ASSEMBLY, No. 1189

STATE OF NEW JERSEY

217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

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SYNOPSIS
“Garden State Manufacturing Jobs Act.”

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 5/27/2016)
AN ACT authorizing the establishment of Garden State Corporations
and supplementing Title 14A of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. This act shall be known and may be cited as the “Garden
State Manufacturing Jobs Act.”

2. As used in this act, “Garden State Corporation” means a
corporation:
   a. Which principally engages in manufacturing and principally
      utilizes facilities located within the State of New Jersey;
   b. Which is organized under provisions of the “New Jersey
      Business Corporation Act,” N.J.S.14A:1-1 et seq.; and
   c. Which has elected to become subject to this act, and whose
      status as a Garden State Corporation has not been terminated as
      provided in this act.

3. A Garden State Corporation shall be formed in accordance
with chapter 2 of Title 14A of the New Jersey Statutes, except that
the formation of the corporation shall be conducted in a manner
consistent with the provisions of this act and its certificate of
incorporation shall state that it is a Garden State Corporation. A
Garden State Corporation may include the words “Garden State,”
“codetermined,” “co-managed,” “employer-employee,”
“manufacturing” or any combination of those terms in its corporate
name.

4. a. A corporation organized under the provisions of the “New
Jersey Business Corporation Act,” N.J.S.14A:1-1 et seq., may
become a Garden State Corporation under this act by amending its
certificate of incorporation so that it contains a statement that the
corporation is a Garden State Corporation and it complies with the
other provisions of this act.
   b. If a corporation that is not a Garden State Corporation is a
party to a merger or consolidation or is the exchanging corporation
in a share exchange, and the surviving or new corporation in the
merger, consolidation, or share exchange is to be a Garden State
Corporation, then the plan of merger, consolidation, or share
exchange shall not be effective unless it is adopted pursuant to the
provisions of the “New Jersey Business Corporation Act,”
N.J.S.14A:1-1 et seq.

5. a. A Garden State Corporation may terminate its status as a
Garden State Corporation and cease to be subject to this act by a
vote of the majority of the board of directors of that Garden State
Corporation and by amending its certificate of incorporation to
delete the provision required by section 3 and subsection a. of
section 4 of this act, pursuant to the provisions of the “New Jersey

b. If a plan of merger, consolidation, or exchange would have
the effect of terminating the status of a corporation as a Garden
State Corporation, then the plan of merger, consolidation, or share
exchange shall not be effective unless the Garden State Corporation
has first terminated its status as a Garden State Corporation
pursuant to subsection a. of this section and the plan is adopted
pursuant to the provisions of the “New Jersey Business Corporation

6. The certificate of incorporation or by-laws of a Garden State
Corporation shall provide that half of the members of the board of
directors of the corporation are elected by the employees of the
corporation who work in facilities in New Jersey and provide that
the employee-elected members of the board shall have access to all
documents and records of the corporation and equal authority with
other members of the board regarding all matters affecting the
business and affairs of the corporation, including: the selection and
removal of officers of the corporation; the location of corporation
facilities; the amendment or repealing of the by-laws or the
certificate of incorporation of the corporation; any decision to seek
to obtain or terminate the status of the corporation as a benefit
corporation under the provisions of P.L.2011, c.30 (C.14A:18-1 et
seq.); and any decision that may result in the termination of the
status of the corporation as a Garden State Corporation under the
provisions of this act.

7. The certificate of incorporation or by-laws of a Garden State
Corporation shall provide for the election, terms, classifications, if
any, and removal of directors and officers pursuant to the
provisions of “New Jersey Business Corporation Act,” N.J.S.14A:1-
1 et seq., and the provisions of this act, and shall provide the
procedures for the election of employee-elected members of the
board of directors of the Garden State Corporation. Those
procedures shall include requirements that:

a. Only employees of the Garden State Corporation who work
in facilities in New Jersey shall be eligible to seek election and
serve as employee-elected members of the board of directors;

b. Each employee of the Garden State Corporation who works
in facilities in New Jersey, without respect to the position or rank of
the employee or the amount of any ownership interest that the
employee may have in the Garden State Corporation, shall have the
right to vote in the selection of the employee-elected members of
the board of directors, with the vote of each employee having equal
weight with the vote of any other employee, and shall have the right
to seek election as an employee-elected member of the board of
directors and serve on the board if elected.

Vacancies in employee-elected director positions resulting from
death, resignation, or removal shall be filled for the remainder of
the term by a majority vote of the employee-elected members of the
board of directors of the Garden State Corporation.

8. a. If a corporation is a Garden State Corporation but has not
obtained the status of a benefit corporation under the provisions of
P.L.2011, c.30 (C.14A:18-1 et seq.), it shall be allowed a credit
against the tax imposed pursuant to section 5 of P.L.1945, c.162
(C.54:10A-5), as follows:

(1) During each of the first five tax years in which it is
continuously a Garden State Corporation, but is not a benefit
corporation, an amount equal to 35% of the corporation’s liability
for such tax;

(2) During the sixth and seventh tax years in which it is
continuously a Garden State Corporation, but is not a benefit
corporation, an amount equal to 25% of the corporation’s liability
for such tax; and

(3) During the eight and ninth tax years in which it is
continuously a Garden State Corporation, but is not a benefit
corporation, an amount equal to 15% of the corporation’s liability
for such tax.

b. Except as provided in subsection c. of this section, if the
corporation is a Garden State Corporation and has also obtained the
status of a benefit corporation, it shall be allowed a credit against
the tax imposed pursuant to section 5 of P.L.1945, c.162
(C.54:10A-5), as follows:

(1) During each of the first five tax years in which it is
continuously both a Garden State Corporation and a benefit
corporation, an amount equal to 60% of the corporation’s liability
for such tax;

(2) During the sixth and seventh tax years in which it is
continuously both a Garden State Corporation and a benefit
corporation, an amount equal to 45% of the corporation’s liability
for such tax; and

(3) During the eight and ninth tax years in which it is
continuously both a Garden State Corporation and a benefit
corporation, an amount equal to 30% of the corporation’s liability
for such tax.

c. For each year that the corporation receives a tax credit
pursuant to paragraph (1) of subsection b. of this section, the
maximum number of years for which the corporation may receive a
tax credit pursuant to paragraph (1) of subsection a. of this section
shall be reduced by one year. For each year that the corporation
receives a tax credit pursuant to paragraph (2) of subsection b. of
this section, the maximum number of years for which the
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corporation may receive a tax credit pursuant to paragraph (2) of
subsection a. of this section shall be reduced by one year. For each
year that the corporation receives a tax credit pursuant to paragraph
(3) of subsection b. of this section, the maximum number of years
for which the corporation may receive a tax credit pursuant to
paragraph (3) of subsection a. of this section shall be reduced by
one year.

d. The order of priority of the application of the credit allowed
under this section and any other credits allowed by law shall be as
prescribed by the Director of the Division of Taxation. The amount
of the credit applied under this section against the tax imposed
pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5) for a
privilege period shall not exceed the amount of any credit granted
pursuant to this section plus the amount of any other credits allowed
by law that shall reduce the total tax liability otherwise due by not
more than 25 percent, and shall not reduce the tax liability to an
amount less than the statutory minimum provided in subsection (e)
of section 5 of P.L.1945, c.162 (C.54:10A-5). An unused credit
may be carried forward, if necessary, for use in the first privilege
period following the privilege period for which the credit is
allowed.

e. The director shall develop, pursuant to the "Administrative
determining eligibility under this section, in consultation with the
State Treasurer and the New Jersey Economic Development
Authority.

9. This act shall take effect on the July 1 next following the
date of enactment.

STATEMENT

This bill permits the establishment of a new type of corporation
termed as a Garden State Corporation. Garden State Corporations
would be corporations that are principally engaged in manufacturing,
principally utilizing facilities located in New Jersey, and which
provide employees with a greater role in the corporate decision-
making process. Garden State Corporations would qualify for credits
against the corporation business tax.

The bill allows a corporation to be formed as a Garden State
Corporation, an existing corporation to convert to become a Garden
State Corporation, and a Garden State Corporation to terminate its
status as a Garden State Corporation. The certificate of incorporation
or by-laws of a Garden State Corporation must provide that half of the
members of the board of directors of the corporation are elected by the
employees of the corporation who work in New Jersey facilities. The
employee-elected members of the board would have access to all
corporation documents and records and equal authority with other
members of the board regarding all matters affecting the business and
affairs of the corporation, including:

- The selection and removal of officers of the corporation;
- The amendment or repealing of the by-laws or the certificate of
  incorporation of the corporation;
- Any decision regarding the location of corporation facilities;
- Any decision to seek to obtain or terminate the status of the
  corporation as a benefit corporation under the provisions of
  P.L.2011, c.30 (C.14A:18-1 et seq.); and
- Any decision that may result in the termination of the status of
  the corporation as a Garden State Corporation.

To qualify as a Garden State Corporation, a corporation’s
governing documents must include procedures regarding the election
of the employee-elected board members which require that only
employees of the Garden State Corporation who work in facilities in
New Jersey are eligible to seek election and serve as employee-elected
members of the board of directors. The bill requires that each
employee of the corporation who works in facilities in New Jersey,
without respect the position or rank of the employee or the amount of
any ownership interest that the employee may have in the corporation,
have the right to vote in the selection of the employee-elected
members of the board of directors, with the vote of the employee vote
having equal weight with the vote of any other employee, and the right
to seek election as an employee-elected member of the board of
directors and serve on the board if elected.

The bill provides that a Garden State Corporation would qualify
for credits against the corporation business tax. These credits vary as
to years of operation and whether the Garden State Corporation is also
a “benefit corporation” under P.L.2011, c.30 (C.14A:18-1 et seq.).

If a corporation is a Garden State Corporation but not a “benefit
corporation,” the bill allows the corporation credits against its liability
for the corporation business tax of: 35% during the first five tax years
in which it is continuously a Garden State Corporation; 25% during
the sixth and seventh tax years, and 15% during the eight and ninth tax
years. If a corporation is both a Garden State Corporation and a
“benefit corporation,” the bill allows the corporation credits against its
liability for the corporation business tax of: 60% during the first five
tax years in which it is continuously both a Garden State Corporation
and a benefit corporation; 45% during the sixth and seventh tax years,
and 30% during the eight and ninth tax years.

The number of tax years in which the lower tax credit for being
only a Garden State Corporation applies would be reduced by the
number of years in which the higher tax credit for being both a Garden
State Corporation and a “benefit corporation” applies, thus limiting to
nine the total number of tax years to which the credits may apply.