

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

H

1

HOUSE BILL 1808

Short Title: Modify Jobs Tax Credit.

(Public)

Sponsors: Representatives G. Miller; Bowman and Dickson.

Referred to: Finance.

May 30, 1994

A BILL TO BE ENTITLED

AN ACT TO EXPAND THE JOBS TAX CREDIT TO PROVIDE CREDIT AMOUNTS IN PROPORTION TO THE LEVEL OF ECONOMIC DISTRESS IN EACH COUNTY.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-130.40 reads as rewritten:

"§ 105-130.40. Credit for creating jobs in severely-distressed county.

(a) Credit. - A corporation that (i) for at least 40 weeks during the year has at least nine employees and (ii) is located, for part or all of its taxable year, in a severely distressed county has nine or more employees for at least 40 weeks during its income year may qualify for a credit against the tax imposed by this Division by creating new full-time jobs with the corporation in the severely-a distressed county during that year. A corporation that hires an additional full-time employee during that year to fill a position located in a severely-distressed county is allowed a credit of two thousand eight hundred dollars (\$2,800) for the additional employee. for that employee in the amount provided in the following table based on the county's distress factor, as determined in subsection (c) of this section, for the year in which the employee is hired:

<u>County Distress Factor</u>	<u>Amount of Credit</u>
<u>One of 25 highest</u>	<u>\$3,000</u>
<u>One of next 25</u>	<u>2,000</u>
<u>One of next 25</u>	<u>1,000</u>

A position is located in a county if (i) at least fifty percent (50%) of the employee's duties are performed in the county, or (ii) the employee is a resident of the county. The credit may not be taken in the income year in which the additional employee is hired.

1 Instead, the credit shall be taken in equal installments over the four years following the  
2 income year in which the additional employee was hired and shall be conditioned on the  
3 continued employment by the corporation of the number of full-time employees the  
4 corporation had upon hiring the employee that caused the corporation to qualify for the  
5 credit. If, in one of the four years in which the installment of a credit accrues, the  
6 number of the corporation's full-time employees falls below the number of full-time  
7 employees the company had in the year in which the corporation qualified for the credit  
8 or the position filled by the employee is moved to another county, the credit expires and  
9 the corporation may not take any remaining installment of the credit. The corporation  
10 may, however, take the portion of an installment that accrued in a previous year and was  
11 carried forward to the extent permitted under subsection (e) of this section.

12 For the purposes of this section, a full-time job is a position that requires at least  
13 1,600 hours of work per year and is intended to be held by one employee during the  
14 entire year. A full-time employee is an employee who holds a full-time job.

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

16 (b1) Eligibility. – A corporation is eligible for the tax credit allowed by this  
17 section only if it obtained a credit under this section for taxable year 1988 or the  
18 Department of Commerce determines that it engages in the manufacturing of goods, or  
19 ~~that it engages goods or~~ in an industrial activity such as the processing of foods, raw  
20 materials, chemicals and process agents, goods in process, or finished products.

21 (c) County Designation. – A ~~severely~~-distressed county is a county designated as  
22 ~~severely~~-distressed by the Secretary of Commerce. ~~Each year, on or before December~~  
23 ~~31, the Secretary of Commerce shall designate which counties are considered severely~~  
24 ~~distressed, and shall provide that information to the Secretary of Revenue.~~ A county is  
25 considered ~~severely~~-distressed if its distress factor is one of the ~~fifty-seventy-five~~  
26 highest in the State. ~~The~~ Each year, on or before December 31, the Secretary of  
27 Commerce shall assign to each county in the State a distress factor that is the sum of the  
28 following:

- 29 (1) The county's rank in a ranking of counties by rate of unemployment  
30 from lowest to highest.
- 31 (2) The county's rank in a ranking of counties by per capita income from  
32 highest to lowest.
- 33 (3) The county's rank in a ranking of counties by percentage growth in  
34 population from ~~lowest to highest.~~ highest to lowest.

35 The Secretary of Commerce shall then rank all the counties within the State  
36 according to their distress factor from highest to lowest and shall provide this  
37 information to the Secretary of Revenue.

38 In measuring rates of unemployment and per capita income, the Secretary shall use  
39 the latest available data published by a State or federal agency generally recognized as  
40 having expertise concerning the data. In measuring population growth, the Secretary  
41 shall use the most recent estimates of population certified by the State Planning Officer.  
42 A designation as a ~~severely~~-distressed county is effective only for the calendar year  
43 following the designation.

1 (d) Planned Expansion. – A corporation that, during the year in which a county is  
2 designated as a ~~severely~~-distressed county, signs a letter of commitment with the  
3 Department of Commerce to create at least twenty new full-time jobs in that distressed  
4 county within two years of the date the letter is signed qualifies for the credit in the  
5 amount allowed by this section based on the county's distress factor for that year even  
6 though the employees are not hired that year. The credit shall be available in the  
7 income year after at least twenty employees have been hired if ~~such~~-the hirings are  
8 within the two-year commitment period. The conditions outlined in subsection (a)  
9 apply to a credit taken under this subsection except that if the ~~county is no longer~~  
10 ~~designated a severely distressed county~~ county's distress ranking decreases after the year  
11 the letter of commitment was signed, the credit is ~~still available.~~ allowed based on the  
12 county's distress ranking for that year. If the corporation does not hire the employees  
13 within the two-year period, the corporation does not qualify for the credit. However, if  
14 the corporation qualifies for a credit under subsection (a) in the year any new employees  
15 are hired, it may take the credit under that subsection.

16 (e) Limitations. – The sale, merger, acquisition, or bankruptcy of a business, or  
17 any other transaction by which an existing business reformulates itself as another  
18 business, does not create new eligibility in a succeeding business with respect to jobs  
19 for which the predecessor was not eligible under this section. A successor corporation  
20 may, however, take any installment of or carried-over portion of a credit that its  
21 predecessor could have taken if it had taxable income. Jobs transferred from one county  
22 in the State to another county in the State shall not be considered new jobs for purposes  
23 of this section. A credit taken under this section may not exceed fifty percent (50%) of  
24 the tax imposed by this Division for the taxable year, reduced by the sum of all other  
25 credits allowed under this Division, except tax payments made by or on behalf of the  
26 corporation. Any unused portion of the credit may be carried forward for the  
27 succeeding five years.

28 (f) Substantiation. – Every corporation claiming the credit provided in subsection  
29 (a) shall maintain and make available for inspection by the Secretary of Revenue ~~or his~~  
30 ~~agent such records as may be~~ any records the Secretary considers necessary to determine  
31 and verify the amount of the credit to which it is entitled. The burden of proving  
32 eligibility for the credit and the amount of the credit shall rest upon the corporation, and  
33 no credit shall be allowed to a corporation that fails to maintain adequate records or to  
34 make them available for inspection."

35 Sec. 2. G.S. 105-151.17 reads as rewritten:

36 "**§ 105-151.17. Credit for creating jobs in ~~severely~~-distressed county.**

37 (a) Credit. – A person who ~~(i) for at least 40 weeks during the year has at least~~  
38 ~~nine employees and (ii) whose business is located, for part or all of his taxable year, in a~~  
39 ~~severely distressed county~~ has nine or more employees for at least 40 weeks during the  
40 taxable year may qualify for a credit against the tax imposed by this Division by  
41 creating new full-time jobs with the person's business in the ~~severely~~-a distressed county  
42 during that year. A person who hires an additional full-time employee during that year  
43 to fill a position located in a ~~severely~~-distressed county is allowed a credit ~~of two~~  
44 ~~thousand eight hundred dollars (\$2,800) for the additional employee.~~ for that employee

1 in the amount provided in the following table based on the county's distress factor, as  
 2 determined in subsection (c) of this section, for the year in which the employee is hired:

3 <u>County Distress Factor</u>	<u>Amount of Credit</u>
4 <u>One of 25 highest</u>	<u>\$3,000</u>
5 <u>One of next 25</u>	<u>2,000</u>
6 <u>One of next 25</u>	<u>1,000</u>

7 A position is located in a county if (i) at least fifty percent (50%) of the employee's  
 8 duties are performed in the county, or (ii) the employee is a resident of the county. The  
 9 credit may not be taken in the ~~income-taxable~~ year in which the additional employee is  
 10 hired. Instead, the credit shall be taken in equal installments over the four years  
 11 following the ~~income-taxable~~ year in which the additional employee was hired and shall  
 12 be conditioned on the continued employment by the taxpayer of the number of full-time  
 13 employees the taxpayer had upon hiring the employee that caused the taxpayer to  
 14 qualify for the credit. If, in one of the four years in which the installment of a credit  
 15 accrues, the number of the taxpayer's full-time employees falls below the number of  
 16 full-time employees the taxpayer had in the year in which the taxpayer qualified for the  
 17 credit or the position filled by the employee is moved to another county, the credit  
 18 expires and the taxpayer may not take any remaining installment of the credit. The  
 19 taxpayer may, however, take the portion of an installment that accrued in a previous  
 20 year and was carried forward to the extent permitted under subsection (e) of this section.

21 For the purposes of this section, a full-time job is a position that requires at least  
 22 1,600 hours of work per year and is intended to be held by one employee during the  
 23 entire year. A full-time employee is an employee who holds a full-time job.

24 (b) Repealed by Session Laws 1989, c. 111, s. 2.

25 (b1) Eligibility. – A taxpayer is eligible for the tax credit allowed by this section  
 26 only if the taxpayer obtained a credit under this section for taxable year 1988 or the  
 27 Department of Commerce determines that the taxpayer engages in the manufacturing of  
 28 ~~goods, or that he engages goods or~~ in an industrial activity such as the processing of  
 29 foods, raw materials, chemicals and process agents, goods in process, or of finished  
 30 products.

31 (c) County Designation. – A ~~severely~~-distressed county is a county designated as  
 32 ~~severely~~-distressed by the Secretary of Commerce. ~~Each year, on or before December~~  
 33 ~~31, the Secretary of Commerce shall designate which counties are considered severely~~  
 34 ~~distressed, and shall provide that information to the Secretary of Revenue.~~ A county is  
 35 considered ~~severely~~-distressed if its distress factor is one of the ~~forty~~-~~seventy-five~~  
 36 highest in the State. ~~The~~ Each year, on or before December 31, the Secretary of  
 37 Commerce shall assign to each county in the State a distress factor that is the sum of the  
 38 following:

- 39 (1). The county's rank in a ranking of counties by rate of unemployment
- 40 from lowest to highest.
- 41 (2). The county's rank in a ranking of counties by per capita income from
- 42 highest to lowest.
- 43 (3). The county's rank in a ranking of counties by percentage growth in
- 44 population from ~~lowest to highest.~~ highest to lowest.

1        The Secretary of Commerce shall then rank all the counties within the State  
2 according to their distress factor from highest to lowest and shall provide this  
3 information to the Secretary of Revenue.

4        In measuring rates of unemployment and per capita income, the Secretary shall use  
5 the latest available data published by a State or federal agency generally recognized as  
6 having expertise concerning the data. In measuring population growth, the Secretary  
7 shall use the most recent estimates of population certified by the State Planning Officer.  
8 A designation as a ~~severely~~-distressed county is effective only for the calendar year  
9 following the designation.

10        (d) Planned Expansion. – A person who, during the year in which a county is  
11 designated as a ~~severely~~-distressed county, signs a letter of commitment with the  
12 Department of Commerce to create at least twenty new full-time jobs in that distressed  
13 county within two years of the date the letter is signed qualifies for the credit in the  
14 amount allowed by this section based on the county's distress factor for that year even  
15 though the employees are not hired that year. The credit shall be available in the ~~income~~  
16 taxable year after at least twenty employees have been hired if ~~such~~the hirings are  
17 within the two-year commitment period. The conditions outlined in subsection (a)  
18 apply to a credit taken under this subsection except that if the ~~county is no longer~~  
19 ~~designated a severely distressed county~~ county's distress ranking decreases after the year  
20 the letter of commitment was signed, the credit is ~~still available~~ allowed based on the  
21 county's distress ranking for that year. If the taxpayer does not hire the employees  
22 within the two-year period, ~~he~~the taxpayer does not qualify for the credit. However, if  
23 the taxpayer qualifies for a credit under subsection (a) in the year any new employees  
24 are hired, ~~he~~the taxpayer may take the credit under that subsection.

25        (e) Limitations. – The sale, merger, acquisition, or bankruptcy of a business, or  
26 any other transaction by which an existing business reformulates itself as another  
27 business, does not create new eligibility in a succeeding business with respect to jobs  
28 for which the predecessor was not eligible under this section. A taxpayer may,  
29 however, take any installment of or carried-over portion of a credit that ~~his~~the  
30 taxpayer's predecessor could have taken if ~~he~~the predecessor had taxable income. Jobs  
31 transferred from one county in the State to another county in the State shall not be  
32 considered new jobs for purposes of this section. A credit taken under this section may  
33 not exceed fifty percent (50%) of the tax imposed by this Division for the taxable year,  
34 reduced by the sum of all other credits allowed under this Division, except tax payments  
35 made by or on behalf of the taxpayer. Any unused portion of the credit may be carried  
36 forward for the succeeding five years.

37        (f) Substantiation. – Every person claiming the credit provided in subsection (a)  
38 shall maintain and make available for inspection by the Secretary of Revenue ~~or his~~  
39 ~~agent such records as may be~~ any records the Secretary considers necessary to determine  
40 and verify the amount of the credit to which the person is entitled. The burden of  
41 proving eligibility for the credit and the amount of the credit shall rest upon the person,  
42 and no credit shall be allowed to any person who fails to maintain adequate records or to  
43 make them available for inspection."

44        Sec. 3. G.S. 143B-437A reads as rewritten:

1 **"§ 143B-437A. Industrial Development Fund.**

2 (a) There is created in the Department of Commerce the Industrial Development  
3 Fund to provide funds to assist the local government units of the most economically  
4 ~~depressed~~-distressed counties in the State in creating jobs in qualified industries. As  
5 used in this section, the term 'qualified industry' means the manufacturing of goods or  
6 the processing of foods, raw materials, chemicals and process agents, goods in process,  
7 or finished products. The Department of Commerce shall adopt rules providing for the  
8 administration of the program. Those rules shall include the following:

9 (1) The funds shall be used for (i) installation of or purchases of  
10 equipment for qualified industries, (ii) structural repairs,  
11 improvements, or renovations of existing buildings to be used for  
12 expansion of qualified industries, or (iii) construction of or  
13 improvements to new or existing water, sewer, gas, or electrical utility  
14 distribution lines or equipment for existing or new or proposed  
15 industrial buildings to be used for qualified industrial operations, ~~or (iv)~~  
16 ~~in the case of counties designated as severely distressed counties under G.S.~~  
17 ~~105-130.40(e) or G.S. 105-151.17(e) or units of local government within~~  
18 ~~those counties, construction of or improvement to new or existing water,~~  
19 ~~sewer, gas, or electrical utility distribution lines or equipment to serve new~~  
20 ~~or proposed industrial buildings to be used for qualified industrial~~  
21 ~~operations.~~ operations. To be eligible for funding, the water, sewer,  
22 gas, or electrical utility lines or facilities shall be located on the site of  
23 the building or, if not located on the site, shall be directly related to the  
24 operation of the specific qualified industrial activity. However, the  
25 Secretary of Commerce may use up to one hundred thousand dollars  
26 (\$100,000) to provide emergency economic development assistance in  
27 any county which is documented to be experiencing a major economic  
28 dislocation.

29 (2) The funds shall be used by the city and county governments for  
30 projects that will directly result in the creation of new jobs. The funds  
31 shall be expended at a rate of two thousand four hundred dollars  
32 (\$2,400) per new job created up to a maximum of two hundred fifty  
33 thousand dollars (\$250,000) per project.

34 (b) Each year, on or before December 31, the Secretary of Commerce shall  
35 designate the most economically distressed counties in the State; this designation shall  
36 remain effective for the following calendar year. The Secretary of Commerce shall  
37 determine which counties are the most economically distressed counties in the State  
38 based on (i) rate of unemployment, (ii) per capita income, and (iii) relative population  
39 and work force growth or lack of growth, as determined by the Secretary of Commerce.

40 (c) The Department of Commerce shall report annually to the General Assembly  
41 concerning the applications made to the fund and the payments made from the fund and  
42 the impact of the payments on job creation in the State. The Department of Commerce  
43 shall also report quarterly to the Joint Legislative Commission on Governmental  
44 Operations and the Fiscal Research Division on the use of the moneys in the fund,

1 including information regarding to whom payments were made, in what amounts, and  
2 for what purposes.

3 (d) As used in this section, 'major economic dislocation' means the actual or  
4 imminent loss of:

5 (1) 500 or more manufacturing jobs in the county; or

6 (2) A number of manufacturing jobs which is equal to or more than ten  
7 percent (10%) of the existing manufacturing workforce in the county."

8 Sec. 4. G.S. 153A-376(f) reads as rewritten:

9 "(f) All program income from Economic Development Grants from the Small  
10 Cities Community Development Block Grant Program may be retained by recipient  
11 ~~'severely'~~'economically distressed counties', as designated under G.S. ~~105-130.40(e),~~  
12 143B-437A for the purposes of creating local economic development revolving loan  
13 funds. Such program income derived through the use by counties of Small Cities  
14 Community Development Block Grant money includes but is not limited to: (i) payment  
15 of principal and interest on loans made by the county using Community Development  
16 Block Grant Funds; (ii) proceeds from the lease or disposition of real property acquired  
17 with Community Development Block Grant Funds; and (iii) any late fees associated  
18 with loan or lease payments in (i) and (ii) above. The local economic development  
19 revolving loan fund set up by the county shall fund only those activities eligible under  
20 Title I of the federal Housing and Community Development Act of 1974, as amended  
21 (P.L. 93-383), and shall meet at least one of the three national objectives of the Housing  
22 and Community Development Act. Any expiration of G.S. ~~105-130.40(e)-143B-437A~~  
23 shall not affect this subsection as to designations of ~~severely'~~economically distressed  
24 counties made prior to its expiration."

25 Sec. 5. G.S. 160A-456(e1) reads as rewritten:

26 "(e1) All program income from Economic Development Grants from the Small  
27 Cities Community Development Block Grant Program may be retained by recipient  
28 cities in ~~'severely'~~'economically distressed counties', as designated under G.S. ~~105-~~  
29 ~~130.40(e),-143B-437A,~~ 143B-437A, for the purposes of creating local economic development  
30 revolving loan funds. Such program income derived through the use by cities of Small  
31 Cities Community Development Block Grant money includes but is not limited to: (i)  
32 payment of principal and interest on loans made by the county using Community  
33 Development Block Grant Funds; (ii) proceeds from the lease or disposition of real  
34 property acquired with Community Development Block Grant Funds; and (iii) any late  
35 fees associated with loan or lease payments in (i) and (ii) above. The local economic  
36 development revolving loan fund set up by the city shall fund only those activities  
37 eligible under Title I of the federal Housing and Community Development Act of 1974,  
38 as amended (P.L. 93-383), and shall meet at least one of the three national objectives of  
39 the Housing and Community Development Act. Any expiration of G.S. ~~105-130.40(e)~~  
40 143B-437A shall not affect this subsection as to designations of ~~severely'~~economically  
41 distressed counties made prior to its expiration."

42 Sec. 6. This act is effective for taxable years beginning on or after January 1,  
43 1995.