



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Sam Benham

H.B. 173

132nd General Assembly
(As Introduced)

Reps. LaTourette and Patton, Carfagna, Scherer, Young

BILL SUMMARY

- Allows employers that apply for a job creation tax credit (JCTC) to count compensation paid to certain "work-from-home" employees for the purposes of qualifying for and complying with the terms of the JCTC agreement.
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CONTENT AND OPERATION

Job creation tax credit: work-from-home employees

The bill allows employers that apply for a JCTC after the bill's effective date to count compensation paid to certain "work-from-home" employees for the purposes of qualifying for and complying with the terms of the JCTC agreement.¹

Under continuing law, the Tax Credit Authority is authorized to enter into JCTC agreements with employers to foster job creation and capital investment in the state. The amount of the credit equals an agreed-upon percentage of the amount by which the employer's "Ohio employee payroll," i.e., the compensation paid by the employer and used in computing the employer's tax withholding obligations, exceeds the employer's "baseline payroll," i.e., Ohio employee payroll for the 12 months preceding the JCTC agreement. The credit may be claimed against the commercial activity tax, financial institutions tax, petroleum activity tax, domestic or foreign insurance company premiums taxes, or personal income tax. If the amount of the credit exceeds the tax otherwise due, the excess is refundable.

Current law and rules governing the JCTC generally require an employee to be employed at a project site for the employee's payroll to qualify as Ohio employee

¹ R.C. 122.17; Section 3.

payroll and additionally require that a credit-eligible project employ at least ten full-time equivalent employees (FTE) at a project location.² However, continuing law does allow an employer to receive a JCTC based on "home-based employees," but special conditions and reporting requirements apply. For example, all of the employees must reside in Ohio and be paid at least 130% of the federal minimum wage. Furthermore, the JCTC agreement must not include any employees who work at the project location and must expire before 2019.³

Under the bill, a new category of "work-from-home" employees is created. They are treated the same as employees who work at the project location, i.e., they may be used to determine whether an employer meets the ten FTE employee eligibility threshold and their payroll may be used as a basis for calculating the credit, as long as the work-from-home employees reside in Ohio and are supervised from the project location.⁴ The bill also specifies that the movement of a work-from-home employee to another residence or the migration of their work duties to the project location does not trigger a provision under continuing law that requires employers subject to a JCTC agreement to notify an impacted county, township, or municipal corporation before relocating a substantial number of employment positions.⁵

HISTORY

| ACTION | DATE |
|------------|----------|
| Introduced | 04-05-17 |

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² R.C. 122.17(A)(3), Ohio Administrative Code (O.A.C.) 122:7-1-05.

³ R.C. 122.17(A)(5), (C)(1), and (D)(2)(b).

⁴ R.C. 122.17(A), (C), and (I).

⁵ R.C. 122.17(D)(8).

