

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 1128

Short Title: Opportunity Advancement Zones. (Public)

Sponsors: Representative Torbett (Primary Sponsor).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Commerce and Job Development, if favorable, Finance.

May 25, 2012

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE TIER ONE TREATMENT FOR OPPORTUNITY ADVANCEMENT
3 ZONES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Part 2 of Article 10 of Chapter 143B of the General Statutes is
6 amended by adding a new section to read:

7 "**§ 143B-437.014. Opportunity advancement zone designation.**

8 (a) Opportunity Advancement Defined. – An opportunity advancement zone is an area
9 that meets all of the following conditions:

10 (1) It is comprised of one or more contiguous census tracts, census block
11 groups, or both, in the most recent federal decennial census.

12 (2) Every census tract and census block group that comprises the area meets one
13 of the following requirements:

14 a. Has at least forty percent (40%) of households with incomes of
15 twenty-five thousand dollars (\$25,000) or less and has an
16 unemployment rate that exceeds the federal unemployment rate by at
17 least two percent (2%).

18 b. Has at least thirty-three percent (33%) of households with incomes of
19 twenty-five thousand dollars (\$25,000) or less and has an
20 unemployment rate that exceeds the federal unemployment rate by at
21 least four percent (4%).

22 c. Has at least twenty-five percent (25%) of households with incomes
23 of twenty-five thousand dollars (\$25,000) or less and has an
24 unemployment rate that exceeds the federal unemployment rate by at
25 least six percent (6%).

26 (b) Limitations and Designation. – The area of a county that is included in one or more
27 opportunity advancement zones shall not exceed five percent (5%) of the total area of the
28 county. Upon application of a county, the Secretary of Commerce shall make a written
29 determination whether an area is an opportunity advancement zone that satisfies the conditions
30 of subsection (a) of this section. The application shall include all of the information listed in
31 this subsection. A determination under this section is effective until December 31 of the year
32 following the year in which the determination is made. The Department of Commerce shall
33 publish annually a list of all opportunity advancement zones with a description of their
34 boundaries.



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- 1 (1) A map showing the census tracts and block groups that would comprise the
2 zone.
- 3 (2) A detailed description of the boundaries of the area that would comprise the
4 zone.
- 5 (3) A certification regarding the size of the proposed zone.
- 6 (4) Detailed census information on the county and the proposed zone.
- 7 (5) A resolution of the board of county commissioners requesting the
8 designation of the area as an opportunity advancement zone.
- 9 (6) Any other material required by the Secretary of Commerce."

10 **SECTION 2.** G.S. 143B-437.08 is amended by adding a new subsection to read:

11 "(k) Exception for Opportunity Advancement Zones. – An opportunity advancement
12 zone in a county with a development tier one designation has the development tier designation
13 of the county in which it is located. An opportunity advancement zone located in a county with
14 a development tier designation other than development tier one has the next lower development
15 tier designation than that of the county in which it is located. For purposes of this subsection,
16 an "opportunity advancement zone" is the classification assigned to an area pursuant to
17 G.S. 143B-437.014."

18 **SECTION 3.** G.S. 105-129.81 is amended by adding a new subdivision to read:

19 "**§ 105-129.81. Definitions.**

20 The following definitions apply in this Article:

- 21 ...
- 22 (19a) Opportunity advancement zone. – Defined in G.S. 143B-437.014.
23 "

24 **SECTION 4.** G.S. 105-129.83 reads as rewritten:

25 "**§ 105-129.83. Eligibility; forfeiture.**

26 ...

27 (c) **Wage Standard.** – A taxpayer is eligible for a credit under this Article in a
28 development tier two or three area only if the taxpayer satisfies a wage standard. The taxpayer
29 is not required to satisfy a wage standard if the activity occurs in a development tier one area.
30 Jobs that are located within an urban progress zone, an opportunity advancement zone, a port
31 enhancement zone, or an agrarian growth zone but not in a development tier one area satisfy
32 the wage standard if they pay an average weekly wage that is at least equal to ninety percent
33 (90%) of the lesser of the average wage for all insured private employers in the State and the
34 average wage for all insured private employers in the county. All other jobs satisfy the wage
35 standard if they pay an average weekly wage that is at least equal to the lesser of one hundred
36 ten percent (110%) of the average wage for all insured private employers in the State and
37 ninety percent (90%) of the average wage for all insured private employers in the county. The
38 Department of Commerce shall annually publish the wage standard for each county.

39 In making the wage calculation, the taxpayer shall include any jobs that were filled for at
40 least 1,600 hours during the calendar year the taxpayer engages in the activity that qualifies for
41 the credit even if those jobs are not filled at the time the taxpayer claims the credit. For a
42 taxpayer with a taxable year other than a calendar year, the taxpayer shall use the wage
43 standard for the calendar year in which the taxable year begins. Only full-time jobs are included
44 when making the wage calculation.

45 ...

46 (l) **Planned Expansion.** – A taxpayer that signs a letter of commitment with the
47 Department of Commerce, after the Department has calculated the development tier
48 designations for the next year but before the beginning of that year, to undertake specific
49 activities at a specific site within the next two years may calculate the credit for which it
50 qualifies based on the establishment's development tier designation and urban progress zone,
51 opportunity advancement zone, port enhancement zone, or agrarian growth zone designation in

1 the year in which the letter of commitment was signed by the taxpayer. If the taxpayer does not
 2 engage in the activities within the two-year period, the taxpayer does not qualify for the credit;
 3 however, if the taxpayer later engages in the activities, the taxpayer qualifies for the credit
 4 based on the development tier and urban progress zone, opportunity advancement zone, port
 5 enhancement zone, or agrarian growth zone designations in effect at that time.

6"

7 **SECTION 5.** G.S. 105-129.87 reads as rewritten:

8 "**§ 105-129.87. Credit for creating jobs.**

9 (a) Credit. – A taxpayer that meets the eligibility requirements set out in
 10 G.S. 105-129.83 and satisfies the threshold requirement for new job creation in this State under
 11 subsection (b) of this section during the taxable year is allowed a credit for creating jobs. The
 12 amount of the credit for each new job created is set out in the table below and is based on the
 13 development tier designation of the county in which the job is located. If the job is located in an
 14 urban progress zone, an opportunity advancement zone, a port enhancement zone, or an
 15 agrarian growth zone, the amount of the credit is increased by one thousand dollars (\$1,000)
 16 per job. In addition, if a job located in an urban progress zone, an opportunity advancement
 17 zone, a port enhancement zone, or an agrarian growth zone is filled by a resident of that zone or
 18 by a long-term unemployed worker, the amount of the credit is increased by an additional two
 19 thousand dollars (\$2,000) per job.

Area Development Tier	Amount of Credit
Tier One	\$12,500
Tier Two	5,000
Tier Three	750

24 (b) Threshold. – The applicable threshold is the appropriate amount set out in the
 25 following table based on the development tier designation of the county where the new jobs are
 26 created during the taxable year. If the taxpayer creates new jobs at more than one eligible
 27 establishment in a county during the taxable year, the threshold applies to the aggregate number
 28 of new jobs created at all eligible establishments within the county during that year. If the
 29 taxpayer creates new jobs at eligible establishments in different counties during the taxable
 30 year, the threshold applies separately to the aggregate number of new jobs created at eligible
 31 establishments in each county. If the taxpayer creates new jobs in an urban progress zone, an
 32 opportunity advancement zone, a port enhancement zone, or an agrarian growth zone, the
 33 applicable threshold is the one for a development tier one area. New jobs created in an urban
 34 progress zone, an opportunity advancement zone, a port enhancement zone, or an agrarian
 35 growth zone are not aggregated with jobs created at any other eligible establishments regardless
 36 of county.

Area Development Tier	Threshold
Tier One	5
Tier Two	10
Tier Three	15

41 (c) Calculation. – A job is located in a county, an urban progress zone, a port
 42 enhancement zone, an opportunity advancement zone, or an agrarian growth zone if more than
 43 fifty percent (50%) of the employee's duties are performed in the county or the zone. The
 44 number of new jobs a taxpayer creates during the taxable year is determined by subtracting the
 45 average number of full-time employees the taxpayer had in this State during the 12-month
 46 period preceding the beginning of the taxable year from the average number of full-time
 47 employees the taxpayer has in this State during the taxable year.

48 ...

49 (e) Transferred Jobs. – Jobs transferred from one area in the State to another area in the
 50 State are not considered new jobs for purposes of this section. Jobs that were located in this
 51 State and that are transferred to the taxpayer from a related member of the taxpayer are not

1 considered new jobs for purposes of this section. If, in one of the four years in which the
 2 installment of a credit accrues, the job with respect to which the credit was claimed is moved to
 3 an area in a higher-numbered development tier or out of an urban progress zone, an opportunity
 4 advancement zone, a port enhancement zone, or an agrarian growth zone, the remaining
 5 installments of the credit are allowed only to the extent they would have been allowed if the job
 6 was initially created in the area to which it was moved. If, in one of the years in which the
 7 installment of a credit accrues, the job with respect to which the credit was claimed is moved to
 8 an area in a lower-numbered development tier or an urban progress zone, an opportunity
 9 advancement zone, a port enhancement zone, or an agrarian growth zone, the remaining
 10 installments of the credit shall be calculated as if the job had been created initially in the area to
 11 which it was moved.

12"

13 **SECTION 6.** G.S. 105-129.88 reads as rewritten:

14 **"§ 105-129.88. Credit for investing in business property.**

15 (a) General Credit. – A taxpayer that meets the eligibility requirements set out in
 16 G.S. 105-129.83 and that has purchased or leased business property and placed it in service in
 17 this State during the taxable year and that has satisfied the threshold requirements of subsection
 18 (c) of this section is allowed a credit equal to the applicable percentage of the excess of the
 19 eligible investment amount over the applicable threshold. If the taxpayer places business
 20 property in service in an urban progress zone, an opportunity advancement zone, a port
 21 enhancement zone, or an agrarian growth zone, the applicable percentage is the one for a
 22 development tier one area. Business property is eligible if it is not leased to another party. The
 23 credit may not be taken for the taxable year in which the business property is placed in service
 24 but shall be taken in equal installments over the four years following the taxable year in which
 25 it is placed in service. The applicable percentage is as follows:

Area Development Tier	Applicable Percentage
Tier One	7%
Tier Two	5%
Tier Three	3.5%

30 ...

31 (c) Threshold. – The applicable threshold is the appropriate amount set out in the
 32 following table based on the development tier where the eligible business property is placed in
 33 service during the taxable year. If the taxpayer places business property in service in an urban
 34 progress zone, an opportunity advancement zone, a port enhancement zone, or an agrarian
 35 growth zone, the applicable threshold is the one for a development tier one area. Business
 36 property placed in service in an urban progress zone, an opportunity advancement zone, a port
 37 enhancement zone, or an agrarian growth zone is not aggregated with business property placed
 38 in service at any other eligible establishments regardless of county. If the taxpayer places
 39 eligible business property in service at more than one establishment in a county during the
 40 taxable year, the threshold applies to the aggregate amount of eligible business property placed
 41 in service during the taxable year at all establishments in the county. If the taxpayer places
 42 eligible business property in service at establishments in different counties, the threshold
 43 applies separately to the aggregate amount of eligible business property placed in service in
 44 each county. If the taxpayer places eligible business property in service at an establishment
 45 over the course of a two-year period, the applicable threshold for the second taxable year is
 46 reduced by the eligible investment amount for the previous taxable year.

Area Development Tier	Threshold
Tier One	\$ -0-
Tier Two	1,000,000
Tier Three	2,000,000

51 ...

1 (e) Transferred Property. – If, in one of the four years in which the installment of a
2 credit accrues, the business property with respect to which the credit was claimed is moved to a
3 county in a higher-numbered development tier or out of an urban progress zone, an opportunity
4 advancement zone, a port enhancement zone, or an agrarian growth zone, the remaining
5 installments of the credit are allowed only to the extent they would have been allowed if the
6 business property had been placed in service initially in the area to which it was moved. If, in
7 one of the four years in which the installment of a credit accrues, the business property with
8 respect to which a credit was claimed is moved to a county in a lower-numbered development
9 tier or an urban progress zone, an opportunity advancement zone, a port enhancement zone, or
10 an agrarian growth zone, the remaining installments of the credit shall be calculated as if the
11 business property had been placed in service initially in the area to which it was moved.

12"

13 **SECTION 7.** This act is effective for taxable years beginning on or after January 1,
14 2013.