GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

SESSION LAW 2005-241
HOUSE BILL 1004

AN ACT TO EXTEND THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT AND THE JOB DEVELOPMENT INVESTMENT GRANT PROGRAM; TO ALTER THE MANNER IN WHICH ENTERPRISE TIERS ARE DESIGNATED; TO AMEND THE HEALTH INSURANCE REQUIREMENTS FOR THE JOB DEVELOPMENT INVESTMENT GRANT PROGRAM; AND TO CREATE AN ECONOMIC DEVELOPMENT OVERSIGHT COMMITTEE TO PERFORM A COMPREHENSIVE STUDY OF THE ECONOMIC DEVELOPMENT INCENTIVES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 105-129.2A(a) reads as rewritten:

"(a) Sunset. – This Article is repealed effective for business activities that occur on or after January 1, ~~2006.~~2008."

SECTION 1.(b) G.S. 105-129.2A, as amended by subsection (a) of this section, is amended by adding a new subsection to read:

"(a3) Sunset for Certain Taxpayers Located in Development Zones. – Notwithstanding subsection (a) of this section, in the case of a taxpayer that satisfies all of the conditions of this subsection, this Article is repealed effective for business activities that occur on or after January 1, 2010.

(1) Before January 1, 2006, the taxpayer signs a letter of commitment with the Department of Commerce describing a proposed new or expanding project and specifying the amount to be invested in real property and machinery and equipment, the number of new jobs to be created, and a proposed timetable for making the investment and creating the jobs.

(2) Before January 1, 2006, the Secretary of Commerce makes a written determination that the taxpayer is expected to purchase, lease, or construct and place in service in an eligible business at a location within a development zone within a three-year period at least ten million dollars ($10,000,000) of real property and machinery and equipment and that the taxpayer will create at least 300 new jobs at the location within a three-year period beginning when the property is first placed in service in an eligible business.

(3) Before January 1, 2006, the taxpayer places at least four million dollars ($4,000,000) of real property and machinery and equipment in service at the location and creates at least 20 new jobs at the location."

SECTION 2. G.S. 105-129.4(d) reads as rewritten:

"(d) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the taxpayer was not eligible for the credit for the calendar year in which the taxpayer engaged in the activity for which the credit was claimed. In addition, a taxpayer forfeits a large investment enhancement of a tax credit if the taxpayer fails to timely make the required level of investment under subsection (b1) of this section. If an eligible major industry fails to timely make the required level of investment under G.S. 105-129.2(8a), the taxpayer forfeits all credits allowed under this Article that it would not otherwise have been eligible for if it were not an eligible major industry. If a taxpayer that is subject to the later repeal date of this Article under G.S. 105-129.2A(a3) fails to timely make the required level of investment or to timely create the required number of new jobs, the taxpayer forfeits all credits allowed under this Article that it would not otherwise have been eligible for if it were not subject to the later repeal date under G.S. 105-129.2A(a3). A taxpayer forfeits the credit for substantial investment in other property allowed under G.S. 105-129.12A if the taxpayer fails to timely create the number of required new jobs or to timely make the required level of investment under subsection (b5) of this section. A taxpayer forfeits the technology commercialization credit allowed under G.S. 105-129.9A if the taxpayer fails to make the level of investment required by subsection (e) of that section within the required period or if the taxpayer fails to meet the terms of its licensing agreement with a research university. If a taxpayer claimed a twenty percent (20%) technology commercialization credit under G.S. 105-129.9A(d) and fails to make the level of investment required under that subsection within the required period, but does make the level of investment required under subsection (e) of that section within the required period, the taxpayer forfeits one-fourth of the twenty percent (20%) credit.

A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed from the date the taxes would have been due if the credit had not been allowed. The past taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails to pay the past taxes and interest by the due date is subject to the penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs, the technology commercialization credit, or the credit for investing in machinery and equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the location with respect to which the technology commercialization credit or the credit for investing in machinery and equipment was claimed."

SECTION 3. G.S. 143B-437.62 reads as rewritten:

"**§ 143B-437.62. Expiration.**

The authority of the Committee to enter into new agreements expires January 1, ~~2006.~~2008."

SECTION 4. G.S. 105-129.3 is amended by adding a new subsection to read:

"(f) Exceptions for Certain Counties with High Unemployment. – Notwithstanding the provisions of this section, a county whose rank in a ranking of counties by average rate of unemployment for the preceding 12 months, from highest to lowest, is one of the 10 highest in the State is designated an enterprise tier one area."

SECTION 5. G.S. 143B-437.53(c) reads as rewritten:

"(c) Health Insurance. – A business is eligible for a grant under this Part only if the business provides health insurance for all of the applicable full-time employees of the project with respect to which the grant is made. For the purposes of this subsection, an applicable full-time employee is one who earns from the business less than one hundred fifty thousand dollars ($150,000) in taxable compensation on an annualized basis or three and one-half times the annualized average State wage for all insured private employers in the State employing between 250 and 1,000 employees, whichever is greater. For the purposes of this subsection, a business provides health insurance if it pays at least fifty percent (50%) of the premiums for health care coverage that equals or exceeds the minimum provisions of the basic health care plan of coverage recommended by the Small Employer Carrier Committee pursuant to G.S. 58-50-125.

Each year that a business receives a grant under this Part, the business must provide with the submission required under G.S. 143B-437.58 a certification that the business continues to provide health insurance, as required by this subsection, for all applicable full-time employees of the project with respect to which the grant is made. If the business ceases to provide the required health ~~insurance to all full-time employees of the project with respect to which a grant is made,~~insurance, the Committee shall amend or terminate the agreement as provided in G.S. 143B-437.59."

SECTION 6. G.S. 105-129.3(e)(1) reads as rewritten:

"(e) Exceptions for Certain Small Counties. – The following exceptions to the provisions of this section apply to small counties:

(1) A county that ~~meets both of the conditions set out below~~ has a population of less than 12,000 is designated an enterprise tier one area.~~area:~~

~~a. Its population is less than 12,000.~~

~~b. More than sixteen percent (16%) of its population is below the federal poverty level according to the most recent federal decennial census.~~"

SECTION 7. Chapter 120 of the General Statutes is amended by adding a new Article to read:

"Article 12O.

"Joint Legislative Economic Development Oversight Committee.

"**§ 120-70.130. Creation and membership of Joint Legislative Economic Development Oversight Committee.**

The Joint Legislative Economic Development Oversight Committee is established. The Committee consists of 12 members as follows:

(1) Six members of the Senate appointed by the President Pro Tempore of the Senate; and

(2) Six members of the House of Representatives appointed by the Speaker of the House of Representatives.

Terms on the Committee are for two years and begin on the convening of the General Assembly in each odd-numbered year, except the terms of the initial members, which begin on appointment and end on the day of the convening of the 2007 General Assembly. Members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from service in the General Assembly constitutes resignation or removal from service on the Committee.

A member continues to serve until a successor is appointed. A vacancy shall be filled by the officer who made the original appointment.

"**§ 120-70.131. Purpose and powers of Committee.**

(a) The Joint Legislative Economic Development Oversight Committee shall examine, on a continuing basis, economic growth and development issues and strategies in North Carolina in order to make ongoing recommendations to the General Assembly on ways to promote cost-effective economic development initiatives. In this examination, the Committee may:

(1) Study the budgets, programs, and policies of the Department of Commerce, the North Carolina Partnership for Economic Development, and other State, regional, and local entities involved in economic development.

(2) Analyze legislation from other states regarding economic development.

(3) Analyze proposals produced by the Economic Development Board.

(4) Study any other matters that the Committee considers necessary to fulfill its mandate.

(b) The Committee may make interim reports to the General Assembly on matters for which it may report to a regular session of the General Assembly. A report to the General Assembly may contain any legislation needed to implement a recommendation of the Committee.

"**§ 120-70.132. Organization of Committee.**

(a) The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each designate a cochair of the Joint Legislative Economic Development Oversight Committee. The Committee shall meet upon the joint call of the cochairs.

(b) A quorum of the Committee is seven members. Only recommendations, including proposed legislation, receiving at least six affirmative votes may be included in a Committee report to the General Assembly. While in the discharge of its official duties, the Committee has the powers of a joint committee under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4.

(c) The cochairs of the Committee may call upon other knowledgeable persons or experts to assist the Committee in its work.

(d) Members of the Committee shall receive subsistence and travel expenses as provided in G.S. 120-3.1, 138-5, or 138-6, as appropriate. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Services Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee."

SECTION 8. The Economic Development Oversight Committee, created pursuant to Section 7 of this act, shall complete a comprehensive study of Article 3A of Chapter 105 of the General Statutes (the Bill Lee Act) and the Job Development Investment Grant Program (JDIG) established under Part 2G of Article 10 of Chapter 143B of the General Statutes. Before adopting a report on this issue, the Economic Development Oversight Committee must hold at least one joint meeting with the Revenue Laws Study Committee. The Economic Development Oversight Committee shall complete the study and submit it to the General Assembly, along with any recommendations or legislative proposals, before the beginning of the 2006 Regular Session of the 2005 General Assembly. The study shall focus on comprehensive reform of the Bill Lee Act, JDIG, and related economic development incentives. It is the intent of the General Assembly to replace the current Bill Lee Act beginning with the 2007 taxable year with a program recommended by the Committee and to revamp JDIG based on the Committee's recommendations.

SECTION 9. This act is effective when it becomes law. Sections 4 and 6 of this act apply to designations made on or after that date.

In the General Assembly read three times and ratified this the 20th day of July, 2005.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 2:15 p.m. this 29th day of July, 2005