

SENATE, No. 533

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Provides corporation business tax credits and gross income tax credits to small business employers and farm employers for increases in certain mandatory employer contributions.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** providing corporation business tax credits and gross
2 income tax credits to small business employers and farm
3 employers for increases in certain mandatory employer
4 contributions, supplementing P.L.1945, c.162 (C.54:10A-1 et
5 seq.) and Title 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 amounts expended by
14 the small business employer or farm employer as mandatory
15 employer contributions for workers' compensation insurance and
16 New Jersey Temporary Disability Insurance and Unemployment
17 Insurance during the privilege period; minus 2) the amounts that
18 would have been expended by the small business employer or farm
19 employer as mandatory employer contributions for workers'
20 compensation insurance and New Jersey Temporary Disability
21 Insurance and Unemployment Insurance for the same amount of
22 employees and wages during the preceding privilege period.

23 b. The credit allowed pursuant to this section shall not exceed
24 \$12,000 annually for each taxpayer per privilege period.

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

34 d. The amount of the tax credit otherwise allowable under this
35 section which cannot be applied for the privilege period may be
36 carried forward, if necessary, to the four privilege periods following
37 the privilege period for which a portion of the tax credit was
38 allowed.

39 e. No tax credit shall be allowed pursuant to this section for
40 any costs or expenses included in the calculation of any other tax
41 credit or exemption granted pursuant to a claim made on a tax
42 return filed with the director, or included in the calculation of an
43 award of business assistance or incentive, for a period of time that
44 coincides with the privilege period for which a tax credit pursuant
45 to this section is allowed.

46 f. A small business employer or farm employer shall apply, in
47 a form and manner to be determined by the director, for the tax
48 credit provided pursuant to this section.

1 g. The credit allowed pursuant to this section shall only be
2 available for the privilege periods commencing on or after January
3 1, 2020, but before January 1, 2030.

4 h. 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 privilege periods.

15

16 2. a. A taxpayer that is a small business employer or farm
17 employer shall be allowed a credit against the tax otherwise due
18 under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et
19 seq., for a taxable year in an amount equal to the difference of: 1)
20 the amounts expended by the small business employer or farm
21 employer as mandatory employer contributions for workers'
22 compensation insurance and New Jersey Temporary Disability
23 Insurance and Unemployment Insurance during the taxable year;
24 minus 2) the amounts that would have been expended by the small
25 business employer or farm employer as mandatory employer
26 contributions for workers' compensation insurance and New Jersey
27 Temporary Disability Insurance and Unemployment Insurance for
28 the same amount of employees and wages during the preceding
29 taxable year.

30 b. The credit allowed pursuant to this section shall not exceed
31 \$12,000 annually for each taxpayer per taxable year.

32 c. The amount of the credit allowed pursuant to this section
33 shall be applied against the tax otherwise due under the "New
34 Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., after all other
35 credits and payments. If the credit exceeds the amount of tax
36 liability otherwise due, that amount of excess shall be an
37 overpayment for the purposes of N.J.S.54A:9-7, provided, however,
38 that subsection (f) of N.J.S.54A:9-7 shall not apply.

39 d. No tax credit shall be allowed pursuant to this section for
40 any costs or expenses included in the calculation of any other tax
41 credit or exemption granted pursuant to a claim made on a tax
42 return filed with the director, or included in the calculation of an
43 award of business assistance or incentive, for a period of time that
44 coincides with the taxable year, for which a tax credit authorized
45 pursuant to this section is allowed.

46 e. (1) A business entity that is classified as a partnership for
47 federal income tax purposes shall not be allowed a tax credit
48 pursuant to this section directly, but the amount of tax credit of a

1 taxpayer in respect to distributive share of entity income, shall be
2 determined by allocating to the taxpayer that proportion of the tax
3 credit acquired by the entity that is equal to the taxpayer's share,
4 whether or not distributed, of the total distributive income or gain
5 of the entity for its taxable year ending within or with the
6 taxpayer's taxable year.

7 (2) A New Jersey S Corporation shall not be allowed a tax credit
8 pursuant to this section directly, but the amount of the tax credit of
9 a taxpayer in respect of a pro rata share of S Corporation income,
10 shall be determined by allocating to the taxpayer that proportion of
11 the tax credit acquired by the New Jersey S Corporation that is
12 equal to the taxpayer's share, whether or not distributed, of the total
13 pro rata share of S Corporation income of the New Jersey S
14 Corporation for its privilege period ending within or with the
15 taxpayer's taxable year.

16 f. A small business employer or farm employer shall apply, in
17 a form and manner to be determined by the director, for the tax
18 credit provided pursuant to this section.

19 g. The credit allowed pursuant to this section shall only be
20 available for the taxable years commencing on or after January 1,
21 2020, but before January 1, 2030.

22 h. As used in this section:

23 "Farm employer" means a taxpayer in this State who engages
24 individuals in this State on a piece-rate or regular hourly rate basis
25 to labor on a farm.

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

33
34 3. This act shall take effect immediately and apply to privilege
35 periods and taxable years beginning on or after January 1 next
36 following the date of enactment.

37 38 39 STATEMENT

40
41 This bill provides corporation business tax (CBT) credits and
42 gross income tax (GIT) credits to small business employers and
43 farm employers for increases in certain mandatory employer
44 contributions.

45 The bill provides small business employers and farm employers
46 with tax credits in an amount equal to the difference of: 1) the
47 amounts expended by the small business employer or farm
48 employer as mandatory employer contributions for workers'

1 compensation insurance and New Jersey Temporary Disability
2 Insurance and Unemployment Insurance during the privilege period
3 or taxable year; minus 2) the amounts that would have been
4 expended by the small business employer or farm employer as
5 mandatory employer contributions for workers' compensation
6 insurance and New Jersey Temporary Disability Insurance and
7 Unemployment Insurance during the preceding for the same amount
8 of employees and wages during the preceding privilege period or
9 taxable year.

10 The term "small business employer" means a taxpayer that: 1)
11 employs fewer than 25 employees in this State, which employees
12 shall have been employed by the employer for not less than 48
13 weeks of the calendar year and which are employed by the taxpayer
14 as of the last day of the calendar year; and 2) generates less than \$1
15 million in annual net receipts, based on the average of the three
16 preceding privilege periods or taxable years. The term "farm
17 employer" means a taxpayer in this State who engages individuals
18 in this State on a piece-rate or regular hourly rate basis to labor on a
19 farm.

20 The bill caps the credit amount at \$12,000 annually for each
21 taxpayer per privilege period and taxable year, and the credit is only
22 available for the privilege periods and taxable years commencing on
23 or after January 1, 2020, but before January 1, 2030. Any amount
24 of the tax credit that cannot be taken against a small business
25 employer's or farm employer's CBT liability can be carried forward
26 for four privilege periods following the privilege period for which a
27 portion of the tax credit was allowed. If the credit exceeds a small
28 business employer's or farm employer's GIT liability, the small
29 business employer or farm employer can receive a refund for the
30 amount in excess.

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