SENATE, No. 1968

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:
Senator VIN GOPAL
District 11 (Monmouth)

SYNOPSIS

Establishes "Recovery Tax Credit Program"; incentivizes hiring and continued employment of certain individuals in recovery from substance use disorder.

CURRENT VERSION OF TEXT

As introduced.

AN ACT incentivizing the hiring and continued employment of certain individuals in recovery from a substance use disorder and supplementing various parts of the statutory law.

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

1. As used in P.L. , c. (C.) (pending before the Legislature as this bill):

"Certified employer" means an employer in this State that has received a tax credit certificate from the director after the director has determined that the employer:

(1) provides a recovery-supportive environment for its employees evidenced by a formal working relationship with a local recovery or treatment provider that meets qualifications as determined by the director, to provide support for employers including any necessary assistance in the hiring process of eligible individuals in recovery from a substance use disorder and training for employers or supervisors;

(2) provides employer-sponsored insurance that meets the requirements of minimum essential coverage, as that term is defined in 26 U.S.C. s.5000A(f)(1), to an applicable eligible individual employed by the certified employer; and

(3) fulfills the eligibility criteria set forth in section 2 of P.L. , c. (C.) (pending before the Legislature as this bill) and by the director to participate in the program established by section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

"Director" means Director of the Division of Mental Health and Addiction Services in the Department of Human Services.

"Division" means the Division of Mental Health and Addiction Services in the Department of Human Services.

"Eligible individual" means an individual with a diagnosed substance use disorder who meets criteria to be determined by the director, who is in a state of wellness where there is an abatement of signs and symptoms that characterize active addiction, and has demonstrated to the certified employer's satisfaction, pursuant to guidelines established by the director, that the individual has completed a course of treatment or is currently in receipt of treatment for such substance use disorder. A relapse shall not make the individual ineligible, as long as the individual shows a continued commitment to recovery that aligns with an individual's relapse prevention plan, discharge plan, or recovery plan.

"Program" means the Recovery Tax Credit Program established pursuant to section 2 of P.L. , c. (C.) (pending before the Legislature as this bill).

2. a. The Recovery Tax Credit Program is established, and the director shall administer the program to provide tax incentives to

certified employers for the hiring and continued employment of eligible individuals in recovery from a substance use disorder in part-time and full-time employment in the State. The director is authorized to allocate up to $2,000,000 of tax credits for the program for each calendar year beginning on January 1, 2021.

b. To participate in the program, an employer shall, in a form prescribed by the director, apply annually to the division by January 15 to claim the credit based on eligible individuals hired and employed during the preceding calendar year. As part of the application, an employer shall:

(1) Agree to allow the Division of Taxation in the Department of the Treasury to share the employer's tax information with the division. However, any information shared pursuant to this paragraph (1) shall be confidential by law and privileged, and shall not be subject to P.L.1963, c.71 (C.47:1A-1 et seq.).

(2) Allow the division and its agents access to limited and specific information necessary to monitor compliance with program eligibility requirements. Information accessed pursuant to this paragraph (2) shall be confidential by law and privileged, shall not be subject to P.L.1963, c.71 (C.47:1A-1 et seq.), and shall only be used for the stated purpose of this section.

(3) Demonstrate that the employer has satisfied program eligibility requirements and provided all the information necessary, including the number of hours worked by any eligible individual, for the director to compute an actual amount of credit allowed.

c. After reviewing the application and finding it sufficient, the director shall issue a tax credit certificate to an employer by March 31. Each certificate shall include, but not be limited to, the name and employer identification number of the certified employer, the amount of credit that the certified employer may claim, and any other information the Director of the Division of Taxation in the Department of the Treasury determines is necessary.

d. (1) Unless otherwise required pursuant to paragraph (2) of this subsection d., a certified employer shall be entitled to a tax credit in an amount equal to the product of $1 and the number of hours worked by each eligible individual for the certified employer in this State during that eligible individual's period of employment. The credit shall not be allowed unless the eligible individual has worked in the State for a minimum of 500 hours for the certified employer, and the credit shall not exceed $2,000 per eligible individual employed by the certified employer in the State.

(2) In determining the amount of credit that any employer may claim, the director shall review all applications submitted for credit by employers and, to the extent that the total amount claimed by employers exceeds the amount allocated for the program in that calendar year, shall issue credits on a pro rata basis corresponding to each employer's share of the total claimed amount.

e. (1) A certified employer may claim a credit for each eligible employee during the period starting on the day the employee is hired and ending on December 31 of the immediately succeeding calendar year or the last day of the employee's employment by the certified employer, whichever comes first.

(2) (a) If an eligible individual has worked in excess of 500 hours between the date of hire and December 31 of that year, an employer may elect to compute and claim a credit for the employee for that year based on the hours worked by December 31.

(b) Alternatively, the employer may elect to include those hours worked by the eligible individual in the computation of the credit in the year immediately succeeding the year in which the eligible individual was hired. If the certified employer so elects, the credit shall be computed on the basis of all hours worked by the eligible individual from the date of hire to the earlier of the last day of employment or December 31 of the year immediately succeeding the eligible individual’s date of hire.

(3) A certified employer shall not claim a tax credit for hours worked by an eligible individual in excess of 2,000 hours. A certified employer shall not claim credit more than once with respect to any eligible individual and shall not aggregate hours worked by two or more employees to reach the minimum number of hours required.

3. The director shall annually provide to the Director of the Division of Taxation in the Department of the Treasury program information including, but not limited to, the number of certified employers participating in the program, unique identifying information for each certified employer, the number of eligible individuals employed by each certified employer, unique identifying information for each eligible individual employed by the certified employers, the number of hours worked by eligible individuals, the total dollar amount of claims for credit, and the dollar amount of credit granted to each certified employer.

4. The director, in consultation with the Director of the Division of Taxation in the Department of the Treasury, shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules and regulations to effectuate the purposes of sections 1 through 3 of P.L. , c. (C. through).

5. a A taxpayer that is a certified employer as defined pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill) that has received a tax credit certificate from the Director of the Division of Mental Health and Addiction Services in the Department of Human Services shall be allowed a credit against the tax imposed pursuant to section 5 of P.L.1945,

c.162 (C.54:10A-5), in an amount equal to the amount shown on the tax credit certificate.

b. The amount of the credit 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, when taken together with any other credits allowed against the tax imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), shall not exceed 50 percent of the tax 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 (C.54:10A-5). The priority in which credits allowed pursuant to this section and any other credits shall be taken shall be determined by the Director of the Division of Taxation. The amount of the credit otherwise allowable under this section which cannot be applied for the privilege period due to the limitations of this subsection or under other provisions of P.L.1945, c.162 may be carried over, if necessary, to the seven privilege periods following the privilege period for which the credit was allowed.

6. a. A taxpayer that is a certified employer as defined pursuant to section 1 of P.L. , c. (C.) (pending before the Legislature as this bill) that has received a tax credit certificate from the Director of the Division of Mental Health and Addiction Services in the Department of Human Services shall be allowed a credit against the tax otherwise due for the taxable year under the "New Jersey Gross Income Tax Act," N.J.S.54A:1-1 et seq., in an amount equal to the amount shown on the tax credit certificate.

b. The amount of the credit applied pursuant to this section for a taxable year, when taken together with any other credits allowed against the tax imposed pursuant to N.J.S.54A:1-1 et seq., shall not exceed 50 percent of the taxpayer's liability for tax for the taxable year that bears the same proportional relationship to the total amount of such liability as the amount of the taxpayer's gross income, derived from New Jersey sources and attributable to the business or professional activity in which the taxpayer employs the eligible individual during that taxable year, bears to the taxpayer's entire gross income for that year. The amount of the credit otherwise allowable under this section which cannot be applied for the taxable year due to the limitations of this subsection may be carried over, if necessary to the seven taxable years following the taxable year for which the credit was allowed.

c. A business entity that is classified as a partnership for federal income tax purposes shall not be allowed a credit under this section directly, but the amount of credit of a taxpayer in respect of a distributive share of entity income shall be determined by allocating to the taxpayer that proportion of the credit acquired by the entity that is equal to the taxpayer's share, whether or not

distributed, of the total distributive income or gain of the entity for its taxable year ending within or with the taxpayer's taxable year.

d. A New Jersey S corporation shall not be allowed a 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.

7. This act shall take effect immediately and shall apply to privilege periods and taxable years beginning on and after January 1, 2021.

STATEMENT

This bill establishes the “Recovery Tax Credit Program” (program) to incentivize the hiring and continued employment of certain individuals in recovery from a substance use disorder. Under the bill, the Division of Mental Health and Addiction Services in the Department of Human Services is required to administer the program to provide tax incentives to certified employers for hiring and employing eligible individuals in recovery from a substance use disorder in part-time or full-time employment in the State. For an employer to be certified under the bill, the employer is required to provide employer sponsored insurance coverage that meets certain minimum essential coverage requirements, and meet certain other requirements. The bill authorizes the Director of the Division of Mental Health and Addiction Services in the Department of Human Services (director) to allocate up to $2,000,000 of tax credits for the program for each calendar year beginning on January 1, 2021, to be credited against the Corporation Business Tax or the Gross Income Tax.

To participate in the program, an employer is required to apply annually to the Division of Mental Health and Addiction Services (division) to claim credit based on the number of hours worked by eligible individuals employed during the preceding calendar year. The director is required to issue a tax credit certificate to employers by March 31 each year.

The bill specifies that a certified employer is generally entitled to a tax credit equal to the product of $1 multiplied by the number of hours worked by each eligible individual hired and employed by the certified employer during that eligible individual's period of employment, provided that a credit is not to be allowed unless an eligible individual has worked in the State for a minimum of 500

hours for the employer and that the credit per eligible individual is prohibited from exceeding $2,000. The bill further specifies, however, that in determining the amount of credit that any employer may claim, the director is required to review all claims submitted for credit by employers and, to the extent that the total amount claimed by employers exceeds the amount allocated for the program in that calendar year, is required to issue credits on a pro rata basis corresponding to each employer's share of the total claimed amount.

Under the bill, a certified employer is permitted to claim a credit for the period starting on the day the employee is hired and ending on December 31 of the immediately succeeding calendar year or the last day of the employee's employment by the certified employer, whichever comes first. If, however, an eligible individual has worked in excess of 500 hours between the date of hiring and December 31 of that year, an employer may elect to compute and claim a credit for such employee for that year based on the hours worked by December 31, or may elect to include the hours worked by the eligible individual in the computation of the credit in the year immediately succeeding the year in which the eligible individual was hired.

Under the bill certified employers are prohibited from claiming a tax credit for hours worked by an eligible individual in excess of 2,000 hours, from claiming credit more than once with respect to any eligible individual, and from aggregating hours worked by two or more employees to reach the minimum number of hours.

The bill requires the director to annually provide to the Director of the Division of Taxation in the Department of the Treasury certain program information. The director is also required, in consultation with Director of the Division of Taxation in the Department of the Treasury, to adopt rules and regulations to effectuate the purposes of the program.

Under the bill, the amount of the credits allowed against the taxes imposed are prohibited from exceeding 50 percent of the taxpayer's liability for tax, and may be carried over, if necessary to the seven privilege periods or taxable years. The bill also provides for the allocation of tax credits under the program to certain certified employers.