

STATE OF NEW YORK

5332

2019-2020 Regular Sessions

IN ASSEMBLY

February 8, 2019

Introduced by M. of A. KOLB -- read once and referred to the Committee on Economic Development

AN ACT to amend the economic development law, in relation to establishing an incentive program for manufacturers that maintain or increase employment; and to amend the tax law, in relation to establishing wage tax credit incentives for manufacturing firms enrolled in the program (Part A); and to amend the tax law, in relation to increasing the real property tax credit for manufacturers (Part B)

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "manufacturing preservation and enhancement act".

3 § 2. Legislative findings and intent. The legislature finds and deter-
4 mines that historically, manufacturing firms have helped to build our
5 state. Today, manufacturing jobs are an essential part of the state's
6 economy. Accordingly, the state should offer programs that foster growth
7 in this important sector of the state economy. The purpose of this
8 legislation is to establish a tax incentive program that would provide
9 tax credits to manufacturing firms that create new jobs in the manufac-
10 turing sector over a specified period of time.

11 § 3. This act enacts into law major components of legislation provid-
12 ing for the creation of the manufacturing preservation and enhancement
13 act and increasing the real property tax credit for manufacturers. Each
14 component is wholly contained within a Part identified as Parts A and B.
15 The effective date for each particular provision contained within such
16 Part is set forth in the last section of such Part. Any provision in any
17 section contained within a Part, including the effective date of the Part,
18 which makes reference to a section "of this act", when used in
19 connection with that particular component, shall be deemed to mean and
20 refer to the corresponding section of the Part in which it is found.
21 Section five of this act sets forth the general effective date of this
22 act.

PART A

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

LBD06096-01-9

1 Section 1. The economic development law is amended by adding a new
2 article 15 to read as follows:

3 ARTICLE 15

4 MANUFACTURING PRESERVATION AND ENHANCEMENT ACT

5 Section 270. Definitions.

6 271. Manufacturing preservation and enhancement program.

7 272. Special provisions relating to certified manufacturers.

8 273. Reporting.

9 § 270. Definitions. As used in this article, the following words and
10 terms shall have the following meanings unless the content shall indi-
11 cate another or different meaning or intent:

12 1. "Program" shall mean the manufacturing preservation and enhancement
13 program established pursuant to this article.

14 2. "Manufacturing firm" shall mean an enterprise, including corporate
15 entities, partnerships and sole proprietors, engaged in the business of
16 production of goods and products from raw materials.

17 3. "Benchmark" shall mean a specific number of eligible new jobs
18 created in the state pursuant to the program.

19 4. "MEI" shall mean the manufacturing enhancement incentive program.

20 § 271. Manufacturing preservation and enhancement program. 1. There
21 is hereby created a manufacturing preservation and enhancement program
22 within the department to provide technical and financial assistance in
23 the form of tax incentives to manufacturing firms that meet specified
24 benchmarks in job creation as established by the commissioner.

25 2. The commissioner shall determine eligibility requirements for
26 participation in the program, provided, however, that such requirements
27 shall include the following:

28 (a) An applicant to the program may not participate in the program if
29 designated as a certified business located in an empire zone created
30 pursuant to article eighteen-B of the general municipal law; and

31 (b) An applicant that has previously participated in the program may
32 not reapply for participation in the program unless it can document that
33 at the time of its reapplication for participation, it has maintained a
34 level of employment at least as great as the highest level required
35 during its previous participation in the program.

36 3. Applications for participation in the MEI shall be submitted by
37 each manufacturing firm seeking to participate in the program, and shall
38 be in the form and contain such information, exhibits and supporting
39 data as the commissioner may prescribe. No applications for partic-
40 ipation shall be accepted after December thirty-first, two thousand
41 twenty-seven.

42 4. Manufacturing firms interested in participating in the MEI shall
43 submit an application to the program. The commissioner shall review all
44 applications for participation in the program for eligibility and shall
45 register eligible applicants. The commissioner shall provide each regis-
46 tered applicant with benchmarks in job creation that must be achieved by
47 the registered applicant over the following one year. Such benchmarks
48 shall be consistent with regulations to be prescribed by the commission-
49 er. Annually, each registered applicant shall submit to the commissioner
50 a registration statement, together with such information, exhibits and
51 supporting data as the commissioner may require. Upon submission of the
52 second annual registration statement, the commissioner shall review the
53 registered applicant's file for eligibility for the tax incentives. If
54 the registered applicant has met the required benchmarks in job
55 creation, the commissioner shall provide a certificate, valid for the
56 succeeding five tax years, certifying that the registered applicant is

1 eligible for tax credits pursuant to this article. The MEI certificate
2 shall include a description of the property eligible for the property
3 tax benefit and shall specify the employment level and total amount of
4 employee gross salary eligible for the wage credit.

5 § 272. Special provisions relating to certified manufacturers. During
6 the five-year certification period, certified manufacturing firms shall
7 be eligible to receive the following tax credits:

8 1. An MEI wage tax credit, which shall be computed pursuant to
9 section eight hundred sixty-one of the tax law; and

10 2. An MEI energy tax credit, which shall be computed pursuant to
11 section eight hundred sixty-two of the tax law.

12 § 273. Reporting. The commissioner shall, on or before September
13 first, two thousand twenty, and annually thereafter, submit a report to
14 the governor, the temporary president of the senate, the speaker of the
15 assembly, the minority leader of the senate and the minority leader of
16 the assembly on the operation and accomplishments of the program
17 provided for pursuant to this article.

18 § 2. The tax law is amended by adding a new article 24-A to read as
19 follows:

20 ARTICLE 24-A

21 MANUFACTURING PRESERVATION AND ENHANCEMENT ACT

22 Section 861. MEI wage tax credit.

23 862. MEI energy tax credit.

24 § 861. MEI wage tax credit. (a) Allowance of credit. A taxpayer
25 receiving an MEI certificate that has been issued pursuant to article
26 fifteen of the economic development law, and that or who is subject to
27 taxes under article nine-A or article twenty-two of this chapter, shall
28 be allowed a credit against the taxes assessed under article nine-A or
29 article twenty-two of this chapter during the tax years that the certif-
30 icate is valid. The credit shall be computed pursuant to the provisions
31 of subsection (c) of this section.

32 (b) Definitions. The term "eligible wages" shall mean the total amount
33 of employee gross salary eligible for the wage tax credit, as such
34 amount is specified in the MEI certificate issued pursuant to article
35 fifteen of the economic development law.

36 (c) Computation of wage tax credit. (1) During the first tax year of
37 the five-year period for which a valid MEI certificate has been issued
38 pursuant to article fifteen of the economic development law, provided
39 the taxpayer has maintained the employment and eligible wage require-
40 ments specified by the MEI as defined in article fifteen of the economic
41 development law, the taxpayer shall be allowed a credit of one and one-
42 half percent of the total amount of the eligible wages actually paid by
43 the taxpayer. If the taxpayer increases employment during this tax year,
44 and exceeds the level of employment required by the MEI as defined in
45 article fifteen of the economic development law, hiring and maintaining
46 additional employees and paying additional wages over and above the
47 eligible wages amount, the taxpayer shall be allowed an additional cred-
48 it of two and one-half percent of the total amount by which the wages
49 actually paid as a result of the increased level of employment exceed
50 the eligible wages.

51 (2) During the second tax year of the five-year period for which a
52 valid MEI certificate has been issued pursuant to article fifteen of the
53 economic development law, provided the taxpayer has maintained the
54 employment and eligible wage requirements specified by the MEI as
55 defined in article fifteen of the economic development law, the taxpayer
56 shall be allowed a credit of one and one-half percent of the total

1 amount of the eligible wages actually paid by the taxpayer; however, if
2 the taxpayer increased employment in the preceding tax year and claimed
3 the two and one-half percent credit for employment and payment of wages
4 in excess of the MEI requirements pursuant to article fifteen of the
5 economic development law, the taxpayer shall be allowed a credit of one
6 and one-half percent of the total amount of the eligible wages actually
7 paid by the taxpayer during the preceding tax year, provided the taxpay-
8 er has maintained the increased employment and salary levels. If the
9 taxpayer again increases employment, hiring and maintaining additional
10 employees and paying additional wages over and above the previous tax
11 year's amount, the taxpayer shall be allowed an additional credit of two
12 and one-half percent of the total amount by which the wages actually
13 paid as a result of the increased level of employment exceed the wages
14 subject to the one and one-half percent credit.

15 § 862. MEI energy tax credit. (a) Allowance of credit. A taxpayer
16 receiving an MEI certificate has been issued pursuant to article fifteen
17 of the economic development law, and that or who is subject to taxes
18 under article nine-A or article twenty-two of this chapter, shall be
19 allowed a credit against the taxes assessed under article nine-A or
20 article twenty-two of this chapter during the tax years that the certif-
21 icate is valid. The credit shall be computed pursuant to the provisions
22 of subsection (c) of this section.

23 (b) Definition. The term "eligible energy costs" shall mean the
24 amounts paid by the taxpayer for electricity, natural gas, or any other
25 energy product or service which the taxpayer has used in the operation
26 of a MEI certified manufacturing firm facility pursuant to article
27 fifteen of the economic development law.

28 (c) Computation of energy credit. (1) If the taxpayer has paid eligi-
29 ble energy costs during the first tax year of the five-year period for
30 which a valid MEI certificate has been issued pursuant to article
31 fifteen of the economic development law, provided the taxpayer has main-
32 tained the employment and eligible wages requirements specified by the
33 MEI as defined in article fifteen of the economic development law, the
34 taxpayer shall be allowed an energy credit of twenty-five dollars per
35 employee required by the MEI as defined in article fifteen of the
36 economic development law. If the taxpayer increases employment during
37 this tax year, and exceeds the level of employment required by the MEI
38 as defined in article fifteen of the economic development law, hiring
39 and maintaining additional employees and paying additional wages over
40 and above the eligible wages amount, the taxpayer shall be allowed an
41 additional energy credit of fifty dollars per each additional employee.
42 The energy tax credit shall not exceed the amount of eligible energy
43 costs actually paid by the taxpayer.

44 (2) If the taxpayer has paid eligible energy costs during the second
45 tax year of the five-year period for which a valid MEI certificate has
46 been issued pursuant to article fifteen of the economic development law,
47 provided the taxpayer has maintained the employment and eligible wage
48 requirements specified by the MEI as defined in article fifteen of the
49 economic development law, the taxpayer shall be allowed an energy credit
50 of twenty-five dollars per employee required by the MEI as defined in
51 article fifteen of the economic development law; however, if the taxpay-
52 er increased employment during the preceding tax year and claimed the
53 additional energy tax credit of fifty dollars per additional employee,
54 the taxpayer shall be allowed a credit of twenty-five dollars per
55 employee up to the number of employees claimed in the previous tax year,
56 provided the taxpayer has maintained the increased employment and wage

levels. If the taxpayer again increases employment, hiring additional employees and paying additional wages over and above the previous tax year's amounts, the taxpayer shall be allowed an additional credit of fifty dollars for each additional employee hired during the second year. The energy tax credit shall not exceed the amount of eligible energy costs actually paid by the taxpayer.

§ 3. Section 210-B of the tax law is amended by adding two new subdivisions 53 and 54 to read as follows:

53. MEI wage tax credit. (a) Allowance of credit. A taxpayer shall be allowed a credit against the tax imposed by this article, to be computed as provided in section eight hundred sixty-one of this chapter, against the tax imposed by this article.

(b) Carryovers. 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 section two hundred ten of this article; provided, however, if the amount of this credit allowable under this section for any taxable year reduces tax to such amount, any amount of the credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

54. MEI energy tax credit. (a) Allowance of credit. A taxpayer shall be allowed a credit against the tax imposed by this article, to be computed as provided in section eight hundred sixty-two of this chapter, against the tax imposed by this article.

(b) Carryovers. 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 section two hundred ten of this article; provided, however, if the amount of this credit allowable under this section for any taxable year reduces tax to such amount, any amount of the credit not deductible in such taxable year may be carried over to the following year or years and may be deducted from the taxpayer's tax for such year or years.

§ 4. Subparagraph (B) of paragraph 1 of subsection (i) of section 606 of the tax law is amended by adding two new clauses (xliv) and (xlv) to read as follows:

<p><u>(xliv) MEI wage tax credit under subsection (jjj)</u></p>	<p><u>Amount of MEI wage tax credit under subdivision fifty three of section two hundred ten-B</u></p>
---	--

<p><u>(xlv) MEI energy tax credit under subsection (kkk)</u></p>	<p><u>Amount of MEI energy tax credit under subdivision fifty-four of section two hundred ten-B</u></p>
--	---

§ 5. Section 606 of the tax law is amended by adding two new subsections (jjj) and (kkk) to read as follows:

(jjj) MEI wage tax credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section eight hundred sixty-one of this chapter, against the tax imposed by this article.

(2) Application of credit. If the amount of the credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

(kkk) MEI energy tax credit. (1) Allowance of credit. A taxpayer shall be allowed a credit, to be computed as provided in section eight hundred sixty-two of this chapter, against the tax imposed by this article.

(2) Application of credit. If the amount of the credit allowed under this subsection for any taxable year shall exceed the taxpayer's tax for such year, the excess shall be treated as an overpayment of tax to be credited or refunded in accordance with the provisions of section six hundred eighty-six of this article, provided, however, that no interest shall be paid thereon.

§ 6. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to taxable years beginning on or after January 1, 2020 and before January 1, 2027; provided, however, that the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made on or before such date.

PART B

Section 1. Paragraph (a) of subdivision 43 of section 210-B of the tax law, as added by section 17 of part A of chapter 59 of the laws of 2014, is amended to read as follows:

(a) A qualified New York manufacturer, as defined in subparagraph (vi) of paragraph (a) of subdivision one of section two hundred ten of this article, will be allowed a credit equal to ~~twenty~~ **fifty** percent of the real property tax it paid during the taxable year for real property owned by such manufacturer in New York which was principally used during the taxable year for manufacturing to the extent not deducted in determining entire net income. This credit will not be allowed if the real property taxes that are the basis for this credit are included in the calculation of another credit claimed by the taxpayer.

§ 2. Paragraph 1 of subsection (xx) of section 606 of the tax law, as amended by section 8 of part I of chapter 59 of the laws of 2015, is amended to read as follows:

(1) A qualified New York manufacturer will be allowed a credit equal to ~~twenty~~ **fifty** percent of the real property tax it paid during the taxable year for real property owned by such manufacturer in New York which was principally used during the taxable year for manufacturing to the extent not deducted in computing New York adjusted gross income. This credit will not be allowed if the real property taxes that are the basis for this credit are included in the calculation of another credit claimed by the taxpayer.

§ 3. This act shall take effect immediately and shall apply to tax years beginning on or after January 1, 2020.

§ 4. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 5. This act shall take effect immediately, provided, however, that the applicable effective date of Part A and Part B of this act shall be as specifically set forth in the last section of such Parts.