

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 903

Short Title: Port Enhancement Zones. (Public)

Sponsors: Representatives Justice and McComas (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

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

May 5, 2011

A BILL TO BE ENTITLED

AN ACT TO PROVIDE TIER ONE TREATMENT FOR PORT ENHANCEMENT ZONES.

The General Assembly of North Carolina enacts:

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

"§ 143B-437.012. Port enhancement zone designation.

(a) Port Enhancement Zone Defined. – A port enhancement zone is an area that meets all of the following conditions:

- (1) It is comprised of one or more contiguous census tracts, census block groups, or both, in the most recent federal decennial census.
- (2) All of the area is located within 15 miles of a State port and is capable of being used to enhance port operations.
- (3) Every census tract and census block group that comprises the area has at least eleven percent (11%) of households with incomes of fifteen thousand dollars (\$15,000) or less and one of the 25 lowest average weekly wages in the State.

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

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

SECTION 2. G.S. 105-129.81 is amended by adding a new subdivision to read:
"§ 105-129.81. (See notes) Definitions.



The following definitions apply in this Article:

(20a) Port enhancement zone. – Defined in G.S. 143B-437.012.

...."

SECTION 3. G.S. 105-129.83 reads as rewritten:

"§ 105-129.83. Eligibility; forfeiture.

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

In making the wage calculation, the taxpayer shall include any jobs 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 jobs 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 shall use the wage standard for the calendar year in which the taxable year begins. Only full-time jobs are included when making the wage calculation.

(l) Planned Expansion. – A taxpayer that signs a letter of commitment with the Department of Commerce, after the Department has calculated the development tier designations for the next year but before the beginning of that year, to undertake specific activities at a specific site within the next two years may calculate the credit for which it qualifies based on the establishment's development tier designation and urban progress ~~zone~~zone, port enhancement zone, or agrarian growth zone designation in the year in which the letter of commitment was signed by the taxpayer. If the taxpayer does not engage in the activities within the two-year period, the taxpayer does not qualify for the credit; however, if the taxpayer later engages in the activities, the taxpayer qualifies for the credit based on the development tier and urban progress ~~zone~~zone, port enhancement zone, or agrarian growth zone designations in effect at that time.

...."

SECTION 4. G.S. 105-129.87 reads as rewritten:

"§ 105-129.87. Credit for creating jobs.

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

| Area Development Tier | Amount of Credit |
|-----------------------|------------------|
|-----------------------|------------------|

| | | |
|---|------------|----------|
| 1 | Tier One | \$12,500 |
| 2 | Tier Two | 5,000 |
| 3 | Tier Three | 750 |

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

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

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

...

(e) Transferred Jobs. – Jobs transferred from one area in the State to another area in the State are not considered new jobs for purposes of this section. Jobs that were located in this State and that are transferred to the taxpayer from a related member of the taxpayer are not considered new jobs for purposes of this section. If, in one of the four years in which the installment of a credit accrues, the job with respect to which the credit was claimed is moved to an area in a higher-numbered development tier or out of an urban progress ~~zone~~zone, a port enhancement zone, or an agrarian growth zone, the remaining installments of the credit are allowed only to the extent they would have been allowed if the job was initially created in the area to which it was moved. If, in one of the years in which the installment of a credit accrues, the job with respect to which the credit was claimed is moved to an area in a lower-numbered development tier or an urban progress ~~zone~~zone, a port enhancement zone, or an agrarian growth zone, the remaining installments of the credit shall be calculated as if the job had been created initially in the area to which it was moved.

...."

SECTION 5. G.S. 105-129.88 reads as rewritten:

"§ 105-129.88. (See notes) Credit for investing in business property.

(a) General Credit. – A taxpayer that meets the eligibility requirements set out in G.S. 105-129.83 and that has purchased or leased business property and placed it in service in this State during the taxable year and that has satisfied the threshold requirements of subsection (c) of this section is allowed a credit equal to the applicable percentage of the excess of the eligible investment amount over the applicable threshold. If the taxpayer places business property in service in an urban progress ~~zone~~zone, a port enhancement zone, or an agrarian growth zone, the applicable percentage is the one for a development tier one area. Business property is eligible if it is not leased to another party. The credit may not be taken for the

1 taxable year in which the business property is placed in service but shall be taken in equal
 2 installments over the four years following the taxable year in which it is placed in service. The
 3 applicable percentage is as follows:

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

8 ...
 9 (c) Threshold. – The applicable threshold is the appropriate amount set out in the
 10 following table based on the development tier where the eligible business property is placed in
 11 service during the taxable year. If the taxpayer places business property in service in an urban
 12 progress ~~zone-zone~~, a port enhancement zone, or an agrarian growth zone, the applicable
 13 threshold is the one for a development tier one area. Business property placed in service in an
 14 urban progress ~~zone-zone~~, a port enhancement zone, or an agrarian growth zone is not
 15 aggregated with business property placed in service at any other eligible establishments
 16 regardless of county. If the taxpayer places eligible business property in service at more than
 17 one establishment in a county during the taxable year, the threshold applies to the aggregate
 18 amount of eligible business property placed in service during the taxable year at all
 19 establishments in the county. If the taxpayer places eligible business property in service at
 20 establishments in different counties, the threshold applies separately to the aggregate amount of
 21 eligible business property placed in service in each county. If the taxpayer places eligible
 22 business property in service at an establishment over the course of a two-year period, the
 23 applicable threshold for the second taxable year is reduced by the eligible investment amount
 24 for the previous taxable year.

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

25 ...
 26 (e) Transferred Property. – If, in one of the four years in which the installment of a
 27 credit accrues, the business property with respect to which the credit was claimed is moved to a
 28 county in a higher-numbered development tier or out of an urban progress ~~zone-zone~~, a port
 29 enhancement zone, or an agrarian growth zone, the remaining installments of the credit are
 30 allowed only to the extent they would have been allowed if the business property had been
 31 placed in service initially in the area to which it was moved. If, in one of the four years in
 32 which the installment of a credit accrues, the business property with respect to which a credit
 33 was claimed is moved to a county in a lower-numbered development tier or an urban progress
 34 ~~zone-zone~~, a port enhancement zone, or an agrarian growth zone, the remaining installments of
 35 the credit shall be calculated as if the business property had been placed in service initially in
 36 the area to which it was moved.
 37 ..."

38 ..."
 39 **SECTION 6.** This act is effective for taxes imposed for taxable years beginning on
 40 or after January 1, 2011.
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