



**H.B. 206**

125th General Assembly  
(As Introduced)

**Reps. Mason, Barrett, Allen, Key, Strahorn, Sykes, Brown, Price, S. Smith**

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**BILL SUMMARY**

- Grants a tax credit against the corporate franchise and personal income taxes to employers who hire individuals who have been convicted of felonies.

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**CONTENT AND OPERATION**

**Tax credit for hiring individuals who have been convicted of felonies**

(R.C. 5733.421, 5733.98, 5747.391, and 5747.98)

**Eligibility for the credit and calculation of its amount**

(R.C. 5733.421(A) and (B)(1) and 5747.391(A) and (B)(1))

The bill permits employers to take a credit against their corporate franchise or personal income tax liabilities for hiring "qualified reforming felons." The bill defines a "qualified reforming felon" as an employee who satisfies all of the following criteria:

(1) The employee has been convicted of a felony under any statute of the United States or any state;

(2) The employee was hired within one year of the conviction or, if the employee was sentenced to a term of incarceration, within one year of being released from incarceration; and

(3) The employee is a member of a family that, in the six months immediately preceding the date on which the employee was hired, had an income that, if measured on an annual basis, would be 70% or less of the most recent lower living standard income level calculated by the United States Bureau of

Labor Statistics.<sup>1</sup> (Under the bill, the employee's "family" includes the employee, the employee's spouse, and any children.)

The amount of the credit is calculated as a percentage of the wages paid by the employer to the qualified reforming felon; however, there is a limit on the amount of the credit that may be claimed.<sup>2</sup> The amount of credit that may be claimed depends upon how many hours the qualified reforming felon worked during the year for which the credit is claimed. If the qualified reforming felon worked at least 400 hours during the year, the credit equals 40% of the wages paid to the employee or \$2,400, whichever is less. If the qualified reforming felon worked less than 400 hours but at least 120 hours during the year, the credit equals 25% of the wages paid to the employee or \$1,500, whichever is less. A credit is not available for wages paid to a qualified reforming felon who works less than 120 hours during the year. The bill specifies that owners of pass-through entities (e.g., partnerships, limited liability companies, and S corporations) may claim their proportionate shares of the total credit available to the owners of the entity.

The bill imposes no limitation on the number of qualified reforming felons for which a single employer may claim a credit. Nor does the bill limit the number of years for which an employer may claim a credit for employing a qualified reforming felon. In other words, as long the employer employs a qualified reforming felon and the employee is working more than 120 hours per year, the employer may claim the credit.

### **Credit carry-forward**

(R.C. 5733.421(B)(1) and 5747.391(B)(1))

The credit created in the bill is nonrefundable, which means that the credit cannot be claimed to the extent the credit exceeds the taxpayer's annual tax liability. However, the bill permits taxpayers to carry forward unused portions of the tax credit for a period of five years.

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<sup>1</sup> *The Bureau of Labor Statistics calculates the 70% lower living standard income level every year for different regions of the United States. In 2002, the 70% lower living standard for a family of four living in a metropolitan area in the Midwest was \$20,050.*

<sup>2</sup> *Under the bill, "wages" has the same meaning as in section 3306 of the Internal Revenue Code, which defines "wages" as including all remuneration for employment, including the cash value of benefits or other remuneration paid in a medium other than cash. (Section 3306 also specifies certain remuneration that is not included in "wages" (e.g., non-cash payments for services not in the course of the employer's trade or business and the value of meals and lodging excluded from the employee's taxable income). This remuneration also is excluded from the term "wages" as used in the bill.)*

**Federal payments for on-the-job training**

(R.C. 5733.421(B)(2) and 5747.391(B)(2))

Under the bill, an employer who receives federal payments for on-the-job training of a qualified reforming felon may not claim the credit for any portion of the wages paid to that employee.

**Provisions regarding termination and strike replacements**

(R.C. 5733.421(B)(3) and (4) and 5747.391(B)(3) and (4))

The bill provides that if an employer terminates a qualified reforming felon's employment and the employee was employed for less than 12 months during the year for which the credit is claimed, then the employer is entitled to claim only a portion of the credit to which the employer would otherwise be entitled. However, the employer may claim the full amount of the credit if the qualified reforming felon's employment is terminated for one of the following reasons:

- (1) The employee voluntarily terminated employment;
- (2) The employee was unable to continue employment due to a disability or death; or
- (3) The employee was terminated for cause.

If a qualified reforming felon is terminated for any other reason, the amount of the credit that may be claimed by the employer is reduced by a percentage equal to the percentage of the year that the qualified reforming felon was not employed by the taxpayer. Thus, for example, if a qualified reforming felon works nine months of the year for which the credit is being claimed and is then terminated, any credit claimed by the employer must be reduced by 25% because the employee only worked for 75% of the year (assuming that none of the three exceptions set forth above apply).

In addition, the bill provides that a taxpayer may not claim a credit for any wages paid to an employee for services that would have otherwise been performed by another employee who was on strike or subject to a lockout.

**Information supplied by employers to the Tax Commissioner**

(R.C. 5733.421(C) and 5747.391(C))

Under the bill, the Tax Commissioner may require an employer to furnish whatever information the Commissioner considers necessary to support the employer's claim for a credit. No credit is allowed unless an employer furnishes all of the information required by the Commissioner. The bill specifies that all files, statements, returns, reports, papers, or other documents relating to qualified reforming felons or their families are not public records subject to disclosure under Ohio's Public Records Act (R.C. 149.43).

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**HISTORY**

| ACTION     | DATE     | JOURNAL ENTRY |
|------------|----------|---------------|
| Introduced | 06-03-03 | p. 531        |

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