

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 111
HOUSE BILL 198

AN ACT TO MAKE TECHNICAL CHANGES TO THE TAX CREDIT FOR
CREATING JOBS IN SEVERELY DISTRESSED COUNTIES.

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.

(a) Credit. A corporation that (i) for at least 40 weeks during the year has at least nine ~~employees,~~ employees and (ii) is located, for part or all of its taxable year, in a severely distressed county ~~county,~~ and (iii) ~~is eligible as provided in subsection (b),~~ may qualify for a credit against the tax imposed by this Division by creating new full-time jobs with the corporation 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 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 if (i) at least fifty percent (50%) of the employee's duties are performed in the county, or (ii) the employee is a resident of the county. 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 employees the corporation had upon hiring the employee that caused the corporation to qualify for the credit. If, in one of the four years in which the installment of a credit accrues, the number of the corporation's full-time employees falls below the number of full-time employees the company had in the year in which the corporation qualified for the credit or the position filled by the employee is moved to another county, the credit expires and the corporation may not take any remaining installment of the credit. The corporation may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under subsection (e) of this section.

~~The North Carolina Employment Security Commission shall determine the number of new full time jobs eligible for the credit allowed by this section by comparing the average number of full time employees reported by the corporation on the quarterly wage reports submitted to the Commission during the year with the number reported the previous year, and shall provide that information to the Secretary of Revenue annually for each employer eligible under subsection (b) of this section.~~

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

(b) ~~Eligibility. A corporation is eligible for the credit allowed by this section only if it engages in manufacturing, agribusiness, processing, warehousing, wholesaling, retailing, research and development, or a service-related industry, as determined by the Employment Security Commission.~~

(c) **County Designation.** A severely distressed county is a county designated as such by the Secretary of the Department of Commerce. Each year, on or before December 31, the Secretary of the Department of Commerce shall designate which counties are considered severely distressed, and shall provide that information to the Secretary of Revenue. A county is considered severely distressed if its distress factor is one of the twenty highest in the State. ~~State and it has an unemployment rate of seven percent (7%) or more.~~ The Secretary shall assign to each county in the State a distress factor which is the sum of (1) the county's rank in a ranking of counties by rate of unemployment from lowest to highest and (2) the county's rank in a ranking of counties by per capita income from highest to lowest. In measuring rates of unemployment and per capita income, the Secretary shall use data from the North Carolina Employment Security Commission and the United States Department of Commerce for the most recent thirty-six month period for which data is available. A designation as a severely distressed county is effective only for the calendar year following the designation.

(d) **Planned Expansion.** A corporation that, during the year in which a county is designated as a severely distressed county, signs a letter of commitment with the Department of Commerce to create at least twenty new full-time jobs in that distressed county within two years of the date the letter is signed qualifies for the credit allowed by this section even though the employees are not hired that year. The credit shall be available in the income year after at least twenty employees have been hired if such hirings are within the two-year commitment period. The conditions outlined in subsection (a) apply to a credit taken under this subsection except that if the county is no longer designated a severely distressed county after the year the letter of commitment was signed, the credit is still available. If the corporation does not hire the employees within the two-year period, the corporation does not qualify for the credit. However, if the corporation qualifies for a credit under subsection (a) in the year any new employees are hired, it may take the credit under that subsection.

(e) **Limitations.** The sale, merger, acquisition, or bankruptcy of a business, or any other transaction by which an existing business reformulates itself as another business, does not create new eligibility in a succeeding business with respect to jobs for which the predecessor was not eligible under this section. A successor corporation may, however, take any installment of or carried-over portion of a credit that its predecessor could have taken if it had taxable income. Jobs transferred from one county in the State to another county in the State shall not be considered new jobs for purposes of this section. A credit taken under this section may not exceed fifty percent (50%) of the tax imposed by this Division for the taxable year, reduced by the sum of all other

credits allowed under this Division, except tax payments made by or on behalf of the corporation. Any unused portion of the credit may be carried forward for the succeeding five years.

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

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

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

(a) Credit. – A person who (i) for at least 40 weeks during the year has at least nine ~~employees,~~ employees and (ii) whose business is located, for part or all of his taxable year, in a severely distressed county ~~county,~~ and (iii) ~~who is eligible as provided in subsection (b)~~ may qualify for a credit against the tax imposed by this Division by creating new full-time jobs with the business in the severely distressed county during that year. A person who hires an additional full-time employee during that year to fill a position located in 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 if (i) at least fifty percent (50%) of the employee's duties are performed in the county, or (ii) the employee is a resident of the county. 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 taxpayer of the number of full-time employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify for the credit. If, in one of the four years in which the installment of a credit accrues, the number of the taxpayer's full-time employees falls below the number of full-time employees the taxpayer had in the year in which the taxpayer qualified for the credit or the position filled by the employee is moved to another county, the credit expires and the taxpayer may not take any remaining installment of the credit. The taxpayer may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under subsection (e) of this section.

~~The North Carolina Employment Security Commission shall determine the number of new full-time jobs eligible for the credit allowed by this section by comparing the average number of full-time employees reported by the taxpayer on the quarterly wage reports submitted to the Commission during the year with the number reported the previous year, and shall provide that information to the Secretary of Revenue annually for each employer eligible under subsection (b) of this section.~~

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

~~(b) Eligibility. — A taxpayer is eligible for the credit allowed by this subsection only if he owns a business that engages in manufacturing, agribusiness, processing,~~

~~warehousing, wholesaling, retailing, research and development, or a service related industry, as determined by the Employment Security Commission.~~

(c) County Designation. – A severely distressed county is a county designated as such by the Secretary of the Department of Commerce. Each year, on or before December 31, the Secretary of the Department of Commerce shall designate which counties are considered severely distressed, and shall provide that information to the Secretary of Revenue. A county is considered severely distressed if its distress factor is one of the twenty highest in the State. ~~State and it has an unemployment rate of seven percent (7%) or more.~~–The Secretary shall assign to each county in the State a distress factor which is the sum of (1) the county's rank in a ranking of counties by rate of unemployment from lowest to highest and (2) the county's rank in a ranking of counties by per capita income from highest to lowest. In measuring rates of unemployment and per capita income, the Secretary shall use data from the North Carolina Employment Security Commission and the United States Department of Commerce for the most recent thirty-six month period for which data is available. A designation as a severely distressed county is effective only for the calendar year following the designation.

(d) Planned Expansion. – A person who, during the year in which a county is designated as a severely distressed county, signs a letter of commitment with the Department of Commerce to create at least twenty new full-time jobs in that distressed county within two years of the date the letter is signed qualifies for the credit allowed by this section even though the employees are not hired that year. The credit shall be available in the income year after at least twenty employees have been hired if such hirings are within the two-year commitment period. The conditions outlined in subsection (a) apply to a credit taken under this subsection, except that if the county is no longer designated a severely distressed county after the year the letter of commitment was signed, the credit is still available. If the taxpayer does not hire the employees within the two-year period, he does not qualify for the credit. However, if the taxpayer qualifies for a credit under subsection (a) in the year any new employees are hired, he may take the credit under that subsection.

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

(f) Substantiation. Every person claiming the credit provided in subsection (a) shall maintain and make available for inspection by the Secretary of Revenue or his agent such records as may be necessary to determine and verify the amount of the credit to which the person is entitled. The burden of proving eligibility for the credit and the

amount of the credit shall rest upon the person, and no credit shall be allowed to any person who fails to maintain adequate records or to make them available for inspection."

Sec. 3. This act shall become effective for taxable years beginning on or after January 1, 1989.

In the General Assembly read three times and ratified this the 17th day of May, 1989.