

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S

1

SENATE BILL 497

Short Title: Modify Jobs Tax Credit.

(Public)

Sponsors: Senators Blackmon, Hobbs, and Cooper.

Referred to: Finance

March 28, 1995

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE JOBS TAX CREDIT TO PROVIDE CREDIT AMOUNTS IN PROPORTION TO THE LEVEL OF ECONOMIC DISTRESS IN EACH COUNTY.

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. jobs.

(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 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~~ this State is allowed a credit of ~~two thousand eight hundred dollars (\$2,800) for the additional employee.~~ for that employee in the amount provided in the following table based on the distress factor of the county in which the position is located, as determined in subsection (c) of this section, for the year in which the employee is hired:

<u>County Distress Factor</u>	<u>Amount of Credit</u>
<u>One of 50 highest</u>	<u>\$2,800</u>

- 1 (1) The county's rank in a ranking of counties by rate of unemployment
- 2 from lowest to highest.
- 3 (2) The county's rank in a ranking of counties by per capita income from
- 4 highest to lowest.
- 5 (3) The county's rank in a ranking of counties by percentage growth in
- 6 population from ~~lowest to highest~~ highest to lowest.

7 The Secretary of Commerce shall then rank all the counties within the State according
8 to their distress factor from highest to lowest and shall provide this information to the
9 Secretary of Revenue.

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

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

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

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

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

9 **"§ 105-151.17. Credit for creating jobs in severely distressed county- jobs.**

10 (a) Credit. – A person who ~~(i) for at least 40 weeks during the year has at least~~
 11 ~~nine employees and (ii) whose business is located, for part or all of his taxable year, in a~~
 12 ~~severely distressed county~~ has nine or more employees for at least 40 weeks during the
 13 taxable year may qualify for a credit against the tax imposed by this Division by creating
 14 new full-time jobs with the person's business in the severely distressed county during that
 15 year. A person who hires an additional full-time employee during that year to fill a
 16 position located in a severely distressed county this State is allowed a credit of two
 17 thousand eight hundred dollars (\$2,800) for the additional employee. for that employee in
 18 the amount provided in the following table based on the distress factor of the county in
 19 which the position is located, as determined in subsection (c) of this section, for the year
 20 in which the employee is hired:

<u>County Distress Factor</u>	<u>Amount of Credit</u>
<u>One of 50 highest</u>	<u>\$2,800</u>
<u>One of next 25</u>	<u>1,400</u>
<u>One of 25 lowest</u>	<u>700</u>

25 A position is located in a county if (i) at least fifty percent (50%) of the employee's
 26 duties are performed in the county, or (ii) the employee is a resident of the county. The
 27 credit may not be taken in the ~~income-taxable year~~ in which the additional employee is
 28 hired. Instead, the credit shall be taken in equal installments over the four years
 29 following the ~~income-taxable year~~ in which the additional employee was hired and shall
 30 be conditioned on the continued employment by the taxpayer of the number of full-time
 31 employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify
 32 for the credit. If, in one of the four years in which the installment of a credit accrues, the
 33 number of the taxpayer's full-time employees falls below the number of full-time
 34 employees the taxpayer had in the year in which the taxpayer qualified for the ~~credit or the~~
 35 ~~position filled by the employee is moved to another county, credit,~~ credit, the credit expires and the
 36 taxpayer may not take any remaining installment of the credit. The taxpayer may,
 37 however, take the portion of an installment that accrued in a previous year and was
 38 carried forward to the extent permitted under subsection (e) of this section. If, in one of
 39 the four years in which the installment of a credit accrues, the position filled by the
 40 employee is moved to a county with a lower distress factor, the remaining installments of
 41 the credit shall be calculated as if the position had been created initially in the county to
 42 which it was moved.

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

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

5 (b1) Eligibility. – A taxpayer is eligible for the tax credit allowed by this section
6 only if the taxpayer obtained a credit under this section for taxable year 1988 or the
7 Department of Commerce determines that the taxpayer engages in the manufacturing of
8 ~~goods, or that he engages goods~~ or in an industrial activity such as the processing of foods,
9 raw materials, chemicals and process agents, goods in process, or of finished products. A
10 taxpayer is eligible for a credit for a position created in a county with one of the 50
11 lowest distress factors only if the position will pay an average weekly wage that is at or
12 above the median weekly wage paid in that county. For the purpose of this section, the
13 median wage in a county is the median average wage for all insured industries in the
14 county as computed by the Employment Security Commission for the most recent period
15 for which data are available.

16 (c) ~~County Designation~~Distress Factors. — ~~A severely distressed county is a~~
17 ~~county designated as severely distressed by the Secretary of Commerce. Each year, on or~~
18 ~~before December 31, the Secretary of Commerce shall designate which counties are~~
19 ~~considered severely distressed, and shall provide that information to the Secretary of~~
20 ~~Revenue. A county is considered severely distressed if its distress factor is one of the~~
21 ~~fifty highest in the State. The~~ Each year, on or before December 31, the Secretary of
22 Commerce shall assign to each county in the State a distress factor that is the sum of the
23 following:

- 24 (1) The county's rank in a ranking of counties by rate of unemployment
25 from lowest to highest.
- 26 (2) The county's rank in a ranking of counties by per capita income from
27 highest to lowest.
- 28 (3) The county's rank in a ranking of counties by percentage growth in
29 population from ~~lowest to highest.~~ highest to lowest.

30 The Secretary of Commerce shall then rank all the counties within the State according
31 to their distress factor from highest to lowest and shall provide this information to the
32 Secretary of Revenue.

33 In measuring rates of unemployment and per capita income, the Secretary shall use
34 the latest available data published by a State or federal agency generally recognized as
35 having expertise concerning the data. In measuring population growth, the Secretary
36 shall use the most recent estimates of population certified by the State Planning Officer.
37 ~~A designation as a severely distressed county~~ distress factor ranking is effective only for the
38 calendar year following the designation.

39 (d) Planned Expansion. – A person who, during the year in which a county is
40 ~~designated as a severely distressed county,~~ has been assigned a distress factor, signs a letter
41 of commitment with the Department of Commerce to create at least twenty new full-time
42 jobs in that ~~distressed~~ county within two years of the date the letter is signed qualifies for
43 the credit in the amount allowed by this section based on the county's distress factor for

1 that year even though the employees are not hired that year. The credit shall be available
2 in the ~~income-taxable~~ year after at least twenty employees have been hired if ~~such the~~
3 hirings are within the two-year commitment period. The conditions outlined in
4 subsection (a) apply to a credit taken under this subsection except that if the ~~county is no~~
5 ~~longer designated a severely distressed county~~ county's distress factor decreases after the
6 year the letter of commitment was signed, the credit is ~~still available~~ allowed based on the
7 county's distress factor for that year. If the taxpayer does not hire the employees within
8 the two-year period, ~~he the taxpayer~~ does not qualify for the credit. However, if the
9 taxpayer qualifies for a credit under subsection (a) in the year any new employees are
10 hired, ~~he the taxpayer~~ may take the credit under that subsection.

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

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

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

31 **"§ 143B-437A. Industrial Development Fund.**

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

- 39 (1) The funds shall be used for (i) installation of or purchases of equipment
40 for qualified industries, (ii) structural repairs, improvements, or
41 renovations of existing buildings to be used for expansion of qualified
42 industries, or (iii) construction of or improvements to new or existing
43 water, sewer, gas, or electrical utility distribution lines or equipment for

1 existing or new or proposed industrial buildings to be used for qualified
2 industrial operations, or (iv) in the case of counties designated as severely
3 distressed counties under G.S. 105-130.40(e) or G.S. 105-151.17(e) or units of
4 local government within those counties, construction of or improvement to
5 new or existing water, sewer, gas, or electrical utility distribution lines or
6 equipment to serve new or proposed industrial buildings to be used for
7 qualified industrial operations. operations. To be eligible for funding, the
8 water, sewer, gas, or electrical utility lines or facilities shall be located
9 on the site of the building or, if not located on the site, shall be directly
10 related to the operation of the specific qualified industrial activity.
11 However, the Secretary of Commerce may use up to one hundred
12 thousand dollars (\$100,000) to provide emergency economic
13 development assistance in any county which is documented to be
14 experiencing a major economic dislocation.

- 15 (2) The funds shall be used by the city and county governments for projects
16 that will directly result in the creation of new jobs. The funds shall be
17 expended at a rate of two thousand four hundred dollars (\$2,400) per
18 new job created up to a maximum of two hundred fifty thousand dollars
19 (\$250,000) per project.

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

26 (c) The Department of Commerce shall report annually to the General Assembly
27 concerning the applications made to the fund and the payments made from the fund and
28 the impact of the payments on job creation in the State. The Department of Commerce
29 shall also report quarterly to the Joint Legislative Commission on Governmental
30 Operations and the Fiscal Research Division on the use of the moneys in the fund,
31 including information regarding to whom payments were made, in what amounts, and for
32 what purposes.

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

- 35 (1) 500 or more manufacturing jobs in the county; or
36 (2) A number of manufacturing jobs which is equal to or more than ten
37 percent (10%) of the existing manufacturing workforce in the county."

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

39 "(f) All program income from Economic Development Grants from the Small
40 Cities Community Development Block Grant Program may be retained by recipient
41 'severely' economically distressed counties, as designated under G.S. ~~105-130.40(e)~~, ~~143B-~~
42 ~~437A~~ for the purposes of creating local economic development revolving loan funds.
43 Such program income derived through the use by counties of Small Cities Community

1 Development Block Grant money includes but is not limited to: (i) payment of principal
2 and interest on loans made by the county using Community Development Block Grant
3 Funds; (ii) proceeds from the lease or disposition of real property acquired with
4 Community Development Block Grant Funds; and (iii) any late fees associated with loan
5 or lease payments in (i) and (ii) above. The local economic development revolving loan
6 fund set up by the county shall fund only those activities eligible under Title I of the
7 federal Housing and Community Development Act of 1974, as amended (P.L. 93-383),
8 and shall meet at least one of the three national objectives of the Housing and
9 Community Development Act. Any expiration of G.S. ~~105-130.40(e)-143B-437A~~ shall
10 not affect this subsection as to designations of ~~severely~~-economically distressed counties
11 made prior to its expiration."

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

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

29 Sec. 6. This act is effective for taxable years beginning on or after January 1,
30 1995.