

House Bill 1249

By: Representatives Lewis of the 15th, Martin of the 47th, Millar of the 79th, Stephens of the 164th, and Loudermilk of the 14th

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, and computation of income taxes, so as to provide for an income
3 tax credit with respect to solar energy technology manufacturing facilities; to provide for
4 definitions; to provide for procedures, conditions, and limitations; to provide for powers,
5 duties, and authority of the state revenue commissioner; to provide for an effective date; to
6 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
10 imposition, rate, and computation of income taxes, is amended by adding a new Code section
11 to read as follows:

12 "48-7-40.27.

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

14 (1) 'Full-time employee job' and 'full-time job' means employment of an individual
15 which:

16 (A) Is located in this state at the site of a qualified business or the manufacturing
17 facility resulting therefrom;

18 (B) Involves a regular work week of 35 hours or more;

19 (C) Has no predetermined end date; and

20 (D) Pays at or above the average wage of the county with the lowest average wage in
21 the state, as reported in the most recently available annual issue of the Georgia
22 Employment and Wages Averages Report of the Department of Labor.

23 (2) 'Manufacturing equipment' means an essential machine, mechanism, or tool or a
24 component of an essential machine, mechanism, or tool used directly and exclusively in
25 a qualified business's manufacturing operation and that is subject to depreciation
26 pursuant to the Internal Revenue Code of 1986 by the taxpayer carrying on the

1 manufacturing, provided that manufacturing equipment does not include a vehicle that
2 leaves the site of a manufacturing operation for the purpose of transporting persons or
3 property.

4 (3) 'Qualified business' means a solar energy company that establishes a new
5 headquarters or base of operations in this state or expands an existing headquarters or
6 base of operations in this state.

7 (4) 'Qualified expenditure' means an expenditure for the purchase of manufacturing
8 equipment made after July 1, 2008, by a taxpayer.

9 (5) 'Qualified research expenses' means qualified research expenses for any qualified
10 business as that term is defined in Section 41 of the Internal Revenue Code of 1986
11 except that all wages paid and all purchases of services and supplies must be for research
12 conducted within the State of Georgia.

13 (6) 'Solar energy company' means a company that has its headquarters or a base of
14 operations in this state and that is engaged in research, development, production, or
15 provision of solar energy technology for the purpose of developing or providing products
16 or processes for the commercial or public purpose of generating electricity, directly or
17 indirectly, by means of the conversion of sunlight by photovoltaic cells or other
18 technology or a person whose headquarters or base of operations is located in this state
19 and who is engaged in providing services or products necessary for such research,
20 development, production, or provision.

21 (b) Any qualified business that establishes a new headquarters or base of operations in this
22 state or expands an existing headquarters or base of operations in this state shall be allowed
23 a tax credit for taxes imposed under this article equal to \$5,500.00 annually per new
24 eligible full-time employee job for five years beginning with the year in which such job is
25 created through year five after such creation. To qualify for a credit under this subsection,
26 the employer must make health insurance coverage available to the employee filling the
27 new full-time job; provided, however, that nothing in this subsection shall be construed to
28 require the employer to pay for all or any part of health insurance coverage for such an
29 employee in order to claim the credit provided for in this subsection if such employer does
30 not pay for all or any part of health insurance coverage for other employees.

31 (c) The number of new full-time jobs to which this Code section shall be applicable shall
32 be determined each month by comparing the number of full-time employees subject to
33 Georgia income tax withholding as of the last payroll period of such month or as of the
34 payroll period during each month used for the purpose of reports to the Department of
35 Labor with the number of such employees for the previous month.

1 (d) The sale, merger, acquisition, or bankruptcy of any business enterprise shall not create
2 new eligibility in any succeeding business entity, but any unused job tax credit may be
3 transferred and continued by any transferee of the business enterprise.

4 (e) To qualify for the credit provided by this Code section a new full-time job must be
5 created by the close of the seventh taxable year following the business enterprise's
6 withholding start date. In no event may a credit be claimed under this Code section for
7 more than 3,300 new full-time employee jobs created by any one project; provided,
8 however, that the taxpayer may claim the credits provided by Code Sections 48-7-40 and
9 48-7-40.1 for any such additional jobs if the taxpayer meets the terms and conditions
10 thereof.

11 (f) A tax credit in an amount not to exceed 15 percent of any qualified expenditure is
12 allowed a qualified business which has qualified expenditures in Georgia in a taxable year.

13 (g) A tax credit in an amount not to exceed 75 percent of the qualified research expenses
14 is allowed a qualified business which has qualified research expenses in Georgia in a
15 taxable year, provided that the qualified business is allowed a research credit under Section
16 41 of the Internal Revenue Code of 1986. Such credit may be taken in the same manner
17 as the credit provided for by subsection (b) of this Code section.

18 (h) Where the amount of any credit allowed under this Code section exceeds a qualified
19 business's liability for such taxes in a taxable year, the excess may be taken as a credit
20 against such qualified business's quarterly or monthly payment under Code Section
21 48-7-103 or against taxes imposed under Chapter 8 of this title incurred in the construction,
22 expansion, or operation of such qualified business's manufacturing facility. The taxpayer
23 may file an election with the commissioner to take such credit against quarterly or monthly
24 payments under Code Section 48-7-103 that become due before the due date of the income
25 tax return on which such credit may be claimed. In the event of such an election, the
26 commissioner shall confirm with the taxpayer a date, which shall not be later than 30 days
27 after receipt of the taxpayer's election, when the taxpayer may begin to take the credit
28 against such quarterly or monthly payments. Regardless of such election, the taxpayer may
29 at any time request a refund from the commissioner of taxes paid to the state under Chapter
30 8 of this title, which refund shall be deducted from the amount available to be otherwise
31 credited under this Code section. For any one taxable year the amounts taken as a credit
32 against taxes imposed under subsection (b) of this Code section against the qualified
33 business's quarterly or monthly payments under Code Section 48-7-103 or against taxes
34 imposed under Chapter 8 of this title may not in the aggregate exceed \$5,500.00 per
35 eligible full-time employee job. Each employee whose employer receives credit against
36 such qualified business's quarterly or monthly payment under Code Section 48-7-103 shall
37 receive credit against his or her income tax liability under Code Section 48-7-20 for the

1 corresponding taxable year for the full amount which would be credited against such
2 liability prior to the application of the credit provided for in this subsection. Credits against
3 quarterly or monthly payments under Code Section 48-7-103 and credits against liability
4 under Code Section 48-7-20 established by this subsection shall not constitute income to
5 the taxpayer.

6 (i) No taxpayer shall be authorized to claim a credit for any job, qualified expenditure, or
7 qualified research expense under this Code section if such taxpayer claims a credit for such
8 job, qualified expenditure, or qualified research expense under any other provision of this
9 article."

10 **SECTION 2.**

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

14 **SECTION 3.**

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