

City of Philadelphia



(Bill No. 020116)

AN ORDINANCE

Amending Chapter 19-2600 of The Philadelphia Code, entitled “Business Privilege Taxes,” by establishing a program under which a Job Creation Tax Credit will be given to certain businesses creating new jobs in the City of Philadelphia; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Legislative Findings.

- (1) The City of Philadelphia’s current tax structure presents a competitive disadvantage to the City in attracting new residents and businesses and retaining existing ones.
- (2) In recognition of this challenge, the Council of the City of Philadelphia passed Resolution Number 010404, introduced by Councilman W. Wilson Goode, Jr. authorizing the Council to examine employment incentive programs. And Resolution Number 010700, introduced by Councilwoman Jannie L. Blackwell, to seek advice and recommendations on tax policy and tax reform from citizens, financial experts, economists, academia, business executives, and state legislative and executive branch officials.
- (3) The Federal government operates incentive programs through the Work Opportunity Tax Credit, Federal Empowerment Zone Wage Tax Credits and the Welfare to Work Tax Credit.
- (4) The State of Oregon, through its JOBS Plus Program, Rhode Island, through its Work Supplementation Program, Massachusetts, through its Full Employment Program, and Missouri, through its Work Supplementation Program, all offer incentives to generate employment.
- (5) The Commonwealth of Pennsylvania offers an Employment Incentive Payment Program and State Job Creation Tax Credit.
- (6) These and other active labor market policies have shown themselves to be successful generators of employment and training opportunities.
- (7) The Philadelphia City Controller in the Controller’s Office Tax Structure Analysis Report has recommended implementing a Philadelphia New Jobs Tax Deduction

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based on the Commonwealth of Pennsylvania's existing Job Creation Tax Credit program.

- (8) The Council of the City of Philadelphia believes that such action would encourage Philadelphia businesses to create new jobs in the City of Philadelphia and to offset increased costs they must bear due to Philadelphia's Wage Tax.

SECTION 2. Chapter 19-2600 of The Philadelphia Code is hereby amended to read as follows:

CHAPTER 19-2600. BUSINESS PRIVILEGE TAXES

* * *

§19-2604. Tax Rates, Credits, and Alternative Tax Computation.

* * *

(7) *Credit for New Job Creation; Pilot Program.*

(a) *Definitions. For purposes of this subsection, the following definitions shall apply:*

- (1) *Base Period. The three years preceding the date on which a business may begin creating new jobs which may be eligible for job creation tax credits.*
- (2) *Job Creation Tax Credits. Tax credits for which the City of Philadelphia's Revenue Department has issued a certificate under this Chapter.*
- (3) *New Job. A full-time job, the average hourly rate, excluding benefits, for which must be at least 150% of the federal minimum wage, created within the City and County of Philadelphia by a company within five (5) years from the start date.*
- (4) *Start Date. The date on which a business may begin creating new jobs which may be eligible for job creation tax credits.*
- (5) *Year One. A one-year period immediately following the start date.*
- (6) *Year Two. A one-year period immediately following the end of year one.*

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- (7) *Year Three. A one-year period immediately following the end of year two.*
 - (8) *Year Four. A one-year period immediately following the end of year three.*
 - (9) *Year Five. A one-year period immediately following the end of year four.*
- (b) *Eligibility. In order to be eligible to receive Job Creation Tax Credits, a business must demonstrate the following:*
- (1) *A current Job Creation Tax Credit Certificate from the Commonwealth of Pennsylvania for jobs located in the City of Philadelphia or each of the following:*
 - (i) *The ability to create the number of jobs required by the Revenue Department within five (5) years from the start date.*
 - (ii) *Financial stability and the project's financial viability.*
 - (iii) *The intent to maintain operations in the City of Philadelphia for a period of five (5) years from the date the company submits its Tax Credit Certificate to the Department of Revenue.*
 - (iv) *An affirmation that the decision to expand or locate in the City of Philadelphia was due in large part to the availability of a Job Creation Tax Credit.*
- (c) *Application Process.*
- (1) *Application. A business must complete and submit to the Revenue Department a Job Creation Tax Credit Application.*
 - (2) *Creation of Jobs. The applicant must agree to create at least 25 new jobs or to increase the applicant's number of employees by at least 20%, within five (5) years of the start date.*
 - (3) *Approval. If the Revenue Department approves the company's application, the Department and the company shall execute a commitment letter containing the following:*

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- (i) *A description of the project.*
 - (ii) *The number of new jobs to be created.*
 - (iii) *The amount of private capital investment in the project.*
 - (iv) *The maximum job creation tax credit amount the company may claim.*
 - (v) *A signed statement that the company intends to maintain its operation in the City of Philadelphia for five (5) years from the start date.*
 - (vi) *Such other information as the Department deems appropriate.*
- (4) *Commitment Letter. After a commitment letter has been signed by both the City of Philadelphia and the business, and the City determines that new jobs have been created pursuant to that commitment, the business shall receive a Job Creation Tax Credit Certificate reflecting the number of jobs created and filing information.*
- (d) *Tax Credits.*
- (1) *Maximum Amount. A business may claim a tax credit of \$1,000 per new job created up to the maximum job creation amount specified in the commitment letter.*
 - (2) *Determination of new jobs created.*
 - (i) *New jobs shall be deemed created in year one to the extent that the business' average employment by quarter during year one exceeds the greater of the business' average employment level during the business' base period or the business' employment level at the start date.*
 - (ii) *New jobs shall be deemed created in year two to the extent that the business' average employment by quarter during year two exceeds the business' average employment by quarter during year one.*
 - (iii) *New jobs shall be deemed created in year three to the extent that the business' average employment by quarter*

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during year three exceeds the business' average employment by quarter during year two.

(iv) *New jobs shall be deemed created in year four to the extent that the business' average employment by quarter during year four exceeds the business' average employment by quarter during year three.*

(v) *New jobs shall be deemed created in year five to the extent that the business' average employment by quarter during year five exceeds the business' average employment by quarter during year four.*

(3) *Applicable Taxes. A business may apply the tax credit against the business' total business privilege tax liability.*

(4) *Tax Credit Term. A business may claim the Job Creation Tax Credit for each new job created, as approved by the City of Philadelphia, for a period not to exceed five (5) years from the date the business first submits a Job Creation Tax Credit Certificate to the Department of Revenue.*

(5) *Maximum. The total amount of all tax credits available in year one for commitment under subsection (7)(c)(3) shall not exceed 1% of all revenues collected by the City through the gross receipts and net income components of the business privilege tax during the previous tax year.*

(e) *Prohibitions.*

(1) *Prohibitions. The following actions with regard to Job Creation Tax Credits are prohibited:*

(i) *Approval of jobs that have been created prior to the start date.*

(ii) *The assignment, transfer or use of credits by any other company.*

(iii) *Approval for a company which is relocating operations from one location in Philadelphia to another location in Philadelphia.*

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- (2) *Allocations. Twenty-five percent of all tax credits available in any year under section subsection (7)(d)(5) shall be available for commitment under subsection (7)(c)(3) to businesses with fewer than 25 employees.*
- (f) *Penalties.*
- (1) *Failure to maintain operations. A business which receives Job Creation Tax Credits and fails to substantially maintain existing operations and the operations related to the Job Creation Tax Credits in the City of Philadelphia for a period of five (5) years from the date the business first submits a Job Creation Tax Credit Certificate to the Department of Revenue shall be required to refund to the City of Philadelphia the total amount of credit or credits granted.*
- (2) *Failure to create jobs. A business which receives job creation tax credits and fails to create the approved number of new jobs within five (5) years of the start date will be required to refund to the City of Philadelphia the total amount of credit or credits granted*
- (3) *Waiver. The Department of Revenue may waive the penalties outlined in subsection (1) and (2) if it is determined that a business' operations were not maintained or the new jobs were not created because of circumstances beyond the business' control. Such circumstances include natural disasters, acts of terrorism, unforeseen industry trends or a loss of a major supplier or market.*
- (g) *The Department of Revenue shall by December 31 of each year submit a written report to the Mayor, with a copy to the President and Chief Clerk of Council, summarizing the City's experience during the prior year with the tax credit provided under this Section, and containing any recommendations as to continuation or modification of the pilot tax credit program established by this Section.*

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SECTION 3. This Ordinance shall take effect immediately.

Explanation:

Italics indicate new matter added.

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CERTIFICATION: This is a true and correct copy of the original Bill, Passed by the City Council on April 18, 2002. The Bill was Signed by the Mayor on May 2, 2002.



Marie B. Hauser
Chief Clerk of the City Council