

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1473
Committee Substitute Favorable 6/15/99
Senate Finance Committee Substitute Adopted 6/27/00

Short Title: Renewable Energy Mfr Credit.

(Public)

Sponsors:

Referred to:

May 13, 1999

A BILL TO BE ENTITLED
AN ACT TO MODIFY THE INCOME TAX CREDIT FOR MANUFACTURERS OF
CERTAIN RENEWABLE ENERGY EQUIPMENT AND TO FURTHER ADJUST
THE SHARE CERTAIN CITIES RECEIVE FROM THE STATE GROSS
RECEIPTS TAX.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.28 reads as rewritten:

"§ 105-130.28. **Credit against corporate income tax for construction of a ~~photovoltaic~~
renewable energy equipment facility.**

(a) ~~Any Credit.~~ – A corporation that constructs in North Carolina a facility for the
~~production of photovoltaic manufacture of renewable energy equipment~~ is allowed a credit
against the tax imposed by this Part equal to twenty-five percent (25%) of the installation
and equipment costs of construction paid during the taxable year. The entire credit may
not be taken for the taxable year in which the costs are paid but must be taken in five
equal installments beginning with the taxable year in which the costs are paid.

No credit is allowed, however, to the extent that any of the costs of the equipment
were provided by federal, State, or local grants. To secure the credit allowed by this
section, the taxpayer must own or control the facility at the time of construction. ~~The~~

1 credit allowed by this section may not exceed the amount of the tax imposed by this Part for the
2 taxable year reduced by the sum of all credits allowable, except payments of tax made by or on
3 behalf of the taxpayer.

4 (b) ~~As used in this section, "photovoltaic equipment" means those products~~
5 ~~designed, manufactured, and produced to convert sunlight directly into electricity.~~
6 Definitions. – The following definitions apply in this section:

7 (1) Biomass equipment. – Products designed to use renewable biomass
8 resources for biofuel production of ethanol, methanol, and biodiesel;
9 anaerobic biogas production of methane utilizing agricultural and
10 animal waste or garbage; or commercial thermal or electrical generation
11 from renewable energy crops or wood waste materials. The term also
12 includes related devices for converting, conditioning, and storing the
13 liquid fuels, gas, and electricity produced with biomass equipment.

14 (2) Renewable biomass resources. – Defined in G.S. 105-129.15.

15 (3) Renewable energy equipment. – Biomass equipment, solar electric or
16 thermal equipment, and wind energy equipment.

17 (4) Solar electric or thermal equipment. – Products designed to convert
18 sunlight into electricity or heat.

19 (5) Wind energy equipment. – Products designed to capture and convert
20 wind energy into electricity or mechanical power.

21 (c) Carryforward. – The credit allowed by this section may not exceed the amount
22 of the tax imposed by this Part for the taxable year reduced by the sum of all credits
23 allowable, except payments of tax made by or on behalf of the taxpayer. Any unused
24 portion of the credit may be carried forward for the succeeding 10 years. The amount of
25 credit allowed under this section may be carried over for the next succeeding five years.

26 (d) No Double Credit. – A taxpayer that claims any other credit allowed under this
27 Chapter with respect to construction of a facility for the manufacture of renewable energy
28 equipment may not take the credit allowed in this section with respect to the same
29 facility."

30 Section 2. G.S. 105-116.1 reads as rewritten:

31 **"§ 105-116.1. Distribution of gross receipts taxes to cities.**

32 (a) Definitions. – The following definitions apply in this section:

33 (1) Freeze deduction. – The amount by which the percentage distribution
34 amount of a city was required to be reduced in fiscal year 1995-96 in
35 determining the amount to distribute to the city.

36 (2) Percentage distribution amount. – Three and nine hundredths percent
37 (3.09%) of the gross receipts derived by an electric power company and
38 a telephone company from sales within a city that are taxable under G.S.
39 105-116 or G.S. 105-120.

40 (b) Distribution. – The Secretary must distribute to the cities part of the taxes
41 collected under this Article on electric power companies and telephone companies. Each
42 city's share for a calendar quarter is the percentage distribution amount for that city for
43 that quarter minus one-fourth of the city's hold-back amount and one-fourth of the city's

1 proportionate share of the annual cost to the Department of administering the distribution.
2 The Secretary must make the distribution within 75 days after the end of each calendar
3 quarter.

4 (c) Limited Hold-Harmless Adjustment. – The hold-back amount for a city that, in
5 the 1995-96 fiscal year, received from gross receipts taxes less than ninety-five percent
6 (95%) of the amount it received in the 1990-91 fiscal year but at least sixty percent (60%)
7 of the amount it received in the 1990-91 fiscal year is the amount determined by the
8 following calculation:

- 9 (1) Adjust the city's 1995-96 distribution by adding the city's freeze
10 deduction to the amount distributed to the city for that year.
- 11 (2) Compare the adjusted 1995-96 amount with the city's 1990-91
12 distribution.
- 13 (3) If the adjusted 1995-96 amount is less than or equal to the city's 1990-
14 91 distribution, the hold-back amount for the city is zero.
- 15 (4) If the adjusted 1995-96 amount is more than the city's 1990-91
16 distribution, the hold-back amount for the city is the city's freeze
17 deduction minus the difference between the city's 1990-91 distribution
18 and the city's 1995-96 distribution.

19 (c1) Additional Limited Hold-Harmless Adjustment. – The hold-back amount for a
20 city that, in the 1995-96 fiscal year, received from gross receipts taxes less than sixty
21 percent (60%) of the amount it received in the 1990-91 fiscal year is the amount
22 determined by the following calculation:

- 23 (1) Adjust the city's 1999-2000 distribution by adding the city's freeze
24 deduction to the amount distributed to the city for that year.
- 25 (2) Compare the adjusted 1999-2000 amount with the city's 1990-91
26 distribution.
- 27 (3) If the adjusted 1999-2000 amount is less than or equal to the city's
28 1990-91 distribution, the hold-back amount for the city is zero.
- 29 (4) If the adjusted 1999-2000 amount is more than the city's 1990-91
30 distribution, the hold-back amount for the city is the city's freeze
31 deduction minus the difference between the city's 1990-91 distribution
32 and the city's 1999-2000 distribution.

33 (d) Allocation of Hold-Harmless Adjustment. – The hold-back amount for a city
34 that, in the 1995-96 fiscal year, received from gross receipts taxes at least ninety-five
35 percent (95%) of the amount it received in the 1990-91 fiscal year is the amount
36 determined by the following calculation:

- 37 (1) Determine the amount by which the freeze deduction is reduced for all
38 cities whose hold-back amount is determined under ~~subsection (e)~~
39 subsections (c) and (c1) of this section. This amount is the total hold-
40 harmless adjustment.
- 41 (2) Determine the amount of gross receipts taxes that would be distributed
42 for the quarter to cities whose hold-back amount is determined under

1 this subsection if these cities received their percentage distribution
2 amount minus one-fourth of their freeze deduction.

3 (3) For each city included in the calculation in subdivision (2) of this
4 subsection, determine that city's percentage share of the amount
5 determined under that subdivision.

6 (4) Add to the city's freeze deduction an amount equal to the city's
7 percentage share under subdivision (3) of this subsection multiplied by
8 the total hold-harmless adjustment.

9 (e) Disqualification. – No municipality may receive any funds under this section if
10 it was incorporated with an effective date of on or after January 1, 2000, and is
11 disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any
12 funds under this section, incorporated with an effective date on or after January 1, 2000,
13 unless a majority of the mileage of its streets are open to the public. The previous
14 sentence becomes effective with respect to distribution of funds on or after July 1, 1999."

15 Section 3. G.S. 105-130.28, as amended by this act, is repealed effective for
16 costs incurred during taxable years beginning on or after January 1, 2006.

17 Section 4. This act does not affect the rights or liabilities of the State, a
18 taxpayer, or another person arising under the statute repealed by this act before the
19 effective date of its repeal, nor does it affect the right to any refund or credit of a tax that
20 accrued under the repealed statute before the effective date of its repeal.

21 Section 5. Sections 1 and 3 of this act are effective for taxable years beginning
22 on or after January 1, 2000. Section 2 of this act becomes effective October 1, 2000, and
23 applies to distributions made on or after that date. The remainder of this act is effective
24 when it becomes law.