

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1514
Committee Substitute Favorable 7/22/09

Short Title: IDF Changes/Research & Prod. Serv. Districts.

(Public)

Sponsors:

Referred to:

April 20, 2009

A BILL TO BE ENTITLED

AN ACT TO EXPAND ECONOMICALLY DISTRESSED COUNTIES TO INCLUDE ALL TIER ONE AND TIER TWO COUNTIES, TO INCREASE THE MAXIMUM EXPENDITURE OF FUNDS FROM THE INDUSTRIAL DEVELOPMENT FUND, TO EXEMPT FROM RULE MAKING THE CUSTOMIZED TRAINING PROGRAM UNDER THE COMMUNITY COLLEGE SYSTEM, AND TO AMEND THE COUNTY SERVICE DISTRICT ACT OF 1973 TO ALLOW ADDITIONAL COUNTY RESEARCH AND PRODUCTION SERVICE DISTRICTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143B-437.01(a) reads as rewritten:

"§ 143B-437.01. Industrial Development Fund.

(a) Creation and Purpose of Fund. – There is created in the Department of Commerce the Industrial Development Fund to provide funds to assist the local government units of the most economically distressed counties in the State in creating and retaining jobs in certain industries. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the fund:

(1) The funds shall be used for (i) installation of or purchases of equipment for eligible industries, (ii) structural repairs, improvements, or renovations of existing buildings to be used for expansion of eligible industries, or (iii) construction of or improvements to new or existing water, sewer, gas, telecommunications, high-speed broadband, electrical utility distribution lines or equipment, or transportation infrastructure for existing or new or proposed industrial buildings to be used for eligible industries. To be eligible for funding, the water, sewer, gas, telecommunications, high-speed broadband, electrical utility lines or facilities, or transportation infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the specific eligible industrial activity.

(1a) The funds shall be used for projects located in economically distressed counties except that the Secretary of Commerce may use up to one hundred thousand dollars (\$100,000) to provide emergency economic development assistance in any county that is documented to be experiencing a major economic dislocation.

(2) The funds shall be used by the city and county governments for projects that will directly result in the creation or retention of new jobs. The funds shall be expended at a maximum rate of ~~five thousand dollars (\$5,000)~~ten



1 thousand dollars (\$10,000) per new job created or per job retained up to a
 2 maximum of five hundred thousand dollars (\$500,000) per project.

- 3 (3) There shall be no local match requirement if the project is located in a
 4 county that has one of the 25 highest rankings under G.S. 143B-437.08 or
 5 that has a population of less than 50,000 and more than nineteen percent
 6 (19%) of its population below the federal poverty level according to the most
 7 recent federal decennial census.
- 8 (4) The Department may authorize a local government that receives funds under
 9 this section to use up to two percent (2%) of the funds, if necessary, to verify
 10 that the funds are used only in accordance with law and to otherwise
 11 administer the grant or loan.
- 12 (5) No project subject to the Environmental Policy Act, Article 1 of Chapter
 13 113A of the General Statutes, shall be funded unless the Secretary of
 14 Commerce finds that the proposed project will not have a significant adverse
 15 effect on the environment. The Secretary of Commerce shall not make this
 16 finding unless the Secretary has first received a certification from the
 17 Department of Environment and Natural Resources that concludes, after
 18 consideration of avoidance and mitigation measures, that the proposed
 19 project will not have a significant adverse effect on the environment.
- 20 (6) The funds shall not be used for any nonmanufacturing project that does not
 21 meet the wage standard set out in G.S. 105-129.4(b)."

22 **SECTION 1.(b)** G.S. 143B-437.01(a1) reads as rewritten:

23 "(a1) Definitions. – The following definitions apply in this section:

- 24 (1) Air courier services. – Defined in G.S. 105-129.81.
 25 (2) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.
 26 (2a) Company headquarters. – Defined in G.S. 105-129.81.
 27 (3) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.
 28 (4) Economically distressed county. – A county that ~~has one of the 65 highest~~
 29 ~~rankings~~ is defined as a tier one or tier two county under G.S. 143B-437.08
 30 after the adjustments of that section are applied.
 31 (5) Eligible industry. – A company headquarters or a person engaged in the
 32 business of air courier services, information technology and services,
 33 manufacturing, or warehousing and wholesale trade.
 34 (6) Information technology and services. – Defined in G.S. 105-129.81.
 35 (7) Major economic dislocation. – The actual or imminent loss of 500 or more
 36 manufacturing jobs in the county or of a number of manufacturing jobs equal
 37 to at least ten percent (10%) of the existing manufacturing workforce in the
 38 county.
 39 (8) Manufacturing. – Defined in G.S. 105-129.81.
 40 (9) Reserved.
 41 (10) Warehousing. – Defined in G.S. 105-129.81.
 42 (11) Wholesale trade. – Defined in G.S. 105-129.81."

43 **SECTION 1.(c)** G.S. 143B-437.01(b1) reads as rewritten:

44 "(b1) Utility Account. – There is created within the Industrial Development Fund a
 45 special account to be known as the Utility Account to provide funds to assist the local
 46 government units of the counties that ~~have one of the 65 highest rankings~~ are defined as a tier
 47 one or tier two county under G.S. 143B-437.08 after the adjustments of that section are applied
 48 in creating jobs in eligible industries. The Department of Commerce shall adopt rules providing
 49 for the administration of the program. Except as otherwise provided in this subsection, those
 50 rules shall be consistent with the rules adopted with respect to the Industrial Development
 51 Fund. The rules shall provide that the funds in the Utility Account may be used only for

1 construction of or improvements to new or existing water, sewer, gas, telecommunications,
2 high-speed broadband, electrical utility distribution lines or equipment, or transportation
3 infrastructure for existing or new or proposed industrial buildings to be used for eligible
4 industrial operations. To be eligible for funding, the water, sewer, gas, telecommunications,
5 high-speed broadband, electrical utility lines or facilities, or transportation infrastructure shall
6 be located on the site of the building or, if not located on the site, shall be directly related to the
7 operation of the specific industrial activity. There shall be no maximum funding amount per
8 new job to be created or per project."

9 **SECTION 2.(a)** G.S. 150B-1(d) reads as rewritten:

10 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
11 following:

- 12 (1) The Commission.
- 13 (2) Repealed by Session Laws 2000-189, s. 14, effective July 1, 2000.
- 14 (3) Repealed by Session Laws 2001-474, s. 34, effective November 29, 2001.
- 15 (4) The Department of Revenue, with respect to the notice and hearing
16 requirements contained in Part 2 of Article 2A.
- 17 (5) The North Carolina Global TransPark Authority with respect to the
18 acquisition, construction, operation, or use, including fees or charges, of any
19 portion of a cargo airport complex.
- 20 (6) The Department of Correction, with respect to matters relating solely to
21 persons in its custody or under its supervision, including prisoners,
22 probationers, and parolees.
- 23 (7) The State Health Plan for Teachers and State Employees in administering
24 the provisions of Article 3A of Chapter 135 of the General Statutes.
- 25 (8) The North Carolina Federal Tax Reform Allocation Committee, with respect
26 to the adoption of the annual qualified allocation plan required by 26 U.S.C.
27 § 42(m), and any agency designated by the Committee to the extent
28 necessary to administer the annual qualified allocation plan.
- 29 (9) The Department of Health and Human Services in adopting new or
30 amending existing medical coverage policies under the State Medicaid
31 Program.
- 32 (10) The Economic Investment Committee in developing criteria for the Job
33 Development Investment Grant Program under Part 2F of Article 10 of
34 Chapter 143B of the General Statutes.
- 35 (11) The North Carolina State Ports Authority with respect to fees established
36 pursuant to G.S. 143B-454(a)(11).
- 37 (12) The Department of Commerce and the Economic Investment Committee in
38 developing criteria and administering the Site Infrastructure Development
39 Program under G.S. 143B-437.02.
- 40 (13) The Department of Commerce and the Governor's Office in developing
41 guidelines for the One North Carolina Fund under Part 2H of Article 10 of
42 Chapter 143B of the General Statutes.
- 43 (14) The Community Colleges System Office in developing guidelines for the
44 Community College Facilities and Equipment Fund.
- 45 (15) The Department of Commerce in developing guidelines for the North
46 Carolina Economic Development Reserve.
- 47 (16) The State Ethics Commission with respect to Chapter 138A and Chapter
48 120C of the General Statutes.
- 49 (17) The Department of Commerce in developing guidelines for the NC Green
50 Business Fund under Part 2B of Article 10 of Chapter 143B of the General
51 Statutes.

1 (18) The Department of Commerce and the Economic Investment Committee in
 2 developing criteria and administering the Job Maintenance and Capital
 3 Development Fund under G.S. 143B-437.012.

4 (19) The Community Colleges System Office in developing criteria and
 5 guidelines administering the Customized Training Program under
 6 G.S. 115D-5.1."

7 **SECTION 2.(b)** G.S. 115D-5.1(g) reads as rewritten:

8 "(g) The State Board shall adopt ~~rules and~~ policies to implement this section."

9 **SECTION 3.(a)** G.S. 153A-312 reads as rewritten:

10 **"§ 153A-312. Definition of research and production service district.**

11 (a) Standards. – The board of commissioners may by resolution establish a research and
 12 production service district for any area of the county that, at the time the resolution is adopted,
 13 meets the following standards:

14 (1) All (i) real property in the district is being used for or is subject to covenants
 15 that limit its use to research or scientifically-oriented production or for
 16 associated commercial or institutional ~~purposes-~~purposes or (ii) if all the real
 17 property in the district is part of a multijurisdictional industrial park that
 18 satisfies the criteria of G.S. 143B-437.08(h), all such real property in the
 19 district is subject to covenants that limit its use to research or scientifically
 20 oriented production, associated commercial or institutional purposes, or
 21 other industrial and associated commercial and institutional uses.

22 (2) The district (i) contains at least 4,000 ~~acres-~~acres or (ii) satisfies the criteria
 23 of G.S. 143B-437.08(h).

24 (3) The district (i) includes research and production facilities that in
 25 combination employ at least 5,000 ~~persons-~~persons or (ii) satisfies the
 26 criteria of G.S. 143B-437.08(h).

27 (4) All real property located in the district was at one time or is currently owned
 28 by a nonprofit corporation, which developed or is developing the property as
 29 a research and production park.

30 (5) A petition requesting creation of the district signed by at least fifty percent
 31 (50%) of the owners of real property in the district who own at least fifty
 32 percent (50%) of total area of the real property in the district has been
 33 presented to the board of commissioners. In determining the total area of real
 34 property in the district and the number of owners of real property, there shall
 35 be excluded (1) real property exempted from taxation and real property
 36 classified and excluded from taxation and (2) the owners of such exempted
 37 or classified and excluded property.

38 (6) The district has no more than 25 permanent residents.

39 (7) There exists in the district an association of owners and tenants, to which at
 40 least seventy-five percent (75%) of the owners of real property belong,
 41 which association can make the recommendations provided for in
 42 G.S. 153A-313. This subdivision shall not apply to a research and
 43 production service district that satisfies the criteria of G.S. 143B-437.08(h).

44 (8) ~~There exist-~~exists, or will exist when conveyed by the nonprofit corporation
 45 described in subdivision (4) of this subsection, deed-imposed conditions,
 46 covenants, restrictions, and reservations that apply to all real property in the
 47 district other than property owned by the federal government.

48 (9) No part of the district lies within the boundaries of any incorporated city or
 49 town.

50 The Board of Commissioners may establish a research and production service district if,
 51 upon the information and evidence it receives, the Board finds that:

- 1 (1) The proposed district meets the standards set forth in this subsection; and
- 2 (2) It is impossible or impracticable to provide on a countywide basis the
- 3 additional or higher levels of services, facilities, or functions proposed for
- 4 the district; and
- 5 (3) It is economically feasible to provide the proposed services, facilities, or
- 6 functions to the district without unreasonable or burdensome tax levies.

7 (b) Multi-County Districts. – If an area that meets the standards for creation of a
8 research and production service district lies in more than one county, the boards of
9 commissioners of those counties may adopt concurrent resolutions establishing a service
10 district, even if that portion of the district lying in any one of the counties does not by itself
11 meet the standards. Each of the county boards of commissioners shall follow the procedure set
12 out in this section for creation of a service district.

13 If a multi-county service district is established, as provided in this subsection, the boards of
14 commissioners of the counties involved shall jointly determine whether the same appraisal and
15 assessment standards apply uniformly throughout the district. This determination shall be set
16 out in concurrent resolutions of the boards. If the same appraisal and assessment standards
17 apply uniformly throughout the district, the boards of commissioners of all the counties shall
18 levy the same rate of tax for the district, so that a uniform rate of tax is levied for district
19 purposes throughout the district. If the boards determine that the same standards do not apply
20 uniformly throughout the district, the boards shall agree on the extent of divergence between
21 the counties and on the resulting adjustments of tax rates that will be necessary in order that an
22 effectively uniform rate of tax is levied for district purposes throughout the district.

23 The boards of commissioners of the counties establishing a multi-county service district
24 pursuant to this subsection may, by concurrent resolution, provide for the administration of
25 services within the district by one ~~county~~ or more counties on behalf of all the establishing
26 counties.

27 (c) Report. – Before the public hearing required by subsection (d), the board of
28 commissioners shall cause to be prepared a report containing:

- 29 (1) A map of the proposed district, showing its proposed boundaries;
- 30 (2) A statement showing that the proposed district meets the standards set out in
- 31 subsection (a); and
- 32 (3) A plan for providing one or more services, facilities, or functions to the
- 33 district.

34 The report shall be available for public inspection in the office of the clerk to the board for
35 at least four weeks before the date of the public hearing.

36 (d) Hearing and Notice. – The board of commissioners shall hold a public hearing
37 before adopting any resolution defining a service district under this section. Notice of the
38 hearing shall state the date, hour, and place of the hearing and its subject, and shall include a
39 map of the proposed district and a statement that the report required by subsection (c) is
40 available for public inspection in the office of the clerk to the board. The notice shall be
41 published at least once not less than one week before the date of the hearing. In addition, it
42 shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail
43 which is fully prepaid to the owners as shown by the county tax records as of the preceding
44 January 1 (and at the address shown thereon) of all property located within the proposed
45 district. The person designated by the board to mail the notice shall certify to the board that the
46 mailing has been completed and his certificate is conclusive in the absence of fraud.

47 (e) Effective Date. – The resolution defining a service district shall take effect at the
48 beginning of a fiscal year commencing after its passage, as determined by the board of
49 commissioners."

50 **SECTION 3.(b)** G.S. 153A-313 reads as rewritten:

51 "**§ 153A-313. Advisory committee.**

1 (a) The board or boards of commissioners, in the resolution establishing a research and
2 production service district, shall also provide for an advisory committee for the district. Such a
3 committee shall have at least 10 members, serving terms as set forth in the resolution; one
4 member shall be the representative of the developer of the research and production park. The
5 resolution shall provide for the appointment or designation of a chairman. The board of
6 commissioners or, in the case of a multi-county service district, the boards of commissioners
7 shall appoint the members of the advisory committee. If a multi-county service district is
8 established, the concurrent resolutions establishing the district shall provide how many
9 members of the advisory committee are to be appointed by each board of commissioners.
10 Before making the appointments, the appropriate board shall request the association of owners
11 and tenants, required by G.S. 153A-312(a), to submit a list of persons to be considered for
12 appointment to the committee; the association shall submit at least two names for each
13 appointment to be made. Except as provided in the next two sentences, the board of
14 commissioners shall make the appointments to the committee from the list of persons
15 submitted. In addition, the developer of the research and production park shall appoint one
16 person to the advisory committee as the developer's representative on the committee. In
17 addition, in a single county service district, the board of commissioners may make two
18 additional appointments of such other persons as the board of commissioners deems
19 appropriate, and in a multi-county service district, each board of county commissioners may
20 make one additional appointment of such other person as that board of commissioners deems
21 appropriate. Whenever a vacancy occurs on the committee in a position filled by appointment
22 by a board of commissioners, the appropriate board, before filling the vacancy, shall request the
23 association to submit the names of at least two persons to be considered for the vacancy; and
24 the board shall fill the vacancy by appointing one of the persons so submitted, except that if the
25 vacancy is in a position appointed by the board of commissioners under the preceding sentence
26 of this section, the board of commissioners making that appointment shall fill the vacancy with
27 such person as that board of commissioners deems appropriate.

28 Each year, before adopting the budget for the service district and levying the tax for the
29 district, the board or boards of commissioners shall request recommendations from the advisory
30 committee as to the level of services, facilities, or functions to be provided for the district for
31 the ensuing year. The board or boards of commissioners shall, to the extent permitted by law,
32 expend the proceeds of any tax levied for the district in the manner recommended by the
33 advisory board.

34 (b) In the event that the research and production service district satisfies the criteria of
35 G.S. 143B-437.08(h), the board of directors for the nonprofit corporation which owns the
36 industrial park shall serve as the advisory committee described in subsection (a) of this
37 section."

38 **SECTION 3.(c)** G.S. 153A-317 reads as rewritten:

39 **"§ 153A-317. Taxes authorized; rate limitation.**

40 A county may levy property taxes within a research and production service district in
41 addition to those levied throughout the county, in order to finance, provide, or maintain for the
42 district services provided therein in addition to or to a greater extent than those financed,
43 provided, or maintained for the entire county. In addition, a county may allocate to a service
44 district any other revenues whose use is not otherwise restricted by law. The proceeds of taxes
45 only within a service district may be expended only for services provided for the district.

46 Property subject to taxation in a newly established district or in an area annexed to an
47 existing district is that subject to taxation by the county as of the preceding January 1.

48 Such additional property taxes may not be levied within any district established pursuant to
49 this Article in excess of a rate of ten cents (10¢) on each one hundred dollars (\$100.00) value of
50 property subject to ~~taxation~~ taxation or, in the event that the research and production service
51 district satisfies the criteria of G.S. 143B-437.08(h), such additional property taxes may not be

- 1 levied within said district in excess of a rate of fifteen cents (15¢) on each one hundred dollars
2 (\$100.00) value of property subject to taxation."
3 **SECTION 4.** This act is effective when it becomes law. Subsections (b) and (c) of
4 Section 1 of this act expire July 1, 2012.