



Ohio Legislative Service Commission

Bill Analysis

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H.B. 258

129th General Assembly
(As Introduced)

Reps. Grossman and Dovilla, Kozlowski, Slaby, Combs, Stinziano, Stebelton, Baker

BILL SUMMARY

- Allows an income tax deduction for five years for an individual who obtains a baccalaureate degree and has income tax liability in Ohio in an amount equal to the individual's compensation and net earnings from self-employment.
- Allows deferral of the baccalaureate deduction while a graduate pursues a more advanced degree.
- Allows an income tax deduction for five years for an individual who obtains journeyman status and has income tax liability in Ohio in an amount equal to the individual's compensation and net earnings from self-employment.
- Prohibits the Apprenticeship Council from adopting standards for apprenticeship ratios that are stricter than those requirements specified in the federal regulations governing apprenticeship programs.
- Prohibits the Council from adopting apprenticeship program or agreement standards that discriminate against open or merit shops unless the Council is otherwise required to do so to comply with federal regulations.
- Prohibits the Executive Secretary of the Council, when registering an apprenticeship program or agreement, from discriminating against an employer because that employer operates an open or merit shop.

CONTENT AND OPERATION

Income tax deduction for graduates

The bill authorizes an income tax deduction for an individual who graduates with a baccalaureate degree on or after the bill's effective date from a college, university, or career school in Ohio.¹ The graduate may deduct from the graduate's federal adjusted gross income an amount equal to the graduate's wages, salaries, and other employee compensation as well as any net earnings from self-employment. The graduate may choose to make the deduction beginning with the taxable year in which the graduate received a baccalaureate degree or the year after. However, if the graduate does not make a deduction in either of these years, the graduate may not make the deduction in any other year. If the graduate timely makes the initial deduction, then the graduate may continue to make the deduction for the four ensuing taxable years, for a total of five years. The graduate must retain evidence of graduation (i.e. the baccalaureate degree) for possible inspection by the Tax Commissioner until four years following the last year in which the graduate claimed the deduction. Any amount deducted is added back into the graduate's adjusted gross income for the purposes of calculating the graduate's eligibility for the continuing credit that eliminates income tax liability for a taxpayer with an adjusted gross income of \$10,000 or less.² The first year in which a deduction is allowed is a taxpayer's taxable year beginning in 2012.³ No deduction is allowed for taxable years beginning in or after 2022.⁴

Clawback

If at any time during the five years in which a deduction may be made, the graduate no longer receives Ohio taxable income for any reason other than because the graduate is pursuing an advanced degree (see "**Deferral**" below), the graduate is liable to the state for the tax reduction resulting from any deduction taken and forfeits any future deduction that would have been allowed. The liability may be collected by assessment. The amount of the assessment equals, for each taxable year that the deduction was made, the difference between the tax that would be due for that taxable

¹ R.C. 5747.01(A)(31) and 5747.82(B).

² R.C. 5747.056 (not in the bill).

³ Section 3.

⁴ R.C. 5747.82(B).

year had the deduction not been made and the tax actually paid by the graduate that year.⁵

Deferral

A graduate who is otherwise eligible for the deduction may choose to defer making a deduction for every taxable year the graduate is enrolled full time in an in-state or out-of-state college, university, or career school for the purpose of pursuing a more advanced degree. The graduate is required to retain evidence of enrollment (e.g., transcripts) for possible inspection by the Tax Commissioner until four years following the last year in which the graduate claimed the deduction.⁶

Board of Regents

The Board of Regents is required to identify Ohio institutions of higher education that would qualify a graduate for the deduction and those institutions that would entitle a graduate to defer making the deduction. The Board must forward a list of these institutions to the Tax Commissioner.⁷ The Board is authorized to publicize the deduction to colleges, universities, career schools, and the general public.⁸

Income tax deduction for journeypersons

The bill authorizes an income tax deduction for an individual who completes an apprenticeship program registered with the Ohio State Apprenticeship Council on or after the bill's effective date.⁹ The journeyperson may deduct from the journeyperson's federal adjusted gross income an amount equal to the journeyperson's wages, salaries, and other employee compensation as well as any net earnings from self-employment. The journeyperson must make the deduction beginning with the taxable year in which the journeyperson was issued a certificate of completion from the Executive Secretary of the Apprenticeship Council or the following year. If the journeyperson does not make a deduction for either of those years, the journeyperson may not make the deduction in any other year. If the journeyperson timely begins making a deduction, then the journeyperson may make the same deduction for the four taxable years following the first year in which the deduction is made, for a total of five years. The journeyperson must retain the journeyperson's certificate of completion for possible inspection by the

⁵ R.C. 5747.82(D).

⁶ R.C. 5747.82(C).

⁷ R.C. 5747.82(D).

⁸ Section 4.

⁹ R.C. 5747.01(A)(30) and 5747.81(A).

Tax Commissioner until four years following the last year in which the journey person claimed the deduction. Any amount deducted is added back into the journey person's adjusted gross income for the purposes of calculating the journey person's eligibility for the continuing credit that eliminates income tax liability for a taxpayer with an adjusted gross income of \$10,000 or less.¹⁰ The first year for which a deduction is allowed is a taxpayer's taxable year beginning in 2012.¹¹ No deduction is allowed for taxable years beginning in or after 2022.¹²

Clawback

If at any time during the five years in which a deduction may be made, the journey person no longer receives Ohio income for any reason, the journey person is liable to the state for the tax reduction resulting from any deduction taken and forfeits any future deduction that would have been allowed. The liability may be collected by assessment. The amount of the assessment equals, for each taxable year that the deduction was made, the difference between the tax that would be due for that taxable year had the deduction not been made and the tax actually paid by the graduate that year.¹³

Director of Job and Family Services

The Director of Job and Family Services is authorized to publicize the deduction to apprenticeship programs and the general public.¹⁴

Apprenticeship ratios and requirements

Background – the federal National Apprenticeship Act

The National Apprenticeship Act, also known as the Fitzgerald Act, requires the United States Secretary of Labor to do all of the following:

- (1) Formulate and promote the furtherance of labor standards necessary to safeguard the welfare of apprentices;
- (2) Extend the application of those standards by encouraging parties to include those standards in contracts of apprenticeship;

¹⁰ R.C. 5747.056 (not in the bill).

¹¹ Section 3.

¹² R.C. 5747.81(A).

¹³ R.C. 5747.81(B).

¹⁴ Section 4.

(3) Bring together employers and labor for the formulation of apprenticeship programs;

(4) Cooperate with state agencies engaged in the formulation and promotion of apprenticeship standards.¹⁵

The Secretary has adopted those regulations.¹⁶

A state with an approved state apprenticeship agency has the power to determine whether an apprenticeship program submitted by a sponsor (a person, association, committee, or organization) satisfies the requirements established by the Secretary, which are the minimum requirements for the program.¹⁷ To be an approved state apprenticeship agency, the agency must satisfy several requirements and duties, including prescribing the contents of apprenticeship agreements in accordance with the federal requirements. The agency may prescribe requirements in addition to those specified in the federal regulations.¹⁸ Additionally, notwithstanding any grant of recognition to a state apprenticeship agency under the regulations, the Office of Apprenticeship within the United States Department of Labor retains the full authority to register apprenticeship programs and apprentices in all states and territories where the Office determines that such action is necessary to further the interests of the National Apprenticeship System.¹⁹

Ohio has an approved state agency – the State Apprenticeship Council. The Ohio Apprenticeship Law specifically states that registration with the Council is voluntary.²⁰

Apprentice to journeyperson ratios

Under continuing law, the Council may establish minimum standards for apprenticeship programs and may formulate policies and issue rules as may be necessary to carry out the purpose of the Ohio Apprenticeship Law. Additionally, the Council's Executive Secretary, in addition to performing other duties specified in continuing law, is required to register any apprenticeship programs and agreements

¹⁵ 29 U.S.C. § 50.

¹⁶ 29 C.F.R. Parts 29 and 30.

¹⁷ 29 C.F.R. §§ 29.2 and 29.13.

¹⁸ 29 C.F.R. §§ 29.7 and 29.13.

¹⁹ 29 C.F.R. § 29.13(i) and (j).

²⁰ R.C. 4139.06.

that meet the minimum standards established by the Council. Under the bill, if the Council adopts minimum standards for apprenticeship programs, the Council must not impose any requirements to specify apprentice to journey person ratios that are stricter than those requirements specified in regulations adopted by the Secretary pursuant to the National Apprenticeship Act. Currently, under the Secretary's regulations, a sponsor must include in the sponsor's program a "numeric ratio of apprentices to journey workers" consistent with all of the following: proper supervision, training, safety, employment continuity, and any applicable collective bargaining agreement provisions. The ratio requirement does not apply if such a ratio is expressly prohibited by the applicable collective bargaining agreement. Under the regulations, the language concerning ratios must be specific and must clearly describe the ratio's applicability to job site, workforce, department, or plant.²¹ Under the rules adopted by the Council, if a sponsor is bound to a collective bargaining agreement, the sponsor must conform the ratio to the applicable provision in the agreement. If the sponsor is not bound to such an agreement, the sponsor must conform the ratio to either the applicable terms of the agreement or agreements affecting the pertinent occupations in the geographic area nearest to the job site or the standard formula of one journey person for the first apprentice counted at the job site at a given time, and three journey persons for each additional apprentice at the job site at that time. The Council reserves the right to deny registration to any program that utilizes a ratio that does not ensure adequate safety and supervision of the apprentices.²²

In adopting standards for apprenticeship programs, the bill prohibits the Council from prescribing requirements that discriminate against an employer that operates an open or merit shop,²³ unless the Council is required to adopt such a requirement to comply with the regulations adopted by the Secretary.²⁴ Additionally, the bill prohibits the Executive Secretary, when registering an apprenticeship program or agreement, from discriminating against an employer because that employer operates an open or merit shop.²⁵

²¹ 29 C.F.R. § 29.13(b)(7).

²² O.A.C. 5101:11-3-01.

²³ A "merit shop" is a type of "open shop." An "open shop" is a "shop in which union membership is not a condition of employment" (*Black's Law Dictionary* (7th Ed. Rev. 1999) 1384). A "merit shop" is an open shop that generally sets an employee's wages based on the employee's performance (see Associated Builders and Contractors, "ABC and the Merit Shop Philosophy," available at http://www.abc.org/About_ABC/ABC_and_the_Merit_Philosophy.aspx (visited October 20, 2009)).

²⁴ R.C. 4139.03.

²⁵ R.C. 4139.05(B).

HISTORY

ACTION

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