GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2005

H D

HOUSE DRH50210-LY-138 (3/2)

Short Title: Extend and Expand Bill Lee Act. (Public)

Sponsors: Representative Rapp.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT UNTIL 2010 AND TO EXPAND THE PROVISIONS OF THE ACT WITH REGARDS TO ELIGIBLE INDUSTRIES AND THE WAGE STANDARD.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 105-129.2 is amended by adding a new subdivision to read:

"<u>(18a)</u> <u>Racetrack. – A motor sports racetrack classified in the United States racetrack national industry 711212, as defined by NAICS.</u>"

SECTION 2. G.S. 105-129.2A(a) reads as rewritten:

"**§ 105-129.2A. Sunset; studies.**

(a) Sunset. – This Article is repealed effective for business activities that occur on or after January 1, ~~2006.~~<u>2010.</u>

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provides for the lease of at least 100 acres of real property with a lease term in excess of 15 years, this Article is repealed effective for business activities that occur on or after January 1, 2010.~~

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in the case of a taxpayer that qualifies as an eligible major industry on or before January 1, 2006, this Article is repealed effective for business activities that occur on or after January 1, 2010.~~

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

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

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

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

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

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

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

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

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

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

SECTION 3. G.S. 105-129.3(b) and (b1) read as rewritten:

"(b) Annual Designation. – Each year, on or before December 31, the Secretary of Commerce shall assign to each county in the State an enterprise factor that is the sum of the following:

(1) The county's rank in a ranking of counties by average rate of unemployment from lowest to highest, for the preceding 12 months.

(2) The county's rank in a ranking of counties by average ~~per capita income~~wage for all insured private employers in the county from highest to lowest, for the preceding 12 months.

(3) The county's rank in a ranking of counties by percentage growth in population from highest to lowest, for the preceding 12 months.

The Secretary of Commerce shall then rank all the counties within the State according to their enterprise factor from highest to lowest, identify all the areas of the State by enterprise tier, and publish this information. An enterprise tier designation is effective only for the calendar year following the designation.

(b1) Data. – In measuring rates of unemployment and ~~per capita income~~average wage, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population and population growth, the Secretary shall use the most recent estimates of population certified by the State Budget Officer."

SECTION 4. G.S. 105-129.4(a)(4) reads as rewritten:

"(a) Type of Business. – The following conditions apply in determining a taxpayer's eligibility for the credits in this Article:

…

(4) Single establishment. – A taxpayer is eligible for the credits allowed by this Article other than by G.S. 105-129.12 if the primary business of the taxpayer or the primary activity of an establishment of the taxpayer is one of the following types of businesses and the jobs, investment, and activity with respect to which a credit is claimed are used in that business:

a. Computer services.

b. An electronic mail order house that creates at least 250 new jobs and is located in an enterprise tier one, two, or three area.

<u>c.</u> <u>Racetrack.</u>"

SECTION 5. G.S. 105-129.4(b) reads as rewritten:

"(b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs in an enterprise tier three, four, or five area if, for the calendar year the jobs are created, the average wage of the jobs for which the credit is claimed meets the wage standard and the average wage of all jobs at the location with respect to which the credit is claimed meets the wage standard. No credit is allowed for jobs not included in the wage calculation. A taxpayer is eligible for the credit for investing in machinery and equipment, the credit for research and development, or the credit for investing in real property for a central office or aircraft facility in a tier three, four, or five area if, for the calendar year the taxpayer engages in the activity that qualifies for the credit, the average wage of all jobs at the location with respect to which the credit is claimed meets the wage standard. In making the wage calculation, the taxpayer must include any positions that were filled for at least 1,600 hours during the calendar year the taxpayer engages in the activity that qualifies for the credit even if those positions are not filled at the time the taxpayer claims the credit. For a taxpayer with a taxable year other than a calendar year, the taxpayer must use the wage standard for the calendar year in which the taxable year begins. No wage standard applies to credits for activities in an enterprise tier one or two area.

Part-time jobs for which the taxpayer provides health insurance as provided in subsection (b2) of this section are considered to have an average weekly wage at least equal to the applicable percentage times the applicable average weekly wage for the county in which the jobs will be located. There may be a period of up to 100 days between the time at which an employee begins a part-time job and the time at which the taxpayer begins to provide health insurance for that employee.

Jobs meet the wage standard if they pay an average weekly wage that is at least equal to ~~one hundred ten percent (110%)~~ <u>ninety percent (90%)</u> of the applicable average weekly wage for the county in which the jobs will be located, as computed by the Secretary of Commerce from data compiled by the Employment Security Commission for the most recent period for which data are available. The applicable average weekly wage is the lowest of the following: (i) the average wage for all insured private employers in the county, (ii) the average wage for all insured private employers in the State, and (iii) the average wage for all insured private employers in the county multiplied by the county income/wage adjustment factor. The county income/wage adjustment factor is the county income/wage ratio divided by the State income/wage ratio. The county income/wage ratio is average per capita income in the county divided by the annualized average wage for all insured private employers in the county. The State income/wage ratio is the average per capita income in the State divided by the annualized average wage for all insured private employers in the State. The Department of Commerce must annually publish the wage standard for each county."

SECTION 6. Sections 2 and 3 of this act are effective when they become law. The remainder of this act is effective for taxable years beginning on or after January 1, 2006, and applies to business activities occurring on or after that date.