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SENATE BILL 938
Finance Committee Substitute Adopted 6/11/97
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Short Title: Construction Worker Training Credit.

(Public)

Sponsors:

Referred to: Appropriations.

April 17, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE TAX CREDITS FOR CONSTRUCTION EMPLOYERS WHO
3 PROVIDE CRAFTWORKER TRAINING TO EMPLOYEES AND WHO HIRE
4 WELFARE RECIPIENTS.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 105-129.2 reads as rewritten:

7 "**§ 105-129.2. (Repealed effective January 1, 2002 – see note) Definitions.**

8 The following definitions apply in this Article:

9 (1) Construction. – Any of the following businesses as defined in Major
10 Groups 15, 16, and 17 of the Standard Industrial Classification Manual
11 issued by the United States Bureau of the Census:

12 a. Construction.

13 b. Heavy construction.

14 c. Building-related special trades.

15 (1a) Cost. – Defined in section 179 of the Code.

16 (2) Data processing. – Defined in the Standard Industrial Classification
17 Manual issued by the United States Bureau of the Census.

- 1 (3) Enterprise tier. – The classification assigned to an area pursuant to G.S.
2 105-129.3.
- 3 (4) Full-time job. – A position that requires at least 1,600 hours of work per
4 year and is intended to be held by one employee during the entire year.
5 A full-time employee is an employee who holds a full-time job.
- 6 (5) Machinery and equipment. – Engines, machinery, tools, and implements
7 that are capitalized by the taxpayer for tax purposes under the Code and
8 are used or designed to be used in manufacturing or processing,
9 warehousing and distribution, or data processing. The term does not
10 include real property as defined in G.S. 105-273 or rolling stock as
11 defined in G.S. 105-333.
- 12 (6) Manufacturing and processing. – Defined in the Standard Industrial
13 Classification Manual issued by the United States Bureau of the Census.
- 14 (7) Purchase. – Defined in section 179 of the Code.
- 15 (8) Warehousing and distribution. – Defined in the Standard Industrial
16 Classification Manual issued by the United States Bureau of the Census.
- 17 (9) Welfare recipient. – A person who was a recipient of public assistance
18 under Part 2 of Article 2 of Chapter 108A of the General Statutes within
19 the 12-month period before being hired by the taxpayer."

20 Section 2. G.S. 105-129.4 reads as rewritten:

21 "**§ 105-129.4. (Repealed effective January 1, 2002) Eligibility; forfeiture.**

22 (a) Type of Business. – A taxpayer is eligible for the credit for creating a
23 construction job for a welfare recipient under G.S. 105-129.8(a1) or the credit for
24 construction craftworker training under G.S. 105-129.11(b) if the taxpayer is engaged in
25 the business of construction. A taxpayer is eligible for a ~~credit~~ the remaining credits
26 allowed by this Article if the taxpayer engages in manufacturing or processing,
27 warehousing or distributing, or data processing, and the jobs with respect to which a
28 credit is claimed are created in that business, the machinery and equipment with respect
29 to which a credit is claimed are used in that business, and the research and development
30 for which a credit is claimed are carried out as part of that business.

31 (b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the
32 credit for worker training if the jobs for which the credit is claimed meet the wage
33 standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the
34 credit for investing in machinery and equipment or the credit for research and
35 development if the jobs at the location with respect to which the credit is claimed meet
36 the wage standard at the time the taxpayer applies for the credit. Jobs meet the wage
37 standard if they pay an average weekly wage that is at least ten percent (10%) above the
38 average weekly wage paid in the county in which the jobs will be located. In calculating
39 the average weekly wage of jobs, positions that pay a wage or salary at a rate that exceeds
40 one hundred thousand dollars (\$100,000) a year shall be excluded. For the purpose of this
41 subsection, the average wage in a county is the average wage for all insured industries in
42 the county as computed by the Employment Security Commission for the most recent
43 period for which data are available.

1 (c) Worker Training. – A taxpayer is eligible for the tax credit for worker training
2 only for training workers who occupy jobs for which the taxpayer is eligible to claim an
3 installment of the credit for creating jobs or which are full-time positions at a location
4 with respect to which the taxpayer is eligible to claim an installment of the credit for
5 investing in machinery and equipment for the taxable year.

6 The credit for worker training is allowed only with respect to employees in positions
7 not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1) and
8 for expenditures for training that would be eligible for expenditure or reimbursement
9 under the Department of Community Colleges' New and Expanding Industry Program, as
10 determined by guidelines adopted by the State Board of Community Colleges. To
11 establish eligibility, the taxpayer must obtain as part of the application process under G.S.
12 105-129.6 the certification of the Department of Community Colleges that the taxpayer's
13 planned worker training would satisfy the requirements of this paragraph. A taxpayer
14 shall apply to the Department of Community Colleges for this certification. The
15 application must be on a form provided by the Department of Community Colleges, must
16 provide a detailed plan of the worker training to be provided, and must contain any
17 information required by the Department of Community Colleges to determine whether
18 the requirements of this paragraph will be satisfied. If the Department of Community
19 Colleges determines that the planned worker training meets the requirements of this
20 paragraph, the Department of Community Colleges shall issue a certificate describing the
21 location with respect to which the credit is claimed and stating that the planned worker
22 training meets the requirements of this paragraph. The State Board of Community
23 Colleges may adopt rules in accordance with Chapter 150B of the General Statutes that
24 are needed to carry out its responsibilities under this paragraph.

25 (c1) Construction Craftworker Training. – A taxpayer is eligible for the tax credit
26 for construction craftworker training only for training construction craftworkers in
27 positions not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. §
28 213(a)(1), and only for training provided pursuant to a program that satisfies the
29 following conditions:

- 30 (1) It combines jobsite training and related instruction in construction
31 craftwork.
32 (2) It includes competency testing to verify completion of each stage of
33 training.
34 (3) It is approved by the Department of Labor, the Department of
35 Community Colleges, or a statewide trade association that represents
36 employers engaged in the construction business.
37 (4) It is not paid for or reimbursed by someone other than the taxpayer.

38 To establish eligibility, the taxpayer must obtain as part of the application process under
39 G.S. 105-129.6 certification that the taxpayer's planned construction craftworker training
40 would satisfy the requirements of this subsection. A taxpayer must apply to the
41 Department of Labor for certification of registered apprenticeships and certified on-the-
42 job training and to the Department of Community Colleges for certification of all other
43 training. The application must be on a form provided by the certifying Department, must

1 provide a detailed plan of the construction craftworker training to be provided, and must
 2 contain any information required by the certifying Department to determine whether the
 3 requirements of this subsection will be satisfied. If the certifying Department determines
 4 that the planned construction craftworker training meets the requirements of this
 5 subsection, it shall issue a certificate describing the taxpayer, identifying the entity that
 6 approved the training program, and stating that the planned construction craftworker
 7 training meets the requirements of this subsection. The State Board of Community
 8 Colleges and the Department of Labor may adopt rules in accordance with Chapter 150B
 9 of the General Statutes that are needed to carry out their responsibilities under this
 10 subsection.

11 (d) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the
 12 taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. A
 13 taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a
 14 result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed
 15 from the date the taxes would have been due if the credit had not been allowed. The past
 16 taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails
 17 to pay the past taxes and interest by the due date is subject to the penalties provided in
 18 G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for investing
 19 in machinery and equipment, the taxpayer also forfeits any credit for worker training
 20 claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the
 21 location with respect to which the credit for investing in machinery and equipment was
 22 claimed.

23 (e) Change in Ownership of Business. – The sale, merger, acquisition, or
 24 bankruptcy of a business, or any other transaction by which an existing business
 25 reformulates itself as another business, does not create new eligibility in a succeeding
 26 business with respect to credits for which the predecessor was not eligible under this
 27 Article. A successor business may, however, take any installment of or carried-over
 28 portion of a credit that its predecessor could have taken if it had a tax liability."

29 Section 3. G.S. 105-129.8 reads as rewritten:

30 **"§ 105-129.8. (Repealed effective January 1, 2002) ~~Credit~~ Credits for creating jobs.**

31 (a) ~~Credit-Creating Jobs.~~ – A taxpayer that meets the eligibility requirements set
 32 out in G.S. 105-129.4, has five or more employees for at least 40 weeks during the
 33 taxable year, and hires an additional full-time employee during that year to fill a position
 34 located in this State is allowed a credit for creating a new full-time job. The amount of
 35 the credit for each new full-time job created is set out in the table below and is based on
 36 the enterprise tier of the area in which the position is located:

Area Enterprise Tier	Amount of Credit
Tier One	\$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

1 A position is located in an area if more than fifty percent (50%) of the employee's
2 duties are performed in the area.

3 (a1) Creating Construction Jobs for Welfare Recipients. – A taxpayer that is
4 engaged in the construction business, has five or more employees for at least 40 weeks
5 during the taxable year, and hires a welfare recipient as an additional full-time employee
6 during the year is allowed a credit of five hundred dollars (\$500.00) for the job.

7 (a2) The credit may not be taken in the taxable year in which the additional
8 employee is hired. Instead, the credit shall be taken in equal installments over the four
9 years following the taxable year in which the additional employee was hired and shall be
10 conditioned on the continued employment by the taxpayer of the number of full-time
11 employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify
12 for the credit.

13 If, in one of the four years in which the installment of a credit accrues, the number of
14 the taxpayer's full-time employees falls below the number of full-time employees the
15 taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires
16 and the taxpayer may not take any remaining installment of the credit. The taxpayer may,
17 however, take the portion of an installment that accrued in a previous year and was
18 carried forward to the extent permitted under G.S. 105-129.5.

19 If, in one of the four years in which the installment of a credit accrues, a job for which
20 the welfare recipient credit was allowed is no longer filled by a welfare recipient, the
21 credit expires and the taxpayer may not take any remaining installment of the welfare
22 recipient credit with respect to that job.

23 Jobs transferred from one area in the State to another area in the State shall not be
24 considered new jobs for purposes of this section. If, in one of the four years in which the
25 installment of a credit accrues, the position filled by the employee is moved to an area in
26 a higher- or lower-numbered enterprise tier, the remaining installments of the credit shall
27 be calculated as if the position had been created initially in the area to which it was
28 moved.

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

30 (b1), (c) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

31 (d) Planned Expansion. – A taxpayer that signs a letter of commitment with the
32 Department of Commerce to create at least twenty new full-time jobs in a specific area
33 within two years of the date the letter is signed qualifies for the credit in the amount
34 allowed by subsection (a) of this section based on the area's enterprise tier for that year
35 even though the employees are not hired that year. The credit shall be available in the
36 taxable year after at least twenty employees have been hired if 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 area is redesignated to a higher-numbered
39 enterprise tier after the year the letter of commitment was signed, the credit is allowed
40 based on the area's enterprise tier for the year the letter was signed. If the taxpayer does
41 not hire the employees within the two-year period, the taxpayer does not qualify for the
42 credit. However, if the taxpayer qualifies for a credit under subsection (a) in the year any
43 new employees are hired, the taxpayer may take the credit under that subsection.

1 (e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3 for
2 taxable years beginning on or after January 1, 1996."

3 Section 4. G.S. 105-129.11 reads as rewritten:

4 "**§ 105-129.11. (Repealed effective January 1, 2002) ~~Credit for worker training.~~**
5 **Credits for worker training and construction craftworker training.**

6 (a) ~~Credit Worker Training.~~ – A taxpayer that provides worker training for five or
7 more of its eligible employees during the taxable year is allowed a credit equal to fifty
8 percent (50%) of its eligible expenditures for the training. For positions located in an
9 enterprise tier one area, the credit may not exceed one thousand dollars (\$1,000) per
10 employee trained during the taxable year. For other positions, the credit may not exceed
11 five hundred dollars (\$500.00) per employee trained during the taxable year. A position is
12 located in an area if more than fifty percent (50%) of the employee's duties are performed
13 in the area.

14 (b) ~~Eligibility. — The eligibility of a taxpayer's expenditures and employees is determined~~
15 ~~as provided in G.S. 105-129.4.~~ Construction Craftworker Training. – A taxpayer that is
16 engaged in the construction business and provides construction craftworker training to its
17 eligible employees is allowed a credit equal to five hundred dollars (\$500.00) for each
18 employee who completes his or her 1,000th hour of the provided training during the
19 taxable year.

20 (c) Eligibility. – The eligibility of a taxpayer's training, expenditures, and
21 employees is determined as provided in G.S. 105-129.4."

22 Section 5. This act is effective for taxable years beginning on or after January
23 1, 1998.