

SENATE, No. 3015

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED OCTOBER 19, 2020

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senators Singleton, Addiego and Pou

SYNOPSIS

Provides temporary corporation business tax and gross income tax credits for job creation related to manufacturing of personal protective equipment.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/16/2020)

1 **AN ACT** providing temporary corporation business tax and gross
2 income tax credits for job creation related to manufacturing of
3 personal protective equipment, supplementing P.L.1945, c.162
4 and Title 54A of the 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 privilege periods ending in 2020, 2021, and 2022, a
10 taxpayer, upon approval of an application to the director, shall be
11 allowed a credit against the tax imposed pursuant to section 5 of
12 P.L.1945, c.162 (C.54:10A-5) in the amount of \$10,000 for each
13 qualifying new hire involved in the manufacture of personal
14 protective equipment in a qualified facility in which the taxpayer
15 made a capital investment during the privilege period.

16 b. The minimum capital investment in a qualified facility
17 required to be eligible for a credit under this section shall be as
18 follows:

19 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
20 existing premises in Atlantic County, Burlington County, Cape May
21 County, Cumberland County, Gloucester County, Ocean County, or
22 Salem County, a minimum investment of \$10 per square foot of
23 gross leasable area;

24 (2) for the rehabilitation, improvement, fit-out, or retrofit of an
25 existing premises in counties in the State not listed in paragraph (1)
26 of this subsection, a minimum investment of \$20 per square foot of
27 gross leasable area;

28 (3) for the new construction of a premises in Atlantic County,
29 Burlington County, Cape May County, Cumberland County,
30 Gloucester County, Ocean County, or Salem County, a minimum
31 investment of \$100 per square foot of gross leasable area; or

32 (4) for the new construction of a premises in counties in the
33 State not listed in paragraph (3) of this subsection, a minimum
34 investment of \$120 per square foot of gross leasable area.

35 c. The minimum number of new or retained qualifying full-
36 time jobs required to be eligible for a credit under this section shall
37 be as follows:

38 (1) for a qualified facility in Atlantic County, Burlington
39 County, Cape May County, Cumberland County, Gloucester
40 County, Ocean County, or Salem County, a minimum of five new or
41 15 retained qualifying full-time jobs; or

42 (2) for a qualified facility in counties in the State not listed in
43 paragraph (1) of this subsection, a minimum of ten new or 25
44 retained qualifying full-time jobs.

45 d. In addition to the amount of credit allowed pursuant to
46 subsection a. of this section, a taxpayer shall be allowed the
47 following tax credits for privilege periods ending in 2020, 2021,
48 and 2022:

- 1 (1) \$1,000 per qualifying full-time job in the privilege period at
2 a qualified facility that is a building vacant for not less than seven
3 years in need of rehabilitation with a minimum of 250,000 square
4 feet;
- 5 (2) \$1,500 per qualifying full-time job in the privilege period at
6 a qualified facility in which the manufacturing of personal
7 protective equipment is part of a research collaboration between the
8 taxpayer and a college or university located within the State; and
- 9 (3) \$1,000 per qualifying full-time job in the privilege period at
10 a qualified facility in which the taxpayer has established an
11 apprenticeship program or pre-apprenticeship program with a
12 technical school or county college located within the State.
- 13 e. The total credit allowed to a taxpayer pursuant to this section
14 during the privilege period shall not exceed \$500,000.
- 15 f. Notwithstanding the minimum tax schedule imposed
16 pursuant to subsection (e) of section 5 of P.L.1945, c.162
17 (C.54:10A-5), if the amount of the tax credit allowed exceeds the
18 amount of corporation business tax otherwise due pursuant to
19 section 5 of P.L.1945, c.162 (C.54:10A-5), the amount of excess
20 shall be treated as a refundable overpayment except that interest
21 shall not be paid pursuant to section 7 of P.L.1992, c.175 (C.54:49-
22 15.1) on the amount of overpayment attributable to this credit
23 amount. The director shall determine the order of priority of the
24 application of the credit allowed pursuant to this section and any
25 other credits allowed by law.
- 26 g. The combined value of all tax credits approved by the
27 director pursuant to this section and pursuant to section 2 of P.L. ,
28 c. (C.)(pending before the Legislature as this bill) shall not
29 exceed \$10,000,000 in any State fiscal year to apply against the tax
30 imposed pursuant to the “New Jersey Gross Income Tax Act,”
31 N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of
32 P.L.1945, c.162 (C.54:10A-5).
- 33 h. An application for the tax credit shall be submitted to the
34 Division of Taxation in the Department of Treasury in a form and
35 manner prescribed by the director.
- 36 i. Notwithstanding any provision of the “Administrative
37 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.) to the
38 contrary, the director is authorized to adopt immediately upon filing
39 with the Office of Administrative Law such rules and regulations
40 shall be effective for a period not to exceed 360 days following the
41 date of filing and may thereafter be amended, adopted, or readopted
42 by the director in accordance with the requirements of P.L.1968,
43 c.410 (C.52:14B-1 et seq.). The director shall consult with the
44 Commissioner of Health related to any specification requirements
45 for what manufactured products are to qualify as personal protective
46 equipment pursuant to this section.
- 47 j. As used in this section:

1 “Director” means Director of the Division of Taxation in the
2 Department of the Treasury;

3 “Personal protective equipment” means coveralls, face shields,
4 gloves, gowns, masks, respirators, and other equipment designed to
5 protect the wearer from the spread of infection or illness.

6 “Qualified facility” means a facility that is:

7 (1) located in a redevelopment area or rehabilitation area as
8 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

9 (2) located in a Smart Growth Area as identified by the Office
10 of Planning Advocacy;

11 (3) a facility in which the manufacturing of personal protective
12 equipment is part of a research collaboration between the taxpayer a
13 college or university located within the State;

14 (4) a facility in which the taxpayer has established an
15 apprenticeship program or pre-apprenticeship program with a
16 technical school or community located within the State; or

17 (5) a building vacant for not less than seven years in need of
18 rehabilitation with a minimum of 250,000 square feet.

19 “Qualifying full-time job” means a full-time position in a
20 business in this State which the business has filled with a full-time
21 employee for the manufacturing of personal protective equipment in
22 this State. The employee shall be employed for at least 35 hours a
23 week and shall be paid employee wages at a rate of not less than
24 \$15 per hour, or render any other standard of service generally
25 accepted by custom or practice as full-time employment, whose
26 wages are subject to withholding as provided in the “New Jersey
27 Gross Income Tax Act,” N.J.S.54A:1-1 et seq. and is paid employee
28 wages at a rate of not less than \$15 per hour. “Qualifying new hire”
29 shall not include any person who works as an independent
30 contractor or on a consulting basis for the business. “Qualifying
31 new or retained job” includes only a position for which the taxpayer
32 provides employee health benefits under a group health plan as
33 defined under section 14 of P.L.1997, c.146 (C.17B:27-54), a health
34 benefits plan as defined under section 1 of P.L.1992, c.162
35 (C.17B:27A-17), or a policy or contract of health insurance
36 covering more than one person issued pursuant to Article 2 of
37 chapter 27 of Title 17B of the New Jersey Statutes.

38

39 2. a. For taxable years 2020, 2021, and 2022, a taxpayer, upon
40 approval of an application to the director shall be allowed a credit
41 against the tax imposed pursuant to the “New Jersey Gross Income
42 Tax Act” N.J.S.54A:1-1 et seq. in the amount of \$10,000 for each
43 qualifying new hire involved in the manufacture of personal
44 protective equipment in a qualified facility in which the taxpayer
45 made a capital investment during the taxable year.

46 b. The minimum capital investment in a qualified facility
47 required to be eligible for a credit under this section shall be as
48 follows:

1 (1) for the rehabilitation, improvement, fit-out, or retrofit of an
2 existing premises in Atlantic County, Burlington County, Cape May
3 County, Cumberland County, Gloucester County, Ocean County, or
4 Salem County, a minimum investment of \$10 per square foot of
5 gross leasable area;

6 (2) for the rehabilitation, improvement, fit-out, or retrofit of an
7 existing premises in counties in the State not listed in paragraph (1)
8 of this subsection, a minimum investment of \$20 per square foot of
9 gross leasable area;

10 (3) for the new construction of a premises in Atlantic County,
11 Burlington County, Cape May County, Cumberland County,
12 Gloucester County, Ocean County, or Salem County, a minimum
13 investment of \$100 per square foot of gross leasable area; or

14 (4) for the new construction of a premises in counties in the
15 State not listed in paragraph (3) of this subsection, a minimum
16 investment of \$120 per square foot of gross leasable area.

17 c. The minimum number of new or retained qualifying full-
18 time jobs required to be eligible for a credit under this section shall
19 be as follows:

20 (1) for a qualified facility in Atlantic County, Burlington
21 County, Cape May County, Cumberland County, Gloucester
22 County, Ocean County, or Salem County, a minimum of five new or
23 15 retained qualifying full-time jobs; and

24 (2) for a qualified facility in counties in the State not listed in
25 paragraph (1) of this subsection, a minimum of ten new or 25
26 retained qualifying full-time jobs.

27 d. In addition to the amount of credit allowed pursuant to
28 subsection a. of this section, a taxpayer shall be allowed the
29 following tax credits for taxable years 2020, 2021, and 2022:

30 (1) \$1,000 per qualifying full-time job in a taxable year at a
31 qualified facility that is a building vacant for not less than seven
32 years in need of rehabilitation with a minimum of 250,000 square
33 feet;

34 (2) \$1,500 per qualifying full-time job in a taxable year at a
35 qualified facility in which the manufacturing of personal protective
36 equipment is part of a research collaboration between the taxpayer
37 and a college or university located within the State; and

38 (3) \$1,000 per qualifying full-time job in a taxable year at a
39 qualified facility in which the taxpayer has established an
40 apprenticeship program or pre-apprenticeship program with a
41 technical school or county college located within the State.

42 e. The total credit allowed to a taxpayer pursuant to this section
43 during the taxable year shall not exceed \$500,000.

44 f. If the amount of the credit exceeds the amount of tax
45 otherwise due, that amount of excess shall be an overpayment for
46 the purposes of N.J.S.54A:9-7; provided however, that subsection
47 (f) of N.J.S.54A:9-7 shall not apply. The director shall determine

1 the order of priority of the application of the credit allowed
2 pursuant to this section and any other credits allowed by law.

3 g. (1) A business entity that is classified as a partnership for
4 federal income tax purposes shall not be allowed a tax credit
5 pursuant to this section directly, but the amount of tax credit of a
6 taxpayer in respect to distributive share of entity income, shall be
7 determined by allocating to the taxpayer that proportion of the tax
8 credit acquired by the entity that is equal to the taxpayer's share,
9 whether or not distributed, of the total distributive income or gain
10 of the entity for its taxable year ending within or with the
11 taxpayer's taxable year.

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

21 h. The combined value of all tax credits approved by the
22 director pursuant to this section and pursuant to section 1 of P.L. ,
23 c. (C.)(pending before the Legislature as this bill) shall not
24 exceed \$10,000,000 in any State fiscal year to apply against the tax
25 imposed pursuant to the "New Jersey Gross Income Tax Act,"
26 N.J.S.54A:1-1 et seq., and the tax imposed pursuant to section 5 of
27 P.L.1945, c.162 (C.54:10A-5).

28 i. An application for the tax credit shall be submitted to the
29 Division of Taxation in the Department of Treasury in a form and
30 manner prescribed by the director.

31 j. Notwithstanding any provision of the "Administrative
32 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to the
33 contrary, the director is authorized to adopt immediately upon filing
34 with the Office of Administrative Law such rules and regulations
35 shall be effective for a period not to exceed 360 days following the
36 date of filing and may thereafter be amended, adopted, or readopted
37 by the director in accordance with the requirements of P.L.1968,
38 c.410 (C.52:14B-1 et seq.). The director shall consult with the
39 Commissioner of Health related to any specification requirements
40 for what manufactured products are to qualify as personal protective
41 equipment pursuant to this section.

42 k. As used in this section:

43 "Director" means Director of the Division of Taxation in the
44 Department of the Treasury;

45 "Personal protective equipment" means coveralls, face shields,
46 gloves, gowns, masks, respirators, and other equipment designed to
47 protect the wearer from the spread of infection or illness.

48 "Qualified facility" means a facility that is:

1 (1) located in a redevelopment area or rehabilitation area as
2 defined in section 3 of P.L.1992, c.79 (C.40A:12A-3);

3 (2) located in a Smart Growth Area as identified by the Office
4 of Planning Advocacy;

5 (3) a facility in which the manufacturing of personal protective
6 equipment is part of a research collaboration between the taxpayer a
7 college or university located within the State;

8 (4) a facility in which the taxpayer has established an
9 apprenticeship program or pre-apprenticeship program with a
10 technical school or community located within the State; or

11 (5) a building vacant for not less than seven years in need of
12 rehabilitation with a minimum of 250,000 square feet.

13 “Qualifying full-time job” means a full-time employee hired by
14 the taxpayer during the privilege period for the manufacturing of
15 personal protective equipment in this State. The person hired shall
16 be employed for at least 35 hours a week and shall be paid
17 employee wages at a rate of not less than \$15 per hour, or render
18 any other standard of service generally accepted by custom or
19 practice as full-time employment, whose wages are subject to
20 withholding as provided in the “New Jersey Gross Income Tax
21 Act,” N.J.S.54A:1-1 et seq. and is paid employee wages at a rate of
22 not less than \$15 per hour. “Qualifying new hire” shall not include
23 any person who works as an independent contractor or on a
24 consulting basis for the business. “Qualifying new or retained job”
25 includes only a position for which the taxpayer provides employee
26 health benefits under a group health plan as defined under section
27 14 of P.L.1997, c.146 (C.17B:27-54), a health benefits plan as
28 defined under section 1 of P.L.1992, c.162 (C.17B:27A-17), or a
29 policy or contract of health insurance covering more than one
30 person issued pursuant to Article 2 of chapter 27 of Title 17B of the
31 New Jersey Statutes.

32
33 3. This act shall take effect immediately.
34
35

36 STATEMENT 37

38 This bill provides corporation business tax and gross income tax
39 credits to taxpayers that make investments and create or retain jobs
40 involved in the manufacturing of personal protective equipment in a
41 qualified facility in the State. Under the bill, personal protective
42 equipment includes coveralls, face shields, gloves, gowns, masks,
43 respirators, and other equipment designed to protect the wearer
44 from the spread of infection or illness. The credits will be allowed
45 for privilege periods ending in 2020, 2021, and 2022 under the
46 corporation business tax and taxable years 2020, 2021, and 2022
47 under the gross income tax.

1 The bill establishes the credit at \$10,000 for each full-time
2 employee whose job is related to the manufacturing of personal
3 protective equipment. Taxpayers are also eligible for additional tax
4 credits \$1,000 per qualifying full-time employee per year at a
5 qualified facility that is a building vacant for not less than seven
6 years in need of rehabilitation with a minimum of 250,000 square
7 feet, \$1,500 for each qualifying full-time employee through
8 collaboration with a State college or university, and \$1,000 per
9 qualifying full-time employee at a qualified facility in which the
10 taxpayer has established an apprenticeship program or pre-
11 apprenticeship program with a technical school or county college
12 located within the State. The maximum credit for any individual
13 taxpayer is \$500,000 and the overall cap on the value of all credits
14 awarded is \$10,000,000 for each State fiscal year. Taxpayers are
15 required to apply for the tax credit in a manner prescribed by the
16 Division of Taxation, and the Director of the Division of Taxation
17 is responsible for determining the order of priority for the
18 application of the credits. The bill provides that if the amount of
19 the credit exceeds the tax due, the amount in excess is to be treated
20 as an overpayment and be refunded to the taxpayer.

21 To qualify for a tax credits under the bill, a taxpayer must make
22 a minimum investment in a facility that is being rehabilitated for
23 this purpose of \$10 per square foot of gross leasable area for a
24 facility in Atlantic County, Burlington County, Cape May County,
25 Cumberland County, Gloucester County, Ocean County, or Salem
26 County; or \$20 per square foot of gross leasable area in other
27 counties. The minimum capital investment for construction of a
28 new facility in Atlantic County, Burlington County, Cape May
29 County, Cumberland County, Gloucester County, Ocean County, or
30 Salem County is \$100 per square foot of gross leasable area. The
31 minimum capital investment for construction of a new facility in
32 any other county is \$120 per square foot of gross leasable area.

33 The bill also sets requirements on minimum new or retained full-
34 time jobs to be eligible for this program. Taxpayers in Atlantic
35 County, Burlington County, Cape May County, Cumberland
36 County, Gloucester County, Ocean County, or Salem County must
37 create five new jobs or retain 15 full-time jobs. Taxpayers in all
38 other counties shall create ten new jobs or retain 25 full-time jobs.

39 To qualify under the bill, a job must be a full-time position in
40 this State that requires employment of a person for at least 35 hours
41 a week or other service that can be deemed full-employment, and
42 who is paid at least \$15 per hour, and whose wages are subject to
43 withholding per the "New Jersey Gross Income Tax Act."
44 Additionally, the qualifying new hire only includes positions for
45 which the taxpayer provides the employee with certain minimum
46 health insurance.

47 The bill defines a qualified facility to be a facility that satisfies
48 one of the following conditions:

- 1 (1) located in a redevelopment area or rehabilitation area;
 - 2 (2) located in a Smart Growth Area as identified by the Office
 - 3 of Planning Advocacy;
 - 4 (3) a facility in which the manufacturing of personal protective
 - 5 equipment is part of a research collaboration between the taxpayer
 - 6 and a college or university located within the State;
 - 7 (4) a facility in which the taxpayer has established an
 - 8 apprenticeship program or pre-apprenticeship program with a
 - 9 technical school or county college located within the State; or
 - 10 (5) a building vacant for not less than seven years in need of
 - 11 rehabilitation with a minimum of 250,000 square feet.
- 12 The bill authorizes the Director of the Division of Taxation to
- 13 adopt rules and regulations immediately upon filing with the Office
- 14 of Administrative Law to administer the bill, and requires the
- 15 director to consult with the Commissioner of Health related to any
- 16 specification requirements for what manufactured products are to
- 17 qualify as personal protective equipment under the bill.