

The House Committee on Ways and Means offers the following substitute to HB 194:

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 income
3 tax credits with respect to teleworking for a limited period of time; to provide for definitions;
4 to provide for conditions, limitations, and exclusions; to provide for powers, duties, and
5 authority of the state revenue commissioner with respect to the foregoing; to provide an
6 effective date; 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 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
10 imposition, rate, and computation of income tax, is amended by adding a new Code section
11 immediately following Code Section 48-7-29.8, to be designated Code Section 48-7-29.9,
12 to read as follows:

13 "48-7-29.9.

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

15 (1) 'Eligible telework expenses' means expenses incurred during the taxable year
16 pursuant to a telework agreement, up to a limit of \$1,500.00 for each participating
17 employee, to enable a participating employee to begin to telework, which expenses are
18 not otherwise the subject of an exclusion from income claimed by the taxpayer. Such
19 expenses shall include, but not be limited to, expenses paid or incurred to purchase
20 computers, computer related hardware and software, modems, data processing
21 equipment, telecommunications equipment, high-speed Internet connectivity equipment,
22 computer security software and devices, and all related delivery, installation, and
23 maintenance fees. Such expenses shall not include replacement costs for computers,
24 computer related hardware and software, modems, data processing equipment,
25 telecommunications equipment, or computer security software and devices at the

1 principal place of business when that equipment is relocated to the telework site. Such
2 expenses may be incurred only once per employee. Such expenses may be incurred
3 directly by the employer on behalf of the participating employee or directly by the
4 participating employee.

5 (2) 'Employer' means any employer upon whom an income tax is imposed by this article.

6 (3) 'Participating employee' means an employee who has entered into a telework
7 agreement with his or her employer. This term shall not include an individual who is
8 self-employed or an individual who ordinarily spends a majority of his or her workday
9 at a location other than the employer's principal place of business.

10 (4) 'Telework' means to perform normal and regular work functions on a workday that
11 ordinarily would be performed at the employer's principal place of business at a different
12 location, thereby eliminating or substantially reducing the physical commute to and from
13 that employer's principal place of business. This term shall not include home based
14 businesses, extensions of the workday, or work performed on a weekend or holiday.

15 (5) 'Telework agreement' means an agreement signed by the employer and the
16 participating employee that defines the terms of a telework arrangement, including the
17 number of days per year the participating employee will telework and any restrictions on
18 the place from which the participating employee will telework.

19 (6) 'Telework assessment' means an optional assessment leading to the development of
20 policies and procedures necessary to implement a formal telework program, including but
21 not limited to a workforce profile, a telework program business case and plan, a detailed
22 accounting of the purpose, goals, and operating procedures of the telework program,
23 methodologies for measuring telework program activities and success, and a deployment
24 schedule for increasing telework activity.

25 (b) For taxable years beginning on or after January 1, 2006, and ending on or prior to
26 December 31, 2008, an employer shall be allowed a state income tax credit against the tax
27 imposed by this chapter for a percentage of eligible telework expenses incurred in the tax
28 year. The amount of such credit shall be calculated as follows:

29 (1) The credit shall be equal to 100 percent of the eligible telework expenses incurred
30 pursuant to a telework agreement requiring the participating employee to telework at least
31 12 days per month if the employer's principal place of business is located in an area
32 designated by the United States Environmental Protection Agency as a nonattainment
33 area under the federal Clear Air Act, 42 U.S.C. Section 7401 et seq.;

34 (2) The credit shall be equal to 75 percent of the eligible telework expenses incurred
35 pursuant to a telework agreement requiring the participating employee to telework at least
36 12 days per month; or

1 (3) The credit shall be equal to 25 percent of the eligible telework expenses incurred
2 pursuant to a telework agreement requiring the participating employee to telework at least
3 five days per month.

4 (c)(1) In addition to the credit provided by subsection (b) of this Code section, an
5 employer conducting a telework assessment shall be allowed a credit in the year of
6 implementation of the employer's formal telework program against the tax imposed by
7 this article for 100 percent of the cost, up to a maximum credit of \$40,000.00 per
8 employer, of preparing the assessment. The credit provided by this subsection is intended
9 to include program planning expenses, including direct program development and
10 training costs, raw labor costs, and professional consulting fees; the credit shall not
11 include expenses for which a credit is claimed under any other provision of this article.
12 This credit shall be allowed only once per employer.

13 (2) All telework assessments eligible for a state income tax credit under this subsection
14 shall meet standards for eligibility promulgated by the commissioner.

15 (d) In no event shall the total amount of any tax credit under this Code section for a taxable
16 year exceed the employer's income tax liability. No unused tax credit shall be allowed to
17 be carried forward to apply to the employer's succeeding years' tax liability. No such tax
18 credit shall be allowed the employer against prior years' tax liability.

19 (e)(1) On or before October 1 of each year, an employer may submit an application to
20 the commissioner for approval of the tax credit for a taxable year that begins in the next
21 calendar year. Such applications must certify that the employer would not have incurred
22 the eligible telework expenses mentioned therein but for the availability of the tax credit.
23 The commissioner shall review such application and, subject to the limitations provided
24 for in paragraph (2) of this subsection, shall approve such application upon determining
25 that it meets the requirements of this Code section.

26 (2) In no event shall the total amount of tax credits approved by the commissioner under
27 this Code section in a taxable year exceed:

28 (A) \$2,000,000.00 in 2006;

29 (B) \$5,000,000.00 in 2007; and

30 (C) \$7,000,000.00 in 2008;

31 (f) On or before January 1, 2008, the commissioner shall conduct an assessment of
32 telework programs conducted under this Code section and shall report to the General
33 Assembly any finding regarding performance measures developed by the commissioner,
34 problems encountered, and recommendations for further implementation of this Code
35 section or amending this Code section.

36 (g) The commissioner shall promulgate any rules and regulations necessary to implement
37 and administer this Code section."

1 **SECTION 2.**

2 This Act shall become effective upon its approval by the Governor or upon its becoming law
3 without such approval and shall be applicable to taxable years beginning on or after January
4 1, 2006, and ending prior to December 31, 2008.

5 **SECTION 3.**

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