CHAPTER 216

TAXATION

HOUSE BILL 14-1014

BY REPRESENTATIVE(S) DelGrosso and Kraft-Tharp, Becker, Duran, Exum, Fields, Garcia, Ginal, Hamner, Kagan, Lebsock, May, McCann, Melton, Mitsch Bush, Moreno, Pabon, Pettersen, Rosenthal, Ryden, Salazar, Schafer, Tyler, Vigil, Williams, Young, Buckner, Hullinghorst, Primavera;
also SENATOR(S) Heath and Scheffel, Crowder, Kefalas, Newell, Schwartz, Todd.

AN ACT

CONCERNING MODIFICATIONS TO THE JOB GROWTH INCENTIVE TAX CREDIT, AND, IN CONNECTION THEREWITH, REDUCING AN APPROPRIATION.

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

SECTION 1. In Colorado Revised Statutes, 39-22-531, **amend** (1) (d), (2), (3) (a) (I), (3) (a) (III), (3) (b) (III), and (13); and **add** (3) (b) (IV) as follows:

39-22-531. Colorado job growth incentive tax credit - rules - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(d) (I) FOR INCOME TAX YEARS COMMENCING BEFORE JANUARY 1, 2014, "credit period" means a period not to exceed sixty consecutive months from the first month of the initial tax year in which a credit allowed pursuant to this section is first claimed, for which a taxpayer may claim a credit that is calculated annually by the commission.

(II) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, "CREDIT PERIOD" MEANS A PERIOD NOT TO EXCEED NINETY-SIX CONSECUTIVE MONTHS FROM THE FIRST MONTH OF THE INITIAL TAX YEAR IN WHICH A CREDIT ALLOWED PURSUANT TO THIS SECTION IS FIRST CLAIMED, FOR WHICH A TAXPAYER MAY CLAIM A CREDIT THAT IS CALCULATED ANNUALLY BY THE COMMISSION.

(2) For income tax years commencing on or after January 1, 2009, but prior to ~~January 1, 2020~~ JANUARY 1, 2027, at the discretion of the commission as specified in subsection (3) of this section, there may be allowed to any taxpayer an annual job growth incentive tax credit with respect to the income taxes imposed by this article

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Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

that a taxpayer may claim for a credit period in an amount determined by the commission pursuant to subsection (5) of this section.

(3) The commission may approve any job growth incentive tax credits allowed pursuant to subsection (2) of this section subject to the following:

(a) During a credit period a project shall:

(I) (A) FOR INCOME TAX YEARS COMMENCING BEFORE JANUARY 1, 2014, except as provided in sub-subparagraph (B) of this subparagraph (I), bring a net job growth of at least twenty new jobs to the state with an average yearly wage of at least one hundred ten percent of the average yearly wage of the county in which the taxpayer is located, AND FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (I), BRING A NET JOB GROWTH OF AT LEAST TWENTY NEW JOBS TO THE STATE WITH AN AVERAGE YEARLY WAGE OF AT LEAST ONE HUNDRED PERCENT OF THE AVERAGE YEARLY WAGE OF THE COUNTY IN WHICH THE TAXPAYER IS LOCATED.

(B) FOR INCOME TAX YEARS COMMENCING BEFORE JANUARY 1, 2014, if the project will be located in a designated enhanced rural enterprise zone as such zone is described in section 39-30-103.2 (1) and the local community of the designated enhanced rural enterprise zone provides rationale to the commission outlining the project's economic importance to the community, the project shall, during a credit period, bring a net job growth of at least five new jobs to the state with an average yearly wage of at least one hundred ten percent of the average yearly wage of the enhanced rural enterprise zone in which the taxpayer is located. FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, IF THE PROJECT WILL BE LOCATED IN A DESIGNATED ENHANCED RURAL ENTERPRISE ZONE AS SUCH ZONE IS DESCRIBED IN SECTION 39-30-103.2 (1) AND THE LOCAL COMMUNITY OF THE DESIGNATED ENHANCED RURAL ENTERPRISE ZONE PROVIDES RATIONALE TO THE COMMISSION OUTLINING THE PROJECT'S ECONOMIC IMPORTANCE TO THE COMMUNITY, THE PROJECT SHALL, DURING A CREDIT PERIOD, BRING A NET JOB GROWTH OF AT LEAST FIVE NEW JOBS TO THE STATE WITH AN AVERAGE YEARLY WAGE OF AT LEAST ONE HUNDRED PERCENT OF THE AVERAGE YEARLY WAGE OF THE ENHANCED RURAL ENTERPRISE ZONE IN WHICH THE TAXPAYER IS LOCATED.

(III) (A) FOR INCOME TAX YEARS COMMENCING BEFORE JANUARY 1, 2014, be approved by the commission only if the project would not occur but for the credit allowed in this section.

(B) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, BE APPROVED BY THE COMMISSION ONLY IF THE CREDIT ALLOWED IN THIS SECTION IS A MAJOR FACTOR IN THE DECISION TO LOCATE OR RETAIN THE PROJECT IN COLORADO.

(b) A taxpayer shall submit a complete written application for a credit allowed in this section to the commission before the project commences in the state. The application shall include:

(III) FOR INCOME TAX YEARS COMMENCING BEFORE JANUARY 1, 2014, documentation to demonstrate that without the credit allowed in this section, the project would not occur in this state. Such documentation shall include information that indicates that:

(A) The taxpayer could reasonably and efficiently locate the project outside of this state;

(B) At least one other state is being considered for the project;

(C) Receipt of the credit allowed in this section is a major factor in the taxpayer's decision; and

(D) Without the credit allowed in this section, the taxpayer is not likely to commence the project in the state.

(IV) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY 1, 2014, DOCUMENTATION TO DEMONSTRATE THAT THE CREDIT ALLOWED IN THIS SECTION IS A MAJOR FACTOR IN THE DECISION TO LOCATE THE PROJECT IN COLORADO. SUCH DOCUMENTATION SHALL INCLUDE INFORMATION THAT INDICATES THAT:

(A) THE TAXPAYER COULD REASONABLY AND EFFICIENTLY LOCATE THE PROJECT OUTSIDE OF THIS STATE;

(B) AT LEAST ONE OTHER STATE IS BEING CONSIDERED FOR THE PROJECT;

(C) RECEIPT OF THE CREDIT ALLOWED IN THIS SECTION IS A MAJOR FACTOR IN THE TAXPAYER'S DECISION; AND

(D) WITHOUT THE CREDIT ALLOWED IN THIS SECTION, THE TAXPAYER HAS A REDUCED PROBABILITY OF COMMENCING THE PROJECT IN THE STATE.

(13) This section is repealed, effective ~~January 1, 2030~~ JANUARY 1, 2031.

SECTION 2. Appropriation - adjustments to 2014 long bill. (1) For the implementation of this act, the general fund appropriation made in the annual general appropriation act to the controlled maintenance trust fund created in section 24-75-302.5 (2) (a), Colorado Revised Statutes, for the fiscal year beginning July 1, 2014, is decreased by $23,226.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 16, 2014