

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 938

Short Title: Construction Worker Training Credit.

(Public)

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Sponsors: Senators Jordan; Albertson, Conder, Hoyle, Lucas, Plyler, Rand, Reeves, Soles, Warren, and Weinstein.

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Referred to: Finance.

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April 17, 1997

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE TAX CREDITS FOR CONSTRUCTION EMPLOYERS WHO  
3 PROVIDE CRAFTWORKER TRAINING TO EMPLOYEES AND WHO HIRE  
4 WELFARE RECIPIENTS.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 105-129.2 reads as rewritten:

7 "**§ 105-129.2. (Repealed effective January 1, 2002 – see note) Definitions.**

8 The following definitions apply in this Article:

9 (1) Construction. – Any of the following businesses as defined in Major  
10 Groups 15, 16, and 17 of the Standard Industrial Classification Manual  
11 issued by the United States Bureau of the Census:

12 a. Construction.

13 b. Heavy construction.

14 c. Building-related special trades.

15 (1a) Cost. – Defined in section 179 of the Code.

16 (2) Data processing. – Defined in the Standard Industrial Classification  
17 Manual issued by the United States Bureau of the Census.

18 (3) Enterprise tier. – The classification assigned to an area pursuant to G.S.  
19 105-129.3.

- 1 (4) Full-time job. – A position that requires at least 1,600 hours of work per  
2 year and is intended to be held by one employee during the entire year.  
3 A full-time employee is an employee who holds a full-time job.
- 4 (5) Machinery and equipment. – Engines, machinery, tools, and implements  
5 that are capitalized by the taxpayer for tax purposes under the Code and  
6 are used or designed to be used in manufacturing or processing,  
7 warehousing and distribution, or data processing. The term does not  
8 include real property as defined in G.S. 105-273 or rolling stock as  
9 defined in G.S. 105-333.
- 10 (6) Manufacturing and processing. – Defined in the Standard Industrial  
11 Classification Manual issued by the United States Bureau of the Census.
- 12 (7) Purchase. – Defined in section 179 of the Code.
- 13 (8) Warehousing and distribution. – Defined in the Standard Industrial  
14 Classification Manual issued by the United States Bureau of the Census.
- 15 (9) Welfare recipient. – A person who was a recipient of aid to families  
16 with dependent children within the 12-month period before being hired  
17 by the taxpayer."

18 Section 2. G.S. 105-129.4 reads as rewritten:

19 "**§ 105-129.4. (Repealed effective January 1, 2002) Eligibility; forfeiture.**

20 (a) Type of Business. – A taxpayer is eligible for the credit for creating a  
21 construction job for a welfare recipient under G.S. 105-129.8(a1) or the credit for  
22 construction craftworker training under G.S. 105-129.11(b) if the taxpayer is engaged in  
23 the business of construction. A taxpayer is eligible for a credit the remaining credits  
24 allowed by this Article if the taxpayer engages in manufacturing or processing,  
25 warehousing or distributing, or data processing, and the jobs with respect to which a  
26 credit is claimed are created in that business, the machinery and equipment with respect  
27 to which a credit is claimed are used in that business, and the research and development  
28 for which a credit is claimed are carried out as part of that business.

29 (b) Wage Standard. – A taxpayer is eligible for the credit for creating jobs or the  
30 credit for worker training if the jobs for which the credit is claimed meet the wage  
31 standard at the time the taxpayer applies for the credit. A taxpayer is eligible for the  
32 credit for investing in machinery and equipment or the credit for research and  
33 development if the jobs at the location with respect to which the credit is claimed meet  
34 the wage standard at the time the taxpayer applies for the credit. Jobs meet the wage  
35 standard if they pay an average weekly wage that is at least ten percent (10%) above the  
36 average weekly wage paid in the county in which the jobs will be located. In calculating  
37 the average weekly wage of jobs, positions that pay a wage or salary at a rate that exceeds  
38 one hundred thousand dollars (\$100,000) a year shall be excluded. For the purpose of this  
39 subsection, the average wage in a county is the average wage for all insured industries in  
40 the county as computed by the Employment Security Commission for the most recent  
41 period for which data are available.

42 (c) Worker Training. – A taxpayer is eligible for the tax credit for worker training  
43 only for training workers who occupy jobs for which the taxpayer is eligible to claim an

1 installment of the credit for creating jobs or which are full-time positions at a location  
2 with respect to which the taxpayer is eligible to claim an installment of the credit for  
3 investing in machinery and equipment for the taxable year.

4 The credit for worker training is allowed only with respect to employees in positions  
5 not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. § 213(a)(1) and  
6 for expenditures for training that would be eligible for expenditure or reimbursement  
7 under the Department of Community Colleges' New and Expanding Industry Program, as  
8 determined by guidelines adopted by the State Board of Community Colleges. To  
9 establish eligibility, the taxpayer must obtain as part of the application process under G.S.  
10 105-129.6 the certification of the Department of Community Colleges that the taxpayer's  
11 planned worker training would satisfy the requirements of this paragraph. A taxpayer  
12 shall apply to the Department of Community Colleges for this certification. The  
13 application must be on a form provided by the Department of Community Colleges, must  
14 provide a detailed plan of the worker training to be provided, and must contain any  
15 information required by the Department of Community Colleges to determine whether  
16 the requirements of this paragraph will be satisfied. If the Department of Community  
17 Colleges determines that the planned worker training meets the requirements of this  
18 paragraph, the Department of Community Colleges shall issue a certificate describing the  
19 location with respect to which the credit is claimed and stating that the planned worker  
20 training meets the requirements of this paragraph. The State Board of Community  
21 Colleges may adopt rules in accordance with Chapter 150B of the General Statutes that  
22 are needed to carry out its responsibilities under this paragraph.

23 (c) Construction Craftworker Training. – A taxpayer is eligible for the tax credit  
24 for construction craftworker training only for training construction craftworkers in  
25 positions not classified as exempt under the Fair Labor Standards Act, 29 U.S.C. §  
26 213(a)(1), and only for training provided pursuant to a program that satisfies the  
27 following conditions:

- 28 (1) It combines classroom instruction and jobsite training in construction  
29 craftwork.
- 30 (2) It includes competency testing to verify completion of each stage of  
31 training.
- 32 (3) It is approved by the Department of Labor, the Department of  
33 Community Colleges, or a statewide trade association that represents  
34 employers engaged in the construction business.

35 To establish eligibility, the taxpayer must obtain as part of the application process under  
36 G.S. 105-129.6 the certification of the Department of Community Colleges that the  
37 taxpayer's planned construction craftworker training would satisfy the requirements of  
38 this subsection. A taxpayer shall apply to the Department of Community Colleges for this  
39 certification. The application must be on a form provided by the Department of  
40 Community Colleges, must provide a detailed plan of the construction craftworker  
41 training to be provided, and must contain any information required by the Department of  
42 Community Colleges to determine whether the requirements of this subsection will be  
43 satisfied. If the Department of Community Colleges determines that the planned

1 construction craftworker training meets the requirements of this subsection, the  
 2 Department of Community Colleges shall issue a certificate describing the taxpayer,  
 3 identifying the entity that approved the training program, and stating that the planned  
 4 construction craftworker training meets the requirements of this subsection. The State  
 5 Board of Community Colleges may adopt rules in accordance with Chapter 150B of the  
 6 General Statutes that are needed to carry out its responsibilities under this subsection.

7 (d) Forfeiture. – A taxpayer forfeits a credit allowed under this Article if the  
 8 taxpayer was not eligible for the credit at the time the taxpayer applied for the credit. A  
 9 taxpayer that forfeits a credit under this Article is liable for all past taxes avoided as a  
 10 result of the credit plus interest at the rate established under G.S. 105-241.1(i), computed  
 11 from the date the taxes would have been due if the credit had not been allowed. The past  
 12 taxes and interest are due 30 days after the date the credit is forfeited; a taxpayer that fails  
 13 to pay the past taxes and interest by the due date is subject to the penalties provided in  
 14 G.S. 105-236. If a taxpayer forfeits the credit for creating jobs or the credit for investing  
 15 in machinery and equipment, the taxpayer also forfeits any credit for worker training  
 16 claimed for the jobs for which the credit for creating jobs was claimed or the jobs at the  
 17 location with respect to which the credit for investing in machinery and equipment was  
 18 claimed.

19 (e) Change in Ownership of Business. – The sale, merger, acquisition, or  
 20 bankruptcy of a business, or any other transaction by which an existing business  
 21 reformulates itself as another business, does not create new eligibility in a succeeding  
 22 business with respect to credits for which the predecessor was not eligible under this  
 23 Article. A successor business may, however, take any installment of or carried-over  
 24 portion of a credit that its predecessor could have taken if it had a tax liability."

25 Section 3. G.S. 105-129.8 reads as rewritten:

26 **"§ 105-129.8. (Repealed effective January 1, 2002) ~~Credit~~ Credits for creating jobs.**

27 (a) ~~Credit~~ Creating Jobs. – A taxpayer that meets the eligibility requirements set  
 28 out in G.S. 105-129.4, has five or more employees for at least 40 weeks during the  
 29 taxable year, and hires an additional full-time employee during that year to fill a position  
 30 located in this State is allowed a credit for creating a new full-time job. The amount of  
 31 the credit for each new full-time job created is set out in the table below and is based on  
 32 the enterprise tier of the area in which the position is located:

Area Enterprise Tier	Amount of Credit
Tier One	\$12,500
Tier Two	4,000
Tier Three	3,000
Tier Four	1,000
Tier Five	500

39 A position is located in an area if more than fifty percent (50%) of the employee's  
 40 duties are performed in the area.

41 (a1) Creating Construction Jobs for Welfare Recipients. – A taxpayer that is  
 42 engaged in the construction business, has five or more employees for at least 40 weeks

1 during the taxable year, and hires a welfare recipient as an additional full-time employee  
2 during the year is allowed a credit of five hundred dollars (\$500.00) for the job.

3 (a2) The credit may not be taken in the taxable year in which the additional  
4 employee is hired. Instead, the credit shall be taken in equal installments over the four  
5 years following the taxable year in which the additional employee was hired and shall be  
6 conditioned on the continued employment by the taxpayer of the number of full-time  
7 employees the taxpayer had upon hiring the employee that caused the taxpayer to qualify  
8 for the credit.

9 If, in one of the four years in which the installment of a credit accrues, the number of  
10 the taxpayer's full-time employees falls below the number of full-time employees the  
11 taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires  
12 and the taxpayer may not take any remaining installment of the credit. The taxpayer may,  
13 however, take the portion of an installment that accrued in a previous year and was  
14 carried forward to the extent permitted under G.S. 105-129.5.

15 If, in one of the four years in which the installment of a credit accrues, a job for which  
16 the welfare recipient credit was allowed is no longer filled by a welfare recipient, the  
17 credit expires and the taxpayer may not take any remaining installment of the welfare  
18 recipient credit with respect to that job.

19 Jobs transferred from one area in the State to another area in the State shall not be  
20 considered new jobs for purposes of this section. If, in one of the four years in which the  
21 installment of a credit accrues, the position filled by the employee is moved to an area in  
22 a higher- or lower-numbered enterprise tier, the remaining installments of the credit shall  
23 be calculated as if the position had been created initially in the area to which it was  
24 moved.

25 (b) Repealed by Session Laws 1989, c. 111, s. 1.

26 (b1), (c) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3.

27 (d) Planned Expansion. – A taxpayer that signs a letter of commitment with the  
28 Department of Commerce to create at least twenty new full-time jobs in a specific area  
29 within two years of the date the letter is signed qualifies for the credit in the amount  
30 allowed by subsection (a) of this section based on the area's enterprise tier for that year  
31 even though the employees are not hired that year. The credit shall be available in the  
32 taxable year after at least twenty employees have been hired if the hirings are within the  
33 two-year commitment period. The conditions outlined in subsection (a) apply to a credit  
34 taken under this subsection except that if the area is redesignated to a higher-numbered  
35 enterprise tier after the year the letter of commitment was signed, the credit is allowed  
36 based on the area's enterprise tier for the year the letter was signed. If the taxpayer does  
37 not hire the employees within the two-year period, the taxpayer does not qualify for the  
38 credit. However, if the taxpayer qualifies for a credit under subsection (a) in the year any  
39 new employees are hired, the taxpayer may take the credit under that subsection.

40 (e), (f) Repealed by Session Laws 1996, Second Extra Session, c. 13, s. 3.3 for  
41 taxable years beginning on or after January 1, 1996."

42 Section 4. G.S. 105-129.11 reads as rewritten:

1 "§ 105-129.11. (Repealed effective January 1, 2002) ~~Credit for worker training.~~  
2 Credits for worker training and construction craftworker training.

3 (a) ~~Credit Worker Training.~~ – A taxpayer that provides worker training for five or  
4 more of its eligible employees during the taxable year is allowed a credit equal to fifty  
5 percent (50%) of its eligible expenditures for the training. For positions located in an  
6 enterprise tier one area, the credit may not exceed one thousand dollars (\$1,000) per  
7 employee trained during the taxable year. For other positions, the credit may not exceed  
8 five hundred dollars (\$500.00) per employee trained during the taxable year. A position is  
9 located in an area if more than fifty percent (50%) of the employee's duties are performed  
10 in the area.

11 (b) ~~Eligibility.~~ – ~~The eligibility of a taxpayer's expenditures and employees is determined~~  
12 ~~as provided in G.S. 105-129.4.~~ Construction Craftworker Training. – A taxpayer that is  
13 engaged in the construction business and provides construction craftworker training to its  
14 eligible employees is allowed a credit equal to five hundred dollars (\$500.00) for each  
15 employee who completes his or her 1,000th hour of the provided training during the  
16 taxable year.

17 (c) Eligibility. – The eligibility of a taxpayer's training, expenditures, and  
18 employees is determined as provided in G.S. 105-129.4."

19 Section 5. This act is effective for taxable years beginning on or after January  
20 1, 1998.