

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 338

Short Title: Economic Development/Tax Modifications. (Public)

Sponsors: Senators Berger, Brown, Tillman (Primary Sponsors); Apodaca, Barefoot, Bingham, Brock, Curtis, Daniel, J. Davis, Gunn, Harrington, Hise, B. Jackson, Krawiec, Lee, McInnis, Meredith, Pate, Rabin, Rabon, Randleman, Sanderson, Tucker, Wade, and Wells.

Referred to: Rules and Operations of the Senate.

March 19, 2015

A BILL TO BE ENTITLED

AN ACT TO MAKE MODIFICATIONS TO EXISTING LAW FOR ECONOMIC DEVELOPMENT PURPOSES.

The General Assembly of North Carolina enacts:

PART I. ELIMINATE CORPORATE TAXATION ON NORTH CAROLINA EMPLOYMENT AND CAPITAL INVESTMENT

SECTION 1.(a) G.S. 105-130.4(i) reads as rewritten:

"(i) All apportionable income of corporations ~~other than public utilities, excluded corporations, and qualified capital intensive corporations~~ shall be apportioned to this State by multiplying the income by the sales factor as determined under subsection (l) of this section. ~~a fraction, the numerator of which is the property factor plus the payroll factor plus twice the sales factor, and the denominator of which is four. If the sales factor does not exist, the denominator of the fraction is the number of existing factors and if the sales factor exists but the payroll factor or the property factor does not exist, the denominator of the fraction is the number of existing factors plus one.~~"

SECTION 1.(b) G.S. 105-130.4(a)(4), (r), and (s1) are repealed.

SECTION 1.(c) This section is effective for taxable years beginning on or after January 1, 2016.

PART II. CORPORATE INCOME TAX MODIFICATIONS

SECTION 2.(a) Effective for taxable years beginning on or after January 1, 2016, G.S. 105-130.3 reads as rewritten:

"§ 105-130.3. Corporations.

A tax is imposed on the State net income of every C Corporation doing business in this State at the rate of ~~five percent (5%)~~ four percent (4%). An S Corporation is not subject to the tax levied in this section."

SECTION 2.(b) Effective for taxable years beginning on or after January 1, 2017, G.S. 105-130.3, as rewritten by subsection (a) of this section, reads as rewritten:

"§ 105-130.3. Corporations.

A tax is imposed on the State net income of every C Corporation doing business in this State at the rate of ~~four percent (4%)~~ three percent (3%). An S Corporation is not subject to the tax levied in this section."

SECTION 2.(c) G.S. 105-130.3C is repealed.



1 **SECTION 2.(d)** Except as otherwise provided, this Part is effective for taxable
2 years beginning on or after January 1, 2015.

3 **PART III. JDIG MODIFICATIONS**

4 **SECTION 3.(a)** G.S. 143B-437.51 is amended by adding new subdivisions to read:
5 **"§ 143B-437.51. Definitions.**

6 The following definitions apply in this Part:

- 7 (1) Agreement. – A community economic development agreement under
8 G.S. 143B-437.57.
- 9 (2) Base period. – The period of time set by the Committee during which new
10 employees are to be hired for the positions on which the grant is based.
- 11 (3) Business. – A corporation, sole proprietorship, cooperative association,
12 partnership, S corporation, limited liability company, nonprofit corporation,
13 or other form of business organization, located either within or outside this
14 State.
- 15 (4) Committee. – The Economic Investment Committee established pursuant to
16 G.S. 143B-437.54.
- 17 (4a) Development tier. – The classification assigned to an area pursuant to
18 G.S. 143B-437.08.
- 19 (5) Eligible position. – A position created by a business and filled by a new
20 full-time employee in this State during the base period.
- 21 (6) Full-time employee. – A person who is employed for consideration for at
22 least 35 hours a week, whose wages are subject to withholding under Article
23 4A of Chapter 105 of the General Statutes, and who is determined by the
24 Committee to be employed in a permanent position according to criteria it
25 develops in consultation with the Attorney General. The term does not
26 include any person who works as an independent contractor or on a
27 consulting basis for the business.
- 28 (6a) High-yield project. – A project for which the agreement requires that a
29 business invest at least one billion dollars (\$1,000,000,000) in private funds
30 and create at least 2,500 eligible positions.
- 31 (6b)-(6j) Reserved.
- 32 (6k) Major market community. – A county in which the average weekly wage for
33 all insured private employers in the county is one of the three highest in the
34 State.
- 35 (7) New employee. – A full-time employee who represents a net increase in the
36 number of the business's employees statewide.
- 37 (8) Overdue tax debt. – Defined in G.S. 105-243.1.
- 38 (9) Related member. – Defined in G.S. 105-130.7A.
- 39 (10) Withholdings. – The amount withheld by a business from the wages of
40 employees in eligible positions under Article 4A of Chapter 105 of the
41 General Statutes."

42 **SECTION 3.(b)** G.S. 143B-437.52 reads as rewritten:

43 **"§ 143B-437.52. Job Development Investment Grant Program.**

44 (a) Program. – There is established the Job Development Investment Grant Program to
45 be administered by the Economic Investment Committee. In order to foster job creation and
46 investment in the economy of this State, the Committee may enter into agreements with
47 businesses to provide grants in accordance with the provisions of this Part. The Committee, in
48 consultation with the Attorney General, shall develop criteria to be used in determining whether
49 the conditions of this section are satisfied and whether the project described in the application
50 is otherwise consistent with the purposes of this Part. Before entering into an agreement, the
51 Committee must find that all the following conditions are met:

- 1 (1) The project proposed by the business will create, during the term of the
2 agreement, a net increase in employment in this State by the business.
- 3 (2) The project will benefit the people of this State by increasing opportunities
4 for employment and by strengthening this State's economy by, for example,
5 providing worker training opportunities, constructing and enhancing critical
6 infrastructure, increasing development in strategically important industries,
7 or increasing the State and local tax base.
- 8 (3) The project is consistent with economic development goals for the State and
9 for the area where it will be located.
- 10 (4) A grant under this Part is necessary for the completion of the project in this
11 State.
- 12 (5) The total benefits of the project to the State outweigh its costs and render the
13 grant appropriate for the project.
- 14 (b) Priority. – In selecting between applicants, a project that is located in an
15 Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project
16 that is not located in a certified Eco-Industrial Park.
- 17 (c) ~~Awards.~~ Award Limitations. – The following limitations apply to grants awarded
18 under this Part:
- 19 (1) Maximum liability. – The maximum amount of total annual liability for
20 grants awarded in any single calendar year under this Part, including
21 amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is
22 fifteen million dollars ~~(\$15,000,000)~~ (\$15,000,000) for a year in which no
23 grants are awarded for a high-yield project and is thirty million dollars
24 (\$30,000,000) for a year in which a grant is awarded for a high-yield project.
25 No agreement may be entered into that, when considered together with other
26 existing agreements governing grants awarded during a single calendar year,
27 could cause the State's potential total annual liability for grants awarded in a
28 single calendar year to exceed ~~this~~ the applicable amount. The Department
29 shall make every effort to ensure that the average percentage of withholdings
30 of eligible positions for grants awarded under this Part does not exceed the
31 average of the range provided in G.S. 143B-437.56(a).
- 32 (2) Quarterly commitment limitations. – Of the amount authorized in
33 subdivision (1) of this subsection, no more than twenty-five percent (25%),
34 excluding roll-over amounts, may be awarded in any single calendar quarter.
35 A roll-over amount is any amount from a previous quarter in the same
36 calendar year that was not awarded as a grant. The limitation of this
37 subdivision does not apply to a grant awarded to a high-yield project.
- 38 (3) Major market community. – The maximum percentage of the amount
39 authorized in this subsection for grants awarded in a major market
40 community is equal to two times the population of that county as a
41 percentage, rounded to the nearest percent, of the total population of the
42 State. State and county populations shall be determined at the beginning of
43 each calendar year using the most recent population data used by the
44 Secretary for purposes of G.S. 143B-437.08. The limitation of this
45 subdivision does not apply to a high-yield project located in a major market
46 community.
- 47 (d) Measuring Employment. – For the purposes of subdivision (a)(1) of this section and
48 G.S. 143B-437.51(5), 143B-437.51(7), and 143B-437.57(a)(11), the Committee may designate
49 that the increase or maintenance of employment is measured at the level of a division or
50 another operating unit of a business, rather than at the business level, if both of the following
51 conditions are met:

- 1 (1) The Committee makes an explicit finding that the designation is necessary to
- 2 secure the project in this State.
- 3 (2) The agreement contains terms to ensure that the business does not create
- 4 eligible positions by transferring or shifting to the project existing positions
- 5 from another project of the business or a related member of the business."

6 **SECTION 3.(c)** G.S. 143B-437.53 reads as rewritten:

7 "**§ 143B-437.53. Eligible projects.**

8 (a) Minimum Number of Eligible Positions. – A business may apply to the Committee
 9 for a grant for any project that creates the minimum number of eligible positions satisfying the
 10 wage standard as set out in the table below. If the project will be located in more than one
 11 ~~development tier area, area designation,~~ the location with the highest ~~development tier area~~
 12 designation determines the minimum number of eligible positions that must be ~~created~~created
 13 and the applicable wage standard. The wage standard is met if the business pays an average
 14 weekly wage for all eligible positions that is equal to or greater than the percentage provided
 15 below of the average wage for all insured private employers in the county.

16 <u>Development Tier-Area Designation</u>	Number of Eligible Positions	<u>Wage</u>
17 <u>Standard</u>		
18 <u>Development Tier One</u>	<u>1025</u>	<u>100%</u>
19 <u>Development Tier Two</u>	<u>2050</u>	<u>110%</u>
20 <u>Development Tier Three</u>	<u>20200</u>	<u>115%</u>
21 <u>Major Market Community</u>	<u>250</u>	<u>125%</u>
22 <u>...."</u>		

23 **SECTION 3.(d)** G.S. 143B-437.56(a) reads as rewritten:

24 "(a) Subject to the ~~limitations provisions of subsection-subsections (a1) and (d)~~ of this
 25 section, the amount of the grant awarded in each case shall be a percentage of the withholdings
 26 of eligible positions. ~~The percentage shall be no less than ten percent (10%) and no more than~~
 27 ~~seventy five percent (75%) of the withholdings of the eligible positions for a period of~~
 28 ~~years-years. The percentage shall be no more than eighty percent (80%) for a development tier~~
 29 one area, no more than seventy percent (70%) for a development tier two area, no more than
 30 sixty percent (60%) for a development tier three area, and no more than fifty percent (50%) for
 31 a major market community. If the project will be located in more than one area designation, the
 32 location with the highest area designation determines the maximum percentage to be used. The
 33 percentage used to determine the amount of the grant shall be based on criteria developed by
 34 the Committee, in consultation with the Attorney General, after considering at least the
 35 following:

- 36 (1) The number of eligible positions to be created.
- 37 (2) The expected duration of those positions.
- 38 (3) The type of contribution the business can make to the long-term growth of
- 39 the State's economy.
- 40 (4) The amount of other financial assistance the project will receive from the
- 41 State or local governments.
- 42 (5) The total dollar investment the business is making in the project.
- 43 (6) Whether the project utilizes existing infrastructure and resources in the
- 44 community.
- 45 (7) Whether the project is located in a development zone.
- 46 (8) The number of eligible positions that would be filled by residents of a
- 47 development zone.
- 48 (9) The extent to which the project will mitigate unemployment in the State and
- 49 locality.

50 (a1) Notwithstanding the percentage specified by subsection (a) of this section, if the
 51 project is a high-yield project, the business has met the investment and job creation

1 requirements, and, for three consecutive years, the business has met all terms of the agreement,
2 the amount of the grant awarded shall be no more than one hundred percent (100%) of the
3 withholdings of eligible positions for each consecutive year the business maintains the
4 minimum job creation requirement and meets all terms of the agreement. A business receiving
5 an enhanced percentage of the withholdings of eligible positions under this subsection that fails
6 to maintain the minimum job creation requirement or meet all terms of the agreement will be
7 disqualified from receiving the enhanced percentage and will have the applicable percentage set
8 forth in subsection (a) of this section applied in the year in which the failure occurs and all
9 remaining years of the grant term.

10 (b) ~~The term of the grant shall not exceed 12 years starting with the first year a grant~~
11 ~~payment is made. the duration listed in this subsection.~~ The first grant payment must be made
12 within six years after the date on which the grant was awarded. The number of years in the base
13 period for which grant payments may be made shall not exceed five years.

14 (1) For high-yield projects in which the business receives the enhanced
15 percentage pursuant to subsection (a1) of this section, 20 years starting with
16 the first year a grant payment is made. If a business is disqualified from the
17 enhanced percentage in one of the first 12 years, the term of the grant shall
18 not exceed 12 years starting with the first year a grant payment is made. If a
19 business is disqualified from receiving the enhanced percentage after the
20 first 12 years, the term of the grant ends in the year the disqualification
21 occurs.

22 (2) For all other projects, 12 years starting with the first year a grant payment is
23 made.

24 (c) The grant may be based only on eligible positions created during the base period.

25 (d) For any eligible position that is located in a development tier three area,
26 seventy-five percent (75%) of the annual grant approved for disbursement shall be payable to
27 the business, and twenty-five percent (25%) shall be payable to the Utility Account pursuant to
28 G.S. 143B-437.61. For any eligible position that is located in a development tier two area,
29 eighty-five percent (85%) of the annual grant approved for disbursement shall be payable to the
30 business, and fifteen percent (15%) shall be payable to the Utility Account pursuant to
31 G.S. 143B-437.61. A position is located in the development tier area that has been assigned to
32 the county in which the project is located at the time the application is filed with the
33 Committee. This subsection does not apply to a high-yield project in years in which the
34 business receives the enhanced percentage pursuant to subsection (a1) of this section.

35 (e) A business that is receiving any other grant by operation of State law may not
36 receive an amount as a grant pursuant to this Part that, when combined with any other grants,
37 exceeds seventy-five percent (75%) of the withholdings of the business, unless the Committee
38 makes an explicit finding that the additional grant is necessary to secure the project.

39 (f) The amount of a grant associated with any specific eligible position, including any
40 amount transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed six
41 thousand five hundred dollars (\$6,500) in any year."

42 **SECTION 3.(e)** G.S. 143B-437.62 reads as rewritten:

43 **"§ 143B-437.62. Expiration.**

44 The authority of the Committee to award new grants expires January 1, ~~2016~~2018."

45 **SECTION 3.(f)** This section is effective when it becomes law and applies to
46 awards made under Part 2G of Article 10 of Chapter 143B of the General Statutes on or after
47 that date.

48 **PART IV. EFFECTIVE DATE**

49 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
50 law.