

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 5541

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 22, 2023

The Assembly Appropriations Committee reports favorably and with committee amendments Assembly Bill No. 5541.

As reported by the committee with amendments, the bill modifies certain provisions of State law concerning the New Jersey Innovation Evergreen Program and the Food Desert Relief Program.

Changes to the New Jersey Innovation Evergreen Program

The bill modifies certain provisions of the New Jersey Innovation Evergreen Program, which is an economic development program that sells discounted tax credits to raise capital for qualified businesses in New Jersey. Under the program, a qualified business is one that: is registered to do business in the State with the Director of the Division of Revenue and Enterprise Services in the Department of the Treasury; has its principal business operations located in the State and intends to maintain its principal business operations in the State after receiving a qualified investment under the program; is engaged in a targeted industry, and employs fewer than 250 persons at the time of the qualified investment. Under current law, the “principal business operations” requirement is satisfied under either of the following circumstances: (1) at least 50 percent of the business’s employees, who are not primarily engaged in retail sales, reside in the State; or (2) at least 50 percent of the business’s payroll for employees not primarily engaged in retail sales is paid to individuals living in the State.

The bill revises these criteria by providing that a business may satisfy the “principal business operations” requirement in any of the following circumstances: (1) at least 50 percent of the business's employees not primarily engaged in retail sales reside in the State; (2) at least 50 percent of the business's payroll for employees not primarily engaged in retail sales is paid to individuals living in the State; (3) at least 50 percent of the business’s full-time employees not primarily engaged in retail sales are filling a position in the State; or (4) at least 50 percent of the business’s payroll for employees not primarily engaged in retail sales is paid to full-time employees filling a position in the State.

In addition, the bill modifies one of the requirements for purchasers of tax credits under the New Jersey Innovation Evergreen Program. Under current law, to be awarded a tax credit under the program, a potential purchaser is required to specify the amount the potential purchaser will pay in exchange for the requested amount of tax credits, which shall not be less than 75 percent of the requested dollar amount of tax credits. The bill revises this requirement to provide that the authority will set the amount that a potential purchaser will pay in exchange for the requested amount of tax credits. The payment amount set by the authority will not be less than 75 percent of the requested dollar amount of tax credits.

Current law allows a purchaser to apply a credit or tax credit transfer certificate awarded under the New Jersey Innovation Evergreen Program against the purchaser's corporate business tax liability due under the Corporation Business Tax Act (1945). The bill allows a purchaser to apply a credit or tax credit transfer certificate awarded under the program to the purchaser's corporate business tax liability or, in the case of a purchaser that is an insurance company, to the purchaser's insurance premiums tax liability.

Change to the Food Desert Relief Program

The bill, as amended, modifies a provision of the Food Desert Relief Program, which is an economic development program that provides tax credits to eligible businesses to incentivize those businesses to establish and retain new supermarkets and grocery stores in "food desert communities." A "food desert community" is a community where residents are unable to obtain reasonable and adequate access to nutritious foods such as fresh fruits and vegetables. Taxpayers who receive tax credits under the program may sell all or a portion of those credits. Current law provides that any credit sold is valid in the privilege period in which the sale is completed. The bill, as amended, modifies this provision to provide that any credit sold is valid in the privilege period in which the sale is approved.

COMMITTEE AMENDMENTS:

The committee amendments remove the previously proposed definitions for "full-time employee" and "full-time employee filling a position in the State." The bill, as introduced, amended State law governing the New Jersey Innovation Evergreen Program to include definitions of "full-time employee" and "full-time employee filling a position in the State."

The committee amendments also modify a provision of the "Food Desert Relief Program" to provide that any credit sold under the program is valid in the privilege period in which the sale is approved. Current law provides that any credit sold under the program is valid in the privilege period in which the sale is completed.

FISCAL IMPACT:

The Office of Legislative Services (OLS) concludes that this bill will result in decreased insurance premiums tax collections due to the bill's provisions that would permit a purchaser of tax credits under the New Jersey Innovation Evergreen Program to apply a tax credit or tax credit transfer certificate to the purchaser's insurance premiums tax liability. The magnitude of the reduced insurance premiums tax collections is indeterminate because which companies will purchase tax credits, and the insurance premiums tax liabilities of those companies, cannot be credibly projected.

The bill may also result in the State incurring revenue losses sooner than it otherwise would under current law. This stems from a provision of the bill providing that any tax credit sold under the Food Desert Relief Program would be valid in the privilege period in which the sale is approved, as opposed to the year in which the sale is completed.

The OLS notes that overall, direct State revenue losses stemming from the award of tax credits will remain unchanged compared to current law as the bill does not change the amount of tax credits that may be awarded under the New Jersey Innovation Evergreen Program or the Food Desert Relief Program.