HOUSE BILL No. 1428

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-34.

Synopsis: Tax credit for hiring unemployed persons. Provides a nonrefundable $750 tax credit per employee to a taxpayer that hires an employee that has drawn unemployment funds in Indiana for at least the three previous months if the taxpayer employs the individual for at least 180 days during the taxable year. Provides that the credit is available only in years that the state unemployment rate is above 7.5 % sometime during that calendar year. Provides that the credit is reduced by any economic development for a growing economy tax credits attributable to the same employee, any Hoosier business investment tax credits attributable to the same employee, or the amount of federal or state training grants used in the taxable year to train the employee. Provides that the taxpayer may carry any excess credit over to not more than three subsequent taxable years.

Effective: July 1, 2011.

Ellspermann, Davisson

January 18, 2011, read first time and referred to Committee on Employment, Labor and Pensions.

Introduced

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

HOUSE BILL No. 1428

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOW [EFFECTIVE JULY 1, 2011]:

Chapter 34. Employment Tax Credit

Sec. 1. As used in this chapter, "department" refers to the department of state revenue or the department of insurance, whichever is obligated to administer the tax against which a tax credit is applied.

Sec. 2. As used in this chapter, "full-time employee" means an individual who:

(1) is employed for consideration for at least thirty-five (35) hours each week or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment; and

(2) earns income for service described in subdivision (1) that is subject to withholding under IC 6-3 (before the application of any earned income tax credit) in an amount that is the

equivalent of at least two hundred percent (200%) of the federal hourly minimum wage in effect during the week of employment.

Sec. 3. As used in this chapter, "qualified new employee" refers to a full-time employee described in section 12 of this chapter.

Sec. 4. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(2) IC 27-1-18-2 (the insurance premiums tax); and

(3) IC 6-5.5 (the financial institutions tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 5. As used in this chapter, "tax credit" refers to a tax credit granted by this chapter against state tax liability.

Sec. 6. As used in this chapter, "taxpayer" means an individual or entity that has state tax liability.

Sec. 7. If the state unemployment rate is at least seven and five-tenths percent (7.5%) during any part of a calendar year, as determined by the department of workforce development, a taxpayer that employs a qualified new employee in Indiana in a taxable year that ends in that calendar year is eligible for a tax credit against the state tax liability imposed against the taxpayer for the taxable year.

Sec. 8. The amount of the tax credit to which a taxpayer is entitled in a taxable year is equal to seven hundred fifty dollars ($750) multiplied by the number of qualified new employees that the taxpayer employed in Indiana during the taxable year.

Sec. 9. (a) If the amount of a tax credit to which a taxpayer is entitled in a taxable year exceeds the taxpayer's tax liability for that taxable year, the taxpayer may carry the excess over to not more than three (3) subsequent taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

Sec. 10. If a taxpayer is a pass through entity that does not have state tax liability against which a tax credit may be applied, a shareholder, partner, fiduciary, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit that the pass through entity would be

entitled to for the taxable year if the pass through entity were a taxpayer; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, fiduciary, or member is entitled.

Sec. 11. To receive a tax credit, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall maintain the records required by the department for the period specified by the department to substantiate the taxpayer's eligibility for a tax credit.

Sec. 12. To be a qualified new employee in a particular taxable year, an individual must meet all of the following criteria:

(1) Have been initially hired into a position as a full-time employee by the taxpayer for the first time after June 30, 2011.

(2) Be, at the time the taxpayer initially employs the individual, an individual who has received state or federal unemployment insurance benefits for the three (3) months immediately preceding the date the individual was hired or has exhausted the individual's eligibility for state or federal unemployment insurance benefits since last becoming unemployed.

(3) Be employed by the taxpayer for at least one hundred eighty (180) days during the taxable year.

(4) Is not an individual who was employed by a related member (as defined in IC 6-3.1-13-8) of the taxpayer (or another business entity that would be a related member (as defined in IC 6-3.1-13-8) if the other entity were a corporation) within twelve (12) months of being initially employed by the taxpayer.

(5) Is not a child, grandchild, parent, or spouse (other than a spouse who is legally separated from the individual) of any individual who is an employee of the taxpayer or who has a direct or an indirect ownership interest of at least five percent (5%) in the profits, capital, or value of the taxpayer or a related member (as defined in IC 6-3.1-13-8) of the taxpayer (or another business entity that would be a related member (as defined in IC 6-3.1-13-8) if the other entity were a corporation). An ownership interest shall be determined in accordance with Section 1563 of the Internal Revenue Code and regulations prescribed under Section 1563 of the Internal

Revenue Code.

Sec. 13. The tax credit to which a taxpayer would otherwise be entitled under this chapter in a taxable year is reduced by the sum of the following tax credits received for the same qualified new employee:

(1) The economic development for a growing economy tax credits (IC 6-3.1-13) allowable to the taxpayer in a taxable year and attributable to the same employee for which a tax credit would otherwise be granted under this chapter.

(2) The Hoosier business investment tax credits (IC 6-3.1-26) allowable to the taxpayer in a taxable year and attributable to the same employee for which a tax credit would otherwise be granted under this chapter.

(3) The amount of federal or state training grants used in the taxable year to train an employee for which a tax credit would otherwise be granted under this chapter.

Sec. 14. A taxpayer shall use the method prescribed by the department to determine the number of qualified new employees that the taxpayer employed during a taxable year.

Sec. 15. The department may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this chapter.