

SENATE, No. 2378

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED MARCH 24, 2022

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Co-Sponsored by:

Senators Pou, Lagana, O'Scanlon and Turner

SYNOPSIS

Provides tax credits to small businesses to offset increase in State Unemployment Insurance contributions.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/29/2022)

1 AN ACT providing tax credits to small businesses to offset increase
2 in State Unemployment Insurance contributions, supplementing
3 P.L.1945, c.162 (C.54:10A-1 et seq.) and Title 54A of the New
4 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 b. No tax credits shall be allowed pursuant to this section for
36 any amount of the increase in a small business's unemployment
37 insurance contributions that is offset by grants or other subsidies
38 made available for similar purposes.

39 c. A taxpayer shall apply in a form and manner to be
40 determined by the director for the tax credits provided pursuant to
41 this section. The order of priority of the application of the credits
42 allowed pursuant to this section and any other credits allowed by
43 law shall be as prescribed by the director.

44 d. The amount of the credits applied under this section against
45 the tax imposed pursuant to section 5 of P.L.1945, c.162
46 (C.54:10A-5) for a privilege period, together with any other credits
47 allowed by law shall not reduce the tax liability to an amount less
48 than the statutory minimum provided in subsection (e) of section 5

1 of P.L.1945, c.162 (C.54:10A-5). The amount of the tax credits
2 otherwise allowable under this section that cannot be applied for the
3 privilege period due to the limitations of this subsection or under
4 other provisions of P.L.1945, c.162 (C.54:10A-1 et seq.) may be
5 carried forward, if necessary, to the seven privilege periods
6 following the privilege period for which the tax credit was allowed.

7 e. As used in this section:

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

14

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

28 (2) For taxable years beginning in Calendar Year 2024, a
29 taxpayer that is a small business shall be allowed a credit against
30 the tax otherwise due under the "New Jersey Gross Income Tax
31 Act," N.J.S.54A:1-1 et seq., in an amount equal to the difference in
32 the small business's unemployment insurance contributions for
33 Fiscal Year 2024 as required pursuant to R.S.43:21-7(c)(5)(Q) and
34 the amount the small business would have otherwise contributed if
35 contributions for Fiscal Year 2024 were computed based on rates
36 set by column "C" of the table in R.S.43:21-7(c)(5)(E); provided,
37 however, if the actual fund reserve ratio results in the contribution
38 rate for employers being set by a column that has a lower tax rate
39 than the rates provided in column "C," the tax credit provided
40 pursuant to the paragraph shall not be made available..

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

45 c. A taxpayer shall apply in a form and manner to be
46 determined by the director for the tax credits provided pursuant to
47 this section. The order of priority of the application of the credit

1 allowed pursuant to this section and any other credits allowed by
2 law shall be as prescribed by the director.

3 d. The amount of the tax credits applied under this section
4 against the tax otherwise due under the "New Jersey Gross Income
5 Tax Act," N.J.S.54A:1-1 et seq., for a taxable year, when taken
6 together with any other payments, credits, deductions, and
7 adjustments allowed by law shall not reduce the tax liability of the
8 taxpayer to an amount less than zero. The amount of the tax credits
9 otherwise allowable under this section that cannot be applied for the
10 taxable year due to the limitations of this subsection or under other
11 provisions of N.J.S.54A:1-1 et seq., may be carried forward, if
12 necessary, to the seven taxable years following the taxable year for
13 which the tax credits were allowed.

14 e. (1) A business entity that is classified as a partnership for
15 federal income tax purposes shall not be allowed a tax credit
16 pursuant to this section directly, but the amount of tax credits of a
17 taxpayer in respect to distributive share of entity income, shall be
18 determined by allocating to the taxpayer that proportion of the tax
19 credits acquired by the entity that is equal to the taxpayer's share,
20 whether or not distributed, of the total distributive income or gain
21 of the entity for its taxable year ending within or with the
22 taxpayer's taxable year.

23 (2) A New Jersey S Corporation shall not be allowed a tax credit
24 pursuant to this section directly, but the amount of the tax credit of
25 a taxpayer in respect of a pro rata share of S Corporation income,
26 shall be determined by allocating to the taxpayer that proportion of
27 the tax credit acquired by the New Jersey S Corporation that is
28 equal to the taxpayer's share, whether or not distributed, of the total
29 pro rata share of S Corporation income of the New Jersey S
30 Corporation for its privilege period ending within or with the
31 taxpayer's taxable year.

32 f. As used in this section:

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

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40 3. This act shall take effect immediately.

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STATEMENT

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45 This bill provides corporation business tax and gross income tax
46 credits to small businesses to help offset future scheduled increases
47 in unemployment insurance contributions pursuant to P.L.2020,
48 c.150.

S2378 GOPAL, ZWICKER

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1 The bill adopts the U.S. Small Business Administration's
2 framework for defining a small business based on size standards
3 and other applicable criteria. The tax credits would be available for
4 taxable years and privilege periods beginning in Calendar Years
5 2023 and 2024, and based on potential increases in employer
6 unemployment insurance contributions in Fiscal Years 2023 and
7 2024. The tax credits are non-refundable, but may be carried
8 forward for seven years.

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