

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

1

HOUSE BILL 1761*

Short Title: JDIG Amendments. (Public)

Sponsors: Representatives Glazier, Dickson, Brubaker, Crawford (Primary Sponsors); Faison, Insko, and Wray.

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

April 19, 2007

A BILL TO BE ENTITLED

AN ACT TO ALLOW THE USE OF JDIG GRANTS TO MAINTAIN EXISTING JOBS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143B-437.50 reads as rewritten:

"Part 2G. Job Development Investment Grant Program.

"§ 143B-437.50. Legislative findings and purpose.

The General Assembly finds that:

- (1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs and to maintain its existing multinational heavy industry manufacturing jobs for the citizens of the State by encouraging and promoting the expansion and retention of existing business and industry within the State and by recruiting and attracting new business and industry to the State.
- (2) Both short-term and long-term economic trends at the State, national, and international levels have made the successful implementation of the State's economic development policy and programs both more critical and more challenging; and the decline in the State's traditional industries, and the resulting adverse impact upon the State and its citizens, have been exacerbated in recent years by adverse national and State economic trends that contribute to the reduction in the State's industrial base and that inhibit the State's ability to sustain-retain multinational heavy industry manufacturing jobs or attract new and expanding businesses.
- (3) The economic condition of the State is not static and recent changes in the State's economic condition have created economic distress that requires a reevaluation of certain existing State programs and the

1 enactment of a new program as provided in this Part that are designed
 2 to stimulate new economic activity and to create new jobs within the
 3 ~~State.~~State and to retain the State's multinational heavy industry
 4 manufacturing jobs.

- 5 (4) The enactment of this Part is necessary to stimulate the economy,
 6 facilitate economic recovery, and create new jobs in North Carolina;
 7 and this Part will promote the general welfare and confer, as its
 8 primary purpose and effect, benefits on citizens throughout the State
 9 through the creation of new ~~jobs,~~jobs and the retention of existing
 10 multinational heavy industry manufacturing jobs, an enlargement of
 11 the overall tax base, an expansion and diversification of the State's
 12 industrial base, and an increase in revenue to the State and its political
 13 subdivisions.
- 14 (5) The purpose of this Part is to stimulate economic activity and to create
 15 new jobs within the State.
- 16 (6) It is not the intent of the General Assembly that grants provided
 17 through this Part be used as venture capital funds, business incubator
 18 funds, or business start-up funds or to otherwise fund the initial
 19 capitalization needs of new businesses.
- 20 (7) Nothing in this Part shall be construed to constitute a guarantee or
 21 assumption by the State of any debt of any business or to authorize the
 22 taxing power or the full faith and credit of the State to be pledged."

23 **SECTION 2.** G.S. 143B-437.51 reads as rewritten:

24 **"§ 143B-437.51. Definitions.**

25 The following definitions apply in this Part:

- 26 (1) Agreement. – A community economic development agreement under
 27 G.S. 143B-437.57.
- 28 (2) Base period. – The period of time set by the Committee during which
 29 new employees are to be hired for the positions on which the grant is
 30 based.
- 31 (3) Business. – A corporation, sole proprietorship, cooperative association,
 32 partnership, S corporation, limited liability company, nonprofit
 33 corporation, or other form of business organization, located either
 34 within or outside this State.
- 35 (4) Committee. – The Economic Investment Committee established
 36 pursuant to G.S. 143B-437.54.
- 37 (4a) Development tier. – The classification assigned to an area pursuant to
 38 G.S. 143B-437.08.
- 39 (5) Eligible position. – A position created by a business and filled by a
 40 new full-time employee or an existing employee at a multinational
 41 heavy industry manufacturing facility in this State during the base
 42 period.
- 43 (6) Full-time employee. – A person who is employed for consideration for
 44 at least 35 hours a week, whose wages are subject to withholding

1 under Article 4A of Chapter 105 of the General Statutes, and who is
2 determined by the Committee to be employed in a permanent position
3 according to criteria it develops in consultation with the Attorney
4 General. The term does not include any person who works as an
5 independent contractor or on a consulting basis for the business.

6 (6a) Multinational heavy industry manufacturing facility. – A North
7 Carolina multinational heavy industry manufacturing business
8 committed to expend during the period from January 1, 2007, to
9 December 1, 2011, at least two hundred million dollars (\$200,000,000)
10 to retool its existing facility which has other similar facilities located
11 on the continents of Asia, Europe, Australia, and South America.

12 (7) New employee. – A full-time employee who represents a net increase
13 in the number of the business's employees ~~statewide~~statewide or an
14 existing employee at a multinational heavy industry manufacturing
15 facility.

16 (8) Overdue tax debt. – Defined in G.S. 105-243.1.

17 (9) Related member. – Defined in G.S. 105-130.7A.

18 (10) Withholdings. – The amount withheld by a business from the wages of
19 employees in eligible positions under Article 4A of Chapter 105 of the
20 General Statutes."

21 **SECTION 3.** G.S. 143B-437.52 reads as rewritten:

22 **"§ 143B-437.52. Job Development Investment Grant Program.**

23 (a) Program. – There is established the Job Development Investment Grant
24 Program to be administered by the Economic Investment Committee. In order to foster
25 job creation and retention and investment in the economy of this State, the Committee
26 may enter into negotiated agreements with businesses to provide grants in accordance
27 with the provisions of this Part. The Committee, in consultation with the Attorney
28 General, shall develop criteria to be used in determining whether the conditions of this
29 section are satisfied and whether the project described in the application is otherwise
30 consistent with the purposes of this Part. Before entering into an agreement, the
31 Committee must find that all the following conditions are met:

32 (1) The project proposed by the business will create, during the term of the
33 agreement, a net increase in employment in this State by the
34 ~~business~~business or permit the retention of the existing workforce of a
35 multinational heavy industry facility.

36 (2) The project will benefit the people of this State by increasing
37 opportunities for employment and by strengthening this State's
38 economy by, for example, providing worker training opportunities,
39 constructing and enhancing critical infrastructure, increasing
40 development in strategically important industries, or increasing the
41 State and local tax base.

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

1 (4) A grant under this Part is necessary for the completion of the project in
2 this ~~State~~.State or to retain the existing workforce of a multinational
3 heavy industry facility in this State.

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

6 (b) Cap. – The maximum number of agreements the Committee may enter into
7 each calendar year is 25.

8 (c) Ceiling. – Except as provided in this section, the maximum amount of total
9 annual liability for grants for agreements entered into in any single calendar year,
10 including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61,
11 may not exceed fifteen million dollars (\$15,000,000). The maximum amount of total
12 annual liability for grants for agreements entered into in 2006, including amounts
13 transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed thirty
14 million dollars (\$30,000,000). No agreement may be entered into that, when considered
15 together with other existing agreements entered into during that calendar year, could
16 cause the State's potential total annual liability for grants entered into in that calendar
17 year to exceed this amount.

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

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

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

29 **SECTION 4.** G.S. 143B-437.55(c) reads as rewritten:

30 "(c) Annual Reports. – The Committee shall publish a report on the Job
31 Development Investment Grant Program on or before April 30 of each year. The report
32 shall include the following:

33 (1) A listing of each community economic development agreement
34 negotiated and entered into during the preceding calendar year,
35 including the name of the business, the cost/benefit analysis conducted
36 by the Committee during the application process, a description of the
37 project, the term of the agreement, the percentage used to determine
38 the amount of the grant, and the amount of the grant made under the
39 agreement during that year.

40 (2) An update on the status of projects under agreements entered into
41 before the preceding calendar year.

42 (3) The number and development tier area of eligible positions created by
43 projects with respect to which grants were awarded.

- 1 (3a) A listing of the employment level for all businesses receiving a grant
- 2 and any changes in those levels from the level of the next preceding
- 3 year.
- 4 (4) The wage levels of all eligible positions created by projects with
- 5 respect to which grants are awarded, aggregated and listed in
- 6 increments of five thousand dollars (\$5,000).
- 7 (5) The amount of new income tax revenue received from withholdings
- 8 related to the projects for which grants were awarded.
- 9 (6) The criteria developed by the Committee, in consultation with the
- 10 Attorney General, to implement this Part and any changes in those
- 11 criteria from the previous calendar year.
- 12 (7) The effectiveness of the program in recruiting new and expanding
- 13 businesses.
- 14 (8) The environmental impact of businesses that have received grants
- 15 under the program.
- 16 (9) The geographic distribution of grants, by number and amount, awarded
- 17 under the program.
- 18 (10) An explanation of whether the projects with respect to which
- 19 agreements are entered into involve new businesses in the ~~State~~
- 20 ~~or State~~, expanding existing businesses in the ~~State~~.State, or the
- 21 retention of existing multinational heavy industry business in the State.
- 22 (11) A listing of all businesses making an application under this Part and an
- 23 explanation of whether each business ultimately located the project in
- 24 this State regardless of whether the business was awarded a grant for
- 25 the project under this Part.
- 26 (12) Repealed by Session Laws 2006-168, s. 1.4, effective July 27, 2006.
- 27 (13) The total amount transferred to the Utility Account of the Industrial
- 28 Development Fund under this Part during the preceding year."

29 **SECTION 5.** Section 2.1(b) of S.L. 2002-172 reads as rewritten:

30 **"SECTION 2.1.(b)** In developing criteria under G.S. ~~443B-437.46~~ 143B-437.52 for

31 the awarding of grants under Part ~~2F-2G~~ of Article 10 of Chapter 143B of the General

32 Statutes and under G.S. ~~443B-437.50~~143B-437.56 for determining the percentage upon

33 which the amount of a grant is based, the Economic Investment Committee, in

34 consultation with the Attorney General, may consider criteria that address the following:

- 35 (1) Factors related to the economic impact of the project, such as the
- 36 following:
- 37 a. Impact on gross regional product and gross State product.
- 38 b. Costs and benefits of the project to the State, including the
- 39 expected return on investment made in the project by the State.
- 40 c. Number of direct jobs that will be created or retained by the
- 41 project, the wages of those jobs, and the total payroll for the
- 42 project.
- 43 d. Number of induced short-term, project-related jobs expected to
- 44 be generated by the project as well as the number of long-term

- 1 permanent jobs expected to be generated or sustained indirectly
2 in the economy as a result of the project.
- 3 e. Dollar value of the investment, including the size of the
4 investment in real versus personal property and expected
5 depreciation rates.
- 6 f. Economic circumstances of the county and region, including the
7 extent to which the project will serve to mitigate
8 unemployment.
- 9 g. The expected time frame during which the project is expected
10 to pay back in State tax revenues the amount of any grants to be
11 paid out.
- 12 h. The economic demands the project is expected to place upon
13 the community or communities in which it will locate.
- 14 i. The number of eligible positions that would be filled by
15 residents of development zones.
- 16 (2) Factors related to the strategic importance of the project to the State,
17 region, or locality, such as the following:
- 18 a. The extent to which the project ~~builds~~ builds, sustains, or
19 enhances an industrial cluster.
- 20 b. The extent to which the project falls within a classification of
21 business and industry that the Department of Commerce regards
22 as a target for growth and expansion in the State.
- 23 c. The ability of the project to attract follow-on investment in the
24 State by suppliers and vendors.
- 25 d. The extent to which the project serves to maintain and grow
26 jobs in the State in a business undergoing an internal
27 restructuring or rationalization process.
- 28 e. The extent to which the project can be expected to contribute
29 significantly to and support the local community.
- 30 (3) Factors related to the quality of jobs, such as the following:
- 31 a. The wage level and status of the jobs to be ~~created~~ created or
32 retained.
- 33 b. The quality and value of benefits offered by the company.
- 34 c. The potential for employee advancement.
- 35 d. The extent of training programs offered by the company.
- 36 e. The sustainability of the jobs in the future.
- 37 f. The workplace safety record of the company.
- 38 (4) Factors related to the quality of the industry and the project, such as
39 the following:
- 40 a. The nature of the project and the project's relationship to the
41 larger business of the company.
- 42 b. The nature of the industrial classification of the project and the
43 nature of the business of the company undertaking it.
- 44 c. The long-term prospects for growth at the project site or sites.

- 1 d. The long-term prospects for growth of the company and the
2 industry within the United States.
- 3 e. The financial stability of the company associated with the
4 project.
- 5 (5) Factors related to the environmental impact of the project, such as the
6 following:
- 7 a. The nature of the business to be conducted.
- 8 b. The ability of the project to satisfy State, federal, and local
9 environmental law and regulations.
- 10 (6) The degree to which use of the program has been geographically
11 dispersed among the various regions of the State and between rural and
12 urban areas.
- 13 (7) Other factors that the Economic Investment Committee considers
14 relevant that are not inconsistent with this section and that the
15 Committee determines will further the purposes of Part 2F of Article
16 10 of Chapter 143B of the General Statutes."

17 **SECTION 6.** This act is effective when it becomes law.