

ASSEMBLY, No. 4083

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED SEPTEMBER 15, 2016

Sponsored by:

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Assemblyman PARKER SPACE

District 24 (Morris, Sussex and Warren)

SYNOPSIS

Authorizes payment of refunds for certain unused portions of tax credits issued to insurance premiums taxpayers under Business Employment Incentive Program.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 9/16/2016)

1 AN ACT authorizing the payment of refunds for certain unused
2 portions of tax credits issued to insurance premiums taxpayers
3 under the Business Employment Incentive Program, amending
4 P.L.1996, c.26.

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

8
9 1. Section 6 of P.L.1996, c.26 (C.34:1B-129) is amended to
10 read as follows:

11 6. a. The amount of the employment incentive awarded as a
12 grant by the authority shall either be awarded in cash or as a tax
13 credit. In each case, the amount of the grant shall be not less than
14 10 percent and not more than 50 percent of the withholdings of the
15 business, or not less than 10 percent and not more than 30 percent
16 of the estimated tax of the partners of an eligible partnership
17 whether paid directly by the partner or by the eligible partnership
18 on behalf of the partner's account, or any combination thereof, and
19 shall be subject to the provisions of sections 10 and 11 of P.L.1996,
20 c.26 (C.34:1B-133 and C.34:1B-134). In no case shall the aggregate
21 amount of the employment incentive grant awarded pursuant to a
22 business employment incentive agreement entered into on or after
23 July 1, 2003 exceed an average of \$50,000 for all new employees
24 over the term of the grant. The employment incentive shall be
25 based on criteria developed by the authority after considering the
26 following:

- 27 (1) The number of eligible positions to be created;
28 (2) The expected duration of those positions;
29 (3) The type of contribution the business can make to the long-
30 term growth of the State's economy;
31 (4) The amount of other financial assistance the business will
32 receive from the State for the project;
33 (5) The total dollar investment the business is making in the
34 project;
35 (6) Whether the business is a designated industry;
36 (7) Impact of the business on State tax revenues; and
37 (8) Such other related factors determined by the authority.

38 b. A business may be eligible to be awarded a grant, either in
39 cash or in tax credits, of up to 80 percent of the withholdings of the
40 business or up to 50 percent of the estimated tax of the partners of
41 an eligible partnership if the grant promotes smart growth and the
42 goals, strategies, and policies of the State Development and
43 Redevelopment Plan, established pursuant to section 5 of P.L.1985,
44 c.398 (C.52:18A-200), as determined by and based upon criteria
45 promulgated by the authority following consultation with the Office
46 of State Planning in the Department of State.

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.

1 c. The term of the grant shall not exceed 10 years.

2 d. At the discretion of the authority, the grant may apply to
3 new employees or partners in eligible positions created during the
4 base years, and during the remainder of the term of the grant.

5 e. Within 180 days of the date of enactment of P.L.2015, c.194
6 (C.34:1B-137.1 et al.), a business that was approved for a grant
7 prior to the enactment of P.L.2015, c.194 (C.34:1B-137.1 et al.),
8 may direct the authority to convert the grant to a tax credit against
9 the tax liability otherwise due pursuant to section 5 of P.L.1945,
10 c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132 (C.54:18A-
11 2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-15), or
12 N.J.S.17B:23-5. The direction to convert the grant to a tax credit
13 shall be irrevocable. An approved tax credit shall be issued in the
14 manner and for the amounts as follows and may only be applied in
15 the tax period for which they are issued and shall not be carried
16 forward:

17 (1) For grants accrued but not paid during calendar years 2008
18 through 2013, the tax credit shall be equal to an approved amount
19 and shall be issued in five installments over a five-year period
20 beginning in the 2017 tax accounting or privilege period of the
21 business or tax credit transferee in the following percentages: in
22 year one, five percent of the accrued amount; in year two, 20
23 percent of the accrued amount; in year three, 25 percent of the
24 accrued amount; in year four, 25 percent of the accrued amount; in
25 year five, 25 percent of the accrued amount. To the extent any
26 amount in this paragraph has not been approved by the authority by
27 the commencement of State fiscal year 2017, the aggregate tax
28 credit that would have been issued in State fiscal year 2017 shall be
29 issued in the year the amount is approved and the five-year period
30 shall commence in that fiscal year;

31 (2) For a grant accrued but not paid during calendar year 2014,
32 the tax credit shall be equal to any approved amount and shall be
33 issued in four equal installments over a four-year period beginning
34 in the 2019 tax accounting or privilege period of the business or tax
35 credit transferee;

36 (3) For a grant accrued but not paid during calendar year 2015,
37 the tax credit shall be equal to any approved amount and shall be
38 issued in four equal installments over a four-year period beginning
39 in the 2019 tax accounting or privilege period of the business or tax
40 credit transferee;

41 (4) For a grant accrued but not paid during calendar year 2016,
42 the tax credit shall be equal to any approved amount and shall be
43 issued in three equal installments over a three-year period
44 beginning in the 2020 tax accounting or privilege period of the
45 business or tax credit transferee;

46 (5) For a grant accrued but not paid during calendar year 2017,
47 the tax credit shall be equal to any approved amount and shall be
48 issued in three equal installments over a three-year period

1 beginning in the 2020 tax accounting or privilege period of the
2 business or tax credit transferee;

3 (6) For a grant accrued but not paid during calendar year 2018,
4 the tax credit shall be equal to any approved amount and shall be
5 issued in two equal installments over a two-year period beginning
6 in the 2022 tax accounting or privilege period of the business or tax
7 credit transferee;

8 (7) For a grant accrued but not paid during calendar year 2019,
9 the tax credit shall be equal to any approved amount and shall be
10 issued in two equal installments over a two-year period beginning
11 in the 2022 tax accounting or privilege period of the business or tax
12 credit transferee;

13 (8) For a grant accrued but not paid during calendar year 2020,
14 the tax credit shall be equal to any approved amount and shall be
15 issued in two equal installments over a two-year period beginning
16 in the 2023 tax accounting or privilege period of the business or tax
17 credit transferee;

18 (9) For a grant accrued but not paid during calendar year 2021,
19 the tax credit shall be equal to any approved amount and shall be
20 issued in two equal installments over a two-year period beginning
21 in the 2023 tax accounting or privilege period of the business or tax
22 credit transferee;

23 (10) For a grant accrued but not paid during calendar year 2022,
24 the tax credit shall be equal to any approved amount and shall be
25 paid in two equal installments over a two-year period beginning in
26 the 2023 tax accounting or privilege period of the business or tax
27 credit transferee;

28 (11) For a grant accrued but not paid during calendar year 2023,
29 the tax credit shall be equal to any approved amount and shall be
30 issued in two equal installments over a two-year period beginning
31 in the 2023 tax accounting or privilege period of the business or tax
32 credit transferee;

33 (12) For a grant accrued but not paid during calendar year 2024,
34 the tax credit shall be equal to any approved amount and shall be
35 issued in the 2025 tax accounting or privilege period of the business
36 or tax credit transferee; and

37 (13) For a grant accrued but not paid during calendar year 2025,
38 the tax credit shall be equal to any approved amount and shall be
39 issued in the 2025 tax accounting or privilege period of the business
40 or tax credit transferee.

41 f. The amount of the credit allowed pursuant to this section
42 shall be applied against the tax otherwise due under section 5 of
43 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
44 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
45 (C.17:32-15), or N.J.S.17B:23-5, prior to all other credits and
46 payments. If the credit exceeds the amount of tax liability
47 otherwise due from a business that pays taxes under section 5 of
48 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132

1 (C.54:18A-2 and C.54:18A-3), section 1 of P.L.1950, c.231
2 (C.17:32-15), or N.J.S.17B:23-5, that amount of excess shall be an
3 overpayment for the purposes of R.S.54:49-15, provided, however,
4 that section 7 of P.L.1992, c.175 (C.54:49-15.1) shall not apply.

5 g. A business that does not pay taxes under section 5 of
6 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
7 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-
8 15), or N.J.S.17B:23-5 may apply to the executive director of the
9 authority for a tax credit transfer certificate, covering one or more
10 years. The tax credit transfer certificate, upon receipt thereof by the
11 business from the executive director of the authority, may be sold or
12 assigned, in full or in part, in an amount not less than \$100,000, or
13 the amount of the refundable tax credit issued if less than \$100,000,
14 of tax credits to any other person that may have a tax liability
15 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
16 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of
17 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit
18 transfer certificate provided to the business shall include a
19 statement waiving the business's right to claim that amount of the
20 credit against the taxes that the business has elected to sell or
21 assign. The sale or assignment of any amount of a tax credit
22 transfer certificate allowed under this section shall not be
23 exchanged for consideration received by the business of less than
24 75 percent of the transferred credit amount before considering any
25 further discounting to present value which shall be permitted. Any
26 amount of a tax credit transfer certificate used by a purchaser or
27 assignee against a tax liability shall be subject to the same
28 privileges, limitations, and conditions that apply to the use of the
29 credit by the business that originally applied for and was allowed
30 the tax credit, including treating the amount of excess as an
31 overpayment under subsection f. of this section. The tax credit
32 transferee may not transfer its tax credit to any other party.

33 (cf: P.L.2016, c.9, s.1)

34
35 2. This act shall take effect immediately; provided, however,
36 that section 1 shall apply retroactively to January 11, 2016.

37 38 39 STATEMENT

40
41 This bill authorizes the payment of refunds for certain unused
42 portions of tax credits that are issued to insurance premiums
43 taxpayers under the Business Employment Incentive Program.

44 Under current law, a business that has previously been approved
45 for the award of a grant under the Business Employment Incentive
46 Program may direct the New Jersey Economic Development
47 Authority to convert the grant to a tax credit. The law authorizing
48 the conversion of grants to tax credits provides for the total amount

1 of the tax credit issued to a business to be applied against the
2 business's corporation business tax or insurance premiums tax
3 liability in the tax period for which the tax credit is issued.

4 The law currently allows a business that pays the corporation
5 business tax a refund for any unused portion of a tax credit that
6 exceeds the business's liability for tax, but does not extend a similar
7 benefit to a business that pays the insurance premiums tax. Under
8 current law, a business cannot receive a refund for any portion of a
9 tax credit issued to the business that is not taken to reduce an
10 insurance premiums tax liability, and is not permitted to carry any
11 unused portion of a tax credit back or forward to apply to past or
12 future tax liabilities.

13 This bill amends the law permitting the conversion of Business
14 Employment Incentive Program grants to tax credits to authorize
15 the issuance of refunds to businesses that pay the insurance
16 premiums tax. Under the bill, the unused portion of a tax credit
17 issued to a business that pays the insurance premiums tax will be
18 treated as an overpayment of tax and refunded to the business if the
19 Director of the Division of Taxation in the Department of the
20 Treasury determine that the business has no other outstanding tax
21 liabilities.

22 The bill takes effect immediately upon enactment, but applies
23 retroactively to January 11, 2016 (i.e. the date the law authorizing
24 the conversion of grants to tax credits became effective).