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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1984

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ENROLLED

SENATE BILL NO. 311

(By Mr. Longwell & Mrs. Spears)

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PASSED March 10, 1984

In Effect July 1, 1984 ~~Passage~~



ENROLLED
Senate Bill No. 311

(BY MRS. SPEARS AND MR. TONKOVICH)

[Passed March 10, 1984; to take effect July 1, 1984.]

AN ACT to amend article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section forty-two; to amend article twenty-four of said chapter by adding thereto a new section, designated section twelve; and to amend chapter twenty-one-a of said code by adding thereto a new article, designated article two-a, all relating to the establishment of an economically disadvantaged veterans incentive program; the intent and purpose of the Legislature; definitions; providing a tax credit for employers who employ certain veterans for a certain period of time; specifying the nature and amount of the tax credit; setting forth restrictions and limitations on eligibility for the tax credit; providing for program administration by the division of employment service of the department of employment security; providing for the tax credit to be applied to either personal income or corporate net income tax liability; and requiring the state tax commissioner to provide by rule or regulation for the filing of claims for the tax credit established herein.

Be it enacted by the Legislature of West Virginia:

That article twenty-one, chapter eleven of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section forty-two; that article twenty-four of said chapter be

amended by adding thereto a new section, designated section twelve; and that chapter twenty-one-a of said code be amended by adding thereto a new article, designated article two-a, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-42. Veterans incentive tax credit.

1 Every employer entitled to receive a tax credit against
2 his West Virginia personal income tax liability as pro-
3 vided in article two-a, chapter twenty-one-a of this code
4 shall receive the credit for the period and in the amount
5 specified in said article two-a. The state tax commis-
6 sioner shall provide by appropriate rule or regulation for
7 the reporting, filing and application of claims of the tax
8 credit provided for in a manner in conformity with the
9 legislative purpose as declared in section two, article
10 two-a, chapter twenty-one-a of this code.

ARTICLE 24. CORPORATION NET INCOME TAX.

§11-24-12. Veterans incentive tax credit.

1 Every employer entitled to receive a tax credit against
2 its West Virginia corporate net income tax liability as
3 provided in article two-a, chapter twenty-one-a of this
4 code, shall receive the credit for the period and in the
5 amount specified in said article two-a of this chapter.
6 The state tax commissioner shall provide by appropriate
7 rule or regulation for the reporting, filing and application
8 of claims for the tax credit provided for in a manner in
9 conformity with the legislative purpose as declared in
10 section two, article two-a, chapter twenty-one-a of this
11 code.

CHAPTER 21A. UNEMPLOYMENT COMPENSATION.

ARTICLE 2A. VETERANS INCENTIVE PROGRAM.

§21A-2A-1. Short title.

1 This article shall be known and may be cited as the
2 "Veterans Incentive Program Act of 1984."

§21A-2A-2. Declaration of legislative intent and purpose.

1 The Legislature of West Virginia hereby recognizes
2 that disabled veterans and economically disadvantaged
3 veterans of the Vietnam era and of the Korean conflict
4 have made sacrifices which merit preferential employ-
5 ment treatment in both the public and private sectors.
6 Economically disadvantaged and disabled veterans tradi-
7 tionally suffer a disproportionately higher unemployment
8 rate than that of nonveterans of similar age and skills.
9 It is the intent and purpose of the Legislature to en-
10 courage the employment of these veterans in the private
11 sector by providing tax credits for private sector em-
12 ployers who employ economically disadvantaged Vietnam
13 era and Korean conflict veterans, and disabled veterans
14 generally.

§21A-2A-3. Definitions.

1 For the purposes of this article:

2 (a) "Active duty" means full-time duty in the armed
3 forces, other than duty for training in the reserves or
4 national guard. Any period of duty for training in the
5 reserves or national guard, including authorized travel,
6 during which an individual was disabled from a disease
7 or injury incurred or aggravated in line of duty, is con-
8 sidered "active duty."

9 (b) "Economically disadvantaged" means a person
10 who:

11 (1) Receives, or is a member of a family which receives,
12 cash welfare payments under a federal, state or local
13 welfare program;

14 (2) Has, or is a member of a family which has, received
15 a total family income for the six months prior to applica-
16 tion which, in relation to family size, was not in excess
17 of the higher of

18 (i) The poverty level determined in accordance with
19 criteria established by the federal office of management
20 and budget; or

21 (ii) Seventy percent of the lower living standard income
22 level;

23 (3) Is receiving food stamps pursuant to the food
24 stamp act of one thousand nine hundred seventy-seven;

25 (4) Is a foster child on behalf of whom state or local
26 government payments are made; or

27 (5) Is an adult handicapped individual whose own
28 income meets the requirements of subdivisions (1) and
29 (2) of this section, but who is a member of a family
30 whose income does not meet such requirements.

31 (c) "Korean conflict veteran" means a person who
32 served in the armed services of the United States at
33 least one day during the period of time beginning the
34 twenty-seventh day of June, one thousand nine hundred
35 fifty, and extending through the thirty-first day of Jan-
36 uary, one thousand nine hundred fifty-five.

37 (d) "Veteran" means a member of the United States
38 armed forces who:

39 (1) Served on active duty for a period of more than
40 one hundred eighty days and was discharged or released
41 therefrom with other than a dishonorable discharge; or

42 (2) Was discharged or released from active duty be-
43 cause of a service-connected disability.

44 (e) "Vietnam era veteran" means a person who served
45 in the armed services of the United States at least one
46 day during the period of time beginning the fifth day of
47 August, one thousand nine hundred sixty-four, and ex-
48 tending through the seventh day of May, one thousand
49 nine hundred seventy-five.

§21A-2A-4. Tax credit; eligibility; amount.

1 (a) Each person, partnership or corporation which
2 employs an economically disadvantaged Vietnam era
3 or Korean conflict veteran, or a disabled veteran for a
4 continuous period of one year, except as otherwise pro-
5 vided in this article, shall be entitled to an appropriate
6 tax credit for each such veteran so employed. In the case
7 of a person or partnership so employing a veteran, the
8 tax credit provided for in this section shall be applied
9 against the employer's personal income tax liability. In
10 the case of a corporation so employing a veteran, the tax

11 credit provided for in this section shall be applied against
12 the corporation's corporate net income tax liability. This
13 tax credit shall be nonassignable and may not exceed
14 an employer's total tax liability with respect to the specific
15 tax against which the tax credit is required to be applied.

16 (b) The amount of the tax credit allowed under sub-
17 section (a) of this section shall be an amount equal to
18 the following:

19 (1) For each economically disadvantaged Vietnam
20 era or Korean conflict veteran employed as described in
21 subsection (a), the amount of the tax credit allowed
22 shall be thirty percent of the employee's wage base. For
23 the purposes of this section, the employee's wage base
24 is the first two thousand dollars in wages or compensa-
25 tion actually paid to the employee by the employer; and

26 (2) For each disabled veteran employed as described
27 in subsection (a), the amount of the tax credit allowed
28 shall be a percentage equal to the percentage of dis-
29 ability suffered by the veteran multiplied by the em-
30 ployee's wage base. The employee's wage base is the
31 same as provided in subdivision (1) of this subsection.
32 The percentage of disability referred to in this subdivi-
33 sion means the percentage of compensation for service
34 connected disability as determined by the veterans ad-
35 ministration of the United States.

§21A-2A-5. Restrictions and limitations regarding tax credit.

1 (a) An employer may not claim a tax credit provided
2 for in this article for any veteran employed for less than
3 a continuous period of one year, unless:

4 (1) The veteran voluntarily leaves employment with
5 the employer;

6 (2) The veteran becomes totally disabled and unable
7 to continue his employment; or

8 (3) The veteran is terminated for good cause shown.

9 In the event that the veteran is employed for less
10 than a one-continuous-year period due to circumstances
11 enumerated in subdivision (1), (2) or (3) above, the
12 employer shall be entitled to a partial tax credit in a

13 proportional amount corresponding to the ratio of the
14 time period during which the veteran was actually em-
15 ployed to the one-year period required for a full tax
16 credit multiplied by the amount of the full tax which
17 would have accrued to the employer had the veteran's
18 employment continued for a full year.

19 (b) An employer may not claim tax credit provided
20 for in this article for any veteran who is employed and
21 displaces a person already employed. In addition, no
22 tax credit may be claimed for the employment of any
23 veteran for whom the employer is receiving job train-
24 ing payments from either the federal or state govern-
25 ment. Nothing in this section prohibits an employer
26 from receiving tax credits from both the federal and
27 state governments under similar targeted jobs programs
28 if the employer is otherwise qualified to receive both.

§21A-2A-6. Program administration.

1 The program established by this article shall be con-
2 ducted primarily under the direction of the division of
3 employment service of the department of employment
4 security. Each veteran who qualifies under this article
5 for participation in this program shall be given, upon
6 request, a voucher from a local employment service
7 office certifying that the veteran is eligible for partici-
8 pation in the program described in this article. The
9 voucher shall be in a form prescribed by the commis-
10 sioner of employment security and the commissioner
11 may conduct such investigations and collect such data
12 as he deems necessary to ensure that each veteran apply-
13 ing for the voucher is actually qualified for participation
14 in the program.

15 When an employer employs a veteran who presents the
16 voucher herein provided for, the employer shall submit
17 the voucher along with basic information to the depart-
18 ment of employment security as may be required for
19 participation in this program. Each year, the commis-
20 sioner of the department of employment security shall
21 certify to the state tax commissioner a list of employers
22 who may be qualified to receive a tax credit under this

23 program. In order to receive the appropriate tax credit,
24 an employer must file for the tax credit provided for
25 under this article as required by section forty-two, article
26 twenty-one, chapter eleven of this code or by section
27 twelve, article twenty-four, chapter eleven of this code.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Donald Anello
Chairman House Committee

Originated in the Senate.

In effect July 1, 1984.

Todd C. Wallis
Clerk of the Senate

Donald L. Joffe
Clerk of the House of Delegates

Waverly R. Upshaw
President of the Senate

W. M. Lee Jr.
Speaker House of Delegates

The within I approved this the 29
day of March, 1984.

John R. DeLoach
Governor

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