

**Local Work Opportunity Amendment Act of 2018,**

**Bill 22-668**

Before the

**Committee on Finance and Revenue  
Council of the District of Columbia  
The Honorable Jack Evans, Chair**

**October 30, 2018, 10:00 A.M.  
John A. Wilson Building, Room 120**



**Testimony of Andrew D. Reiter  
Assistant General Counsel  
Office of Tax and Revenue**

**Jeffrey S. DeWitt  
Chief Financial Officer  
Government of the District of Columbia**

Good morning, Chairman Evans and members of the Committee on Finance and Revenue. I am Andrew D. Reiter, Assistant General Counsel for the Office of Tax and Revenue (“OTR”). I am pleased to present testimony today on Bill 22-668, the “Local Work Opportunity Amendment Act of 2018,” (the “Bill”).

The Bill creates a new, non-refundable franchise tax credit for corporations and unincorporated businesses to incentivize the hiring of members of certain groups. This credit is similar to the federal work opportunity credit found in Section 51 of the Internal Revenue Code.

The Bill sets forth the groups of employees eligible for the credit, the method for calculating the credit, and procedures for granting and administering the credit. To be an eligible employee, an individual must be a District of Columbia resident from one of the following groups:

- Employees whose family has received public assistance;
- Employees who are qualified veterans;
- Employees who were convicted of a felony;
- Employees who worked for the taxpayer pursuant to a summer youth jobs program;
- Employees with a physical or mental disability;

- Employees whose household received supplemental nutrition assistance;
- Employees who are receiving supplemental security income;
- Employees who have been unemployed for less than 27 weeks; and
- Employees who are over age 65.

The amount of the credit is based on the number of hours worked by an eligible employee and their first-year wages. The amount of first-year wages cannot exceed \$6,000 per year per eligible employee. The credit is 40 percent of first-year wages for each eligible employee who works 400 or more hours in a year. The credit is reduced to 25 percent of first-year wages for eligible employees who work between 120 and 399 hours in a year. Therefore, the maximum credit is \$2,400 for eligible employees who work 400 or more hours, and \$1,500 for eligible employees who work between 120 and 399 hours. If the amount of the credit is greater than the tax due, the tax credit may be carried forward up to ten years.

Under the Bill, the Mayor is responsible for receiving and processing applications for the credit. Once the Mayor has approved an application, it, as well as other taxpayer information, is then sent to OTR for review and processing.

OTR can administer this new credit. However, OTR suggests certain changes that would facilitate administration of the credit; the text of the suggested changes is attached to my testimony.

First, many of the groups listed in the Bill are similar to those in Section 51 of the Internal Revenue Code, however, the definitions differ slightly. These differences would make the credit more difficult to administer and audit. Therefore, OTR suggests that the Bill's definitions mirror the relevant definitions in the Internal Revenue Code.

Second, the Bill does not state a due date for the Mayor to transmit approved applications to OTR. OTR would like to ensure that it has sufficient time to process this information and to ensure that it is noted in a taxpayer's account. Therefore, OTR suggests a due date no later than January 8<sup>th</sup>.

Third, the Bill states that the Office of the Chief Financial Officer may audit the accounts of a taxpayer receiving the credit for up to three years following the issuance of the credit. The statute of limitations for tax assessments is currently three years from the date the return is due. Therefore, OTR suggests that this language is not necessary.

Thank you, Chairman Evans for the opportunity to comment on the Bill. I am happy to answer any questions at this time.

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Councilmember Mary M. Cheh

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Councilmember Vincent C. Gray

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Councilmember Trayon White, Sr.

A BILL

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IN THE COUNCIL OF DISTRICT OF COLUMBIA

\_\_\_\_\_

To amend Chapter 18 of Title 47 of the District of Columbia Official Code to create a local work opportunity tax credit, to incentivize the employment of District residents with barriers to employment, to establish how businesses qualify for the local work opportunity tax credit, to establish the method for determining the value of the local work opportunity tax credit, and to establish the procedure for granting and administering the local work opportunity tax credit.

44 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this  
45 act may be cited as the "Local Work Opportunity Tax Credit Amendment Act of 2018".

46 Sec. 2. Chapter 18 of Title 47 of the District of Columbia Official Code is amended as  
47 follows:

48 (a) The table of contents is amended as follows:

49 (1) A new section designation is added to read as follows:

50 "47-1807.~~14~~15. Local work opportunity tax credit."

Commented [A1]: 1807.14 was created in 2019 BSA

51 (2) A new subchapter VII-C is added to read as follows:

52 "Subchapter VII-C. Local Work Opportunity Tax Credit.

53 "47-1807.71. Definitions.

54 "47-1807.72. Local work opportunity tax credit.

55 "47-1807.73. Local work opportunity tax credit eligibility.

56 "47-1807.74. Local work opportunity tax credit application, approval, and calculation.

57 "47-1807.75. Local work opportunity tax credit administration.

58 "47-1807.76. Rules."

59 (3) A new section designation is added to read as follows:

60 "47-1808.~~14~~15. Local work opportunity tax credit."

61 (b) A new section 47-1807.~~14~~15 is added to read as follows:

62 "§ 47.1807.~~14~~15. Local work opportunity tax credit."

63 "A local work opportunity tax credit shall be allowed as provided in subchapter VII-C of  
64 this chapter."

65 (c) A new subchapter VII-C is added to read as follows:

66 "Subchapter VII-C. Local Work Opportunity Tax Credit.

67           “§ 47-1807.71. Definitions.

68           “For the purposes of this subchapter, the term:

69                   “(1) “Eligible employee” means a District of Columbia resident who is a member  
70 of a targeted group, as described in paragraph (2) of this section, and is an employee of a  
71 taxpayer who:

72                           “(A) Was not employed by the taxpayer at any time prior to the most  
73 recent hiring date of the employee, except if the employee previously worked for the employer  
74 solely through a summer youth jobs program established pursuant to section 2(a)(1) of the Youth  
75 Employment Act of 1979, effective January 5, 1980 (D.C. Law 3-46; D.C. Official Code § 32-  
76 241(a)(1));

77                           “(B) Is not employed as the result of the displacement, other than for  
78 cause, of another employee, or as the result of a strike or lockout, or a layoff in which other  
79 employees are awaiting recall, or a reduction of the regular wages, benefits, or rights of other  
80 employees in similar jobs;

81                           “(C) Is not a member of the board of directors of the taxpayer;

82                           “(D) Is not an owner, directly or indirectly, of a majority of the stock of  
83 the taxpayer, or a majority of the capital and profits interests in the taxpayer;

84                           “(E) Does not bear any of the relationships described in subparagraph (A)  
85 through (H) of section 152(d)(2) of the Internal Revenue Code of 1986, effective October 22,  
86 1986 (100 Stat. 2085; 26 U.S.C. § 152(d)(2)) to the taxpayer, a member of the board of directors  
87 of the taxpayer, an individual who owns, directly or indirectly, a majority of the value of the  
88 outstanding stock of the taxpayer, or the majority of the capital and profits interests in the  
89 taxpayer;

90                   “(F) If the taxpayer is an estate or trust, is not a grantor, beneficiary, or  
91 fiduciary of the estate or trust, and does not bear any of the relationships described in  
92 subparagraph (A) through (H) of section 152(d)(2) of the Internal Revenue Code of 1986,  
93 effective October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 152(d)(2)) to a grantor, beneficiary, or  
94 fiduciary of the estate or trust; and

95                   “(g) Was not employed as the result of a local hiring requirement placed  
96 on the taxpayer in exchange for any public benefit;

97                   “(2) “Member of a targeted group” means an eligible employee who is:

98                   “(A) ~~A member of a family, as defined by section 505(2) of the District of~~  
99 ~~Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code §~~  
100 ~~4-205.05(5)) that has received public assistance pursuant to section 201(5) of the act:~~

101                               ~~(i) For any 9 months during the 18-month period ending on the~~  
102 ~~hiring date of the employee;~~

103                               ~~(ii) For any 18-month period ending in the 2 years prior to the~~  
104 ~~hiring date of the employee; or~~

105 ~~(iii) Who ceased to be eligible for such assistance within the 2 years prior to the hiring date by~~  
106 ~~reason of any limitation imposed by Federal or local law on the maximum period that such~~  
107 ~~assistance is payable to a family-qualified IV-A recipient/recipient as defined in section~~  
108 ~~51(d)(2)(A) of the Internal Revenue Code of 1986, effective October 22, 1986 (100 Stat. 2085;~~  
109 ~~26 U.S.C. § 51(d)(2)(A); 100 Stat. 2085;~~

110                   “(B) ~~A qualified veteran recipient as defined in section 51(d)(23)(A) of the~~  
111 ~~Internal Revenue Code of 1986, effective October 22, 1986 (100 Stat. 2085; 26 U.S.C. §~~  
112 ~~51(d)(23)(A). A qualified veteran who has experienced periods of unemployment during the one-~~

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113 ~~year period ending on the hiring date of the individual which equal or exceed 4 weeks in the~~  
114 ~~aggregate;~~

115           “(C) A qualified veteran as defined in section 51(d)(4) of the Internal  
116 Revenue Code of 1986, effective October 22, 1986 ((100 Stat. 2085; 26 U.S.C. § 51(d)(4)); An  
117 individual who has been convicted of a felony under any statute of the United States or any State  
118 and has a hiring date which is not more than 3 years after the last date on which such individual  
119 was so convicted or was released from prison;

120           “(D) An individual who previously worked for the taxpayer pursuant to a  
121 summer youth jobs program established pursuant to section 2(a)(1) of the Youth Employment  
122 Act of 1979, effective January 5, 1980 (D.C. Law 3-46; D.C. Official Code § 32-241(a)(1));

123           “(E) A qualified veteran~~avocational rehabilitation referral as defined in~~  
124 section 51(d)(64) of the Internal Revenue Code of 1986, effective October 22, 1986 ((100 Stat.  
125 2085; 26 U.S.C. § 51(d)(46)); An individual who has a physical or mental disability which, for  
126 such individual constitutes a substantial handicap to employment and has been referred to the  
127 employer upon completion of or while receiving rehabilitative services;

128           “(F) A qualified supplemental nutrition assistance benefits recipient as  
129 defined in section 51(d)(48) of the Internal Revenue Code of 1986, effective October 22, 1986  
130 ((100 Stat. 2085; 26 U.S.C. § 51(d)(48)); An individual who is a member of a household, as  
131 defined by Section 3(m) of the Food and Nutrition Act of 2008, effective May 22, 2008 (122  
132 Stat. 1664; 7 U.S.C. § 2012(m)) receiving supplemental nutrition assistance pursuant to the act  
133 for at least 3 months of the 5 month period ending on the hiring date of the individual;

134           “(G) A qualified SSI recipient as defined in section 51(d)(89) of the  
135 Internal Revenue Code of 1986, effective October 22, 1986 ((100 Stat. 2085; 26 U.S.C. §

136 ~~51(d)(89); An individual who is receiving supplemental security income benefits under title XVI~~  
137 ~~of the Social Security Act, effective August 14, 1935 (49 Stat. 620; 42 U.S.C. 1381 et seq.) for~~  
138 ~~any month ending within the 60-day period ending on the hiring date;~~

139 ~~\_\_\_\_\_“(GH) A qualified SSI recipient as long-term family assistance recipient as~~  
140 ~~defined in section 51(d)(910) of the Internal Revenue Code of 1986, effective October 22, 1986~~  
141 ~~(100 Stat. 2085; 26 U.S.C. § 51(d)(910));~~

142 ~~\_\_\_\_\_“(I) A qualified SSI long-term unemployment recipient recipient as defined~~  
143 ~~in section 51(d)(915) of the Internal Revenue Code of 1986, effective October 22, 1986 ((100~~  
144 ~~Stat. 2085; 26 U.S.C. § 51(d)(915); An individual who has been unemployed for not less than 27~~  
145 ~~consecutive weeks; or,~~

146 ~~\_\_\_\_\_“(KJ) An individual who is over the age of 65.~~

147 ~~“(3) “Qualified first-year wages” means the wages paid or incurred by the~~  
148 ~~employer during the taxable year to eligible employees that are attributable to service rendered~~  
149 ~~during the one year period beginning with the day the individual begins work for the employer;~~  
150 ~~provided, that the amount of qualified first-year wages which may be taken into account with~~  
151 ~~respect to any individual shall not exceed \$6,000 per year.~~

152 ~~\_\_\_\_\_“(4) “Qualified veteran” means an individual who was not on active duty in the~~  
153 ~~Armed Forces of the United States for any day during the 60-day period ending on the hiring~~  
154 ~~date of the employee, and who has:~~

155 ~~\_\_\_\_\_“(A) Served on active duty (other than active duty for training) in the~~  
156 ~~Armed Forces of the United States for a period of more than 180 days; or~~

157 ~~“(B) Been discharged for released from active duty in the Armed Forces of~~  
158 ~~the United States for a service connected disability within the year prior to the date the~~  
159 ~~individual was hired by a taxpayer seeking a local work opportunity tax credit;~~

160 “§ 47-1807.72. Local work opportunity tax credit.

161 “For tax years ~~beginning on or after January-December 31, 2019~~2018, upon application  
162 by a taxpayer, in the order of priority received and not to exceed the annual amount allocated for  
163 that purpose in the budget and financial plan, the Mayor, in accordance with this subchapter,  
164 shall approve, and there may be allowed, to any taxpayer a local work opportunity tax credit with  
165 respect to the franchise taxes imposed by subchapters VII and VIII of this chapter, in an amount  
166 determined by the Mayor pursuant to § 47-1807.74.

167 “§ 47-1807.73. Local work opportunity tax credit eligibility.

168 “(a) The Mayor shall approve any local work opportunity tax credits allowed by § 47-  
169 1807.72, if a taxpayer pays qualified first-year wages to at least one eligible employee during the  
170 taxable year; provided that:

171 (1) The taxpayer accords eligible employees the same or better benefits or rights  
172 that it accords other employees in similar jobs; and

173 (2) The taxpayer meets, with respect to the employment of the eligible employee,  
174 all federal and District of Columbia laws and regulations, including those concerning health,  
175 safety, child labor, wage and hour, and equal employment opportunity.

176 “§ 47-1807.74. Local work opportunity tax credit application, approval, and calculation.

177 “(a) A taxpayer shall apply for, and the Mayor shall approve, the local work opportunity  
178 tax credit as follows:

179                   “(1) A taxpayer shall submit a complete written application for a local work  
180 opportunity tax credit, which shall include:

181                   “(A) Identifying information for each eligible employee that was hired in  
182 the taxable year by the taxpayer for whom the taxpayer seeks a local work opportunity tax credit;

183                   “(B) The hours of service performed by each eligible employee in the  
184 taxable year;

185                   “(C) The amount of qualified first-year wages paid in the taxable year to  
186 each eligible employee; and,

187                   “(D) Any additional information or documentation that the Mayor shall  
188 require either to determine eligibility for the local work opportunity tax credit or to evaluate the  
189 effectiveness of the tax credit.

190                   “(2) The Mayor shall review each application submitted for a local work  
191 opportunity tax credit. Based on the application submitted, the mayor shall approve the local  
192 work opportunity tax credit as provided in § 47-1807.72. This approval shall include the  
193 maximum amount of the credit available to the taxpayer calculated pursuant to this section.

194                   “(b) The local work opportunity tax credit shall be calculated by the Mayor as follows:

195                   “(1) For each eligible employee who has performed 400 or more hours of service  
196 in the taxable year, the Mayor shall allow a credit to the taxpayer equal to 40% of the qualified  
197 first-year wages paid to the eligible employee;

198                   “(2) For each eligible employee who performed fewer than 400 hours of service,  
199 but 120 hours of service or more in the taxable year, the Mayor shall allow a credit to the  
200 taxpayer equal to 25% of the qualified first-year wages paid to the eligible employee; and,

201                   “(3) The Mayor shall deny a credit to the taxpayer for any eligible employee who  
202 performed fewer than 120 hours of service in the taxable year.

203                   “(c) If the amount of the credit allowed under subsection (b) of this section exceeds the  
204 amount of franchise taxes otherwise due on the taxpayer’s income in the tax year for which the  
205 local work opportunity tax credit is being claimed, the unused amount of the local work  
206 opportunity tax credit may be carried forward and used as a credit against subsequent years’  
207 franchise tax liability for a period not to exceed 10 years and shall be applied first to the earliest  
208 tax years possible. Any credit remaining after this period shall not be credited to the taxpayer.

209                   “(d) A taxpayer who uses a local work opportunity tax credit that is subsequently  
210 disallowed shall be liable for the resulting tax deficiency, interest, and penalties as otherwise  
211 provided by law.

212                   “§ 47-1807.75. Local work opportunity tax credit administration.

213                   “(a) The Mayor shall certify, to the Office of Tax and Revenue, the following information  
214 for each applicant that the Mayor has approved for a local work opportunity tax credit pursuant  
215 to this subchapter:

216                   “(1) The taxpayer’s identification number;

217                   “(2) The effective date of the taxpayer’s eligibility for the tax credit;

218                   “(3) The maximum amount of the tax credit availability to the taxpayer;

219                   “(4) A statement that funds are sufficient within an approved budget and financial  
220 plan to allow the Office of Tax and Revenue to issue a nonrefundable local work opportunity tax  
221 credit to this taxpayer; and,

222                   “(5) Such other information as the Office of Tax and Revenue shall require to  
223 administer the local work opportunity tax credit pursuant to this subchapter.

224 ~~“(b) The Chief Financial Officer may audit the accounts of a taxpayer receiving a local~~  
225 ~~work opportunity tax credit up to 3 years following the issuance of any credit.~~

226 “(e**b**) The Mayor shall transmit an annual report to the Council, including information  
227 regarding all approvals granted and local work opportunity credits issued, including the names of  
228 the recipients of the credits issued, the credit amounts claimed, the total number of eligible  
229 employees hired by each recipient, and the hours of service performed by each eligible  
230 employee.

231 “§ 47-1807.76. Rules.

232 “The Mayor, pursuant to Chapter 5 of Title 2, shall issue rules necessary to implement  
233 the provisions of this subchapter.”.

234 (d) A new section 47-1808.1**5**4 is added to read as follows:

235 “§ 47-1808.1**5**4. Local work opportunity tax credit.

236 “A local work opportunity tax credit shall be allowed as provided in subchapter VII-C of  
237 this chapter.”.

238 Sec. 3. Applicability.

239 This act shall apply upon the inclusion of its fiscal effect in an approved budget and  
240 financial plan.

241

242 Sec. 4. Fiscal impact statement.

243 The Council adopts the fiscal impact statement in the committee report as the fiscal  
244 impact statement required by section 4a of the General Legislative Procedures Act of 1975,  
245 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

246 Sec. 5. Effective date.

247           This act shall take effect following approval by the Mayor (or in the event of veto by the  
248 Mayor, action by the Council to override the veto), a 30-day period of congressional review as  
249 provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December  
250 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of  
251 Columbia Register.