

ASSEMBLY, No. 807

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman ANTHONY S. VERRELLI

District 15 (Hunterdon and Mercer)

Assemblywoman VERLINA REYNOLDS-JACKSON

District 15 (Hunterdon and Mercer)

SYNOPSIS

Provides corporation business tax and gross income tax credits for businesses that employ formerly incarcerated individuals.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** providing corporation business tax and gross income tax
2 credits for businesses that employ formerly incarcerated
3 individuals, and supplementing P.L.1945, c.162 (C.54:10A-
4 1 et seq.) and Title 54A of New Jersey Statutes.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. a. (1) For privilege periods beginning on or after January 1
10 next following the enactment of P.L. , c. (C.) (pending
11 before the Legislature as this bill), a taxpayer shall be allowed a
12 credit against the tax due pursuant to section 5 of P.L.1945, c.162
13 (C.54:10A-5) in an amount equal to the value of 10 percent of
14 qualified wages paid in the privilege period to a formerly
15 incarcerated individual in the course of sustained employment. For
16 each privilege period, a taxpayer's credit allowed pursuant to this
17 section shall not exceed \$1,200 for each formerly incarcerated
18 individual.

19 (2) For a taxpayer to qualify for the credit allowed pursuant to
20 this section for a privilege period, the taxpayer shall comply with
21 the requirements of this paragraph.

22 Twenty-five percent of the taxpayer's new employees for the
23 privilege period for which the credit is claimed shall be formerly
24 incarcerated individuals.

25 If the taxpayer received the credit allowed pursuant to this
26 section for the privilege period immediately preceding the privilege
27 period for which the credit is claimed, then 50 percent of the
28 formerly incarcerated individuals hired in the immediately
29 preceding period shall remain employed by the taxpayer for the
30 privilege period for which the credit is claimed.

31 The taxpayer shall regularly conduct specific recruitment efforts
32 to hire formerly incarcerated individuals and members of the
33 immediate families of formerly incarcerated individuals.

34 b. (1) The order of priority of the application of the credit
35 allowed pursuant to this section and any other credits allowed
36 against the tax imposed pursuant to section 5 of P.L.1945, c.162
37 (C.54:10A-5) for a privilege period shall be as prescribed by the
38 director.

39 The amount of the credit applied pursuant to this section, added
40 together with any other credit allowed against the tax imposed
41 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), shall not
42 exceed 50 percent of the tax liability otherwise due and shall not
43 reduce the tax liability to an amount less than the statutory
44 minimum provided in subsection (e) of section 5 of
45 P.L.1945, c.162.

46 Unused credit resulting from the limitations of this paragraph
47 may be carried forward, if necessary, for use in future privilege

1 periods following the privilege period for which the credit is
2 allowed.

3 (2) A taxpayer shall not be granted a credit pursuant to this
4 section for the qualified wages paid to a formerly incarcerated
5 individual in a privilege period if the qualified wages of the
6 formerly incarcerated individual or the job providing qualified
7 wages to the individual is included in the calculation of another
8 credit against any State tax or a grant pursuant to P.L.1996, c.26
9 (C.34:1B-124 et seq.) for a period of time that coincides with the
10 applicable privilege period.

11 (3) If the director determines that a taxpayer is displacing
12 employees and replacing the employees with formerly incarcerated
13 individuals for the primary purposes of obtaining the credit allowed
14 pursuant to this section, the director shall deny the credit allowed
15 under this section for the taxpayer and shall issue a tax assessment
16 for the recapture of credit previously allowed to the taxpayer under
17 this section plus an assessment of 50 percent of any credit subject to
18 recapture as penalty.

19 c. As used in this section:

20 "Director" means the Director of the Division of Taxation in the
21 Department of Treasury.

22 "Formerly incarcerated individual" means an individual who
23 previously spent time in the custody of law enforcement authorities,
24 including the Department of Corrections, following conviction of a
25 criminal offense or following the entry of a guilty plea to a criminal
26 charge by the person before a court of competent jurisdiction, who
27 is no longer subject to incarceration.

28 "Member of the immediate family" means a formerly
29 incarcerated individual's spouse, parent, sibling, or child.

30 "Qualified wages" mean any salaries, wages, and remuneration
31 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
32 et seq., paid to a formerly incarcerated individual on or after
33 January 1 next following the enactment of P.L. , c. (C.)
34 (pending before the Legislature as this bill) for labor rendered in
35 service to an enterprise of the taxpayer.

36 "Sustained employment" means a period of time no less than 185
37 business days during the privilege period in which a formerly
38 incarcerated individual is earning qualified wages.

39

40 2. a. (1) For taxable years commencing on or after January 1
41 next following the enactment of P.L. , c. (C.) (pending
42 before the Legislature as this bill), a taxpayer shall be allowed a
43 credit against the tax due pursuant to "New Jersey Gross Income
44 Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to the value of
45 10 percent of qualified wages paid in the taxable year to a formerly
46 incarcerated individual in the course of sustained employment. For
47 each taxable year, a taxpayer's credit allowed pursuant to this

1 section shall not exceed \$1,200 for each formerly incarcerated
2 individual.

3 (2) For a taxpayer to qualify for the credit allowed pursuant to
4 this section for a taxable year, the taxpayer shall comply with the
5 requirements of this paragraph.

6 Twenty-five percent of the taxpayer's new employees for the
7 taxable year for which the credit is claimed shall be formerly
8 incarcerated individuals.

9 If the taxpayer received the credit allowed pursuant to this
10 section for the taxable year immediately preceding the taxable year
11 for which the credit is claimed, then 50 percent of the formerly
12 incarcerated individuals hired in the immediately preceding taxable
13 year shall remain employed by the taxpayer for the taxable year for
14 which the credit is claimed.

15 The taxpayer shall regularly conduct specific recruitment efforts
16 to hire formerly incarcerated individuals and members of the
17 immediate families of formerly incarcerated individuals.

18 b. (1) A credit allowed pursuant to this section shall not reduce
19 the tax liability otherwise due pursuant to the "New Jersey Gross
20 Income Tax Act," N.J.S.54A:1-1 et seq., for a taxable year to an
21 amount less than zero.

22 Unused credit resulting from limitations of this paragraph may
23 be carried forward if necessary to future taxable years following the
24 taxable year for which the credit was allowed. The form and
25 method of carry forward shall be as prescribed by the director.

26 (2) A taxpayer shall not be granted a credit pursuant to this
27 section for the qualified wages paid to a formerly incarcerated
28 individual in a taxable year if the qualified wages of the formerly
29 incarcerated individual is included in the calculation of another
30 credit against any State tax or a grant pursuant to P.L.1996, c.26
31 (C.34:1B-124 et seq.) for a period of time that coincides with the
32 applicable taxable year.

33 (3) If the director determines that a taxpayer is displacing
34 employees and replacing the employees with formerly incarcerated
35 individuals for the primary purposes of obtaining the credit allowed
36 pursuant to this section, the director shall deny the credit allowed
37 under this section for the taxpayer and shall issue a tax assessment
38 for the recapture of credit previously allowed to the taxpayer under
39 this section plus an assessment of 50 percent of any credit subject to
40 recapture as penalty.

41 c. As used in this section:

42 "Director" means the Director of the Division of Taxation in the
43 Department of Treasury.

44 "Formerly incarcerated individual" means an individual who
45 previously spent time in the custody of law enforcement authorities,
46 including the Department of Corrections, following conviction of a
47 criminal offense or following the entry of a guilty plea to a criminal

1 charge by the person before a court of competent jurisdiction, who
2 is no longer subject to incarceration.

3 "Member of the immediate family" means a formerly
4 incarcerated individual's spouse, parent, sibling, or child.

5 "Qualified wages" mean any salaries, wages, and remuneration
6 subject to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1
7 et seq., paid to a formerly incarcerated individual on or after
8 January 1 next following the enactment of P.L. , c. (C.)
9 (pending before the Legislature as this bill) for labor rendered in
10 service to an enterprise of the taxpayer.

11 "Sustained employment" means a period of time no less than 185
12 business days during the taxable year in which a formerly
13 incarcerated individual is earning qualified wages.

14

15 3. This act shall take effect immediately.

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18 STATEMENT

19

20 This bill provides a corporation business tax credit and gross
21 income tax credit for qualified wages for employing formerly
22 incarcerated individuals.

23 The two credits established by this bill provide an employer with
24 a credit in the amount of 10 percent of the wages paid to a formerly
25 incarcerated individual. The credits may not exceed \$1,200 for
26 each formerly incarcerated individual. The bill defines a formerly
27 incarcerated individual as an individual who previously spent time
28 in the custody of law enforcement authorities, including the
29 Department of Corrections, following conviction of a criminal
30 offense or following the entry of a guilty plea to a criminal charge
31 by the person before a court of competent jurisdiction, who is no
32 longer subject to incarceration. To be creditable, wages must also
33 arise from employment of a formerly incarcerated individual for at
34 least 185 business days of the applicable tax year or privilege
35 period.

36 To qualify for a credit, the bill imposes a series of conditions on
37 a taxpayer as an employer. For a tax year or privilege period that
38 the credit is claimed, the bill requires that 25 percent of the
39 taxpayer's new employees be formerly incarcerated individuals.
40 For tax years or privilege periods immediately subsequent to a prior
41 credit year, the bill further requires that 50 percent of the qualified
42 veterans hired during that time must remain employed by the
43 taxpayer. Additionally, the bill requires the taxpayer to make efforts
44 to recruit formerly incarcerated individuals and members of the
45 immediately family of formerly incarcerated individuals.

46 In addition to providing the terms of credit qualification, the bill
47 contains provisions aimed at preventing potential misuse of the
48 credit. The bill prohibits taxpayers from simultaneously using the

1 wages or employment of the formerly incarcerated individual to
2 qualify for the credit and any other generally available employment
3 incentive that comes in the form of a State tax credit. The bill also
4 empowers the Director of the Division of Taxation in the
5 Department of the Treasury to recapture the credit, plus an
6 additional 50 percent penalty, if the director determines that the
7 employer displaced employees to replace them with formerly
8 incarcerated individuals for the primary purpose of taking
9 advantage of the credit.