

House Bill 389

By: Representatives Roberts of the 154<sup>th</sup>, Smith of the 129<sup>th</sup>, Golick of the 34<sup>th</sup>, Smith of the 131<sup>st</sup>, Burns of the 157<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Code Section 48-7-40 of the Official Code of Georgia Annotated, relating to  
2 designation of counties as less developed areas for the purpose of tax credits with respect to  
3 certain business enterprises, so as to provide a definition; to provide for an additional tax  
4 credit for certain existing business enterprises; to provide for procedures, conditions, and  
5 limitations; to provide for powers, duties, and authority of the state revenue commissioner;  
6 to provide an effective date; to provide for applicability; to repeal conflicting laws; and for  
7 other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Code Section 48-7-40 of the Official Code of Georgia Annotated, relating to designation of  
11 counties as less developed areas for the purpose of tax credits with respect to certain business  
12 enterprises, is amended by striking subsections (a), (e), (h), and (i) and inserting in lieu  
13 thereof new subsections (a), (e), (h), and (i), respectively, to read as follows:

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

15 (1) 'business Business enterprise' means any business or the headquarters of any such  
16 business which is engaged in manufacturing, warehousing and distribution, processing,  
17 telecommunications, tourism, and research and development industries. Such term shall  
18 not include retail businesses.

19 (2) 'Existing business enterprise' means any business or the headquarters of any such  
20 business which has operated for the immediately preceding three years a facility in this  
21 state which is engaged in manufacturing, warehousing and distribution, processing,  
22 telecommunications, tourism, or research and development industries. Such term shall  
23 not include retail businesses."

24 "(e)(1) Business enterprises in counties designated by the commissioner of community  
25 affairs as tier 1 counties shall be allowed a tax credit for taxes imposed under this article  
26 equal to \$3,500.00 annually per eligible new full-time employee job for five years

1 beginning with years two through six after the creation of such job; provided, however,  
2 that where the amount of such credit exceeds a business enterprise's liability for such  
3 taxes in a taxable year, the excess may be taken as a credit against such business  
4 enterprise's quarterly or monthly payment under Code Section 48-7-103 but not to exceed  
5 in any one taxable year \$3,500.00 for each new full-time employee job when aggregated  
6 with the credit applied against taxes under this article. Each employee whose employer  
7 receives credit against such business enterprise's quarterly or monthly payment under  
8 Code Section 48-7-103 shall receive credit against his or her income tax liability under  
9 Code Section 48-7-20 for the corresponding taxable year for the full amount which would  
10 be credited against such liability prior to the application of the credit provided for in this  
11 subsection paragraph. Credits against quarterly or monthly payments under Code Section  
12 48-7-103 and credits against liability under Code Section 48-7-20 established by this  
13 subsection paragraph shall not constitute income to the taxpayer. Business enterprises in  
14 counties designated by the commissioner of community affairs as tier 2 counties shall be  
15 allowed a job tax credit for taxes imposed under this article equal to \$2,500.00 annually,  
16 business enterprises in counties designated by the commissioner of community affairs as  
17 tier 3 counties shall be allowed a job tax credit for taxes imposed under this article equal  
18 to \$1,250.00 annually, and business enterprises in counties designated by the  
19 commissioner of community affairs as tier 4 counties shall be allowed a job tax credit for  
20 taxes imposed under this article equal to \$750.00 annually for each new full-time  
21 employee job for five years beginning with years two through six after the creation of the  
22 job. The number of new full-time jobs shall be determined by comparing the monthly  
23 average number of full-time employees subject to Georgia income tax withholding for  
24 the taxable year with the corresponding period of the prior taxable year. In tier 1 counties,  
25 those business enterprises that increase employment by five or more shall be eligible for  
26 the credit. In tier 2 counties, only those business enterprises that increase employment by  
27 ten or more shall be eligible for the credit. In tier 3 counties, only those business  
28 enterprises that increase employment by 15 or more shall be eligible for the credit. In tier  
29 4 counties, only those business enterprises that increase employment by 25 or more shall  
30 be eligible for the credit. The average wage of the new jobs created must be above the  
31 average wage of the county that has the lowest average wage of any county in the state  
32 to qualify as reported in the most recently available annual issue of the Georgia  
33 Employment and Wages Averages Report of the Department of Labor. To qualify for a  
34 credit under this subsection paragraph, the employer must make health insurance  
35 coverage available to the employee filling the new full-time job; provided, however, that  
36 nothing in this subsection paragraph shall be construed to require the employer to pay for  
37 all or any part of health insurance coverage for such an employee in order to claim the

1 credit provided for in this ~~subsection~~ paragraph if such employer does not pay for all or  
2 any part of health insurance coverage for other employees. Credit shall not be allowed  
3 during a year if the net employment increase falls below the number required in such tier.  
4 Any credit received for years prior to the year in which the net employment increase falls  
5 below the number required in such tier shall not be affected. The state revenue  
6 commissioner shall adjust the credit allowed each year for net new employment  
7 fluctuations above the minimum level of the number required in such tier.

8 (2) Existing business enterprises as defined under paragraph (2) of subsection (a) of this  
9 Code section shall be allowed an additional tax credit for taxes imposed under this article  
10 equal to \$500.00 per eligible new full-time employee job for one year after the creation  
11 of such job. The additional credit shall be claimed in year two after the creation of such  
12 job. The number of new full-time jobs shall be determined by comparing the monthly  
13 average number of full-time employees subject to Georgia income tax withholding for  
14 the taxable year with the corresponding period of the prior taxable year. In tier 1  
15 counties, those existing business enterprises that increase employment by five or more  
16 shall be eligible for the credit. In tier 2 counties, only those existing business enterprises  
17 that increase employment by ten or more shall be eligible for the credit. In tier 3  
18 counties, only those existing business enterprises that increase employment by 15 or more  
19 shall be eligible for the credit. In tier 4 counties, only those existing business enterprises  
20 that increase employment by 25 or more shall be eligible for the credit. The average  
21 wage of the new jobs created must be above the average wage of the county that has the  
22 lowest average wage of any county in the state to qualify as reported in the most recently  
23 available annual issue of the Georgia Employment and Wages Averages Report of the  
24 Department of Labor. To qualify for a credit under this paragraph, the employer must  
25 make health insurance coverage available to the employee filling the new full-time job;  
26 provided, however, that nothing in this paragraph shall be construed to require the  
27 employer to pay for all or any part of health insurance coverage for such an employee in  
28 order to claim the credit provided for in this paragraph if such employer does not pay for  
29 all or any part of health insurance coverage for other employees. Credit shall not be  
30 allowed during a year if the net employment increase falls below the number required in  
31 such tier. Any credit received for years prior to the year in which the net employment  
32 increase falls below the number required in such tier shall not be affected. The state  
33 revenue commissioner shall adjust the credit allowed each year for net new employment  
34 fluctuations above the minimum level of the number required in such tier. This  
35 paragraph shall apply only to new eligible full-time jobs created in taxable years  
36 beginning on or after January 1, 2006, and ending no later than taxable years beginning  
37 prior to January 1, 2011."

