

ASSEMBLY, No. 5284

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MARCH 9, 2023

Sponsored by:

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblyman JOHN F. MCKEON

District 27 (Essex and Morris)

Co-Sponsored by:

Assemblymen DePhillips, Stanley, Benson and Assemblywoman McKnight

SYNOPSIS

Provides tax credits to small businesses to offset increases in unemployment insurance contributions.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/20/2023)

1 AN ACT providing tax credits to small businesses to offset certain
2 increases in their unemployment insurance contributions, and
3 supplementing P.L.1945, c.162 (C.54:10A-1 et seq.) and Title
4 54A of the New Jersey Statutes.

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

8
9 1. a. (1) For privilege periods beginning in Calendar Year
10 2023, a taxpayer that is a small business 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), in an amount equal to the difference in the small
13 business's unemployment insurance contributions for Fiscal Year
14 2023 as required pursuant to R.S.43:21-7(c)(5)(P) and the amount
15 the small business would have otherwise contributed if
16 contributions for Fiscal Year 2023 were computed based on rates
17 set by column "C" of the table in R.S.43:21-7(c)(5)(E); provided,
18 however, if the actual fund reserve ratio results in the contribution
19 rate for employers being set by a column that has a lower tax rate
20 than the rates provided in column "C," the tax credit provided
21 pursuant to the paragraph shall not be made available.

22 (2) For privilege periods beginning in Calendar Year 2024, a
23 taxpayer that is a small business shall be allowed a credit against
24 the tax imposed pursuant to section 5 of P.L.1945, c.162
25 (C.54:10A-5), in an amount equal to the difference in the small
26 business's unemployment insurance contributions for Fiscal Year
27 2024 as required pursuant to R.S.43:21-7(c)(5)(Q) and the amount
28 the small business would have otherwise contributed if
29 contributions for Fiscal Year 2024 were computed based on rates
30 set by column "C" of the table in R.S.43:21-7(c)(5)(E); provided,
31 however, if the actual fund reserve ratio results in the contribution
32 rate for employers being set by a column that has a lower tax rate
33 than the rates provided in column "C," the tax credit provided
34 pursuant to the paragraph shall not be made available.

35 (3) For privilege periods beginning in any calendar year after
36 Calendar Year 2024 in which the rate of unemployment insurance
37 contributions is greater than the rates set by column "C" of the table
38 in R.S.43:21-7(c)(5)(E) and ending with the first calendar year in
39 which the rate of unemployment insurance contributions is equal to
40 or less than the rates set by column "C" of that table, a taxpayer that
41 is a small business shall be allowed a credit against the tax imposed
42 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in an
43 amount equal to the difference in the small business's
44 unemployment insurance contributions for Fiscal Year 2024 as
45 required pursuant to R.S.43:21-7(c)(5)(Q) and the amount the small
46 business would have otherwise contributed if contributions for
47 Fiscal Year 2024 were computed based on rates set by column "C"
48 of the table in R.S.43:21-7(c)(5)(E); provided, however, if the

1 actual fund reserve ratio results in the contribution rate for
2 employers being set by a column that has a lower tax rate than the
3 rates provided in column "C," the tax credit provided pursuant to
4 the paragraph shall not be made available.

5 b. No tax credits shall be allowed pursuant to this section for
6 any amount of the increase in a small business's unemployment
7 insurance contributions that is offset by grants or other subsidies
8 made available for similar purposes.

9 c. A taxpayer shall apply in a form and manner to be
10 determined by the director for the tax credits provided pursuant to
11 this section. The order of priority of the application of the credits
12 allowed pursuant to this section and any other credits allowed by
13 law shall be as prescribed by the director.

14 d. The amount of the credits applied under this section against
15 the tax imposed pursuant to section 5 of P.L.1945, c.162
16 (C.54:10A-5) for a privilege period, together with any other credits
17 allowed by law shall not reduce the tax liability to an amount less
18 than the statutory minimum provided in subsection (e) of section 5
19 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credits
20 otherwise allowable under this section that cannot be applied for the
21 privilege period due to the limitations of this subsection or under
22 other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be
23 carried forward, if necessary, to the seven privilege periods
24 following the privilege period for which the tax credit was allowed.

25 e. As used in this section:

26 "Small business" means a small business as defined by the
27 United States Small Business Administration that for purposes of
28 size standards or other factors meets the applicable criteria set forth
29 in Part 121 of Title 13 of the Code of Federal Regulations as
30 amended, which has its principal place of business in New Jersey,
31 and is independently owned and operated.

32
33 2. a. (1) For taxable years beginning in Calendar Year 2023, a
34 taxpayer that is a small business shall be allowed a credit against
35 the tax otherwise due under the "New Jersey Gross Income Tax
36 Act," N.J.S.54A:1-1 et seq., in an amount equal to the difference in
37 the small business's unemployment insurance contributions for
38 Fiscal Year 2023 as required pursuant to R.S.43:21-7(c)(5)(P) and
39 the amount the small business would have otherwise contributed if
40 contributions for Fiscal Year 2023 were computed based on rates
41 set by column "C" of the table in R.S.43:21-7(c)(5)(E); provided,
42 however, if the actual fund reserve ratio results in the contribution
43 rate for employers being set by a column that has a lower tax rate
44 than the rates provided in column "C," the tax credit provided
45 pursuant to the paragraph shall not be made available.

46 (2) For taxable years beginning in Calendar Year 2024, a
47 taxpayer that is a small business shall be allowed a credit against
48 the tax otherwise due under the "New Jersey Gross Income Tax

1 Act,” N.J.S.54A:1-1 et seq., in an amount equal to the difference in
2 the small business’s unemployment insurance contributions for
3 Fiscal Year 2024 as required pursuant to R.S.43:21-7(c)(5)(Q) and
4 the amount the small business would have otherwise contributed if
5 contributions for Fiscal Year 2024 were computed based on rates
6 set by column “C” of the table in R.S.43:21-7(c)(5)(E); provided,
7 however, if the actual fund reserve ratio results in the contribution
8 rate for employers being set by a column that has a lower tax rate
9 than the rates provided in column “C,” the tax credit provided
10 pursuant to the paragraph shall not be made available.

11 (3) For privilege periods beginning in any calendar year after
12 Calendar Year 2024 in which the rate of unemployment insurance
13 contributions is greater than the rates set by column “C” of the table
14 in R.S.43:21-7(c)(5)(E) and ending with the first calendar year in
15 which the rate of unemployment insurance contributions is equal to
16 or less than the rates set by column “C” of that table, a taxpayer that
17 is a small business shall be allowed a credit against the tax
18 otherwise due under the “New Jersey Gross Income Tax Act,”
19 N.J.S.54A:1-1 et seq., in an amount equal to the difference in the
20 small business’s unemployment insurance contributions for Fiscal
21 Year 2024 as required pursuant to R.S.43:21-7(c)(5)(Q) and the
22 amount the small business would have otherwise contributed if
23 contributions for Fiscal Year 2024 were computed based on rates
24 set by column “C” of the table in R.S.43:21-7(c)(5)(E); provided,
25 however, if the actual fund reserve ratio results in the contribution
26 rate for employers being set by a column that has a lower tax rate
27 than the rates provided in column “C,” the tax credit provided
28 pursuant to the paragraph shall not be made available.

29 b. No tax credits shall be allowed pursuant to this section for
30 any amount of the increase in a small business’s unemployment
31 insurance contributions that is offset by grants or other subsidies
32 made available for similar purposes.

33 c. A taxpayer shall apply in a form and manner to be
34 determined by the director for the tax credits provided pursuant to
35 this section. The order of priority of the application of the credit
36 allowed pursuant to this section and any other credits allowed by
37 law shall be as prescribed by the director.

38 d. The amount of the tax credits applied under this section
39 against the tax otherwise due under the "New Jersey Gross Income
40 Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken
41 together with any other payments, credits, deductions, and
42 adjustments allowed by law shall not reduce the tax liability of the
43 taxpayer to an amount less than zero. The amount of the tax credits
44 otherwise allowable under this section that cannot be applied for the
45 taxable year due to the limitations of this subsection or under other
46 provisions of N.J.S.54A:1-1 et seq., may be carried forward, if
47 necessary, to the seven taxable years following the taxable year for
48 which the tax credits were allowed.

1 e. (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 credits 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 credits 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 f. As used in this section:

20 "Small business" means a small business as defined by the
21 United States Small Business Administration that for purposes of
22 size standards or other factors meets the applicable criteria set forth
23 in Part 121 of Title 13 of the Code of Federal Regulations as
24 amended, which has its principal place of business in New Jersey,
25 and is independently owned and operated.

26
27 3. This act shall take effect immediately.
28
29

30 STATEMENT

31
32 This bill provides corporation business tax and gross income tax
33 credits to small businesses to help offset increases in their
34 unemployment insurance contributions, including increases
35 scheduled pursuant to P.L.2020, c.150. The tax credit provided by
36 the bill to a small business is an amount equal to the difference in
37 the business's actual unemployment insurance contribution as
38 required pursuant to R.S.43:21-7(c)(5) and the amount the small
39 business would have paid if contributions had been computed based
40 on rates set by column "C" of the table in R.S.43:21-7(c)(5)(E).
41 The credit will be provided for any year in which the
42 unemployment insurance contribution rates are greater than those
43 imposed under column "C", and will end upon the first year in
44 which the tax rates are equal or less than the rates of column "C".

45 The bill adopts the U.S. Small Business Administration's
46 definitions of a small business based on size standards and other

1 applicable criteria. The tax credits are non-refundable, but may be
2 carried forward for seven years.

3 If a small business utilizes alternative relief options, such as
4 grants or subsidies, to offset their increase in employer
5 contributions, the small business would not be eligible for the bill's
6 tax credits.