

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1004
Committee Substitute Favorable 4/26/05
Senate Finance Committee Substitute Adopted 7/12/05

Short Title: Extend JDIG and Bill Lee Act.

(Public)

Sponsors:

Referred to:

March 31, 2005

A BILL TO BE ENTITLED

1 AN ACT TO EXTEND THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS
2 EXPANSION ACT AND THE JOB DEVELOPMENT INVESTMENT GRANT
3 PROGRAM AND TO ALTER THE MANNER IN WHICH ENTERPRISE TIERS
4 ARE DESIGNATED.
5

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 105-129.2A reads as rewritten:

8 "**§ 105-129.2A. Sunset; studies.**

9 (a) Sunset. – This Article is repealed effective for business activities that occur
10 on or after January 1, ~~2006-2008~~.

11 (a1) Sunset for Interstate Air Couriers. – Notwithstanding subsection (a) of this
12 section, in the case of an interstate air courier that enters into a real estate lease on or
13 before January 1, 2006, with an airport authority that provides for the lease of at least
14 100 acres of real property with a lease term in excess of 15 years, this Article is repealed
15 effective for business activities that occur on or after January 1, 2010.

16 (a2) Sunset for Eligible Major Industries. – Notwithstanding subsection (a) of this
17 section, in the case of a taxpayer that qualifies as an eligible major industry on or before
18 January 1, 2006, this Article is repealed effective for business activities that occur on or
19 after January 1, 2010.

20 (a3) Sunset for Certain Taxpayers Located in Development Zones. –
21 Notwithstanding subsection (a) of this section, in the case of a taxpayer that satisfies all
22 of the conditions of this subsection, this Article is repealed effective for business
23 activities that occur on or after January 1, 2010.

24 (1) Before January 1, 2006, the taxpayer signs a letter of commitment with
25 the Department of Commerce describing a proposed new or expanding
26 project and specifying the amount to be invested in real property and
27 machinery and equipment, the number of new jobs to be created, and a
28 proposed timetable for making the investment and creating the jobs.

1 (2) Before January 1, 2006, the Secretary of Commerce makes a written
2 determination that the taxpayer is expected to purchase, lease, or
3 construct and place in service in an eligible business at a location
4 within a development zone within a three-year period at least ten
5 million dollars (\$10,000,000) of real property and machinery and
6 equipment and that the taxpayer will create at least 300 new jobs at the
7 location within a three-year period beginning when the property is first
8 placed in service in an eligible business.

9 (3) Before January 1, 2006, the taxpayer places at least four million
10 dollars (\$4,000,000) of real property and machinery and equipment in
11 service at the location and creates at least 20 new jobs at the location.

12 (b) Equity Study. – The Department of Commerce shall study the effect of the
13 tax incentives provided in this Article on tax equity. This study shall include the
14 following:

15 (1) Reexamining the formula in G.S. 105-129.3(b) used to define
16 enterprise tiers, to include consideration of alternative measures for
17 more equitable treatment of counties in similar economic
18 circumstances.

19 (2) Considering whether the assignment of tiers and the applicable
20 thresholds are equitable for smaller counties, for example those under
21 50,000 in population.

22 (3) Compiling any available data on whether expanding North Carolina
23 businesses receive fewer benefits than out-of-State businesses that
24 locate to North Carolina.

25 (c) Impact Study. – The Department of Commerce shall study the effectiveness
26 of the tax incentives provided in this Article. This study shall include:

27 (1) Study of the distribution of tax incentives across new and expanding
28 industries.

29 (2) Examination of data on economic recruitment for the period from 1994
30 through the most recent year for which data are available by county, by
31 industry type, by size of investment, and by number of jobs, and other
32 relevant information to determine the pattern of business locations and
33 expansions before and after the enactment of the William S. Lee Act
34 incentives.

35 (3) Measuring the direct costs and benefits of the tax incentives.

36 (4) Compiling available information on the current use of incentives by
37 other states and whether that use is increasing or declining.

38 (d) Report. – The Department of Commerce shall report the results of these
39 studies and its recommendations to the General Assembly biennially with the first report
40 due by April 1, 2001."

41 **SECTION 2.** G.S. 105-129.4(d) reads as rewritten:

42 "(d) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the
43 taxpayer was not eligible for the credit for the calendar year in which the taxpayer
44 engaged in the activity for which the credit was claimed. In addition, a taxpayer forfeits

1 a large investment enhancement of a tax credit if the taxpayer fails to timely make the
2 required level of investment under subsection (b1) of this section. If an eligible major
3 industry fails to timely make the required level of investment under G.S. 105-129.2(8a),
4 the taxpayer forfeits all credits allowed under this Article that it would not otherwise
5 have been eligible for if it were not an eligible major industry. If a taxpayer that is
6 subject to the later repeal date of this Article under G.S. 105-129.2A(a3) fails to timely
7 make the required level of investment or to timely create the required number of new
8 jobs, the taxpayer forfeits all credits allowed under this Article that it would not
9 otherwise have been eligible for if it were not subject to the later repeal date under
10 G.S. 105-129.2A(a3). A taxpayer forfeits the credit for substantial investment in other
11 property allowed under G.S. 105-129.12A if the taxpayer fails to timely create the
12 number of required new jobs or to timely make the required level of investment under
13 subsection (b5) of this section. A taxpayer forfeits the technology commercialization
14 credit allowed under G.S. 105-129.9A if the taxpayer fails to make the level of
15 investment required by subsection (e) of that section within the required period or if the
16 taxpayer fails to meet the terms of its licensing agreement with a research university. If
17 a taxpayer claimed a twenty percent (20%) technology commercialization credit under
18 G.S. 105-129.9A(d) and fails to make the level of investment required under that
19 subsection within the required period, but does make the level of investment required
20 under subsection (e) of that section within the required period, the taxpayer forfeits
21 one-fourth of the twenty percent (20%) credit.

22 A taxpayer that forfeits a credit under this Article is liable for all past taxes avoided
23 as a result of the credit plus interest at the rate established under G.S. 105-241.1(i),
24 computed from the date the taxes would have been due if the credit had not been
25 allowed. The past taxes and interest are due 30 days after the date the credit is forfeited;
26 a taxpayer that fails to pay the past taxes and interest by the due date is subject to the
27 penalties provided in G.S. 105-236. If a taxpayer forfeits the credit for creating jobs, the
28 technology commercialization credit, or the credit for investing in machinery and
29 equipment, the taxpayer also forfeits any credit for worker training claimed for the jobs
30 for which the credit for creating jobs was claimed or the jobs at the location with respect
31 to which the technology commercialization credit or the credit for investing in
32 machinery and equipment was claimed."

33 **SECTION 3.** G.S. 143B-437.62 reads as rewritten:

34 "**§ 143B-437.62. Expiration.**

35 The authority of the Committee to enter into new agreements expires January 1,
36 ~~2006-2008.~~"

37 **SECTION 4.** G.S. 105-129.3 is amended by adding a new subsection to
38 read:

39 "(f) Exceptions for Certain Counties with High Unemployment. –
40 Notwithstanding the provisions of this section, a county whose rank in a ranking of
41 counties by average rate of unemployment for the preceding 12 months, from highest to
42 lowest, is one of the 10 highest in the State is designated an enterprise tier one area."

43 **SECTION 5.** This act is effective when it becomes law. Section 5 of this act
44 applies to designations made on or after that date.