

House Bill 1527

By: Representatives Royal of the 140<sup>th</sup> and O'Neal of the 117<sup>th</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 88 of Title 36 of the Official Code of Georgia Annotated, relating to the  
2 "Enterprise Zone Employment Act of 1997," so as to update references to federal law and  
3 census data; to provide a definition; to modify and add additional criteria for enterprise  
4 zones; to provide a limit on tax exemptions; to amend Code Section 48-7-40.1 of the Official  
5 Code of Georgia Annotated, relating to tax credits for business enterprises in less developed  
6 areas, so as to authorize the addition to the job tax credit program of areas where there is a  
7 poverty rate of 20 percent or greater in an enterprise zone, a redevelopment plan has been  
8 adopted, and the commissioner of community affairs finds pervasive poverty,  
9 underdevelopment, general distress, and blight; to provide that, in areas suffering from  
10 pervasive poverty, job tax credits shall be allowed to any lawful business; to remove the  
11 requirement that 30 percent of the new full-time jobs must be held by a resident of the  
12 affected area or similar area; to increase the allowable amount of tax credits that can be  
13 claimed in a tax year from 50 percent to 100 percent of the taxpayer's state income tax  
14 liability; to provide for an effective date and applicability; to repeal conflicting laws; and for  
15 other purposes.

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

17 **SECTION 1.**

18 Chapter 88 of Title 36 of the Official Code of Georgia Annotated, relating to the "Enterprise  
19 Zone Employment Act of 1997," is amended by striking subparagraph (E) of paragraph (6)  
20 of Code Section 36-88-3, relating to definitions, and inserting in lieu thereof a new  
21 subparagraph (E) to read as follows:

22 "(E) A participant in the ~~Job Training Partnership~~ Workforce Investment Act or who  
23 has participated in the ~~Job Training Partnership~~ Workforce Investment Act at any time  
24 during the 18 months previous to the date of hire;"





- 1 (B) Eighty percent of the property taxes shall be exempt for the next two years;  
 2 (C) Sixty percent of the property taxes shall be exempt for the next year;  
 3 (D) Forty percent of the property taxes shall be exempt for the next year; and  
 4 (E) Twenty percent of the property taxes shall be exempt for the last year."

5 **SECTION 5.**

6 Code Section 48-7-40.1 of the Official Code of Georgia Annotated, relating to tax credits for  
 7 business enterprises in less developed areas, is amended by striking the Code section in its  
 8 entirety and inserting in lieu thereof a new Code Section 48-7-40.1 to read as follows:

9 "48-7-40.1.

10 (a) As used in this Code section, the term 'business enterprise' means any business or the  
 11 headquarters of any such business which is engaged in manufacturing, warehousing and  
 12 distribution, processing, telecommunications, tourism, and research and development  
 13 industries. Such term shall not include retail businesses.

14 (b) Not later than December 31 of each year, using the most current data available from  
 15 the Department of Labor and the United States Department of Commerce, the  
 16 commissioner of community affairs shall rank and designate as less developed areas the  
 17 areas which are comprised of ten or more contiguous census tracts in this state using a  
 18 combination of the following equally weighted factors:

- 19 (1) Highest unemployment rate for the most recent 36 month period;  
 20 (2) Lowest per capita income for the most recent 36 month period; and  
 21 (3) Highest percentage of residents whose income is below the poverty level according  
 22 to the most recent data available.

23 (c) The commissioner of community affairs also shall be authorized to include in the  
 24 designation provided for in subsection (b) of this Code section:

25 (1) Any area comprised of ten or more contiguous census tracts which, in the opinion of  
 26 the commissioner of community affairs, undergoes a sudden and severe period of  
 27 economic distress caused by the closing of one or more business enterprises located in  
 28 such area; ~~or~~

29 (2) Any area comprised of one or more contiguous census tracts which, in the opinion  
 30 of the commissioner of community affairs, is or will be adversely impacted by the loss  
 31 of one or more jobs, businesses, or residences as a result of an airport expansion,  
 32 including noise buy-outs, or the closing of a business enterprise which, in the opinion of  
 33 the commissioner of community affairs, results or will result in a sudden and severe  
 34 period of economic distress; or

35 (3) Any area comprised of two or more contiguous census block groups with a poverty  
 36 rate of 20 percent or greater as determined from data in the most current United States

1 decennial census, where the area is also included within a state enterprise zone pursuant  
2 to Chapter 88 of Title 36, where a redevelopment plan has been adopted pursuant to  
3 Chapter 61 of Title 36, and which, in the opinion of the commissioner of community  
4 affairs, displays pervasive poverty, underdevelopment, general distress, and blight.

5 No designation made pursuant to this subsection shall operate to displace or remove any  
6 other area previously designated as a less developed area. Notwithstanding any provision  
7 of this Code section to the contrary, in areas designated as suffering from pervasive poverty  
8 under this paragraph, job tax credits shall be allowed as provided in this Code section, in  
9 addition to business enterprises, to any lawful business.

10 (d) For business enterprises which plan a significant expansion in their labor forces, the  
11 commissioner of community affairs shall prescribe redesignation procedures to ensure that  
12 the business enterprises can claim credits in future years without regard to whether or not  
13 a particular area is removed from the list of less developed areas.

14 (e) Business enterprises in areas designated by the commissioner of community affairs as  
15 less developed areas shall be allowed a job tax credit for taxes imposed under this article  
16 equal to \$3,500.00 annually per eligible new full-time employee job for five years  
17 beginning with years two through six after the creation of such job; provided, however, that  
18 where the amount of such credit exceeds a business enterprise's liability for such taxes in  
19 a taxable year, the excess may be taken as a credit against such business enterprise's  
20 quarterly or monthly payment under Code Section 48-7-103 but not to exceed in any one  
21 taxable year \$3,500.00 for each new full-time employee job when aggregated with the  
22 credit applied against taxes under this article. Each employee whose employer receives  
23 credit against such business enterprise's quarterly or monthly payment under Code Section  
24 48-7-103 shall receive credit against his or her income tax liability under Code Section  
25 48-7-20 for the corresponding taxable year for the full amount which would be credited  
26 against such liability prior to the application of the credit provided for in this subsection.  
27 Credits against quarterly or monthly payments under Code Section 48-7-103 and credits  
28 against liability under Code Section 48-7-20 established by this subsection shall not  
29 constitute income to the taxpayer. The number of new full-time jobs shall be determined  
30 by comparing the monthly average number of full-time employees subject to Georgia  
31 income tax withholding for the taxable year with the corresponding period of the prior  
32 taxable year. Only those business enterprises that increase employment by five or more  
33 in a less developed area shall be eligible for the credit. The average wage of the new jobs  
34 created must be above the average wage of the county that has the lowest wage of any  
35 county in the state to qualify as reported in the most recently available annual issue of the  
36 Georgia Employment and Wages Averages Report of the Department of Labor. To qualify  
37 for a credit under this subsection, the employer must make health insurance coverage

1 available to the employee filling the new full-time job; provided, however, that nothing in  
 2 this subsection shall be construed to require the employer to pay for all or any part of health  
 3 insurance coverage for such an employee in order to claim the credit provided for in this  
 4 subsection if such employer does not pay for all or any part of health insurance coverage  
 5 for other employees. ~~In addition, not less than 30 percent of such new full-time jobs must~~  
 6 ~~be held by a resident of the less developed area for which the credit is sought or another~~  
 7 ~~such designated less developed area.~~ Credit shall not be allowed during a year if the net  
 8 employment increase falls below five. Any credit received for years prior to the year in  
 9 which the net employment increase falls below five shall not be affected. The state  
 10 revenue commissioner shall adjust the credit allowed each year for net new employment  
 11 fluctuations above the minimum level of five.

12 (f) Tax credits for five years for the taxes imposed under this article shall be awarded for  
 13 additional new full-time jobs created by business enterprises qualified under subsection (b)  
 14 or (c) of this Code section. Additional new full-time jobs shall be determined by  
 15 subtracting the highest total employment of the business enterprise during years two  
 16 through six, or whatever portion of years two through six which has been completed, from  
 17 the total increased employment. The state revenue commissioner shall adjust the credit  
 18 allowed in the event of employment fluctuations during the additional five years of credit.

19 (g) The sale, merger, acquisition, or bankruptcy of any business enterprise shall not create  
 20 new eligibility in any succeeding business entity, but any unused job tax credit may be  
 21 transferred and continued by any transferee of the business enterprise. The commissioner  
 22 of community affairs shall determine whether or not qualifying net increases or decreases  
 23 have occurred and may require reports, promulgate regulations, and hold hearings as  
 24 needed for substantiation and qualification.

25 (h) Any credit claimed under this Code section but not used in any taxable year may be  
 26 carried forward for ten years from the close of the taxable year in which the qualified jobs  
 27 were established, but the credit established by this Code section taken in any one taxable  
 28 year shall be limited to an amount not greater than ~~50~~ 100 percent of the taxpayer's state  
 29 income tax liability which is attributable to income derived from operations in this state for  
 30 that taxable year."

### 31 SECTION 6.

32 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 33 without such approval and shall be applicable to all taxable years beginning on or after  
 34 January 1, 2004.

1

**SECTION 7.**

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