

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 539

Short Title: Construction Worker Training Credit.

(Public)

Sponsors: Senator Jordan.

Referred to: Finance.

March 29, 1999

A BILL TO BE ENTITLED

AN ACT TO PROVIDE TAX CREDITS FOR CONSTRUCTION EMPLOYERS WHO
PROVIDE CRAFTWORKER TRAINING AND WHO HIRE WELFARE
RECIPIENTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-129.2 reads as rewritten:

"§ 105-129.2. **Definitions.**

The following definitions apply in this Article:

- (1) Air courier services. – A person is engaged in the air courier services business if the person's primary business is furnishing air delivery of individually addressed letters and packages for compensation, except by the United States Postal Service.
- (2) Central administrative office. – Defined in the North American Industry Classification System adopted by the United States Office of Management and Budget.
- (2a) Construction. – Defined in the North American Industry Classification System adopted by the United States Office of Management and Budget.
- (3) Cost. – In the case of property owned by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the

1 Code. In the case of property the taxpayer leases from another, cost is
2 value as determined pursuant to G.S. 105-130.4(j)(2).

3 (4) Data processing. – Defined in the North American Industry
4 Classification System adopted by the United States Office of
5 Management and Budget.

6 (5) Development zone. – An area designated as a development zone
7 pursuant to G.S. 105-129.3A.

8 (6) Enterprise tier. – The classification assigned to an area pursuant to G.S.
9 105-129.3.

10 (7) Full-time job. – A position that requires at least 1,600 hours of work per
11 year and is intended to be held by one employee during the entire year.
12 A full-time employee is an employee who holds a full-time job.

13 (8) Reserved.

14 (9) Large investment. – Defined in G.S. 105-129.4(b1).

15 (10) Machinery and equipment. – Engines, machinery, tools, and implements
16 used or designed to be used in the business for which the credit is
17 claimed. The term does not include real property as defined in G.S. 105-
18 273 or rolling stock as defined in G.S. 105-333.

19 (11) Manufacturing. – Defined in the North American Industry Classification
20 System adopted by the United States Office of Management and
21 Budget.

22 (12) Purchase. – Defined in section 179 of the Code.

23 (13) Warehousing and wholesale trade. – Defined in the North American
24 Industry Classification System adopted by the United States Office of
25 Management and Budget.

26 (14) Welfare recipient. – A person who was a recipient of public assistance
27 under Part 2 of Article 2 of Chapter 108A of the General Statutes within
28 the 12-month period before being hired by the taxpayer."

29 Section 2. G.S. 105-129.4 reads as rewritten:

30 **"§ 105-129.4. Eligibility; forfeiture.**

31 (a) Type of Business. – A taxpayer is eligible for a credit allowed by G.S. 105-
32 129.12 if the real property for which the credit is claimed is used for a central
33 administrative office that creates at least 40 new jobs. A taxpayer is eligible for the credit
34 for creating a construction job for a welfare recipient under G.S. 105-129.8(a1) or the
35 credit for construction craftworker training under G.S. 105-129.11(b) if the taxpayer is
36 engaged in the business of construction. A taxpayer is eligible for the other credits
37 allowed by this Article if the taxpayer engages in one of the following types of businesses
38 and the jobs with respect to which a credit is claimed are created in that business, the
39 machinery and equipment with respect to which a credit is claimed are used in that
40 business, and the research and development for which a credit is claimed are carried out
41 as part of that business:

42 (1) Air courier services.

43 (2) Central administrative office that creates at least 40 new jobs.

1 (3) Data processing.

2 (4) Manufacturing.

3 (5) Warehousing or wholesale trade.

4 (a1) Central Administrative Office. – A central administrative office creates at least
5 40 new jobs if the taxpayer hires at least 40 additional full-time employees to fill new
6 positions at the office either in the year the taxpayer first uses the property as a central
7 administrative office or in the preceding 24 months while using temporary space for the
8 central administrative office functions during completion of the administrative office
9 property. Jobs transferred from one area in the State to another area in the State are not
10 considered new jobs for purposes of this subsection.

11 (b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the
12 credit for worker training if the jobs for which the credit is claimed meet the wage
13 standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the
14 credit for investing in machinery and equipment, the credit for research and development,
15 or the credit for investing in real property for a central administrative office if the jobs at
16 the location with respect to which the credit is claimed meet the wage standard at the time
17 the taxpayer applies for the credit. Jobs meet the wage standard if they pay an average
18 weekly wage that is at least equal to the applicable percentage times the applicable
19 average weekly wage for the county in which the jobs will be located, as computed by the
20 Secretary of Commerce from data compiled by the Employment Security Commission
21 for the most recent period for which data are available. The applicable percentage for
22 jobs located in an enterprise tier one area is one hundred percent (100%). The applicable
23 percentage for all other jobs is one hundred ten percent (110%). The applicable average
24 weekly wage is the lowest of the following: (i) the average wage for all insured private
25 employers in the county, (ii) the average wage for all insured private employers in the
26 State, and (iii) the average wage for all insured private employers in the county
27 multiplied by the county income/wage adjustment factor. The county income/wage
28 adjustment factor is the county income/wage ratio divided by the State income/wage
29 ratio. The county income/wage ratio is average per capita income in the county divided
30 by the annualized average wage for all insured private employers in the county. The State
31 income/wage ratio is the average per capita income in the State divided by the annualized
32 average wage for all insured private employers in the State.

33 (b1) Large Investment. – A taxpayer who is otherwise eligible for a tax credit under
34 this Article becomes eligible for the large investment enhancements provided for credits
35 under this Article if the Secretary of Commerce certifies that the taxpayer will purchase
36 or lease, and place in service in connection with the eligible business within a two-year
37 period, at least one hundred fifty million dollars (\$150,000,000) worth of one or more of
38 the following: real property, machinery and equipment, or central administrative office
39 property. If the taxpayer fails to make the level of investment certified within this two-
40 year period, the taxpayer forfeits the large investment enhancements as provided in
41 subsection (d) of this section.

42 (c) Repealed by Session Laws 1998-55, s. 1.

1 (c1) Construction Craftworker Training. – A taxpayer is eligible for the tax credit
2 for construction craftworker training only for training provided pursuant to a program
3 that satisfies the following conditions:

4 (1) It combines jobsite training and related instruction in construction
5 craftwork.

6 (2) It includes competency testing to verify completion of each stage of
7 training.

8 (3) It is approved by the Department of Labor, the Department of
9 Community Colleges, or a statewide trade association that represents
10 employers engaged in the construction business.

11 (4) It is not paid for or reimbursed by someone other than the taxpayer.

12 To establish eligibility, the taxpayer must obtain as part of the application process under
13 G.S. 105-129.6 certification that the taxpayer's planned construction craftworker training
14 would satisfy the requirements of this subsection. A taxpayer must apply to the
15 Department of Labor for certification of registered apprenticeships and certified on-the-
16 job training and to the Department of Community Colleges for certification of all other
17 training. The application must be on a form provided by the certifying Department, must
18 provide a detailed plan of the construction craftworker training to be provided, and must
19 contain any information required by the certifying Department to determine whether the
20 requirements of this subsection will be satisfied. If the certifying Department determines
21 that the planned construction craftworker training meets the requirements of this
22 subsection, it shall issue a certificate describing the taxpayer, identifying the entity that
23 approved the training program, and stating that the planned construction craftworker
24 training meets the requirements of this subsection. The State Board of Community
25 Colleges and the Department of Labor may adopt rules in accordance with Chapter 150B
26 of the General Statutes that are needed to carry out their responsibilities under this
27 subsection.

28 (d) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the
29 taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. In
30 addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer
31 fails to make the level of investment certified by the Secretary of Commerce under
32 subsection (b1) of this section within the required two-year period. A taxpayer that
33 forfeits a credit under this Article is liable for all past taxes avoided as a result of the
34 credit plus interest at the rate established under G.S. 105-241.1(i), computed from the
35 date the taxes would have been due if the credit had not been allowed. The past taxes and
36 interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay
37 the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-
38 236. If a taxpayer forfeits the credit for creating jobs or the credit for investing in
39 machinery and equipment, the taxpayer also forfeits any credit for worker training
40 claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the
41 location with respect to which the credit for investing in machinery and equipment was
42 claimed.

(e) Change in Ownership of Business. – The sale, merger, acquisition, or bankruptcy of a business, or any transaction by which an existing business reformulates itself as another business, does not create new eligibility in a succeeding business with respect to credits for which the predecessor was not eligible under this Article. A successor business may, however, take any installment of or carried-over portion of a credit that its predecessor could have taken if it had a tax liability. The acquisition of a business is a new investment that creates new eligibility in the acquiring taxpayer under this Article if any of the following conditions are met:

- (1) The business closed before it was acquired.
- (2) The business was required to file a notice of plant closing or mass layoff under the federal Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2102, before it was acquired.
- (3) The business was acquired by its employees through an employee stock option transaction or another similar mechanism."

Section 3. G.S. 105-129.8 reads as rewritten:

"§ 105-129.8. Credit for creating jobs.

(a) ~~Credit-Creating Jobs.~~ – A taxpayer that meets the eligibility requirements set out in G.S. 105-129.4, has five or more employees for at least 40 weeks during the taxable year, and hires an additional full-time employee during that year to fill a position located in this State is allowed a credit for creating a new full-time job. The amount of the credit for each new full-time job created is set out in the table below and is based on the enterprise tier of the area in which the position is located. In addition, if the position is located in a development zone, the amount of the credit is increased by four thousand dollars (\$4,000) per job.

Area Enterprise Tier	Amount of Credit
Tier One	\$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

A position is located in an area if more than fifty percent (50%) of the employee's duties are performed in the area.

(a1) Creating Construction Jobs for Welfare Recipients. – A taxpayer that is engaged in the construction business, has five or more employees for at least 40 weeks during the taxable year, and hires a welfare recipient as an additional full-time employee during the year is allowed a credit of five hundred dollars (\$500.00) for the job.

(a2) Installments. – The credit may not be taken in the taxable year in which the additional employee is hired. Instead, the credit shall be taken in equal installments over the four years following the taxable year in which the additional employee was hired and shall be conditioned on the continued employment by the taxpayer of the number of full-time employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify for the credit.

1 If, in one of the four years in which the installment of a credit accrues, the number of
2 the taxpayer's full-time employees falls below the number of full-time employees the
3 taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires
4 and the taxpayer may not take any remaining installment of the credit. The taxpayer may,
5 however, take the portion of an installment that accrued in a previous year and was
6 carried forward to the extent permitted under G.S. 105-129.5.

7 If, in one of the four years in which the installment of a credit accrues, a job for which
8 the welfare recipient credit was allowed is no longer filled by a welfare recipient, the
9 credit expires and the taxpayer may not take any remaining installment of the welfare
10 recipient credit with respect to that job.

11 Jobs transferred from one area in the State to another area in the State shall not be
12 considered new jobs for purposes of this section. If, in one of the four years in which the
13 installment of a credit accrues, the position filled by the employee is moved to an area in
14 a higher- or lower-numbered enterprise tier, or is moved from a development zone to an
15 area that is not a development zone, the remaining installments of the credit shall be
16 calculated as if the position had been created initially in the area to which it was moved.

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

18 (b1), (c) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

19 (d) Planned Expansion. – A taxpayer that signs a letter of commitment with the
20 Department of Commerce to create at least twenty new full-time jobs in a specific area
21 within two years of the date the letter is signed qualifies for the credit in the amount
22 allowed by subsection (a) of this section based on the area's enterprise tier and
23 development zone designation for that year even though the employees are not hired that
24 year. The credit shall be available in the taxable year after at least twenty employees have
25 been hired if the hirings are within the two-year commitment period. The conditions
26 outlined in subsection (a) apply to a credit taken under this subsection except that if the
27 area is redesignated to a higher-numbered enterprise tier or loses its development zone
28 designation after the year the letter of commitment was signed, the credit is allowed
29 based on the area's enterprise tier and development zone designation for the year the letter
30 was signed. If the taxpayer does not hire the employees within the two-year period, the
31 taxpayer does not qualify for the credit. However, if the taxpayer qualifies for a credit
32 under subsection (a) in the year any new employees are hired, the taxpayer may take the
33 credit under that subsection.

34 (e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3 for
35 taxable years beginning on or after January 1, 1996."

36 Section 4. G.S. 105-129.11 reads as rewritten:

37 "**§ 105-129.11. Credit for worker training. Credits for worker training and**
38 **construction craftworker training.**

39 (a) Credit Worker Training. – A taxpayer that provides worker training for five or
40 more of its eligible employees during the taxable year is allowed a credit equal to the
41 wages paid to the eligible employees during the training. Wages paid to an employee
42 performing his or her job while being trained are not eligible for the credit. For positions
43 located in an enterprise tier one area, the credit may not exceed one thousand dollars

1 (\$1,000) per employee trained during the taxable year. For other positions, the credit may
2 not exceed five hundred dollars (\$500.00) per employee trained during the taxable year.
3 A position is located in an area if more than fifty percent (50%) of the employee's duties
4 are performed in the area.

5 (a1) Construction Craftworker Training. – A taxpayer that is engaged in the
6 construction business and provides construction craftworker training to its eligible
7 employees is allowed a credit equal to five hundred dollars (\$500.00) for each employee
8 who completes his or her 1,000th hour of the provided training during the taxable year.

9 (b) Eligibility. – The eligibility of a taxpayer's training and expenditures for the
10 construction craftworker training credit allowed in subsection (a1) of this section is
11 determined as provided in G.S. 105-129.4. An employee is eligible for either credit
12 allowed in this section if the employee is in a full-time position not classified as exempt
13 under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1) and meets one or more of the
14 following conditions:

- 15 (1) The employee occupies a job for which the taxpayer is eligible to claim
16 an installment of the credit for creating jobs.
17 (2) The employee is being trained to operate machinery and equipment for
18 which the taxpayer is eligible to claim an installment of the credit for
19 investing in machinery and equipment."

20 Section 5. This act is effective for taxable years beginning on or after January
21 1, 1999.