

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0122.02 Ed DeCecco

HOUSE BILL 10-1087

HOUSE SPONSORSHIP

Swalm, Liston, Nikkel

SENATE SPONSORSHIP

Cadman,

House Committees

Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE ELIMINATION OF THE REQUIREMENT THAT AN
102 EMPLOYER WITHHOLD COLORADO INCOME TAX.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Currently, an employer is required to deduct and withhold Colorado income tax from an employee's wages. The bill eliminates the mandatory deduction and withholding. Instead, an employer will only deduct and withhold Colorado income tax from an employee's wages if the employee and employer voluntarily agree to it.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

The bill also makes a conforming amendment to an income tax credit, so that the change to the withholding requirement does not affect the eligibility for the credit.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 39-22-604, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **39-22-604. Withholding tax - tax lien - exemption from lien -**
5 **legislative declaration - definitions.** (19) (a) (I) THE GENERAL
6 ASSEMBLY HEREBY FINDS AND DECLARES THAT:

7 (A) THE PRACTICE OF AN EMPLOYER WITHHOLDING COLORADO
8 INCOME TAX FROM A TAXPAYER'S WAGES OBSCURES TAXPAYERS'
9 UNDERSTANDING OF HOW MUCH THEY PAY ANNUALLY IN COLORADO
10 INCOME TAXES, AS WELL AS THEIR KNOWLEDGE OF THE TRUE COSTS OF
11 SERVICES PROVIDED BY THE STATE;

12 (B) INDIVIDUAL TAXPAYERS WOULD HAVE A CLEARER
13 UNDERSTANDING OF THEIR INCOME TAX BURDEN IF THEY PAID THEIR
14 TAXES ON A QUARTERLY OR ANNUAL BASIS;

15 (C) REFUNDING INCOME TAX OVERPAYMENTS ON AN ANNUAL
16 BASIS OFTEN LEADS TAXPAYERS TO THINK THAT THEY ARE RECEIVING A
17 REWARD, RATHER THAN THE INCOME THAT IS RIGHTFULLY THEIRS;

18 (D) WHEN INCOME TAX IS WITHHELD BY THE STATE, TAXPAYERS
19 LOSE THE ABILITY TO POTENTIALLY EARN INTEREST ON THAT PORTION OF
20 THEIR INCOME;

21 (E) THOSE PERSONS WHO HAVE LITTLE OR NO COLORADO INCOME
22 TAX LIABILITY WOULD BENEFIT GREATLY FROM KEEPING THEIR ENTIRE
23 PAYCHECK, RATHER THAN TEMPORARILY SURRENDERING PART OF IT TO
24 THE STATE; AND

1 (F) INCOME TAX WITHHOLDING IMPOSES HEAVY BURDENS ON
2 EMPLOYERS, WHO MUST DEVOTE TIME AND PERSONNEL TO ADMINISTERING
3 INCOME TAX WITHHOLDING REQUIREMENTS.

4 (II) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT
5 ENDING THE POLICY OF MANDATORY COLORADO INCOME TAX
6 WITHHOLDING BY EMPLOYERS WILL:

7 (A) ENHANCE GOVERNMENT ACCOUNTABILITY AND PUBLIC
8 KNOWLEDGE OF THE COLORADO INCOME TAX SYSTEM BY GIVING
9 TAXPAYERS A CLEARER UNDERSTANDING OF THEIR ANNUAL COLORADO
10 INCOME TAX BURDEN;

11 (B) ALLOW TAXPAYERS TO INCREASE THEIR PERSONAL WEALTH BY
12 COLLECTING INTEREST ON INCOME THAT IS CURRENTLY WITHHELD BY THE
13 STATE; AND

14 (C) FREE EMPLOYERS FROM THE BURDEN OF ADMINISTERING
15 COLORADO INCOME TAX WITHHOLDING FROM THEIR EMPLOYEES.

16 (b) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE
17 CONTRARY, ON AND AFTER JANUARY 1, 2011, NO EMPLOYER SHALL BE
18 REQUIRED TO DEDUCT AND WITHHOLD ANY AMOUNTS OF COLORADO
19 INCOME TAX FROM AN EMPLOYEE'S WAGES, UNLESS THE PARTIES
20 VOLUNTARILY AGREE TO THE WITHHOLDING. IF THE PARTIES
21 VOLUNTARILY AGREE TO THE WITHHOLDING, THE EMPLOYER SHALL BE
22 REQUIRED TO DEDUCT AND WITHHOLD AMOUNTS FROM THE EMPLOYEE'S
23 WAGES AS OTHERWISE SET FORTH IN THIS SECTION.

24 (c) NO EMPLOYEE SHALL BE REQUIRED TO HAVE AN EMPLOYER
25 DEDUCT AND WITHHOLD AMOUNTS OF COLORADO INCOME TAX FROM
26 WAGES PURSUANT TO THIS SECTION AS A CONDITION OF EMPLOYMENT.

27 **SECTION 2.** 39-22-530 (1) (e), Colorado Revised Statutes, is

1 amended to read:

2 **39-22-530. Credit for employers that hire persons with**
3 **developmental disabilities - definitions.** (1) As used in this section,
4 unless the context otherwise requires:

5 (e) "Taxpayer" means an employer that ~~deducts and withholds~~ IS
6 ELIGIBLE TO DEDUCT AND WITHHOLD amounts from the wages paid to a
7 qualified employee pursuant to section 39-22-604 (3).

8 **SECTION 3. Act subject to petition - effective date.** This act
9 shall take effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly (August
11 11, 2010, if adjournment sine die is on May 12, 2010); except that, if a
12 referendum petition is filed pursuant to section 1 (3) of article V of the
13 state constitution against this act or an item, section, or part of this act
14 within such period, then the act, item, section, or part shall not take effect
15 unless approved by the people at the general election to be held in
16 November 2010 and shall take effect on the date of the official
17 declaration of the vote thereon by the governor.