

ASSEMBLY, No. 5173

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED DECEMBER 21, 2020

Sponsored by:

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

SYNOPSIS

Provides corporation business tax credits and gross income tax credits to small business employers and farm employers related to increase in State minimum wage.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/21/2021)

1 **AN ACT** providing corporation business tax credits and gross
2 income tax credits to small business employers and farm
3 employers related to the increase in the State minimum wage,
4 supplementing P.L.1945, c.162 (C.54:10A-1 et seq.) and Title
5 54A of the New Jersey Statutes.

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

9
10 1. a. A taxpayer that is a small business employer or farm
11 employer shall be allowed a credit against the tax imposed pursuant
12 to section 5 of P.L.1945, c.162 (C.54:10A-5), for a privilege period
13 in an amount equal to the difference of: 1) the minimum hourly
14 wage required to be paid to an employee pursuant to section 5 of
15 P.L.1966, c.113 (C.34:11-56a4), following the enactment of
16 P.L.2019, c.32, multiplied by the number of hours worked by the
17 employee during the privilege period; minus 2) that minimum
18 hourly wage required to be paid on the day prior to the enactment of
19 P.L.2019, c.32, including any adjustments to the minimum hourly
20 wage rate required by law, multiplied by the number of hours
21 worked by the employee during the privilege period.

22 b. If the number of employees employed by the taxpayer during
23 a privilege period for which this credit is claimed is greater than the
24 number of employees employed by the taxpayer on the day prior to
25 the enactment of P.L.2019, c.32, the credit allowed pursuant to this
26 section shall be calculated based on the number of employees
27 employed on the day prior to the enactment of P.L.2019, c.32. If
28 the number of employees employed by the taxpayer during a
29 privilege period for which a credit is claimed is less than the
30 number of employees employed by the taxpayer on the day prior to
31 the enactment of P.L.2019, c.32, the credit shall be calculated based
32 on the number of employees employed by the taxpayer during the
33 privilege period for which this credit is claimed.

34 c. The credit allowed pursuant to this section shall not exceed
35 \$12,500 for each employee included in the calculation prescribed by
36 this section.

37 d. The order of priority of the application of the credit allowed
38 pursuant to this section and any other credits allowed by law shall
39 be as prescribed by the director. The amount of the credit applied
40 under this section against the tax imposed pursuant to section 5 of
41 P.L.1945, c.162 (C.54:10A-5) for a privilege period, together with
42 any other credits allowed by law, shall not exceed 50 percent of the
43 tax liability otherwise due and shall not reduce the tax liability to an
44 amount less than the statutory minimum provided in subsection (e)
45 of section 5 of P.L.1945, c.162 (C.54:10A-5).

46 e. The amount of the tax credit otherwise allowable under this
47 section which cannot be applied for the privilege period may be

1 carried forward, if necessary, to the four privilege periods following
2 the privilege period for which a portion of the tax credit was
3 allowed.

4 f. No tax credit shall be allowed pursuant to this section for
5 any costs or expenses included in the calculation of any other tax
6 credit or exemption granted pursuant to a claim made on a tax
7 return filed with the director, or included in the calculation of an
8 award of business assistance or incentive, for a period of time that
9 coincides with the privilege period for which a tax credit pursuant
10 to this section is allowed.

11 g. A small business employer or farm employer shall apply in a
12 form and manner to be determined by the director for the tax credit
13 provided pursuant to this section.

14 h. The credit allowed pursuant to this section shall only be
15 available to a taxpayer for the ten subsequent privilege periods that
16 commence immediately following the effective date of
17 P.L. , c. (C.) (pending before the Legislature as this
18 bill).

19 i. As used in this section:

20 “Farm employer” means a taxpayer in this State who engages
21 individuals in this State on a piece-rate or regular hourly rate basis
22 to labor on a farm.

23 “Small business employer” means a taxpayer that: 1) employs
24 fewer than 25 employees in this State, which employees shall have
25 been employed by the employer for not less than 48 weeks of the
26 calendar year and which are employed by the taxpayer as of the last
27 day of the calendar year; and 2) generates less than \$1 million in
28 annual net receipts, based on the average of the three preceding
29 privilege periods.

30

31 2. a. A taxpayer that is a small business employer or farm
32 employer shall be allowed a credit against the tax otherwise due
33 under the “New Jersey Gross Income Tax Act,” N.J.S.54A:1-1 et
34 seq., for a taxable year in an amount equal to the difference of: 1)
35 the minimum hourly wage required to be paid to an employee
36 pursuant to section 5 of P.L.1966, c.113 (C.34:11-56a4), following
37 the enactment of P.L.2019, c.32, multiplied by the number of hours
38 worked by the employee during the taxable year; minus 2) that
39 minimum hourly wage required to be paid on the day prior to the
40 enactment of P.L.2019, c.32, including any adjustments to the
41 minimum hourly wage rate required by law, multiplied by the
42 number of hours worked by the employee during the taxable year.

43 b. If the number of employees employed by the taxpayer during
44 a taxable year for which a credit is claimed is greater than the
45 number of employees employed by the taxpayer on the day prior to
46 the enactment of P.L.2019, c.32, the credit allowed pursuant to this
47 section shall be calculated based on the number of employees

1 employed by the taxpayer on the day prior to the enactment of
2 P.L.2019, c.32. If the number of employees employed by the
3 taxpayer during a taxable year for which a credit is claimed is less
4 than the number of employees employed by the taxpayer on the day
5 prior to the enactment of P.L.2019, c.32, the credit shall be
6 calculated based on the number of employees employed by the
7 taxpayer during the taxable year for which a credit is claimed.

8 c. The credit allowed pursuant to this section shall not exceed
9 \$12,500 for each employee included in the calculation prescribed by
10 this section.

11 d. The amount of the credit allowed pursuant to this section
12 shall be applied against the tax otherwise due under the "New
13 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., after all other
14 credits and payments. If the credit exceeds the amount of tax
15 liability otherwise due, that amount of excess shall be an
16 overpayment for the purposes of N.J.S.54A:9-7, provided, however,
17 that subsection (f) of N.J.S.54A:9-7 shall not apply.

18 e. No tax credit shall be allowed pursuant to this section for
19 any costs or expenses included in the calculation of any other tax
20 credit or exemption granted pursuant to a claim made on a tax
21 return filed with the director, or included in the calculation of an
22 award of business assistance or incentive, for a period of time that
23 coincides with the taxable year, for which a tax credit authorized
24 pursuant to this section is allowed.

25 f. (1) A business entity that is classified as a partnership for
26 federal income tax purposes shall not be allowed a tax credit
27 pursuant to this section directly, but the amount of tax credit of a
28 taxpayer in respect to distributive share of entity income, shall be
29 determined by allocating to the taxpayer that proportion of the tax
30 credit acquired by the entity that is equal to the taxpayer's share,
31 whether or not distributed, of the total distributive income or gain
32 of the entity for its taxable year ending within or with the
33 taxpayer's taxable year.

34 (2) A New Jersey S Corporation shall not be allowed a tax credit
35 pursuant to this section directly, but the amount of the tax credit of
36 a taxpayer in respect of a pro rata share of S Corporation income,
37 shall be determined by allocating to the taxpayer that proportion of
38 the tax credit acquired by the New Jersey S Corporation that is
39 equal to the taxpayer's share, whether or not distributed, of the total
40 pro rata share of S Corporation income of the New Jersey S
41 Corporation for its privilege period ending within or with the
42 taxpayer's taxable year.

43 g. A small business employer or farm employer shall apply in a
44 form and manner to be determined by the director for the tax credit
45 provided pursuant to this section.

46 h. The credit allowed pursuant to this section shall only be
47 available to a taxpayer for the ten subsequent taxable years that

1 commence immediately following the effective date of
2 P.L. , c. (C.) (pending before the Legislature as this
3 bill).

4 i. As used in this section:

5 “Farm employer” means a taxpayer in this State who engages
6 individuals in this State on a piece-rate or regular hourly rate basis
7 to labor on a farm.

8 “Small business employer” means a taxpayer that: 1) employs
9 fewer than 25 employees in this State, which employees shall have
10 been employed by the employer for not less than 48 weeks of the
11 calendar year and which are employed by the taxpayer as of the last
12 day of the calendar year; and 2) generates less than \$1 million in
13 annual net receipts, based on the average of the three preceding
14 taxable years.

15
16 3. This act shall take effect immediately and apply to taxable
17 years and privilege periods beginning on or after January 1 next
18 following the date of enactment.

21 STATEMENT

22
23 This bill allows corporation business tax (CBT) credits and gross
24 income tax (GIT) credits for small business employers and farm
25 employers for payment of the increased State minimum wage.

26 The bill provides small business employers and farm employers
27 with a tax credit equal to the difference of: 1) the minimum hourly
28 wage required to be paid to an employee pursuant to section 5 of
29 P.L.1966, c.113, following the enactment of P.L.2019, c.32, which
30 phases the State minimum wage up to \$15.00 per hour, multiplied
31 by the number of hours worked by an employee during a privilege
32 period or taxable year; minus 2) that minimum hourly wage
33 required to be paid on the day prior to the enactment of that same
34 law, factoring in any adjustments to the minimum hourly wage,
35 such as inflation, as required by law at that time.

36 The term “small business employer” means a taxpayer that: 1)
37 employs fewer than 25 employees in this State, which employees
38 shall have been employed by the employer for not less than 48
39 weeks of the calendar year and which are employed by the taxpayer
40 as of the last day of the calendar year; and 2) generates less than \$1
41 million in annual net receipts, based on the average of the three
42 preceding privilege periods or taxable years. The term “farm
43 employer” means a taxpayer in this State who engages individuals
44 in this State on a piece-rate or regular hourly rate basis to labor on a
45 farm.

46 The bill restricts the number of employees that can be used in
47 calculating the tax credit amount, caps the credit amount at \$12,500

1 for each employee included in the calculation of the credit, and
2 limits the credit's availability to the ten subsequent privilege
3 periods or taxable years that commence immediately following the
4 effective date of the bill.

5 Any amount of the tax credit that cannot be taken against a small
6 business employer's or farm employer's CBT liability can be
7 carried forward for four privilege periods following the privilege
8 period for which a portion of the tax credit was allowed. If the GIT
9 credit exceeds a small business employer's or farm employer's
10 liability, the small business employer or farm employer can receive
11 a refund for the amount in excess.

12 The bill requires the Director of the Division of Taxation in the
13 Department of the Treasury to determine the form and manner by
14 which a taxpayer can apply for the tax credit.