Senate Bill 89

By: Senators Strickland of the 42nd, Hatchett of the 50th, Brass of the 6th, Beach of the 21st, Rhett of the 33rd and others

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, so as to increase the amount of a tax credit based on the federal tax credit for certain child and dependent care expenses to 40 percent of such federal tax credit; to provide for a child income tax credit; to provide for definitions; to provide for limitations and proration; to provide for rules and regulations; to revise a tax credit for employers providing child care; to decrease the number of children who use the facility that are required to be children of employees to qualify for such credit; to increase the amount of the credit; to provide for related matters; to provide for an effective date and applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to income taxes, is amended by revising Code Section 48-7-29.10, relating to tax credits for qualified child and dependent care expenses, as follows:

"48-7-29.10.

(a) A taxpayer shall be allowed a credit against the tax imposed by Code Section 48-7-20 for qualified child and dependent care expenses. ~~Such credit shall be determined by applying a percentage to~~ The amount of such credit shall be equal to 40 percent of the amount of the credit provided for in Section 21 of the Internal Revenue Code which is claimed and allowed pursuant to the Internal Revenue Code. ~~Such percentage shall be:~~

~~(1) Ten percent for all taxable years beginning on or after January 1, 2006, and prior to January 1, 2007;~~

~~(2) Twenty percent for all taxable years beginning on or after January 1, 2007, and prior to January 1, 2008; and~~

~~(3) Thirty percent for all taxable years beginning on or after January 1, 2008.~~

(b) In no event shall the total amount of the tax credit under this Code section for a taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall not be allowed to be carried forward to apply to the taxpayer's succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability.

(c) The commissioner shall be authorized to promulgate any rules and regulations necessary to implement and administer this Code section."

SECTION 2.

Said chapter is further amended by adding a new Code section to read as follows:

"48-7-29.27.

(a) As used in this Code section, the term 'qualifying child' shall have the same meaning as set forth in Section 24(c) of the Internal Revenue Code, provided that such child has not yet attained age seven.

(b) For taxable years beginning on or after January 1, 2025, a taxpayer shall be allowed a credit against the tax imposed by Code Section 48-7-20 in an amount equal to $250.00 for each qualifying child of the taxpayer.

(c) In no event shall more than one taxpayer be allowed the tax credit granted under this Code section for the same qualifying child. In the case of parents or legal guardians who do not file income taxes jointly for any reason, the child shall be the qualifying child for only one parent or legal guardian, which shall be the parent or legal guardian who had custody of the qualifying child for more than one-half of the tax year in question; provided, however, that the noncustodial parent or legal guardian may claim the credit if:

(1) A court of competent jurisdiction has unconditionally awarded, in writing, the noncustodial parent or legal guardian the tax credit authorized under this Code section, and such parent or legal guardian attaches a copy of the court order with his or her tax return; or

(2) The noncustodial parent or legal guardian attaches a copy of a written declaration made by the custodial parent or legal guardian of a qualifying child that he or she assigns the credit to the noncustodial parent or legal guardian and will not claim the credit allowed under this Code section with respect to such child for such tax year.

(d) Notwithstanding the provisions of subsection (b) of this Code section, in the case of any taxable nonresident or part-year resident whose tax was prorated as provided by Code Section 48-7-85, the amount of the credit determined pursuant to such subsection shall be prorated based on the ratio of income taxable to this state as properly reported on Schedule 3, Line 9 of the Georgia Form 500 for the taxable year.

(e) In no event shall the total amount of the tax credit under this Code section for a taxable year exceed the taxpayer's income tax liability. Any unused tax credit shall not be allowed to be carried forward to apply to the taxpayer's succeeding years' tax liability. No such tax credit shall be allowed the taxpayer against prior years' tax liability.

(f) The commissioner shall be authorized to promulgate rules and regulations necessary to implement and administer the provisions of this Code section."

SECTION 3.

Said chapter is further amended by revising paragraph (6) of subsection (a) and subsections (b) and (c) of Code Section 48-7-40.6, relating to tax credits for employers providing child care, as follows:

"(6)(A) 'Qualified child care property' means all real property and tangible personal property purchased or acquired on or after July 1, 1999, or which property is first placed in service on or after July 1, 1999, for use exclusively in the construction, expansion, improvement, or operation of an employer provided child care facility, but only if:

~~(A)~~(i) The facility is licensed or commissioned by the Department of Early Care and Learning pursuant to Chapter 1A of Title 20;

~~(B)~~(i) At least ~~95~~ 75 percent of the children who use the facility are children of employees of:

~~(i)~~(I) The taxpayer and other employers in the event that the child care property is owned jointly or severally by the taxpayer and one or more employers; or

~~(ii)~~(II) A corporation that is a member of the taxpayer's 'affiliated group' within the meaning of Section 1504(a) of the Internal Revenue Code; and

~~(C)~~(iii) The taxpayer has not previously claimed any tax credit for the cost of operation for such qualified child care property placed in service prior to taxable years beginning on or after January 1, 2000.

(B) Such term ~~Qualified child care property~~ includes, but is not limited to, amounts expended on land acquisition, improvements, buildings, and building improvements and furniture, fixtures, and equipment."

"(b) A tax credit against the tax imposed under this article shall be granted to an employer who provides or sponsors child care for employees. The amount of the tax credit shall be equal to ~~75~~ 90 percent of the cost of operation to the employer less any amounts paid for by employees during a taxable year.

(c) The tax credit allowed under subsection (b) of this Code section shall be subject to the following conditions and limitations:

(1) Such credit shall not exceed ~~50~~ 75 percent of the amount of the taxpayer's income tax liability for the taxable year as computed without regard to any other credits;

(2) Any such credit claimed but not used in any taxable year may be carried forward for five years from the close of the taxable year in which the cost of operation was incurred; and

(3) The employer shall certify to the department the names of the employees, the name of the child care provider, and such other information as may be required by the department to ensure that credits are granted only to employers who provide or sponsor approved child care pursuant to this Code section."

SECTION 4.

This Act shall become effective on July 1, 2025, and shall be applicable to all taxable years beginning on or after January 1, 2025.

SECTION 5.

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