

GENERAL ASSEMBLY OF NORTH CAROLINA



BILL NUMBER: House Bill 2744 (Third Edition)

SHORT TITLE: Economic Development Program Modifications.

SPONSOR(S): Representatives Owens and Daughtridg

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>	<u>FY 2010-11</u>
REVENUES:					
State General Fund					
(Bill Lee, Sales Tax Refund)					
		(See "Assumptions and Methodology")			
EXPENDITURES:					
JDIG Program					
		(See Attachment)			
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: Department of Commerce.					
EFFECTIVE DATE: When the bill becomes law.					

CURRENT LAW: The Job Development Investment Grant (JDIG) Program was created in 2002 as a new economic development tool for new and expanding businesses in North Carolina. JDIG is used to attract businesses to the State by allowing a five-member committee to award grants to businesses. The amounts of the grants are based on income tax withholdings from new jobs created by the businesses.

The William S. Lee Quality Jobs and Business Expansion Act (hereinafter Bill Lee Act) was enacted in 1996, effective beginning with the 1996 tax year with a 2002 sunset. The Act is a package of State tax incentives and has been modified in each subsequent year. The incentives are primarily in the form of tax credits for investment in machinery and equipment and real property, for job creation, and for worker training. In 2000, the General Assembly extended the sunset on the Act until January 1, 2006. During the 2005 Regular Session, the General Assembly further extended the Act until January 1, 2008. There are several exceptions to the 2006 sunset date, one of which involves eligible major industries. Eligible major industries that qualify as such before January 1, 2006, are allowed to claim credits for business activity that occurs on or before January 1, 2010. A taxpayer is an eligible major industry if it will invest at least \$100 million in acquiring, constructing, and equipping a facility and it is engaged in bioprocessing, the manufacture or distribution of pharmaceuticals or medicines, aircraft manufacturing, computer manufacturing, motor vehicle manufacturing, or semiconductor manufacturing.

The definition of eligible major industries for the purposes of the Bill Lee Act largely conforms to the list of taxpayers who are eligible for a refund on the sales and use taxes paid by the taxpayer on building materials for construction of a new facility in this State. Taxpayers that are eligible for the refund of sales and use taxes are not required to qualify as such by a specific date, but the refund provision expires for purchases made on or after January 1, 2010.

BILL SUMMARY: This bill would make numerous changes to the JDIG Program, the Bill Lee Act, and certain sales and use tax refunds. Most of the provisions of the bill would be effective when they became law.

Part I. JDIG Changes. This bill makes numerous changes to the JDIG program. Some of these changes significantly expand or extend the program, whereas others of these changes make changes intended to streamline the administration of the program, clarify certain aspects of the program, or reduce penalties for failure to comply with agreements under the program.

Section 1.2, of the bill increases the maximum amount of total annual liability for agreements entered into during the 2006 calendar year (grant year) from \$15 million to \$30 million. This change is effective for agreements entered into during 2006 only; for agreements entered into in later years, the maximum amount of the total annual liability would return to \$15 million. Under the JDIG program, agreements entered into in one calendar year may result in annual grant payments for the succeeding 12 years.

Section 1.11, of the bill extends the sunset on the JDIG program by an additional two years, through the end of the 2009 calendar year, potentially resulting in payments through the year 2020. In addition, the bill makes changes to how fees collected under the program are directed and how corresponding positions that monitor the program are funded. Under current law, an applicant for a JDIG grant must pay a one-time application fee of \$5,000. Grantees must then pay an annual fee of \$1,500 to help offset monitoring costs. Currently, those fees are divided between the Departments of Commerce and Revenue, in the discretion of the EIC, to offset the costs of the two agencies associated with the program. Those fees then become departmental receipts. This bill would change that by crediting the fees to the General Fund and by providing for an appropriation of \$500,000 to the Department of Commerce. It is the intent of the bill that this be a recurring appropriation.

Part II. Bill Lee Act Changes. The Bill Lee Act generally sunsets January 1, 2008. However, a taxpayer who qualifies as an eligible “major industry” on or before January 1, 2006 would have a January 1, 2010 sunset. The bill moves the January 1, 2006 eligibility deadline to January 1, 2008.

Part III. Sales Tax Refund Changes. Adds “financial services and securities operations and systems development” to the list of industries eligible for the refund. In addition, January 1, 2010 sunset on the refunds is extended to January 1, 2013.

ASSUMPTIONS AND METHODOLOGY:

Part I. JDIG Changes. This analysis addresses fiscal impact as a result of the proposed changes to the program in House Bill 2744 and does not address costs associated with the current legislation for the program.

The bill increases the maximum annual total liability cap from \$15 million to \$30 million for the 2006 calendar year, and extends the sunset requirement by two years (from 2008 to 2010). Current legislation stipulates grant terms shall not exceed 12 years starting with the first year a grant payment is made. *This analysis assumes that the first payment is made during the first year of the award, and that the maximum allowable amount will be awarded in each grant year.*

Increase Maximum Annual Liability for the 2006 Calendar Year:

Increasing the maximum annual liability amount for the 2006 grant year could potentially result in an additional \$15 million dollar obligation from the state for awards for that year and the following 12 years (based on the existing legislation for grant terms). Assuming that the Department would award the maximum amount allowed for new agreements during 2006, the total fiscal impact associated with the maximum cap increase would potentially equal \$180 million (12 years x \$15,000,000). It should be noted that this is not the total cost for *all* grants awarded under the JDIG program, only the additional grants awarded due to increasing the annual cap for one calendar year. (See Attachment)

Extend the Sunset from January 1, 2008 to January 1, 2010:

Extending the sunset date for the program will allow for new grants to be awarded for an additional two years. The bill allows for new grants be awarded up to a maximum amount of \$15 million for 2008 (potentially paid through 12 years or 2020); and for an additional \$15 million to be awarded for up to 12 years beginning in 2009 (ending in 2021). The cumulative impact of allowing the award of new grants for two additional years would potentially equal \$390 million (assuming maximum payout over the allowable 12 grant years). (See Attachment)

Credit JDIG Fees to the General Fund/Administrative Costs:

Current legislation allows for JDIG fees to be used as departmental receipts to assist in covering the administrative costs of the program. Each company applying for a grant pays a one-time application fee of \$5,000 and successful applicants pay a \$1,500 annual fee after receiving a JDIG grant. The bill will credit revenue generated from both fees to the General Fund and appropriate \$500,000 to the department to fund administration. The Department of Commerce has reported that the projected collections for JDIG Fees will be approximately \$173,000 for 2007. If enacted, the bill will credit the estimated \$173,000 to the general fund and appropriate (\$500,000) to the Department of Commerce for administration, resulting in a net change of (\$327,000) to the general fund to cover administrative costs for the program for 2007. (See Technical Considerations Section for additional information)

Nine companies were awarded JDIG Grants in 2005, generating approximately \$45,000 in fee revenue. Assuming that increasing the grant cap by \$15 million will result in an estimated *nine new* companies, nine additional companies will begin paying the \$1,500 annual fee in 2007. Those companies would potentially pay an additional \$13,500 that would be credited to the General Fund for approximately 11 years. Assuming that *nine new companies* would receive awards in 2006 (due to the increase in the maximum cap) the net loss to the general fund stated above (\$327,000) could potentially be minimized by \$45,000 (9 x \$5,000) in 2006, and decreased annually by \$13,500 (9 x \$1,500), resulting in a net change of (\$313,500) to the General Fund (for the 2007 grant year). (See Attachment)

Total Fiscal Impact Estimate of JDIG Portion of HB 2744:

Proposed Legislative Change:	General Fund Cost Estimate:
Increase the Maximum Cap to \$30 million for 2006	(\$180,000,000)
Extend Sunset for Two Years	(\$390,000,000)
Credit Fees to General Fund and Appropriate \$500,000 for Administration (net annual impact beginning 2007)	(\$313,500)
Total Projected Cost of Proposed JDIG Changes	(\$570,313,500)*

*Note: This analysis does not include any projections regarding potential increases to General Fund Revenue directly associated with the award of JDIG Grants.

Part II. Bill Lee Act Changes. The practical effect of this provision is to extend from January 1, 2006 to January 1, 2008 the window of time for eligible companies to qualify for later sunset in the Bill Lee Act (2010 instead of 2008) applying to major industry tax incentives. This time extension for qualification might allow a company being recruited to take advantage of the longer sunset. At this time the Department of Commerce is not aware of any companies who will be able to use this provision. In any case, the provision would have no immediate impact but could affect 2009-10 and 2010-11 fiscal year revenues to the extent that additional taxpayers qualify.

Part III. Sales Tax Refund Changes. The Department of Commerce requested the extension of sales tax refund eligibility to financial service and securities facilities in order to have the potential to recruit companies contemplating a move from a money center to North Carolina. At this time the Department is not aware of any major companies who will be able to take advantage of this change. The other change in the bill extends the sunset on refunds from 2010 to 2013. The Department of Revenue’s October 2005 report on state tax expenditures does not list the historical revenue loss from this item. One reason might be that the original 2003 special session legislation creating the refund was adopted for the purpose of attracting a single major taxpayer to the state. Thus, the reporting of this item could lead to a confidentiality issue. For information purposes, the original 2003 session fiscal note indicated a potential 2007-08 cost of \$2.6 million, primarily from one client the Department of Commerce was attempting to attract.

TECHNICAL CONSIDERATIONS:

Total projected costs are based on an assumption that increasing the annual cap by \$15 million for one year obligates the state to pay *up to \$15 million per year* for those new agreements for a maximum of 12 years. The fact that the annual total liability returns to the current cap of \$15 million effective January 1, 2007 will not impact the requirement that the state continue to pay for the new agreements entered into during 2006 for up to 12 years. If the Department does not award the maximum amount of \$30,000,000 for 2006 the cumulative impact would be less than the amounts indicated in this analysis.

The estimated additional revenue generated from application fees (\$13,500) and annual JDIG fees to be credited to the general fund is based on the number of JDIG grants awarded by the Department of Commerce in 2005. The actual fee revenue generated in each year will be determined by the *additional* number of applicants and the *additional* number of companies that will receive an award due to increasing the maximum cap by \$15,000,000 in 2006 *and* current companies paying the two fees. The Department has estimated that future revenue generated from JDIG fees at the amounts listed below:

- 2007 \$173,000
- 2008 \$198,000
- 2009 \$225,000
- 2010 \$245,000

If the actual collections for JDIG fees increase in future years, the net negative impact to the General Fund (associated with administrative costs) would decrease.

The Department of Commerce has indicated that the amount of fees generated by the JDIG program have not been sufficient to cover the entire cost of administering the program, therefore the department has requested an appropriation that is greater than the historical amount of fees collected for administrative purposes. If no state funds are appropriated for administration the program, the amount of the fees currently established (\$5,000 application fee and \$1,500 annual fee) for the program could potentially be adjusted to fully cover the associated administrative costs of the program.

Any projected increases in revenue generated by the award of JDIG grants have not been included in this analysis. The analysis covers only the projected costs associated with the program. Section 1.13 of the bill does require the Department of Commerce to conduct a study of the program by February 1, 2007.

SOURCES OF DATA: Department of Commerce

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Signed Copy Located in the NCGA Principal Clerk's Offices

Fiscal Analysis HB 2744 - Potential Impact of Changes to the Job Development Investment Grant (JDIG) Program

Section 1.2 - Increase the Annual Maximum Cap from\$15,000,000 to\$30,000,000 for Calendar Year 2006

Section 1.11 Extend the Sunset Date 2 Years (From January 1, 2008, To January 1, 2010)

Section 1.4(b) and Section 1.7(a) Credit JDIG Fees to the General Fund

Section 1.12 Appropriate\$500,000 to the Department of Commerce for Administration

Section 1.2 - Increase Maximum Cap to\$30,000,000 for 2006 (Increase of\$15,000,000 per year for 12 years)*

Grant Year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Additional Annual Amount	\$ (15,000,000)	\$ (15,000,000)	\$ (15,000,000)	\$ (15,000,000)	\$ (15,000,000)	\$ (15,000,000)	\$ (15,000,000)	\$ (15,000,000)	\$ (15,000,000)	\$ (15,000,000)	\$ (15,000,000)	\$ (15,000,000)
Cumulative Amount	\$ (15,000,000)	\$ (30,000,000)	\$ (45,000,000)	\$ (60,000,000)	\$ (75,000,000)	\$ (90,000,000)	\$ (105,000,000)	\$ (120,000,000)	\$ (135,000,000)	\$ (150,000,000)	\$ (165,000,000)	\$ (180,000,000)

* Assumes the additional maximum amount of\$15,000,000 will be awarded in 2006 and that the first payments will begin in 2006.

Section 1.11 - Extend the Sunset Date by Two Years**

Grant Year	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Maximum Annual Amount	\$ (15,000,000)	\$ (30,000,000)	\$ (30,000,000)	\$ (30,000,000)	\$ (30,000,000)	\$ (30,000,000)	\$ (30,000,000)	\$ (30,000,000)	\$ (30,000,000)	\$ (30,000,000)	\$ (30,000,000)	\$ (30,000,000)	\$ (30,000,000)	\$ (15,000,000)
Cumulative Amount	\$ (15,000,000)	\$ (45,000,000)	\$ (75,000,000)	\$ (105,000,000)	\$ (135,000,000)	\$ (165,000,000)	\$ (195,000,000)	\$ (225,000,000)	\$ (255,000,000)	\$ (285,000,000)	\$ (315,000,000)	\$ (345,000,000)	\$ (375,000,000)	\$ (390,000,000)

** Estimate based on existing maximum cap of\$15,000,000 allowing for payments to be made up to 12 years following the first year of payment; assuming first payment is made in the first year of the award notification.

Sections 1.4(b) and 1.7(a) - Credit JDIG Fees to the General Fund;Section 1.12 Appropriate Funds for Administration

Grant Year		2006	2007
JDIG Fees (Based on YTD As of 3/31/06)		\$ 173,000	\$ 173,000
Impact of New Companies (due to increasing the maximum cap in 2006)		\$ 45,000	\$ 13,500
Total Fees Credited to General Fund		\$ 218,000	\$ 186,500
Recommended HB 2744 General Fund Appropriation for Admin.			\$ (500,000)
Net Impact			\$ (313,500)

Adjusted Net Impact Due to New Companies

Total Estimated Impact of HB 2744 \$ (570,313,500)