

House Bill 607 (AS PASSED HOUSE AND SENATE)

By: Representatives Jenkins of the 110<sup>th</sup> and Jamieson of the 22<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,  
2 relating to imposition, rate, and computation of state income taxes, so as to change certain  
3 provisions regarding deductions for payments to minority subcontractors; to provide for  
4 certain tax credits with respect to certain qualified business expansion; to provide an income  
5 tax credit for certain employers who provide certain transportation benefits to employees; to  
6 provide for procedures, conditions, and limitations; to provide for powers, duties, and  
7 authority of the state revenue commissioner; to provide for effective dates; to provide for  
8 applicability; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10 style="text-align:center">**SECTION 1.**

11 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to  
12 imposition, rate, and computation of state income taxes, is amended by striking Code Section  
13 48-7-38, relating to deductions for payments to minority subcontractors, and inserting in its  
14 place a new Code Section 48-7-38 to read as follows:

15 "48-7-38.

16 (a) As used in this Code section, the term:

17 (1) 'Member of a minority' means an individual who is ~~a member of a race which~~  
18 ~~comprises less than 50 percent of the total population of the state.;~~

19 (A) Black;

20 (B) Hispanic;

21 (C) Asian-Pacific American;

22 (D) Native American; or

23 (E) Asian-Indian American.

24 (2) 'Minority subcontractor' means any business which is owned by:

25 (A) An individual who is a member of a minority who reports as his or her personal  
26 income for Georgia income tax purposes the income of such business;

1 (B) A partnership in which a majority of the ownership interest is owned by one or  
2 more members of a minority who report as their personal income for Georgia income  
3 tax purposes more than 50 percent of the income of the partnership; or

4 (C) A corporation organized under the laws of this state in which a majority of the  
5 common stock is owned by one or more members of a minority who report as their  
6 personal income for Georgia income tax purposes more than 50 percent of the  
7 distributed earnings of the corporation.

8 (3) 'State contract' means a contract for the purchase by the state of goods, property, or  
9 services or for the construction of any building or structure for the state, which contract  
10 is executed by any department, board, bureau, commission, or agency of state  
11 government, by any state authority, or by any officer, official, employee, or agent of any  
12 of the foregoing.

13 (b) In computing Georgia taxable net income of a corporation, partnership, or individual,  
14 there shall be subtracted from federal taxable income or federal adjusted gross income 10  
15 percent of the amount of qualified payments to minority subcontractors. A payment to a  
16 minority subcontractor shall be a qualified payment if:

17 (1) The payment is for goods, personal property, or services furnished by the minority  
18 subcontractor to the taxpayer and delivered by the taxpayer to the state in furtherance of  
19 a state contract to which the taxpayer is a party; and the payment does not exceed the  
20 value of the goods, property, or services to the taxpayer;

21 (2) The payment is made during the taxable year for which the subtraction from federal  
22 taxable income or federal adjusted gross income is claimed; and

23 (3) The payment is made to a subcontractor who at the time of the payment is certified  
24 as a minority contractor pursuant to subsection (d) of this Code section.

25 (c) The total amount which may be subtracted under this Code section from federal taxable  
26 income or federal adjusted gross income of any taxpayer shall be limited to \$100,000.00  
27 per taxable year.

28 (d) The commissioner of administrative services shall certify individuals, partnerships, and  
29 corporations which are within the definition of the term 'minority subcontractor' specified  
30 in subsection (a) of this Code section. The department may disclose to the commissioner  
31 of administrative services the income tax returns of taxpayers applying for certification as  
32 minority subcontractors. The commissioner of administrative services shall maintain and  
33 periodically revise a list of certified minority subcontractors and shall make such list  
34 available to the department and to the general public.

35 (e) Any individual, partnership, or corporation certified pursuant to subsection (d) of this  
36 Code section and any small business concern which is at least 51 percent owned by one or  
37 more minorities, or, in the case of a publicly owned business, at least 51 percent of all

1 classes or types of the stock of which is owned by one or more minorities, whose  
 2 management and daily business operations are controlled by one or more minorities, and  
 3 which is authorized to do and is doing business under the laws of this state paying all taxes  
 4 duly assessed and domiciled within this state shall be eligible for certification as a minority  
 5 business enterprise under Code Section 50-5-132; and, for purposes of such certification  
 6 pursuant to this subsection, 'minority' shall be defined as a member of a minority. Such  
 7 certification shall be subject to the provisions of Code Section 50-5-133."

## 8 SECTION 2.

9 Said article is further amended by adding a new Code section immediately following Code  
 10 Section 48-7-40.20, to be designated Code Section 48-7-40.21, to read as follows:

11 "48-7-40.21.

12 (a) As used in this Code section, the term:

13 (1) 'Existing business enterprise' means any business or the headquarters of any such  
 14 business which is engaged in manufacturing, warehousing and distribution, processing,  
 15 telecommunications, tourism, or research and development industries that has been in  
 16 operation in this state for at least five years. Such term shall not include retail businesses.

17 (2) 'Qualified business expansion' means the creation of at least 500 new full-time jobs  
 18 within a taxable year.

19 (b) An existing business enterprise undergoing a qualified business expansion shall be  
 20 eligible to make application to the commissioner to take tax credits established by Code  
 21 Section 48-7-40 against such taxpayer's quarterly or monthly payment under Code Section  
 22 48-7-103 subject to the following limitations:

23 (1) Such application may be made only where the amount of such credit exceeds 50  
 24 percent of an existing business enterprise's liability for taxes imposed under this article  
 25 in a taxable year. In such cases where the existing business enterprise has claimed and  
 26 not used credits established by Code Section 48-7-40 prior to the effective date of this  
 27 Code section and such credits have been carried forward pursuant to subsection (h) of  
 28 Code Section 48-7-40, the taxpayer may also include in the application a request to take  
 29 such credits against such taxpayer's quarterly or monthly payment under Code Section  
 30 48-7-103;

31 (2) Following the commissioner's referral of the application to a panel composed of the  
 32 commissioner of community affairs, the commissioner of industry, trade, and tourism,  
 33 and the director of the Office of Planning and Budget, said panel, after reviewing the  
 34 application, certifies that the expansion will have a beneficial economic effect on the  
 35 region for which it is planned;

36 (3) The credit shall apply to not more than five taxable years;

1 (4) Credit shall not be allowed during a year if the net employment increase falls below  
2 the 500 new full-time jobs required; and

3 (5) No credit in excess of \$5 million may be claimed pursuant to the terms of this Code  
4 section.

5 (c) Notwithstanding any other provision of law to the contrary, any credit claimed pursuant  
6 to this Code section shall be subject to recapture if the minimum job requirement is not  
7 met.

8 (d) Each employee whose employer receives credit against such taxpayer's quarterly or  
9 monthly payment under Code Section 48-7-103 shall receive credit against his or her  
10 income tax liability under Code Section 48-7-20 for the corresponding taxable year for the  
11 full amount which would be credited against such liability prior to the application of the  
12 credit provided for in this Code section. Credits against quarterly or monthly payments  
13 under Code Section 48-7-103 and credits against liability under Code Section 48-7-20  
14 established by this Code section shall not constitute income to the taxpayer."

15 **SECTION 3.**

16 Said article is further amended by adding a new Code section immediately following new  
17 Code Section 48-7-40.21, to be designated Code Section 48-7-40.22, to read as follows:

18 "48-7-40.22.

19 (a) As used in this Code section, the term:

20 (1) 'Business enterprise' means any business or the headquarters of any such business  
21 which is engaged in manufacturing, warehousing and distribution, processing,  
22 telecommunications, tourism, research and development industries, child care  
23 businesses, or retail businesses.

24 (2) 'Headquarters' means the principal central administration office of a taxpayer.

25 (3) 'Tier' means a tier as designated pursuant to Code Section 48-7-40, as amended.

26 (b) A business enterprise which is located in a tier 1 or tier 2 county which purchases or  
27 leases a new motor vehicle which is used for the exclusive purpose of providing  
28 transportation for its employees shall be allowed a credit for taxes imposed under this  
29 article as follows:

<u>Tier</u>	<u>Credit amount per vehicle</u>
30 1 .....	\$ 3,000.00
31 2 .....	2,000.00

32 (c) In order to qualify for the tax credit under this Code section, a business enterprise must  
33 certify that each vehicle for which a credit is claimed carries an average daily ridership of  
34 not less than four employees.  
35

1 (d) In no event shall the aggregate amount of the tax credit provided by this Code section  
2 exceed the income tax liability of the business enterprise. Any unused tax credit shall be  
3 allowed to be carried forward to apply to the succeeding years' tax liability of such  
4 business enterprise. No such credit shall be allowed the business enterprise against prior  
5 years' tax liability.

6 (e) The commissioner shall promulgate any rules and regulations necessary to implement  
7 and administer this Code section."

8 **SECTION 4.**

9 (a) Except as otherwise provided in subsection (b) of this section, this Act shall become  
10 effective upon its approval by the Governor or upon its becoming law without such approval  
11 and shall be applicable to all taxable years ending on or after January 1, 2001.

12 (b) Section 3 of this Act shall become effective on January 1, 2002, and shall be applicable  
13 to all taxable years beginning on or after January 1, 2002.

14 **SECTION 5.**

15 All laws and parts of laws in conflict with this Act are repealed.