

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 903
Committee Substitute Favorable 6/3/11

Short Title: Port Enhancement Zones.

(Public)

Sponsors:

Referred to:

May 5, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE TIER ONE TREATMENT FOR PORT ENHANCEMENT ZONES.
3 The General Assembly of North Carolina enacts:

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

6 "**§ 143B-437.012. Port enhancement zone designation.**

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

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

11 (2) All of the area is located within 20 miles of a State port and is capable of
12 being used to enhance port operations.

13 (3) Every census tract and census block group that comprises the area has at
14 least eleven percent (11%) of households with incomes of fifteen thousand
15 dollars (\$15,000) or less and one of the 25 lowest average weekly wages in
16 the State.

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

25 (1) A map showing the census tracts and block groups that would comprise the
26 zone.

27 (2) A detailed description of the boundaries of the area that would comprise the
28 zone.

29 (3) A certification regarding the size of the proposed zone.

30 (4) Detailed census information on the county and the proposed zone.

31 (5) A resolution of the board of county commissioners requesting the
32 designation of the area as a port enhancement zone.

33 (6) Any other material required by the Secretary of Commerce."

34 SECTION 2. G.S. 105-129.81 is amended by adding a new subdivision to read:

35 "**§ 105-129.81. (See notes) Definitions.**

36 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
Tier One	\$12,500

1	Tier Two	5,000
2	Tier Three	750

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

15	Area Development Tier	Threshold
16	Tier One	5
17	Tier Two	10
18	Tier Three	15

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

26 ...
 27 (e) Transferred Jobs. – Jobs transferred from one area in the State to another area in the
 28 State are not considered new jobs for purposes of this section. Jobs that were located in this
 29 State and that are transferred to the taxpayer from a related member of the taxpayer are not
 30 considered new jobs for purposes of this section. If, in one of the four years in which the
 31 installment of a credit accrues, the job with respect to which the credit was claimed is moved to
 32 an area in a higher-numbered development tier or out of an urban progress ~~zone~~zone, a port
 33 enhancement zone, or an agrarian growth zone, the remaining installments of the credit are
 34 allowed only to the extent they would have been allowed if the job was initially created in the
 35 area to which it was moved. If, in one of the years in which the installment of a credit accrues,
 36 the job with respect to which the credit was claimed is moved to an area in a lower-numbered
 37 development tier or an urban progress ~~zone~~zone, a port enhancement zone, or an agrarian
 38 growth zone, the remaining installments of the credit shall be calculated as if the job had been
 39 created initially in the area to which it was moved.

40"

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

42 "**§ 105-129.88. (See notes) Credit for investing in business property.**

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

installments over the four years following the taxable year in which 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%

(c) Threshold. – The applicable threshold is the appropriate amount set out in the following table based on the development tier where the eligible business property is placed in service during the taxable year. 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 threshold is the one for a development tier one area. Business property placed in service in an urban progress ~~zone~~zone, a port enhancement zone, or an agrarian growth zone is not aggregated with business property placed in service at any other eligible establishments regardless of county. If the taxpayer places eligible business property in service at more than one establishment in a county during the taxable year, the threshold applies to the aggregate amount of eligible business property placed in service during the taxable year at all establishments in the county. If the taxpayer places eligible business property in service at establishments in different counties, the threshold applies separately to the aggregate amount of eligible business property placed in service in each county. If the taxpayer places eligible business property in service at an establishment over the course of a two-year period, the applicable threshold for the second taxable year is 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

(e) Transferred Property. – If, in one of the four years in which the installment of a credit accrues, the business property with respect to which the credit was claimed is moved to a county 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 business property had been placed in service initially in the area to which it was moved. If, in one of the four years in which the installment of a credit accrues, the business property with respect to which a credit was claimed is moved to a county 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 business property had been placed in service initially in the area to which it was moved.

...."

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