

ASSEMBLY, No. 533

STATE OF NEW JERSEY

216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Assemblyman ERIK PETERSON

District 23 (Hunterdon, Somerset and Warren)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

SYNOPSIS

Provides employers with various tax incentives for hiring persons with disabilities under insurance premiums tax, corporation business tax and gross income tax.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 2/28/2014)

1 AN ACT providing employers various tax incentives for hiring
2 persons with disabilities, supplementing Title 34 of the Revised
3 Statutes, P.L.1945, c.132, P.L.1945, c.162, and Title 54A of the
4 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. For the purposes of administering the tax incentives
10 relating to the employment of qualified employees with a disability
11 allowed pursuant to sections 2, 3 and 4 of P.L. , c. (C. , ,
12 and)(pending before the Legislature as this bill), the director shall
13 issue a certification to a qualified employee with a disability. The
14 contents of the certification shall state the fact of the certification,
15 and shall not include any of the other information that is
16 confidential pursuant to subsection b. of this section. The director
17 shall maintain a registry of the certifications.

18 b. All information regarding a qualified employee with a
19 disability which is obtained or compiled in connection with the
20 certification and registry and which may be identified with the
21 qualified employee with a disability shall be confidential and shall
22 not be released to a person other than the qualified employee with a
23 disability, except as provided by subsection c. of this section, unless
24 the qualified employee with a disability provides written permission
25 to the division for the release of the information, provided however
26 that the division may release program statistics so classified as to
27 prevent the identification of a particular qualified employee with a
28 disability or that person's disability.

29 c. The director may confirm to the employer of a qualified
30 employee with a disability, upon application of the employer, the
31 fact that a qualified employee with a disability has been so certified,
32 and shall not divulge any of the other information that is
33 confidential pursuant to subsection b. of this section.

34 The director may confirm to the Director of the Division of
35 Taxation in the Department of the Treasury for purposes of
36 administering the tax incentives relating to the employment of
37 qualified employees with a disability allowed pursuant to sections
38 2, 3 and 4 of P.L. , c. (C. , , and)(pending before the
39 Legislature as this bill) the fact that a qualified employee with a
40 disability has been so certified, and shall not divulge any of the
41 other information that is confidential pursuant to subsection b. of
42 this section.

43 d. As used in this section:

44 "Director" means the Director of the Division of Vocational
45 Rehabilitation Services in the Department of Labor and Workforce
46 Development.

47 "Division" means the Division of Vocational Rehabilitation
48 Services in the Department of Labor and Workforce Development.

1 “Qualified employee with a disability” means an individual with
2 a disability, as “disability” is defined by section 3 of the federal
3 “Americans with Disabilities Act of 1990,” Pub.L. 101-336 (42
4 U.S.C. s.12102), which disability is an impediment to obtaining or
5 maintaining employment or to transitioning from school to work,
6 and who has been determined by the division as meeting the criteria
7 of a qualified employee with a disability pursuant to this section.
8 “Qualified employee with a disability” includes an individual who
9 meets the criteria of this definition whether or not the individual
10 receives services from the division.

11 e. The director shall adopt, in consultation with the Director of
12 the Division of Taxation in the Department of the Treasury, rules
13 and regulations, pursuant to the "Administrative Procedure Act,"
14 P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the provisions of
15 this section.

16

17 2. a. A company shall be allowed credits against the tax
18 imposed pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-
19 2 and 54:18A-3), in an amount equal to:

20 (1) 30 percent of up to the first \$6,000 of the wages paid by the
21 company to the qualified employee with a disability during the first
22 year of employment and 20 percent of up to the first \$6,000 of the
23 wages paid by the company to the qualified employee with a
24 disability during the second year of employment;

25 (2) up to \$600 of the transportation expenses that are incurred
26 by the company in the calendar year to enable the qualified
27 employee with a disability to travel to and from work; and

28 (3) in the case of an eligible small business, an amount equal to
29 10 percent of that part of the eligible access expenditures for the
30 calendar year as exceed \$250 but do not exceed \$10,250 as “eligible
31 small business” and “eligible access expenditures” are determined
32 pursuant to section 44 of the federal Internal Revenue Code of 1986
33 (26 U.S.C. s.44) as that section was in effect on June 30, 2012.

34 b. The order of priority of the application of the credit allowed
35 under this section and any other credits allowed by law shall be as
36 prescribed by the Director of the Division of Taxation. The amount
37 of credits applied under this section against the tax imposed
38 pursuant to sections 2 and 3 of P.L.1945, c.132 (C.54:18A-2 and
39 54:18A-3), for a calendar year together with any other credits
40 allowed, shall not exceed 50 percent of the tax liability otherwise
41 due. An unused credit may be carried forward, if necessary, for use
42 for the seven calendar years following the calendar year for which
43 the credit is allowed.

44 c. As used in this section:

45 “Qualified employee with a disability” means a person with a
46 disability who has received the certification provided by section 1
47 of P.L. , c. (C.)(pending before the Legislature as this bill).

1 3. a. A taxpayer shall be allowed credits against the tax
2 imposed pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), in
3 an amount equal to:

4 (1) 30 percent of up to the first \$6,000 of the wages paid by the
5 taxpayer to the qualified employee with a disability during the first
6 year of employment and 20 percent of up to the first \$6,000 of the
7 wages paid by the taxpayer to the qualified employee with a
8 disability during the second year of employment;

9 (2) up to \$600 of the transportation expenses that are incurred
10 by the taxpayer in the privilege period to enable the qualified
11 employee with a disability to travel to and from work; and

12 (3) in the case of an eligible small business, an amount equal to
13 10 percent of that part of the eligible access expenditures for the
14 privilege period as exceed \$250 but do not exceed \$10,250 as
15 “eligible small business” and “eligible access expenditures” are
16 determined pursuant to section 44 of the federal Internal Revenue
17 Code of 1986 (26 U.S.C. s.44) as that section was in effect on June
18 30, 2012.

19 b. The order of priority of the application of the credit allowed
20 under this section and any other credits allowed by law shall be as
21 prescribed by the director. The amount of the credits applied under
22 this section against the tax imposed pursuant to section 5 of
23 P.L.1945, c.162 (C.54:10A-5), for a privilege period, together with
24 any other credits allowed, shall not exceed 50 percent of the tax
25 liability otherwise due and shall not reduce the tax liability to an
26 amount less than the statutory minimum provided in subsection (e)
27 of section 5 of P.L.1945, c.162 (54:10A-5). An unused credit may
28 be carried forward, if necessary, for use in the seven privilege
29 periods following the privilege period for which the credit is
30 allowed.

31 c. As used in this section:

32 “Qualified employee with a disability” means a person with a
33 disability who has received the certification provided by section 1
34 of P.L. , c. (C.)(pending before the Legislature as this bill).

35
36 4. a. A taxpayer shall be allowed credits against the tax
37 imposed pursuant to the “New Jersey Gross Income Tax Act,”
38 N.J.S.54A:1-1 et seq., in an amount equal to:

39 (1) 30 percent of up to the first \$6,000 of the wages paid by the
40 taxpayer to the qualified employee with a disability during the first
41 year of employment and 20 percent of up to the first \$6,000 of the
42 wages paid by the taxpayer to the qualified employee with a
43 disability during the second year of employment;

44 (2) up to \$600 of the transportation expenses that are incurred
45 by the taxpayer in the taxable year to enable the qualified employee
46 with a disability to travel to and from work; and

47 (3) in the case of an eligible small business, an amount equal to
48 10 percent of that part of the eligible access expenditures for the

1 taxable year as exceed \$250 but do not exceed \$10,250 as “eligible
2 small business” and “eligible access expenditures” are determined
3 pursuant to section 44 of the federal Internal Revenue Code of 1986
4 (26 U.S.C. s.44) as that section was in effect on June 30, 2012.

5 b. A business entity that is classified as a partnership for
6 federal income tax purposes shall not be allowed the credit directly
7 under the gross income tax, but the amount of credit of the taxpayer
8 in respect of a distributive share of partnership income shall be
9 determined by allocating to the taxpayer that proportion of the
10 credit acquired by the partnership that is equal to the taxpayer's
11 share, whether or not distributed, of the total distributive income or
12 gain of the partnership for its taxable year ending within or with the
13 taxpayer's taxable year.

14 A taxpayer that is a New Jersey S corporation shall not be
15 allowed the credit directly under the gross income tax, but the
16 amount of credit of a taxpayer in respect of a pro rata share of S
17 corporation income shall be determined by allocating to the
18 taxpayer that proportion of the credit acquired by the New Jersey S
19 corporation that is equal to the taxpayer's share, whether or not
20 distributed, of the total pro rata share of S corporation income of the
21 New Jersey S corporation for its privilege period ending within or
22 with the taxpayer's taxable year.

23 c. The order of priority of the application of the credit allowed
24 under this section and any other credits allowed by law shall be as
25 prescribed by the director. If the amount of credit exceeds the
26 amount of tax otherwise due, that amount of excess shall be an
27 overpayment for the purposes of N.J.S.54A:9-7.

28 d. As used in this section:

29 “Qualified employee with a disability” means a person with a
30 disability who has received the certification provided by section 1
31 of P.L. , c. (C.)(pending before the Legislature as this bill).
32

33 5. This act shall take effect immediately, and apply to calendar
34 years, privilege periods and taxable years beginning on or after the
35 date of enactment.
36
37

38 STATEMENT

39
40 This bill provides employers with various tax incentives for
41 hiring and accommodating persons with disabilities under the
42 insurance premiums tax, the corporation business tax and the gross
43 income tax.

44 The bill makes the Division of Vocational Rehabilitation
45 Services in the New Jersey Department of Labor and Workforce
46 Development the lead agency in handling the determination of the
47 potential members of the population who will qualify as the workers
48 whose employment is the target of the bill. The bill directs the

1 division to identify and certify persons seeking employment who
2 have a “disability” as defined by the federal “Americans with
3 Disabilities Act of 1990.” That is, a physical or mental impairment
4 that substantially limits a major life activity, and which disability
5 constitutes an impediment to obtaining or maintaining employment
6 or to transitioning from school to work. This certification can, if
7 the job-seeker chooses, be taken on interviews for employment and
8 shown to employers, and the certification later assists in employers
9 applying for the credits allowed by the bill.

10 The bill allows employers three credits.

11 First, an *employment credit*. An employer is allowed a credit
12 equal to 30 percent of up to the first \$6,000 of the wages paid by the
13 employer to the qualified employee with a disability during the first
14 year of employment. That is, the employer of a qualified employee
15 with a disability is allowed up to \$1,800 in the first year of
16 employment. The employer is also allowed a credit of 20 percent of
17 up to the first \$6,000 of the wages paid by the employer to the
18 qualified employee with a disability during the second year of
19 employment. That is, the employer is allowed up to \$1,200 in the
20 second year of employment.

21 Second, the bill allows a *transportation credit*. The employer is
22 allowed a credit equal to up to \$600 of the transportation expenses
23 that are incurred by the employer in the taxable period to enable
24 each qualified employee with a disability to travel to and from
25 work.

26 Third, the bill allows an *accommodation credit*. This is a
27 “piggy-back” of a federal credit for expenditures incurred to make a
28 business accessible to individuals with disabilities. The bill allows
29 an “eligible small business,” that is a business with less than
30 \$1,000,000 in gross receipts, or if it has higher gross receipts with
31 no more than 30 employees, to take a credit equal to 10 percent of
32 expenditures for the taxable period in excess of \$250 but not to
33 exceed \$10,250 to increase accessibility for individuals with
34 disabilities, both employees and members of the public. This can
35 include removal of architectural or communications barriers,
36 methods for making aurally delivered materials available to the
37 hearing impaired, methods for making visually delivered materials
38 available to the visually impaired, special equipment or equipment
39 modifications for individuals with disabilities, or similar
40 investments.

41 The bill allows employers, potentially, to take all three of the
42 employment, transportation and accommodation credits. The
43 employment credit allowed by this bill is not a credit for creating
44 “new jobs,” but applies to a hire in an existing position *or* in a
45 newly created position, so, unlike the various “new jobs” credits
46 offered by law (which forbid an employer from taking more than
47 one credit for a single newly-created position) an employer may

A533 PETERSON, JOHNSON

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- 1 qualify for the employment credit under this bill and any other
- 2 employment credit available.