

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 574*

Short Title: Make Better Use of Economic Incentives. (Public)

Sponsors: Senators Hoyle, Foriest, Brunstetter, Hartsell, Jenkins, Malone, Soles, and Clodfelter.

Referred to: Finance.

March 12, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO REALLOCATE NORTH CAROLINA'S ECONOMIC INCENTIVES
3 PORTFOLIO TO MAKE IT MORE EFFECTIVE, TARGETED, AND MEASURABLE
4 BY ELIMINATING INEFFECTIVE TAX CREDITS, REDUCING THE CORPORATE
5 INCOME TAX RATE, TARGETING DISTRESSED AREAS AND STRATEGIC
6 INDUSTRIES, AND PROVIDING ONGOING LEGISLATIVE ASSESSMENT OF THE
7 STATE'S ECONOMIC INCENTIVES PORTFOLIO.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 105-129.82(a) reads as rewritten:

10 "(a) Sunset. – This Article is repealed effective for business activities that occur on or
11 after ~~January 1, 2011~~ January 1, 2009."

12 **SECTION 2.** G.S. 105-130.3 reads as rewritten:

13 **"§ 105-130.3. Corporations.**

14 A tax is imposed on the State net income of every C Corporation doing business in this
15 State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage
16 of the taxpayer's State net income computed as follows:

Income Years Beginning	Tax
In 1997	7.5%
In 1998	7.25%
In 1999	7%
After 1999	6.9%
<u>Before 2011</u>	<u>6.9%</u>
<u>In 2011</u>	<u>6.8%</u>
<u>In 2012</u>	<u>6.7%</u>
<u>After 2012</u>	<u>6.6%."</u>

26 **SECTION 3.** G.S. 143B-437.51 is amended by adding a new subdivision to read:

27 **"§ 143B-437.51. Definitions.**

28 The following definitions apply in this Part:

29 ...
30 (4b) Economically disadvantaged area. – An area that is in economic distress, as
31 defined in G.S. 143B-434.01.

32"

33 **SECTION 4.** G.S. 143B-437.52 reads as rewritten:

34 **"§ 143B-437.52. Job Development Investment Grant Program.**

35 (a) Program. – There is established the Job Development Investment Grant Program to
36 be administered by the Economic Investment Committee. In order to foster job creation and



1 investment in the economy of this State, the Committee may enter into negotiated agreements
2 with businesses to provide grants in accordance with the provisions of this Part. The
3 Committee, in consultation with the Attorney General, shall develop criteria to be used in
4 determining whether the conditions of this section are satisfied and whether the project
5 described in the application is otherwise consistent with the purposes of this Part. Before
6 entering into an agreement, the Committee must find that all the following conditions are met:

7 (1) The project proposed by the business will create, during the term of the
8 agreement, a net increase in employment in this State by the business.

9 (2) ~~The project will benefit the people of this State by increasing opportunities
10 for employment and by strengthening this State's economy by, for example,
11 providing worker training opportunities, constructing and enhancing critical
12 infrastructure, increasing development in strategically important industries,
13 or increasing the State and local tax base.~~ The project proposed by the
14 business meets at least one of the following economic development
15 objectives:

16 a. It will increase development in an industry identified by the
17 Department of Commerce as strategically important to the State.

18 b. It will locate in an economically disadvantaged area of the State.

19 (3) ~~The project is consistent with economic development goals for the State and
20 for the area where it will be located.~~

21 (4) A grant under this Part is necessary for the completion of the project in this
22 State.

23 (5) The total benefits of the project to the State outweigh its costs and render the
24 grant appropriate for the project.

25 (b) ~~Cap. Cap and Priority.~~ – The maximum number of agreements the Committee may
26 enter into each calendar year is 25.30. The Committee may enter into 25 agreements during this
27 period for grants for projects located anywhere in the State and may enter into an additional
28 five agreements during this period only for grants for projects located in an economically
29 disadvantaged area of the State.

30 (c) ~~Ceiling.~~ – Except as provided in this section, the ~~The maximum amount of total
31 annual liability for grants for agreements entered into in any single calendar year, including
32 amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed
33 fifteen million dollars (\$15,000,000). twenty-five million dollars (\$25,000,000). The maximum
34 amount of total annual liability for grants for agreements entered into in 2006, including
35 amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed
36 thirty million dollars (\$30,000,000).~~ No agreement may be entered into that, when considered
37 together with other existing agreements entered into during that calendar year, could cause the
38 State's potential total annual liability for grants entered into in that calendar year to exceed this
39 amount.

40 (d) Measuring Employment. – For the purposes of subdivision (a)(1) of this section and
41 G.S. 143B-437.51(5), 143B-437.51(7), and 143B-437.57(a)(11), the Committee may designate
42 that the increase or maintenance of employment is measured at the level of a division or
43 another operating unit of a business, rather than at the business level, if both of the following
44 conditions are met:

45 (1) The Committee makes an explicit finding that the designation is necessary to
46 secure the project in this State.

47 (2) The agreement contains terms to ensure that the business does not create
48 eligible positions by transferring or shifting to the project existing positions
49 from another project of the business or a related member of the business."

50 **SECTION 5.** G.S. 143B-437.53(d) is reenacted and reads as rewritten:

"(d) ~~Wage Standard. Employment Requirements.~~ – In order for a business to be eligible for a grant under this Part, the average wage of all jobs at the location with respect to which a grant is made must ~~meet the wage standard set out in G.S. 105-129.4(b). If a project is to be located at more than one location, the average wage of all jobs at a location must meet the wage standard set out in G.S. 105-129.4(b) in order for that location to be included in the agreement.~~ pay an average weekly wage that is at least equal to the lesser of one hundred ten percent (110%) of the average wage for all insured private employers in the State and ninety percent (90%) of the average wage for all insured private employers in the county. The Department of Commerce must annually publish the wage standard. A business locating in an economically disadvantaged area is not required to satisfy this wage standard.

For a business to be eligible for a grant under this Part, the business must agree to give the Employment Security Commission information on the positions it plans to create, as defined by the agreement. The business must agree to interview candidates referred to it by the Commission before seeking other possible candidates for the positions. The business is not under any obligation to hire the candidates referred to it by the Commission."

SECTION 6. G.S. 143B-437.54(a) reads as rewritten:

"(a) Membership. – The Economic Investment Committee is established. The Committee consists of the following members:

- (1) The Secretary of Commerce.
- (2) The Secretary of Revenue.
- (3) The Director of the Office of State Budget and Management.
- (3a) The Chair of the Economic Development Board.
- (4) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.
- (5) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

The members of the Committee appointed by the General Assembly may not be members of the General Assembly. The members of the Committee appointed by the General Assembly serve two-year terms that begin upon appointment."

SECTION 7. G.S. 143B-437.62 reads as rewritten:

"§ **143B-437.62. Expiration.**

The authority of the Committee to enter into new agreements expires ~~January 1,~~ 2010-January 1, 2016."

SECTION 8.(a) The title of Article 12L of Chapter 120 of the General Statutes reads as rewritten:

"Article 12L.

~~Revenue Laws~~Finance and Economic Development Study Committee."

SECTION 8.(b) G.S. 120-70.105 reads as rewritten:

"§ **120-70.105. Creation and membership of the ~~Revenue Laws~~ Finance and Economic Development Study Committee.**

(a) Membership. – The ~~Revenue Laws~~ Finance and Economic Development Study Committee is established. The Committee consists of ~~16-20~~ members as follows:

- (1) ~~Eight-Ten~~ members appointed by the President Pro Tempore of the Senate; the persons appointed may be members of the Senate or public members.
- (2) ~~Eight-Ten~~ members appointed by the Speaker of the House of Representatives; the persons appointed may be members of the House of Representatives or public members.

(b) Terms. – Terms on the Committee are for two years and begin on January 15 of each odd-numbered year, except the terms of the initial members, which begin on appointment. Legislative members may complete a term of service on the Committee even if they do not seek reelection or are not reelected to the General Assembly, but resignation or removal from

1 service in the General Assembly constitutes resignation or removal from service on the
2 Committee.

3 A member continues to serve until a successor is appointed. A vacancy shall be filled
4 within 30 days by the officer who made the original appointment."

5 **SECTION 8.(c)** G.S. 120-70.106 reads as rewritten:

6 **"§ 120-70.106. Purpose and powers of Committee.**

7 (a) The ~~Revenue Laws~~ Finance and Economic Development Study Committee may:

- 8 (1) Study the revenue laws of North Carolina and the administration of those
9 laws.
- 10 (2) Review the State's revenue laws to determine which laws need clarification,
11 technical amendment, repeal, or other change to make the laws concise,
12 intelligible, easy to administer, and equitable.
- 13 (3) Call upon the Department of Revenue to cooperate with it in the study of the
14 revenue laws.
- 15 (4) Study the economic development incentives offered by the State, units of
16 local governments, and other entities to determine which incentives promote
17 the economic development objectives of the State and which ones need to be
18 clarified, amended, repealed, or changed.
- 19 (5) To assess the performance of economic development incentives and the
20 entities that implement the incentives to determine the extent to which they
21 further the economic development policies and priorities identified by the
22 General Assembly.
- 23 (6) Call upon the Department of Commerce to cooperate with it in the study of
24 economic development incentives.
- 25 (7) Report to the General Assembly at the beginning of each regular session
26 concerning its determinations of needed changes in the State's revenue
27 laws, laws and economic development policies and priorities.

28 These powers, which are enumerated by way of illustration, shall be liberally construed to
29 provide for the maximum review by the Committee of all revenue law and economic
30 development matters in this State.

31 (b) The Committee may make interim reports to the General Assembly on matters for
32 which it may report to a regular session of the General Assembly. A report to the General
33 Assembly may contain any legislation needed to implement a recommendation of the
34 Committee. When a recommendation of the Committee, if enacted, would result in an increase
35 or decrease in State revenues, the report of the Committee must include an estimate of the
36 amount of the increase or decrease.

37 (c) The ~~Revenue Laws~~ Finance and Economic Development Study Committee must
38 review the effect Article 42 of Chapter 66 of the General Statutes, as enacted by S.L. 2006-151,
39 has on the issues listed in this section to determine if any changes to the law are needed:

- 40 (1) Competition in video programming services.
- 41 (2) The number of cable service subscribers, the price of cable service by
42 service tier, and the technology used to deliver the service.
- 43 (3) The deployment of broadband in the State.

44 The Committee must review the impact of this Article on these issues every two years and
45 report its findings to the North Carolina General Assembly. The Committee must make its first
46 report to the 2008 Session of the North Carolina General Assembly."

47 **SECTION 8.(d)** G.S. 120-70.107 reads as rewritten:

48 **"§ 120-70.107. Organization of Committee.**

49 (a) The President Pro Tempore of the Senate and the Speaker of the House of
50 Representatives shall each designate a cochair of the ~~Revenue Laws~~ Finance and Economic
51 Development Study Committee. The Committee shall meet upon the joint call of the cochairs.

1 (b) A quorum of the Committee is ~~nine~~11 members. No action may be taken except by
2 a majority vote at a meeting at which a quorum is present. While in the discharge of its official
3 duties, the Committee has the powers of a joint committee under G.S. 120-19 and
4 G.S. 120-19.1 through G.S. 120-19.4.

5 (c) The Committee shall be funded by the Legislative Services Commission from
6 appropriations made to the General Assembly for that purpose. Members of the Committee
7 receive subsistence and travel expenses as provided in G.S. 120-3.1 and G.S. 138-5. The
8 Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02.
9 Upon approval of the Legislative Services Commission, the Legislative Services Officer shall
10 assign professional staff to assist the Committee in its work. Upon the direction of the
11 Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of
12 Representatives shall assign clerical staff to the Committee. The expenses for clerical
13 employees shall be borne by the Committee."

14 **SECTION 8.(e)** Article 120 of Chapter 120 of the General Statutes is repealed.

15 **SECTION 9.** Section 1 of this act is effective when it becomes law. The remainder
16 of this act becomes effective July 1, 2009.