

House Bill 1157

By: Representatives Burkhalter of the 50th, Richardson of the 19th, Keen of the 179th, and Fleming of the 117th

A BILL TO BE ENTITLED
AN ACT

To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the imposition, rate, and computation of income tax, so as to change certain provisions regarding income tax credits for employers providing approved retraining programs; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for powers, duties, and authority of the state revenue commissioner; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the imposition, rate, and computation of income tax, is amended by striking Code Section 48-7-40.5, relating to tax credits for employers providing approved retraining programs, and inserting in its place a new Code Section 48-7-40.5 to read as follows:

"48-7-40.5.

(a) As used in this Code section, the term:

(1) 'Approved retraining' means employer provided or employer sponsored retraining that meets the following conditions:

(A) It enhances the functional skills of employees otherwise unable to function effectively on the job due to skill deficiencies or who would otherwise be displaced because such skill deficiencies would inhibit their utilization of new technology;

(B) It is approved and certified by the Department of Technical and Adult Education; and

(C) The employer does not require the employee to make any payment for the retraining, either directly or indirectly through use of forfeiture of leave time, vacation time, or other compensable time.

(2) 'Cost of retraining' means direct instructional costs as defined by the Department of Technical and Adult Education including instructor salaries, materials, supplies, and

1 textbooks but specifically excluding costs associated with renting or otherwise securing
2 space.

3 (3) 'Employee' means any employee resident in this state who is employed for at least
4 25 hours a week, who has been continuously employed by the employer for at least 16
5 consecutive weeks.

6 (4) 'Employer' means any employer upon whom an income tax is imposed by this
7 chapter.

8 (5) 'Employer provided' refers to approved retraining offered on the premises of the
9 employer or on premises approved by the Department of Technical and Adult Education
10 by instructors hired by or employed by an employer.

11 (6) 'Employer sponsored' refers to a contractual arrangement with a school, university,
12 college, or other instructional facility which offers approved retraining that is paid for by
13 the employer.

14 (7) 'Qualifying airline' means any employer which is authorized by the Federal Aviation
15 Administration or appropriate agency of the United States to operate as an air carrier
16 under an air carrier operating certificate and which provides regularly scheduled flights
17 for the transportation of passengers or cargo for hire.

18 (b) A tax credit shall be granted to an employer who provides or sponsors an approved
19 retraining program. The amount of the tax credit shall be equal to one-half of the costs of
20 retraining per full-time employee, or \$500.00 per full-time employee, whichever is less, for
21 each employee who has successfully completed an approved retraining program. No
22 employer may receive a credit if the employer requires that the employee reimburse or pay
23 the employer for the cost of retraining.

24 (c) Any tax credit claimed under this Code section for any taxable year beginning on or
25 after January 1, 1998, but not used for any such taxable year may be carried forward for
26 ten years from the close of the taxable year in which the tax credit was granted. The tax
27 credit granted to any employer pursuant to this Code section shall not exceed 50 percent
28 of the amount of the taxpayer's income tax liability for the taxable year as computed
29 without regard to this Code section.

30 (d) To be eligible to claim the credit granted under this Code section, the employer must
31 certify to the department the name of the employee, the course work successfully
32 completed by such employee, the name of the provider of the approved retraining, and such
33 other information as may be required by the department to ensure that credits are only
34 granted to employers who provide or sponsor approved retraining pursuant to this Code
35 section and that such credits are only granted to employers with respect to employees who
36 successfully complete such approved retraining. The department shall adopt rules and
37 regulations and forms to implement this credit program. The department is expressly

1 authorized and directed to work with the Department of Technical and Adult Education to
2 ensure the proper granting of credits pursuant to this Code section.

3 (e) The Department of Technical and Adult Education is expressly authorized and directed
4 to establish such standards as it deems necessary and convenient in approving employer
5 provided and employer sponsored retraining programs. In establishing such standards, the
6 Department of Technical and Adult Education shall establish required hours of classroom
7 instruction, required courses, certification of teachers or instructors, progressive levels of
8 instruction, and standardized measures of employee evaluation to determine successful
9 completion of a course of study.

10 (f) In the case of a qualifying airline:

11 (1) Any tax credits claimed with respect to retraining approved by the Department of
12 Technical and Adult Education and which are available to be carried forward to a taxable
13 year ending on or after December 31, 2005, may be taken as a credit against a qualifying
14 airline's quarterly or monthly payment required to be made under Code Section 48-7-103
15 on or after January 1, 2006. The taxpayer may file an election with the commissioner to
16 take such credit against quarterly or monthly payments under Code Section 48-7-103 that
17 become due before the due date of the income tax return on which such credit may be
18 claimed. In the event of such an election, the commissioner shall confirm with the
19 taxpayer a date, which shall not be later than 30 days after receipt of the taxpayer's
20 election, when the taxpayer may begin to take the credit against such quarterly or
21 monthly payments. Nothing in this subsection shall be construed to allow a credit to be
22 utilized beyond the ten-year period during which a credit may be carried forward under
23 subsection (c) of this Code section; and

24 (2) Each employee whose employer receives credit against such qualifying airline's
25 quarterly or monthly payment under Code Section 48-7-103 shall receive credit against
26 his or her income tax liability under Code Section 48-7-20 for the corresponding taxable
27 year for the full amount which would be credited against such liability prior to the
28 application of the credit provided for in this subsection. Credits against quarterly or
29 monthly payments under Code Section 48-7-103 and credits against liability under Code
30 Section 48-7-20 established by this subsection shall not constitute income to the taxpayer.

31 (g) The commissioner shall promulgate such rules and regulations as are necessary to
32 implement and administer this Code section."

33 SECTION 2.

34 This Act shall become effective upon its approval by the Governor or upon its becoming law
35 without such approval and shall be applicable to all taxable years beginning on or after
36 January 1, 2006.

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- SECTION 3.
- All laws and parts of laws in conflict with this Act are repealed.