

SENATE No. 1366

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Relative to Jobs Creation in the Commonwealth..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 1. "Chapter 62C of the General Laws, as appearing in the 2006 official edition, is
2 hereby amended by inserting after section 67D the following section:-

3 Section 67E. (a) When used in this section, the following words shall have the following
4 meaning:

5 "Application year", the calendar year for which a small business submits the information
6 required for a determination as to a jobs incentive payment.

7 "Small Business", a corporation, sole proprietorship, partnership, limited liability
8 company or any other form of business organization that had total annual sales in its most
9 recently completed fiscal year of less than five million dollars and which has a principal place of
10 business within the commonwealth.

11 "Commissioner", the commissioner of revenue.

12 "Eligible Jobs", a number determined by first multiplying each of the local jobs created
13 by a small business during a single calendar year by the job qualifier for that job, and then
14 totaling the number for all of the local jobs created.

15 "Full time employee", a person who is employed for consideration for at least 35 hours
16 per week and whose salary is subject to withholding as provided in chapter 62B.

17 "Job qualifier fraction", in the case of either a full-time employee or a part-time employee
18 of a small business, the figure that determines the extent to which that employee is employed in
19 the commonwealth during a single calendar year. The job qualifier fraction for each employer
20 shall be determined by multiplying the following percentages together: (i) the percentage of time
21 that an employee worked while employed by the company expressed as average hours worked
22 per week out of 35 hours, not to exceed 100 per cent; (ii) that employee's time attributable to
23 work in the commonwealth, as a portion of that employee's total work for the company; and (iii)
24 the portion of the year the employee worked for the company.

25 "Jobs incentive payment", a business employment incentive payment for small businesses
26 as provided for in this section.

27 "Local jobs created", the total number of jobs created by a small business during a single
28 calendar year, including jobs performed by persons that are transferred within the company to
29 work at an in-state location from a location based outside the state.

30 "Part-time employee", a person who is employed for consideration for less than 35 hours
31 a week and whose salary is subject to withholding as provided in chapter 62B.

32 "Payment years", in the case of a small business that is determined to be eligible for a
33 jobs incentive payment, the 3 calendar years following the application year.

34 "Qualified services",

35 "Weighted, average employment", for a calendar year, the total number of jobs
36 maintained by a biotechnology or medical device manufacturing company in which the
37 employees performed employment services at least 1 in-state location. The number is to be
38 determined by first multiplying each of the individual jobs maintained by the company for that
39 year by the job qualifier fraction for that job and then totaling the number for all of these jobs.

40 (b) A small business that creates 5 or more eligible jobs in the commonwealth during a
41 single calendar year shall be entitled to a jobs incentive payment if its weighted average
42 employment for such year reflects a net increase of at least 5 jobs over the company's weighted
43 average employment for the prior calendar year. The jobs incentive payment shall be equal to 50
44 per cent multiplied by the applicable Massachusetts income tax rate for the salary paid to the
45 persons who perform the newly created eligible jobs for the calendar year in question; provided,
46 however, that such salary shall be subject to Massachusetts withholding pursuant to chapter 62B
47 for such year. For the purposes of this provision, an eligible job shall be deemed created in the
48 commonwealth on the first day for which Massachusetts withholding is required in connection
49 with the compensation paid to the employee.

50 (c) The jobs incentive payment shall be paid to a small business in 3 equal installments in
51 each of the 3 calendar years commencing with the calendar year subsequent to the application
52 year. If, for the first or second payment year, the company's weighted average employment falls
53 below its weighted average for the application year, the company shall be disqualified from

54 receiving its second installment payment, it may still receive its third installment payment if its
55 weighted average employment for its second payment year is above its weighted average
56 employment for the application year.

57 (d) A small that seeks a jobs incentive payment shall apply to the commissioner to
58 receive such payment on a form to be prescribed by the commissioner. This form shall reference
59 the necessary information concerning the eligible jobs created by the company in the
60 Commonwealth during the application year and also the company's weighted average
61 employment for such year and the prior calendar year. The commissioner shall advise the
62 company of his determination in writing.

63 (e) Not later than March 1 of each calendar year for which a small business has been
64 approved to receive a jobs incentive payment, the company shall submit to the commissioner, in
65 a form prescribed by the commissioner, the information necessary to evaluate the company's
66 prior year weighted employment average.

67 (f) A small business that has previously been approved to receive a jobs incentive
68 payment is entitled to re-apply for an additional payment for a second or third application year.
69 In such cases, the company may be entitled to receive a jobs incentive payment that relates to
70 different application years in the same calendar year. When a company has previously been
71 granted a jobs incentive payment for 3 application years, it shall not request an additional jobs
72 incentive payment.

73 (g) The commissioner shall issue payments, as authorized in subsection (b), without
74 further appropriation. The commissioner may issue rules and regulations as necessary or helpful

75 to implement this section, including rules and regulations to ensure compliance with this

76 section.”

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