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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 RECIEVES 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 RE-EMPLOYMENT 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 REMIT 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 TRAINING WITH SUPPORT PROVIDED BY THE DEPARTMENT OF COMMERCE, AND TO SPECIFY THE TRAINING PROGRAMS OFFERED BY THE PROGRAM.

1
2 Be it enacted by the General Assembly of the State of South
3 Carolina:

4
5 SECTION 1. This act may be referred to as the “South Carolina
6 Jobs Act of 2012”.

7
8 SECTION 2. Article 1, Chapter 31, Title 41 of the 1976 Code is
9 amended by adding:

10
11 “Section 41-31-180 (A) The South Carolina Employment Tax
12 Credit is hereby established. For calendar quarters beginning on or
13 after July 1, 2012, there shall be a one hundred dollar credit to be
14 known as the South Carolina Employment Tax Credit, which may
15 be claimed by an employer for up to four calendar quarters with
16 respect to a qualified individual hired by that employer for services
17 to be performed in this state. For purposes of this section, a
18 ‘qualified individual’:

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

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

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

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

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

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

42 (D) The credit shall be timely claimed for the calendar quarter
43 to which the credit is applicable, and in no event later than the last

1 day of the reporting month following the end of the calendar
2 quarter to which the credit is applicable. The credit is
3 nonrefundable and may not exceed the employer's liability;
4 however, the credit may be carried forward and applied against
5 contributions due in any subsequent calendar quarter in the same
6 calendar year.

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

17

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

20

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

34

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

37

38

“ARTICLE 11

39

UNEMPLOYMENT TAX AMNESTY PROGRAM

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1 on unemployment tax, penalties, and criminal prosecution in return
2 for the immediate reporting and payment of previously
3 underreported, unreported, or unpaid unemployment contributions
4 liabilities. The General Assembly further finds and declares that
5 the benefits gained through this waiver include, among other
6 things, the protection of existing jobs and the stimulation of new
7 jobs, the immediate collection of past due unemployment
8 contributions which may forestall higher tax rate adjustments on
9 employers during difficult economic times, increased collection of
10 certain currently owed unemployment contributions, permanently
11 bringing into the unemployment insurance system employers who
12 have been evading payment of unemployment contributions and
13 providing an opportunity for such employers to satisfy
14 unemployment contributions obligations before stepped-up
15 unemployment tax enforcement programs take effect.

16

17 Section 41-31-1120. As used in this article:

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

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

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

1 (4) 'Unemployment tax' shall include any unemployment tax
2 or contribution, administrative assessment, or reimbursement in
3 lieu of contributions or recording costs incurred thereon.
4

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

16 (B) Notwithstanding any other provision of law, the
17 unemployment tax amnesty program shall begin on August 1,
18 2012, and shall be completed no later than July 31, 2013, and shall
19 apply to all employers owing unemployment taxes, penalties, or
20 interest administered by the department. The program shall apply
21 to unemployment tax liabilities for taxable periods ending or
22 transactions occurring on or before December 31, 2012. Amnesty
23 unemployment tax return forms shall be in a form prescribed by
24 the department.

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

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

34 (b) Pays in full within the unemployment tax amnesty
35 period the unemployment taxes that are final, due, and owing for
36 the respective tax periods, the unemployment taxes for which
37 application is made under the amnesty unemployment tax program
38 or for which amnesty unemployment tax returns are filed during
39 the amnesty time period, pays with the unemployment taxes the
40 amount of interest due, and pays the amount of any additional
41 unemployment tax and interest which is owed as may be
42 determined by the department, such additional payment to be made
43 within thirty days of notification to the employer by the

1 department that such additional unemployment tax and interest is
2 owed; provided, however, that the failure to pay such additional
3 tax and interest within thirty days of such notification shall
4 invalidate any amnesty granted pursuant to this article; and

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

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

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

40 (F) If, following the termination of the unemployment tax
41 amnesty period, the department issues a deficiency assessment
42 based upon information independent of that shown on a return
43 filed pursuant to subsection (A), the department shall have the

1 authority to impose penalties and criminal action may be brought
2 where authorized by law only with respect to the difference
3 between the amount shown on the amnesty unemployment tax
4 return and the correct amount of unemployment tax due. The
5 imposition of penalties or criminal action shall not invalidate any
6 waiver granted.

7
8 Section 41-31-1140. For any employer who meets the
9 requirements of this chapter, with respect to unemployment taxes
10 which are owed as a result of the nonreporting or underreporting of
11 unemployment tax liabilities or the nonpayment of any accounts
12 receivable owed by an eligible employer, the state shall waive
13 criminal prosecution and all civil penalties which may be assessed
14 under any provision of this chapter for the taxable years or periods
15 for which unemployment tax amnesty is requested. However, with
16 the exception of instances in which the employer and department
17 enter into an installment payment agreement, the failure to pay all
18 unemployment taxes and interest as shown on the employer's
19 amnesty unemployment tax return shall invalidate any amnesty
20 granted pursuant to this article.

21
22 Section 41-31-1150. This article shall not apply to any
23 employer who is on notice, written or otherwise, of a criminal
24 investigation being conducted by an agency of the state, any
25 political subdivision of the State, or the United States. Also, this
26 article shall not apply to any employer who is the subject of any
27 criminal litigation which is pending on the date of the employer's
28 application in any court of this state or the United States for
29 nonpayment, delinquency, evasion, or fraud in relation to any
30 federal taxes or to any of the unemployment taxes to which this
31 amnesty program is applicable.

32
33 Section 41-31-1160. (A) No refund or credit shall be granted
34 for any interest or penalty paid prior to the time the employer
35 requests amnesty pursuant to this article.

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

40 (C) Notwithstanding any other provision of law, the department
41 shall have the right to waive any portion of the interest due on an
42 account receivable when it is demonstrated to the satisfaction of
43 the department that any deficiency of the employer was not due to

1 negligence, intentional disregard of administrative rules and
2 regulations, or fraud and the collection of the interest by the
3 department would be contrary to equity and good conscience.
4

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

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

19 (C) The department may, for the purpose of collecting any
20 delinquent unemployment tax due from an employer, contract with
21 any licensed attorney recommended by the Attorney General for
22 the collection of such delinquent unemployment tax, including
23 penalties and interest and collections thereon. The department
24 may also pay attorney any fees agreed upon by the Attorney
25 General from amounts collected pursuant to this subsection or
26 other available funds.”
27

28
29 SECTION 5. Chapter 53, Title 59 of the 1976 Code is amended
30 by adding:
31

32 “ARTICLE 29

33
34 QUICK START JOB CREATION PROGRAM
35

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

1 Comprehensive Education with support provided by the South
2 Carolina Department of Commerce.

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

16
17 Section 59-53-2920. The State Board of Technical and
18 Comprehensive Education shall administer the program in
19 coordination with the South Carolina Department of Commerce
20 and shall provide for technical and engineering services, publicity
21 for the program, instructional services, in-plant training analysis,
22 rental of instructional facilities with necessary utilities, central
23 warehousing and transportation of equipment and supplies, other
24 necessary services, overall program direction, and an adequate
25 staff to carry out an effective training program.

26
27 Section 59-53-2930. (A) Training programs under this article
28 may be carried out on the basis of training agreements between
29 local boards of education having postsecondary technical schools
30 and the State Board of Technical and Adult Education. Under
31 such agreements, the local board of education may make available
32 its postsecondary technical school facilities or temporary rented
33 facilities and shall pay all instructional salaries in accordance with
34 the salary schedule established by the state board in agreement
35 with the local board of education without consideration of the
36 salary schedule adopted for regular instructional personnel,
37 provided that teachers and others employed in such training
38 programs shall be classified as temporary employees and shall not
39 be eligible for participation in the South Carolina Retirement
40 System. All expenses incurred by a local board of education under
41 such agreement in providing the services prescribed by this article
42 shall be reimbursed by the state from funds provided for this
43 purpose.

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

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

11
12 Section 59-53-2940. The State Board of Technical and
13 Comprehensive Education may prescribe qualifications for persons
14 employed in the program under this article without consideration
15 of qualifications prescribed for personnel employed in regular
16 instructional programs.

17
18 Section 59-53-2950. The State Board of Technical and
19 Comprehensive Education and the South Carolina Department of
20 Commerce shall be authorized to procure equipment necessary to
21 carry out an adequate training program under this article. Such
22 equipment shall be maintained in a warehouse reserve and shall
23 become available to any area of the state where a training program
24 creates a need but shall be returned to the warehouse reserve when
25 no longer needed in a training program. In furtherance of this
26 section, equipment having long delivery dates may be purchased in
27 advance of an actual need upon the determination by the Technical
28 College System of South Carolina that a need for such equipment
29 could reasonably be expected in the program. The system is
30 authorized to provide for the transportation of instructional
31 equipment and to employ equipment riggers, warehousemen, and
32 other personnel needed to carry out this section. Title to all
33 equipment purchased under this article shall be vested in the State
34 Board of Technical and Comprehensive Education.

35
36 Section 59-53-2960. The State Board of Technical and
37 Comprehensive Education shall have the authority to promulgate
38 any and all standards, rules, and regulations necessary to carry out
39 the objectives and purposes of this article.

40
41 Section 59-53-2970. To assist in carrying out this article, the
42 State Board of Technical and Comprehensive Education or the
43 South Carolina Department of Commerce is authorized to apply

1 for and accept grants of money, materials, services, or property of
2 any kind from a federal agency, private agency, corporation, or
3 individual.

4
5 Section 59-53-2980. (A) Each Quick Start project shall be
6 preceded by an economic analysis by the South Carolina
7 Department of Commerce to assure that the project should be
8 undertaken and to determine the level of services to be provided.
9 Each Quick Start project shall have a comprehensive “training
10 needs assessment” performed by the State Board of Technical and
11 Comprehensive Education and the Department of Commerce prior
12 to commitment of project funds or personnel. The needs
13 assessment shall minimally include definitions and an explanation
14 of the following items:

- 15 (1) Company characteristics and its plans for South
16 Carolina;
- 17 (2) Type and number of trainees;
- 18 (3) Timelines; and
- 19 (4) Initial analysis of costs factors for training.

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

28
29 SECTION 6. This act takes effect upon approval by the Governor.

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