

SENATE, No. 80

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator CHRISTOPHER "KIP" BATEMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Co-Sponsored by:

Senator Greenstein

SYNOPSIS

Provides corporation business tax and gross income tax credits to farmers who develop qualified native pollinator habitat on farms.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** providing tax credits to farmers who develop qualified
2 native pollinator habitat on their farms and supplementing
3 P.L.1945, c.162 (C.54:10A-1 et seq.) and Title 54A of the New
4 Jersey Statutes.

5

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

8

9 1. a. For privilege periods beginning on or after January 1 next
10 following the effective date of P.L. , c. (C.) (pending
11 before the Legislature as this bill), a taxpayer who is a farmer who
12 develops qualified native pollinator habitat on one or more farms,
13 and who meets the requirements of this section and the rules and
14 regulations adopted pursuant thereto, shall be allowed a credit
15 against the tax due pursuant to section 5 of P.L.1945, c.162
16 (C.54:10A-5) in an amount equal to the reasonable costs expended
17 for developing the qualified native pollinator habitat, up to \$7,500.

18 b. (1) To qualify for the tax credit allowed pursuant to this
19 section, the taxpayer shall apply for a certification from the
20 secretary that certifies: (a) that the area developed is qualified
21 native pollinator habitat; and (b) the amount of the tax credit. The
22 application shall include a description of the qualified native
23 pollinator habitat, its precise locations, the cost for developing it,
24 appropriate documentation of that cost, and any other information
25 as determined relevant by the department. Upon certification, the
26 secretary shall submit a copy thereof to the taxpayer and the
27 director. When filing a tax return that includes a claim for a credit
28 pursuant to this section, the taxpayer shall include a copy of the
29 certification issued by the secretary.

30 (2) The department may approve an application and issue a
31 certification to a taxpayer that has previously been allowed a tax
32 credit pursuant to this section, but in no case shall a taxpayer be
33 approved and certified for more than \$7,500 in total tax credits.

34 c. The order of priority of the application of the credit allowed
35 pursuant to this section and any other credits allowed against the tax
36 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for
37 a privilege period shall be as prescribed by the director. The
38 amount of the credit applied pursuant to this section against the tax
39 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5)
40 shall not reduce a taxpayer's tax liability for a privilege period to an
41 amount less than the statutory minimum provided in subsection (e)
42 of section 5 of P.L.1945, c.162 (C.54:10A-5). Any credit shall be
43 valid in the privilege period in which the certification is approved
44 and any unused portion thereof may be carried forward into the next
45 10 privilege periods or until depleted, whichever is earlier.

46 d. The secretary, in consultation with the director, shall adopt,
47 pursuant to the "Administrative Procedure Act," P.L.1968, c.410

1 (C.52:14B-1 et seq.), rules and regulations necessary to carry out
2 the provisions of this section.

3 e. On or before January 31 of each year, the secretary shall
4 submit a report to the Governor, the State Treasurer, and, pursuant
5 to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, on
6 the effectiveness of the tax credit in developing qualified native
7 pollinator habitat in the State.

8 f. As used in this section:

9 “Department” means the Department of Agriculture.

10 “Farm” means land and related operations used for producing
11 agricultural or horticultural products, as determined by the
12 department.

13 “Qualified native pollinator habitat” means an area of land
14 developed as habitat beneficial for the feeding, nesting, and
15 reproduction of native pollinators, such as bees, as determined by
16 the department. “Qualified native pollinator habitat” shall utilize
17 plants that are native to New Jersey.

18 “Reasonable cost” means the cost of developing qualified native
19 pollinator habitat, including, but not necessarily limited to, the cost
20 of seeds, plants, and the instillation thereof, determined to be
21 reasonable by the department.

22 “Secretary” means the Secretary of Agriculture.

23

24 2. a. For taxable years beginning on or after January 1 next
25 following the effective date of P.L. , c. (C.) (pending
26 before the Legislature as this bill), a taxpayer who is a farmer who
27 develops qualified native pollinator habitat on one or more farms,
28 and who meets the requirements of this section and the rules and
29 regulations adopted pursuant thereto, shall be allowed a credit
30 against the New Jersey gross income tax due pursuant to
31 N.J.S.54A:1-1 et seq. in an amount equal to the reasonable costs
32 expended for developing the qualified native pollinator habitat, up
33 to \$7,500.

34 b. (1) To qualify for the tax credit allowed pursuant to this
35 section, the taxpayer shall apply for a certification from the
36 secretary that certifies: (a) that the area developed is qualified
37 native pollinator habitat; and (b) the amount of the tax credit. The
38 application shall include a description of the qualified native
39 pollinator habitat, its precise locations, the cost for developing it,
40 appropriate documentation of that cost, and any other information
41 as determined relevant by the department. Upon certification, the
42 secretary shall submit a copy thereof to the taxpayer and the
43 director. When filing a tax return that includes a claim for a credit
44 pursuant to this section, the taxpayer shall include a copy of the
45 certification issued by the secretary.

46 (2) The department may approve an application and issue a
47 certification to a taxpayer that has previously been allowed a tax

1 credit pursuant to this section, but in no case shall a taxpayer be
2 approved and certified for more than \$7,500 in total tax credits.

3 c. The order of priority of the application of the credit allowed
4 pursuant to this section and any other credits allowed against the tax
5 imposed pursuant to N.J.S.54A:1-1 et seq. for a taxable year shall
6 be as prescribed by the director. The amount of the credit applied
7 pursuant to this section against the tax imposed pursuant to pursuant
8 to N.J.S.54A:1-1 et seq. shall not reduce a taxpayer's tax liability
9 for a taxable year to an amount less than zero. Any credit shall be
10 valid in the taxable year in which the certification is approved and
11 any unused portion thereof may be carried forward into the next 10
12 taxable years or until depleted, whichever is earlier.

13 d. A business entity that is classified as a partnership for
14 federal income tax purposes shall not be allowed the credit directly
15 under N.J.S.54A:1-1 et seq., but the amount of the credit of the
16 taxpayer in respect of a distributive share of partnership income
17 shall be determined by allocating to the taxpayer that proportion of
18 the credit acquired by the partnership that is equal to the taxpayer's
19 share, whether or not distributed, of the total distributive income or
20 gain of the partnership for its taxable year ending within or with the
21 taxpayer's taxable year.

22 A taxpayer that is a New Jersey S corporation shall not be
23 allowed the credit directly under N.J.S.54A:1-1 et seq., but the
24 amount of the credit of a taxpayer in respect of a pro rata share of S
25 corporation income shall be determined by allocating to the
26 taxpayer that proportion of the credit acquired by the New Jersey S
27 corporation that is equal to the taxpayer's share, whether or not
28 distributed, of the total pro rata share of S corporation income of the
29 New Jersey S corporation for its taxable year ending within or with
30 the taxpayer's taxable year.

31 e. The secretary, in consultation with the director, shall adopt,
32 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
33 (C.52:14B-1 et seq.), rules and regulations necessary to carry out
34 the provisions of this section.

35 f. On or before January 31 of each year, the secretary shall
36 submit a report to the Governor, the State Treasurer, and, pursuant
37 to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature, on
38 the effectiveness of the tax credit in developing qualified native
39 pollinator habitat in the State.

40 g. As used in this section:

41 "Department" means the Department of Agriculture.

42 "Farm" means land and related operations used for producing
43 agricultural or horticultural products, as determined by the
44 department.

45 "Qualified native pollinator habitat" means an area of land
46 developed as habitat beneficial for the feeding, nesting, and
47 reproduction of native pollinators, such as bees, as determined by

1 the department. “Qualified native pollinator habitat” shall utilize
2 plants that are native to New Jersey.

3 “Reasonable cost” means the cost of developing qualified native
4 pollinator habitat, including, but not necessarily limited to, the cost
5 of seeds, plants, and the instillation thereof, determined to be
6 reasonable by the department.

7 “Secretary” means the Secretary of Agriculture.
8

9 3. This act shall take effect immediately.
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12 STATEMENT
13

14 This bill would provide corporation business tax and gross
15 income tax credits to farmers who develop qualified native
16 pollinator habitat on their farms.

17 Specifically, for privilege periods and taxable years beginning on
18 or after January 1 next following the effective date of this bill, a
19 farmer who develops qualified native pollinator habitat on one or
20 more farms, and who meets the requirements of this bill, would be
21 allowed a credit against the corporation business tax or gross
22 income tax in an amount equal to the reasonable costs expended for
23 developing the qualified native pollinator habitat, up to \$7,500. For
24 the purposes of this bill, qualified native pollinator habitat means an
25 area of land developed as habitat beneficial for the feeding, nesting,
26 and reproduction of native pollinators, such as bees, as determined
27 by the department. Qualified native pollinator habitat must utilize
28 plants that are native to New Jersey.

29 To qualify for the credit, a farmer would have to apply for a
30 certification from the Secretary of Agriculture that certifies: (1)
31 that the area developed is qualified native pollinator habitat; and (2)
32 the amount of the tax credit. The application would include a
33 description of the qualified native pollinator habitat, its precise
34 locations, the cost for developing it, appropriate documentation of
35 that cost, and any other information the Department of Agriculture
36 determines relevant. When filing a tax return that includes a claim
37 for a credit pursuant to this bill, the farmer would have to include a
38 copy of the certification issued by the Secretary of Agriculture.

39 Pollinators, such as bees, are extremely important to the
40 agricultural industry. Approximately one-third of all crops grown
41 depend on pollinators for reproduction. Recently, however, the
42 survival of many pollinators has been threatened by, among other
43 things, habitat loss. This bill would incentivize the planting of
44 native pollinator habitat in and around agricultural land in order to
45 help protect native pollinators.

46 Provides corporation business tax and gross income tax credits to
47 farmers who develop qualified native pollinator habitat on farms.