

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 957

Short Title: Food Desert Zones. (Public)

Sponsors: Representatives Holley, Starnes, R. Moore, and Setzer (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Commerce and Job Development, if favorable, Finance.

April 18, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE TAX INCENTIVES TO ENCOURAGE THE DELIVERY AND
3 AVAILABILITY OF NUTRIENT DENSE FOODS IN FOOD DESERT ZONES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Part 2 of Article 10 of Chapter 143B of the General Statutes is
6 amended by adding a new section to read:

7 "**§ 143B-437.014. Food desert zone designation.**

8 (a) Definitions. – The following definitions apply in this section and to food desert
9 zones:

10 (1) Food desert zone. – A food desert zone is a census tract that has been
11 identified by the Economic Research Service of the United States
12 Department of Agriculture as meeting each of the following criteria:

13 a. The tract has a poverty rate of twenty percent (20%) or greater or has
14 a median family income at or below eighty percent (80%) of the
15 median family income for the State.

16 b. The tract has at least 500 persons or at least thirty-three percent
17 (33%) of the population who live more than one mile from a grocery
18 store or healthy, affordable food retail outlet store for a metropolitan
19 area or more than 10 miles from a grocery store or healthy,
20 affordable food retail outlet store for a nonmetropolitan area.

21 (2) Nutrient dense food. – A food that has high levels of nutrients in relationship
22 to the number of calories the food contains. The term includes fresh
23 vegetables and fruits, whole grains, nuts, seeds, beans and legumes, and
24 low-fat dairy products.

25 (b) Designation. – Upon application of a county, the Secretary of Commerce shall make
26 a written determination whether an area is a food desert zone that satisfies the conditions of
27 subsection (a) of this section. The application shall include all of the information listed in this
28 subsection. A determination under this section is effective until December 31 of the year 10
29 years following the year in which the determination is made. The Department of Commerce
30 shall publish annually a list of all food desert zones with a description of their boundaries.

31 (1) A map showing the census tracts and block groups that would comprise the
32 zone.

33 (2) A detailed description of the boundaries of the area that would comprise the
34 zone.

35 (3) Detailed census information on the county and the proposed zone.



(4) A resolution of the board of county commissioners requesting the designation of the area as a food desert zone.

(5) Any other material required by the Secretary of Commerce."

SECTION 2. G.S. 105-129.81 is amended by adding new subdivisions to read:

"§ 105-129.81. Definitions.

The following definitions apply in this Article:

...
(10a) Food desert zone. – Defined in G.S. 143B-437.014.

...
(19a) Nutrient dense food. – Defined in G.S. 143B-437.014.

...."

SECTION 3. G.S. 105-129.83 reads as rewritten:

"§ 105-129.83. Eligibility; forfeiture.

(a1) Retail Eligibility. – Notwithstanding the business eligibility requirements of subsection (a) of this section, a taxpayer engaged in the retail sale of food is eligible for a credit under this Article if the taxpayer is located in a food desert zone and the taxpayer's gross receipts from the sale of nutrient dense foods is at least ten percent (10%) of the taxpayer's total gross receipts.

...
(l) Planned Expansion. – A taxpayer that signs a letter of commitment with the Department of Commerce, after the Department has calculated the development tier designations for the next year but before the beginning of that year, to undertake specific activities at a specific site within the next two years may calculate the credit for which it qualifies based on the establishment's development tier designation and urban progress zone, food desert zone, port enhancement zone, or agrarian growth zone designation in the year in which the letter of commitment was signed by the taxpayer. If the taxpayer does not engage in the activities within the two-year period, the taxpayer does not qualify for the credit; however, if the taxpayer later engages in the activities, the taxpayer qualifies for the credit based on the development tier and urban progress zone, food desert zone, port enhancement zone, or agrarian growth zone designations in effect at that time.

...."

SECTION 4. G.S. 105-129.87 reads as rewritten:

"§ 105-129.87. Credit for creating jobs.

(a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-129.83 and satisfies the threshold requirement for new job creation in this State under subsection (b) of this section during the taxable year is allowed a credit for creating jobs. The amount of the credit for each new job created is set out in the table below and is based on the development tier designation of the county in which the job is located. If the job is located in a food desert zone, the credit is equal to the credit for a development tier one area. If the job is located in an urban progress zone, a port enhancement zone, or an agrarian growth zone, the amount of the credit is increased by one thousand dollars (\$1,000) per job. In addition, if a job located in an urban progress zone, a port enhancement zone, or an agrarian growth zone is filled by a resident of that zone or by a long-term unemployed worker, the amount of the credit is increased by an additional two thousand dollars (\$2,000) per job.

Area Development Tier	Amount of Credit
Tier One	\$12,500
Tier Two	5,000
Tier Three	750

(b) Threshold. – The applicable threshold is the appropriate amount set out in the following table based on the development tier designation of the county where the new jobs are created during the taxable year. If the taxpayer creates new jobs at more than one eligible

1 establishment in a county during the taxable year, the threshold applies to the aggregate number
 2 of new jobs created at all eligible establishments within the county during that year. If the
 3 taxpayer creates new jobs at eligible establishments in different counties during the taxable
 4 year, the threshold applies separately to the aggregate number of new jobs created at eligible
 5 establishments in each county. If the taxpayer creates new jobs in an urban progress zone, a
 6 food desert zone, a port enhancement zone, or an agrarian growth zone, the applicable
 7 threshold is the one for a development tier one area. New jobs created in an urban progress
 8 zone, a food desert zone, a port enhancement zone, or an agrarian growth zone are not
 9 aggregated with jobs created at any other eligible establishments regardless of county.

Area Development Tier	Threshold
Tier One	5
Tier Two	10
Tier Three	15

14 (c) Calculation. – A job is located in a county, an urban progress zone, a port
 15 enhancement zone, a food desert zone, or an agrarian growth zone if more than fifty percent
 16 (50%) of the employee's duties are performed in the county or the zone. The number of new
 17 jobs a taxpayer creates during the taxable year is determined by subtracting the average number
 18 of full-time employees the taxpayer had in this State during the 12-month period preceding the
 19 beginning of the taxable year from the average number of full-time employees the taxpayer has
 20 in this State during the taxable year.

21 ...

22 (e) Transferred Jobs. – Jobs transferred from one area in the State to another area in the
 23 State are not considered new jobs for purposes of this section. Jobs that were located in this
 24 State and that are transferred to the taxpayer from a related member of the taxpayer are not
 25 considered new jobs for purposes of this section. If, in one of the four years in which the
 26 installment of a credit accrues, the job with respect to which the credit was claimed is moved to
 27 an area in a higher-numbered development tier or out of an urban progress zone, a food desert
 28 zone, a port enhancement zone, or an agrarian growth zone, the remaining installments of the
 29 credit are allowed only to the extent they would have been allowed if the job was initially
 30 created in the area to which it was moved. If, in one of the years in which the installment of a
 31 credit accrues, the job with respect to which the credit was claimed is moved to an area in a
 32 lower-numbered development tier or an urban progress zone, a food desert zone, a port
 33 enhancement zone, or an agrarian growth zone, the remaining installments of the credit shall be
 34 calculated as if the job had been created initially in the area to which it was moved.

35"

36 **SECTION 5.** G.S. 105-129.88 reads as rewritten:

37 **"§ 105-129.88. Credit for investing in business property.**

38 (a) General Credit. – A taxpayer that meets the eligibility requirements set out in
 39 G.S. 105-129.83 and that has purchased or leased business property and placed it in service in
 40 this State during the taxable year and that has satisfied the threshold requirements of subsection
 41 (c) of this section is allowed a credit equal to the applicable percentage of the excess of the
 42 eligible investment amount over the applicable threshold. If the taxpayer places business
 43 property in service in an urban progress zone, a food desert zone, a port enhancement zone, or
 44 an agrarian growth zone, the applicable percentage is the one for a development tier one area.
 45 Business property is eligible if it is not leased to another party. The credit may not be taken for
 46 the taxable year in which the business property is placed in service but shall be taken in equal
 47 installments over the four years following the taxable year in which it is placed in service. The
 48 applicable percentage is as follows:

Area Development Tier	Applicable Percentage
Tier One	7%
Tier Two	5%

1 Tier Three 3.5%

2

3 (c) Threshold. – The applicable threshold is the appropriate amount set out in the
 4 following table based on the development tier where the eligible business property is placed in
 5 service during the taxable year. If the taxpayer places business property in service in an urban
 6 progress zone, a food desert zone, a port enhancement zone, or an agrarian growth zone, the
 7 applicable threshold is the one for a development tier one area. Business property placed in
 8 service in an urban progress zone, a food desert zone, a port enhancement zone, or an agrarian
 9 growth zone is not aggregated with business property placed in service at any other eligible
 10 establishments regardless of county. If the taxpayer places eligible business property in service
 11 at more than one establishment in a county during the taxable year, the threshold applies to the
 12 aggregate amount of eligible business property placed in service during the taxable year at all
 13 establishments in the county. If the taxpayer places eligible business property in service at
 14 establishments in different counties, the threshold applies separately to the aggregate amount of
 15 eligible business property placed in service in each county. If the taxpayer places eligible
 16 business property in service at an establishment over the course of a two-year period, the
 17 applicable threshold for the second taxable year is reduced by the eligible investment amount
 18 for the previous taxable year.

Area Development Tier	Threshold
Tier One	\$ -0-
Tier Two	1,000,000
Tier Three	2,000,000

23

24 (e) Transferred Property. – If, in one of the four years in which the installment of a
 25 credit accrues, the business property with respect to which the credit was claimed is moved to a
 26 county in a higher-numbered development tier or out of an urban progress zone, a food desert
 27 zone, a port enhancement zone, or an agrarian growth zone, the remaining installments of the
 28 credit are allowed only to the extent they would have been allowed if the business property had
 29 been placed in service initially in the area to which it was moved. If, in one of the four years in
 30 which the installment of a credit accrues, the business property with respect to which a credit
 31 was claimed is moved to a county in a lower-numbered development tier or an urban progress
 32 zone, a food desert zone, a port enhancement zone, or an agrarian growth zone, the remaining
 33 installments of the credit shall be calculated as if the business property had been placed in
 34 service initially in the area to which it was moved.

35"

36 **SECTION 6.** This act is effective for taxable years beginning on or after January 1,
 37 2013.