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**STATUS INFORMATION**

General Bill

Sponsors: Rep. Stavrinakis

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Summary: Jobs Act

**HISTORY OF LEGISLATIVE ACTIONS**

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12/6/2011 House Referred to Committee on **Ways and Means**

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1/10/2012 House Referred to Committee on **Ways and Means** ([House Journal‑page 66](file:///h:\hj%20archive\2012\01-10-12.docx))

**VERSIONS OF THIS BILL**

[12/6/2011](file:///p:\pprever\2011-12\4512_20111206.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “SOUTH CAROLINA JOBS ACT OF 2012”, BY ADDING SECTION 41‑31‑180 SO AS TO ESTABLISH THE SOUTH CAROLINA EMPLOYMENT TAX CREDIT, WHEREBY AN EMPLOYER RECEIVES A ONE HUNDRED DOLLAR CREDIT AGAINST CONTRIBUTIONS TO THE UNEMPLOYMENT TRUST FUND FOR HIRING QUALIFYING UNEMPLOYED INDIVIDUALS, AND TO PROVIDE THAT THE CREDIT MAY BE CLAIMED FOR EACH HIRED INDIVIDUAL FOR UP TO FOUR CALENDAR QUARTERS; BY ADDING SECTION 41‑27‑660 SO AS TO ESTABLISH THE SOUTH CAROLINA REEMPLOYMENT JOBS PROGRAM TO PROVIDE AN INDIVIDUAL WITH ON‑SITE WORKPLACE TRAINING WHILE CONTINUING TO RECEIVE UNEMPLOYMENT BENEFITS; BY ADDING ARTICLE 11 TO CHAPTER 31, TITLE 41 SO AS TO ESTABLISH A ONE‑TIME UNEMPLOYMENT TAX AMNESTY PROGRAM WHEREBY AN EMPLOYER MAY PAY DELINQUENT UNEMPLOYMENT TAXES AND INTEREST WITHOUT PENALTY OR CRIMINAL PROSECUTION, AND TO SPECIFY THE PROCESS BY WHICH THE PROGRAM SHALL OPERATE; BY ADDING ARTICLE 29 TO CHAPTER 53, TITLE 59 SO AS TO ESTABLISH THE SOUTH CAROLINA QUICK START JOB CREATION PROGRAM, TO PROVIDE EMPLOYMENT TRAINING NEEDS, TO PROVIDE THAT THE PROGRAM SHALL BE ADMINISTERED BY THE STATE BOARD FOR TECHNICAL AND COMPREHENSIVE EDUCATION WITH SUPPORT PROVIDED BY THE DEPARTMENT OF COMMERCE, AND TO SPECIFY THE TRAINING PROGRAMS OFFERED BY THE PROGRAM.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be referred to as the “South Carolina Jobs Act of 2012”.

SECTION 2. Article 1, Chapter 31, Title 41 of the 1976 Code is amended by adding:

“Section 41‑31‑180. (A) The South Carolina Employment Tax Credit is hereby established. For calendar quarters beginning on or after July 1, 2012, there shall be a one hundred dollar credit to be known as the South Carolina Employment Tax Credit, which may be claimed by an employer for up to four calendar quarters with respect to a qualified individual hired by that employer for services to be performed in this State. For purposes of this section, a ‘qualified individual’ has:

(1) filed a claim for unemployment compensation in this State and is currently receiving weekly unemployment compensation benefits on that claim and the benefits are chargeable to the rating account of an employer;

(2) been profiled by the Department of Employment and Workforce as likely to exhaust benefits;

(3) no return to work date or promise of future employment; and

(4) at least eight weeks of benefit eligibility remaining on his current claim at the time the employer hires the individual.

(B) The credit, which shall be one hundred dollars for each hired qualified individual per calendar quarter, may be taken against contributions owed pursuant to this chapter, and may be claimed each of the four calendar quarters immediately following the hire date of the qualified individual provided that the employment meets the requirements of subsection (C). The credit may not be claimed for any hired qualified individual with respect to more than one hiring by the employer claiming the credit or for more than four calendar quarters with respect to the one hiring.

(C) For each calendar quarter for which the credit is claimed, the hired qualified individual must be continuously employed by the employer claiming the credit, and the employment with that employer must consist of at least thirty hours a week.

(D) The credit shall be timely claimed for the calendar quarter to which the credit is applicable, and in no event later than the last day of the reporting month following the end of the calendar quarter to which the credit is applicable. The credit is nonrefundable and may not exceed the employer’s liability; however, the credit may be carried forward and applied against contributions due in any subsequent calendar quarter in the same calendar year.

(E) No credit shall be claimed or taken by any employer who fails to timely file any report or to timely pay all amounts otherwise due for all calendar quarters during the calendar year for which the credit is claimed. In the event an employer has claimed a credit under this section and fails to timely file any report or to timely pay all amounts otherwise due during the year the credit is claimed, the amount of any credits claimed with respect to the calendar year shall be canceled and become delinquent as of the date originally due and subject to all the provisions under law as if no credit had ever been available or claimed.”

SECTION 3. Article 5, Chapter 27, Title 41 of the 1976 Code is amended by adding:

“Section 41‑27‑660. The South Carolina Reemployment Jobs Program is hereby established as a job training program administered by the Department of Employment and Workforce. The program shall provide individuals an opportunity to receive on‑site workplace training from employers with available job openings, while continuing to receive unemployment benefits to which they are otherwise eligible. Training shall be scheduled for a maximum of twenty hours per week for up to eight calendar weeks. After completion of the established weeks of training, program participants shall receive certification of acquired job skills, and the training employer may, but shall not be required to, hire the participant. An eligible participant shall not participate in the program more than once.”

SECTION 4. Chapter 31, Title 41 of the 1976 Code is amended by adding:

“Article 11

Unemployment Tax Amnesty Program

Section 41‑31‑1110. The General Assembly finds and declares that multiple public purposes are served by the waiver of interest on unemployment tax, penalties, and criminal prosecution in return for the immediate reporting and payment of previously underreported, unreported, or unpaid unemployment contributions liabilities. The General Assembly further finds and declares that the benefits gained through this waiver include, among other things, the protection of existing jobs and the stimulation of new jobs, the immediate collection of past due unemployment contributions which may forestall higher tax rate adjustments on employers during difficult economic times, increased collection of certain currently owed unemployment contributions, permanently bringing into the unemployment insurance system employers who have been evading payment of unemployment contributions and providing an opportunity for such employers to satisfy unemployment contributions obligations before stepped‑up unemployment tax enforcement programs take effect.

Section 41‑31‑1120. As used in this article:

(1) ‘Accounts receivable’ means an amount of unemployment contribution, tax, administrative assessment, reimbursement in lieu of contributions, penalty, or interest which has been recorded as due and entered in the account records or any ledger maintained in the department, or which an employer should reasonably expect to become due as a direct or indirect result of any pending or completed audit or investigation, which an employer knows is being conducted by any federal, state, or local taxing authority.

(2) ‘Employer’ means any individual, partnership, joint venture, association, limited liability company, corporation, receiver, trustee, guardian, executor, administrator, fiduciary, or any other entity of any kind subject to any unemployment tax, contribution, or reimbursement in lieu of contributions, or any person required to collect any unemployment tax, contribution, or reimbursement in lieu of contributions under this chapter. The term also shall include any individual who has been deemed personally liable for the debt as prescribed by law.

(3) ‘Final, due, and owing’ means an assessment of unemployment contributions which has become final and is owed to the State due to either the expiration of the employer’s appeal rights. In the case of an assessment which has been appealed, assessments shall be final, due, and owing fifteen days after the last unappealed or unappealable order sustaining the assessment or any part thereof which has become final. Assessments that have not been appealed shall be final, due, and owing fifteen days after service of notice of assessment as prescribed by law.

(4) ‘Unemployment tax’ means any unemployment tax or contribution, administrative assessment, or reimbursement in lieu of contributions or recording costs incurred thereon.

Section 41‑31‑1130. (A) The department shall develop and administer a one‑time unemployment tax amnesty program as provided in this article. The department shall, upon the voluntary return and remitting of unemployment taxes and interest owed by any employer, waive all penalties that are assessed or subject to being assessed for outstanding liabilities for taxable periods ending or transactions occurring on or before December 31, 2012. The executive director of the department shall prescribe procedures as necessary for the administration of this amnesty program and shall further provide for necessary forms for the filing of amnesty applications and returns.

(B) Notwithstanding any other provision of law, the unemployment tax amnesty program shall begin on August 1, 2012, and shall be completed no later than July 31, 2013, and shall apply to all employers owing unemployment taxes, penalties, or interest administered by the department. The program shall apply to unemployment tax liabilities for taxable periods ending or transactions occurring on or before December 31, 2012. Amnesty unemployment tax return forms shall be in a form prescribed by the department.

(C) The provisions of this article shall apply to any eligible employer who files an application for amnesty within the time prescribed by the department and does the following:

(1)(a) files such returns as may be required by the department for all years or tax reporting periods as stated on the application for which returns have not previously been filed and files such returns as may be required by the department for all years or tax reporting periods for which returns were filed but the tax liability was underreported;

(b) pays in full within the unemployment tax amnesty period the unemployment taxes that are final, due, and owing for the respective tax periods, the unemployment taxes for which application is made under the amnesty unemployment tax program or for which amnesty unemployment tax returns are filed during the amnesty time period, pays with the unemployment taxes the amount of interest due, and pays the amount of any additional unemployment tax and interest which is owed as may be determined by the department, such additional payment to be made within thirty days of notification to the employer by the department that the additional unemployment tax and interest is owed; provided, however, that the failure to pay such additional tax and interest within thirty days of the notification shall invalidate any amnesty granted pursuant to this article; and

(2) the department may prescribe the further condition that, in addition to the requirements set forth in this subsection, the requirement that any eligible employer also pay in full within the amnesty period all unemployment taxes previously assessed by the department that are final, due, and owing at the time the application or amnesty unemployment tax returns are filed, pays with the unemployment taxes the amount of interest due, and pays within thirty days of notification by the department the amount of any additional interest owed.

(D) An eligible employer may participate in the amnesty program regardless of whether the employer is under audit, notwithstanding the fact that the amount due is included in a proposed assessment or an assessment, bill, notice, or demand for payment issued by the department, and without regard to whether the amount due is subject to a pending administrative or judicial proceeding. An eligible employer may participate in the amnesty program to the extent of the uncontested portion of any assessed liability. However, participation in the program shall be conditioned upon the employer’s agreement that the right to protest or initiate an administrative or judicial proceeding or to claim any refund of monies paid under the program is barred with respect to the amounts paid with the application or amnesty return.

(E) The department may enter into an installment payment agreement in cases of severe hardship in lieu of the complete payment. In such cases, twenty‑five percent of the amount due shall be paid with the application or amnesty return with the balance to be paid in monthly installments of not less than twenty‑five percent of the original amount nor to exceed three months following the expiration of the amnesty period. Failure of the employer to make timely payments shall void the terms of the amnesty program. All such agreements and payments shall include interest due and accruing during the installment agreement. All installment agreements authorized under this subsection shall bear interest on the outstanding amount of unemployment tax due at the rate prescribed by law.

(F) If, following the termination of the unemployment tax amnesty period, the department issues a deficiency assessment based upon information independent of that shown on a return filed pursuant to subsection (A), the department shall have the authority to impose penalties and criminal action may be brought where authorized by law only with respect to the difference between the amount shown on the amnesty unemployment tax return and the correct amount of unemployment tax due. The imposition of penalties or criminal action shall not invalidate any waiver granted.

Section 41‑31‑1140. For any employer who meets the requirements of this chapter, with respect to unemployment taxes which are owed as a result of the nonreporting or underreporting of unemployment tax liabilities or the nonpayment of any accounts receivable owed by an eligible employer, the State shall waive criminal prosecution and all civil penalties which may be assessed under any provision of this chapter for the taxable years or periods for which unemployment tax amnesty is requested. However, with the exception of instances in which the employer and department enter into an installment payment agreement, the failure to pay all unemployment taxes and interest as shown on the employer’s amnesty unemployment tax return shall invalidate any amnesty granted pursuant to this article.

Section 41‑31‑1150. This article shall not apply to any employer who is on notice, written or otherwise, of a criminal investigation being conducted by an agency of the State, any political subdivision of the State, or the United States. Also, this article shall not apply to any employer who is the subject of any criminal litigation which is pending on the date of the employer’s application in any court of this State or the United States for nonpayment, delinquency, evasion, or fraud in relation to any federal taxes or to any of the unemployment taxes to which this amnesty program is applicable.

Section 41‑31‑1160. (A) No refund or credit shall be granted for any interest or penalty paid prior to the time the employer requests amnesty pursuant to this article.

(B) Unless the department redetermines the amount of unemployment taxes and interest due, no refund or credit shall be granted for any unemployment taxes or interest paid under the amnesty program.

(C) Notwithstanding another provision of law, the department shall have the right to waive any portion of the interest due on an account receivable when it is demonstrated to the satisfaction of the department that any deficiency of the employer was not due to negligence, intentional disregard of administrative rules and regulations, or fraud and the collection of the interest by the department would be contrary to equity and good conscience.

Section 41‑31‑1170. (A) The department may issue forms and instructions, and take all actions necessary to implement the provisions of this article. The department shall publicize the unemployment tax amnesty program in order to maximize the public awareness of and participation in the program. The department may, for the purpose of publicizing the unemployment tax amnesty program, contract with any advertising agency within or outside this State.

(B) For purposes of accounting for the unemployment contributions received pursuant to this chapter, the department shall maintain an accounting and reporting of funds collected under the amnesty program. All contributions or reimbursements in lieu of contributions collected shall be remitted to the Unemployment Compensation Fund.

(C) The department may, for the purpose of collecting any delinquent unemployment tax due from an employer, contract with any licensed attorney recommended by the Attorney General for the collection of such delinquent unemployment tax, including penalties and interest and collections thereon. The department also may pay attorney any fees agreed upon by the Attorney General from amounts collected pursuant to this subsection or other available funds.”

SECTION 5. Chapter 53, Title 59 of the 1976 Code is amended by adding:

“Article 29

Quick Start Job Creation Program

Section 59‑53‑2910. (A) The South Carolina Quick Start Job Creation Program is hereby established as a supplemental program to provide special quick start training to meet the employment training needs of new and expanding industry as well as certain existing industries which may qualify under rules established by the State Board of Technical and Comprehensive Education. The program shall be governed by the State Board of Technical and Comprehensive Education with support provided by the South Carolina Department of Commerce.

(B) The programs of technical training under this article shall be supplementary to those offered by postsecondary technical schools and shall be operated on a statewide basis to assist any area to become more competitive in industrial and economic development; however, no program may be made available to any area except as prescribed by the State Board of Technical and Comprehensive Education. The program prescribed in this article shall be concerned only with training for skilled and semiskilled operations, including supervisory personnel associated with such operations, and shall terminate when training needs have been met; however, a basic academic education may be included as a part of the training program when it is necessary to ensure success of trainees in the occupational training program.

Section 59‑53‑2920. The State Board of Technical and Comprehensive Education shall administer the program in coordination with the South Carolina Department of Commerce and shall provide for technical and engineering services, publicity for the program, instructional services, in‑plant training analysis, rental of instructional facilities with necessary utilities, central warehousing and transportation of equipment and supplies, other necessary services, overall program direction, and an adequate staff to carry out an effective training program.

Section 59‑53‑2930. (A) Training programs under this article may be carried out on the basis of training agreements between local boards of education having postsecondary technical schools and the State Board of Technical and Adult Education. Under such agreements, the local board of education may make available its postsecondary technical school facilities or temporarily rented facilities and shall pay all instructional salaries in accordance with the salary schedule established by the state board in agreement with the local board of education without consideration of the salary schedule adopted for regular instructional personnel, provided that teachers and others employed in such training programs shall be classified as temporary employees and shall not be eligible for participation in the South Carolina Retirement System. All expenses incurred by a local board of education under such agreement in providing the services prescribed by this article shall be reimbursed by the State from funds provided for this purpose.

(B) Training programs under this article also may be carried out pursuant to annual contracts or agreements between the State Board of Technical and Comprehensive Education and private industrial or business firms under rules and regulations adopted by the board for such purpose. Any such training program carried out pursuant to any contract shall be assigned to an institution in the South Carolina Technical College System.

(C) Each training program under this article shall be based on a specific training needs analysis and included in a training plan which defines training and services to be provided.

Section 59‑53‑2940. The State Board of Technical and Comprehensive Education may prescribe qualifications for persons employed in the program under this article without consideration of qualifications prescribed for personnel employed in regular instructional programs.

Section 59‑53‑2950. The State Board of Technical and Comprehensive Education and the South Carolina Department of Commerce shall be authorized to procure equipment necessary to carry out an adequate training program under this article. The equipment shall be maintained in a warehouse reserve and shall become available to any area of the State where a training program creates a need but shall be returned to the warehouse reserve when no longer needed in a training program. In furtherance of this section, equipment having long delivery dates may be purchased in advance of an actual need upon the determination by the Technical College System of South Carolina that a need for the equipment could reasonably be expected in the program. The system is authorized to provide for the transportation of instructional equipment and to employ equipment riggers, warehousemen, and other personnel needed to carry out this section. Title to all equipment purchased under this article shall be vested in the State Board of Technical and Comprehensive Education.

Section 59‑53‑2960. The State Board of Technical and Comprehensive Education shall have the authority to promulgate any and all standards, rules, and regulations necessary to carry out the objectives and purposes of this article.

Section 59‑53‑2970. To assist in carrying out this article, the State Board of Technical and Comprehensive Education or the South Carolina Department of Commerce is authorized to apply for and accept grants of money, materials, services, or property of any kind from a federal agency, private agency, corporation, or individual.

Section 59‑53‑2980. (A) Each Quick Start project shall be preceded by an economic analysis by the South Carolina Department of Commerce to assure that the project should be undertaken and to determine the level of services to be provided. Each Quick Start project shall have a comprehensive ‘training needs assessment’ performed by the State Board of Technical and Comprehensive Education and the Department of Commerce prior to commitment of project funds or personnel. The needs assessment shall minimally include definitions and an explanation of the following items:

(1) company characteristics and its plans for South Carolina;

(2) type and number of trainees;

(3) timelines; and

(4) initial analysis of costs factors for training.

(B) For each Quick Start project, a training plan shall be developed based on the training needs assessment. Each Quick Start project shall have a written training agreement that defines the relationships and obligations of all parties involved. Each Quick Start project shall be evaluated during and after the training process has been completed. The purpose of these evaluations shall be to continually improve training delivery efficiency and effectiveness.”

SECTION 6. This act takes effect upon approval by the Governor.

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