

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 446

Short Title: Right to Start Act. (Public)

Sponsors: Senators Johnson, Chaudhuri, and Perry (Primary Sponsors).

Referred to: Rules and Operations of the Senate

April 3, 2023

A BILL TO BE ENTITLED

AN ACT TO ALLOW CORPORATIONS LESS THAN FIVE YEARS OLD AND HAVING A NET INCOME OF LESS THAN FIVE THOUSAND DOLLARS TO DEFER INCOME TAXES FOR ONE YEAR AND TO PROVIDE THAT STATE AGENCIES ARE ENCOURAGED TO USE IN-STATE CONTRACTORS WHO HAVE BEEN IN OPERATION FOR LESS THAN FIVE YEARS AND THE DEPARTMENT OF ADMINISTRATION SHALL COLLECT AND REPORT DATA ON THE USE OF THOSE CONTRACTORS TO THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 105-130.19 reads as rewritten:

"§ 105-130.19. When tax must be paid.

(a) Except as provided in subsection (a1) of this section and Article 4C of this Chapter, the full amount of the tax payable as shown on the return must be paid to the Secretary within the time allowed for filing the return.

(a1) A corporation may defer the full amount of tax payable under this Part to the next taxable year if the corporation has been in existence less than five years and files a return under this Part showing a State net income of less than five thousand dollars (\$5,000) for the taxable year.

...."

SECTION 1.(b) G.S. 105-131.1A reads as rewritten:

"§ 105-131.1A. Taxation of S Corporation as a taxed pass-through entity.

...

(b) Taxable Income of Taxed S Corporation. – A tax is imposed for the taxable period on the North Carolina taxable income of a taxed S Corporation. The tax shall be levied, collected, and paid ~~annually~~ annually, unless otherwise provided for by this section. The tax is imposed on the North Carolina taxable income at the rate levied in G.S. 105-153.7. The North Carolina taxable income of a taxed S Corporation is determined as follows:

...

(g) Payment of Tax. – Except as provided in subsection (g1) of this section and Article 4C of this Chapter, the full amount of the tax payable as shown on the return of the taxed S Corporation must be paid to the Secretary within the time allowed for filing the return. In the case of any overpayment by a taxed S Corporation of the tax imposed under this section, only the taxed S Corporation may request a refund of the overpayment. If the taxed S Corporation files a return showing an amount due with the return and does not pay the amount shown due, the Department may collect the tax from the taxed S Corporation pursuant to G.S. 105-241.22(1). The Secretary must issue a notice of collection for the amount of tax debt to the taxed S



1 Corporation. If the tax debt is not paid to the Secretary within 60 days of the date the notice of
 2 collection is mailed to the taxed S Corporation, the shareholders of the S Corporation are not
 3 allowed the deduction provided in G.S. 105-153.5(c3)(1). The Secretary must send the
 4 shareholders a notice of proposed assessment in accordance with G.S. 105-241.9. For purposes
 5 of this subsection, the term "tax debt" has the same meaning as defined in G.S. 105-243.1(a).

6 (g1) An S Corporation may defer the full amount of tax payable under this Part to the next
 7 taxable year if the S Corporation has been in existence less than five years and files a return under
 8 this Part showing a State net income of less than five thousand dollars (\$5,000) for the taxable
 9 year.

10"

11 SECTION 2.(a) G.S. 143-48 reads as rewritten:

12 "§ 143-48. State policy; ~~cooperation in promoting the use of small contractors, minority~~
 13 ~~contractors, physically handicapped contractors, and women contractors;~~ goods
 14 and services contracts; purpose; required annual reports.

15 (a) Policy. – It is the policy of this State to encourage and promote the use of small
 16 contractors, minority contractors, physically handicapped contractors, ~~and women contractors~~
 17 ~~contractors, and contractors that have been in operation for less than five years in State~~
 18 ~~purchasing of goods and services. All State agencies, institutions and political subdivisions shall~~
 19 ~~cooperate with the Department of Administration and all other State agencies, institutions and~~
 20 ~~political subdivisions in efforts to encourage the use of small contractors, minority contractors,~~
 21 ~~physically handicapped contractors, and women contractors~~ contractors, and contractors that
 22 have been in operation for less than five years in achieving the purpose of this Article, which is
 23 to provide for the effective and economical acquisition, management and disposition of goods
 24 and services by and through the Department of Administration.

25 ...

26 (c1) The Department of Administration shall compile information on participation in State
 27 contracts subject to this Article by contractors that have been in operation for less than five years
 28 and report the information as provided in subsection (d) of this section. The report shall analyze
 29 (i) the number and total dollar amount of State contracts awarded to contractors that have been
 30 in operation for less than five years, including a breakdown by demographics and geographical
 31 area, (ii) the percentage of the number of State contracts awarded to contractors that have been
 32 in operation for less than five years compared to the total number of contracts awarded, and (iii)
 33 the percentage of the total dollar amount of State contracts awarded to contractors that have been
 34 in operation for less than five years compared to the total dollar amount of contracts awarded.

35"

36 SECTION 2.(b) G.S. 143-135.5 reads as rewritten:

37 "§ 143-135.5. State policy; ~~cooperation in promoting the use of small, minority, physically~~
 38 ~~handicapped and women contractors;~~ construction of public buildings; purpose.

39 (a) It is the policy of this State to encourage and promote the use of small, minority,
 40 physically ~~handicapped and~~ handicapped, ~~women contractors~~ contractors, and contractors that
 41 have been in operation for less than five years in State construction projects. All State agencies,
 42 institutions and political subdivisions shall cooperate with the Department of Administration and
 43 all other State agencies, institutions and political subdivisions in efforts to encourage and
 44 promote the use of small, minority, physically ~~handicapped and~~ handicapped, women ~~contractors~~
 45 contractors, and contractors that have been in operation for less than five years in achieving the
 46 purpose of this Article, which is the effective and economical construction of public buildings.

47 ...

48 (c) The Department of Administration shall compile information on participation in State
 49 contracts subject to this Article by contractors that have been in operation for less than five years
 50 and report the information as provided in G.S. 143-48(d). The report shall analyze (i) the number
 51 and total dollar amount of State contracts awarded to contractors that have been in operation for

1 less than five years, including a breakdown by demographics and geographical area, (ii) the
2 percentage of the number of State contracts awarded to contractors that have been in operation
3 for less than five years compared to the total number of contracts awarded, and (iii) the
4 percentage of the total dollar amount of State contracts awarded to contractors that have been in
5 operation for less than five years compared to the total dollar amount of contracts awarded."

6 **SECTION 2.(c)** G.S. 143B-1361 reads as rewritten:

7 **"§ 143B-1361. Information technology procurement policy; reporting requirements.**

8 (a) Policy. – In order to further the policy of the State to encourage and promote the use
9 of small, minority, physically handicapped, ~~and-women eontractors-contractors, and contractors~~
10 that have been in operation for less than five years in State purchasing of goods and services, all
11 State agencies shall cooperate with the Department in efforts to encourage the use of small,
12 minority, physically handicapped, ~~and-women eontractors-contractors, and contractors~~ that have
13 been in operation for less than five years in achieving the purposes of this Article, which is to
14 provide for the effective and economical acquisition, management, and disposition of
15 information technology.

16"

17 **SECTION 3.** Section 1 of this act is effective for taxable years beginning on or after
18 January 1, 2023. Section 2 of this act becomes effective October 1, 2023, and applies to contracts
19 awarded on or after that date. The remainder of this act is effective when it becomes law.