

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 376

Short Title: Expand Jobs Tax Credit/AB.

(Public)

Sponsors: Senator Kerr.

Referred to: Finance

March 14, 1995

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE JOBS TAX CREDIT TO PROVIDE CREDITS FOR MORE DISTRESSED AREAS.

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-area.

(a) Credit. – A corporation that ~~(i) for at least 40 weeks during the year has at least nine employees and (ii) is located, for part or all of its taxable year, in a severely distressed county~~ has nine or more employees for at least 40 weeks during its income year may qualify for a credit against the tax imposed by this Division by creating new full-time jobs with the corporation in the severely a distressed county-area 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-area is allowed a credit of two thousand eight hundred dollars (\$2,800) for the additional employee-employee if the position is located in a tier one distressed area and is allowed a credit of one thousand dollars (\$1,000) for the additional employee if the position is located in a tier two distressed area.

A position is located in a county-an area if (i) at least fifty percent (50%) of the employee's duties are performed in the county, or (ii)-area or the employee is a resident of the county-area. 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

1 years following the income year in which the additional employee was hired and shall be
2 conditioned on the continued employment by the corporation of the number of full-time
3 employees the corporation had upon hiring the employee that caused the corporation to
4 qualify for the credit. If, in one of the four years in which the installment of a credit
5 accrues, the number of the corporation's full-time employees falls below the number of
6 full-time employees the company had in the year in which the corporation qualified for
7 the credit or the position filled by the employee is moved to another ~~county~~, area, the
8 credit expires and the corporation may not take any remaining installment of the credit.
9 The corporation may, however, take the portion of an installment that accrued in a
10 previous year and was carried forward to the extent permitted under subsection (e) of this
11 section.

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

15 (b) Repealed by Session Laws 1989, c. 111, s. 1.

16 (b1) Eligibility. – A corporation is eligible for the tax credit allowed by this section
17 only if it obtained a credit under this section for taxable year 1988 or the Department of
18 Commerce determines that it engages in the manufacturing of ~~goods, or that it engages~~
19 goods or in an industrial activity such as the processing of foods, raw materials,
20 chemicals and process agents, goods in process, or finished products. If a position is
21 located in a redevelopment area as defined in G.S. 160A-503, however, a corporation that
22 does not meet these eligibility requirements is nonetheless eligible for the credit if the
23 Department of Commerce determines that it satisfies the requirements of G.S. 105-
24 163.013(b)(3) through (6). Notwithstanding subsection (a) of this section, if a position is
25 located in a redevelopment area as defined in G.S. 160A-503, the corporation is not
26 rendered ineligible for the credit if it does not have nine or more employees.

27 (c) ~~County Area~~ Designation. – ~~A severely distressed county is a county area is an~~
28 area designated as severely distressed by the Secretary of Commerce. Each year, on or
29 before December 31, the Secretary of Commerce shall designate which counties are
30 considered severely distressed, and shall provide that information to the Secretary of
31 Revenue. A county is considered severely distressed if its distress factor is one of the
32 fifty highest in the State. A tier one distressed area is a county whose distress factor is
33 one of the 50 highest in the State. A tier two distressed area is an area that is not located
34 in a tier one distressed area and is either (i) a redevelopment area as defined in G.S.
35 160A-503 or (ii) a census tract that has more than fifteen percent (15%) of its population
36 below the poverty level according to the latest federal decennial census.

37 ~~The~~ Each year, on or before December 31, the Secretary of Commerce shall assign to
38 each county in the State a distress factor that is the sum of the following:

- 39 (1) The county's rank in a ranking of counties by rate of unemployment
40 from lowest to highest.
- 41 (2) The county's rank in a ranking of counties by per capita income from
42 highest to lowest.

1 (3) The county's rank in a ranking of counties by percentage growth in
2 population from ~~lowest to highest~~ highest to lowest.

3 The Secretary of Commerce shall then rank all the counties within the State according
4 to their distress factor from highest to lowest, identify all the distressed areas of the State
5 by tier, and provide this information to the Secretary of Revenue.

6 In measuring rates of unemployment and per capita income, the Secretary shall use
7 the latest available data published by a State or federal agency generally recognized as
8 having expertise concerning the data. In measuring population growth, the Secretary
9 shall use the most recent estimates of population certified by the State Planning Officer.
10 A designation as a ~~severely-distressed county area~~ is effective only for the calendar year
11 following the designation.

12 (d) Planned Expansion. – A corporation that, during the year in which ~~a county an~~
13 ~~area is designated as a severely-distressed county area,~~ signs a letter of commitment with
14 the Department of Commerce to create at least twenty new full-time jobs in that
15 distressed county area within two years of the date the letter is signed qualifies for the
16 credit in the amount allowed by this section based on the area's distress tier for that year
17 even though the employees are not hired that year. The credit shall be available in the
18 income year after at least twenty employees have been hired if ~~such the~~ hirings are within
19 the two-year commitment period. The conditions outlined in subsection (a) apply to a
20 credit taken under this subsection except that if the county is no longer designated a severely
21 distressed county area moves to a lower distress tier after the year the letter of commitment
22 was signed, the credit is ~~still available~~ allowed based on the area's distress tier for that
23 year. If the corporation does not hire the employees within the two-year period, the
24 corporation does not qualify for the credit. However, if the corporation qualifies for a
25 credit under subsection (a) in the year any new employees are hired, it may take the credit
26 under that subsection.

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

39 (f) Substantiation. – Every corporation claiming the credit provided in subsection
40 (a) shall maintain and make available for inspection by the Secretary of Revenue ~~or his~~
41 ~~agent such records as may be~~ any records the Secretary considers necessary to determine
42 and verify the amount of the credit to which it is entitled. The burden of proving
43 eligibility for the credit and the amount of the credit shall rest upon the corporation, and

1 no credit shall be allowed to a corporation that fails to maintain adequate records or to
2 make them available for inspection."

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

4 **"§ 105-151.17. Credit for creating jobs in severely-distressed county-area.**

5 (a) Credit. – A person who ~~(i) for at least 40 weeks during the year has at least~~
6 ~~nine employees and (ii) whose business is located, for part or all of his taxable year, in a~~
7 ~~severely-distressed county~~ has nine or more employees for at least 40 weeks during the
8 taxable year may qualify for a credit against the tax imposed by this Division by creating
9 new full-time jobs with the person's business in the severely-a distressed county-area
10 during that year. A person who hires an additional full-time employee during that year to
11 fill a position located in a severely-distressed county-area is allowed a credit of two
12 thousand eight hundred dollars (\$2,800) for the additional ~~employee.~~ employee if the
13 position is located in a tier one distressed area and is allowed a credit of one thousand
14 dollars (\$1,000) for the additional employee if the position is located in a tier two
15 distressed area.

16 A position is located in ~~a county~~ an area if ~~(i) at least fifty percent (50%) of the~~
17 ~~employee's duties are performed in the county, or (ii) area or~~ the employee is a resident of
18 ~~the county-area.~~ The credit may not be taken in the ~~income-taxable~~ year in which the
19 additional employee is hired. Instead, the credit shall be taken in equal installments over
20 the four years following the ~~income-taxable~~ year in which the additional employee was
21 hired and shall be conditioned on the continued employment by the taxpayer of the
22 number of full-time employees the taxpayer had upon hiring the employee that caused the
23 taxpayer to qualify for the credit. If, in one of the four years in which the installment of a
24 credit accrues, the number of the taxpayer's full-time employees falls below the number
25 of full-time employees the taxpayer had in the year in which the taxpayer qualified for
26 the credit or the position filled by the employee is moved to another ~~county-area~~,
27 the credit expires and the taxpayer may not take any remaining installment of the credit. The
28 taxpayer may, however, take the portion of an installment that accrued in a previous year
29 and was carried forward to the extent permitted under subsection (e) of this section.

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

33 (b) Repealed by Session Laws 1989, c. 111, s. 2.

34 (b1) Eligibility. – A taxpayer is eligible for the tax credit allowed by this section
35 only if the taxpayer obtained a credit under this section for taxable year 1988 or the
36 Department of Commerce determines that the taxpayer engages in the manufacturing of
37 ~~goods, or that he engages goods~~ or in an industrial activity such as the processing of foods,
38 raw materials, chemicals and process agents, goods in process, or of finished products. If
39 a position is located in a redevelopment area as defined in G.S. 160A-503, however, a
40 taxpayer that does not meet these eligibility requirements is nonetheless eligible for the
41 credit if the Department of Commerce determines that the taxpayer satisfies the
42 requirements of G.S. 105-163.013(b)(3) through (6). Notwithstanding subsection (a) of
43 this section, if a position is located in a redevelopment area as defined in G.S. 160A-503,

1 the taxpayer is not rendered ineligible for the credit if the taxpayer does not have nine or
2 more employees.

3 (c) ~~County Area Designation.~~ – ~~A severely distressed county is a county area is an~~
4 ~~area designated as severely distressed by the Secretary of Commerce. Each year, on or~~
5 ~~before December 31, the Secretary of Commerce shall designate which counties are~~
6 ~~considered severely distressed, and shall provide that information to the Secretary of~~
7 ~~Revenue. A county is considered severely distressed if its distress factor is one of the~~
8 ~~fifty highest in the State. A tier one distressed area is a county whose distress factor is~~
9 ~~one of the 50 highest in the State. A tier two distressed area is an area that is not located~~
10 ~~in a tier one distressed area and is either (i) a redevelopment area as defined in G.S.~~
11 ~~160A-503 or (ii) a census tract that has more than fifteen percent (15%) of its population~~
12 ~~below the poverty level according to the latest federal decennial census.~~

13 ~~The~~ Each year, on or before December 31, the Secretary of Commerce shall assign to
14 each county in the State a distress factor that is the sum of the following:

- 15 (1) The county's rank in a ranking of counties by rate of unemployment
16 from lowest to highest.
- 17 (2) The county's rank in a ranking of counties by per capita income from
18 highest to lowest.
- 19 (3) The county's rank in a ranking of counties by percentage growth in
20 population from ~~lowest to highest.~~ highest to lowest.

21 ~~The Secretary of Commerce shall then rank all the counties within the State according~~
22 ~~to their distress factor from highest to lowest, identify all the distressed areas of the State~~
23 ~~by tier, and provide this information to the Secretary of Revenue.~~

24 In measuring rates of unemployment and per capita income, the Secretary shall use
25 the latest available data published by a State or federal agency generally recognized as
26 having expertise concerning the data. In measuring population growth, the Secretary
27 shall use the most recent estimates of population certified by the State Planning Officer.
28 A designation as a ~~severely distressed county area~~ is effective only for the calendar year
29 following the designation.

30 (d) Planned Expansion. – A person who, during the year in which ~~a county an area~~
31 ~~is designated as a severely distressed county, area,~~ signs a letter of commitment with the
32 Department of Commerce to create at least twenty new full-time jobs in that distressed
33 ~~county area~~ within two years of the date the letter is signed qualifies for the credit in the
34 amount allowed by this section based on the area's distress tier for that year even though
35 the employees are not hired that year. The credit shall be available in the income-taxable
36 year after at least twenty employees have been hired if such the hirings are within the
37 two-year commitment period. The conditions outlined in subsection (a) apply to a credit
38 taken under this subsection except that if the county is no longer designated a severely
39 distressed county area moves to a lower distress tier after the year the letter of commitment
40 was signed, the credit is still available. allowed based on the area's distress tier for that
41 year. If the taxpayer does not hire the employees within the two-year period, ~~he the~~
42 taxpayer does not qualify for the credit. However, if the taxpayer qualifies for a credit

1 under subsection (a) in the year any new employees are hired, ~~he~~ the taxpayer may take
2 the credit under that subsection.

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

15 (f) Substantiation. – Every person claiming the credit provided in subsection (a)
16 shall maintain and make available for inspection by the Secretary of Revenue ~~or his agent~~
17 ~~such records as may be~~ any records the Secretary considers necessary to determine and
18 verify the amount of the credit to which the person is entitled. The burden of proving
19 eligibility for the credit and the amount of the credit shall rest upon the person, and no
20 credit shall be allowed to any person who fails to maintain adequate records or to make
21 them available for inspection."

22 Sec. 3. G.S. 143B-437A reads as rewritten:

23 "**§ 143B-437A. Industrial Development Fund.**

24 (a) There is created in the Department of Commerce the Industrial Development
25 Fund to provide funds to assist the local government units of the most economically
26 ~~depressed~~ distressed counties in the State in creating jobs in qualified industries. As used
27 in this section, the term 'qualified industry' means the manufacturing of goods or the
28 processing of foods, raw materials, chemicals and process agents, goods in process, or
29 finished products. The Department of Commerce shall adopt rules providing for the
30 administration of the program. Those rules shall include the following:

- 31 (1) The funds shall be used for (i) installation of or purchases of equipment
32 for qualified industries, (ii) structural repairs, improvements, or
33 renovations of existing buildings to be used for expansion of qualified
34 industries, or (iii) construction of or improvements to new or existing
35 water, sewer, gas, or electrical utility distribution lines or equipment for
36 existing or new or proposed industrial buildings to be used for qualified
37 industrial operations, ~~or (iv) in the case of counties designated as severely~~
38 ~~distressed counties under G.S. 105-130.40(c) or G.S. 105-151.17(c) or units of~~
39 ~~local government within those counties, construction of or improvement to~~
40 ~~new or existing water, sewer, gas, or electrical utility distribution lines or~~
41 ~~equipment to serve new or proposed industrial buildings to be used for~~
42 ~~qualified industrial operations.~~ operations. To be eligible for funding, the
43 water, sewer, gas, or electrical utility lines or facilities shall be located

1 on the site of the building or, if not located on the site, shall be directly
2 related to the operation of the specific qualified industrial activity.
3 However, the Secretary of Commerce may use up to one hundred
4 thousand dollars (\$100,000) to provide emergency economic
5 development assistance in any county which is documented to be
6 experiencing a major economic dislocation.

7 (2) The funds shall be used by the city and county governments for projects
8 that will directly result in the creation of new jobs. The funds shall be
9 expended at a rate of two thousand four hundred dollars (\$2,400) per
10 new job created up to a maximum of two hundred fifty thousand dollars
11 (\$250,000) per project.

12 (b) Each year, on or before December 31, the Secretary of Commerce shall
13 designate the most economically distressed counties in the State; this designation shall
14 remain effective for the following calendar year. The Secretary of Commerce shall
15 determine which counties are the most economically distressed counties in the State
16 based on (i) rate of unemployment, (ii) per capita income, and (iii) relative population
17 and work force growth or lack of growth, as determined by the Secretary of Commerce.

18 (c) The Department of Commerce shall report annually to the General Assembly
19 concerning the applications made to the fund and the payments made from the fund and
20 the impact of the payments on job creation in the State. The Department of Commerce
21 shall also report quarterly to the Joint Legislative Commission on Governmental
22 Operations and the Fiscal Research Division on the use of the moneys in the fund,
23 including information regarding to whom payments were made, in what amounts, and for
24 what purposes.

25 (d) As used in this section, 'major economic dislocation' means the actual or
26 imminent loss of:

27 (1) 500 or more manufacturing jobs in the county; or

28 (2) A number of manufacturing jobs which is equal to or more than ten
29 percent (10%) of the existing manufacturing workforce in the county."

30 Sec. 4. G.S. 153A-376(f) reads as rewritten:

31 "(f) All program income from Economic Development Grants from the Small
32 Cities Community Development Block Grant Program may be retained by recipient
33 ~~'severely'~~'economically' distressed counties', as designated under G.S. ~~105-130.40(c), 143B-~~
34 437A for the purposes of creating local economic development revolving loan funds.
35 Such program income derived through the use by counties of Small Cities Community
36 Development Block Grant money includes but is not limited to: (i) payment of principal
37 and interest on loans made by the county using Community Development Block Grant
38 Funds; (ii) proceeds from the lease or disposition of real property acquired with
39 Community Development Block Grant Funds; and (iii) any late fees associated with loan
40 or lease payments in (i) and (ii) above. The local economic development revolving loan
41 fund set up by the county shall fund only those activities eligible under Title I of the
42 federal Housing and Community Development Act of 1974, as amended (P.L. 93-383),
43 and shall meet at least one of the three national objectives of the Housing and

1 Community Development Act. Any expiration of G.S. ~~105-130.40(e)-143B-437A~~ shall
2 not affect this subsection as to designations of ~~severely~~-economically distressed counties
3 made prior to its expiration."

4 Sec. 5. G.S. 160A-456(e1) reads as rewritten:

5 "(e1) All program income from Economic Development Grants from the Small
6 Cities Community Development Block Grant Program may be retained by recipient cities
7 in '~~severely~~-economically distressed counties', as designated under G.S. ~~105-130.40(e),~~
8 143B-437A, for the purposes of creating local economic development revolving loan
9 funds. Such program income derived through the use by cities of Small Cities
10 Community Development Block Grant money includes but is not limited to: (i) payment
11 of principal and interest on loans made by the county using Community Development
12 Block Grant Funds; (ii) proceeds from the lease or disposition of real property acquired
13 with Community Development Block Grant Funds; and (iii) any late fees associated with
14 loan or lease payments in (i) and (ii) above. The local economic development revolving
15 loan fund set up by the city shall fund only those activities eligible under Title I of the
16 federal Housing and Community Development Act of 1974, as amended (P.L. 93-383),
17 and shall meet at least one of the three national objectives of the Housing and
18 Community Development Act. Any expiration of G.S. ~~105-130.40(e)-143B-437A~~ shall
19 not affect this subsection as to designations of ~~severely~~-economically distressed counties
20 made prior to its expiration."

21 Sec. 6. This act is effective for taxable years beginning on or after January 1,
22 1995.