

# MAINE STATE LEGISLATURE

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MS.  
R.A.S.

L.D. 1894

DATE: September 5, 1996 (Filing No. S-603 )

TAXATION

Reported by: The Majority of the Committee.

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STATE OF MAINE  
SENATE  
117TH LEGISLATURE  
SECOND REGULAR SESSION

COMMITTEE AMENDMENT "A" to S.P. 775, L.D. 1894, Bill, "An Act to Amend the Law Concerning Tax Increment Financing"

Amend the bill in section 3 by striking out all of subsection 5-A and inserting in its place the following:

'5-A. Certified retained business. "Certified retained business" means any for-profit business in this State other than a public utility as defined by Title 35-A, section 102 that retains 100 or more qualified employees in this State and that meets all of the following criteria to the satisfaction of the commissioner:

A. The business is not engaged in retail operations; or, if it is engaged in retail operations, less than 50% of its total annual revenues from State-based operations are derived from sales taxable in this State or the business can demonstrate to the commissioner by a preponderance of the evidence that any increased sales will not include sales tax revenues derived from a transferring or shifting of retail sales from other businesses in this State; and

B. The commissioner determines that the business is a successor to a business that would have ceased operations in this State but for the acquisition of that business after September 1, 1996 by the applicant by any means and the applicant demonstrates to the commissioner its intention to continue to operate and employ qualified employees in the State.

Notwithstanding paragraphs A and B and section 6754, subsection 2, paragraph F, the aggregate annual reimbursement pursuant to section 6754 to all certified retained businesses may not exceed \$150,000.

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2 For purposes of this subsection, "retail operations" means sales  
4 of consumer goods for household use to consumers who personally  
4 visit the business location to purchase the goods.'

6 Further amend the bill by inserting after section 6 the  
following:

8 'Sec. 7. 36 MRSA §6754, sub-§1, as enacted by PL 1995, c. 669,  
10 §5, is amended to read:

12 1. **Generally.** Subject to the provisions of subsection 2, a  
14 qualified business other than a certified retained business is  
entitled to reimbursement of state income withholding taxes  
16 withheld during the calendar year for which reimbursement is  
requested and attributed to qualified employees after July 1,  
1996 in the following amounts.

18 A. For qualified employees employed by a qualified business  
20 in state labor market areas in which the labor market  
unemployment rate is at or below the state unemployment rate  
22 for the calendar year for which reimbursement is requested,  
the reimbursement is equal to 30% of withholding taxes  
24 withheld during that year and attributed to those qualified  
employees.

26 B. For qualified employees employed by a qualified business  
28 in state labor market areas in which the labor market  
unemployment rate is greater than the state unemployment  
30 rate for the calendar year for which reimbursement is  
requested, the reimbursement is equal to 50% of withholding  
32 taxes withheld during that year and attributed to those  
qualified employees.

34 **Sec. 8. 36 MRSA §6754, sub-§§1-A and 2-A** are enacted to read:

36 1-A. Amount of reimbursement to certified retained  
38 businesses. Subject to the provisions of subsection 2, a  
certified retained business is entitled to reimbursement of state  
40 income withholding taxes withheld during the calendar year for  
which reimbursement is requested and attributed to qualified  
42 employees after September 1, 1996 in the following amounts.

44 A. For qualified employees employed by a qualified business  
46 in state labor market areas in which the labor market  
unemployment rate is at or below the state unemployment rate  
for the calendar year for which reimbursement is requested,  
48 the reimbursement is equal to 30% of withholding taxes

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2 withheld during that year and attributed to those qualified  
employees.

4 B. For qualified employees employed by a qualified business  
in state labor market areas in which the labor market  
6 unemployment rate is greater than the state unemployment  
rate for the calendar year for which reimbursement is  
8 requested, the reimbursement is equal to 50% of withholding  
taxes withheld during that year and attributed to those  
10 qualified employees.

12 2-A. Limitation on use of revenues by certified retained  
businesses. Reimbursements received by a certified retained  
14 business pursuant to this chapter must be used for capital  
investments, including, but not limited to, the acquisition,  
16 refurbishment, upgrading, modification and leasing of buildings,  
machinery and equipment.

18 **Sec. 9. 36 MRSA §6755, sub-§2, as enacted by PL 1995, c. 669,**  
20 **§5, is amended to read:**

22 **2. Number of qualified employees of businesses other than**  
**certified retained businesses.** The number of qualified employees  
24 that the an applicant other than a certified retained business  
has added or will add in the State that qualify the business for  
26 reimbursement under this chapter, including additional associated  
payroll and withholding data necessary to calculate the gross  
28 employment tax increment and establish the appropriate  
reimbursement percentage;

30 **Sec. 10. 36 MRSA §6755, sub-§2-A is enacted to read:**

32 2-A. Number of qualified employees of certified retained  
businesses. The number of qualified employees that an applicant  
34 for a certified retained business has as of the date of  
application that qualify for reimbursement under this chapter,  
36 including additional associated payroll and withholding data  
necessary to calculate the gross employment tax increment and  
38 establish the approximate reimbursement percentage;

40 **Sec. 11. 36 MRSA §6755, last ¶, as enacted by PL 1995, c. 669,**  
42 **§5, is amended to read:**

44 Upon receipt of the information required by this section,  
the commissioner shall review the information in a timely  
46 fashion. If the commissioner determines that the criteria  
provided in section 6756 are satisfied, the commissioner must  
48 issue a certificate of approval to the applicant.  
Notwithstanding the provisions of this section, the commissioner  
50 may not accept or certify an application for a certified retained

business that is submitted by the applicant after February 28, 1997.

**Sec. 12. Report.** The joint standing committees of the Legislature having jurisdiction over taxation and economic development matters shall review the public policy considerations attendant on the application of the Maine Employment Tax Increment Financing Program to retain jobs and may report out legislation to the First Regular Session of the 118th Legislature to implement one or more of its recommendations.'

Further amend the bill by inserting at the end before the summary the following:

**FISCAL NOTE**

**1996-97**

**REVENUES**

General Fund (\$150,000)

The creation of the job retention tax increment financing program will decrease General Fund revenue by an amount not to exceed \$150,000 in fiscal year 1996-97. In fiscal years 1997-98 and beyond, the annual revenue decreases of \$150,000 will reduce dedicated revenue to the Revenue Targeting Fund, assuming that the income tax cap of \$676,230,000 is reached each year. If the cap is not reached in any future fiscal year, this tax increment financing program will reduce General Fund revenue in that year. After the individual income tax rates are reduced by 20% pursuant to the revenue targeting program in the Maine Revised Statutes, Title 36, section 5111-B, the tax increment financing program will once again reduce General Fund revenue.

The additional costs associated with administering the certified retained business provisions in the Maine Employment Tax Increment Financing Program can be absorbed by the Department of Economic and Community Development and the State Tax Assessor utilizing existing budgeted resources.'

**SUMMARY**

This amendment amends the bill by amending the Maine Employment Tax Increment Financing Act, which was enacted in 1996. The Maine Employment Tax Increment Financing Act provides

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2 an incentive for new businesses to create new jobs by allowing  
the employer to retain a portion of the employee withholding  
taxes that are attributable to the new hires.

4 This amendment makes that same tax increment financing  
6 benefit available to entities that retain jobs that would  
otherwise be lost due to the closure of the place of employment.

8 The amendment imposes the following requirements, which must  
10 be met to the satisfaction of the Commissioner of Economic and  
Community Development:

12 1. The applicant must be a successor to a business that  
14 would have ceased operations but for the acquisition of that  
business by the applicant; and

16 2. The applicant must demonstrate an intention to continue  
18 operation of the business and employment of qualified employees  
in this State.

20 The terms of qualification of the employees and the basis  
22 for calculating the tax reimbursement due under the Maine  
Employment Tax Increment Financing Act are those provided in the  
24 existing law.

26 The amendment establishes a cap of \$150,000 on the aggregate  
amount of reimbursements that may be made to retained businesses  
28 in any calendar year.

30 The amendment also limits the period of time in which  
32 applications by certified retained businesses may be filed with  
or certified by the commissioner to on or before February 28,  
1997.

34 It also adds a fiscal note to the bill.

**COMMITTEE AMENDMENT**