

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2025**

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SENATE BILL 664

Short Title: JMAC Compliance Flexibility. (Public)

Sponsors: Senators B. Newton and McInnis (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 26, 2025

A BILL TO BE ENTITLED
AN ACT TO ALLOW FLEXIBILITY IN THE EVENT OF NONCOMPLIANCE WITH A
JMAC AGREEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-437.012 reads as rewritten:

"§ 143B-437.012. Job Maintenance and Capital Development Fund.

...

(d) Eligibility. – A business is eligible for consideration for a grant under this section if it satisfies the conditions of subdivision (1), (1a), (2), (2a), or (2b) of this subsection and satisfies subdivision (4) of this subsection:

(1) The business is a major employer. A business is a major employer if the business meets the following requirements:

a. The Department certifies that the business has invested or intends to invest at least two hundred million dollars (\$200,000,000) of private funds in improvements to real property and additions to tangible personal property in the project within a six-year period beginning with the time the investment commences.

b. The business employs at least 2,000 full-time employees or equivalent full-time contract employees at the project that is the subject of the grant at the time the application is made, and the business agrees to maintain at least 2,000 full-time employees or equivalent full-time contract employees at the project for the full term of the grant agreement.

c. The project is located in a development tier one area at the time the business applies for a grant.

(1a) The business previously received a grant as a major employer under this section and meets the following requirements:

a. The Department certifies that the business has invested or intends to invest at least one hundred fifty million dollars (\$150,000,000) of private funds in improvements to real property and additions to tangible personal property in the project within a six-year period beginning with the time the investment commences. Amounts certified as invested under sub-subdivision a. of subdivision (1) of this subsection shall not be included in the amount required by this sub-subdivision.



- 1 b. The business employs at least 2,000 full-time employees or equivalent
2 full-time contract employees at the project that is the subject of the
3 grant at the time the application is made and the business agrees to
4 maintain at least 2,000 full-time employees or equivalent full-time
5 contract employees at the project for the full term of the grant
6 agreement.
- 7 c. The project is at the same location as that for which a grant was
8 previously awarded under subdivision (1) of this subsection.
- 9 (2) The business is a large manufacturing employer. A business is a large
10 manufacturing employer if the business meets the following requirements:
- 11 a. The business is in manufacturing, as defined in G.S. 105-129.81, and
12 is converting its manufacturing process to change the product it
13 manufactures or is investing in its manufacturing process by
14 enhancing pollution controls or transitioning the manufacturing
15 process from using coal to using natural gas for the purpose of
16 becoming more energy efficient or reducing emissions.
- 17 b. The Department certifies that the business has invested or intends to
18 invest at least fifty million dollars (\$50,000,000) of private funds in
19 improvements to real property and additions to tangible personal
20 property in the project within a five-year period beginning with the
21 time the investment commences.
- 22 c. The business meets one of the following employment requirements:
- 23 1. If in a development tier one area, the business employs at least
24 320 full-time employees at the project that is the subject of the
25 grant at the time the application is made, and the business
26 agrees to maintain at least 320 full-time employees at the
27 project for the full term of the grant.
- 28 2. If in a development tier two area with a population of less than
29 60,000 as of July 1, 2013, the business employs at least 800
30 full-time employees or equivalent full-time contract employees
31 at the project that is the subject of the grant at the time the
32 application is made, and the business agrees to maintain at least
33 800 full-time employees or equivalent full-time contract
34 employees at the project for the full term of the grant.
- 35 (2a) The business is a heritage manufacturing employer. A business is a heritage
36 manufacturing employer if the business meets the following requirements:
- 37 a. The business is in manufacturing, as defined in G.S. 143B-437.01, and
38 has been operating in this State for over 100 years.
- 39 b. The Department certifies that the business has invested or intends to
40 invest at least three hundred twenty-five million dollars
41 (\$325,000,000) of private funds in improvements to real property and
42 additions to tangible personal property in the project within a four-year
43 period beginning with the time the investment commences.
- 44 c. The business employs at least 1,050 full-time employees or equivalent
45 full-time contract employees in the State at the time the application is
46 made and the business agrees to (i) maintain at least 1,050 full-time
47 employees or equivalent full-time contract employees in the State for
48 the full term of the grant and (ii) retrain and relocate to a development
49 tier two area at least 400 of those full-time employees or equivalent
50 full-time contract employees upon the commencement of commercial
51 production at its tier two area facility.

- 1 d. The business is operating in a development tier three area at the time
- 2 the business applies for a grant and the business is relocating to a
- 3 development tier two area with an estimated population of less than
- 4 63,000, according to the 2017 Certified County Population Estimates
- 5 published by the State Demographer's Office.
- 6 e. An agreement with a business under this subdivision may provide that
- 7 the grant paid out over the term of the agreement be in unequal annual
- 8 payments and in amounts deviating from the factors listed in
- 9 subsection (l) of this section for any individual annual payment,
- 10 provided the factors are considered in the aggregate award to be paid
- 11 to the business over the entire term of the agreement.
- 12 (2b) The business is a supply-chain-impact manufacturing employer. A business is
- 13 a supply-chain-impact manufacturing employer if the business meets the
- 14 following requirements:
- 15 a. The business is in manufacturing, as defined in G.S. 105-129.81,
- 16 manufactures a product used primarily and significantly in the
- 17 construction of residential and commercial buildings, and is investing
- 18 in its manufacturing process to transition away from utilizing
- 19 coal-based energy byproducts to other alternatives.
- 20 b. The Department certifies that the business has invested or intends to
- 21 invest at least one hundred ten million dollars (\$110,000,000) of
- 22 private funds in improvements to real property and additions to
- 23 tangible personal property in the project within a five-year period
- 24 beginning with the time the investment commences.
- 25 c. The business and its affiliated companies (i) employ at least 420
- 26 full-time employees or equivalent full-time contract employees in the
- 27 State at the time the application is made and (ii) agree to maintain at
- 28 least 420 full-time employees or equivalent full-time contract
- 29 employees in the State for the full term of the grant.
- 30 d. The business has operations in a development tier two area at the time
- 31 the business applies for a grant, and the business agrees to maintain or
- 32 increase the development tier two area operations for the term of the
- 33 agreement.
- 34 ...
- 35 (j) Agreement. – Unless the Secretary of Commerce determines that the project is no
- 36 longer eligible or appropriate for a grant under this section, the Department shall enter into an
- 37 agreement to provide a grant or grants for a project recommended by the Committee. Each grant
- 38 agreement (i) is binding and constitutes a continuing contractual obligation of the State and the
- 39 ~~business. The grant agreement business, (ii) shall include the performance criteria, remedies, and~~
- 40 ~~other safeguards recommended by the Committee or required by the Department.~~Department,
- 41 and (iii) shall contain the following provisions:
- 42 ~~Each grant agreement shall contain a~~
- 43 (1) A provision prohibiting a business from receiving a payment or other benefit
- 44 under the agreement at any time when the business has received a notice of an
- 45 overdue tax debt and the overdue tax debt has not been satisfied or otherwise
- 46 resolved.
- 47 (2) A provision requiring the business to maintain an employment level. For the
- 48 purposes of this subsection, the employment level includes full-time
- 49 employees and equivalent full-time contract employees. The applicable
- 50 employment level is as follows:

1 a. ~~Each grant~~ If the grant agreement is for a business that ~~is~~ has qualified
 2 as a major employer under ~~subdivision (1) of subsection (d) of this~~
 3 ~~section shall contain~~ section, a provision requiring the business to
 4 maintain the employment level at the project that is the subject of the
 5 agreement that is the lesser of the level it had at the time it applied for
 6 a grant under this section or that it had at the time that the investment
 7 required under subsection (d) of this section began. ~~For the purposes~~
 8 ~~of this subsection, the employment level includes full-time employees~~
 9 ~~and equivalent full-time contract employees. The agreement shall~~
 10 ~~further specify that the amount of a grant shall be reduced in~~
 11 ~~proportion to the extent the business fails to maintain employment at~~
 12 ~~this level and that the business shall not be eligible for a grant in any~~
 13 ~~year in which its employment level is less than eighty percent (80%)~~
 14 ~~of that required.~~ The provision shall further require, in the event the
 15 business fails to maintain the required level of employment by more
 16 than 100 employees, a one percent (1%) reduction of the grant for
 17 every one employee below that threshold.

18 b. ~~Each~~ If the grant agreement is for a business that ~~is~~ has not qualified
 19 as a major employer under ~~subdivision (1) of subsection (d) of this~~
 20 ~~section shall contain~~ section, a provision requiring the business to
 21 maintain the employment level required under that subdivision at the
 22 project that is the subject of the grant. ~~The agreement provision shall~~
 23 further specify that the business is not eligible for a grant in any year
 24 in which the business fails to maintain the employment level.

25 A grant agreement may obligate the State to make a series of grant payments over a period
 26 of up to 10 years. Nothing in this section constitutes or authorizes a guarantee or assumption by
 27 the State of any debt of any business or authorizes the taxing power or the full faith and credit of
 28 the State to be pledged.

29 The Department shall cooperate with the Attorney General's office in preparing the
 30 documentation for the grant agreement. The Attorney General shall review the terms of all
 31 proposed agreements to be entered into under this section. To be effective against the State, an
 32 agreement entered into under this section shall be signed personally by the Attorney General.

33 (k) Safeguards. – To ensure that public funds are used only to carry out the public
 34 purposes provided in this section, the Department shall require that each business that receives a
 35 grant under this section shall agree to meet performance criteria to protect the State's investment
 36 and ensure that the projected benefits of the project are secured. The performance criteria to be
 37 required shall include ~~maintenance of an appropriate level of employment at specified levels of~~
 38 ~~compensation, compensation for required levels of employment, maintenance of health insurance~~
 39 for all full-time employees, investment of a specified amount over the term of the agreement, and
 40 any other criteria the Department considers appropriate. The agreement shall require the business
 41 to repay or reimburse an appropriate portion of the grant based on the extent of any failure by the
 42 business to meet the performance criteria. The agreement shall require the business to repay all
 43 amounts received under the agreement and to forfeit any future grant payments if the business
 44 fails to satisfy the investment eligibility requirement of this section. The use of contract
 45 employees shall not be used to reduce compensation at the project that is the subject of the
 46 agreement.

47 "

48 **SECTION 2.** This act is effective when it becomes law.