

House Bill 393

By: Representatives Casas of the 103rd, Miller of the 106th, Heard of the 104th, Stephens of the 164th, and May of the 111th

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 the imposition, rate, and computation of income tax, so as to provide for an
3 income tax credit for employers who convert a certain percentage of their work force to
4 telecommuting status; to provide for definitions; to provide for conditions, limitations, and
5 exclusions; to provide for powers, duties, and authority of the state revenue commissioner
6 with respect to the foregoing; to provide an effective date; to provide for applicability; to
7 repeal conflicting laws; and for other purposes.

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

9 **SECTION 1.**

10 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
11 imposition, rate, and computation of income tax, is amended by adding a new Code section
12 immediately following Code Section 48-7-29.8, to be designated Code Section 48-7-29.9,
13 to read as follows:

14 "48-7-29.9.

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

16 (1) 'Employer' means any employer upon whom an income tax is imposed by this article
17 and who employs at least ten persons in this state.

18 (2) 'Telecommute' and other forms of the word refer to an employee's use of electronic
19 communications to perform work that ordinarily would be performed at the employer's
20 place of business at the employee's home or secondary residence or both, thereby
21 eliminating the employee's physical commute to and from that employer's place of
22 business.

23 (3) 'Workplace employee' means an employee who performs all or substantially all of
24 his or her employment duties at the employer's place of business.

25 (b) For taxable years beginning on or after January 1, 2005, an employer shall be allowed
26 a state income tax credit against the tax imposed by this chapter if the employer has on or

1 after January 1, 2004, converted the status of at least 20 percent of its employees in this
2 state from workplace employees to telecommuting employees. In order to count towards
3 this 20 percent threshold, a position must be either:

4 (1) Converted from workplace status to telecommuting status on or after January 1,
5 2004; or

6 (2) Filled by a person initially hired on or after January 1, 2004, who initially qualifies
7 at the time of hiring as a telecommuter.

8 (c) The amount of such credit for each taxable year shall be 1 percent of the gross salary
9 or wages paid by the employer to each qualifying employee for each calendar month the
10 employee worked as a telecommuter during the taxable year, subject to a maximum credit
11 amount of \$1,000.00 per employee per taxable year. The status of an employee as a
12 telecommuter shall be determined on a calendar month basis, and to qualify as a
13 telecommuter, an employee must work from home or a secondary residence or both for 60
14 percent of his or her working hours during the calendar month. Where this test is met and
15 the employer otherwise qualifies, the employee's total compensation for that calendar
16 month shall be used in computing the credit, subject only to the \$1,000.00 yearly cap.

17 (d) The tax credit under this Code section shall apply for the taxable year in which an
18 employer completes the 20 percent or greater conversion specified in this Code section and
19 shall continue to apply for each future taxable year in which the 20 percent threshold is
20 maintained.

21 (e) In no event shall the total amount of any tax credit under this Code section for a taxable
22 year exceed 50 percent of the taxpayer's income tax liability for the taxable year computed
23 without regard to this Code section. No unused tax credit shall be allowed to be carried
24 forward to apply to the taxpayer's succeeding years' tax liability. No such tax credit shall
25 be allowed the taxpayer against prior years' tax liability.

26 (f) The commissioner shall promulgate any rules and regulations necessary to implement
27 and administer this Code section."

28 SECTION 2.

29 This Act shall become effective upon its approval by the Governor or upon its becoming law
30 without such approval and shall apply with respect to taxable years beginning on or after
31 January 1, 2005.

32 SECTION 3.

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