May 17, 2006

H 2170. BILL LEE CHANGES. Filed 5/17/06. *TO REPLACE THE TAX CREDITS GENERALLY AVAILABLE UNDER THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT WITH MORE NARROWLY FOCUSED CREDITS FOR JOB CREATION AND BUSINESS INVESTMENT*. Enacts new GS 105-129.70 through GS 105-129-79; and GS 143B-437.08 to create a new package of state economic development tax incentives that will replace the Bill Lee Act for most affected taxpayers. Repeals the Bill Lee Act. Effective January 1, 2007, and set to expire January 1, 2011, the new provisions change the method for determining county tier designations, expand the types of businesses qualified to receive tax credits, replace state development zones with urban progress zones, and provide for studies of the equity implications and impact of tax incentive programs. Appropriates $120,000 from the General Fund to the Department of Revenue for 2006-07 and $40,000 from the General Fund to the Department of Commerce to administer the new law. Makes other conforming changes.

Method for Determining Tier Designations. Enacts GS 143B-437.08 to require the Department of Commerce (DOC), by November 30 of each year, to assign a tier designation of one, two, or three to each of the 100 counties in the state based on the following factors: unemployment, median household income, percentage population growth, and per capita adjusted assessed property value. The 40 counties with the highest ranking would be designated as development tier one, the next 40 highest counties would be designated as development tier two, and the remaining counties would be designated as development tier three. Mandates that, irrespective of actual rankings based on the development factors, counties with populations of less than 12,000 be included with the 40 highest rankings counties and counties with populations of less than 50,000 be included with the 80 highest rankings counties. Also mandates that a county designated as a tier one county must be included in the counties with the 40 highest rankings for at least two years. In comparison, the Bill Lee Act requires county designation by December 31; allows for five tiers; ranks counties based on unemployment, average per capita income, and percentage growth in population; and does not fix the number of counties in each tier.

Urban Progress Zones. Enacts GS 143B-437.09 to define an "urban progress" (UP) zone as an area completely within the corporate limits of a municipality with a population of at least 10,000, in which (1) every census tract and block group has greater than a 20 percent poverty level, (2) at least 75 percent of its area is zoned commercial and industrial and is adjacent to a 20 percent poverty census tract or block group, (3) the area zoned as commercial and industrial does not exceed 35 percent of the total area of the zone, and (4) the combined area of all zones does not exceed 10 percent of the total area of the municipality. Urban Progress Zones will replace state development zones.

Eligible Businesses. New GS 105-129.73 sets the primary activity of a particular establishment as the single, business-type eligibility criterion for the credit. Under the Bill Lee Act, eligibility depends on several factors including the primary business of the taxpayer as a whole, the primary activity of the particular establishment, the location of the establishment, and the number of new jobs created. The new provisions make motorsports facilities and motorsports racing teams eligible for credits. (They are not currently eligible under the Bill Lee Act). Also, the new provisions make a larger group of manufacturers, warehousers, wholesale traders, electronic mail order houses, and customer service centers eligible for credits than are currently eligible under the Bill Lee Act. Finally, the provisions restrict credits for central administrative office facilities to those facilities that are corporate headquarters and replaces credits for data processing and computer services with credits for information technology and services. Requires an establishment to create at least 75 new jobs within a 12-month period in order for its corporate headquarters to qualify for credits.

Wage Standard. New GS 105-129.73 provides that a taxpayer is eligible for a credit only if the jobs provided by the taxpayer meet a wage standard. As with the Bill Lee Act, no wage standard applies in tier one areas. For development tiers two and three, the jobs provided by the taxpayer would be required to pay at least the lower of 95% of the average county wage or 110% of the average State wage. Under the Bill Lee Act, for enterprise tier areas three through five, the jobs provided by the taxpayer must pay at least 110% of the applicable average weekly wage. The applicable average weekly wage of the county is the lowest of the following: the average weekly wage for all insured private employers in the county, the average weekly wage for all insured private employers in the State, and the average weekly wage for all insured private employers in the county multiplied by the county income/wage adjustment factor. For activities that occur in UP zones, the wage standard is lower than for activities that occur in development tiers two and three outside of UP zones. For UP zones, the wage standard is 95% of the lesser of the average county wage and the average State wage. Under the Bill Lee Act, there is no wage standard for activities occurring in development zones.

Part-time jobs are not included in the calculation of the wage standard. (Bill Lee Act includes part-time jobs in the calculation).

Other Eligibility Provisions. Permits a taxpayer to sign a letter of commitment with DOC in which the taxpayer commits to undertake an expansion within two years. The taxpayer may then qualify for the credit based on the tier designation or urban progress zone designation in the year in which the letter of commitment is signed. The health insurance, environmental impact, safety and health programs, overdue tax debts, expiration and forfeiture provisions remain essentially the same as under the Bill Lee Act.

Tax Election. GS 105-129.74 permits the credit to be taken against the franchise tax, income tax, or gross premiums tax, or a combination of all three. (Under Bill Lee, the taxpayer had to elect one tax against which to take the credit). Restricts the total amount of credits to 50% of the cumulative amount of the taxpayer’s liability for franchise, income, and gross premium taxes.

Specific Credits. New GS 105-129.77 and 105-129.78 calculate in different ways the credit for creating jobs and the credit for investing in business property. For the job creation credit, the average weekly wage of the jobs for which the credit is claimed and the average weekly wage of all jobs at the establishment with respect to which the credit are required to meet the relevant wage standard. For the credit for investing in business property, the average weekly wage of all jobs at the establishment with respect to which the credit is claimed is required to meet the relevant wage standard.

Regarding the credit for creating jobs, GS 105-129.77 requires taxpayers to meet a job creation threshold (5-25) based on the development tier designation of the location where the jobs were created. (Bill Lee Act had no threshold). Similarly, the credit for investing in machinery and equipment under new GS 105-129.78 includes differing thresholds than those under the Bill Lee Act. The existing Bill Lee Act credit allows a taxpayer to satisfy the threshold requirement over a two-year period when property is being phased in over two years, whereas the proposed new credit would require the threshold requirement to be satisfied in each year. Further, the definition of "business property" under GS 105-129.78 is broader than the definition of "machinery and equipment" under the existing credit. Finally, the credit for substantial investment in real property under new GS 105-129.79 allows unused portions of a credit for investing in real property to be carried forward for 15 years, (20 years under Bill Lee Act).

Expiring credits. The Bill Lee Act contains five credits that do not have a counterpart in this bill. Those credits are: (1) *GS 105-129.9A. Technology commercialization credit*; (2) *GS 105-129.11. Credit for worker training;* (3) *GS 105-129.12 Credit for investing in central office or aircraft facility property*; and (4) *GS 105-129.13. Credit for donations to a development zone agency.*

Intro. by Harrell, Daughtridge, Gibson, Owens. GS 19A, 105, 106, 143B, 146, 153A, 158, 160A, APPROP

June 20, 2006

H 2170. BILL LEE CHANGES. Filed 5/17/06. House committee substitute makes the following changes to 1st edition. Adds definition of “long-term unemployed worker” in proposed GS 105-129.70 and provides that the jobs tax credit in proposed 105-129.77 is increased by $2,000 if a job located in an urban progress zone is filled by a long-term unemployed worker. Modifies proposed GS 105-129.73 to (1) increase from 12 to 24 months the period of time within which a company headquarters must create 75 jobs in order to be eligible for a tax credit; (2) decrease one factor in the wage standard formula from 95% to 90% of average county wages; (3) specify that the environmental impact standard applies only at the establishment with respect to which a credit is claimed; and (4) make technical and clarifying changes in subsection (h).

Modifies credits for activities in tier-three counties by (1) reducing the jobs credit amount from $1,000 to $750 and reducing the jobs threshold amount from 25 to 15 in proposed GS 105-129.77 and (2) reducing the business property investment credit percentage from 4% to 3.5% and reducing the investment threshold amount from $4 million to $2 million in proposed GS 105-129.78. Provides that the business property investment threshold in proposed GS 105-129.78(c) may be considered over a two-year period for property placed in service over the course of two taxable years.

Makes it easier to qualify for extra tax benefits as a multi-jurisdictional industrial park in proposed GS 143B-437.08(h) by (1) reducing from four to three the minimum number of counties that must be involved; (2) reducing from two to one the minimum number of these counties that must have a tier one designation; and (3) reducing from 300 to 250 acres the minimum size of the industrial park. Modifies the urban progress zone law in proposed GS 143B-437.09 by (1) retroactive to 2004, including an economic development and training district as defined in GS 153A-317.12; (2) relaxing the requirement relating to how much of the zone must be zoned commercial in subdivision (a)(2)b.; and (3) specifying the information that must be included in an application for designation as a zone in subsection (c).

Enacts new GS 105-129.2A(a4) to extend the proposed sunset of the existing Bill Lee Act from 2007 to 2008 for taxpayers that sign a letter of commitment to undertake activities that would otherwise qualify for Bill Lee Act credits. Modifies the definitions and standards for ranking counties for economic development benefits in GS 143B-437.01 (Industrial Development Fund), 143B-437.04 (community development block grants), 143B-437.56(d) (JDIG grants), and 113A-252 (Clean Water Management Trust Fund). Makes technical and clarifying changes in proposed GS 105-129.74(c), 105-129.75, and 143B-437.08(b)(4), (e), and (f).

July 6, 2006

H 2170. BILL LEE CHANGES. Filed 5/17/06. House committee substitute makes the following changes to 2nd edition. Modifies proposed GS 105-129.83 to provide that jobs located in an agrarian growth zone, but not in a development tier one area, are subject to the same wage standard and planned expansion provisions as those in urban progress zones. Also modifies GS 105-129.87and 105-129.88 to provide that jobs created in an agrarian growth zone are to be treated as if they were created in an urban progress zone. Modifies proposed GS 143A-437.09 to delete “economic development and training districts” from the definition of “urban progress zones.” Defines “agrarian growth zones” as one or more contiguous census tracts, census block groups, or both in which (1) all land within the zone is located in a county that has no municipality with a population in excess of 10,000; (2) every census tract and census block group in the zone has a poverty level that exceeds 20%; and (3) the area of the zone minus the smallest census tract included does not exceed 5% of the total area of the county. Limits each county to one agrarian growth zone. Requires the Secretary of Commerce to make a written determination in response to a county’s application for a designation of an agrarian growth zone. Deletes appropriation and amendment to GS 105-129.3A in the previous edition. New sections 2.22-2.24 amend the Tax Credit for Revitalization of Historic Mill Facilities as enacted in SL 2006-40. These sections (1) amend GS 105-129.70 to include development tier areas and delete the reference to enterprise tier areas and (2) amend GS 105-129.171(a) to provide that eligible sites in development one or two areas qualify for a credit equal to 40% of qualified rehabilitation expenditures and eligible sites located in development tier three areas may receive a credit equal to 30 % of the qualified rehabilitation expenditures. Under these new provisions, sites in enterprise four or five areas are not qualified for the credit. Further amends GS 105-164.3(8e) as enacted by the 2006 budget, to limit the tax exemption for internet data facilities to development tier one or two areas.

July 11, 2006

H 2170. BILL LEE CHANGES. Filed 5/17/06. House amendments make the following changes to 3rd edition. Amendment #1 revises proposed changes to the definition of eligible Internet data center in GS 105-164.3(8e) to allow the center to be located in either an area designated as development tier one or two under GS 143B-437.09 (Job Development Investment Grant program) or an area designated as an enterprise tier one, two, or three area under GS 105-129.3 (Bill Lee Act). Makes these changes effective when the bill becomes law. Amendment #1 also substitutes legalese for plain English in the exemption from retail sales and use tax in GS 105-164.13(55) for electricity used at eligible Internet data centers, effective October 1, 2006. Amendment # 1 makes enactment of the definition of NAICS in GS 105-164.3(23a) effective July 10, 2006, and makes other technical changes.

Amendment #2 amends GS 105-129.83(c) (environmental impact provisions) to clarify that the taxpayer must certify that, at the time it claims the tax credit available under the Bill Lee Act, it has no pending actions against it based on significant environmental violations. Previous version indicated that the taxpayer need certify only an absence of violations at the establishment for which the credit is claimed.

July 19, 2006

H 2170. BILL LEE CHANGES. Filed 5/17/06. Senate committee substitute makes the following changes to 4th edition. (1) Amends subsection (d) of proposed new GS 143B-437.08 (Development Tier Designation) deleting the requirement that the Secretary use county tax records to measure assessed property value. (2) Amends subsection (e) of proposed GS 143B-437.08 by adding provision requiring that any county having a population of less than 50,000 and more than 19% of its population below the federal poverty level be automatically ranked as one of the 40 highest counties. (3) Amends subsection (g)(3) of proposed new GS 143B-437.08 by adding alternatives to the third condition that a two-county industrial park must meet to qualify for the lowest development tier designation of the designations of the two counties. In the 4th edition, the third condition was that the industrial park be owned by the two counties or a joint agency of the two counties. Under the Senate committee substitute, the third condition would be met if the industrial park were owned by the two counties or a joint agency of the two counties, or were under the contractual control of designated agencies working on behalf of both counties, or were subject to a development agreement between both counties and third-party owners. (4) Adds new section 1.2A providing that for the 2007 taxable year, a development tier one area is a county whose annual ranking is one of the 41 highest in the state (was, 40). (5) Renumbers section 1.4 of the bill (providing effective dates for Part I of the Act) as section 1.5 and adds a new section 1.4 directing the Department of Commerce, in consultation with the North Carolina Rural Center and lower-tiered counties, to develop additional strategies to enhance economic growth in enterprise tier one areas and to report to the Joint Legislation Economic Development Oversight Committee by January 1, 2007. (6) Also makes stylistic change of “any” for “either” in proposed new GS 105-129.83(j).

July 20, 2006

H 2170. BILL LEE CHANGES. Filed 5/17/06. Senate amendment makes the following changes to 5th edition. Makes conforming changes to reflect the potential amendments to GS 143B-437.56(d) and GS 105-164.3(8e) in House Bill 2744 (ratified and presented to the Governor 7/19/06).

August 22, 2006

SL 2006-252 (H 2170). BILL LEE CHANGES. *AN ACT TO REPLACE THE TAX CREDITS GENERALLY AVAILABLE UNDER THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT WITH MORE NARROWLY FOCUSED CREDITS FOR JOB CREATION AND BUSINESS INVESTMENT.* Summarized in *Daily Bulletin* 5/17/06, 6/20/06, 7/6/06, 7/11/06, 7/19/06, and 7/20/06. Enacted August 17, 2006. Effective August 17, 2006, except as otherwise provided.