

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-523
HOUSE BILL 1514**

AN ACT TO EXPAND ECONOMICALLY DISTRESSED COUNTIES TO INCLUDE ALL TIER ONE AND TIER TWO COUNTIES, TO INCREASE THE MAXIMUM EXPENDITURE OF FUNDS FROM THE INDUSTRIAL DEVELOPMENT FUND, TO EXEMPT FROM RULE MAKING THE CUSTOMIZED TRAINING PROGRAM UNDER THE COMMUNITY COLLEGE SYSTEM, AND TO AMEND THE COUNTY SERVICE DISTRICT ACT OF 1973 TO ALLOW ADDITIONAL COUNTY RESEARCH AND PRODUCTION SERVICE DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143B-437.01(a) reads as rewritten:

"§ 143B-437.01. Industrial Development Fund.

(a) Creation and Purpose of Fund. – There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically distressed counties in the State in creating and retaining jobs in certain industries. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the fund:

- (1) The funds shall be used for (i) installation of or purchases of equipment for eligible industries, (ii) structural repairs, improvements, or renovations of existing buildings to be used for expansion of eligible industries, or (iii) construction of or improvements to new or existing water, sewer, gas, telecommunications, high-speed broadband, electrical utility distribution lines or equipment, or transportation infrastructure for existing or new or proposed industrial buildings to be used for eligible industries. To be eligible for funding, the water, sewer, gas, telecommunications, high-speed broadband, electrical utility lines or facilities, or transportation infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific eligible industrial activity.
- (1a) The funds shall be used for projects located in economically distressed counties except that the Secretary of Commerce may use up to one hundred thousand dollars (\$100,000) to provide emergency economic development assistance in any county that is documented to be experiencing a major economic dislocation.
- (2) The funds shall be used by the city and county governments for projects that will directly result in the creation or retention of new jobs. The funds shall be expended at a maximum rate of ~~five thousand dollars (\$5,000)~~ ten thousand dollars (\$10,000) per new job created or per job retained up to a maximum of five hundred thousand dollars (\$500,000) per project.
- (3) There shall be no local match requirement if the project is located in a county that has one of the 25 highest rankings under G.S. 143B-437.08 or that has a population of less than 50,000 and more than nineteen percent



(19%) of its population below the federal poverty level according to the most recent federal decennial census.

- (4) The Department may authorize a local government that receives funds under this section to use up to two percent (2%) of the funds, if necessary, to verify that the funds are used only in accordance with law and to otherwise administer the grant or loan.
- (5) No project subject to the Environmental Policy Act, Article 1 of Chapter 113A of the General Statutes, shall be funded unless the Secretary of Commerce finds that the proposed project will not have a significant adverse effect on the environment. The Secretary of Commerce shall not make this finding unless the Secretary has first received a certification from the Department of Environment and Natural Resources that concludes, after consideration of avoidance and mitigation measures, that the proposed project will not have a significant adverse effect on the environment.
- (6) The funds shall not be used for any nonmanufacturing project that does not meet the wage standard set out in G.S. 105-129.4(b)."

SECTION 1.(b) G.S. 143B-437.01(a1) reads as rewritten:

"(a1) Definitions. – The following definitions apply in this section:

- (1) Air courier services. – Defined in G.S. 105-129.81.
- (2) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.
- (2a) Company headquarters. – Defined in G.S. 105-129.81.
- (3) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.
- (4) Economically distressed county. – A county that ~~has one of the 65 highest rankings~~ is defined as a tier one or tier two county under G.S. 143B-437.08 after the adjustments of that section are applied.
- (5) Eligible industry. – A company headquarters or a person engaged in the business of air courier services, information technology and services, manufacturing, or warehousing and wholesale trade.
- (6) Information technology and services. – Defined in G.S. 105-129.81.
- (7) Major economic dislocation. – The actual or imminent loss of 500 or more manufacturing jobs in the county or of a number of manufacturing jobs equal to at least ten percent (10%) of the existing manufacturing workforce in the county.
- (8) Manufacturing. – Defined in G.S. 105-129.81.
- (9) Reserved.
- (10) Warehousing. – Defined in G.S. 105-129.81.
- (11) Wholesale trade. – Defined in G.S. 105-129.81."

SECTION 1.(c) G.S. 143B-437.01(b1) reads as rewritten:

"(b1) Utility Account. – There is created within the Industrial Development Fund a special account to be known as the Utility Account to provide funds to assist the local government units of the counties that ~~have one of the 65 highest rankings~~ are defined as a tier one or tier two county under G.S. 143B-437.08 after the adjustments of that section are applied in creating jobs in eligible industries. The Department of Commerce shall adopt rules providing for the administration of the program. Except as otherwise provided in this subsection, those rules shall be consistent with the rules adopted with respect to the Industrial Development Fund. The rules shall provide that the funds in the Utility Account may be used only for construction of or improvements to new or existing water, sewer, gas, telecommunications, high-speed broadband, electrical utility distribution lines or equipment, or transportation infrastructure for existing or new or proposed industrial buildings to be used for eligible industrial operations. To be eligible for funding, the water, sewer, gas, telecommunications, high-speed broadband, electrical utility lines or facilities, or transportation infrastructure shall

be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific industrial activity. There shall be no maximum funding amount per new job to be created or per project."

SECTION 2.(a) G.S. 150B-1(d) reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

- (1) The Commission.
- (2) Repealed by Session Laws 2000-189, s. 14, effective July 1, 2000.
- (3) Repealed by Session Laws 2001-474, s. 34, effective November 29, 2001.
- (4) The Department of Revenue, with respect to the notice and hearing requirements contained in Part 2 of Article 2A.
- (5) The North Carolina Global TransPark Authority with respect to the acquisition, construction, operation, or use, including fees or charges, of any portion of a cargo airport complex.
- (6) The Department of Correction, with respect to matters relating solely to persons in its custody or under its supervision, including prisoners, probationers, and parolees.
- (7) The State Health Plan for Teachers and State Employees in administering the provisions of Article 3A of Chapter 135 of the General Statutes.
- (8) The North Carolina Federal Tax Reform Allocation Committee, with respect to the adoption of the annual qualified allocation plan required by 26 U.S.C. § 42(m), and any agency designated by the Committee to the extent necessary to administer the annual qualified allocation plan.
- (9) The Department of Health and Human Services in adopting new or amending existing medical coverage policies under the State Medicaid Program.
- (10) The Economic Investment Committee in developing criteria for the Job Development Investment Grant Program under Part 2F of Article 10 of Chapter 143B of the General Statutes.
- (11) The North Carolina State Ports Authority with respect to fees established pursuant to G.S. 143B-454(a)(11).
- (12) The Department of Commerce and the Economic Investment Committee in developing criteria and administering the Site Infrastructure Development Program under G.S. 143B-437.02.
- (13) The Department of Commerce and the Governor's Office in developing guidelines for the One North Carolina Fund under Part 2H of Article 10 of Chapter 143B of the General Statutes.
- (14) The Community Colleges System Office in developing guidelines for the Community College Facilities and Equipment Fund.
- (15) The Department of Commerce in developing guidelines for the North Carolina Economic Development Reserve.
- (16) The State Ethics Commission with respect to Chapter 138A and Chapter 120C of the General Statutes.
- (17) The Department of Commerce in developing guidelines for the NC Green Business Fund under Part 2B of Article 10 of Chapter 143B of the General Statutes.
- (18) The Department of Commerce and the Economic Investment Committee in developing criteria and administering the Job Maintenance and Capital Development Fund under G.S. 143B-437.012.

- (19) The Community Colleges System Office in developing criteria and guidelines administering the Customized Training Program under G.S. 115D-5.1."

SECTION 2.(b) G.S. 115D-5.1 reads as rewritten:

"§ 115D-5.1. Workforce Development Programs.

...
(f1) Notwithstanding any other provision of law, the State Board of Community Colleges may adopt ~~rules and~~ guidelines that allow the Customized Training Program and the Focused Industrial Training Program to use funds appropriated for those programs to support training projects for the various branches of the United States Armed Forces.

...
(g) The State Board shall adopt ~~rules and policies~~guidelines to implement this section. At least 20 days before the effective date of any criteria or nontechnical amendments to guidelines, the State Board must publish the proposed guidelines on the Community Colleges System Office's web site and provide notice to persons who have requested notice of proposed guidelines. In addition, the State Board must accept oral and written comments on the proposed guidelines during the 15 business days beginning on the first day that the State Board has completed these notifications. For the purpose of this subsection, a technical amendment is either of the following:

- (1) An amendment that corrects a spelling or grammatical error.
- (2) An amendment that makes a clarification based on public comment and could have been anticipated by the public notice that immediately preceded the public comment."

SECTION 3.(a) G.S. 153A-312 reads as rewritten:

"§ 153A-312. Definition of research and production service district.

(a) Standards. – The board of commissioners may by resolution establish a research and production service district for any area of the county that, at the time the resolution is adopted, meets the following standards:

- (1) All (i) real property in the district is being used for or is subject to covenants that limit its use to research or scientifically-oriented production or for associated commercial or institutional ~~purposes-~~purposes or (ii) if all the real property in the district is part of a multijurisdictional industrial park that satisfies the criteria of G.S. 143B-437.08(h), all such real property in the district is subject to covenants that limit its use to research or scientifically oriented production, associated commercial or institutional purposes, or other industrial and associated commercial and institutional uses.
- (2) The district (i) contains at least 4,000 ~~acres-~~acres or (ii) satisfies the criteria of G.S. 143B-437.08(h).
- (3) The district (i) includes research and production facilities that in combination employ at least 5,000 ~~persons-~~persons or (ii) satisfies the criteria of G.S. 143B-437.08(h).
- (4) All real property located in the district was at one time or is currently owned by a nonprofit corporation, which developed or is developing the property as a research and production park.
- (5) A petition requesting creation of the district signed by at least fifty percent (50%) of the owners of real property in the district who own at least fifty percent (50%) of total area of the real property in the district has been presented to the board of commissioners. In determining the total area of real property in the district and the number of owners of real property, there shall be excluded (1) real property exempted from taxation and real property

classified and excluded from taxation and (2) the owners of such exempted or classified and excluded property.

- (6) The district has no more than 25 permanent residents.
- (7) There exists in the district an association of owners and tenants, to which at least seventy-five percent (75%) of the owners of real property belong, which association can make the recommendations provided for in G.S. 153A-313. This subdivision shall not apply to a research and production service district that satisfies the criteria of G.S. 143B-437.08(h).
- (8) There ~~exist~~ exists, or will exist when conveyed by the nonprofit corporation described in subdivision (4) of this subsection, deed-imposed conditions, covenants, restrictions, and reservations that apply to all real property in the district other than property owned by the federal government.
- (9) No part of the district lies within the boundaries of any incorporated city or town.

The Board of Commissioners may establish a research and production service district if, upon the information and evidence it receives, the Board finds that:

- (1) The proposed district meets the standards set forth in this subsection; and
- (2) It is impossible or impracticable to provide on a countywide basis the additional or higher levels of services, facilities, or functions proposed for the district; and
- (3) It is economically feasible to provide the proposed services, facilities, or functions to the district without unreasonable or burdensome tax levies.

(b) Multi-County Districts. – If an area that meets the standards for creation of a research and production service district lies in more than one county, the boards of commissioners of those counties may adopt concurrent resolutions establishing a service district, even if that portion of the district lying in any one of the counties does not by itself meet the standards. Each of the county boards of commissioners shall follow the procedure set out in this section for creation of a service district.

If a multi-county service district is established, as provided in this subsection, the boards of commissioners of the counties involved shall jointly determine whether the same appraisal and assessment standards apply uniformly throughout the district. This determination shall be set out in concurrent resolutions of the boards. If the same appraisal and assessment standards apply uniformly throughout the district, the boards of commissioners of all the counties shall levy the same rate of tax for the district, so that a uniform rate of tax is levied for district purposes throughout the district. If the boards determine that the same standards do not apply uniformly throughout the district, the boards shall agree on the extent of divergence between the counties and on the resulting adjustments of tax rates that will be necessary in order that an effectively uniform rate of tax is levied for district purposes throughout the district.

The boards of commissioners of the counties establishing a multi-county service district pursuant to this subsection may, by concurrent resolution, provide for the administration of services within the district by one ~~county~~ or more counties on behalf of all the establishing counties.

(c) Report. – Before the public hearing required by subsection (d), the board of commissioners shall cause to be prepared a report containing:

- (1) A map of the proposed district, showing its proposed boundaries;
- (2) A statement showing that the proposed district meets the standards set out in subsection (a); and
- (3) A plan for providing one or more services, facilities, or functions to the district.

The report shall be available for public inspection in the office of the clerk to the board for at least four weeks before the date of the public hearing.

(d) **Hearing and Notice.** – The board of commissioners shall hold a public hearing before adopting any resolution defining a service district under this section. Notice of the hearing shall state the date, hour, and place of the hearing and its subject, and shall include a map of the proposed district and a statement that the report required by subsection (c) is available for public inspection in the office of the clerk to the board. The notice shall be published at least once not less than one week before the date of the hearing. In addition, it shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail which is fully prepaid to the owners as shown by the county tax records as of the preceding January 1 (and at the address shown thereon) of all property located within the proposed district. The person designated by the board to mail the notice shall certify to the board that the mailing has been completed and his certificate is conclusive in the absence of fraud.

(e) **Effective Date.** – The resolution defining a service district shall take effect at the beginning of a fiscal year commencing after its passage, as determined by the board of commissioners."

SECTION 3.(b) G.S. 153A-313 reads as rewritten:

"§ 153A-313. Advisory committee.

(a) The board or boards of commissioners, in the resolution establishing a research and production service district, shall also provide for an advisory committee for the district. Such a committee shall have at least 10 members, serving terms as set forth in the resolution; one member shall be the representative of the developer of the research and production park. The resolution shall provide for the appointment or designation of a chairman. The board of commissioners or, in the case of a multi-county service district, the boards of commissioners shall appoint the members of the advisory committee. If a multi-county service district is established, the concurrent resolutions establishing the district shall provide how many members of the advisory committee are to be appointed by each board of commissioners. Before making the appointments, the appropriate board shall request the association of owners and tenants, required by G.S. 153A-312(a), to submit a list of persons to be considered for appointment to the committee; the association shall submit at least two names for each appointment to be made. Except as provided in the next two sentences, the board of commissioners shall make the appointments to the committee from the list of persons submitted. In addition, the developer of the research and production park shall appoint one person to the advisory committee as the developer's representative on the committee. In addition, in a single county service district, the board of commissioners may make two additional appointments of such other persons as the board of commissioners deems appropriate, and in a multi-county service district, each board of county commissioners may make one additional appointment of such other person as that board of commissioners deems appropriate. Whenever a vacancy occurs on the committee in a position filled by appointment by a board of commissioners, the appropriate board, before filling the vacancy, shall request the association to submit the names of at least two persons to be considered for the vacancy; and the board shall fill the vacancy by appointing one of the persons so submitted, except that if the vacancy is in a position appointed by the board of commissioners under the preceding sentence of this section, the board of commissioners making that appointment shall fill the vacancy with such person as that board of commissioners deems appropriate.

Each year, before adopting the budget for the service district and levying the tax for the district, the board or boards of commissioners shall request recommendations from the advisory committee as to the level of services, facilities, or functions to be provided for the district for the ensuing year. The board or boards of commissioners shall, to the extent permitted by law, expend the proceeds of any tax levied for the district in the manner recommended by the advisory board.

(b) In the event that the research and production service district satisfies the criteria of G.S. 143B-437.08(h), the board of directors for the nonprofit corporation which owns the

industrial park shall serve as the advisory committee described in subsection (a) of this section."

SECTION 3.(c) G.S. 153A-317 reads as rewritten:

"§ 153A-317. Taxes authorized; rate limitation.

A county may levy property taxes within a research and production service district in addition to those levied throughout the county, in order to finance, provide, or maintain for the district services provided therein in addition to or to a greater extent than those financed, provided, or maintained for the entire county. In addition, a county may allocate to a service district any other revenues whose use is not otherwise restricted by law. The proceeds of taxes only within a service district may be expended only for services provided for the district.

Property subject to taxation in a newly established district or in an area annexed to an existing district is that subject to taxation by the county as of the preceding January 1.

Such additional property taxes may not be levied within any district established pursuant to this Article in excess of a rate of ten cents (10¢) on each one hundred dollars (\$100.00) value of property subject to ~~taxation~~ taxation or, in the event that the research and production service district satisfies the criteria of G.S. 143B-437.08(h), such additional property taxes may not be levied within said district in excess of a rate of fifteen cents (15¢) on each one hundred dollars (\$100.00) value of property subject to taxation."

SECTION 4. This act is effective when it becomes law. Subsections (b) and (c) of Section 1 of this act expire July 1, 2012.

In the General Assembly read three times and ratified this the 6th day of August, 2009.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 3:35 p.m. this 26th day of August, 2009