

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2001**

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**HOUSE BILL 1440**

Short Title: Reform Bill Lee Act - 1.

(Public)

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Sponsors: Representatives Luebke; Miller and Weiss.

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Referred to: Finance.

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May 10, 2001

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS  
2 EXPANSION ACT TO FOCUS INCENTIVES UNDER THAT ACT IN THE  
3 MOST ECONOMICALLY DISTRESSED AREAS OF THE STATE BY  
4 ELIMINATING INCENTIVES IN ENTERPRISE TIER FOUR AND FIVE  
5 AREAS; TO REQUIRE A STUDY OF THE BILL LEE ACT; TO REQUIRE THE  
6 DEPARTMENT OF COMMERCE TO CONDUCT A PUBLIC HEARING ON  
7 ECONOMIC DEVELOPMENT PROJECTS AT THE REQUEST OF LOCAL  
8 GOVERNMENT; TO TAX SALES OF MOST ELECTRICITY AT THREE  
9 PERCENT; TO REQUIRE THE DEPARTMENT OF COMMERCE TO PUBLISH  
10 INFORMATION ABOUT CREDITS UNDER THE BILL LEE ACT AND  
11 RELATED BENEFITS; AND TO ENCOURAGE ECONOMIC DEVELOPMENT  
12 BY PROVIDING FUNDS FOR CLEAN WATER.  
13

14 The General Assembly of North Carolina enacts:

15 **SECTION 1.** G.S. 105-129.3A(c) reads as rewritten:

16 "(c) Relationship With Enterprise Tiers. – For the purpose of the wage standard  
17 requirement of G.S. 105-129.3(b), the credit for investing in machinery and equipment  
18 allowed in G.S. 105-129.9, and the credit for worker training allowed in G.S.  
19 105-129.11, a development zone is considered an enterprise tier one area. For all other  
20 purposes, a development zone has the lower of an enterprise tier three designation or the  
21 same enterprise tier designation as the county in which it is located."

22 **SECTION 2.** G.S. 105-129.4 is amended by adding a new subsection to read:

23 "(a3) Enterprise Tier. – Unless further restricted by another provision of this  
24 Article, a taxpayer is eligible for a credit allowed under this Article only if the location  
25 with respect to which the credit is claimed is in an enterprise tier one, two, or three area  
26 in the first year for which the credit is claimed. If, during the period that installments of  
27 a credit under this Article accrue, the enterprise tier of the area changes so that the  
28 taxpayer would no longer be eligible for the credit, the credit does not expire and the

1 taxpayer may continue to take any remaining installments of the credit and may  
 2 continue to take the portion of an installment that accrued in a previous year and was  
 3 carried forward to the extent permitted under G.S. 105-129.5."

4 **SECTION 3.** G.S. 105-129.6(a1) reads as rewritten:

5 "(a1) Fee. – When filing an application for certification under this section, the  
 6 taxpayer must pay the Department of Commerce a fee of five hundred dollars (\$500.00)  
 7 for each credit the taxpayer intends to claim with respect to a location that is in an  
 8 enterprise tier ~~three, four, or five~~three area, subject to a maximum fee of one thousand  
 9 five hundred dollars (\$1,500) per taxpayer per taxable year. This fee does not apply to  
 10 any credit the taxpayer intends to claim with respect to a location that is in a  
 11 development zone as defined in G.S. 105-129.3A. If the taxpayer applies for  
 12 certification for a credit that relates to locations in more than one enterprise tier area, the  
 13 fee is based on the highest-numbered enterprise tier area.

14 The Secretary of Commerce shall retain one-fourth of the proceeds of the fee  
 15 imposed in this section for the costs of administering this section. The Secretary of  
 16 Commerce shall credit the remaining proceeds of the fee imposed in this section to the  
 17 Department of Revenue for the costs of administering and auditing the credits allowed  
 18 in this Article. The proceeds of the fee are receipts of the Department to which they are  
 19 credited."

20 **SECTION 4.** G.S. 105-129.8(a) reads as rewritten:

21 "(a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S.  
 22 105-129.4, has five or more full-time employees, and hires an additional full-time  
 23 employee during that year to fill a position located in this State is allowed a credit for  
 24 creating a new full-time job. The amount of the credit for each new full-time job created  
 25 is set out in the table below and is based on the enterprise tier of the area in which the  
 26 position is located. In addition, if the position is located in a development zone, the  
 27 amount of the credit is increased by four thousand dollars (\$4,000) per job.

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

34 A position is located in an area if more than fifty percent (50%) of the employee's  
 35 duties are performed in the area. The credit may not be taken in the taxable year in  
 36 which the additional employee is hired. Instead, the credit shall be taken in equal  
 37 installments over the four years following the taxable year in which the additional  
 38 employee was hired and shall be conditioned on the continued employment by the  
 39 taxpayer of the number of full-time employees the taxpayer had upon hiring the  
 40 employee that caused the taxpayer to qualify for the credit.

41 If, in one of the four years in which the installment of a credit accrues, the number of  
 42 the taxpayer's full-time employees falls below the number of full-time employees the  
 43 taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires  
 44 and the taxpayer may not take any remaining installment of the credit. The taxpayer

1 may, however, take the portion of an installment that accrued in a previous year and was  
 2 carried forward to the extent permitted under G.S. 105-129.5.

3 Jobs transferred from one area in the State to another area in the State shall not be  
 4 considered new jobs for purposes of this section. If, in one of the four years in which the  
 5 installment of a credit accrues, the position filled by the employee is moved to an area  
 6 in a higher- or lower-numbered enterprise tier, or is moved from a development zone to  
 7 an area that is not a development zone, the remaining installments of the credit shall be  
 8 calculated as if the position had been created initially in the area to which it was  
 9 moved."

10 **SECTION 5.** G.S. 105-129.9(c) reads as rewritten:

11 "(c) **Threshold.** – The applicable threshold is the appropriate amount set out in the  
 12 following table based on the enterprise tier of the area where the eligible machinery and  
 13 equipment are placed in service during the taxable year. If the taxpayer places eligible  
 14 machinery and equipment in service in more than one area during the taxable year, the  
 15 threshold applies separately to the eligible machinery and equipment placed in service  
 16 in each area. If the taxpayer places eligible machinery and equipment in service in an  
 17 area over the course of a two-year period, the applicable threshold for the second  
 18 taxable year is reduced by the eligible investment amount for the previous taxable year.

19 Area Enterprise Tier	Threshold
20 Tier One	\$ -0-
21 Tier Two	100,000
22 Tier Three	200,000
23 <del>Tier Four</del>	<del>500,000</del>
24 Tier Five	1,000,000".

25 **SECTION 6.** The General Assembly shall study the effect of the tax  
 26 incentives provided under Article 3A of Chapter 105 of the General Statutes on  
 27 economic development and tax equity. The General Assembly may contract with an  
 28 outside entity to perform this study. This study shall include the following:

- 29 (1) Reexamining the formula in G.S. 105-129.3(b) used to define  
 30 enterprise tiers, to include consideration of alternative measures for  
 31 more equitable treatment of counties in similar economic  
 32 circumstances.
- 33 (2) Determining how the tax benefits, both as a percentage of the total  
 34 benefit and in actual sums, are allocated among the tiers.
- 35 (3) Examination of data on economic recruitment for the period 1994  
 36 through the present by county, by industry type, by size of investment,  
 37 and by number of jobs, and other relevant information to determine the  
 38 pattern of business locations and expansions before and after the  
 39 enactment of the Bill Lee Act incentives.
- 40 (4) Measuring the direct costs and benefits of the tax incentives.
- 41 (5) Determining the amount and type of local incentives that are offered in  
 42 each instance where a taxpayer has claimed a credit under the Article.
- 43 (6) Measuring the effectiveness of the forfeiture provisions of the Article.

44 **SECTION 7.** G.S. 143B-437 reads as rewritten:

1 **"§ 143B-437. Investigation of impact of proposed new and expanding industry.**

2 The Department of Commerce shall conduct an evaluation in conjunction with the  
3 Department of Environment and Natural Resources of the effects on the State's natural  
4 and economic environment of any new or expanding industry or manufacturing plant  
5 locating in North Carolina. At the request of a county board of commissioners or a city  
6 council, the Department of Commerce shall hold public hearings as part of the  
7 evaluation required by this section."

8 **SECTION 8.** G.S. 105-164.4(a)(1f) is repealed.

9 **SECTION 9.** G.S. 143B-435 reads as rewritten:

10 **"§ 143B-435. Publications.**

11 (a) The Department of Commerce may also cause to be prepared for publication,  
12 from time to time, reports and statements, with illustrations, maps and other  
13 descriptions, which may adequately set forth the natural and material resources of the  
14 State and its industrial and commercial developments, with a view to furnishing  
15 information to educate the people with reference to the material advantages of the State,  
16 to encourage and foster existing industries, and to present inducements for investment in  
17 new enterprises. Such information shall be published and distributed as the Department  
18 of Commerce may direct. The costs of publishing and distributing such information  
19 shall be paid from:

20 (1) State funds as other public documents; or

21 (2) Private funds received:

22 a. As donations, or

23 b. From the sale of appropriate advertising in such published  
24 information.

25 (b) The Department of Commerce shall publish information relating to certified  
26 applications for credits under Article 3A of Chapter 105 of the General Statutes. The  
27 Department shall publish the information via electronic means within 24 hours of  
28 certifying the application. The information to be published includes all of the following:

29 (1) The amount of credit applied for.

30 (2) The enterprise tier designation of the location with respect to which the  
31 credit is applied for.

32 (3) The amount of any ancillary benefits offered by the State associated  
33 with the project, such as road construction offered by the Department  
34 of Transportation."

35 **SECTION 10.** It is the intent of the General Assembly that any savings to  
36 the General Fund as a result of this act be applied to the Clean Water Management Trust  
37 Fund.

38 **SECTION 11.** Sections 6 through 11 of this act become effective July 1,  
39 2001, and Section 8 applies to sales made on or after that date. The remainder of this  
40 act is effective for taxable years beginning on or after January 1, 2002.