

1 HB36
2 173040-4
3 By Representatives South, Garrett, Fincher, Shedd, Pettus,
4 Hill (M), Millican, Weaver, Rowe, Davis, Ledbetter, Williams
5 (JD), Holmes (M), Wilcox, McCutcheon, Baker, Greer, McMillan,
6 Beckman, Carns, Poole, Chesteen, Mooney, Treadaway, Hubbard,
7 Faulkner and Johnson (K)
8 RFD: Commerce and Small Business
9 First Read: 02-FEB-16
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ENROLLED, An Act,

To establish the Alabama Small Business and Agribusiness Jobs Act; to define certain terms; to provide for a tax credit to Alabama small business employers that create new jobs and hire new employees under certain conditions; to amend Section 40-18-321, Code of Alabama 1975, to make conforming changes; to provide rulemaking authority; and to require the Department of Revenue to implement a program promoting various tax credits for small businesses and independently owned business entities.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Alabama Small Business and Agribusiness Jobs Act.

Section 2. For the purpose of this act, the following words and phrases shall have the following meanings:

(1) ALABAMA SMALL BUSINESS EMPLOYER. A business organization duly formed, organized, or qualified to do business in the state, with its headquarters or principal place of business in the state, and having 75 or fewer employees during the tax year in which the tax credit is claimed pursuant to this act, other than new employees for which a credit is allowed by this act.

(2) DEPARTMENT. The Alabama Department of Revenue.

1 (3) NET EMPLOYEE GROWTH. An Alabama small business
2 employer's net increase in the total number of full-time
3 employees residing in Alabama based on the following:

4 a. The total number of full-time Alabama employees
5 on the last date of each tax year in which the employer is
6 claiming a credit pursuant to this act; minus,

7 b. The total number of full-time Alabama employees
8 ~~as of the last day of the tax year in which a credit under~~
9 ~~this act was first claimed and granted.~~ on the day before the
10 effective date of this act.

11 (4) QUALIFIED NEW EMPLOYEE. A new employee of an
12 Alabama small business employer that, for a qualifying time
13 period of 12 consecutive months, satisfies all of the
14 following criteria:

15 a. Was employed on a full-time basis.

16 b. Was an Alabama resident.

17 c. Received wages from the Alabama small business
18 employer that met or exceeded a total of forty thousand
19 dollars (\$40,000).

20 d. Was not a full-time employee of the Alabama small
21 business employer during any time 12 months prior to the start
22 of such qualifying time period.

23 (5) WAGES. Total wages paid to an employee,
24 including gross wages, salaries, overtime, and bonuses.

1 Section 3. (a) An Alabama small business tax credit
2 is hereby allowed for any Alabama small business employer that
3 creates a new job and hires a new full-time employee to fill
4 that job. The credit shall be a one-time credit equal to one
5 thousand five hundred dollars (\$1,500) for each qualified new
6 employee, and shall only be applicable to a tax year in which
7 the new employee has completed 12 months of consecutive
8 full-time employment with the employer.

9 (b) To qualify for the credit, the employer must
10 have a net employee growth as of the last date of each tax
11 year during which the employer claims a credit pursuant to
12 this act. The net employee growth must equal or exceed the
13 number of qualified new employees for which a credit is sought
14 in the current or applicable tax year, plus the total number
15 of qualified new employees for whom credits were claimed
16 pursuant to this act in a prior tax year.

17 (c) (1) The credit shall be allowed against the tax
18 imposed by ~~Chapter 16 or Chapter 16 or Chapter 18~~, of Title
19 40, Code of Alabama 1975. ~~A financial institution shall be~~
20 ~~allowed to claim the credit against the liability determined~~
21 ~~in Chapter 16, Title 40, Code of Alabama 1975.~~ A financial
22 institution shall be allowed to claim the credit against the
23 liability determined in Chapter 16, Title 40, Code of Alabama
24 1975. The credit shall be available, on a pro rata basis, to
25 the owners or members of qualified Alabama small business

1 employers that are entities taxed under subchapters S or K of
2 the Internal Revenue Code.

3 (2) An Alabama small business employer may receive a
4 credit under this section or under the Full Employment Act of
5 2011, Article 11, Chapter 18, Title 40, Code of Alabama 1975,
6 but in no case shall the employer receive both a credit under
7 this act and a credit provided under the Full Employment Act
8 of 2011. Once a credit is claimed for an employee under this
9 section or the Full Employment Act of 2011, the employer may
10 not thereafter make a claim for a credit of that employee
11 under the other act.

12 (d) This tax credit may not be allowed to decrease a
13 taxpayer's tax liability to less than zero in any tax year,
14 but any unused portion may be carried forward for a period of
15 up to three years. The credit is not refundable or
16 transferable.

17 ~~(e) To the extent the credit is used to offset a~~
18 ~~financial institution excise tax liability, the Department of~~
19 ~~Finance shall promulgate regulations to ensure that the credit~~
20 ~~in no case would reduce the distribution for municipalities~~
21 ~~and counties.~~

22 (e) To the extent the credit is used to offset a
23 financial institution excise tax liability, the Department of
24 Finance shall promulgate regulations to ensure that the credit

1 in no case would reduce the distribution for municipalities
2 and counties.

3 (f) The income tax credit provided in this section
4 may be claimed only for employees who are hired following the
5 effective date of this act and shall only apply to tax years
6 beginning on or after January 1, 2016.

7 (g) The tax credit provided in this section shall
8 expire on January 1, 2019, unless otherwise extended by the
9 Legislature.

10 Section 4. The department may adopt rules consistent
11 with this act as necessary to implement and administer this
12 act. Rules may be adopted to include, but not limited to, a
13 requirement that, upon request, taxpayers shall receive
14 credits for up to, but no more than, the number of qualified
15 new employees hired after the effective date of this act. In
16 no case shall an employer claim a credit under this act for
17 the same qualified employee more than once. Nor shall the
18 number of qualified new employees, for which a credit is
19 claimed, exceed the number of employees at the end of the tax
20 year less the number of employees at the beginning of the tax
21 year.

22 Section 5. Section 40-18-321, Code of Alabama 1975,
23 is amended to read as follows:

24 "§40-18-321.

1 "In addition to the ~~existing~~ tax credit allowed for
2 in the Full Employment Act of 2011, codified as Section
3 40-18-290 through 40-18-293, or the Alabama Small Business
4 Jobs Act, an additional ~~\$1,000~~ one thousand dollar (\$1,000)
5 tax credit for job creation is available if the existing
6 requirements of Section 40-18-290 through 40-18-293 or
7 Sections 2 and 3 of the act adding this amendatory language
8 are met along with the following definition:

9 "RECENTLY DEPLOYED UNEMPLOYED VETERAN. An individual
10 who is all of the following:

11 "(1) Was a resident of Alabama at the time of entry
12 into military service or was mobilized to active, federal
13 military service while a member of the Alabama National Guard
14 or other reserve unit located in Alabama, regardless of the
15 resident's home of record.

16 "(2) Received an honorable or general discharge from
17 active, federal military service within the two-year period
18 preceding the date of hire.

19 "(3) Has certification by the Department of Labor at
20 the time of hire of either of the following:

21 "a. Collecting or being eligible to collect
22 unemployment benefits.

23 "b. Having exhausted his or her unemployment
24 benefits."

1 Section 6. By December 31, 2016, the Department of
2 Revenue shall create and implement a program to actively
3 promote to small business owners, tax professionals, and other
4 appropriate parties the tax credits allowed under the Alabama
5 Small Business Jobs Act created by this act, the Full
6 Employment Act of 2011, Article 11 of Chapter 18 of Title 40,
7 Code of Alabama 1975, the Heroes for Hire Tax Credit Act of
8 2012, Article 13 of Chapter 18 of Title 40, Code of Alabama
9 1975, and other tax credits available to small businesses and
10 independently owned business entities.

11 Section 7. The provisions of this act are severable.
12 If any part of this act is declared invalid or
13 unconstitutional, that declaration shall not affect the part
14 which remains.

15 Section 8. All laws or parts of laws which conflict
16 with this act are repealed.

17 Section 9. This act shall become effective 90 days
18 following its passage and approval by the Governor, or its
19 otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 09-FEB-16, as amended.

Jeff Woodard
Clerk

Senate	<hr/> 19-APR-16 <hr/>	Amended and Passed
House	<hr/> 19-APR-16 <hr/>	Concurred in Senate Amendment