



127th MAINE LEGISLATURE

FIRST REGULAR SESSION-2015

Legislative Document

No. 1287

S.P. 462

In Senate, April 9, 2015

An Act To Ensure That Tax Expenditures Create High-quality Jobs

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator JOHNSON of Lincoln.
Cosponsored by Representative GOODE of Bangor and
Senators: BREEN of Cumberland, DAVIS of Piscataquis, LIBBY of Androscoggin, PATRICK
of Oxford, VALENTINO of York.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 36 MRSA §5216-B, sub-§6** is enacted to read:

3 **6. Employment requirements.** An investor who receives a credit under this section
4 shall comply with section 5219-NN.

5 **Sec. 2. 36 MRSA §5219-W, sub-§6** is enacted to read:

6 **6. Employment requirements.** A taxpayer who receives a credit under this section
7 shall comply with section 5219-NN.

8 **Sec. 3. 36 MRSA §5219-HH, sub-§7, ¶¶B and C,** as enacted by PL 2011, c.
9 548, §33 and affected by §35, are amended to read:

10 B. The qualified community development entity redeems or makes a principal
11 repayment with respect to the qualified equity investment that generated the tax credit
12 prior to the final credit allowance date of the qualified equity investment. In such a
13 case, the recapture must be proportionate to the amount of the redemption or
14 repayment with respect to the qualified equity investment; ~~or~~

15 C. The qualified community development entity fails to invest at least 85% of the
16 purchase price of the qualified equity investment in qualified low-income community
17 investments in qualified active low-income community businesses located in the
18 State within 24 months of the issuance of the qualified equity investment and
19 maintain this level of investment in qualified low-income community investments in
20 qualified active low-income community businesses located in the State until the last
21 credit allowance date for the qualified equity investment. For purposes of calculating
22 the amount of qualified low-income community investments held by a qualified
23 community development entity, an investment is considered held by the qualified
24 community development entity even if the investment has been sold or repaid as long
25 as the qualified community development entity reinvests an amount equal to the
26 capital returned to or recovered from the original investment, exclusive of any profits
27 realized, in another qualified active low-income community business in this State
28 within 12 months of the receipt of the capital. A qualified community development
29 entity may not be required to reinvest capital returned from qualified low-income
30 community investments after the 6th anniversary of the issuance of the qualified
31 equity investment, the proceeds of which were used to make the qualified low-
32 income community investment, and the qualified low-income community investment
33 is considered to be held by the issuer through the qualified equity investment's final
34 credit allowance date; ~~or~~

35 **Sec. 4. 36 MRSA §5219-HH, sub-§7, ¶D** is enacted to read:

36 **D.** The qualified community development entity fails to comply with section
37 5219-NN.

38 **Sec. 5. 36 MRSA §5219-NN** is enacted to read:

1 **§5219-NN. Employment requirements for certain tax credit programs**

2 **1. Employment requirements.** Beginning January 1, 2016, in order to receive a
3 credit or reimbursement of tax under section 5216-B, section 5219-W, section 5219-HH
4 or chapter 917, a person must certify to the bureau that within 90 days of receiving the
5 credit or reimbursement the person will:

6 A. If the receipt of the credit or reimbursement is not subject to the requirement that
7 the person provide matching funds, ensure that the combined amount of salaries and
8 benefits for the employment positions created by the credit or reimbursement is at
9 least twice the amount of the credit or reimbursement;

10 B. Ensure that the wage of an employment position created by a credit or
11 reimbursement is at least 80% of the statewide average for that position as
12 determined by the Department of Labor or 120% of the statewide average as
13 determined by the Department of Labor, whichever is greater;

14 C. Provide a health care plan to at least 95% of the person's employees that meets the
15 standards of the federal Patient Protection and Affordable Care Act, Public Law 111-
16 148, and for each employee costs less than 9.5% of the employee's family income;

17 D. Provide:

18 (1) A written estimate to a newly hired employee detailing the minimum number
19 of scheduled hours and scheduled shifts per month for that employee, including
20 the days and hours of the shifts; and

21 (2) Two-week notice of a change in schedule of an employee and pays the
22 employee an amount equal to one hour of the employee's regular wages if notice
23 of a change in schedule is provided with less than one week's notice and pays the
24 employee an amount equal to 3 hours of the employee's regular wages if notice of
25 a change in schedule is provided less than 24 hours before the change;

26 E. Provide an amount equal to one hour of the employee's regular wages if the
27 employee is scheduled for an "on-call" or "call-in" shift and is not called into work or
28 if the employee is scheduled to work a shift that is interrupted by a nonworking
29 period of more than 30 minutes, other than a meal break;

30 F. Provide an amount equal to one hour of an employee's regular wages for every
31 hour of a shift that an employee does not work up to an amount equal to 3 hours of
32 the employee's regular wages if the employee is required to report to work and is fit
33 to work and does not work at the person's discretion;

34 G. Consider in good faith an employee's request for a schedule change and may not
35 retaliate against an employee for requesting a schedule change;

36 H. Offer a part-time employee additional hours before hiring a new employee; and

37 I. Provide to a part-time employee the same privileges including starting pay,
38 benefits and employee rights regarding time off and specific schedules that the person
39 provides a full-time employee.

1 For purposes of this subsection, a part-time employee is an employee who customarily
2 works less than 30 hours each week and a full-time employee is an employee who
3 customarily works 30 hours or more each week.

4 **2. Reporting.** A person who receives a credit or reimbursement of tax under section
5 5216-B, section 5219-W, section 5219-HH or chapter 917 annually shall report
6 employment data to the bureau that the bureau determines necessary to carry out the
7 provisions of this section.

8 **3. Enforcement.** If the bureau determines that a person who receives a credit or
9 reimbursement of tax under section 5216-B, section 5219-W, section 5219-HH or chapter
10 917 is not in compliance with subsection 1, the bureau shall require the person to remit to
11 the bureau a pro rata amount up to the full amount of the credit or reimbursement based
12 upon the level of compliance by the person as determined by the bureau.

13 **4. Alternate means of compliance.** Notwithstanding subsection 1, 2 or 3, a
14 qualified community development entity under section 5219-HH may comply with the
15 provisions of this section by entering into a community benefits agreement with the
16 lender and borrower that provides tangible benefits to the workers in the affected
17 community. A community benefits agreement under this subsection must set out specific
18 measurable goals related to borrower operations and broader community improvements
19 and include measurable goals, reporting requirements, penalty provisions and at least one
20 of the following:

21 A. High-quality job creation;

22 B. Environmentally sustainable construction standards;

23 C. Educational scholarships for workforce development and training needs; or

24 D. Nonprofit, educational or governmental community supportive tenants.

25 The Finance Authority of Maine may adopt routine technical rules as defined in Title 5,
26 chapter 375, subchapter 2-A to carry out the provisions of this subsection.

27 **5. Rules.** The bureau shall adopt routine technical rules as defined in Title 5, chapter
28 375, subchapter 2-A to carry out the provisions of this chapter and to create a formula to
29 determine the level of compliance of a person under subsection 3.

30 **Sec. 6. 36 MRSA §6754, sub-§2, ¶G** is enacted to read:

31 G. A qualified business that receives reimbursement under this chapter shall comply
32 with section 5219-NN.

33 SUMMARY

34 This bill sets minimum standards in the level of wages and benefits and health care
35 provided to employees and in scheduling employee shifts and hours for employers who
36 receive certain tax credits or reimbursement of State tax. The bill requires the employers
37 to report their employment data to Maine Revenue Services and for Maine Revenue
38 Services to require the employers who are not in full compliance with the minimum
39 standards to remit back to the State a pro rata amount of the tax credit or reimbursement

1 received based upon their level of compliance with the wage, benefits, health care and
2 scheduling requirements.