ASSEMBLY, No. 4398

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED JULY 16, 2020

Sponsored by:
Assemblywoman CAROL A. MURPHY
District 7 (Burlington)
Assemblyman ANTHONY S. VERRELLI
District 15 (Hunterdon and Mercer)
Assemblyman DANIEL R. BENSON
District 14 (Mercer and Middlesex)

Co-Sponsored by:
Assemblywomen Mosquera and Vainieri Huttle

SYNOPSIS

Establishes "Support for Victims of Domestic Violence Program"; incentivizes certain businesses to provide support to individuals who are victims of domestic violence.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 7/16/2020)

AN ACT establishing a tax credit program for businesses that support individuals who are victims of domestic violence, and supplementing various parts of the statutory law.

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

1. As used in P.L. , c. (C.) (pending before the Legislature as this bill):

"Advisory council" means the Advisory Council on Domestic Violence created pursuant to P.L.1979, c.337 (C.30:14-1 et seq.).

"Division" means the Division on Women in the Department of Children and Families.

"Director" means the Director of the Division on Women in the Department of Children and Families.

"Domestic violence" means an act described in section 3 of P.L.1991, c.261 (C.2C:25-19), whether or not the person alleging the commission of such conduct, or attempted conduct, has reported the act to a law enforcement or prosecuting agency .

"Eligible business" means a corporation; sole proprietorship; partnership; S corporation, or any other business entity through which income flows as a distributive share to its owners; limited liability company; or any other form of business organization located within this State. A tax credit received pursuant to P.L. , c. (C.) (pending before the Legislature as this bill) by a partnership, S corporation, or other business entity shall be apportioned among the persons to whom the income or profit of the partnership, S corporation, or other entity is distributed, in the same proportions as those in which the income or profit is distributed.

"Eligible individual" means a person who is recent victim of domestic violence, sexual assault, or stalking, or a family member of any such person, based on criteria established by the division, in consultation with the Advisory Council on Domestic Violence. "Eligible individual" is to also include a person who is a recent victim of attempted domestic violence, sexual assault, or stalking.

"Law enforcement or prosecuting agency" means any governmental, public or private person or entity within this State charged with the collection, storage, or retrieval of biological evidence, including, but not limited to, law enforcement agencies, prosecutors' offices, courts, public hospitals, and crime laboratories.

"Program" means the Support for Victims of Domestic Violence Program established pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Program agreement" means an agreement entered into pursuant to section 3 of P.L. , c. (C.) (pending before the Legislature as this bill) between an eligible business and the division through which the eligible business commits to provide good and services to

eligible individuals pursuant to the Support for Victims of Domestic Violence Program.

"Regional plan" means a domestic violence safety net plan adopted pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Sexual assault" means an act of sexual assault as described in N.J.S.2C:14-2, whether or not the person alleging the commission of such conduct, or attempted conduct, has reported the act to a law enforcement or prosecuting agency.

"Stalking" means an act of stalking as described in section 1 of P.L.1992, c.209 (C.2C:12-10), whether or not the person alleging the commission of such conduct, or attempted conduct, has reported the act to a law enforcement or prosecuting agency.

2. a. There is created a program to be known as the "Support for Victims of Domestic Violence Program," to be administered by the division. The purpose of the program is to incentivize businesses in New Jersey to offer support in goods or services to individuals who have been recent victims of domestic violence, sexual assault, or stalking.

b. The division shall, in consultation with Advisory Council on Domestic Violence, establish at least three support regions in New Jersey, including every county in New Jersey into one of the regions, and adopt a domestic violence safety net plan for each region. Each regional plan adopted pursuant to this subsection shall consider the existing governmental and nonprofit resources available to eligible individuals in a region and set priorities for which goods and services are still needed in that region, and consider how the public and private safety nets in each region can best be enhanced by the availability and provision of goods and services by eligible businesses. The division shall, at a minimum, consider the provision of: household essentials and clothing; technology security devices and services; communications devices and services; and housing and emergency accommodations in the development and approval of a regional plan. A regional plan shall rank the goods and services priorities for that region. The division, in consultation with the advisory council, shall update and readopt a regional plan at least once every three years.

c. The division shall implement the regional plans by accepting applications for the program and awarding tax credits under the program to eligible businesses that commit to providing goods or services to eligible individuals, consistent with the applicable regional plan. The division shall develop program applications and establish application procedures, application deadlines, and application scoring measures that allow the division to strategically award tax credits to eligible businesses that best support the implementation of each regional plan.

d. A business shall be eligible for tax credits under the program if it timely submits a program application and offers, pursuant to a program agreement consistent with a regional plan, to supply goods or services to eligible individuals within a region.

3. a. The value of all credits awarded by the division pursuant to the program in any State fiscal year shall not exceed $25,000,000. Of the annual $25,000,000 cap, the division shall not approve the award of more than:

(1) $15,000,000 in tax credits to businesses related to program agreements that provide for the availability of housing and emergency accommodations to eligible individuals;

(2) $10,000,000 in tax credits to businesses related to program agreements for the provision of household essentials and clothing, technology security devices and services, and communications devices and services; and

(3) $3,000,000 in tax credits to businesses related to program agreements for the provision of other goods or services not in subsections (1) and (2), including transportation, provided that the other goods or services are consistent with the established priorities of a regional plan.

b. The division, in consultation with the advisory council, shall develop tax credit allocation formulas to establish separate tax credit award goals for each category of support in each region of the State.

c. The division may award a tax credit to an eligible business in an amount up to 100 percent of the value of the good or service provided by the eligible business to an eligible individual, but the division shall prioritize awarding of tax credits under the program in a manner that reliably provides for the greatest availability of goods and services, consistent with an applicable regional plan, to all eligible individuals.

d. As part of the application, an eligible business shall:

(1) Agree to allow the Division of Taxation in the Department of the Treasury to share the employer's tax information with the division. However, any information shared pursuant to this paragraph (1) shall be confidential by law and privileged, and shall not be subject to P.L.1963, c.73 (C.47:1A-1 et seq.).

(2) Allow the division and its agents access to limited and specific information necessary to monitor compliance with program requirements. Information accessed pursuant to this paragraph (2) shall be confidential by law and privileged, shall not be subject to P.L.1963, c.73 (C.47:1A-1 et seq.), and shall only be used for the stated purpose of this section.

(3) Demonstrate that the eligible business has the ability to satisfactorily provide goods or services to eligible individuals under the program.

e. After reviewing an application, the division shall tabulate the scores of each applicant based upon the formulas established pursuant to section b. of this section for an individual regional plan and rank eligible businesses for the award of tax credits under the program based on the priorities contained in that regional plan. The division shall, in its discretion, enter into program agreements with eligible businesses to award tax credits to eligible businesses that receive the highest scores under individual categories in a manner that the division determines would best meet the objectives of each regional plan.

f. A program agreement shall, at a minimum, include:

(1) a requirement that the eligible business not discriminate in the provisions of good or services to any eligible individual based upon the race, creed, color, national origin, ancestry, age, marital status, civil union status, domestic partnership status, affectional or sexual orientation, genetic information, pregnancy or breastfeeding, sex, gender identity or expression, or disability of the eligible individual or any family member of the eligible individual;

(2) a detailed description of the proposed goods or services that the eligible business is to provide to eligible individuals under the program, and under what conditions;

(3) a provision stipulating that an eligible business is prohibited from claiming a tax credit for an amount greater than the value of the goods and services that the eligible business has actually provided to eligible individuals under the program;

(4) a provision stating the eligibility period of the tax credits, including the first tax year or privilege period for which the eligible business may claim a tax credit;

(5) a detailed description of the information necessary to enable the division to administer the program, and a requirement that the eligible business provide that information to the division;

(6) a requirement that the applicant make goods or services available to eligible individuals in a particular region for the entire term of the agreement, and a provision to permit the division to recapture all or part of any tax credits awarded, at its discretion, if the eligible business does not remain in compliance with this provision for the required term;

(7) a method for the eligible business to certify that it has met the requirements of the program agreement and to report annually to the division the number of eligible individuals that the eligible business has provided goods or services to in the prior year;

(8) a provision permitting an audit of the records of the eligible business from time to time, as the division deems necessary;

(9) a provision stipulating any information that the eligible business is required to collect from an eligible person prior to providing goods or services to the eligible individual and a provision requiring that the eligible business provide certain

information on other resources available to eligible individuals within that region;

(10) a provision which permits the division to amend the agreement; and

(11) a provision establishing the conditions under which the agreement may be terminated.

g. The division shall, in consultation with the Director of the Division of Taxation in the Department of the Treasury, develop standards for the award of tax credits to eligible businesses consistent with each program agreement, and develop procedures for the content and issuance of tax credit certificates to be awarded under the program. The division shall, consistent with the standards and procedures developed pursuant to this subsection, issue tax credit certificates to eligible businesses as stipulated in individual program agreements.

h. The division shall regularly collect and analyze information related to the efficacy of the program in supplementing the government and nonprofit safety net of support for individuals who are recent victims of domestic violence, sexual assault, and stalking. The division shall annually submit reports to the Governor, and to the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1). Each annual report required pursuant to this subsection shall include recommendations to the Legislature for any changes to the program that would allow the division or eligible businesses to better support individuals who are recent victims of domestic violence, sexual assault, and stalking.

4. The director shall annually provide to the Director of the Division of Taxation in the Department of the Treasury program information including, but not limited to, the number of eligible businesses participating in the program, unique identifying information for each eligible business, the value of all tax credits awarded by the authority in the applicable year, the total dollar amount of claims for credit, and the dollar amount of credit awarded to each eligible business and the years in which the eligible business may claim the tax credits.

5. The director, in consultation with the advisory council and the Director of the Division of Taxation in the Department of the Treasury, shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations to effectuate the purposes of P.L. , c. (C.).

6. a A taxpayer that is an eligible business as defined pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill) that has received a tax credit certificate from the director shall be allowed a credit against the tax imposed

pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount equal to the amount shown on the tax credit certificate.

b. The amount of the credit applied under this section against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege period, when taken together with any other credits allowed against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), shall not exceed 50 percent of the tax otherwise due and shall not reduce the tax liability to an amount less than the statutory minimum provided in subsection (e) of section 5 of P.L.1945, c.162 (C.54:10A-5). The priority in which credits allowed pursuant to this section and any other credits shall be taken shall be determined by the Director of the Division of Taxation. The amount of the credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection or under other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried over, if necessary, to the seven privilege periods following the privilege period for which the credit was allowed.

7. a. A taxpayer that is an eligible business as defined pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill) that has received a tax credit certificate from the director shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to the amount shown on the tax credit certificate.

b. The amount of the credit applied pursuant to this section for a taxable year, when taken together with any other credits allowed against the tax imposed pursuant to N.J.S.54A:1-1 et seq., shall not exceed 50 percent of the taxpayer's liability for tax for the taxable year that bears the same proportional relationship to the total amount of such liability as the amount of the taxpayer's gross income, derived from New Jersey sources and attributable to the business or professional activity in which the taxpayer employs the eligible individual during that taxable year, bears to the taxpayer's entire gross income for that year. The amount of the credit otherwise allowable under this section which cannot be applied for the taxable year due to the limitations of this subsection may be carried over, if necessary to the seven taxable years following the taxable year for which the credit was allowed.

c. A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a credit under this section directly, but the amount of credit of a taxpayer in respect of a distributive share of entity income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the entity that is equal to the taxpayer's share, whether or not distributed, of the total distributive income or gain of the entity for its taxable year ending within or with the taxpayer's taxable year.

d. A New Jersey S corporation shall not be allowed a credit directly under the gross income tax, but the amount of credit of a taxpayer in respect of a pro rata share of S Corporation income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the New Jersey S Corporation that is equal to the taxpayer's share, whether or not distributed, of the total pro rata share of S Corporation income of the New Jersey S Corporation for its privilege period ending within or with the taxpayer's taxable year.

8. This act shall take effect immediately and shall apply to privilege periods and taxable years beginning on and after January 1, 2021.

STATEMENT

This bill establishes the "Support for Victims of Domestic Violence Program" (program), to be administered by the Division on Women (division) in the Department of Children and Families. The purpose of the program is to incentivize businesses in New Jersey to offer support in goods and services to individuals who have been recent victims of domestic violence, sexual assault, or stalking, or attempted domestic violence, sexual assault, or stalking (eligible individuals). The program allows the division to award tax credits, to be applied against the Corporation Business Tax or the New Jersey Gross Income Tax, to an eligible business in exchange for the eligible business's commitment to provide certain goods or services to eligible individuals.

The bill requires the division, in consultation with Advisory Council on Domestic Violence (advisory council), to establish at least three support regions in New Jersey and adopt a domestic violence safety net plan for each region. The regional plans are required to give consideration to the existing governmental and nonprofit resources available to eligible individuals in a region and set priorities for which goods and services are still needed in that region, and consider how the public and private safety nets in each region can best be enhanced by the availability and provision of goods and services by eligible businesses. Under the bill, the division is required to consider, in developing each regional plan, the provision of: household essentials and clothing; technology security devices and services; communications devices and services; and housing and emergency accommodations. Under the bill, the division is required to accept program applications and awarding tax credits to eligible businesses that commit to providing goods or services to eligible individuals, consistent with an applicable regional plan.

The value of all credits awarded by the division pursuant to the program in any State fiscal year is not to exceed $25,000,000. In addition to the annual $25,000,000 cap, the bill prohibits the division from approving the award of more than: $15,000,000 in tax credits related to housing and emergency accommodations; $10,000,000 in tax credits related to household essentials and clothing, technology security devices and services, and communications devices and services, combined; and $3,000,000 in tax credits related to other goods or services. The bill requires the division to develop tax credit allocation formulas to establish separate tax credit award goals for each category of support in each region of the State. The bill also establishes program application requirements and application review requirements.

The bill requires that program agreements include certain provisions, as specified in the bill. The bill also requires the division, in consultation with the Director of the Division of Taxation in the Department of the Treasury, to develop standards for the award of tax credits to eligible businesses consistent with each program agreement, and develop procedures for the content and issuance of tax credit certificates to be awarded under the program. The director of the division, in consultation with the advisory council and the Director of the Division of Taxation in the Department of the Treasury, is required to adopt rules and regulations to effectuate the purposes of the bill.

The bill requires the division to regularly collect and analyze information related to the efficacy of the program in supplementing the government and nonprofit safety net of support for individuals who are recent victims of domestic violence, sexual assault, and stalking. The bill further requires the division to submit annual program reports to the Governor and to the Legislature. Each annual report is required to include recommendations to the Legislature for any changes to the program that would allow the division or eligible businesses to better support individuals who are recent victims of domestic violence, sexual assault, and stalking.

Under the bill, the amount of the credits allowed against the taxes imposed are prohibited from exceeding 50 percent of the taxpayer's liability for tax, and may be carried over, if necessary, to the seven privilege periods or taxable years.