

HOUSE BILL 38

Q3
HB 347/06 – W&M

71r0406

By: **Delegates Hixson, Cardin, Doory, Gilchrist, Howard, Ivey, Kaiser, N. King, Krebs, Olszewski, Stukes, ~~and F. Turner~~ F. Turner, Manno, Bartlett, Barve, Elmore, George, Jennings, McKee, Murphy, Rice, Ross, and Walker**

Introduced and read first time: January 18, 2007
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 18, 2007

CHAPTER _____

1 AN ACT concerning

2 **Income Tax – Credit for Providing Adult Literacy Programs**

3 FOR the purpose of allowing certain business entities a certain credit against the
4 State income tax for certain taxable years for a certain amount of the cost of
5 adult literacy services provided to an employee; limiting to a certain amount the
6 total amount of credits a business entity may claim in any taxable year;
7 providing that the credit may be refundable under certain circumstances;
8 providing for the issuance of certain initial credit certificates by the State
9 Superintendent of Schools, subject to certain requirements and limitations, for
10 certain fiscal years; providing certain limits on the amount of credits that can be
11 claimed; requiring the State Superintendent to issue final credit certificates
12 under certain circumstances; establishing the Adult Literacy Services Tax
13 Credit Reserve Fund; limiting the credit amounts in the aggregate for which the
14 State Superintendent may issue initial credit certificates for any fiscal year;
15 authorizing the Governor to include certain appropriations to a certain fund in
16 the annual budget bill for certain fiscal years; requiring the Comptroller to
17 transfer certain amounts from a certain fund to the General Fund under certain
18 circumstances; requiring the State Superintendent to submit certain reports;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 requiring the State Superintendent to adopt certain regulations; defining
2 certain terms; and generally relating to a tax credit against the State income
3 tax for certain costs associated with adult literacy services.

4 BY adding to

5 Article – Tax – General

6 Section 10–726

7 Annotated Code of Maryland

8 (2004 Replacement Volume and 2006 Supplement)

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

11 **Article – Tax – General**

12 **10–726.**

13 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
14 MEANINGS INDICATED.

15 (2) “ADULT LITERACY SERVICES” INCLUDES:

16 (I) BASIC SKILLS AND LITERACY INSTRUCTION; AND

17 (II) ENGLISH FOR SPEAKERS OF OTHER LANGUAGES.

18 (3) “BUSINESS ENTITY” MEANS:

19 (I) A PERSON CONDUCTING OR OPERATING A TRADE OR
20 BUSINESS; OR

21 (II) AN ORGANIZATION THAT IS EXEMPT FROM TAXATION
22 UNDER § 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE.

23 (4) “COST OF INSTRUCTION” MEANS THE EXPENDITURES
24 INCURRED BY A BUSINESS ENTITY TO PROVIDE ADULT LITERACY SERVICES TO
25 ITS EMPLOYEES AT THE WORK SITE OR IN AN EDUCATIONAL OR COMMUNITY
26 SETTING.

27 (5) “STATE SUPERINTENDENT” MEANS THE STATE
28 SUPERINTENDENT OF SCHOOLS.

1 **(6) “TAX CREDIT” MEANS THE ADULT LITERACY SERVICES TAX**
2 **CREDITS AUTHORIZED UNDER THIS SECTION.**

3 **(B) (1) SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, A**
4 **BUSINESS ENTITY MAY CLAIM A CREDIT AGAINST THE STATE INCOME TAX IN AN**
5 **AMOUNT EQUAL TO THE FINAL CREDIT CERTIFICATE APPROVED BY THE STATE**
6 **SUPERINTENDENT FOR ADULT LITERACY SERVICES PROVIDED DURING THE**
7 **TAXABLE YEAR.**

8 **(2) A BUSINESS ENTITY THAT IS EXEMPT FROM TAXATION UNDER**
9 **§ 501(C)(3) OR (4) OF THE INTERNAL REVENUE CODE MAY CLAIM THE CREDIT**
10 **AGAINST THE STATE INCOME TAX DUE ON UNRELATED BUSINESS INCOME AS**
11 **PROVIDED UNDER §§ 10-304 AND 10-812 OF THIS TITLE.**

12 **(C) (1) IN THIS SUBSECTION, “RESERVE FUND” MEANS THE ADULT**
13 **LITERACY SERVICES TAX CREDIT RESERVE FUND ESTABLISHED UNDER**
14 **PARAGRAPH (2) OF THIS SUBSECTION.**

15 **(2) (I) THERE IS AN ADULT LITERACY SERVICES TAX CREDIT**
16 **RESERVE FUND THAT IS A SPECIAL CONTINUING, NONLAPSING FUND NOT**
17 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

18 **(II) THE MONEY IN THE FUND SHALL BE INVESTED AND**
19 **REINVESTED BY THE STATE TREASURER, AND INTEREST AND EARNINGS SHALL**
20 **BE CREDITED TO THE GENERAL FUND.**

21 **(3) (I) SUBJECT TO THE PROVISIONS OF THIS SECTION, THE**
22 **STATE SUPERINTENDENT SHALL ISSUE AN INITIAL CREDIT CERTIFICATE FOR**
23 **EACH BUSINESS ENTITY FOR WHICH TAX CREDITS ARE APPROVED.**

24 **(II) AN INITIAL CREDIT CERTIFICATE ISSUED UNDER THIS**
25 **SUBSECTION SHALL STATE THE MAXIMUM AMOUNT OF CREDIT UNDER THIS**
26 **SECTION FOR WHICH THE BUSINESS ENTITY MAY QUALIFY.**

27 **(III) 1. EXCEPT AS OTHERWISE PROVIDED IN THIS**
28 **SUBPARAGRAPH, FOR ANY FISCAL YEAR, THE STATE SUPERINTENDENT MAY**
29 **NOT ISSUE INITIAL CREDIT CERTIFICATES FOR CREDIT AMOUNTS IN THE**
30 **AGGREGATE TOTALING MORE THAN THE SUM OF:**

1 **A. THE LESSER OF ~~\$2,000,000~~ \$250,000 OR THE**
2 **AMOUNT APPROPRIATED TO THE RESERVE FUND FOR THAT FISCAL YEAR IN**
3 **THE STATE BUDGET AS APPROVED BY THE GENERAL ASSEMBLY; AND**

4 **B. ANY BALANCE CARRIED FORWARD FROM THE**
5 **PREVIOUS FISCAL YEAR.**

6 **2. IF THE AGGREGATE CREDIT AMOUNTS UNDER**
7 **INITIAL CREDIT CERTIFICATES ISSUED IN A FISCAL YEAR ARE LESS THAN**
8 **~~\$2,000,000~~ \$250,000 AND ARE LESS THAN THE AMOUNT APPROPRIATED TO THE**
9 **RESERVE FUND FOR THAT FISCAL YEAR, ANY EXCESS AMOUNT SHALL REMAIN**
10 **IN THE RESERVE FUND AND MAY BE ISSUED UNDER INITIAL CREDIT**
11 **CERTIFICATES FOR THE NEXT FISCAL YEAR.**

12 **3. FOR ANY FISCAL YEAR, IF FUNDS ARE**
13 **TRANSFERRED FROM THE RESERVE FUND UNDER THE AUTHORITY OF ANY**
14 **PROVISION OF LAW OTHER THAN PARAGRAPH (5) OF THIS SUBSECTION, THE**
15 **MAXIMUM CREDIT AMOUNTS IN THE AGGREGATE FOR WHICH THE STATE**
16 **SUPERINTENDENT MAY ISSUE INITIAL CREDIT CERTIFICATES SHALL BE**
17 **REDUCED BY THE AMOUNT TRANSFERRED.**

18 **(IV) FOR EACH OF FISCAL YEARS 2009, 2010, AND 2011, THE**
19 **GOVERNOR MAY INCLUDE IN THE BUDGET BILL AN APPROPRIATION TO THE**
20 **RESERVE FUND.**

21 **(V) NOTWITHSTANDING THE PROVISIONS OF § 7-213 OF**
22 **THE STATE FINANCE AND PROCUREMENT ARTICLE, THE GOVERNOR MAY NOT**
23 **REDUCE AN APPROPRIATION TO THE RESERVE FUND IN THE STATE BUDGET AS**
24 **APPROVED BY THE GENERAL ASSEMBLY.**

25 **(VI) THE STATE SUPERINTENDENT MAY NOT ISSUE AN**
26 **INITIAL CREDIT CERTIFICATE FOR ANY FISCAL YEAR AFTER FISCAL YEAR 2011.**

27 **(4) BASED ON ACTUAL EXPENDITURES FOR THE COST OF**
28 **INSTRUCTION FOR ADULT LITERACY SERVICES, THE STATE SUPERINTENDENT**
29 **SHALL ISSUE A FINAL CREDIT CERTIFICATE TO THE BUSINESS ENTITY.**

30 **(5) (I) EXCEPT AS PROVIDED IN THIS PARAGRAPH, MONEY**
31 **APPROPRIATED TO THE RESERVE FUND SHALL REMAIN IN THE FUND.**

1 **(II) 1. WITHIN 15 DAYS AFTER THE END OF EACH**
2 **CALENDAR QUARTER, THE STATE SUPERINTENDENT SHALL NOTIFY THE**
3 **COMPTROLLER AS TO EACH TAX CREDIT CERTIFIED DURING THE QUARTER:**

4 **A. THE MAXIMUM CREDIT AMOUNT STATED IN THE**
5 **INITIAL CREDIT CERTIFICATE FOR THE BUSINESS ENTITY; AND**

6 **B. THE FINAL CERTIFIED CREDIT AMOUNT FOR THE**
7 **BUSINESS ENTITY.**

8 **2. ON NOTIFICATION THAT A BUSINESS ENTITY HAS**
9 **RECEIVED FINAL CERTIFICATION, THE COMPTROLLER SHALL TRANSFER AN**
10 **AMOUNT EQUAL TO THE CREDIT AMOUNT STATED IN THE FINAL CREDIT**
11 **CERTIFICATE FOR THE BUSINESS ENTITY FROM THE RESERVE FUND TO THE**
12 **GENERAL FUND.**

13 **(D) (1) SUBJECT TO THE PROVISIONS OF THIS SECTION, EACH FISCAL**
14 **YEAR THE STATE SUPERINTENDENT SHALL CERTIFY TAX CREDITS TO BE**
15 **AWARDED TO BUSINESS ENTITIES FOR THE COST OF INSTRUCTION FOR ADULT**
16 **LITERACY SERVICES.**

17 **(2) BETWEEN APRIL 1 AND OCTOBER 31 OF EACH YEAR, THE**
18 **STATE SUPERINTENDENT MAY ACCEPT APPLICATIONS FOR A TAX CREDIT FOR**
19 **THE FISCAL YEAR THAT BEGINS JULY 1 OF THAT YEAR.**

20 **(3) NOT MORE THAN 50% OF THE MAXIMUM AMOUNT OF TAX**
21 **CREDITS CERTIFIED BY THE STATE SUPERINTENDENT FOR ANY FISCAL YEAR**
22 **MAY BE ISSUED FOR ADULT LITERACY SERVICES PROVIDED IN A SINGLE**
23 **COUNTY OR BALTIMORE CITY.**

24 **(4) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**
25 **STATE SUPERINTENDENT SHALL APPROVE CREDITS UNDER THIS SECTION**
26 **BASED ON NEED AND PERFORMANCE.**

27 **(5) BETWEEN JULY 1 AND DECEMBER 31 OF EACH YEAR, THE**
28 **STATE SUPERINTENDENT SHALL ISSUE AN INITIAL CREDIT CERTIFICATE FOR**
29 **EACH BUSINESS ENTITY FOR WHICH A TAX CREDIT IS APPROVED FOR THE**
30 **FISCAL YEAR THAT BEGINS JULY 1 OF THAT YEAR.**

1 **(6) TO CLAIM A TAX CREDIT UNDER THIS SECTION, A BUSINESS**
2 **ENTITY SHALL ATTACH A COPY OF THE STATE SUPERINTENDENT'S**
3 **CERTIFICATION OF THE TAX CREDIT TO THE BUSINESS ENTITY'S INCOME TAX**
4 **RETURN.**

5 **(7) IF THE TAX CREDIT ALLOWED UNDER THIS SECTION IN ANY**
6 **TAXABLE YEAR EXCEEDS THE TOTAL TAX OTHERWISE PAYABLE BY A BUSINESS**
7 **ENTITY FOR THAT TAXABLE YEAR, THE BUSINESS ENTITY MAY CLAIM A REFUND**
8 **IN THE AMOUNT OF THE EXCESS.**

9 **(8) FOR EACH BUSINESS ENTITY, THE TAX CREDIT CERTIFIED BY**
10 **THE STATE SUPERINTENDENT IN A FISCAL YEAR MAY NOT EXCEED THE LESSER**
11 **OF:**

12 **(I) 35% OF THE COST OF INSTRUCTION FOR ADULT**
13 **LITERACY SERVICES PROVIDED TO EMPLOYEES DURING THE FISCAL YEAR;**

14 **(II) \$150 TIMES THE NUMBER OF EMPLOYEES RECEIVING**
15 **ADULT LITERACY SERVICES; OR**

16 **(III) \$25,000.**

17 **(E) ON OR BEFORE OCTOBER 1 OF EACH YEAR, THE STATE**
18 **SUPERINTENDENT SHALL SUBMIT TO THE GOVERNOR AND, SUBJECT TO**
19 **§ 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY A**
20 **REPORT ON THE TAX CREDITS CERTIFIED UNDER THIS SECTION FOR THE**
21 **PREVIOUS FISCAL YEAR, INCLUDING:**

22 **(1) THE TOTAL NUMBER OF BUSINESS ENTITIES THAT APPLIED**
23 **FOR THE TAX CREDITS UNDER THIS SECTION AND THE TOTAL NUMBER OF**
24 **BUSINESS ENTITIES CERTIFIED; AND**

25 **(2) THE NAME AND PHYSICAL LOCATION OF EACH BUSINESS**
26 **ENTITY APPROVED FOR THE TAX CREDITS AND THE NUMBER OF EMPLOYEES**
27 **RECEIVING ADULT LITERACY SERVICES.**

28 **(F) THE STATE SUPERINTENDENT SHALL ADOPT REGULATIONS**
29 **NECESSARY TO CARRY OUT THE PROVISIONS OF THIS SECTION.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 July 1, 2007.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.