

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 198
Second Edition Engrossed 4/5/89

Short Title: Modify Jobs Tax Credit.

(Public)

Sponsors: Representatives Lineberry; Hasty and Bowman.

Referred to: Commerce.

February 13, 1989

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CHANGES TO THE TAX CREDIT FOR
CREATING JOBS IN SEVERELY DISTRESSED COUNTIES.

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.

(a) Credit. A corporation that (i) for at least 40 weeks during the year has at least nine ~~employees,~~ employees and (ii) is located, for part or all of its taxable year, in a severely distressed county ~~county,~~ and (iii) ~~is eligible as provided in subsection (b),~~ may qualify for a credit against the tax imposed by this Division by creating new full-time jobs with the corporation 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 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 if (i) at least fifty percent (50%) of the employee's duties are performed in the county, or (ii) the employee is a resident of the county. 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 ~~The North Carolina Employment Security Commission shall determine the number
7 of new full-time jobs eligible for the credit allowed by this section by comparing the
8 average number of full-time employees reported by the corporation on the quarterly
9 wage reports submitted to the Commission during the year with the number reported the
10 previous year, and shall provide that information to the Secretary of Revenue annually
11 for each employer eligible under subsection (b) of this section.~~

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

15 ~~(b) Eligibility. A corporation is eligible for the credit allowed by this section
16 only if it engages in manufacturing, agribusiness, processing, warehousing, wholesaling,
17 retailing, research and development, or a service-related industry, as determined by the
18 Employment Security Commission.~~

19 (c) County Designation. A severely distressed county is a county designated
20 as such by the Secretary of the Department of Commerce. Each year, on or before
21 December 31, the Secretary of the Department of Commerce shall designate which
22 counties are considered severely distressed, and shall provide that information to the
23 Secretary of Revenue. A county is considered severely distressed if its distress factor is
24 one of the twenty highest in the State. ~~State and it has an unemployment rate of seven
25 percent (7%) or more.~~ The Secretary shall assign to each county in the State a distress
26 factor which is the sum of (1) the county's rank in a ranking of counties by rate of
27 unemployment from lowest to highest and (2) the county's rank in a ranking of counties
28 by per capita income from highest to lowest. In measuring rates of unemployment and
29 per capita income, the Secretary shall use data from the North Carolina Employment
30 Security Commission and the United States Department of Commerce for the most
31 recent thirty-six month period for which data is available. A designation as a severely
32 distressed county is effective only for the calendar year following the designation.

33 (d) Planned Expansion. A corporation that, during the year in which a county is
34 designated as a severely distressed county, signs a letter of commitment with the
35 Department of Commerce to create at least twenty new full-time jobs in that distressed
36 county within two years of the date the letter is signed qualifies for the credit allowed by
37 this section even though the employees are not hired that year. The credit shall be
38 available in the income year after at least twenty employees have been hired if such
39 hirings are within the two-year commitment period. The conditions outlined in
40 subsection (a) apply to a credit taken under this subsection except that if the county is
41 no longer designated a severely distressed county after the year the letter of
42 commitment was signed, the credit is still available. If the corporation does not hire the
43 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, except tax payments made by or on behalf of the
13 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) shall maintain and make available for inspection by the Secretary of Revenue or his
17 agent such records as may be necessary to determine and verify the amount of the credit
18 to which it is entitled. The burden of proving eligibility for the credit and the amount of
19 the credit shall rest upon the corporation, and no credit shall be allowed to a corporation
20 that fails to maintain adequate records or to make them available for inspection."

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

22 "**§ 105-151.17. Credit for creating jobs in severely distressed county.**

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

1 ~~The North Carolina Employment Security Commission shall determine the number~~
2 ~~of new full-time jobs eligible for the credit allowed by this section by comparing the~~
3 ~~average number of full-time employees reported by the taxpayer on the quarterly wage~~
4 ~~reports submitted to the Commission during the year with the number reported the~~
5 ~~previous year, and shall provide that information to the Secretary of Revenue annually~~
6 ~~for each employer eligible under subsection (b) of this section.~~

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

10 ~~(b) Eligibility.—A taxpayer is eligible for the credit allowed by this subsection~~
11 ~~only if he owns a business that engages in manufacturing, agribusiness, processing,~~
12 ~~warehousing, wholesaling, retailing, research and development, or a service-related~~
13 ~~industry, as determined by the Employment Security Commission.~~

14 (c) County Designation. — A severely distressed county is a county designated
15 as such by the Secretary of the Department of Commerce. Each year, on or before
16 December 31, the Secretary of the Department of Commerce shall designate which
17 counties are considered severely distressed, and shall provide that information to the
18 Secretary of Revenue. A county is considered severely distressed if its distress factor is
19 one of the twenty highest in the State. ~~State and it has an unemployment rate of seven~~
20 ~~percent (7%) or more.—The Secretary shall assign to each county in the State a distress~~
21 ~~factor which is the sum of (1) the county's rank in a ranking of counties by rate of~~
22 ~~unemployment from lowest to highest and (2) the county's rank in a ranking of counties~~
23 ~~by per capita income from highest to lowest. In measuring rates of unemployment and~~
24 ~~per capita income, the Secretary shall use data from the North Carolina Employment~~
25 ~~Security Commission and the United States Department of Commerce for the most~~
26 ~~recent thirty-six month period for which data is available. A designation as a severely~~
27 ~~distressed county is effective only for the calendar year following the designation.~~

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

41 (e) Limitations. — The sale, merger, acquisition, or bankruptcy of a business, or
42 any other transaction by which an existing business reformulates itself as another
43 business, does not create new eligibility in a succeeding business with respect to jobs
44 for which the predecessor was not eligible under this section. A taxpayer may,

1 however, take any installment of or carried-over portion of a credit that his predecessor
2 could have taken if he had taxable income. Jobs transferred from one county in the State
3 to another county in the State shall not be considered new jobs for purposes of this
4 section. A credit taken under this section may not exceed fifty percent (50%) of the tax
5 imposed by this Division for the taxable year, reduced by the sum of all other credits
6 allowed under this Division, except tax payments made by or on behalf of the taxpayer.
7 Any unused portion of the credit may be carried forward for the succeeding five years.

8 (f) Substantiation. Every person claiming the credit provided in subsection (a)
9 shall maintain and make available for inspection by the Secretary of Revenue or his
10 agent such records as may be necessary to determine and verify the amount of the credit
11 to which the person is entitled. The burden of proving eligibility for the credit and the
12 amount of the credit shall rest upon the person, and no credit shall be allowed to any
13 person who fails to maintain adequate records or to make them available for
14 inspection."

15 Sec. 3. This act shall become effective for taxable years beginning on or after
16 January 1, 1989.