

ASSEMBLY, No. 4002

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED JUNE 23, 2016

Sponsored by:

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

SYNOPSIS

Revises priority schedule for issuance of converted tax credits under Business Employment Incentive Program.

CURRENT VERSION OF TEXT

As introduced.



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2

1 AN ACT revising the priority schedule for the issuance of converted
2 tax credits under the Business Employment Incentive Program,
3 amending P.L.1996, c.26.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 6 of P.L.1996, c.26 (C.34:1B-129) is amended to
9 read as follows:

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

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

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

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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, **[30]** five percent of the accrued amount; in year two,
23 **[30]** 20 percent of the accrued amount; in year three, **[20]** 25
24 percent of the accrued amount; in year four, **[10]** 25 percent of the
25 accrued amount; in year five, **[10]** 25 percent of the accrued
26 amount. To the extent any amount in this paragraph has not been
27 approved by the authority by the commencement of State fiscal year
28 2017, the aggregate tax credit that would have been issued in State
29 fiscal year 2017 shall be issued in the year the amount is approved
30 and the five-year period 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

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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), that amount of excess shall be an

1 overpayment for the purposes of R.S.54:49-15, provided, however,
2 that section 7 of P.L.1992, c.175 (C.54:49-15.1) shall not apply.
3 g. A business that does not pay taxes under section 5 of
4 P.L.1945, c.162 (C.54:10A-5), sections 2 and 3 of P.L.1945, c.132
5 (C.54:18A-2 and 54:18A-3), section 1 of P.L.1950, c.231 (C.17:32-
6 15), or N.J.S.17B:23-5 may apply to the executive director of the
7 authority for a tax credit transfer certificate, covering one or more
8 years. The tax credit transfer certificate, upon receipt thereof by the
9 business from the executive director of the authority, may be sold or
10 assigned, in full or in part, in an amount not less than \$100,000, or
11 the amount of the refundable tax credit issued if less than \$100,000,
12 of tax credits to any other person that may have a tax liability
13 pursuant to section 5 of P.L.1945, c.162 (C.54:10A-5), sections 2
14 and 3 of P.L.1945, c.132 (C.54:18A-2 and 54:18A-3), section 1 of
15 P.L.1950, c.231 (C.17:32-15), or N.J.S.17B:23-5. The tax credit
16 transfer certificate provided to the business shall include a
17 statement waiving the business's right to claim that amount of the
18 credit against the taxes that the business has elected to sell or
19 assign. The sale or assignment of any amount of a tax credit
20 transfer certificate allowed under this section shall not be
21 exchanged for consideration received by the business of less than
22 75 percent of the transferred credit amount before considering any
23 further discounting to present value which shall be permitted. Any
24 amount of a tax credit transfer certificate used by a purchaser or
25 assignee against a tax liability shall be subject to the same
26 privileges, limitations, and conditions that apply to the use of the
27 credit by the business that originally applied for and was allowed
28 the tax credit, including treating the amount of excess as an
29 overpayment under subsection f. of this section. The tax credit
30 transferee may not transfer its tax credit to any other party.
31 (cf: P.L.2015, c.194, s.2)

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

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STATEMENT

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39 This bill revises the priority schedule that was established by
40 P.L.2015, c.194 (C.34:1B-137.1 et al.) for the issuance of converted
41 tax credits under the Business Employment Incentive Program to
42 slow implementation of the conversion process.

43 Under current law, businesses that have previously been
44 approved for the award of a grant under the program may direct the
45 New Jersey Economic Development Authority to convert the grant
46 to a tax credit that can be used to reduce the business's tax liability
47 or sold or assigned to another person that may have a liability for
48 tax through a tax credit transfer certificate. The law authorizing the

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1 conversion of grants to tax credits establishes an implementation
2 schedule that prioritizes the issuance of tax credits in connection
3 with older, outstanding grant awards that should have been paid in
4 prior calendar years over grant awards that may be due and newly
5 payable in the future.

6 The priority schedule requires the authority to issue tax credits in
7 connection with the oldest, outstanding grant awards that have
8 accrued but not been paid to businesses during calendar year 2008
9 through calendar year 2013 over a five-year period beginning in the
10 2017 tax accounting or privilege period of the business. The
11 schedule provides that in year one of the five-year period the
12 authority is required to issue the first installment of the tax credit to
13 the business totaling 30% of the amount of the grant that was
14 accrued but not paid during calendar year 2008 through calendar
15 year 2013; in year two the authority is required to issue the second
16 installment of the tax credit totaling 30% of the amount of the grant
17 that was accrued but not paid during those years; in year three the
18 authority is required to issue the third installment totaling 20% of
19 the amount of the grant that was accrued but not paid; in year four
20 the authority is required to issue the fourth installment totaling 10%
21 of the amount of the grant that was accrued but not paid; and in the
22 fifth year the authority is required to issue the fifth installment
23 totaling 10% of the accrued amount.

24 This bill revises that priority schedule to decrease the percentage
25 of the accrued amounts that are required to be issued as tax credits
26 to businesses in year one and year two of the five-year period, and
27 to increase the percentage amounts in years three, four, and five.
28 The bill provides that in year one the authority is required to issue
29 the first installment of the tax credit to the business totaling 5% of
30 the amount of the grant that was accrued but not paid during
31 calendar year 2008 through calendar year 2013; in year two the
32 authority is required to issue the second installment of the tax credit
33 totaling 20% of the amount of the grant that was accrued but not
34 paid during those years; in year three the authority is required to
35 issue the third installment totaling 25% of the amount of the grant
36 that was accrued but not paid; in year four the authority is required
37 to issue the fourth installment totaling 25% of the amount of the
38 grant that was accrued but not paid; and in the fifth year the
39 authority is required to issue the fifth installment totaling 25% of
40 the accrued amount.

41 The bill takes effect immediately, but provides for its changes to
42 the priority schedule to apply retroactively to January 11, 2016, the
43 date P.L.2015, c.194 was enacted.