

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 629*
Judiciary II Committee Substitute Adopted 5/31/05

Short Title: Manufacturing Redevelopment Districts. (Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED
AN ACT TO PROVIDE FOR THE REDEVELOPMENT OF CERTAIN
MANUFACTURING DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1. Manufacturing redevelopment districts: legislative findings.

The General Assembly of North Carolina makes the following findings regarding the need for manufacturing redevelopment districts:

- (1) Economic development in the State will be served by providing an opportunity to restart production in manufacturing facilities designed for targeted industries such as photographic materials, digital inkjet products, digital photographic applications, and other photographic printing technology, thereby providing employment opportunities for the residents of North Carolina.
- (2) When an existing facility can be modified to meet the needs of the new industry and thereby preserve and create jobs, it is in the public interest to provide a mechanism for these modifications to occur.
- (3) Economically distressed counties continue to lose manufacturing jobs, and the General Assembly must act to create new jobs for citizens residing in those counties.
- (4) The health and safety of the citizens of North Carolina will be served through the assessment and remediation of known and unknown environmental conditions at manufacturing facilities.
- (5) The public interest of the State will be served by securing a property interest in real property located within significant State property holdings to the State and by providing a property interest in the real property to a new operator that is sufficient to enable the new operator to restart manufacturing at existing facilities on the real property in

1 consideration for the preservation and creation by the new operator of
2 jobs and economic opportunities.

- 3 (6) The public interest of the State will be served by encouraging owners
4 of manufacturing facilities to transfer ownership in property in order to
5 make it possible for new operators to restart production at these
6 facilities.

7 **SECTION 2. Manufacturing redevelopment districts: purpose.**

8 A manufacturing redevelopment district shall exist to provide manufacturing,
9 research and development, and related service and support jobs to citizens of the State
10 while ensuring the remediation of known and unknown environmental conditions at
11 manufacturing facilities.

12 **SECTION 3. Manufacturing redevelopment districts: establishment.**

13 A manufacturing redevelopment district may be established on any parcel or
14 tract of land or on any combination of contiguous parcels or tracts of land as provided in
15 this section. To establish a manufacturing redevelopment district, the new operator of
16 the manufacturing facilities located within the boundaries of the district shall certify to
17 the Secretary of State that the district meets all of the criteria set out in this section. The
18 certification shall describe the boundaries of the district by metes and bounds and shall
19 set out the specific financial mechanism that guarantees completion of the assessment
20 and remediation program as required under subdivision (8) of this section. This
21 certification shall constitute prima facie evidence that these criteria have been met. The
22 district shall be considered to be established as a manufacturing redevelopment district
23 on the date the certification is filed. Once established, a manufacturing development
24 district shall continue to exist unless the real property comprising the district reverts to
25 the State pursuant to Section 6 of this act. A manufacturing redevelopment district may
26 be established only if all of the following criteria are met at the time the district is
27 established:

- 28 (1) The real property is located in a county that is economically distressed.
29 For purposes of this section, a county shall be considered economically
30 distressed if all of the following apply:
31 a. The average weekly wage in the county is less than five
32 hundred twenty-five dollars (\$525.00) per person.
33 b. The percentage of unemployed workers is greater than six
34 percent (6%).
35 c. The percentage of citizens who are at or below the federal
36 poverty level, as determined by the most recent federal
37 decennial census, is greater than nine percent (9%).
38 (2) All of the real property comprising the district is a privately owned
39 in-holding of 50 acres or more within a State forest of 10,000 acres or
40 more.
41 (3) The district contains a manufacturing facility that has been out of
42 production for two years or more.
43 (4) Failure to restart the manufacturing facility would result in a
44 permanent lost opportunity to create 50 or more jobs.

- 1 (5) The manufacturing facility has a total square footage of 500 square
2 feet or more.
- 3 (6) The new operator of the manufacturing facility intends to employ more
4 than 50 employees. For purposes of this act, a new operator is an entity
5 that restarts operations at a manufacturing facility located within a
6 manufacturing redevelopment district.
- 7 (7) The new operator of the facility has accepted responsibility for the
8 assessment and remediation of known and unknown environmental
9 conditions in accordance with applicable State law and rules.
- 10 (8) The new operator of the facility has prefunded an assessment and
11 remediation program in an amount of at least five million dollars
12 (\$5,000,000) to assess and remediate known environmental conditions
13 in accordance with applicable environmental laws and in light of the
14 intended use of the facility by that new operator. In order to guarantee
15 completion of the assessment and remediation program, the new
16 operator shall prefund the program by means of an escrow account or
17 other financing mechanism that runs in favor of the State in the event
18 of a default.
- 19 (9) The owner donates the real property comprising the manufacturing
20 redevelopment district to the State of North Carolina.

21 **SECTION 4. Manufacturing redevelopment districts: immunity.**

22 No person who owned or had an interest in any real property within a
23 manufacturing redevelopment district at any time prior to the establishment of the
24 district in accordance with this act shall be liable to the State, to any governmental unit
25 or subdivision of the State, or to any private or third party, for the cleanup of
26 environmental damage or restoration of natural resources on any of the real property
27 comprising the district, or for any other claims arising out of the presence of oil,
28 hazardous substances, or hazardous waste, as defined under any applicable State statute
29 or rule, in any media at the real property. The immunity provided by this section shall
30 attach at the time that the real property comprising the manufacturing redevelopment
31 district is donated to the State. The immunity provided by this section is with respect to
32 any theory of legal liability, including, but not limited to, any claim of negligence,
33 nuisance, or trespass, or arising under other common law principles, or arising under
34 any State statute or rule, including, but not limited to, Article 9 of Chapter 130A of the
35 General Statutes, Articles 21 and 21A of Chapter 143 of the General Statutes, and rules
36 adopted pursuant to those Articles. Notwithstanding the foregoing, this act shall not be
37 construed to prevent the State from enforcing remediation standards, monitoring, or
38 compliance requirements specifically required by the United States Environmental
39 Protection Agency to be enforced by the State as a condition to receiving and retaining
40 federal funds or program approval, authorization, or delegation.

41 **SECTION 5. Manufacturing redevelopment districts: claims.**

42 The new operator of the manufacturing redevelopment district shall be liable
43 for all claims subject to the immunity provided by Section 4 of this act to the same
44 extent as any prior owner of the property that comprises the manufacturing

1 redevelopment district. The new operator shall have all rights, claims, and defenses that
2 are or would have been available to any prior owner with respect to those immunized
3 claims.

4 **SECTION 6. Manufacturing redevelopment districts: donation and**
5 **transfer of the district; reversionary interest.**

6 Notwithstanding any other provision of Chapter 146 of the General Statutes,
7 the State Property Office shall accept the donation by the owner of the real property
8 comprising the manufacturing redevelopment district on behalf of the State of North
9 Carolina. The State Property Office shall then, in the name of the State of North
10 Carolina, immediately transfer to the new operator a fee simple determinable interest in
11 the real property. The event that will terminate the fee simple determinable interest in
12 the real property is the permanent cessation of manufacturing operations at the real
13 property. The consideration for the transfer by the State of the property interest to the
14 new operator shall be the creation of jobs and economic opportunities that will result
15 from restarting manufacturing operations on the real property. If the fee simple
16 determinable interest is terminated and the real property reverts to the State, the State
17 Property Office shall allocate the property to the contiguous State forest.

18 **SECTION 7. Effective date.** This act is effective when it becomes law.