

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 84

Short Title: Extend Jobs Tax Credit.

(Public)

Sponsors: Representatives Mitchell; Allred, Berry, Buchanan, Hill, McComas, and McCombs.

Referred to: Finance.

February 1, 1995

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE JOBS TAX CREDIT TO APPLY TO JOBS CREATED IN ANY COUNTY.

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-jobs.

(a) Credit. – A corporation that ~~(i) for at least 40 weeks during the taxable year has at least nine employees and (ii) is located, for part or all of its taxable year, in a severely distressed county~~ may qualify for a credit against the tax imposed by this Division by creating new full-time jobs with the corporation in this State ~~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 this State ~~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 this State ~~the county, this State,~~ if (i) at least fifty percent (50%) of the employee's duties are performed in the county, this State, or (ii) the employee is a resident of the county, this State. 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

1 employees the corporation had upon hiring the employee that caused the corporation to
2 qualify for the credit. If, in one of the four years in which the installment of a credit
3 accrues, the number of the corporation's full-time employees falls below the number of
4 full-time employees the company had in the year in which the corporation qualified for
5 the credit or the position filled by the employee is ~~moved to another county, no longer~~
6 ~~located in this State,~~ the credit expires and the corporation may not take any remaining
7 installment of the credit. The corporation may, however, take the portion of an
8 installment that accrued in a previous year and was carried forward to the extent
9 permitted under subsection (e) of this section.

10 For the purposes of this section, a full-time job is a position that requires at least 1,600
11 hours of work per 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 (b) Repealed by Session Laws 1989, c. 111, s. 1.

14 (b1) Eligibility. – A corporation is eligible for the tax credit allowed by this section
15 only if it obtained a credit under this section for taxable year 1988 or the Department of
16 Commerce determines that it engages in the manufacturing of goods, or that it engages in
17 an industrial activity such as the processing of foods, raw materials, chemicals and
18 process agents, goods in process, or finished products.

19 (e) ~~County Designation.~~— ~~A severely distressed county is a county designated as~~
20 ~~severely distressed by the Secretary of Commerce. Each year, on or before December 31,~~
21 ~~the Secretary of Commerce shall designate which counties are considered severely~~
22 ~~distressed, and shall provide that information to the Secretary of Revenue. A county is~~
23 ~~considered severely distressed if its distress factor is one of the fifty highest in the State.~~
24 ~~The Secretary shall assign to each county in the State a distress factor that is the sum of~~
25 ~~the following:~~

- 26 (1) ~~The county's rank in a ranking of counties by rate of unemployment~~
27 ~~from lowest to highest.~~
- 28 (2) ~~The county's rank in a ranking of counties by per capita income from~~
29 ~~highest to lowest.~~
- 30 (3) ~~The county's rank in a ranking of counties by percentage growth in~~
31 ~~population from lowest to highest.~~

32 ~~In measuring rates of unemployment and per capita income, the Secretary shall use~~
33 ~~the latest available data published by a State or federal agency generally recognized as~~
34 ~~having expertise concerning the data. In measuring population growth, the Secretary~~
35 ~~shall use the most recent estimates of population certified by the State Planning Officer.~~
36 ~~A designation as a severely distressed county is effective only for the calendar year~~
37 ~~following the designation.~~

38 (d) ~~Planned Expansion.~~— ~~A corporation that, during the year in which a county is~~
39 ~~designated as a severely distressed county, signs a letter of commitment with the~~
40 ~~Department of Commerce to create at least twenty new full-time jobs in that distressed~~
41 ~~county within two years of the date the letter is signed qualifies for the credit allowed by~~
42 ~~this section even though the employees are not hired that year. The credit shall be~~
43 ~~available in the income year after at least twenty employees have been hired if such~~

1 hirings are within the two year commitment period. The conditions outlined in
2 subsection (a) apply to a credit taken under this subsection except that if the county is no
3 longer designated a severely distressed county after the year the letter of commitment
4 was signed, the credit is still available. If the corporation does not hire the employees
5 within the two year period, the corporation does not qualify for the credit. However, if
6 the corporation qualifies for a credit under subsection (a) in the year any new employees
7 are hired, it may take the credit under that subsection.

8 (e) Limitations. – The sale, merger, acquisition, or bankruptcy of a business, or
9 any other transaction by which an existing business reformulates itself as another
10 business, does not create new eligibility in a succeeding business with respect to jobs for
11 which the predecessor was not eligible under this section. A successor corporation may,
12 however, take any installment of or carried-over portion of a credit that its predecessor
13 could have taken if it had taxable income. Jobs transferred from one county in the State
14 to another county in the State shall not be considered new jobs for purposes of this
15 section. A credit taken under this section may not exceed fifty percent (50%) of the tax
16 imposed by this Division for the taxable year, reduced by the sum of all other credits
17 ~~allowed under this Division, allowed,~~ except tax payments made by or on behalf of the
18 corporation. Any unused portion of the credit may be carried forward for the succeeding
19 five years.

20 (f) Substantiation. – Every corporation claiming the credit provided in ~~subsection~~
21 ~~(a) this section~~ shall maintain and make available for inspection by the Secretary of
22 Revenue or his agent such ~~any~~ records as ~~may be~~ the Secretary considers necessary to
23 determine and verify the amount of the credit to which it is entitled. The burden of
24 proving eligibility for the credit and the amount of the credit shall rest upon the
25 corporation, and no credit shall be allowed to a corporation that fails to maintain adequate
26 records or to make them available for inspection."

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

28 **"§ 105-151.17. Credit for creating jobs in severely distressed county. ~~jobs.~~**

29 (a) Credit. – A person who ~~(i)~~ for at least 40 weeks during the taxable year has
30 at least nine employees and ~~(ii) whose business is located, for part or all of his taxable year, in~~
31 ~~a severely distressed county~~ may qualify for a credit against the tax imposed by this
32 Division by creating new full-time jobs with the business in ~~the severely distressed county~~
33 this State during that year. A person who hires an additional full-time employee during
34 that year to fill a position located in ~~a severely distressed county~~ this State is allowed a
35 credit of two thousand eight hundred dollars (\$2,800) for the additional employee. A
36 position is located in ~~a county~~ this State if (i) at least fifty percent (50%) of the employee's
37 duties are performed in ~~the county,~~ this State, or (ii) the employee is a resident of ~~the~~
38 ~~county.~~ this State. The credit may not be taken in the income year in which the additional
39 employee is hired. Instead, the credit shall be taken in equal installments over the four
40 years following the income year in which the additional employee was hired and shall be
41 conditioned on the continued employment by the taxpayer of the number of full-time
42 employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify
43 for the credit. If, in one of the four years in which the installment of a credit accrues, the

1 number of the taxpayer's full-time employees falls below the number of full-time
2 employees the taxpayer had in the year in which the taxpayer qualified for the credit or
3 the position filled by the employee is ~~moved to another county, no longer located in this~~
4 State, the credit expires and the taxpayer may not take any remaining installment of the
5 credit. The taxpayer may, however, take the portion of an installment that accrued in a
6 previous year and was carried forward to the extent permitted under subsection (e) of this
7 section.

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

11 (b) Repealed by Session Laws 1989, c. 111, s. 2.

12 (b1) Eligibility. – A taxpayer is eligible for the tax credit allowed by this section
13 only if the taxpayer obtained a credit under this section for taxable year 1988 or the
14 Department of Commerce determines that the taxpayer engages in the manufacturing of
15 goods, or that he engages in an industrial activity such as the processing of foods, raw
16 materials, chemicals and process agents, goods in process, or of finished products.

17 ~~(e) County Designation. – A severely distressed county is a county designated as~~
18 ~~severely distressed by the Secretary of Commerce. Each year, on or before December 31,~~
19 ~~the Secretary of Commerce shall designate which counties are considered severely~~
20 ~~distressed, and shall provide that information to the Secretary of Revenue. A county is~~
21 ~~considered severely distressed if its distress factor is one of the fifty highest in the State.~~
22 ~~The Secretary shall assign to each county in the State a distress factor that is the sum of~~
23 ~~the following:~~

24 ~~(1) The county's rank in a ranking of counties by rate of unemployment~~
25 ~~from lowest to highest.~~

26 ~~(2) The county's rank in a ranking of counties by per capita income from~~
27 ~~highest to lowest.~~

28 ~~(3) The county's rank in a ranking of counties by percentage growth in~~
29 ~~population from lowest to highest.~~

30 ~~In measuring rates of unemployment and per capita income, the Secretary shall use~~
31 ~~the latest available data published by a State or federal agency generally recognized as~~
32 ~~having expertise concerning the data. In measuring population growth, the Secretary~~
33 ~~shall use the most recent estimates of population certified by the State Planning Officer.~~
34 ~~A designation as a severely distressed county is effective only for the calendar year~~
35 ~~following the designation.~~

36 ~~(d) Planned Expansion. – A person who, during the year in which a county is~~
37 ~~designated as a severely distressed county, signs a letter of commitment with the~~
38 ~~Department of Commerce to create at least twenty new full-time jobs in that distressed~~
39 ~~county within two years of the date the letter is signed qualifies for the credit allowed by~~
40 ~~this section even though the employees are not hired that year. The credit shall be~~
41 ~~available in the income year after at least twenty employees have been hired if such~~
42 ~~hirings are within the two-year commitment period. The conditions outlined in~~
43 ~~subsection (a) apply to a credit taken under this subsection, except that if the county is no~~

1 longer designated a severely distressed county after the year the letter of commitment
2 was signed, the credit is still available. If the taxpayer does not hire the employees within
3 the two year period, he does not qualify for the credit. However, if the taxpayer qualifies
4 for a credit under subsection (a) in the year any new employees are hired, he may take the
5 credit under that subsection.

6 (e) Limitations. – The sale, merger, acquisition, or bankruptcy of a business, or
7 any other transaction by which an existing business reformulates itself as another
8 business, does not create new eligibility in a succeeding business with respect to jobs for
9 which the predecessor was not eligible under this section. A taxpayer may, however,
10 take any installment of or carried-over portion of a credit that his predecessor could have
11 taken if he had taxable income. Jobs transferred from one county in the State to another
12 county in the State shall not be considered new jobs for purposes of this section. A credit
13 taken under this section may not exceed fifty percent (50%) of the tax imposed by this
14 Division for the taxable year, reduced by the sum of all other credits ~~allowed under this~~
15 Division, allowed, except tax payments made by or on behalf of the taxpayer. Any
16 unused portion of the credit may be carried forward for the succeeding five years.

17 (f) Substantiation. – Every person claiming the credit provided in ~~subsection (a)~~
18 this section shall maintain and make available for inspection by the Secretary of Revenue
19 ~~or his agent such~~ any records as may be the Secretary considers necessary to determine and
20 verify the amount of the credit to which the person is entitled. The burden of proving
21 eligibility for the credit and the amount of the credit shall rest upon the person, and no
22 credit shall be allowed to any person who fails to maintain adequate records or to make
23 them available for inspection."

24 Sec. 3. G.S. 143B-437A reads as rewritten:

25 "**§ 143B-437A. Industrial Development Fund.**

26 (a) There is created in the Department of Commerce the Industrial Development
27 Fund to provide funds to assist the local government units of the most economically
28 ~~depressed-distressed~~ counties in the State in creating jobs in qualified industries. As used
29 in this section, the term 'qualified industry' means the manufacturing of goods or the
30 processing of foods, raw materials, chemicals and process agents, goods in process, or
31 finished products. The Department of Commerce shall adopt rules providing for the
32 administration of the program. Those rules shall include the following:

- 33 (1) The funds shall be used for (i) installation of or purchases of equipment
34 for qualified industries, (ii) structural repairs, improvements, or
35 renovations of existing buildings to be used for expansion of qualified
36 industries, or (iii) construction of or improvements to new or existing
37 water, sewer, gas, or electrical utility distribution lines or equipment for
38 existing or new or proposed industrial buildings to be used for qualified
39 industrial operations, ~~or (iv) in the case of counties designated as severely~~
40 ~~distressed counties under G.S. 105-130.40(c) or G.S. 105-151.17(c) or units of~~
41 ~~local government within those counties, construction of or improvement to~~
42 ~~new or existing water, sewer, gas, or electrical utility distribution lines or~~
43 ~~equipment to serve new or proposed industrial buildings to be used for~~

1 ~~qualified industrial operations~~operations. To be eligible for funding, the
2 water, sewer, gas, or electrical utility lines or facilities shall be located
3 on the site of the building or, if not located on the site, shall be directly
4 related to the operation of the specific qualified industrial activity.
5 However, the Secretary of Commerce may use up to one hundred
6 thousand dollars (\$100,000) to provide emergency economic
7 development assistance in any county which is documented to be
8 experiencing a major economic dislocation.

9 (2) The funds shall be used by the city and county governments for projects
10 that will directly result in the creation of new jobs. The funds shall be
11 expended at a rate of two thousand four hundred dollars (\$2,400) per
12 new job created up to a maximum of two hundred fifty thousand dollars
13 (\$250,000) per project.

14 (b) Each year, on or before December 31, the Secretary of Commerce shall
15 designate the most economically distressed counties in the State; this designation shall
16 remain effective for the following calendar year. The Secretary of Commerce shall
17 determine which counties are the most economically distressed counties in the State
18 based on (i) rate of unemployment, (ii) per capita income, and (iii) relative population
19 and work force growth or lack of growth, as determined by the Secretary of Commerce.

20 (c) The Department of Commerce shall report annually to the General Assembly
21 concerning the applications made to the fund and the payments made from the fund and
22 the impact of the payments on job creation in the State. The Department of Commerce
23 shall also report quarterly to the Joint Legislative Commission on Governmental
24 Operations and the Fiscal Research Division on the use of the moneys in the fund,
25 including information regarding to whom payments were made, in what amounts, and for
26 what purposes.

27 (d) As used in this section, 'major economic dislocation' means the actual or
28 imminent loss of:

29 (1) 500 or more manufacturing jobs in the county; or

30 (2) A number of manufacturing jobs which is equal to or more than ten
31 percent (10%) of the existing manufacturing workforce in the county."

32 Sec. 4. G.S. 153A-376(f) reads as rewritten:

33 "(f) All program income from Economic Development Grants from the Small
34 Cities Community Development Block Grant Program may be retained by recipient
35 ~~'severely' economically distressed counties~~, as designated under G.S. ~~105-130.40(c), 143B-~~
36 ~~437A~~, for the purposes of creating local economic development revolving loan funds.
37 Such program income derived through the use by counties of Small Cities Community
38 Development Block Grant money includes but is not limited to: (i) payment of principal
39 and interest on loans made by the county using Community Development Block Grant
40 Funds; (ii) proceeds from the lease or disposition of real property acquired with
41 Community Development Block Grant Funds; and (iii) any late fees associated with loan
42 or lease payments in (i) and (ii) above. The local economic development revolving loan
43 fund set up by the county shall fund only those activities eligible under Title I of the

1 federal Housing and Community Development Act of 1974, as amended (P.L. 93-383),
2 and shall meet at least one of the three national objectives of the Housing and
3 Community Development Act. Any expiration of G.S. ~~105-130.40(e)~~-143B-437A shall
4 not affect this subsection as to designations of ~~severely~~-economically distressed counties
5 made prior to its expiration."

6 Sec. 5. G.S. 160A-456(e1) reads as rewritten:

7 "(e1) All program income from Economic Development Grants from the Small
8 Cities Community Development Block Grant Program may be retained by recipient cities
9 in '~~severely~~-economically distressed counties', as designated under G.S. ~~105-130.40(e)~~,
10 143B-437A, for the purposes of creating local economic development revolving loan
11 funds. Such program income derived through the use by cities of Small Cities
12 Community Development Block Grant money includes but is not limited to: (i) payment
13 of principal and interest on loans made by the county using Community Development
14 Block Grant Funds; (ii) proceeds from the lease or disposition of real property acquired
15 with Community Development Block Grant Funds; and (iii) any late fees associated with
16 loan or lease payments in (i) and (ii) above. The local economic development revolving
17 loan fund set up by the city shall fund only those activities eligible under Title I of the
18 federal Housing and Community Development Act of 1974, as amended (P.L. 93-383),
19 and shall meet at least one of the three national objectives of the Housing and
20 Community Development Act. Any expiration of G.S. ~~105-130.40(e)~~-143B-437A shall
21 not affect this subsection as to designations of ~~severely~~-economically distressed counties
22 made prior to its expiration."

23 Sec. 6. This act is effective for taxable years beginning on or after January 1,
24 1995.