

TAX CREDIT AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian S. King

Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This bill modifies provisions related to the Tax Credit for Employment of Persons Who Are Homeless Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes rulemaking authority for the Department of Workforce Services;
- ▶ modifies a deadline for providing information required in a participation agreement;
- ▶ modifies a deadline for determining whether an employer has met the requirements of a participation agreement; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

35A-5-302, as enacted by Laws of Utah 2014, Chapter 315

35A-5-303, as enacted by Laws of Utah 2014, Chapter 315

35A-5-304, as enacted by Laws of Utah 2014, Chapter 315

35A-5-305, as enacted by Laws of Utah 2014, Chapter 315

30 *Be it enacted by the Legislature of the state of Utah:*

31 Section 1. Section **35A-5-302** is amended to read:

32 **35A-5-302. Definitions.**

33 As used in this part:

34 (1) "Date of hire" means the date a person who is homeless first performs labor or
35 services for compensation for an employer.

36 (2) "Governmental entity" is as defined in Section [59-2-511](#).

37 (3) "Permanent housing, permanent supportive, or transitional facility" means a
38 facility:

39 (a) located within the state;

40 (b) that provides supervision of residents of the facility; and

41 (c) that is:

42 (i) a publicly or privately operated shelter:

43 (A) designed to provide temporary living accommodations, including a welfare hotel,
44 congregate shelter, or transitional housing for the mentally ill; and

45 (B) that receives federal homeless assistance funding distributed by the United States
46 Department of Housing and Urban Development; or

47 (ii) an emergency shelter that receives homeless assistance funding from a county, city,
48 or town.

49 (4) "Person who is homeless" means an individual whose primary nighttime residence
50 is ~~[a permanent housing, permanent supportive, or transitional facility.]:~~

51 (a) a public or private place not designated for or ordinarily used as a regular sleeping
52 accommodation for an individual, including a car, park, abandoned building, bus station, train
53 station, airport, or camping ground; or

54 (b) a publicly or privately operated shelter designated to provide temporary living
55 arrangements, including a permanent housing, permanent supportive, or transitional facility.

56 (5) "Wage requirement" means that an employer pays a person who is homeless \$4,000
57 or more in wages during a time period that:

- 58 (a) begins on the date of hire; and
- 59 (b) ends no later than two calendar quarters after the calendar quarter in which the date
- 60 of hire occurs.

61 Section 2. Section **35A-5-303** is amended to read:

62 **35A-5-303. Application for tax credit certificate.**

63 (1) An employer who employs a person who is homeless and seeks to receive a tax

64 credit certificate under this part shall file an application with the department with respect to

65 each person who is homeless that the employer employs.

66 (2) The application shall be on a form the department provides to the employer.

67 (3) The application shall require the employer to certify that:

68 (a) the person who [~~is homeless who~~] the employer employs:

69 (i) [~~on the date of hire, has a primary nighttime residence at a permanent housing,~~

70 ~~permanent supportive, or transitional facility~~] met the definition of a person who is homeless

71 on the date of hire or at any time during the 60-day period immediately before the date of hire;

72 (ii) is an employee, and not an independent contractor, of the employer;

73 (iii) is legally eligible to work in the United States; and

74 (iv) has not worked for the employer for more than 40 hours during the 60-day period

75 immediately [~~preceding~~] before the date of hire; and

76 (b) the employer:

77 (i) complies with all state, federal, or local requirements related to the employment of

78 the person who is homeless; and

79 (ii) is not a governmental entity.

80 (4) The application:

81 (a) shall list, for each person who is homeless that the employer employs:

82 (i) the person's name;

83 (ii) the person's [~~Social Security~~] social security number; and

84 (iii) the person's current address;

85 (b) shall list the employer's federal employer identification number; and

86 (c) may require additional information as determined by the department.

87 (5) An employer shall provide documentation to the department to support the
88 certifications and other information the employer provides in the application described in this
89 section.

90 (6) If the department determines that, on the basis of the documentation and other
91 information the employer provides, the employer has satisfied the certification requirements of
92 Subsection (3) and provided the information described in Subsection (4), the department shall
93 enter into a participation agreement with the employer as provided in Section 35A-5-304 for
94 each person who is homeless who the employer employs.

95 (7) If the department determines that, on the basis of the documentation and other
96 information the employer provides, the employer has not satisfied the certification
97 requirements of Subsection (3) or provided the information described in Subsection (4), the
98 department:

99 (a) shall deny the application; or

100 (b) inform the employer that the documentation the employer provided is inadequate
101 and request the employer to submit new or additional documentation.

102 (8) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and
103 consistent with the provisions of this part, the department may make rules governing the
104 administration of the tax credit described in this part.

105 Section 3. Section 35A-5-304 is amended to read:

106 **35A-5-304. Participation agreements.**

107 (1) If the department enters into a participation agreement with an employer, the
108 participation agreement shall:

109 (a) be provided by the department; and

110 (b) establish the requirements the employer is required to meet to be eligible to receive
111 a tax credit certificate, including:

112 (i) requiring the employer to meet the certification requirements of Subsection
113 35A-5-303(3);

114 (ii) requiring the employer to provide written notice to the department [~~within 10 days~~
115 ~~after the date~~] when the employer meets the wage requirement; and

116 (iii) requiring the employer to provide documentation or other information the
117 department requests:

118 (A) to establish the hours and dates that the person who is homeless works for the
119 employer; and

120 (B) to support the employer's eligibility to receive a tax credit certificate under this
121 part.

122 (2) An agreement under this section does constitute a right to receive a tax credit
123 certificate under this part.

124 Section 4. Section **35A-5-305** is amended to read:

125 **35A-5-305. Tax credit certificate.**

126 (1) An employer shall provide written notice to the department [~~within 10 days after~~
127 ~~the date the employer meets the wage requirement~~] as provided in the participation agreement
128 described in Section **35A-5-304**.

129 (2) The department shall determine whether an employer has met the requirements of
130 the participation agreement under Section **35A-5-304** to receive a tax credit certificate[~~:(a)~~]
131 after the employer provides the written notice described in Subsection (1) to the department[;
132 ~~and~~].

133 [~~(b) no later than 60 days after the date that the employer provides the department~~
134 ~~unemployment insurance wage information:~~]

135 [~~(i) for the person who is homeless;~~]

136 [~~(ii) as required by Subsection **35A-4-305(8)**; and~~]

137 [~~(iii) for each calendar quarter during which the employer pays wages to meet the wage~~
138 ~~requirement:~~]

139 (3) Subject to the other provisions of this section, if the department determines that an
140 employer has met the requirements of the participation agreement under Section **35A-5-304** to
141 receive a tax credit certificate, the department may issue a tax credit certificate to the employer.

- 142 (4) A tax credit certificate under this section:
- 143 (a) shall list the amount of tax credit allowable for the taxable year in an amount that
- 144 does not exceed \$2,000;
- 145 (b) shall list the name and federal employer number of the employer;
- 146 (c) shall list the name, Social Security identification number, and current address of the
- 147 person who is homeless with respect to whom the employer has met the wage requirement; and
- 148 (d) may include any other information required by the department.
- 149 (5) Subject to Subsections (6) and (7), the department shall issue tax credit certificates
- 150 under this section in the order that the department receives the written notice described in
- 151 Subsection (1).
- 152 (6) The department may not issue tax credit certificates that total more than \$100,000
- 153 in a fiscal year.
- 154 (7) (a) Subject to Subsection (7)(b), if the department would have issued tax credit
- 155 certificates that total more than \$100,000 in a fiscal year but for the limit provided in
- 156 Subsection (6), the department shall issue the tax credit certificates that exceed \$100,000 in the
- 157 next fiscal year.
- 158 (b) If the department issues tax credit certificates in accordance with Subsection (7)(a):
- 159 (i) the tax credit certificates may not total more than \$100,000; and
- 160 (ii) the department may not issue tax credit certificates for an amount that exceeds the
- 161 limit described in Subsection (7)(b)(i) in a future fiscal year.
- 162 (8) The department shall provide a copy of a tax credit certificate the department issues
- 163 under this section to the State Tax Commission.