE DEPARTMENT, IN
32 CONSULTATION WITH THE BOARD, SHALL ESTABLISH A PILOT PROGRAM FOR THE
33 EMPLOYMENT OF EX-FELONS PROVIDED IN § 11-703 OF THIS SUBTITLE.

34 (2) THE PILOT PROGRAM ESTABLISHED UNDER THIS SUBTITLE SHALL
35 TERMINATE AT THE END OF DECEMBER 31, 2010.

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

1 BUSINESS ENTITIES FOR TAX CREDITS TO ENCOURAGE THE LONG-TERM
2 EMPLOYMENT OF QUALIFIED EX-FELON EMPLOYEES UNDER THE PILOT PROGRAM.

3 (D) THE DEPARTMENT SHALL:

4 (1) PURCHASE THE NECESSARY AMOUNT OF FIDELITY BONDS TO
5 PROVIDE BONDS TO BUSINESS ENTITIES FOR A FULL YEAR OF EMPLOYMENT FOR UP
6 TO 150 QUALIFIED EX-FELONS EACH YEAR; AND

7 (2) PROVIDE THE FIDELITY BONDS PURCHASED EACH YEAR TO THE
8 ONE-STOP CENTERS IN THE WORKFORCE INVESTMENT AREAS DESIGNATED UNDER
9 § 11-703 OF THIS SUBTITLE.

10 (E) THE PILOT PROGRAM SHALL:

11 (1) BE IMPLEMENTED IN ONE-STOP CENTERS IN AT LEAST TWO
12 WORKFORCE INVESTMENT AREAS OF THE STATE AS DESIGNATED BY THE
13 DEPARTMENT IN CONSULTATION WITH THE BOARD UNDER § 11-703 OF THIS
14 SUBTITLE; AND

15 (2) PROVIDE FIDELITY BONDS TO BUSINESS ENTITIES THROUGH THE
16 ONE-STOP CENTERS IN TWO OR MORE AREAS OF THE STATE AS DESIGNATED UNDER
17 § 11-703 FOR THE EMPLOYMENT OF UP TO 150 QUALIFIED EX-FELONS EACH YEAR.

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

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

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

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

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

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

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

1 11-703.

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 § 11-702 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 11-704.

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 11-705.

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 § 11-704 OF THE LABOR AND EMPLOYMENT 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 CARRYFORWARD
28 PERIOD PROVIDED IN § 11-704 OF THE LABOR AND EMPLOYMENT 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 Section(s) 10-205(b) and
33 10-306(b)(1) of Article - Tax - General of the Annotated Code of Maryland be
34 repealed.

35 SECTION 3. AND BE IT FURTHER ENACTED, That the Laws of Maryland
36 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;

(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; AND

(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, DISABILITY CREDIT, AND QUALIFIED EX-FELON EMPLOYEE CREDIT);

SECTION 4. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be applicable to all taxable years beginning after December 31, 2005, but before January 1, 2011; provided, however, that the tax credit under § 11-704 of the Labor and Employment Article, as enacted by Section 1 of this Act, shall be allowed for employees hired on or after January 1, 2006, but before January 1, 2011; and provided further that any excess credits under § 11-704 of the Labor and Employment Article may be carried forward and subject to the limitations under § 11-704, may be applied as a credit for taxable years beginning on or after January 1, 2011.

SECTION 5. AND BE IT FURTHER ENACTED, That, subject to Section 4 of this Act, this Act shall take effect July 1, 2005 and shall be applicable to all taxable years beginning after December 31, 2005. Section 1 of this Act shall remain in effect for a period of 5 years and 6 months and, at the end of December 31, 2010, with no further action required by the General Assembly, Section 1 of this Act shall be abrogated and of no further force and effect.

