An Act To Encourage Job Growth in the Forest Products Sector through Tax Incentives

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on January 10, 2022. Referred to the Committee on Taxation pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Presented by Representative EVANS of Dover-Foxcroft.
Cosponsored by President JACKSON of Aroostook and Representatives: COLLINGS of Portland, Speaker FECTEAU of Biddeford, McCREA of Fort Fairfield, PERRY of Calais.
Be it enacted by the People of the State of Maine as follows:

Sec. 1. 36 MRSA §6753, sub-§8-A is enacted to read:

8-A. Forest products business. "Forest products business" means a business engaged commercially in:

A. Timber harvesting, as defined in Title 12, section 8868, subsection 4;
B. The delivery of raw materials to a wood products facility;
C. Activities that are dependent on the production of wood fiber;
D. The processing of trees as a renewable resource for wood or biomass or for direct timber sales;
E. The production of trees for ornamental plantings or woody material for composite products or for use as a combustion energy source; or
F. Other timber harvesting activities such as the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting, including, but not limited to, the mining of gravel used for the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting.

Sec. 2. 36 MRSA §6753, sub-§11, as amended by PL 2001, c. 157, §1, is further amended to read:

11. Qualified business. "Qualified business" means any for-profit business in this State, other than a public utility as defined by Title 35-A, section 102, that adds 5 or more qualified employees above its base level of employment in this State within any 2-year period commencing on or after January 1, 1996, or, in the case of a forest products business, adds one or more qualified employees above its base level of employment in this State within a one-year period commencing on or after January 1, 2023, and that meets one of the following criteria:

A. The business is not engaged in retail operations;
B. The business is engaged in retail operations but less than 50% of its total annual revenues from Maine-based operations are derived from sales taxable in this State; or
C. The business is engaged in retail operations and can demonstrate to the commissioner by a preponderance of the evidence that any increased sales will not include sales tax revenues derived from a transferring or shifting of retail sales from other businesses in this State; or
D. The business is a forest products business.

For purposes of this subsection, "retail operations" means sales of consumer goods for household use to consumers who personally visit the business location to purchase the goods.

Sec. 3. 36 MRSA §6753, sub-§12, as amended by PL 2015, c. 368, §5, is repealed and the following enacted in its place:

12. Qualified employee. Except as provided in paragraph A or B, "qualified employee" means a new, full-time employee hired in this State by a qualified business for
whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Chapter 18 and group health insurance are provided and whose income derived from employment with the applicant, calculated on a calendar year basis, is greater than the most recent annual per capita personal income in the county in which the qualified employee is employed, as long as Maine income tax withholding attributed to the qualified employee is subject to reimbursement to the qualified business under this chapter.

A. For an employee in a call center in Aroostook County or Washington County, "qualified employee" means a new, full-time employee hired in this State by a qualified business for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Chapter 18 and group health insurance are provided and whose income derived from employment with the applicant, calculated on a weekly basis, is greater than the average weekly wage for the most recent available calendar year as derived from the quarterly census of employment and wages and provided annually by the Department of Labor, as long as Maine income tax withholding attributed to the qualified employee is subject to reimbursement to the qualified business under this chapter. The calculation of the average weekly wage must include data from the counties of Androscoggin, Aroostook, Franklin, Hancock, Kennebec, Knox, Lincoln, Oxford, Penobscot, Piscataquis, Sagadahoc, Somerset, Waldo and Washington. With respect to a call center in Aroostook County or Washington County, in a county in which the average annual unemployment rate at the time of certification for the most recent calendar year is greater than the state average for the same year, the wage threshold is 90% of the average weekly wage as derived from the quarterly census of employment and wages. With respect to a call center in Aroostook County or Washington County and upon approval of the commissioner, a qualified business located in a county in which the average annual unemployment rate at the time of certification for the most recent calendar year is greater than the state average for that same year qualifies for a phase-in of salary threshold requirements. Except for a call center in Aroostook County or Washington County as otherwise provided in this paragraph, a qualified business under this provision must meet 70% of the average weekly wage as derived from the quarterly census of employment and wages in the first year of certification, 80% of the average weekly wage as derived from the quarterly census of employment and wages in the 2nd year of certification and 90% of the average weekly wage as derived from the quarterly census of employment and wages in all following years of certification. Failure to meet any of these requirements results in automatic revocation of certification.

B. For an employee employed by a qualified business that is a forest products business, "qualified employee" means a new employee hired in this State by the qualified business who is employed for at least 900 hours in a calendar year by the qualified business and for whom a retirement program subject to the Employee Retirement Income Security Act of 1974, 29 United States Code, Chapter 18 and group health insurance are provided and whose income derived from employment with the applicant, calculated on a calendar year basis, is greater than the most recent annual per capita personal income in the county in which the qualified employee is employed, as long as Maine income tax withholding attributed to the qualified employee is subject to reimbursement to the qualified business under this chapter.
"Qualified employee" does not include an employee who is shifted to a qualified business from an affiliated business. The commissioner shall determine whether a shifting of employees has occurred.

Sec. 4. 36 MRSA §6754, sub-§1, ¶E is enacted to read:

E. For a qualified business that is a forest products business in this State, notwithstanding any provision of this chapter to the contrary, the reimbursement is equal to:

(1) Up to 160 hours of the labor costs for both the qualified employee and another employee of the qualified business who is training that qualified employee;

(2) The cost of training and equipment, other than the cost of labor, required to train a qualified employee; and

(3) A percentage of the amount of Maine income tax withheld for a qualified employee as follows:

(a) For the first calendar year of employment, 80%;

(b) For the 2nd calendar year of employment, 70%; and

(c) For the 3rd calendar year of employment, 60%.

For purposes of this paragraph, an employee who meets the definition of "qualified employee" but for the failure to work at least 900 hours in the calendar year of that employee's first year of employment with a qualified business that is a forest products business is deemed to complete that employee's first year of employment on December 31st of the calendar year following the hire of that employee and a qualified employer may obtain reimbursement for the costs incurred pursuant to subparagraphs (1) and (2) and subparagraph (3), division (a) as long as that employee is a qualified employee.

SUMMARY

This bill amends the Maine Employment Tax Increment Financing Act to allow employers engaged in the forest products business, which includes timber harvesting and the processing of trees as a renewable resource for wood or biomass, that otherwise would not meet the minimum requirements for participation, which include adding 5 new full-time employees, to be eligible for reimbursement of certain training and other costs.

This bill allows a qualified forest products business that adds at least one new employee who works a minimum of 900 hours in a calendar year to be eligible for reimbursement for:

1. Up to 160 hours of the labor costs for both the new employee and the person training that employee;

2. The cost of training and equipment, other than the cost of labor, necessary to train that new employee; and

3. A percentage of Maine income tax withheld for a new employee in the first 3 years of employment as follows:

A. For the first calendar year of employment, 80%;

B. For the 2nd calendar year of employment, 70%; and
C. For the 3rd calendar year of employment, 60%.

If a new employee does not work at least 900 hours in the first calendar year of employment, the partial first year of employment and the calendar year following that employee's start is considered the first year of employment for purposes of determining the percentage of reimbursement as long as that employee meets the requirements during the first full year of employment. Additionally, the costs of training incurred by the employer and the amount equal to the tax withheld for that new employee during that partial calendar year of employment may be claimed by the employer in the calendar year following the employee's start, as long as that employee meets all the requirements for qualification, including working at least 900 hours.