

May 17, 2010

S 1171. KEEPING NC COMPETITIVE ACT. Filed 5/17/10. *TO MODIFY AND CLARIFY ELIGIBILITY FOR JOB CREATION TO KEEP NORTH CAROLINA COMPETITIVE.*

Amends GS 105-164.3 to provide further siting details to the definition of *Datacenter*, and to provide additional criteria for designating a facility as an *Eligible Internet datacenter*. Amends GS 105-164.14(j) to make a facility eligible for an annual refund of sales and use taxes under the subsection, if the facility primarily performs paper-from-pulp manufacturing, creates at least 200 additional jobs, and pays an average weekly wage equal to or greater than the average wage in the county. Adds (1) paper-from-pulp manufacturing and (2) turbine and turbine generator set units manufacturing facilities to the list of industries allowed an annual refund of sales and use taxes under the subsection. Provides that a facility owner loses eligibility and must forfeit all refunds if the facility fails to maintain the required number of created jobs. Makes conforming changes. Effective July 1, 2010 for sales made on or after that date.

Intro. by Clodfelter.

GS 105

May 26, 2010

S 1171. KEEPING NC COMPETITIVE ACT. Filed 5/17/10. Senate committee substitute makes the following changes to 1st edition. Eliminates changes to definition of *datacenter* in GS 105-164.3(5c). Amends definition of *eligible Internet datacenter* in GS 105-164.3 to be a facility used by a business engaged primarily in certain software publishing or Internet activity. Makes corresponding changes to provisions for the exemption of sales taxes on electricity for use at an eligible Internet datacenter in GS 105-164.13(55). Rewrites GS 105-187.50 to eliminate different definition of eligible datacenter. Adds requirements in GS 105-187.51C for the levying of privilege license taxes on datacenter machinery and equipment instead of certain sales taxes including investments of at least \$225 million in five years and certain wage and health insurance standards; extends sunset date for that section from 2013 to 2015. Creates separate requirements for the privilege license taxation in lieu of certain sales taxes on a second datacenter under common ownership including investments of at least \$75 million over five years and fiber optic connections between the two datacenters. Changes title to *AN ACT TO MODIFY ELIGIBILITY FOR ECONOMIC INCENTIVE SALES AND USE TAX EXEMPTIONS AND REFUNDS AND FOR ELIGIBILITY FOR THE ONE PERCENT PRIVILEGE TAX ON DATACENTER MACHINERY AND EQUIPMENT.*

June 1, 2010

S 1171. KEEPING NC COMPETITIVE ACT. Filed 5/17/10. Senate amendment makes the following changes to 2nd edition. Amends GS 105-187.51C to remove datacenter services software from the list of uses for which a privilege tax is imposed on a datacenter owner purchasing machinery or equipment used at the datacenter that is capitalized for tax purposes and is used for specified functions. Also provides that the tax does not apply to equipment and machinery of an eligible internet datacenter that is exempt from sales tax under GS 105-164.13(55) (exemption from sales tax for sales of electricity for use at an eligible internet data center and eligible business property to be located and used at an eligible internet data center).

July 6, 2010

S 1171. KEEPING NC COMPETITIVE ACT. Filed 5/17/10. House committee substitute makes the following changes to 3rd edition.

Amends GS 105-187.51C(a)(1), effective January 1, 2010, to exclude software for distributed and mainframe computers and servers from the privilege tax imposed on a datacenter owner meeting specified requirements.

Amends GS 105-187.51C to require that datacenter facilities located in a development tier one area have an investment of private funds within five years of the first property investment of at least \$150 million and that datacenter facilities located in a development tier two area or a development tier three area have an investment of private funds of at least \$225 million.

Amends GS 143B-437.59 to authorize the Economic Investment Committee (Committee) to withhold grant payments if a business fails to comply with any condition of the agreement. Determines the withholding of grant payments by the Committee based on whether the business is still within the base period established by the Committee but not the final year of the base period, or within the final year of the base period. Provides criteria under which the Committee may extend the base period but prohibits the Committee from extending the base period by more than a total of 48 months under any circumstances. Prohibits the term of the grant from being extended beyond the date set by the Committee at the time the Committee awarded the grant.

Amends the title to reflect the bill content. Makes changes to style and punctuation.

July 7, 2010

S 1171. KEEPING NC COMPETITIVE ACT. Filed 5/17/10. Senate amendment makes the following changes to 4th edition. Amends GS 143B-437.59(b) as follows. Amends the provision governing circumstances in which the business fails to maintain employment at the levels stipulated in the agreement or otherwise fails to comply with the conditions of the agreement for two consecutive years and the business is within the base period but not the final year of the base period to remove the provision prohibiting the Economic Investment Committee (Committee) from extending the base period by more than a total of 24 months and prohibiting the grant from being extended beyond the date set by the Committee at the time the grant was awarded. Further amends the subsection to provide that for businesses in the final year of the base period, the options available to the Committee include extending the base period for up to 24 additional months, if the business has created *and maintained* (was, only created) fewer than 1,000 jobs pursuant to the agreement. Adds that the changes made in the act to GS 143B-437.59 expire on January 1, 2013.

July 8, 2010

S 1171. KEEPING NC COMPETITIVE ACT. Filed 5/17/10. House amendment makes the following changes to 4th edition, as amended.

Amends GS 105-187.51C to add a new subsection (a3) providing a *contractor option*. Provides that a contractor or subcontractor subject to this subsection may elect to pay tax on purchases of datacenter machinery and equipment as described in subsection (a) of GS 105-187.51C at the rate set in this section instead of the rate set in Article 5 of GS Chapter 105. Requires the contractor or subcontractor to register with the Secretary of Commerce to make payment of tax under this section. Provides that this section applies to (1) contractors that purchase machinery and equipment for use in the performance of a contract with the owner of a datacenter that is subject to the tax under this section and (2) subcontractors that purchase machinery and equipment for use in the performance of a contract with a general contractor who has a contract with the owner of a datacenter that is subject to tax under this section.

Amends GS 143B-437.59(b) to clarify that the Economic Investment Committee (Committee) must take one of the listed actions in subsection (b) if a business fails to maintain employment at the levels stipulated in the agreement or otherwise fails to comply with any condition of the agreement for two years consecutively. Requires the Committee to withhold the grant payment for any consecutive year after the second consecutive year remaining in the base period in which the business fails to comply with any condition of the agreement, providing that the business is still within the base period established by the Committee in at least one of the two consecutive years in which the business does not comply with any condition in the agreement (was, provided options predicated on the business being within the base period but not the final year of the base period, and for when the business was in the final year of the base period). Allows an extension of up to 24 or 48 additional months depending on the number of jobs created and maintained by the business. Specifies that the act applies to all agreements entered on or entered into after the date that the act becomes law.

July 14, 2010

SL 2010-91 (S 1171). KEEPING NC COMPETITIVE ACT. AN ACT TO MODIFY ELIGIBILITY FOR ECONOMIC INCENTIVE SALES AND USE TAX EXEMPTIONS AND REFUNDS; TO MODIFY ELIGIBILITY FOR THE ONE PERCENT PRIVILEGE TAX ON DATACENTER MACHINERY AND EQUIPMENT; AND TO MODIFY THE CIRCUMSTANCES UNDER WHICH THE DEPARTMENT OF COMMERCE MAY EXTEND THE BASE PERIOD FOR A JDIG GRANT. Summarized in *Daily Bulletin* 5/17/10, 5/26/10, 6/1/10, 7/6/10, 7/7/10, and 7/8/10. Enacted July 11, 2010. Section 6 is effective January 1, 2010. Section 8 is effective July 11, 2010. The remainder is effective July 1, 2010.