

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1958*

Short Title: Keeping NC Competitive Act. (Public)

Sponsors: Representatives Moore, Burris-Floyd (Primary Sponsors); Cole and Gulley.

Referred to: Commerce, Small Business, and Entrepreneurship, if favorable, Finance.

May 25, 2010

A BILL TO BE ENTITLED
AN ACT TO MODIFY AND CLARIFY ELIGIBILITY FOR JOB CREATION TO KEEP
NORTH CAROLINA COMPETITIVE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-164.3 reads as rewritten:

"The following definitions apply in this Article:

...

(5c) Datacenter. – A facility that provides infrastructure for hosting or data processing services and that has power and cooling systems that are created and maintained to be concurrently maintainable and to include redundant capacity components and multiple distribution paths serving the computer equipment at the facility. Although the facility must have multiple distribution paths serving the computer equipment, a single distribution path may serve the computer equipment at any one time. The facility may be comprised of a structure or series of structures located or to be located (i) on a single parcel of land, (ii) on contiguous parcels of land that are commonly owned or owned by affiliation with the operator of that facility, or (iii) on noncontiguous parcels of land that are commonly owned or owned by affiliation with the operator of that facility but only if the structures located thereon are linked through fiber optic or similar connection and form part of the same operating unit of a company. The following definitions apply in this subdivision:

- a. Concurrently maintainable. – Capable of having any capacity component or distribution element serviced or repaired on a planned basis without interrupting or impeding the performance of the computer equipment.
- b. Multiple distribution paths. – A series of distribution paths configured to ensure that failure on one distribution path does not interrupt or impede other distribution paths.
- c. Redundant capacity components. – Components beyond those required to support the computer equipment.

...

(8e) Eligible Internet datacenter. – A datacenter that satisfies each of the following conditions:

- a. The facility is used primarily or is to be used primarily by a business engaged in ~~"Internet service providers and Web search portals"~~ industry 51811, as defined by NAICS: one or more of the following:



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- 1 1. Providing clients access to the Internet and related services.
- 2 Related services may include Web hosting, Web page
- 3 designing, and hardware or software consulting related to
- 4 Internet connectivity. The business may provide local,
- 5 regional, or national coverage for clients or provide backbone
- 6 services, other than telecommunications carriers, for other
- 7 Internet service providers. The business must have the
- 8 equipment and telecommunication network access required
- 9 for a point-of-presence on the Internet.
- 10 2. Publishing or communicating or both of one or more of
- 11 textual, audio, or video content of general or specific interest
- 12 to or within a Web-based community found on the Internet
- 13 exclusively and not in a traditional, non-Internet version.
- 14 3. Operating Web sites that use a search engine to generate and
- 15 maintain extensive databases of Internet addresses and
- 16 content in an easily searchable format. The business may
- 17 provide additional Internet services, including e-mail,
- 18 connections to other Web sites, auctions, news, or other
- 19 content, or may serve as a home base for Internet users.
- 20 b. ~~The facility is comprised of a structure or series of structures located~~
- 21 ~~or to be located on a single parcel of land or on contiguous parcels of~~
- 22 ~~land that are commonly owned or owned by affiliation with the~~
- 23 ~~operator of that facility.~~
- 24 c. The facility is located or to be located in a county that was
- 25 designated, at the time of application for the written determination
- 26 required under sub-subdivision d. of this subdivision, either an
- 27 enterprise tier one, two, or three area or a development tier one or
- 28 two area pursuant to G.S. 105-129.3 or G.S. 143B-437.08, regardless
- 29 of any subsequent change in county enterprise or development tier
- 30 status.
- 31 d. The Secretary of Commerce has made a written determination that at
- 32 least two hundred fifty million dollars (\$250,000,000) in private
- 33 funds has been or will be invested in real property or eligible
- 34 business property, or a combination of both, at the facility within five
- 35 years after the commencement of construction of the facility.

...."

SECTION 2. G.S. 105-164.14(j) reads as rewritten:

"(j) Certain Industrial Facilities. – The owner of an eligible facility is allowed an annual refund of sales and use taxes as provided in this subsection.

...

(2) Eligibility. – A facility is eligible under this subsection if it meets all of the following conditions:

...

e. If the facility is primarily engaged in paper-from-pulp manufacturing, the owner of the facility creates at least 200 additional jobs, and the business pays an average weekly wage at the facility equal to or greater than the average wage of the county. In making the wage calculation, the business must include any jobs that were filled for at least 1,600 hours during the calendar year.

(3) Industries. – This subsection applies to the following industries:

...

1 i. Paper-from-pulp manufacturing. – Paper-from-pulp manufacturing
 2 means an industry primarily engaged in manufacturing or converting
 3 paper, other than newsprint or uncoated groundwood paper, from
 4 pulp or pulp products, or in converting purchased sanitary paper
 5 stock or wadding into sanitary paper products.

6 ...

7 o. Turbine and turbine generator set units manufacturing. – Turbine and
 8 turbine generator set units manufacturing means an industry
 9 primarily engaged in manufacturing turbines (except aircraft) or
 10 complete turbine generator set units, such as steam, hydraulic, gas,
 11 and wind.

12 (4) Forfeiture. – If the owner of an eligible facility does not make the required
 13 minimum investment within five years after the first refund under this
 14 subsection with respect to the facility or fails to maintain the minimum
 15 number of jobs created with respect to the facility, the facility loses its
 16 eligibility and the owner forfeits all refunds already received under this
 17 subsection. Upon forfeiture, the owner is liable for tax under this Article
 18 equal to the amount of all past taxes refunded under this subsection, plus
 19 interest at the rate established in G.S. 105-241.21, computed from the date
 20 each refund was issued. The tax and interest are due 30 days after the date of
 21 the forfeiture. A person that fails to pay the tax and interest is subject to the
 22 penalties provided in G.S. 105-236.

23"

24 **SECTION 3.** G.S. 105-187.50(2) reads as rewritten:

25 **"§ 105-187.50. Definitions.**

26 The definitions in G.S. 105-164.3 apply in this Article. In addition, the following
 27 definitions apply in this Article:

- 28 (1) Repealed by Session Laws 2009-451, s. 27A.3(v), effective August 7, 2009.
- 29 (2) Eligible datacenter. – A datacenter that satisfies each of the following
 30 conditions:
 - 31 a. Repealed by Session Laws 2009-451, s. 27A.3(v), effective August
 32 7, 2009.
 - 33 b. The Secretary of Commerce has made a written determination of the
 34 following:
 - 35 1. For ~~facilities~~datacenters that are located entirely in a
 36 development tier one area at the time of application for the
 37 written determination, that at least one hundred fifty million
 38 dollars (\$150,000,000) in private funds has been or will be
 39 invested in improvements to real property or installed
 40 datacenter machinery and equipment, or a combination
 41 thereof, within five years of the date on which the first
 42 qualifying improvement is made, regardless of any
 43 subsequent change in county development tier status.
 - 44 2. For ~~facilities~~datacenters that are not located entirely in a
 45 development tier one area at the time of application for the
 46 written determination, that at least three hundred million
 47 dollars (\$300,000,000) in private funds has been or will be
 48 invested in improvements to real property or installed
 49 datacenter machinery and equipment, or a combination
 50 thereof, within five years of the date on which the first

1 qualifying improvement is made, regardless of any
2 subsequent change in county development tier status.
3 c. The ~~facility~~datacenter satisfies the wage standard and health
4 insurance requirements of G.S. 105-129.83."

5 **SECTION 4.** This act becomes effective July 1, 2010, and applies to sales made on
6 or after that date.