



**H.B. 414**  
126th General Assembly  
(As Introduced)

Rep. Law

---

**BILL SUMMARY**

- Changes the conditions under which manufacturers of automobiles and automobile parts are eligible to receive the job retention tax credit.
- Makes the amount of job retention tax credit available to an automobile or automobile parts manufacturer contingent upon the percentage of employees retained by the manufacturer.
- Requires that an automobile or automobile parts manufacturer repay credits if the manufacturer does not maintain operations at the designated project site for at least twice the number of years as the term of the credit.

---

**CONTENT AND OPERATION**

**Job retention tax credit: overview**

Under Ohio's job retention tax credit program, Ohio's Tax Credit Authority ("Authority") is authorized to enter into agreements with certain businesses, under which the businesses undertake to retain full-time employment positions<sup>1</sup> in Ohio through "capital investment projects" at designated "project sites."<sup>2</sup> In exchange

---

<sup>1</sup> For purposes of the job retention tax credit program, continuing law defines a "full-time employment position" as "a position of employment for consideration for at least thirty-five hours a week that has been filled for at least . . . [180] days immediately preceding the filing of an application . . . [for a tax credit] and for at least . . . [180] days during each taxable year or each calendar year that includes a tax period with respect to which the credit is granted." (R.C. 122.171(A)(3).) The bill incorporates this existing definition of "full-time employment position."

<sup>2</sup> Continuing law defines a "capital investment project" as "a plan of investment at a project site for the acquisition, construction, renovation, or repair of buildings, machinery, or equipment, or for capitalized costs of basic research and new product

for maintaining Ohio jobs, the businesses are eligible for credits against the corporation franchise tax, personal income tax, and commercial activity tax.

**Eligibility under current law**

(R.C. 122.171(A)(2))

Under current law, a business is qualified to enter into an agreement with the Authority if the business satisfies all of the following conditions:

- ? The business has Ohio operations;
- ? The business employed an average of at least 1,000 employees in full-time employment positions at a project site during each of the 12 months preceding the business' application for a job retention tax credit;
- ? On or after January 1, 2002, the business has made payments for its capital investment project of either of the following:
  - ? At least \$200 million in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the business' taxable year or tax period with respect to which the credit is granted;  
*or*
  - ? If the average wage of all full-time employment positions at the project site is greater than 400% of the federal minimum wage, at least \$100 million in the aggregate at the project site during a period of three consecutive calendar years including the calendar year that includes a day of the business' taxable year or tax period with respect to which the credit is granted;
- ? The business is engaged at the project site primarily as a manufacturer or is providing significant corporate administrative functions; *and*
- ? The business has had its capital investment project reviewed and approved by the Authority.

---

*development determined in accordance with generally accepted accounting principles." (R.C. 122.171(A)(1).) A "project site" is defined under continuing law as an integrated complex of facilities located in Ohio within a 15-mile radius of where a business eligible for the job retention tax credit is primarily operating. (R.C. 122.171(A)(5).)*

**Credit amount**

(R.C. 122.171(B)(2)(a))

The amount of the job retention tax credit is calculated on the basis of Ohio income tax withheld from a business' full-time employees at the project site with respect to which a credit was granted. The amount of the credit is determined by the Authority on a case-by-case basis; however, the amount of credit awarded to a business cannot exceed 75% of the business' Ohio income tax withholding.

**Eligibility for receiving the credit changed for manufacturers of automobiles and automobile parts**

(R.C. 122.171(A)(2) and (11) and (B)(1))

Under the bill, manufacturers of automobiles and automobile parts are eligible to receive the job retention tax credit under a set of conditions different from that described above. The bill makes a business engaged in the manufacturing of automobiles or automobile parts eligible for the credit if the business satisfies the following conditions:

- ? The business has manufacturing facilities in Ohio;
- ? The business employs more than 7,500 employees in full-time employment positions in Ohio at the time the business applies to enter into an agreement with the Authority for a tax credit;
- ? On or after January 1, 2002, the business has made payments for statewide capital investment projects totaling at least \$125 million in the aggregate, which payments include a minimum investment of \$10 million at one or more individual project sites, during a period of three consecutive calendar years including the calendar year that includes a day of the business' taxable year or tax period with respect to which the credit is granted;
- ? The average wage of full-time employment positions at the project site or sites at which the business invests a minimum of \$10 million is greater than 300% of the federal minimum wage; *and*
- ? The business has had its capital investment project reviewed and approved by the Authority.

Under the bill, these new conditions apply only to manufacturers of automobiles and automobile parts. Other types of businesses must satisfy the

existing job retention tax credit eligibility criteria (see "*Eligibility under current law*," above) to qualify for the credit.

Automobile and automobile parts manufacturers that qualify for the credit by virtue of satisfying the new eligibility conditions created for them in the bill are termed "eligible automotive businesses." Eligible automotive businesses are subject to different credit terms and conditions than other types of businesses.

**Calculation of an eligible automotive business' credit amount**

(R.C. 122.171(A)(12), (B)(2)(b), (B)(3), (B)(4), (E)(3), (E)(5), and (F))

Under the bill, the amount of credit awarded to a business that qualifies for the credit by virtue of being an "eligible automotive business" is a percentage of its full-time employees' Ohio income tax withholding. But, rather than the Authority determining the percentage of withholding that makes up the credit, the credit awarded to an eligible automotive business is calculated on the basis of the percentage of the "original workforce" retained by the business. (The "original workforce" is the total number of hourly wage or salaried employees employed by the eligible automotive business in full-time employment positions at the project site at the time the business applies to enter into an agreement with the Authority for a tax credit.) The percentage of the original workforce that an eligible automotive business retains at the project site during the calendar year that includes the last day of the business' taxable year or tax period with respect to which the credit is granted determines the percentage of Ohio income tax withholding that comprises the credit, as follows:

- ? If the eligible automotive business retains 90% or more of its original workforce, the business may claim a credit equal to 75% of its full-time employees' Ohio income tax withholding.
- ? If the eligible automotive business retains less than 90% but at least 75% of its original workforce, the business may claim a credit equal to 63.5% of its full-time employees' Ohio income tax withholding.
- ? If the eligible automotive business retains less than 75% but at least 50% of its original workforce, the business may claim a credit equal to 50% of its full-time employees' Ohio income tax withholding.
- ? If the eligible automotive business retains less than 50% of its original workforce, the business is not eligible for a credit.

### **Director of Development certificates**

(R.C. 122.171(E)(6) and (7))

Under continuing law, businesses that receive the job retention tax credit must file annual reports with the Director of Development describing the number of full-time employment positions subject to the credit, the amount of tax withheld from employees in those positions, the amount of the payments made for the business' capital investment project, and any other information required by the Director. Upon reviewing the reports and verifying their contents, the Director must issue a certificate to the business stating that the information in the report has been verified and identifying the amount of the credit that the business is entitled to claim. The bill specifies that the Director may not issue this certificate to an eligible automotive business for any year in which the business failed to retain at least 50% of its original workforce for each day of the calendar year that includes the last day of the business' taxable year or tax period.

### **Additional information to be included in agreements between the Authority and eligible automotive businesses**

(R.C. 122.171(E)(1))

Continuing law specifies certain information that must be included in agreements between the Authority and businesses that have been approved for a job retention tax credit. The bill specifies that, in addition to the information required under continuing law, each agreement between the Authority and an eligible automotive business must specify the size of the business' original workforce.

### **Repayment of tax credits**

(R.C. 122.171(E)(4) and (J))

Continuing law requires that a business maintain operations at its project site for at least twice the number of years as the term of the credit. Current law permits, but does not require, the Authority to terminate a tax credit agreement with a business that fails to maintain operations for twice the term of the credit. Upon termination of the agreement, the Authority may require the business to repay all or a portion of the credit. Continuing law makes the portion of the credit to be repaid contingent upon the amount of time the business maintained operations.

The bill specifies that in the case of an eligible automotive business that fails to maintain operations for at least twice the number of years as the term of the credit, the Authority *must* cancel its agreement with that business and require

repayment of all or a portion of the credit the business received. The amount to be repaid is contingent upon the amount of time the eligible automotive business maintained operations, as follows:

- If the eligible automotive business maintained operations for less than the term of the credit, an amount not to exceed the amount of tax credits the business received.
- If the eligible automotive business maintained operations longer than the term of the credit but less than 1.5 times the term, an amount not to exceed 50% of the amount of tax credits the business received.
- If the eligible automotive business maintained operations for at least 1.5 times the term of the credit but less than twice the term of the credit, an amount not to exceed 25% of the amount of tax credits the business received.

---

## **HISTORY**

<b>ACTION</b>	<b>DATE</b>
Introduced	11-15-05

h0414-i-126.doc/kl