

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 136*

Short Title: Enterprise Zone Development Act.

(Public)

Sponsors: Senators Shaw of Cumberland; Ballance, Ballantine, Jordan, and Lucas.

Referred to: Finance.

February 18, 1999

1 A BILL TO BE ENTITLED
2 AN ACT TO DESIGNATE ENTERPRISE TAX ZONES AND PROVIDE
3 INCENTIVES FOR BUSINESS DEVELOPMENT IN THE ZONES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 158 of the General Statutes is amended by adding a new
6 Article to read:

7 **"ARTICLE 5.**

8 **"ENTERPRISE ZONES.**

9 **"§ 158-50. Enterprise zones defined.**

10 (a) Definition. – An enterprise zone is a census tract in the most recent federal
11 decennial census that meets both of the following conditions:

12 (1) It is located in a city with a population of 25,000 or more according to
13 the most recent annual population estimates certified by the State
14 Planning Officer.

15 (2) More than thirty percent (30%) of its population is below the poverty
16 level according to the most recent federal decennial census.

17 (b) Annual Certification. – On or before December 31 of each year, the Secretary
18 of Commerce shall identify all enterprise zones that meet the conditions of subsection (a)
19 of this section. The Secretary of Commerce shall provide a certified list identifying these
20 enterprise zones to any person who requests one.

"§ 158-51. Incentives available for zones.

The following incentives are available to encourage business development within enterprise zones:

- (1) Income tax exclusion for gain from appreciation of zone property, as provided in G.S. 105-130.5(b) and G.S. 105-134.6(b).
- (2) Income tax credit for property tax increase due to improvements within zone, as provided in G.S. 105-129.20.
- (3) Income tax credit for installation of machinery and equipment within zone, as provided in G.S. 105-129.21.
- (4) State sales tax refund for zone corporations' purchases, as provided in G.S. 105-164.14.
- (5) Income tax credit for creating jobs in zone, as provided in G.S. 105-129.8.
- (6) Industrial Development Fund funding for local government projects within zone, as provided in G.S. 143B-437.01."

Section 2. G.S. 105-228.90(b) is amended by adding a new subdivision to read:

"(4) Enterprise zone. – Defined in G.S. 158-50."

Section 3. G.S. 105-130.5(b) is amended by adding a new subdivision to read:

"(18) That part of the gain realized on the disposition of real property located in an enterprise zone that is attributable to increases in the value of the property that occur on or after January 1, 2000."

Section 4. G.S. 105-134.6(b) is amended by adding a new subdivision to read:

"(15) That part of the gain realized on the disposition of real property located in an enterprise zone that is attributable to increases in the value of the property that occur on or after January 1, 2000."

Section 5. G.S. 105-129.15 reads as rewritten:

"§ 105-129.15. (Repealed effective January 1, 2002) Definitions.

The following definitions apply in this Article:

- (1) Business property. – Tangible personal property that is used by the taxpayer in connection with a business or for the production of income and is capitalized by the taxpayer for tax purposes under the Code. The term does not include, however, a luxury passenger automobile taxable under section 4001 of the Code or a watercraft used principally for entertainment and pleasure outings for which no admission is charged.
- (2) Cost. – In the case of property owned by the taxpayer, cost is determined pursuant to regulations adopted under section 1012 of the Code, subject to the limitation on cost provided in section 179 of the Code. In the case of property the taxpayer leases from another, cost is value as determined pursuant to G.S. 105-130.4(j)(2).
 - (2a) Machinery and equipment. – Defined in G.S. 105-129.2.
 - (2b) Property taxes. – The principal amount of taxes levied and assessed by a taxing unit under Subchapter II of this Chapter. The term does not

1 include costs, penalties, interest, or other charges that may be added to
2 the principal amount.

3 (3) Purchase. – Defined in section 179 of the Code.

4 (4) Taxing unit. – Defined in G.S. 105-273."

5 Section 6. Article 3B of Chapter 105 of the General Statutes is amended by
6 adding the following new sections to read:

7 **"§ 105-129.20. Credit for property tax increase due to improvement of enterprise**
8 **zone property.**

9 (a) Credit. – A taxpayer is allowed a credit equal to the increase in the amount of
10 property taxes the taxpayer paid at par during the taxable year attributable to an increase
11 in value of real property located in an enterprise zone due to improvements the taxpayer
12 made to the property the immediately preceding year. The taxpayer may not take the
13 entire credit for the taxable year the increased taxes were paid, but may take up to twenty
14 percent (20%) of the aggregate credit allowed under this section for that taxable year and
15 for each succeeding taxable year until the entire credit has been used. To claim the
16 credit, the taxpayer shall provide with the return a copy of the tax receipt for the property
17 taxes for which credit is claimed and any other documentation required by the Secretary.
18 The tax receipt must indicate that the taxes have been paid and the amount and date of the
19 payment.

20 (b) Adjustment. – If a taxing unit gives a taxpayer a credit or refund for any of the
21 property taxes for which the taxpayer claimed a credit under this section, the taxpayer
22 shall notify the Secretary within 90 days. The Secretary shall then recompute the credit
23 allowed under this section and make any resulting adjustment of tax for the taxable years
24 for which the credit was claimed.

25 **"§ 105-129.21. Credit for machinery and equipment in enterprise zones.**

26 A taxpayer that purchases or leases machinery and equipment and, during the taxable
27 year, places it in service in an enterprise zone is allowed a credit against the tax imposed
28 by this Part equal to fifteen percent (15%) of the cost of the machinery and equipment.
29 This credit is in addition to any credit allowed under Article 3A of this Chapter."

30 Section 7. G.S. 105-164.14 is amended by adding a new subsection to read:

31 "(h) Enterprise Zone Corporations. – A corporation that is located in an enterprise
32 zone is allowed an annual refund of sales and use taxes paid by it under this Article on
33 direct purchases of tangible personal property for use within the zone. Sales and use tax
34 liability indirectly incurred by a corporation on building materials, supplies, fixtures, and
35 equipment that become a part of or annexed to any building or structure within the zone
36 that is owned or leased by the corporation is considered a sales or use tax liability
37 incurred on direct purchases by the corporation. The annual refund period is the fiscal
38 year of the State. A request for a refund must be in writing and must include any
39 information and documentation required by the Secretary. A request for a refund is due
40 January 1 following the end of the fiscal year for which the refund is claimed.
41 Notwithstanding the provisions of G.S. 105-467, the refund allowed under this subsection
42 does not apply to local sales and use taxes levied by units of local government."

43 Section 8. G.S. 105-129.8 reads as rewritten:

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

2 (a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-
3 129.4, has five or more employees for at least 40 weeks during the taxable year, and hires
4 an additional full-time employee during that year to fill a position located in this State is
5 allowed a credit for creating a new full-time job. The amount of the credit for each new
6 full-time job created is set out in the table below and is based on the enterprise tier of the
7 area in which the position is located. In addition, if the position is located in a
8 development ~~zone, zone or an enterprise zone~~, the amount of the credit is increased by
9 four thousand dollars (\$4,000) per job.

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

16 A position is located in an area if more than fifty percent (50%) of the employee's
17 duties are performed in the area. The credit may not be taken in the taxable year in which
18 the additional employee is hired. Instead, the credit shall be taken in equal installments
19 over the four years following the taxable year in which the additional employee was hired
20 and shall be conditioned on the continued employment by the taxpayer of the number of
21 full-time employees the taxpayer had upon hiring the employee that caused the taxpayer
22 to qualify for the credit.

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

29 Jobs transferred from one area in the State to another area in the State shall not be
30 considered new jobs for purposes of this section. If, in one of the four years in which the
31 installment of a credit accrues, the position filled by the employee is moved to an area in
32 a higher- or lower-numbered enterprise tier, or is moved from a development zone or an
33 enterprise zone to an area that is not a development ~~zone, zone or an enterprise zone~~, the
34 remaining installments of the credit shall be calculated as if the position had been created
35 initially in the area to which it was moved.

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

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

38 (d) Planned Expansion. – A taxpayer that signs a letter of commitment with the
39 Department of Commerce to create at least twenty new full-time jobs in a specific area
40 within two years of the date the letter is signed qualifies for the credit in the amount
41 allowed by this section based on the area's enterprise ~~tier-tier, enterprise zone~~, and
42 development zone designation for that year even though the employees are not hired that
43 year. The credit shall be available in the taxable year after at least twenty employees have

1 been hired if the hirings are within the two-year commitment period. The conditions
2 outlined in subsection (a) apply to a credit taken under this subsection except that if the
3 area is redesignated to a higher-numbered enterprise tier or loses its development zone or
4 enterprise zone designation after the year the letter of commitment was signed, the credit
5 is allowed based on the area's enterprise ~~tier~~ enterprise zone, and development zone
6 designation for the year the letter was signed. If the taxpayer does not hire the employees
7 within the two-year period, the taxpayer does not qualify for the credit. However, if the
8 taxpayer qualifies for a credit under subsection (a) in the year any new employees are
9 hired, the taxpayer may take the credit under that subsection.

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

12 Section 9. G.S. 143B-437.01 reads as rewritten:

13 "**§ 143B-437.01. Industrial Development Fund.**

14 (a) Creation and Purpose of Fund. – There is created in the Department of
15 Commerce the Industrial Development Fund to provide funds to assist the local
16 government units of ~~the most economically distressed counties in the State~~ economically
17 distressed areas in creating jobs in certain industries. The Department of Commerce shall
18 adopt rules providing for the administration of the program. Those rules shall include the
19 following provisions, which shall apply to each grant from the fund:

20 (1) The funds shall be used for (i) installation of or purchases of equipment
21 for eligible industries, (ii) structural repairs, improvements, or
22 renovations of existing buildings to be used for expansion of eligible
23 industries, or (iii) construction of or improvements to new or existing
24 water, sewer, gas, or electrical utility distribution lines or equipment for
25 existing or new or proposed industrial buildings to be used for eligible
26 industries. To be eligible for funding, the water, sewer, gas, or electrical
27 utility lines or facilities shall be located on the site of the building or, if
28 not located on the site, shall be directly related to the operation of the
29 specific eligible industrial activity.

30 (1a) The funds shall be used for projects located in economically distressed
31 ~~counties~~ areas except that the Secretary of Commerce may use up to one
32 hundred thousand dollars (\$100,000) to provide emergency economic
33 development assistance in any county that is documented to be
34 experiencing a major economic dislocation.

35 (2) The funds shall be used by the city and county governments for projects
36 that will directly result in the creation of new jobs. The funds shall be
37 expended at a maximum rate of five thousand dollars (\$5,000) per new
38 job created up to a maximum of five hundred thousand dollars
39 (\$500,000) per project.

40 (3) There shall be no local match requirement if the project is located in an
41 enterprise tier one area as defined in G.S. 105-129.3.

42 (4) The Department may authorize a local government that receives funds
43 under this section to use up to two percent (2%) of the funds, if

1 necessary, to verify that the funds are used only in accordance with law
2 and to otherwise administer the grant or loan.

3 (a1) Definitions. – The following definitions apply in this section:

4 (1) Air courier services. – A person is engaged in the air courier services
5 business if the person's primary business is furnishing air delivery of
6 individually addressed letters and packages, except by the United States
7 Postal Service.

8 (2) Central administrative office. – Defined in the North American Industry
9 Classification System adopted by the United States Office of
10 Management and Budget.

11 (3) Data processing. – Defined in the North American Industry
12 Classification System adopted by the United States Office of
13 Management and Budget.

14 (4) Economically distressed ~~county~~. ~~—A—~~area. – An enterprise zone as
15 defined in G.S. 158-50 or a county designated as an enterprise tier one,
16 two, or three area pursuant to G.S. 105-129.3.

17 (5) Eligible industry. – A central administrative office or a person engaged
18 in the business of air courier services, data processing, manufacturing,
19 or warehousing and wholesale trade.

20 (6) Reserved.

21 (7) Major economic dislocation. – The actual or imminent loss of 500 or
22 more manufacturing jobs in the county or of a number of manufacturing
23 jobs equal to at least ten percent (10%) of the existing manufacturing
24 workforce in the county.

25 (8) Manufacturing. – Defined in the North American Industry Classification
26 System adopted by the United States Office of Budget and
27 Management.

28 (9) Reserved.

29 (10) Warehousing and wholesale trade. – Defined in the North American
30 Industry Classification System adopted by the United States Office of
31 Management and Budget.

32 (b) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5.

33 (b1) Utility Account. – There is created within the Industrial Development Fund a
34 special account to be known as the Utility Account to provide funds to assist the local
35 government units of enterprise tier one and tier two areas, as defined in G.S. 105-129.3,
36 in creating jobs in eligible industries. The Department of Commerce shall adopt rules
37 providing for the administration of the program. Except as otherwise provided in this
38 subsection, those rules shall be consistent with the rules adopted with respect to the
39 Industrial Development Fund. The rules shall provide that the funds in the Utility
40 Account may be used only for construction of or improvements to new or existing water,
41 sewer, gas, or electrical utility distribution lines or equipment for existing or new or
42 proposed industrial buildings to be used for eligible industrial operations. To be eligible
43 for funding, the water, sewer, gas, or electrical utility lines or facilities shall be located on

1 the site of the building or, if not located on the site, shall be directly related to the
2 operation of the specific industrial activity. There shall be no maximum funding amount
3 per new job to be created or per project.

4 (c) Reports. – The Department of Commerce shall report annually to the General
5 Assembly concerning the applications made to the fund and the payments made from the
6 fund and the impact of the payments on job creation in the State. The Department of
7 Commerce shall also report quarterly to the Joint Legislative Commission on
8 Governmental Operations and the Fiscal Research Division on the use of the moneys in
9 the fund, including information regarding to whom payments were made, in what
10 amounts, and for what purposes.

11 (c1) In addition to the reporting requirements of subsection (c) of this section, the
12 Department of Commerce shall report annually to the General Assembly concerning the
13 payments made from the Utility Account and the impact of the payments on job creation
14 in the State. The Department of Commerce shall also report quarterly to the Joint
15 Legislative Commission on Governmental Operations and the Fiscal Research Division
16 on the use of the moneys in the Utility Account including information regarding to whom
17 payments were made, in what amounts, and for what purposes.

18 (d) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.5."

19 Section 10. G.S. 153A-376(f) reads as rewritten:

20 "(f) All program income from Economic Development Grants from the Small
21 Cities Community Development Block Grant Program may be retained by ~~recipient~~
22 recipients that are or include 'economically distressed counties', 'areas', as defined in G.S.
23 ~~143B-437A–143B-437.01~~ for the purposes of creating local economic development
24 revolving loan ~~funds~~. funds to serve the area. Such program income derived through the
25 use by counties of Small Cities Community Development Block Grant money includes
26 but is not limited to: (i) payment of principal and interest on loans made by the county
27 using Community Development Block Grant Funds; (ii) proceeds from the lease or
28 disposition of real property acquired with Community Development Block Grant Funds;
29 and (iii) any late fees associated with loan or lease payments in (i) and (ii) above. The
30 local economic development revolving loan fund set up by the county shall fund only
31 those activities eligible under Title I of the federal Housing and Community
32 Development Act of 1974, as amended (P.L. 93-383), and shall meet at least one of the
33 three national objectives of the Housing and Community Development Act. Any
34 expiration of G.S. ~~143B-437A–143B-437.01~~ or G.S. 105-129.3 shall not affect this
35 subsection as to designations of economically distressed ~~counties~~ areas made prior to its
36 expiration."

37 Section 11. G.S. 160A-456(e1) reads as rewritten:

38 "(e1) All program income from Economic Development Grants from the Small
39 Cities Community Development Block Grant Program may be retained by recipient cities
40 ~~in~~ that are in or include 'economically distressed counties', 'areas', as defined in G.S. ~~143B-~~
41 ~~437A,–143B-437.01~~, for the purposes of creating local economic development revolving
42 loan funds. Such program income derived through the use by cities of Small Cities
43 Community Development Block Grant money includes but is not limited to: (i) payment

1 of principal and interest on loans made by the county using Community Development
2 Block Grant Funds; (ii) proceeds from the lease or disposition of real property acquired
3 with Community Development Block Grant Funds; and (iii) any late fees associated with
4 loan or lease payments in (i) and (ii) above. The local economic development revolving
5 loan fund set up by the city shall fund only those activities eligible under Title I of the
6 federal Housing and Community Development Act of 1974, as amended (P.L. 93-383),
7 and shall meet at least one of the three national objectives of the Housing and
8 Community Development Act. Any expiration of G.S. ~~143B-437A-143B-437.01~~ or G.S.
9 105-129.3 shall not affect this subsection as to designations of economically distressed
10 ~~counties~~ areas made prior to its expiration."

11 Section 12. G.S. 105-129.17 reads as rewritten:

12 **"§ 105-129.17. (Repealed effective January 1, 2002) Tax election; cap.**

13 (a) Tax Election. – The ~~credit~~ credits allowed in this Article ~~is~~ are allowed against
14 the franchise tax levied in Article 3 of this Chapter or the income taxes levied in Article 4
15 of this Chapter. The taxpayer must elect the tax against which ~~the~~ a credit will be claimed
16 when filing the return on which the first installment of the credit is claimed. This election
17 is binding. Any carryforwards of the credit must be claimed against the same tax.

18 (b) Cap. – The ~~credit~~ credits allowed in this Article may not exceed fifty percent
19 (50%) of the tax against which ~~it is~~ they are claimed for the taxable year, reduced by the
20 sum of all other credits allowed against that tax, except tax payments made by or on
21 behalf of the taxpayer. This limitation applies to the cumulative amount of credit,
22 including carryforwards, claimed by the taxpayer under this Article against each tax for
23 the taxable year. Any unused portion of the credit may be carried forward for the
24 succeeding five years."

25 Section 13. G.S. 105-129.18 reads as rewritten:

26 **"§ 105-129.18. (Repealed effective January 1, 2002) Substantiation.**

27 To claim ~~the~~ a credit allowed by this Article, the taxpayer must provide any
28 information required by the Secretary of Revenue. Every taxpayer claiming a credit under
29 this Article must maintain and make available for inspection by the Secretary of Revenue
30 any records the Secretary considers necessary to determine and verify the amount of the
31 credit to which the taxpayer is entitled. The burden of proving eligibility for the credit
32 and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a
33 taxpayer that fails to maintain adequate records or to make them available for
34 inspection."

35 Section 14. G.S. 105-129.19 reads as rewritten:

36 **"§ 105-129.19. (Repealed effective January 1, 2002) Reports.**

37 The Department of Revenue shall report to the Legislative Research Commission and
38 to the Fiscal Research Division of the General Assembly by May 1 of each year the
39 following information for the 12-month period ending the preceding April 1:

- 40 (1) The number of taxpayers that claimed the ~~credit~~ credits allowed in this
41 Article.
- 42 (2) The cost of business property with respect to which credits were
43 claimed.

- 1 (2a) The total cost of machinery and equipment with respect to which credits
2 were claimed.
- 3 (3) The total cost to the General Fund of the credits claimed."
- 4 Section 15. Sections 3 through 6, 8, and 12 through 14 of this act become
5 effective for taxable years beginning on or after January 1, 2000. Section 7 of this act
6 becomes effective January 1, 2000, and applies to taxes paid on or after that date. The
7 remainder of this act is effective when it becomes law. The provisions of this act expire
8 on January 1, 2005. The expiration of this act does not affect the rights or liabilities of
9 the State or a taxpayer arising under it before its expiration nor does it affect a taxpayer's
10 right to any portion of an installment of a credit that accrued, or to a carryforward of any
11 portion of a credit that was permitted before the act's expiration.