SENATE, No. 1901

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 24, 2020

Sponsored by:
Senator NILSA CRUZ-PEREZ
District 5 (Camden and Gloucester)
Senator KRISTIN M. CORRADO
District 40 (Bergen, Essex, Morris and Passaic)

SYNOPSIS

Provides employers with various tax incentives for hiring persons with disabilities under insurance premiums tax, corporation business tax and gross income tax.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 2/24/2020)

AN ACT providing employers various tax incentives for hiring persons with disabilities, supplementing Title 34 of the Revised Statutes, P.L.1945, c.132, P.L.1945, c.162, and Title 54A of the New Jersey Statutes.

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

1. a. For the purposes of administering the tax incentives relating to the employment of qualified employees with a disability allowed pursuant to sections 2, 3 and 4 of P.L. , c. (C. , , and)(pending before the Legislature as this bill), the director shall issue a certification to a qualified employee with a disability. The contents of the certification shall state the fact of the certification, and shall not include any of the other information that is confidential pursuant to subsection b. of this section. The director shall maintain a registry of the certifications.

b. All information regarding a qualified employee with a disability which is obtained or compiled in connection with the certification and registry and which may be identified with the qualified employee with a disability shall be confidential and shall not be released to a person other than the qualified employee with a disability, except as provided by subsection c. of this section, unless the qualified employee with a disability provides written permission to the division for the release of the information, provided however that the division may release program statistics so classified as to prevent the identification of a particular qualified employee with a disability or that person's disability.

c. The director may confirm to the employer of a qualified employee with a disability, upon application of the employer, the fact that a qualified employee with a disability has been so certified, and shall not divulge any of the other information that is confidential pursuant to subsection b. of this section.

The director may confirm to the Director of the Division of Taxation in the Department of the Treasury for purposes of administering the tax incentives relating to the employment of qualified employees with a disability allowed pursuant to sections 2, 3 and 4 of P.L. , c. (C. , , and)(pending before the Legislature as this bill) the fact that a qualified employee with a disability has been so certified, and shall not divulge any of the other information that is confidential pursuant to subsection b. of this section.

d. As used in this section:

"Director" means the Director of the Division of Vocational Rehabilitation Services in the Department of Labor and Workforce Development.

"Division" means the Division of Vocational Rehabilitation Services in the Department of Labor and Workforce Development.

"Qualified employee with a disability" means an individual with a disability, as "disability" is defined by section 3 of the federal "Americans with Disabilities Act of 1990," Pub.L.101-336 (42 U.S.C. s.12102), which disability is an impediment to obtaining or maintaining employment or to transitioning from school to work, and who has been determined by the division as meeting the criteria of a qualified employee with a disability pursuant to this section. "Qualified employee with a disability" includes an individual who meets the criteria of this definition whether or not the individual receives services from the division.

e. The director shall adopt, in consultation with the Director of the Division of Taxation in the Department of the Treasury, rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the provisions of this section.

2. a. A company shall be allowed credits against the tax imposed pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), in an amount equal to:

(1) 30 percent of up to the first $6,000 of the wages paid by the company to the qualified employee with a disability during the first year of employment and 20 percent of up to the first $6,000 of the wages paid by the company to the qualified employee with a disability during the second year of employment;

(2) up to $600 of the transportation expenses that are incurred by the company in the calendar year to enable the qualified employee with a disability to travel to and from work; and

(3) in the case of an eligible small business, an amount equal to 10 percent of that part of the eligible access expenditures for the calendar year as exceed $250 but do not exceed $10,250 as "eligible small business" and "eligible access expenditures" are determined pursuant to section 44 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.44) as that section was in effect on June 30, 2012.

b. The order of priority of the application of the credit allowed under this section and any other credits allowed by law shall be as prescribed by the Director of the Division of Taxation. The amount of credits applied under this section against the tax imposed pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), for a calendar year together with any other credits allowed, shall not exceed 50 percent of the tax liability otherwise due. An unused credit may be carried forward, if necessary, for use for the seven calendar years following the calendar year for which the credit is allowed.

c. As used in this section:

"Qualified employee with a disability" means a person with a disability who has received the certification provided by section 1 of P.L. , c. (C.)(pending before the Legislature as this bill).

3. a. A taxpayer shall be allowed credits against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in an amount equal to:

(1) 30 percent of up to the first $6,000 of the wages paid by the taxpayer to the qualified employee with a disability during the first year of employment and 20 percent of up to the first $6,000 of the wages paid by the taxpayer to the qualified employee with a disability during the second year of employment;

(2) up to $600 of the transportation expenses that are incurred by the taxpayer in the privilege period to enable the qualified employee with a disability to travel to and from work; and

(3) in the case of an eligible small business, an amount equal to 10 percent of that part of the eligible access expenditures for the privilege period as exceed $250 but do not exceed $10,250 as "eligible small business" and "eligible access expenditures" are determined pursuant to section 44 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.44) as that section was in effect on June 30, 2012.

b. The order of priority of the application of the credit allowed under this section and any other credits allowed by law shall be as prescribed by the director. The amount of the credits 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, together with any other credits allowed, shall not exceed 50 percent of the tax liability 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 (54:10A-5). An unused credit may be carried forward, if necessary, for use in the seven privilege periods following the privilege period for which the credit is allowed.

c. As used in this section:

"Qualified employee with a disability" means a person with a disability who has received the certification provided by section 1 of P.L. , c. (C.)(pending before the Legislature as this bill).

4. a. A taxpayer shall be allowed credits against the tax imposed pursuant to the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to:

(1) 30 percent of up to the first $6,000 of the wages paid by the taxpayer to the qualified employee with a disability during the first year of employment and 20 percent of up to the first $6,000 of the wages paid by the taxpayer to the qualified employee with a disability during the second year of employment;

(2) up to $600 of the transportation expenses that are incurred by the taxpayer in the taxable year to enable the qualified employee with a disability to travel to and from work; and

(3) in the case of an eligible small business, an amount equal to 10 percent of that part of the eligible access expenditures for the taxable year as exceed $250 but do not exceed $10,250 as "eligible

small business" and "eligible access expenditures" are determined pursuant to section 44 of the federal Internal Revenue Code of 1986 (26 U.S.C. s.44) as that section was in effect on June 30, 2012.

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

A taxpayer that is a New Jersey S corporation shall not be allowed the 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.

c. The order of priority of the application of the credit allowed under this section and any other credits allowed by law shall be as prescribed by the director. If the amount of credit exceeds the amount of tax otherwise due, that amount of excess shall be an overpayment for the purposes of N.J.S.54A:9-7.

d. As used in this section:

"Qualified employee with a disability" means a person with a disability who has received the certification provided by section 1 of P.L. , c. (C.)(pending before the Legislature as this bill).

5. This act shall take effect immediately, and apply to calendar years, privilege periods and taxable years beginning on or after the date of enactment.

STATEMENT

This bill provides employers with various tax incentives for hiring and accommodating persons with disabilities under the insurance premiums tax, the corporation business tax and the gross income tax.

The bill makes the Division of Vocational Rehabilitation Services in the New Jersey Department of Labor and Workforce Development the lead agency in handling the determination of the potential members of the population who will qualify as the workers whose employment is the target of the bill. The bill directs the division to identify and certify persons seeking employment who have a "disability" as defined by the federal "Americans with

Disabilities Act of 1990." That is, a physical or mental impairment that substantially limits a major life activity, and which disability constitutes an impediment to obtaining or maintaining employment or to transitioning from school to work. This certification can, if the job-seeker chooses, be taken on interviews for employment and shown to employers, and the certification later assists in employers applying for the credits allowed by the bill.

The bill allows employers three credits.

First, an employment credit. An employer is allowed a credit equal to 30 percent of up to the first $6,000 of the wages paid by the employer to the qualified employee with a disability during the first year of employment. That is, the employer of a qualified employee with a disability is allowed up to $1,800 in the first year of employment. The employer is also allowed a credit of 20 percent of up to the first $6,000 of the wages paid by the employer to the qualified employee with a disability during the second year of employment. That is, the employer is allowed up to $1,200 in the second year of employment.

Second, the bill allows a transportation credit. The employer is allowed a credit equal to up to $600 of the transportation expenses that are incurred by the employer in the taxable period to enable each qualified employee with a disability to travel to and from work.

Third, the bill allows an accommodation credit. This is a "piggy-back" of a federal credit for expenditures incurred to make a business accessible to individuals with disabilities. The bill allows an "eligible small business," that is a business with less than $1,000,000 in gross receipts, or if it has higher gross receipts with no more than 30 employees, to take a credit equal to 10 percent of expenditures for the taxable period in excess of $250 but not to exceed $10,250 to increase accessibility for individuals with disabilities, both employees and members of the public. This can include removal of architectural or communications barriers, methods for making aurally delivered materials available to the hearing impaired, methods for making visually delivered materials available to the visually impaired, special equipment or equipment modifications for individuals with disabilities, or similar investments.

The bill allows employers, potentially, to take all three of the employment, transportation and accommodation credits. The employment credit allowed by this bill is not a credit for creating "new jobs," but applies to a hire in an existing position *or* in a newly created position, so, unlike the various "new jobs" credits offered by law (which forbid an employer from taking more than one credit for a single newly-created position) an employer may qualify for the employment credit under this bill and any other employment credit available.