

House Bill 1246

By: Representatives Peake of the 137th, Royal of the 171st, and Parrish of the 156th

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 imposition, rate, computation, and exemptions regarding state income taxes, so
3 as to change certain provisions regarding income tax credits for certain business enterprises
4 by including broadcasting; to change certain provisions regarding income tax credits for
5 business enterprises in less developed areas by including broadcasting; to change certain
6 provisions regarding income tax credits for qualified research expenses by including
7 broadcasting; to change certain provisions regarding alternative tax credits for base year port
8 traffic increases by including broadcasting; to change certain provisions regarding income
9 tax credits for existing business enterprises undergoing qualified business expansion by
10 including broadcasting; to change certain provisions regarding income tax credits to business
11 enterprises for leased motor vehicles by including broadcasting; to provide an effective date;
12 to provide for applicability; to repeal conflicting laws; and for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

14 **SECTION 1.**

15 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to
16 imposition, rate, computation, and exemptions regarding state income taxes, is amended by
17 revising subsection (a) and paragraph (2) of subsection (e) of Code Section 48-7-40, relating
18 to income tax credits for certain business enterprises, as follows:

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

20 (1) 'Broadcasting' means the transmission or licensing of audio, video, text, or other
21 programming content to the general public, subscribers, or to third parties via radio,
22 television, cable, or the Internet and includes motion picture and sound recording, editing,
23 production, postproduction, and distribution. 'Broadcasting' includes, but is not limited
24 to, establishments classified under the 2007 North American Industry Classification
25 System Codes 515, broadcasting; 516, Internet publishing and broadcasting; and 512,
26 motion picture and sound recording industries.

1 ~~(1)~~(2) 'Business enterprise' means any business or the headquarters of any such business
 2 which is engaged in manufacturing, warehousing and distribution, processing,
 3 telecommunications, broadcasting, tourism, and research and development industries.
 4 Such term shall not include retail businesses.

5 ~~(2)~~(3) 'Existing business enterprise' means any business or the headquarters of any such
 6 business which has operated for the immediately preceding three years a facility in this
 7 state which is engaged in manufacturing, warehousing and distribution, processing,
 8 telecommunications, broadcasting, tourism, or research and development industries.
 9 Such term shall not include retail businesses."

10 "(2) Existing business enterprises as defined under paragraph (2) of subsection (a) of this
 11 Code section shall be allowed an additional tax credit for taxes imposed under this article
 12 equal to \$500.00 per eligible new full-time employee job for one year after the creation
 13 of such job. The additional credit shall be claimed in year two after the creation of such
 14 job. The number of new full-time jobs shall be determined by comparing the monthly
 15 average number of full-time employees subject to Georgia income tax withholding for
 16 the taxable year with the corresponding period of the prior taxable year. In tier 1
 17 counties, those existing business enterprises that increase employment by five or more
 18 shall be eligible for the credit. In tier 2 counties, only those existing business enterprises
 19 that increase employment by ten or more shall be eligible for the credit. In tier 3
 20 counties, only those existing business enterprises that increase employment by 15 or more
 21 shall be eligible for the credit. In tier 4 counties, only those existing business enterprises
 22 that increase employment by 25 or more shall be eligible for the credit. The average
 23 wage of the new jobs created must be above the average wage of the county that has the
 24 lowest average wage of any county in the state to qualify as reported in the most recently
 25 available annual issue of the Georgia Employment and Wages Averages Report of the
 26 Department of Labor. To qualify for a credit under this paragraph, the employer must
 27 make health insurance coverage available to the employee filling the new full-time job;
 28 provided, however, that nothing in this paragraph shall be construed to require the
 29 employer to pay for all or any part of health insurance coverage for such an employee in
 30 order to claim the credit provided for in this paragraph if such employer does not pay for
 31 all or any part of health insurance coverage for other employees. Credit shall not be
 32 allowed during a year if the net employment increase falls below the number required in
 33 such tier. Any credit received for years prior to the year in which the net employment
 34 increase falls below the number required in such tier shall not be affected. The state
 35 revenue commissioner shall adjust the credit allowed each year for net new employment
 36 fluctuations above the minimum level of the number required in such tier. This
 37 paragraph shall apply only to new eligible full-time jobs created in taxable years

1 beginning on or after January 1, 2006, and ending no later than taxable years beginning
2 prior to January 1, 2011."

3 **SECTION 2.**

4 Said article is further amended by revising subsection (a) of Code Section 48-7-40.1, relating
5 to tax credits for business enterprises in less developed areas, as follows:

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

7 (1) 'Broadcasting' means the transmission or licensing of audio, video, text, or other
8 programming content to the general public, subscribers, or to third parties via radio,
9 television, cable, or the Internet and includes motion picture and sound recording, editing,
10 production, postproduction, and distribution. 'Broadcasting' includes, but is not limited
11 to, establishments classified under the 2007 North American Industry Classification
12 System Codes 515, broadcasting; 516, Internet publishing and broadcasting; and 512,
13 motion picture and sound recording industries.

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

18 **SECTION 3.**

19 Said article is further amended by revising subsection (a) of Code Section 48-7-40.12,
20 relating to tax credits for qualified research expenses, as follows:

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

22 (1) 'Base amount' means the product of a business enterprise's Georgia taxable net
23 income in the current taxable year and the average of the ratios of its aggregate qualified
24 research expenses to Georgia taxable net income for the preceding three taxable years or
25 0.300, whichever is less.

26 (2) 'Broadcasting' means the transmission or licensing of audio, video, text, or other
27 programming content to the general public, subscribers, or to third parties via radio,
28 television, cable, or the Internet and includes motion picture and sound recording, editing,
29 production, postproduction, and distribution. 'Broadcasting' includes, but is not limited
30 to, establishments classified under the 2007 North American Industry Classification
31 System Codes 515, broadcasting; 516, Internet publishing and broadcasting; and 512,
32 motion picture and sound recording industries.

33 ~~(2)~~(3) 'Business enterprise' means any business or the headquarters of any such business
34 which is engaged in manufacturing, warehousing and distribution, processing,

1 telecommunications, broadcasting, tourism, and research and development industries.

2 Such term shall not include retail businesses.

3 ~~(3)~~(4) 'Qualified research expenses' means qualified research expenses for any business
4 enterprise as that term is defined in Section 41 of the Internal Revenue Code of 1986, as
5 amended, except that all wages paid and all purchases of services and supplies must be
6 for research conducted within the State of Georgia."

7 SECTION 4.

8 Said article is further amended by revising subsection (a) of Code Section 48-7-40.15,
9 relating to alternative tax credits for base year port traffic increases, as follows:

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

11 (1) 'Base year port traffic' means the total amount of net tons, containers, or twenty-foot
12 equivalent units (TEU's), of product actually transported by way of a waterborne ship or
13 vehicle through a port facility during the period from January 1, 1997, through December
14 31, 1997; provided, however, that in the event the total amount actually transported
15 during such period was not at least 75 net tons, five containers, or ten twenty-foot
16 equivalent units (TEU's), then 'base year port traffic' means 75 net tons, five containers,
17 or ten twenty-foot equivalent units (TEU's).

18 (2) 'Broadcasting' means the transmission or licensing of audio, video, text, or other
19 programming content to the general public, subscribers, or to third parties via radio,
20 television, cable, or the Internet and includes motion picture and sound recording, editing,
21 production, postproduction, and distribution. 'Broadcasting' includes, but is not limited
22 to, establishments classified under the 2007 North American Industry Classification
23 System Codes 515, broadcasting; 516, Internet publishing and broadcasting; and 512,
24 motion picture and sound recording industries.

25 ~~(2)~~(3) 'Business enterprise' means any business or the headquarters of any such business
26 which is engaged in manufacturing, warehousing and distribution, processing,
27 telecommunications, broadcasting, tourism, and research and development industries but
28 shall not include retail businesses.

29 ~~(3)~~(4) 'Port facility' means any privately owned or publicly owned facility located within
30 this state through which product is transported by way of a waterborne ship or vehicle to
31 or from destinations outside this state.

32 ~~(4)~~(5) 'Port traffic' means the total amount of net tons, containers, or twenty-foot
33 equivalent units (TEU's) of product transported by way of a waterborne ship or vehicle
34 through a port facility.

35 ~~(5)~~(6) 'Product' means a marketable product or component of a product which has an
36 economic value to the wholesale or retail consumer and is ready to be used without

1 further alteration of its form or a product or material which is marketed as a prepared
 2 material or is a component in the manufacturing and assembly of other finished products.
 3 ~~(6)~~(7) 'Qualified investment property' means all real and personal property purchased or
 4 acquired by a taxpayer for use in the construction of an additional manufacturing or
 5 telecommunications facility to be located in this state or in the expansion of an existing
 6 manufacturing or telecommunications facility located in this state, including, but not
 7 limited to, moneys expended on land acquisition, improvements, buildings, building
 8 improvements, and machinery and equipment to be used in the manufacturing or
 9 telecommunications facility. The department shall promulgate rules defining eligible
 10 manufacturing facilities, telecommunications facilities, and qualified investment property
 11 pursuant to this Code section."

12 SECTION 5.

13 Said article is further amended by revising subsection (a) of Code Section 48-7-40.21,
 14 relating to tax credits for existing business enterprises undergoing qualified business
 15 expansion, as follows:

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

17 (1) 'Broadcasting' means the transmission or licensing of audio, video, text, or other
 18 programming content to the general public, subscribers, or to third parties via radio,
 19 television, cable, or the Internet and includes motion picture and sound recording, editing,
 20 production, postproduction, and distribution. 'Broadcasting' includes, but is not limited
 21 to, establishments classified under the 2007 North American Industry Classification
 22 System Codes 515, broadcasting; 516, Internet publishing and broadcasting; and 512,
 23 motion picture and sound recording industries.

24 ~~(1)~~(2) 'Existing business enterprise' means any business or the headquarters of any such
 25 business which is engaged in manufacturing, warehousing and distribution, processing,
 26 telecommunications, tourism, or research and development industries that has been in
 27 operation in this state for at least five years. Such term shall not include retail businesses.

28 ~~(2)~~(3) 'Qualified business expansion' means the creation of at least 500 new full-time
 29 jobs within a taxable year."

30 SECTION 6.

31 Said article is further amended by revising subsection (a) of Code Section 48-7-40.22,
 32 relating to income tax credits to business enterprises for leased motor vehicles, as follows:

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

34 (1) 'Broadcasting' means the transmission or licensing of audio, video, text, or other
 35 programming content to the general public, subscribers, or to third parties via radio,

1 television, cable, or the Internet and includes motion picture and sound recording, editing,
2 production, postproduction, and distribution. 'Broadcasting' includes, but is not limited
3 to, establishments classified under the 2007 North American Industry Classification
4 System Codes 515, broadcasting; 516, Internet publishing and broadcasting; and 512,
5 motion picture and sound recording industries.

6 ~~(1)~~(2) 'Business enterprise' means any business or the headquarters of any such business
7 which is engaged in manufacturing, warehousing and distribution, processing,
8 telecommunications, broadcasting, tourism, research and development industries, child
9 care businesses, or retail businesses.

10 ~~(2)~~(3) 'Headquarters' means the principal central administrative office of a taxpayer.

11 ~~(3)~~(4) 'Tier' means a tier as designated pursuant to Code Section 48-7-40, as amended."

12 **SECTION 7.**

13 This Act shall become effective upon its approval by the Governor or upon its becoming law
14 without such approval and shall be applicable to all taxable years beginning on or after
15 January 1, 2008.

16 **SECTION 8.**

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