



Ohio Legislative Service Commission

Bill Analysis

Mackenzie Damon

S.B. 58

129th General Assembly
(As Introduced)

Sen. Tavares

BILL SUMMARY

- Allows a credit against the corporate franchise and personal income taxes for employers who hire ex-felons.

CONTENT AND OPERATION

Tax credit for hiring ex-felons

Credit eligibility and amount

The bill allows a credit against the corporate franchise or personal income tax for employers who hire "qualified reforming felons." The corporation franchise tax is owed by financial institutions and certain other financial services corporations; the income tax is imposed on sole proprietors and individuals, estates, and trusts that own partnerships or other "pass-through entities" that are not taxed as an entity.

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 state or federal statute;
- (2) The employee was hired within one year after the conviction or one year after being released from prison; 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.¹ Under the bill, the employee's "family" includes the employee, the employee's spouse, and any children.²

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.³ 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 for the employer, the credit equals 40% of the wages paid to the employee or \$2,400, whichever is less. If the qualified reforming felon worked for the employer 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 for the employer 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 all 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 for the employer more than 120 hours per year, the employer may claim the credit.

An employer may claim the credit for tax years or taxable years beginning in 2011 or thereafter.⁴

¹ The Bureau of Labor Statistics calculates the 70% lower living standard income level every year for different regions of the United States. In 2010, the 70% lower living standard for a family of four living in a metropolitan area in the Midwest was \$23,913.

² R.C. 5733.421(A) and 5747.391(A).

³ 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). Accordingly, this remuneration is excluded from the term "wages" as used in the bill.

⁴ R.C. 5733.421(B) and 5747.391(B).

Credit carry-forward

The credit may not exceed the taxpayer's annual tax liability. The excess, however, may be carried forward for up to five years.⁵

Federal payments for on-the-job training

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.⁶

Provisions regarding termination and strike replacements

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.⁷

⁵ R.C. 5733.421(B)(1) and 5747.391(B)(1).

⁶ R.C. 5733.421(B)(2) and 5747.391(B)(2).

⁷ R.C. 5733.421(B)(3) and (4) and 5747.391(B)(3) and (4).

Information supplied by employers to the Tax 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).⁸

HISTORY

ACTION	DATE
Introduced	02-01-11

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⁸ R.C. 5733.421(C) and 5747.391(C).

