

# MAINE STATE LEGISLATURE

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# 118th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1997

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Legislative Document

No. 288

H.P. 224

House of Representatives, January 21, 1997

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### **An Act to Clarify Employment Tax Increment Financing.**

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Submitted by the Department of Economic and Community Development pursuant to Joint Rule 204.

Reference to the Committee on Taxation suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative KERR of Old Orchard Beach.

Cosponsored by Representatives: CHICK of Lebanon, MARVIN of Cape Elizabeth, Senator: PARADIS of Aroostook.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 36 MRSA §6753, sub-§3-A** is enacted to read:

6 **3-A. Acquired business.** "Acquired business" means any  
8 business that has been acquired by the applicant through the  
10 acquisition of substantially all of its assets or 50% or more of  
12 its stock within one year of the date of application for approval  
14 of an employment tax increment financing development program.

16 **Sec. 2. 36 MRSA §6753, sub-§12**, as enacted by PL 1995, c. 669,  
18 §5, is amended to read:

20 **12. Qualified employees.** "Qualified employees" means new,  
22 full-time employees hired in this State by a qualified business  
24 and for whom a retirement program subject to the Employee  
26 Retirement Income Security Act of 1974, 29 United States Code,  
Sections 101 to 1461, as amended, and group health insurance are  
provided, and whose income, calculated on a calendar year basis  
is greater than the average annual per-capita income of employees  
of similar classification in similar industries in the labor  
market area in which the qualified employee is employed and whose  
state income withholding taxes are subject to reimbursement to  
the qualified business under this chapter. "Qualified employees"  
must be residents of this State.

28 **Sec. 3. 36 MRSA §6754, sub-§1, ¶¶A and B**, as enacted by PL  
30 1995, c. 669, §5, are amended to read:

32 A. For qualified employees employed by a qualified business  
34 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~~  
36 of application, the reimbursement is equal to 30% of  
withholding taxes withheld during that year and attributed  
to those qualified employees.

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

46 **Sec. 4. 36 MRSA §6757**, as enacted by PL 1995, c. 669, §5, is  
48 amended to read:

50 **§6757. Calculation of employment tax increment**

2 The State Tax Assessor shall calculate the employment tax  
3 increment for a particular program by removing from the gross  
4 employment tax increment the revenues attributed to business  
5 activity shifted from affiliated businesses to the applicant, and  
6 those attributed to acquired businesses as of the December 31st  
7 preceding the date of application for approval of an employment  
8 tax increment financing development program. This adjustment is  
9 calculated by comparing the current year's income withholding tax  
10 revenues for the applicant business that is a member of an  
11 affiliated group with revenues for the group as a whole. If the  
12 growth in income withholding tax revenue for the entire group  
13 exceeds the growth of income withholding tax revenue generated by  
14 the applicant, the gross employment tax increment does not have  
15 to be adjusted to remove business activity shifted from  
16 affiliated businesses. If the growth in income withholding tax  
17 revenue for the affiliated group is less than the growth in  
18 income withholding tax revenue for the applicant, the difference  
19 is presumed to have been shifted from affiliated businesses to  
20 the applicant and the gross employment tax increment for the  
21 applicant business is reduced by the difference. The State Tax  
22 Assessor shall adjust the calculation by subtracting from the  
23 gross employment tax increment a figure obtained by multiplying  
24 the previous year's total amount of income taxes withheld by a  
25 qualified business by the percentage change in withholding taxes  
26 for all business within the State as a whole; however, an  
27 adjustment may not be made if the percentage change is 0 or less.

## 28 SUMMARY

30 This bill clarifies 3 issues with respect to employment tax  
31 increment financing. It adds language pertaining to the "net new  
32 jobs" precept upon which employment tax increment financing is  
33 based, and specifically excludes businesses from deriving a  
34 benefit from employees of "acquired businesses," and who do not  
35 represent actual net new employment. It also clarifies statutory  
36 language regarding the level of wages paid in order for an  
37 expanding or relocating firm to qualify for benefits under the  
38 employment tax increment financing program. Existing language  
39 sets the threshold for qualification as the average per capita  
40 wage within the labor market area. In those areas where wages  
41 are influenced by a single high wage payer, this benefit would be  
42 unavailable to an otherwise qualified firm creating quality  
43 jobs. This bill allows for the differentiation of wages by job  
44 and industrial classification.

46 This bill also clarifies language regarding the percentage  
47 of payment based upon labor market unemployment rates,  
48 stipulating that the percentage of reimbursement is established  
49 based upon unemployment rates in the year of application.  
50