

[First Reprint]

SENATE, No. 3759

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 11, 2021

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:

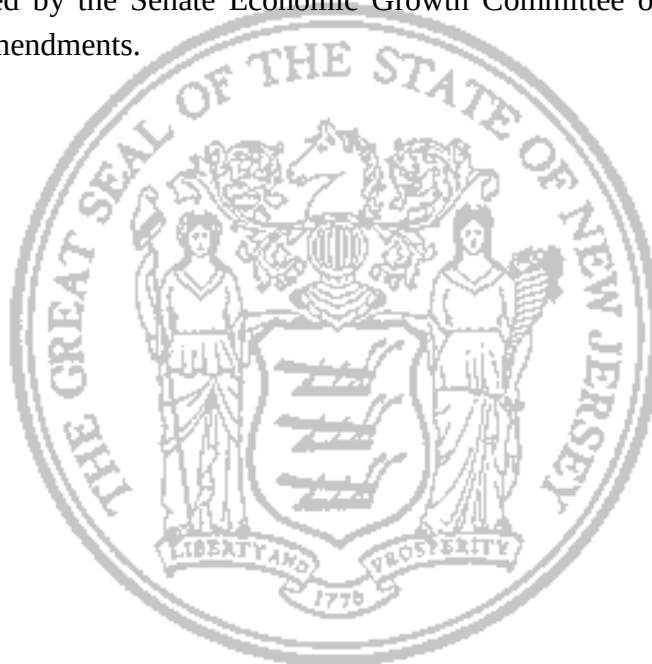
Senators Holzapfel, Lagana, Oroho, Greenstein and Singleton

SYNOPSIS

Provides tax credits to qualified small employers in industries impacted by COVID-19 emergency.

CURRENT VERSION OF TEXT

As reported by the Senate Economic Growth Committee on December 9, 2021, with amendments.



(Sponsorship Updated As Of: 12/13/2021)

1 AN ACT providing tax credits to qualified small employers in
2 industries impacted by the COVID-19 emergency, supplementing
3 P.L.1945, c.162 and Title 54A of the New Jersey Statutes.

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

7
8 1. a. For privilege periods ending in 2020 and 2021, a taxpayer
9 that is a qualified small employer shall be allowed a credit against
10 the tax imposed pursuant to section 5 of P.L.1945, c.162
11 (C.54:10A-5), in an amount equal to 10 percent of wages paid by
12 the qualified small employer to a qualified employee ¹**;** provided,
13 however, that the amount of the credit shall equal 20 percent of
14 wages paid to a qualified employee if the qualified small employer
15 is located in a COVID-impact county¹.

16 b. The amount of the credit applied under this section against
17 the tax imposed pursuant to section 5 of P.L.1945, c.162
18 (C.54:10A-5), for a privilege period, when taken together with any
19 other credits allowed against the tax imposed pursuant to section 5
20 of P.L.1945, c.162, shall not exceed 50 percent of the tax liability
21 otherwise due and shall not reduce the tax liability to an amount
22 less than the statutory minimum provided in subsection (e) of
23 section 5 of P.L.1945, c.162 (C.54:10A-5). The priority in which
24 credits allowed pursuant to this section and any other credits shall
25 be taken shall be determined by the director. The amount of the
26 credit otherwise allowable under this section that cannot be applied
27 for the privilege period due to the limitations of this subsection or
28 under other provisions of the Corporation Business Tax Act (1945),
29 P.L.1945, c.162 (C.54:10A-1 et seq.) may be carried over, if
30 necessary, to the seven privilege periods following the privilege
31 period for which the credit was allowed.

32 c. An application for the tax credit shall be submitted to the
33 Division of Taxation in the Department of Treasury in a form and
34 manner prescribed by the director.

35 d. Notwithstanding any provision of the “Administrative
36 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to the
37 contrary, the director is authorized to adopt, immediately upon
38 filing with the Office of Administrative Law, rules and regulations
39 that the director deems necessary to implement the provisions of
40 this section, which rules and regulations shall be effective for a
41 period not to exceed 18 months following the date of filing and may
42 thereafter be amended, adopted, or readopted by the director in
43 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
44 et seq.).

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SEG committee amendments adopted December 9, 2021.

1 e. As used in this section:

2 ¹["COVID-impact county" means a New Jersey county with an
3 average monthly unemployment rate during the taxpayer's privilege
4 period that is greater than or equal to the State's average monthly
5 unemployment rate based on data published by the United States
6 Bureau of Labor Statistics.]"¹

7 "Qualified employee" means an employee who is employed by a
8 qualified small employer and who is compensated in wages on an
9 hourly basis by the qualified small employer, which wages are up to
10 120 percent of the minimum hourly wage in effect pursuant to
11 either:

12 (1) the "New Jersey State Wage and Hour Law," P.L.1966,
13 c.113 (C.34:11-56a et seq.); or

14 (2) paragraph 23 of Article I of the New Jersey Constitution.

15 "Qualified small employer" means a business entity, including
16 all entities related by common ownership or control, that is
17 independently owned and operated, has a North American Industry
18 Classification System code of 44, 45, 62, 71, 72, or 81, and had an
19 average weekly number of full-time employees of not more than
20 100 employees during the privilege period.

21 "Wages" means direct monetary compensation for labor or
22 services rendered by an employee, which amount is determined on
23 an hourly basis, excluding any task, piece, or commission form of
24 supplementary incentives and bonuses that are calculated
25 independently of regular wages and paid in addition thereto, and
26 which are with respect to employment on a full-time basis in the
27 ordinary course of business.

28

29 2. a. For taxable years 2020 and 2021, a taxpayer that is a
30 qualified small employer shall be allowed a credit against the tax
31 otherwise due pursuant to the "New Jersey Gross Income Tax Act,"
32 N.J.S.54A:1-1 et seq., in an amount equal to 10 percent of wages
33 paid by the qualified small employer to a qualified employee ¹;
34 provided, however, that the amount of the credit shall equal 20
35 percent of wages paid to a qualified employee if the qualified small
36 employer is located in a COVID-impact county]¹.

37 b. The amount of the credits applied under this section for a
38 taxable year, when taken together with any other credits allowed
39 against the tax imposed pursuant to N.J.S.54A:1-1 et seq., shall not
40 exceed 50 percent of the taxpayer's liability otherwise due for the
41 taxable year. The priority in which credits allowed pursuant to this
42 section and any other credits shall be taken shall be determined by
43 the director. The amount of the credit otherwise allowable under
44 this section that cannot be applied for the taxable year due to the
45 limitations of this subsection may be carried over, if necessary, to
46 the seven taxable years following the taxable year for which the
47 credit was allowed.

1 c. (1) A business entity that is classified as a partnership for
2 federal income tax purposes shall not be allowed a tax credit
3 pursuant to this section directly, but the amount of tax credit of a
4 taxpayer in respect to distributive share of entity income, shall be
5 determined by allocating to the taxpayer that proportion of the tax
6 credit acquired by the entity that is equal to the taxpayer's share,
7 whether or not distributed, of the total distributive income or gain
8 of the entity for its taxable year ending within or with the
9 taxpayer's taxable year.

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

19 d. An application for the tax credit shall be submitted to the
20 Division of Taxation in the Department of Treasury in a form and
21 manner prescribed by the director.

22 e. Notwithstanding any provision of the "Administrative
23 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
24 contrary, the director is authorized to adopt, immediately upon
25 filing with the Office of Administrative Law, rules and regulations
26 that the director deems necessary to implement the provisions of
27 this section, which rules and regulations shall be effective for a
28 period not to exceed 18 months following the date of filing and may
29 thereafter be amended, adopted, or readopted by the director in
30 accordance with the requirements of P.L.1968, c.410 (C.52:14B-1
31 et seq.).

32 f. As used in this section:

33 ¹["COVID-impact county" means a New Jersey county with an
34 average monthly unemployment rate during the taxpayer's taxable
35 year that is greater than or equal to the State's average monthly
36 unemployment rate based on data published by the United States
37 Bureau of Labor Statistics.]¹

38 "Qualified employee" means an employee who is employed by a
39 qualified small employer and who is compensated in wages on an
40 hourly basis by the qualified small employer, which wages are up to
41 120 percent of the minimum hourly wage in effect pursuant to
42 either:

43 (1) the "New Jersey State Wage and Hour Law," P.L.1966,
44 c.113 (C.34:11-56a et seq.); or

45 (2) paragraph 23 of Article I of the New Jersey Constitution.

46 "Qualified small employer" means a business entity, including
47 all entities related by common ownership or control, that is
48 independently owned and operated, has a North American Industry

1 Classification System code of 44, 45, 62, 71, 72, or 81, and had an
2 average weekly number of full-time employees of not more than
3 100 employees during the taxable year.

4 "Wages" means direct monetary compensation for labor or
5 services rendered by an employee, which amount is determined on
6 an hourly basis, excluding any task, piece, or commission form of
7 supplementary incentives and bonuses that are calculated
8 independently of regular wages and paid in addition thereto, and
9 which are with respect to employment on a full-time basis in the
10 ordinary course of business.

11

12 3. This act shall take effect immediately.