

ASSEMBLY, No. 1154

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

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District 16 (Hunterdon, Mercer, Middlesex and Somerset)

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District 38 (Bergen and Passaic)

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District 37 (Bergen)

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Assemblyman Karabinchak

SYNOPSIS

Allows corporation business tax credits and gross income tax credits for small businesses required to provide earned sick leave.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** allowing corporation business tax credits and gross income
2 tax credits for small businesses required to provide earned sick
3 leave, supplementing P.L.1945, c.162 (C.54:10A-1 et seq.) and
4 Title 54A of the 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. A small business that is required to provide earned sick
10 leave to an employee pursuant to section 2 of P.L.2018, c.10
11 (C.34:11D-2), shall be allowed a credit against the tax imposed
12 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in an
13 amount equal to the product of 50 percent of the rate of pay the
14 employee normally earns for each hour of work performed for the
15 employer multiplied by the number of hours, or fraction thereof, for
16 which earned sick leave is taken during a privilege period.

17 b. The order of priority of the application of the credit allowed
18 pursuant to this section and any other credits allowed by law shall
19 be as prescribed by the director. The amount of the credit applied
20 under this section against the tax imposed pursuant to section 5 of
21 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
22 any other credits allowed by law, shall not exceed 50 percent of the
23 tax liability otherwise due and shall not reduce the tax liability to an
24 amount less than the statutory minimum provided in subsection (e)
25 of section 5 of P.L.1945, c.162 (C.54:10A-5).

26 c. The amount of the tax credit otherwise allowable under this
27 section which cannot be applied for the privilege period may be
28 carried forward, if necessary, to the four privilege periods following
29 the privilege period for which the tax credit was allowed.

30 d. No tax credit shall be allowed pursuant to this section for
31 any costs or expenses included in the calculation of any other tax
32 credit or exemption granted pursuant to a claim made on a tax
33 return filed with the director, or included in the calculation of an
34 award of business assistance or incentive, for a period of time that
35 coincides with the privilege period for which a tax credit pursuant
36 to this section is allowed.

37 e. A small business shall submit to the director a report to
38 verify the number of earned sick leave hours accrued by each
39 employee, the number of earned sick leave hours taken by each
40 employee, and the hourly rate of pay each employee receives during
41 the privilege period. The report shall include any additional
42 information as shall be determined necessary by the director.

43 f. As used in this section:

44 “Small business” shall have the same meaning as “employer,” as
45 the term is defined in section 1 of P.L.2018, c.10 (C.34:11D-1),
46 except that it shall not include any person, firm, business, education
47 institution, nonprofit agency, corporation, limited liability company,
48 or other entity that employs 25 or more employees in this State.

- 1 2. a. A small business that is required to provide earned sick
2 leave to an employee pursuant to section 2 of P.L.2018, c.10
3 (C.34:11D-2), shall be allowed a credit against the tax otherwise
4 due for the taxable year under the "New Jersey Gross Income Tax
5 Act," N.J.S.54:1-1 et seq., in an amount equal to the product of 50
6 percent of the rate of pay the employee normally earns for each
7 hour of work performed for the employer multiplied by the number
8 of hours, or fraction thereof, for which earned sick leave is taken
9 during the taxable year.
- 10 b. The amount of the credit allowed pursuant to this section
11 shall be applied against the tax otherwise due under the "New
12 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., after all other
13 credits and payments. If the credit exceeds the amount of tax
14 liability otherwise due, that amount of excess shall be an
15 overpayment for the purposes of N.J.S.54A:9-7, provided, however,
16 that subsection (f) of N.J.S.54A:9-7 shall not apply.
- 17 c. No tax credit shall be allowed pursuant to this section for
18 any costs or expenses included in the calculation of any other tax
19 credit or exemption granted pursuant to a claim made on a tax
20 return filed with the director, or included in the calculation of an
21 award of business assistance or incentive, for a period of time that
22 coincides with the taxable year, for which a tax credit authorized
23 pursuant to this section is allowed.
- 24 d. (1) A business entity that is classified as a partnership for
25 federal income tax purposes shall not be allowed a tax credit
26 pursuant to this section directly, but the amount of tax credit of a
27 taxpayer in respect to distributive share of entity income, shall be
28 determined by allocating to the taxpayer that proportion of the tax
29 credit acquired by the entity that is equal to the taxpayer's share,
30 whether or not distributed, of the total distributive income or gain
31 of the entity for its taxable year ending within or with the
32 taxpayer's taxable year.
- 33 (2) A New Jersey S Corporation shall not be allowed a tax credit
34 pursuant to this section directly, but the amount of the tax credit of
35 a taxpayer in respect of a pro rata share of S Corporation income,
36 shall be determined by allocating to the taxpayer that proportion of
37 the tax credit acquired by the New Jersey S Corporation that is
38 equal to the taxpayer's share, whether or not distributed, of the total
39 pro rata share of S Corporation income of the New Jersey S
40 Corporation for its privilege period ending within or with the
41 taxpayer's taxable year.
- 42 e. A small business shall submit to the director a report to
43 verify the number of earned sick leave hours accrued by each
44 employee, the number of earned sick leave hours taken by each
45 employee, and the hourly rate of pay each employee receives during
46 the taxable year. The report shall include any additional information
47 as shall be determined necessary by the director.
- 48 f. As used in this section:

1 “Small business” shall have the same meaning as “employer,” as
2 the term is defined in section 1 of P.L.2018, c.10 (C.34:11D-1),
3 except that it shall not include any person, firm, business, education
4 institution, nonprofit agency, corporation, limited liability company,
5 or other entity that employs 25 or more employees in this State.

6
7 3. This act shall take effect immediately and apply to taxable
8 years and privilege periods beginning on or after January 1 next
9 following the date of enactment.

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12 STATEMENT

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14 This bill allows corporation business tax (CBT) credits and gross
15 income tax (GIT) credits for small businesses required to provide
16 earned sick leave pursuant to P.L.2018, c.10 (N.J.S.A.34:11D-
17 1 et seq.).

18 The bill provides small businesses with tax credits equal to the
19 product of 50 percent of the rate of pay the employee normally
20 earns for each hour of work performed for the employer multiplied
21 by the number of hours, or fraction thereof, for which earned sick
22 leave is taken during the privilege period or taxable years,
23 whichever applies. The term “small business” is to have the same
24 meaning as “employer” in section 1 of P.L.2018, c.10, the law
25 requiring employers to provide earned sick leave, except that small
26 business in this bill does not include any person, firm, business,
27 education institution, nonprofit agency, corporation, limited liability
28 company, or other entity that employs 25 or more employees in this
29 State.

30 Any amount of the tax credit that cannot be taken against a small
31 business’s CBT liability can be carried forward for four privilege
32 periods following the privilege period for which the tax credit was
33 allowed. If the GIT credit exceeds a small business’s liability, the
34 small business can receive a refund for the amount in excess.

35 The bill requires a small business to submit to the Director of the
36 Division of Taxation in the Department of the Treasury a report to
37 verify the number of earned sick leave hours accrued by each
38 employee, the number of earned sick leave hours taken by each
39 employee, and the hourly rate of pay each employee receives during
40 the privilege period. The report is to include any additional
41 information as determined to be necessary by the director.