

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1748

Short Title: Extend Jobs Tax Credit.

(Public)

Sponsors: Representatives Mitchell; Robinson, Arnold, Berry, Bowman, Brawley, Flaherty, Grady, Joye, McCombs, and Miner.

Referred to: Finance.

May 26, 1994

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE JOBS TAX CREDIT TO APPLY TO JOBS CREATED
IN ANY COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.40 reads as rewritten:

"§ 105-130.40. Credit for creating jobs in severely distressed county jobs.

(a) Credit. – A corporation that ~~(i)~~ for at least 40 weeks during the taxable year has at least nine employees ~~and (ii) is located, for part or all of its taxable year, in a severely distressed county~~ may qualify for a credit against the tax imposed by this Division by creating new full-time jobs with the corporation in this State ~~in the severely distressed county~~ during that year. A corporation that hires an additional full-time employee during that year to fill a position located in this State ~~a severely distressed county~~ is allowed a credit of two thousand eight hundred dollars (\$2,800) for the additional employee. A position is located in a county this State if (i) at least fifty percent (50%) of the employee's duties are performed in the county, this State, or (ii) the employee is a resident of the county, this State. The credit may not be taken in the income year in which the additional employee is hired. Instead, the credit shall be taken in equal installments over the four years following the income year in which the additional employee was hired and shall be conditioned on the continued employment by the corporation of the number of full-time employees the corporation had upon hiring the employee that caused the corporation to qualify for the credit. If, in one of the four years in which the installment of a credit accrues, the number of the corporation's full-time employees falls below the number of full-time employees the company had in the

1 year in which the corporation qualified for the credit or the position filled by the
2 employee is moved to another county, the credit expires and the corporation may not
3 take any remaining installment of the credit. The corporation may, however, take the
4 portion of an installment that accrued in a previous year and was carried forward to the
5 extent permitted under subsection (e) of this section.

6 For the purposes of this section, a full-time job is a position that requires at least
7 1,600 hours of work per year and is intended to be held by one employee during the
8 entire year. A full-time employee is an employee who holds a full-time job.

9 (b) Repealed by Session Laws 1989, c. 111, s. 1.

10 (b1) Eligibility. – A corporation is eligible for the tax credit allowed by this
11 section only if it obtained a credit under this section for taxable year 1988 or the
12 Department of Commerce determines that it engages in the manufacturing of goods, or
13 that it engages in an industrial activity such as the processing of foods, raw materials,
14 chemicals and process agents, goods in process, or finished products.

15 ~~(c) County Designation. — A severely distressed county is a county designated as~~
16 ~~severely distressed by the Secretary of Commerce. Each year, on or before December~~
17 ~~31, the Secretary of Commerce shall designate which counties are considered severely~~
18 ~~distressed, and shall provide that information to the Secretary of Revenue. A county is~~
19 ~~considered severely distressed if its distress factor is one of the fifty highest in the State.~~
20 ~~The Secretary shall assign to each county in the State a distress factor that is the sum of~~
21 ~~the following:~~

22 ~~(1) The county's rank in a ranking of counties by rate of unemployment~~
23 ~~from lowest to highest.~~

24 ~~(2) The county's rank in a ranking of counties by per capita income from~~
25 ~~highest to lowest.~~

26 ~~(3) The county's rank in a ranking of counties by percentage growth in~~
27 ~~population from lowest to highest.~~

28 ~~In measuring rates of unemployment and per capita income, the Secretary shall use~~
29 ~~the latest available data published by a State or federal agency generally recognized as~~
30 ~~having expertise concerning the data. In measuring population growth, the Secretary~~
31 ~~shall use the most recent estimates of population certified by the State Planning Officer.~~
32 ~~A designation as a severely distressed county is effective only for the calendar year~~
33 ~~following the designation.~~

34 ~~(d) Planned Expansion. — A corporation that, during the year in which a county is~~
35 ~~designated as a severely distressed county, signs a letter of commitment with the~~
36 ~~Department of Commerce to create at least twenty new full-time jobs in that distressed~~
37 ~~county within two years of the date the letter is signed qualifies for the credit allowed by~~
38 ~~this section even though the employees are not hired that year. The credit shall be~~
39 ~~available in the income year after at least twenty employees have been hired if such~~
40 ~~hirings are within the two-year commitment period. The conditions outlined in~~
41 ~~subsection (a) apply to a credit taken under this subsection except that if the county is~~
42 ~~no longer designated a severely distressed county after the year the letter of~~
43 ~~commitment was signed, the credit is still available. If the corporation does not hire the~~
44 ~~employees within the two-year period, the corporation does not qualify for the credit.~~

1 ~~However, if the corporation qualifies for a credit under subsection (a) in the year any~~
2 ~~new employees are hired, it may take the credit under that subsection.~~

3 (e) Limitations. – The sale, merger, acquisition, or bankruptcy of a business, or
4 any other transaction by which an existing business reformulates itself as another
5 business, does not create new eligibility in a succeeding business with respect to jobs
6 for which the predecessor was not eligible under this section. A successor corporation
7 may, however, take any installment of or carried-over portion of a credit that its
8 predecessor could have taken if it had taxable income. Jobs transferred from one county
9 in the State to another county in the State shall not be considered new jobs for purposes
10 of this section. A credit taken under this section may not exceed fifty percent (50%) of
11 the tax imposed by this Division for the taxable year, reduced by the sum of all other
12 credits ~~allowed under this Division,~~ allowed, except tax payments made by or on behalf of
13 the corporation. Any unused portion of the credit may be carried forward for the
14 succeeding five years.

15 (f) Substantiation. – Every corporation claiming the credit provided in ~~subsection~~
16 ~~(a) this section~~ shall maintain and make available for inspection by the Secretary of
17 Revenue or his agent ~~such any records as may be the Secretary considers~~ necessary to
18 determine and verify the amount of the credit to which it is entitled. The burden of
19 proving eligibility for the credit and the amount of the credit shall rest upon the
20 corporation, and no credit shall be allowed to a corporation that fails to maintain
21 adequate records or to make them available for inspection."

22 Sec. 2. G.S. 105-151.17 reads as rewritten:

23 **"§ 105-151.17. Credit for creating jobs in severely distressed county jobs.**

24 (a) Credit. – A person who ~~(i) for at least 40 weeks during the taxable year~~
25 ~~has at least nine employees and (ii) whose business is located, for part or all of his taxable~~
26 ~~year, in a severely distressed county~~ may qualify for a credit against the tax imposed by
27 this Division by creating new full-time jobs with the business in ~~the severely distressed~~
28 ~~county this State~~ during that year. A person who hires an additional full-time employee
29 during that year to fill a position located in ~~a severely distressed county this State~~ is
30 allowed a credit of two thousand eight hundred dollars (\$2,800) for the additional
31 employee. A position is located in ~~a county this State~~ if (i) at least fifty percent (50%) of
32 the employee's duties are performed in ~~the county, this State,~~ or (ii) the employee is a
33 resident of ~~the county, this State.~~ The credit may not be taken in the income year in
34 which the additional employee is hired. Instead, the credit shall be taken in equal
35 installments over the four years following the income year in which the additional
36 employee was hired and shall be conditioned on the continued employment by the
37 taxpayer of the number of full-time employees the taxpayer had upon hiring the
38 employee that caused the taxpayer to qualify for the credit. If, in one of the four years
39 in which the installment of a credit accrues, the number of the taxpayer's full-time
40 employees falls below the number of full-time employees the taxpayer had in the year in
41 which the taxpayer qualified for the credit or the position filled by the employee is
42 moved to another county, the credit expires and the taxpayer may not take any
43 remaining installment of the credit. The taxpayer may, however, take the portion of an

1 installment that accrued in a previous year and was carried forward to the extent
2 permitted under subsection (e) of this section.

3 For the purposes of this section, a full-time job is a position that requires at least
4 1,600 hours of work per year and is intended to be held by one employee during the
5 entire year. A full-time employee is an employee who holds a full-time job.

6 (b) Repealed by Session Laws 1989, c. 111, s. 2.

7 (b1) Eligibility. – A taxpayer is eligible for the tax credit allowed by this section
8 only if the taxpayer obtained a credit under this section for taxable year 1988 or the
9 Department of Commerce determines that the taxpayer engages in the manufacturing of
10 goods, or that he engages in an industrial activity such as the processing of foods, raw
11 materials, chemicals and process agents, goods in process, or of finished products.

12 (e) ~~County Designation.~~—A severely distressed county is a county designated as
13 severely distressed by the Secretary of Commerce. Each year, on or before December
14 31, the Secretary of Commerce shall designate which counties are considered severely
15 distressed, and shall provide that information to the Secretary of Revenue. A county is
16 considered severely distressed if its distress factor is one of the fifty highest in the State.
17 The Secretary shall assign to each county in the State a distress factor that is the sum of
18 the following:

19 (1) ~~The county's rank in a ranking of counties by rate of unemployment~~
20 ~~from lowest to highest.~~

21 (2) ~~The county's rank in a ranking of counties by per capita income from~~
22 ~~highest to lowest.~~

23 (3) ~~The county's rank in a ranking of counties by percentage growth in~~
24 ~~population from lowest to highest.~~

25 ~~In measuring rates of unemployment and per capita income, the Secretary shall use~~
26 ~~the latest available data published by a State or federal agency generally recognized as~~
27 ~~having expertise concerning the data. In measuring population growth, the Secretary~~
28 ~~shall use the most recent estimates of population certified by the State Planning Officer.~~
29 ~~A designation as a severely distressed county is effective only for the calendar year~~
30 ~~following the designation.~~

31 (d) ~~Planned Expansion.~~—A person who, during the year in which a county is
32 designated as a severely distressed county, signs a letter of commitment with the
33 Department of Commerce to create at least twenty new full time jobs in that distressed
34 county within two years of the date the letter is signed qualifies for the credit allowed by
35 this section even though the employees are not hired that year. The credit shall be
36 available in the income year after at least twenty employees have been hired if such
37 hirings are within the two year commitment period. The conditions outlined in
38 subsection (a) apply to a credit taken under this subsection, except that if the county is
39 no longer designated a severely distressed county after the year the letter of
40 commitment was signed, the credit is still available. If the taxpayer does not hire the
41 employees within the two-year period, he does not qualify for the credit. However, if
42 the taxpayer qualifies for a credit under subsection (a) in the year any new employees
43 are hired, he may take the credit under that subsection.

1 (e) Limitations. – The sale, merger, acquisition, or bankruptcy of a business, or
2 any other transaction by which an existing business reformulates itself as another
3 business, does not create new eligibility in a succeeding business with respect to jobs
4 for which the predecessor was not eligible under this section. A taxpayer may,
5 however, take any installment of or carried-over portion of a credit that his predecessor
6 could have taken if he had taxable income. Jobs transferred from one county in the
7 State to another county in the State shall not be considered new jobs for purposes of this
8 section. A credit taken under this section may not exceed fifty percent (50%) of the tax
9 imposed by this Division for the taxable year, reduced by the sum of all other credits
10 ~~allowed under this Division, allowed,~~ except tax payments made by or on behalf of the
11 taxpayer. Any unused portion of the credit may be carried forward for the succeeding
12 five years.

13 (f) Substantiation. – Every person claiming the credit provided in ~~subsection (a)~~
14 this section shall maintain and make available for inspection by the Secretary of Revenue
15 ~~or his agent such any records as may be the Secretary considers~~ necessary to determine
16 and verify the amount of the credit to which the person is entitled. The burden of
17 proving eligibility for the credit and the amount of the credit shall rest upon the person,
18 and no credit shall be allowed to any person who fails to maintain adequate records or to
19 make them available for inspection."

20 Sec. 3. G.S. 143B-437A reads as rewritten:

21 "**§ 143B-437A. Industrial Development Fund.**

22 (a) There is created in the Department of Commerce the Industrial Development
23 Fund to provide funds to assist the local government units of the most economically
24 ~~depressed-distressed~~ counties in the State in creating jobs in qualified industries. As
25 used in this section, the term 'qualified industry' means the manufacturing of goods or
26 the processing of foods, raw materials, chemicals and process agents, goods in process,
27 or finished products. The Department of Commerce shall adopt rules providing for the
28 administration of the program. Those rules shall include the following:

- 29 (1) The funds shall be used for (i) installation of or purchases of
30 equipment for qualified industries, (ii) structural repairs,
31 improvements, or renovations of existing buildings to be used for
32 expansion of qualified industries, or (iii) construction of or
33 improvements to new or existing water, sewer, gas, or electrical utility
34 distribution lines or equipment for existing or new or proposed
35 industrial buildings to be used for qualified industrial ~~operations, or (iv)~~
36 ~~in the case of counties designated as severely distressed counties under G.S.~~
37 ~~105-130.40(e) or G.S. 105-151.17(e) or units of local government within~~
38 ~~those counties, construction of or improvement to new or existing water,~~
39 ~~sewer, gas, or electrical utility distribution lines or equipment to serve new~~
40 ~~or proposed industrial buildings to be used for qualified industrial~~
41 ~~operations. operations.~~ To be eligible for funding, the water, sewer,
42 gas, or electrical utility lines or facilities shall be located on the site of
43 the building or, if not located on the site, shall be directly related to the
44 operation of the specific qualified industrial activity. However, the

1 Secretary of Commerce may use up to one hundred thousand dollars
2 (\$100,000) to provide emergency economic development assistance in
3 any county which is documented to be experiencing a major economic
4 dislocation.

5 (2) The funds shall be used by the city and county governments for
6 projects that will directly result in the creation of new jobs. The funds
7 shall be expended at a rate of two thousand four hundred dollars
8 (\$2,400) per new job created up to a maximum of two hundred fifty
9 thousand dollars (\$250,000) per project.

10 (b) Each year, on or before December 31, the Secretary of Commerce shall
11 designate the most economically distressed counties in the State; this designation shall
12 remain effective for the following calendar year. The Secretary of Commerce shall
13 determine which counties are the most economically distressed counties in the State
14 based on (i) rate of unemployment, (ii) per capita income, and (iii) relative population
15 and work force growth or lack of growth, as determined by the Secretary of Commerce.

16 (c) The Department of Commerce shall report annually to the General Assembly
17 concerning the applications made to the fund and the payments made from the fund and
18 the impact of the payments on job creation in the State. The Department of Commerce
19 shall also report quarterly to the Joint Legislative Commission on Governmental
20 Operations and the Fiscal Research Division on the use of the moneys in the fund,
21 including information regarding to whom payments were made, in what amounts, and
22 for what purposes.

23 (d) As used in this section, 'major economic dislocation' means the actual or
24 imminent loss of:

25 (1) 500 or more manufacturing jobs in the county; or

26 (2) A number of manufacturing jobs which is equal to or more than ten
27 percent (10%) of the existing manufacturing workforce in the county."

28 Sec. 4. G.S. 153A-376(f) reads as rewritten:

29 "(f) All program income from Economic Development Grants from the Small
30 Cities Community Development Block Grant Program may be retained by recipient
31 ~~'severely'~~'economically distressed counties', as designated under G.S. ~~105-130.40(e)~~,
32 143B-437A for the purposes of creating local economic development revolving loan
33 funds. Such program income derived through the use by counties of Small Cities
34 Community Development Block Grant money includes but is not limited to: (i) payment
35 of principal and interest on loans made by the county using Community Development
36 Block Grant Funds; (ii) proceeds from the lease or disposition of real property acquired
37 with Community Development Block Grant Funds; and (iii) any late fees associated
38 with loan or lease payments in (i) and (ii) above. The local economic development
39 revolving loan fund set up by the county shall fund only those activities eligible under
40 Title I of the federal Housing and Community Development Act of 1974, as amended
41 (P.L. 93-383), and shall meet at least one of the three national objectives of the Housing
42 and Community Development Act. Any expiration of G.S. ~~105-130.40(e)~~-143B-437A
43 shall not affect this subsection as to designations of ~~severely~~'economically distressed
44 counties made prior to its expiration."

1 Sec. 5. G.S. 160A-456(e1) reads as rewritten:

2 "(e1) All program income from Economic Development Grants from the Small
3 Cities Community Development Block Grant Program may be retained by recipient
4 cities in '~~severely~~economically distressed counties', as designated under G.S. ~~105-~~
5 ~~130.40(e),~~143B-437A, for the purposes of creating local economic development
6 revolving loan funds. Such program income derived through the use by cities of Small
7 Cities Community Development Block Grant money includes but is not limited to: (i)
8 payment of principal and interest on loans made by the county using Community
9 Development Block Grant Funds; (ii) proceeds from the lease or disposition of real
10 property acquired with Community Development Block Grant Funds; and (iii) any late
11 fees associated with loan or lease payments in (i) and (ii) above. The local economic
12 development revolving loan fund set up by the city shall fund only those activities
13 eligible under Title I of the federal Housing and Community Development Act of 1974,
14 as amended (P.L. 93-383), and shall meet at least one of the three national objectives of
15 the Housing and Community Development Act. Any expiration of G.S. ~~105-130.40(e)~~
16 143B-437A shall not affect this subsection as to designations of ~~severely~~economically
17 distressed counties made prior to its expiration."

18 Sec. 6. This act is effective for taxable years beginning on or after January 1,
19 1994.