

8827

I N A S S E M B L Y

February 19, 2014

Introduced by M. of A. GUNTHER -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to establishing business franchise, personal income, banking franchise and insurance franchise tax credits for a portion of the wages paid to certain employees who have a developmental disability

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 210 of the tax law is amended by adding a new
2 subdivision 23-b to read as follows:
3 23-B. CREDIT FOR EMPLOYMENT OF AN EMPLOYEE WHO HAS A DEVELOPMENTAL
4 DISABILITY. (A) ALLOWANCE OF CREDIT. A QUALIFIED TAXPAYER SHALL BE
5 ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION,
6 AGAINST THE TAX IMPOSED BY THIS ARTICLE, FOR HIRING AND EMPLOYING, FOR
7 NOT LESS THAN ONE YEAR AND FOR NOT LESS THAN THIRTY-FIVE HOURS EACH
8 WEEK, OR FOR PART-TIME WORK FOR NOT LESS THAN FIFTEEN HOURS A WEEK, A
9 QUALIFIED EMPLOYEE WITHIN THE STATE.
10 (B) QUALIFIED TAXPAYER. A QUALIFIED TAXPAYER IS A TAXPAYER WHICH IS AN
11 EMPLOYER, OTHER THAN THE FEDERAL, THE STATE OR A LOCAL GOVERNMENT OR ANY
12 INSTRUMENTALITY THEREOF.
13 (C) QUALIFIED EMPLOYEE. A QUALIFIED EMPLOYEE IS AN INDIVIDUAL WHO
14 RESIDES IN THIS STATE:
15 (1) WHO IS DEEMED TO HAVE A DEVELOPMENTAL DISABILITY AS DEFINED IN
16 SUBDIVISION TWENTY-TWO OF SECTION 1.03 OF THE MENTAL HYGIENE LAW;
17 (2) WHO COMMENCES EMPLOYMENT BY THE QUALIFIED TAXPAYER ON OR AFTER
18 JANUARY FIRST, TWO THOUSAND FIFTEEN, AND BEFORE JANUARY FIRST, TWO THOU-
19 SAND EIGHTEEN;
20 (3) WHO CERTIFIES BY SIGNED AFFIDAVIT, UNDER PENALTY OF PERJURY, THAT
21 HE OR SHE HAS NOT BEEN EMPLOYED FOR THIRTY-FIVE OR MORE HOURS OR THAT HE
22 OR SHE HAS NOT BEEN EMPLOYED FOR FIFTEEN OR MORE HOURS DURING ANY WEEK
23 IN THE NINETY DAY PERIOD IMMEDIATELY PRIOR TO HIS OR HER EMPLOYMENT BY
24 THE QUALIFIED TAXPAYER;
25 (4) WHO WAS NOT EMPLOYED BY THE QUALIFIED TAXPAYER TO REPLACE ANOTHER
26 EMPLOYEE; AND/OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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(5) WHO IS A CURRENT EMPLOYEE OF A SHELTERED WORKSHOP, WHICH FOR PURPOSES OF THIS SUBDIVISION IS DEFINED AS AN ORGANIZATION OR ENVIRONMENT THAT EMPLOYS PEOPLE WITH DISABILITIES SEGREGATED FROM OTHERS; OR

(6) WHO WAS UNEMPLOYED FOR AT LEAST THREE MONTHS PRIOR TO JANUARY FIRST, TWO THOUSAND FIFTEEN.

(D) CERTIFICATION OF QUALIFIED EMPLOYEE. THE COMMISSIONER SHALL PROMULGATE ANY RULES AND REGULATIONS NECESSARY TO DETERMINE IF A PERSON IS CERTIFIED AS A QUALIFIED EMPLOYEE.

(E) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE TEN PERCENT OF THE QUALIFIED WAGES PAID TO THE QUALIFIED EMPLOYEE AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN; PROVIDED, HOWEVER, THAT THE QUALIFIED EMPLOYEE IS EMPLOYED FOR AT LEAST ONE YEAR AND IS FULL TIME TOTALING AT LEAST THIRTY-FIVE HOURS PER WEEK. A QUALIFIED PART TIME EMPLOYEE WHO WORKS AT LEAST FIFTEEN HOURS PER WEEK AND IS EMPLOYED FOR AT LEAST ONE YEAR SHALL RECEIVE A CREDIT OF FIVE PERCENT OF THE QUALIFIED WAGES PAID TO THE QUALIFIED EMPLOYEE AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN. THE CREDIT ALLOWED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED, DURING ANY TAXABLE YEAR, FIVE THOUSAND DOLLARS FOR ANY QUALIFIED FULL TIME EMPLOYEE AND TWO THOUSAND FIVE HUNDRED DOLLARS FOR ANY QUALIFIED PART TIME EMPLOYEE. "QUALIFIED WAGES" MEANS WAGES PAID OR INCURRED BY THE QUALIFIED TAXPAYER DURING THE TAXABLE YEAR TO A QUALIFIED EMPLOYEE WHICH ARE ATTRIBUTABLE, WITH RESPECT TO SUCH EMPLOYEE, TO SERVICES RENDERED BY THE QUALIFIED EMPLOYEE.

(F) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE AMOUNT PRESCRIBED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING THREE YEARS, AND MAY BE DEDUCTED FROM THE QUALIFIED TAXPAYER'S TAX FOR SUCH YEARS.

S 2. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding a new clause (xxxvii) to read as follows:

(XXXVII) CREDIT FOR EMPLOYMENT	QUALIFIED WAGES
OF CERTAIN EMPLOYEES	UNDER SUBDIVISION
UNDER SUBSECTION (A-3)	TWENTY-THREE-B
	OF SECTION TWO
	HUNDRED TEN OR
	SUBSECTION (E-2)
	OF SECTION FOURTEEN
	HUNDRED FIFTY-SIX

S 3. Section 606 of the tax law is amended by adding a new subsection (a-3) to read as follows:

(A-3) CREDIT FOR EMPLOYMENT OF AN EMPLOYEE WHO HAS A DEVELOPMENTAL DISABILITY. (1) ALLOWANCE OF CREDIT. A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION, AGAINST THE TAX IMPOSED BY THE ARTICLE, FOR HIRING AND EMPLOYING, FOR NOT LESS THAN ONE YEAR AND FOR NOT LESS THAN THIRTY-FIVE HOURS EACH WEEK, A QUALIFIED EMPLOYEE WITHIN THE STATE.

(2) QUALIFIED TAXPAYER. A QUALIFIED TAXPAYER IS A TAXPAYER WHO IS AN EMPLOYER, OTHER THAN THE FEDERAL, THE STATE OR A LOCAL GOVERNMENT OR ANY INSTRUMENTALLY THEREOF.

(3) QUALIFIED EMPLOYEE. A QUALIFIED EMPLOYEE IS AN INDIVIDUAL WHO RESIDES IN THIS STATE:

(A) WHO IS DEEMED TO HAVE A DEVELOPMENTAL DISABILITY AS DEFINED IN SUBDIVISION TWENTY-TWO OF SECTION 1.03 OF THE MENTAL HYGIENE LAW;

(B) WHO COMMENCES EMPLOYMENT BY THE QUALIFIED TAXPAYER ON OR AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN, AND BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN;

(C) WHO CERTIFIES BY SIGNED AFFIDAVIT, UNDER PENALTY OF PERJURY, THAT HE OR SHE HAS NOT BEEN EMPLOYED FOR THIRTY-FIVE OR MORE HOURS DURING ANY WEEK IN THE NINETY DAY PERIOD IMMEDIATELY PRIOR TO HIS OR HER EMPLOYMENT BY THE QUALIFIED TAXPAYER;

(D) WHO WAS NOT EMPLOYED BY THE QUALIFIED TAXPAYER TO REPLACE ANOTHER EMPLOYEE; AND/OR

(E) WHO IS A CURRENT EMPLOYEE OF A SHELTERED WORKSHOP, WHICH FOR PURPOSES OF THIS SUBDIVISION IS DEFINED AS AN ORGANIZATION OR ENVIRONMENT THAT EMPLOYS PEOPLE WITH DISABILITIES SEGREGATED FROM OTHERS; OR

(F) WHO WAS UNEMPLOYED FOR AT LEAST THREE MONTHS PRIOR TO JANUARY FIRST, TWO THOUSAND FIFTEEN.

(4) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE TEN PERCENT OF THE QUALIFIED WAGES PAID TO THE QUALIFIED EMPLOYEE AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN; PROVIDED, HOWEVER, THAT THE QUALIFIED EMPLOYEE IS EMPLOYED FOR AT LEAST ONE YEAR AND IS FULL TIME TOTALING AT LEAST THIRTY-FIVE HOURS PER WEEK. A QUALIFIED PART TIME EMPLOYEE WHO WORKS AT LEAST FIFTEEN HOURS PER WEEK AND IS EMPLOYED FOR AT LEAST ONE YEAR SHALL RECEIVE A CREDIT OF FIVE PERCENT OF THE QUALIFIED WAGES PAID TO THE QUALIFIED EMPLOYEE AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN. THE CREDIT ALLOWED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED, DURING ANY TAXABLE YEAR, FIVE THOUSAND DOLLARS FOR ANY QUALIFIED FULL TIME EMPLOYEE AND TWO THOUSAND FIVE HUNDRED DOLLARS FOR ANY QUALIFIED PART TIME EMPLOYEE. "QUALIFIED WAGES" MEANS WAGES PAID OR INCURRED BY THE QUALIFIED TAXPAYER DURING THE TAXABLE YEAR TO A QUALIFIED EMPLOYEE WHICH ARE ATTRIBUTABLE, WITH RESPECT TO SUCH EMPLOYEE, TO SERVICES RENDERED BY THE QUALIFIED EMPLOYEE.

(5) CERTIFICATION OF QUALIFIED EMPLOYEE. THE COMMISSIONER SHALL PROMULGATE ANY RULES AND REGULATIONS NECESSARY TO DETERMINE IF A PERSON IS CERTIFIED AS A QUALIFIED EMPLOYEE.

(6) CARRYOVER. IF THE AMOUNT OF CREDIT ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAYER'S TAX FOR SUCH YEAR, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE CARRIED OVER TO THE FOLLOWING THREE YEARS, AND MAY BE DEDUCTED FROM THE QUALIFIED TAXPAYER'S TAX FOR SUCH YEARS.

S 4. Section 1456 of the tax law is amended by adding a new subsection (e-2) to read as follows:

(E-2) CREDIT FOR EMPLOYMENT OF AN EMPLOYEE WHO HAS A DEVELOPMENTAL DISABILITY. (1) ALLOWANCE OF CREDIT. A QUALIFIED TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION, AGAINST THE TAX IMPOSED BY THE ARTICLE, FOR HIRING AND EMPLOYING, FOR NOT LESS THAN ONE YEAR AND FOR NOT LESS THAN THIRTY-FIVE HOURS EACH WEEK, A QUALIFIED EMPLOYEE WITHIN THE STATE.

(2) QUALIFIED TAXPAYER. A QUALIFIED TAXPAYER IS A TAXPAYER WHICH IS AN EMPLOYER, OTHER THAN THE FEDERAL, THE STATE OR A LOCAL GOVERNMENT OR ANY INSTRUMENTALITY THEREOF.

(3) QUALIFIED EMPLOYEE. A QUALIFIED EMPLOYEE IS AN INDIVIDUAL WHO RESIDES IN THIS STATE:

(A) WHO IS DEEMED TO HAVE A DEVELOPMENTAL DISABILITY AS DEFINED IN SUBDIVISION TWENTY-TWO OF SECTION 1.03 OF THE MENTAL HYGIENE LAW;

1 (B) WHO COMMENCES EMPLOYMENT BY THE QUALIFIED TAXPAYER ON OR AFTER
2 JANUARY FIRST, TWO THOUSAND FIFTEEN, AND BEFORE JANUARY FIRST, TWO THOU-
3 SAND EIGHTEEN;

4 (C) WHO CERTIFIES BY SIGNED AFFIDAVIT, UNDER PENALTY OF PERJURY, THAT
5 HE OR SHE HAS NOT BEEN EMPLOYED FOR THIRTY-FIVE OR MORE HOURS DURING ANY
6 WEEK IN THE NINETY DAY PERIOD IMMEDIATELY PRIOR TO HIS OR HER EMPLOYMENT
7 BY THE QUALIFIED TAXPAYER;

8 (D) WHO WAS NOT EMPLOYED BY THE QUALIFIED TAXPAYER TO REPLACE ANOTHER
9 EMPLOYEE; AND/OR

10 (E) WHO IS A CURRENT EMPLOYEE OF A SHELTERED WORKSHOP, WHICH FOR
11 PURPOSES OF THIS SUBDIVISION IS DEFINED AS AN ORGANIZATION OR ENVIRON-
12 MENT THAT EMPLOYS PEOPLE WITH DISABILITIES SEGREGATED FROM OTHERS; OR

13 (F) WHO WAS UNEMPLOYED FOR AT LEAST THREE MONTHS PRIOR TO JANUARY
14 FIRST, TWO THOUSAND FIFTEEN.

15 (4) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE TEN PERCENT OF
16 THE QUALIFIED WAGES PAID TO THE QUALIFIED EMPLOYEE AFTER JANUARY FIRST,
17 TWO THOUSAND FIFTEEN; PROVIDED, HOWEVER, THAT THE QUALIFIED EMPLOYEE IS
18 EMPLOYED FOR AT LEAST ONE YEAR AND IS FULL TIME TOTALING AT LEAST THIR-
19 TY-FIVE HOURS PER WEEK. A QUALIFIED PART TIME EMPLOYEE WHO WORKS AT
20 LEAST FIFTEEN HOURS PER WEEK AND IS EMPLOYED FOR AT LEAST ONE YEAR SHALL
21 RECEIVE A CREDIT OF FIVE PERCENT OF THE QUALIFIED WAGES PAID TO THE
22 QUALIFIED EMPLOYEE AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN. THE CREDIT
23 ALLOWED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED, DURING ANY TAXA-
24 BLE YEAR, FIVE THOUSAND DOLLARS FOR ANY QUALIFIED FULL TIME EMPLOYEE AND
25 TWO THOUSAND FIVE HUNDRED DOLLARS FOR ANY QUALIFIED PART TIME EMPLOYEE.
26 "QUALIFIED WAGES" MEANS WAGES PAID OR INCURRED BY THE QUALIFIED TAXPAYER
27 DURING THE TAXABLE YEAR TO A QUALIFIED EMPLOYEE WHICH ARE ATTRIBUTABLE,
28 WITH RESPECT TO SUCH EMPLOYEE, TO SERVICES RENDERED BY THE QUALIFIED
29 EMPLOYEE.

30 (5) CERTIFICATION OF QUALIFIED EMPLOYEE. THE COMMISSIONER SHALL
31 PROMULGATE ANY RULES AND REGULATIONS NECESSARY TO DETERMINE IF A PERSON
32 IS CERTIFIED AS A QUALIFIED EMPLOYEE.

33 (6) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBSECTION FOR ANY TAXA-
34 BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE
35 MINIMUM TAX FIXED BY SUBSECTION (B) OF SECTION FOURTEEN HUNDRED
36 FIFTY-FIVE OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT ALLOWABLE
37 UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR REDUCES THE TAX TO SUCH
38 AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR MAY BE
39 CARRIED OVER TO THE FOLLOWING THREE YEARS, AND MAY BE, DEDUCTED FROM THE
40 QUALIFIED TAXPAYER'S TAX FOR SUCH YEARS.

41 S 5. Section 1511 of the tax law is amended by adding a new subdivi-
42 sion (g-2) to read as follows:

43 (G-2) CREDIT FOR EMPLOYMENT OF AN EMPLOYEE WHO HAS A DEVELOPMENTAL
44 DISABILITY. (1) ALLOWANCE OF CREDIT. A QUALIFIED TAXPAYER SHALL BE
45 ALLOWED A CREDIT, TO BE COMPUTED AS PROVIDED IN THIS SUBDIVISION,
46 AGAINST THE TAX IMPOSED BY THE ARTICLE, FOR HIRING AND EMPLOYING, FOR
47 NOT LESS THAN ONE YEAR AND FOR NOT LESS THAN THIRTY-FIVE HOURS EACH
48 WEEK, A QUALIFIED EMPLOYEE WITHIN THE STATE.

49 (2) QUALIFIED TAXPAYER. A QUALIFIED TAXPAYER IS A TAXPAYER WHICH IS AN
50 EMPLOYER, OTHER THAN THE FEDERAL, THE STATE OR A LOCAL GOVERNMENT OR ANY
51 INSTRUMENTALITY THEREOF.

52 (3) QUALIFIED EMPLOYEE. A QUALIFIED EMPLOYEE IS AN INDIVIDUAL WHO
53 RESIDES IN THIS STATE:

54 (A) WHO IS DEEMED TO HAVE A DEVELOPMENTAL DISABILITY AS DEFINED IN
55 SUBDIVISION TWENTY-TWO OF SECTION 1.03 OF THE MENTAL HYGIENE LAW;

1 (B) WHO COMMENCES EMPLOYMENT BY THE QUALIFIED TAXPAYER ON OR AFTER
2 JANUARY FIRST, TWO THOUSAND FIFTEEN, AND BEFORE JANUARY FIRST, TWO THOU-
3 SAND EIGHTEEN;

4 (C) WHO CERTIFIES BY SIGNED AFFIDAVIT, UNDER PENALTY OF PERJURY, THAT
5 HE OR SHE HAS NOT BEEN EMPLOYED FOR THIRTY-FIVE OR MORE HOURS DURING ANY
6 WEEK IN THE NINETY DAY PERIOD IMMEDIATELY PRIOR TO HIS OR HER EMPLOYMENT
7 BY THE QUALIFIED TAXPAYER;

8 (D) WHO WAS NOT EMPLOYED BY THE QUALIFIED TAXPAYER TO REPLACE ANOTHER
9 EMPLOYEE; AND/OR

10 (E) WHO IS A CURRENT EMPLOYEE OF A SHELTERED WORKSHOP, WHICH FOR
11 PURPOSES OF THIS SUBDIVISION IS DEFINED AS AN ORGANIZATION OR ENVIRON-
12 MENT THAT EMPLOYS PEOPLE WITH DISABILITIES SEGREGATED FROM OTHERS; OR

13 (F) WHO WAS UNEMPLOYED FOR AT LEAST THREE MONTHS PRIOR TO JANUARY
14 FIRST, TWO THOUSAND FIFTEEN.

15 (4) AMOUNT OF CREDIT. THE AMOUNT OF THE CREDIT SHALL BE TEN PERCENT OF
16 THE QUALIFIED WAGES PAID TO THE QUALIFIED EMPLOYEE AFTER JANUARY FIRST,
17 TWO THOUSAND FIFTEEN; PROVIDED, HOWEVER, THAT THE QUALIFIED EMPLOYEE IS
18 EMPLOYED FOR AT LEAST ONE YEAR AND IS FULL TIME TOTALING AT LEAST THIR-
19 TY-FIVE HOURS PER WEEK. A QUALIFIED PART TIME EMPLOYEE WHO WORKS AT
20 LEAST FIFTEEN HOURS PER WEEK AND IS EMPLOYED FOR AT LEAST ONE YEAR SHALL
21 RECEIVE A CREDIT OF FIVE PERCENT OF THE QUALIFIED WAGES PAID TO THE
22 QUALIFIED EMPLOYEE AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN. THE CREDIT
23 ALLOWED PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED, DURING ANY TAXA-
24 BLE YEAR, FIVE THOUSAND DOLLARS FOR ANY QUALIFIED FULL TIME EMPLOYEE AND
25 TWO THOUSAND FIVE HUNDRED DOLLARS FOR ANY QUALIFIED PART TIME EMPLOYEE.
26 "QUALIFIED WAGES" MEANS WAGES PAID OR INCURRED BY THE QUALIFIED TAXPAYER
27 DURING THE TAXABLE YEAR TO A QUALIFIED EMPLOYEE WHICH ARE ATTRIBUTABLE,
28 WITH RESPECT TO SUCH EMPLOYEE, TO SERVICES RENDERED BY THE QUALIFIED
29 EMPLOYEE.

30 (5) CERTIFICATION OF QUALIFIED EMPLOYEE. THE COMMISSIONER SHALL
31 PROMULGATE ANY RULES AND REGULATIONS NECESSARY TO DETERMINE IF A PERSON
32 IS CERTIFIED AS A QUALIFIED EMPLOYEE.

33 (6) CARRYOVER. THE CREDIT ALLOWED UNDER THIS SUBDIVISION FOR ANY TAXA-
34 BLE YEAR SHALL NOT REDUCE THE TAX DUE FOR SUCH YEAR TO LESS THAN THE
35 MINIMUM TAX FIXED BY PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION
36 FIFTEEN HUNDRED TWO OF THIS ARTICLE. HOWEVER, IF THE AMOUNT OF CREDIT
37 ALLOWABLE UNDER THIS SUBDIVISION FOR ANY TAXABLE YEAR REDUCES THE TAX TO
38 SUCH AMOUNT, ANY AMOUNT OF CREDIT NOT DEDUCTIBLE IN SUCH TAXABLE YEAR
39 MAY BE CARRIED OVER TO THE FOLLOWING THREE YEARS, AND MAY BE DEDUCTED
40 FROM THE QUALIFIED TAXPAYER'S TAX FOR SUCH YEARS.

41 S 6. This act shall take effect January 1, 2015; provided, however,
42 that effective immediately, the addition, amendment and/or repeal of any
43 rule or regulation necessary for the implementation of this act on its
44 effective date is authorized and directed to be made and completed on or
45 before such effective date.