

The Senate Finance Committee offered the following substitute to HB 492:

ADOPTED SENATE

**A BILL TO BE ENTITLED
AN ACT**

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to change the income tax credit regarding establishing or relocating
3 headquarters, so as to change a definition; to change certain procedures, conditions, and
4 limitations; to provide for delayed implementation of certain provisions relating to state
5 insurance premium tax credits with respect to certified capital companies; to provide
6 effective dates; to provide for applicability; to repeal conflicting laws; and for other purposes.

7 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

8 **SECTION 1.**

9 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
10 amended in Code Section 48-7-40.17, relating to the income tax credit regarding establishing
11 or relocating headquarters, by striking subsections (a) and (b) and inserting in their place new
12 subsections (a) and (b), respectively, to read as follows:

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

14 (1) 'Average wage' means the average wage of the county in which a full-time job is
15 located as reported in the most recently available annual issue of the Georgia
16 Employment and Wages Averages Report of the Department of Labor.

17 (2) 'Full-time job' means employment for an individual which:

18 (A) Is located at a headquarters;

19 (B) Has a regular work week of 30 hours or more;

20 (C) Pays at or above:

21 (i) In tier 1 counties, the average wage of the county in which it is located;

22 (ii) In tier 2 counties, 105 percent of the average wage of the county in which it is
23 located;

24 (iii) In tier 3 counties, 110 percent of the average wage of the county in which it is
25 located; and

1 (iv) In tier 4 counties, 115 percent of the average wage of the county in which it is
2 located; and

3 (D) Has no predetermined end date.

4 (3) 'Headquarters' means the principal central administrative office of a taxpayer or a
5 subsidiary of the taxpayer.

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

7 (b) A taxpayer establishing its headquarters in this state or relocating its headquarters into
8 this state which:

9 (1) Within one year of the first date on which it withholds wages for employees at such
10 headquarters ~~pursuant to the provisions of Code Section 48-7-101 employs at least 100~~
11 ~~persons in new full-time jobs at such headquarters~~ or the headquarters of a subsidiary,
12 defined as the taxpayer's 'affiliated group' within the meaning of Section 1504(a) of the
13 Internal Revenue Code of 1986, as amended, pursuant to the provisions of Code Section
14 48-7-101, employs at least 50 persons in new full-time jobs at such headquarters;

15 (2) Within one year of the first date on which it withholds wages for employees at such
16 headquarters pursuant to the provisions of Code Section 48-7-101 incurs within the state
17 a minimum of \$1 million in construction, renovation, leasing, or other costs related to
18 such establishment or relocation; and

19 (3) Elects not to receive the tax credits provided for by Code Sections 48-7-40,
20 48-7-40.1, 48-7-40.2, 48-7-40.3, 48-7-40.4, 48-7-40.7, 48-7-40.8, and 48-7-40.9 for such
21 jobs or such investment

22 shall be allowed a credit for taxes imposed under this article equal to \$2,500.00 annually
23 per eligible new full-time job, or \$5,000.00 if the average wage of the new full-time jobs
24 created is 200 percent or more of the average wage of the county in which such jobs are
25 located per eligible new full-time job; provided, however, that where the amount of such
26 credit exceeds a taxpayer's liability for such taxes in a taxable year, the excess may be
27 taken as a credit against such taxpayer's quarterly or monthly payment under Code Section
28 48-7-103 but not to exceed in any one taxable year \$2,500.00 annually per eligible new
29 full-time job, or \$5,000.00 if the average wage of the new full-time jobs created is 200
30 percent or more of the average wage of the county in which such jobs are located for each
31 new full-time job when aggregated with the credit applied against taxes under this article.
32 Each employee whose employer receives credit against such taxpayer's quarterly or
33 monthly payment under Code Section 48-7-103 shall receive credit against his or her
34 income tax liability under Code Section 48-7-20 for the corresponding taxable year for the
35 full amount which would be credited against such liability prior to the application of the
36 credit provided for in this subsection. Credits against quarterly or monthly payments under
37 Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established

1 by this subsection shall not constitute income to the taxpayer. For each new full-time job
 2 created, the The credit established by this subsection may be taken for the first taxable year
 3 in which the new full-time job is created and for the four immediately succeeding taxable
 4 years, ~~and the taxpayer shall thereafter be ineligible for such credit~~; provided, however, that
 5 such new full-time jobs must be created within seven years from the close of the taxable
 6 year in which the taxpayer first becomes eligible for such credit. Credit shall not be
 7 allowed during a year if the net employment increase falls below the ~~100~~ 50 new full-time
 8 jobs required. Any credit received for years prior to the year in which the net employment
 9 increase falls below the ~~100~~ 50 new full-time jobs required shall not be affected. The
 10 commissioner shall adjust the credit allowed each year for net new employment
 11 fluctuations above the ~~100~~ 50 new full-time jobs required."

12 SECTION 2.

13 Said title is further amended by striking subsection (a) of Code Section 48-18-3, relating to
 14 investments of certified capital and premium tax credits, and inserting in its place a new
 15 subsection (a) to read as follows:

16 "(a) Any certified investor who makes an investment of certified capital pursuant to an
 17 allocation of tax credits under Code Section 48-18-4 shall, in the year of investment, earn
 18 a vested credit against state premium tax liability equal to 100 percent of the certified
 19 investor's investment of certified capital. After ~~July 1, 2005~~ January 1, 2007, a certified
 20 investor shall be entitled to take up to 10 percent of such vested tax credits in any taxable
 21 year to reduce the certified investor's state premium tax liability for such taxable year of
 22 the certified investor, plus up to 10 percent of the original amount of any tax credits some
 23 or all of which was carried forward unused pursuant to subsection (b) of this Code section;
 24 provided, however, that, in the event that a certified investor is unable under the provisions
 25 of this Code section to utilize the full 10 percent allowable under the provisions of this
 26 subsection for a taxable year, the remainder of such 10 percent may be taken in a future tax
 27 year without regard to the annual limitations of this subsection."

28 SECTION 3.

29 Said title is further amended by adding a new Code section at the end thereof, to be
 30 designated Code Section 48-18-9, to read as follows:

31 "48-18-9.

32 Notwithstanding any provision of law to the contrary, no provision of this chapter shall be
 33 implemented prior to July 1, 2004."

SECTION 4.

(a) Except as otherwise provided in subsection (b) of this section, this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

(b) Section 1 of this Act shall become effective upon its approval by the Governor or upon its becoming law without such approval and shall be applicable to all taxable years beginning on or after January 1, 2003.

SECTION 5.

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