

SENATE, No. 1748

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:
Senator NILSA CRUZ-PEREZ
District 5 (Camden and Gloucester)

SYNOPSIS

“Garden State Manufacturing Jobs Act.”

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT authorizing the establishment of Garden State Corporations
2 and supplementing Title 14A of the New Jersey Statutes.

3

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

6

7 1. This act shall be known and may be cited as the “Garden
8 State Manufacturing Jobs Act.”

9

10 2. As used in this act, “Garden State Corporation” means a
11 corporation:

12 a. Which principally engages in manufacturing and principally
13 utilizes facilities located within the State of New Jersey;

14 b. Which is organized under provisions of the “New Jersey
15 Business Corporation Act,” N.J.S.14A:1-1 et seq.; and

16 c. Which has elected to become subject to this act, and whose
17 status as a Garden State Corporation has not been terminated as
18 provided in this act.

19

20 3. A Garden State Corporation shall be formed in accordance
21 with chapter 2 of Title 14A of the New Jersey Statutes, except that
22 the formation of the corporation shall be conducted in a manner
23 consistent with the provisions of this act and its certificate of
24 incorporation shall state that it is a Garden State Corporation. A
25 Garden State Corporation may include the words “Garden State,”
26 “codetermined,” “co-managed,” “employer-employee,”
27 “manufacturing” or any combination of those terms in its corporate
28 name.

29

30 4. a. A corporation organized under the provisions of the
31 “New Jersey Business Corporation Act,” N.J.S.14A:1-1 et seq., may
32 become a Garden State Corporation under this act by amending its
33 certificate of incorporation so that it contains a statement that the
34 corporation is a Garden State Corporation and it complies with the
35 other provisions of this act.

36 b. If a corporation that is not a Garden State Corporation is a
37 party to a merger or consolidation or is the exchanging corporation
38 in a share exchange, and the surviving or new corporation in the
39 merger, consolidation, or share exchange is to be a Garden State
40 Corporation, then the plan of merger, consolidation, or share
41 exchange shall not be effective unless it is adopted pursuant to the
42 provisions of the “New Jersey Business Corporation Act,”
43 N.J.S.14A:1-1 et seq.

44

45 5. a. A Garden State Corporation may terminate its status as a
46 Garden State Corporation and cease to be subject to this act by a
47 vote of the majority of the board of directors of that Garden State
48 Corporation and by amending its certificate of incorporation to

1 delete the provision required by section 3 and subsection a. of
2 section 4 of this act, pursuant to the provisions of the “New Jersey
3 Business Corporation Act,” N.J.S.14A:1-1 et seq.

4 b. If a plan of merger, consolidation, or exchange would have
5 the effect of terminating the status of a corporation as a Garden
6 State Corporation, then the plan of merger, consolidation, or share
7 exchange shall not be effective unless the Garden State Corporation
8 has first terminated its status as a Garden State Corporation
9 pursuant to subsection a. of this section and the plan is adopted
10 pursuant to the provisions of the “New Jersey Business Corporation
11 Act,” N.J.S.14A:1-1 et seq.

12

13 6. The certificate of incorporation or by-laws of a Garden State
14 Corporation shall provide that half of the members of the board of
15 directors of the corporation are elected by the employees of the
16 corporation who work in facilities in New Jersey and provide that
17 the employee-elected members of the board shall have access to all
18 documents and records of the corporation and equal authority with
19 other members of the board regarding all matters affecting the
20 business and affairs of the corporation, including: the selection and
21 removal of officers of the corporation; the location of corporation
22 facilities; the amendment or repealing of the by-laws or the
23 certificate of incorporation of the corporation; any decision to seek
24 to obtain or terminate the status of the corporation as a benefit
25 corporation under the provisions of P.L.2011, c.30 (C.14A:18-1 et
26 seq.); and any decision that may result in the termination of the
27 status of the corporation as a Garden State Corporation under the
28 provisions of this act.

29

30 7. The certificate of incorporation or by-laws of a Garden State
31 Corporation shall provide for the election, terms, classifications, if
32 any, and removal of directors and officers pursuant to the
33 provisions of “New Jersey Business Corporation Act,” N.J.S.14A:1-
34 1 et seq., and the provisions of this act, and shall provide the
35 procedures for the election of employee-elected members of the
36 board of directors of the Garden State Corporation. Those
37 procedures shall include requirements that:

38 a. Only employees of the Garden State Corporation who work
39 in facilities in New Jersey shall be eligible to seek election and
40 serve as employee-elected members of the board of directors;

41 b. Each employee of the Garden State Corporation who works
42 in facilities in New Jersey, without respect to the position or rank of
43 the employee or the amount of any ownership interest that the
44 employee may have in the Garden State Corporation, shall have the
45 right to vote in the selection of the employee-elected members of
46 the board of directors, with the vote of each employee having equal
47 weight with the vote of any other employee, and shall have the right

1 to seek election as an employee-elected member of the board of
2 directors and serve on the board if elected.

3 Vacancies in employee-elected director positions resulting from
4 death, resignation, or removal shall be filled for the remainder of
5 the term by a majority vote of the employee-elected members of the
6 board of directors of the Garden State Corporation.

7

8 8. a. If a corporation is a Garden State Corporation but has
9 not obtained the status of a benefit corporation under the provisions
10 of P.L.2011, c.30 (C.14A:18-1 et seq.), it shall be allowed a credit
11 against the tax imposed pursuant to section 5 of P.L.1945, c.162
12 (C.54:10A-5), as follows:

13 (1) During each of the first five tax years in which it is
14 continuously a Garden State Corporation, but is not a benefit
15 corporation, an amount equal to 35% of the corporation's liability
16 for such tax;

17 (2) During the sixth and seventh tax years in which it is
18 continuously a Garden State Corporation, but is not a benefit
19 corporation, an amount equal to 25% of the corporation's liability
20 for such tax; and

21 (3) During the eight and ninth tax years in which it is
22 continuously a Garden State Corporation, but is not a benefit
23 corporation, an amount equal to 15% of the corporation's liability
24 for such tax.

25 b. Except as provided in subsection c. of this section, if the
26 corporation is a Garden State Corporation and has also obtained the
27 status of a benefit corporation, it shall be allowed a credit against
28 the tax imposed pursuant to section 5 of P.L.1945, c.162
29 (C.54:10A-5), as follows:

30 (1) During each of the first five tax years in which it is
31 continuously both a Garden State Corporation and a benefit
32 corporation, an amount equal to 60% of the corporation's liability
33 for such tax;

34 (2) During the sixth and seventh tax years in which it is
35 continuously both a Garden State Corporation and a benefit
36 corporation, an amount equal to 45% of the corporation's liability
37 for such tax; and

38 (3) During the eight and ninth tax years in which it is
39 continuously both a Garden State Corporation and a benefit
40 corporation, an amount equal to 30% of the corporation's liability
41 for such tax.

42 c. For each year that the corporation receives a tax credit
43 pursuant to paragraph (1) of subsection b. of this section, the
44 maximum number of years for which the corporation may receive a
45 tax credit pursuant to paragraph (1) of subsection a. of this section
46 shall be reduced by one year. For each year that the corporation
47 receives a tax credit pursuant to paragraph (2) of subsection b. of
48 this section, the maximum number of years for which the

1 corporation may receive a tax credit pursuant to paragraph (2) of
2 subsection a. of this section shall be reduced by one year. For each
3 year that the corporation receives a tax credit pursuant to paragraph
4 (3) of subsection b. of this section, the maximum number of years
5 for which the corporation may receive a tax credit pursuant to
6 paragraph (3) of subsection a. of this section shall be reduced by
7 one year.

8 d. The order of priority of the application of the credit allowed
9 under this section and any other credits allowed by law shall be as
10 prescribed by the Director of the Division of Taxation. The amount
11 of the credit applied under this section against the tax imposed
12 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a
13 privilege period shall not exceed the amount of any credit granted
14 pursuant to this section plus the amount of any other credits allowed
15 by law that shall reduce the total tax liability otherwise due by not
16 more than 25 percent, and shall not reduce the tax liability to an
17 amount less than the statutory minimum provided in subsection (e)
18 of section 5 of P.L.1945, c.162 (C.54:10A-5). An unused credit
19 may be carried forward, if necessary, for use in the first privilege
20 period following the privilege period for which the credit is
21 allowed.

22 e. The director shall develop, pursuant to the "Administrative
23 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), criteria for
24 determining eligibility under this section, in consultation with the
25 State Treasurer and the New Jersey Economic Development
26 Authority.

27
28 9. This act shall take effect on the July 1 next following the
29 date of enactment.
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32 STATEMENT

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34 This bill permits the establishment of a new type of corporation
35 termed as a Garden State Corporation. Garden State Corporations
36 would be corporations that are principally engaged in manufacturing,
37 principally utilizing facilities located in New Jersey, and which
38 provide employees with a greater role in the corporate decision-
39 making process. Garden State Corporations would qualify for credits
40 against the corporation business tax.

41 The bill allows a corporation to be formed as a Garden State
42 Corporation, an existing corporation to convert to become a Garden
43 State Corporation, and a Garden State Corporation to terminate its
44 status as a Garden State Corporation. The certificate of incorporation
45 or by-laws of a Garden State Corporation must provide that half of the
46 members of the board of directors of the corporation are elected by the
47 employees of the corporation who work in New Jersey facilities. The
48 employee-elected members of the board would have access to all

1 corporation documents and records and equal authority with other
2 members of the board regarding all matters affecting the business and
3 affairs of the corporation, including:

- 4 • The selection and removal of officers of the corporation;
- 5 • The amendment or repealing of the by-laws or the certificate of
6 incorporation of the corporation;
- 7 • Any decision regarding the location of corporation facilities;
- 8 • Any decision to seek to obtain or terminate the status of the
9 corporation as a benefit corporation under the provisions of
10 P.L.2011, c.30 (C.14A:18-1 et seq.); and
- 11 • Any decision that may result in the termination of the status of
12 the corporation as a Garden State Corporation.

13 To qualify as a Garden State Corporation, a corporation's
14 governing documents must include procedures regarding the election
15 of the employee-elected board members which require that only
16 employees of the Garden State Corporation who work in facilities in
17 New Jersey are eligible to seek election and serve as employee-elected
18 members of the board of directors. The bill requires that each
19 employee of the corporation who works in facilities in New Jersey,
20 without respect the position or rank of the employee or the amount of
21 any ownership interest that the employee may have in the corporation,
22 have the right to vote in the selection of the employee-elected
23 members of the board of directors, with the vote of the employee vote
24 having equal weight with the vote of any other employee, and the right
25 to seek election as an employee-elected member of the board of
26 directors and serve on the board if elected.

27 The bill provides that a Garden State Corporation would qualify
28 for credits against the corporation business tax. These credits vary as
29 to years of operation and whether the Garden State Corporation is also
30 a "benefit corporation" under P.L.2011, c.30 (C.14A:18-1 et seq.).

31 If a corporation is a Garden State Corporation but not a "benefit
32 corporation," the bill allows the corporation credits against its liability
33 for the corporation business tax of: 35% during the first five tax years
34 in which it is continuously a Garden State Corporation; 25% during
35 the sixth and seventh tax years, and 15% during the eight and ninth tax
36 years. If a corporation is both a Garden State Corporation and a
37 "benefit corporation," the bill allows the corporation credits against its
38 liability for the corporation business tax of: 60% during the first five
39 tax years in which it is continuously both a Garden State Corporation
40 and a benefit corporation; 45% during the sixth and seventh tax years,
41 and 30% during the eight and ninth tax years.

42 The number of tax years in which the lower tax credit for being
43 only a Garden State Corporation applies would be reduced by the
44 number of years in which the higher tax credit for being both a Garden
45 State Corporation and a "benefit corporation" applies, thus limiting to
46 nine the total number of tax years to which the credits may apply.