

The House Committee on Ways and Means offers the following substitute to HB 1249:

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 income tax
3 credits for a limited period of time with respect to solar energy technology manufacturing
4 facilities; to provide for definitions; to provide for procedures, conditions, and limitations;
5 to provide for powers, duties, and authority of the state revenue commissioner; to provide for
6 an effective date; to provide for applicability; to repeal conflicting laws; and for other
7 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
11 imposition, rate, and computation of income taxes, is amended by adding a new Code section
12 to read as follows:

13 "48-7-40.27.

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

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

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

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

20 (C) Has no predetermined end date; and

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

24 (2) 'Manufacturing equipment' means an essential machine, mechanism, or tool or a
25 component of an essential machine, mechanism, or tool used directly and exclusively in
26 a qualified business's manufacturing operation and that is subject to depreciation
27 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 in this state or expands an existing headquarters in this state.

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

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

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

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

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

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

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

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

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

15 (h)(1) A qualified business seeking to claim any tax credit provided for under this Code
16 section must submit an application to the commissioner for tentative approval of such tax
17 credit between September 1 and October 31 of the year preceding the calendar year for
18 which the tax credit is to be earned. The commissioner shall promulgate the rules and
19 forms on which the application is to be submitted. Amounts specified on such
20 application shall not be changed by the qualified business after the application is
21 approved by the commissioner. Such applications must certify that the qualified business
22 would not have incurred the eligible expenses or expenditures mentioned therein but for
23 the availability of the tax credit. The commissioner shall review such application and
24 shall tentatively approve such application upon determining that it meets the requirements
25 of this Code section.

26 (2) The commissioner shall provide tentative approval of the applications by the date
27 provided in paragraph (3) of this subsection. In no event shall the aggregate amount of
28 tax credits approved by the commissioner for all qualified employers under this Code
29 section in a calendar year exceed:

30 (A) One million dollars for credits earned in calendar year 2008;

31 (B) One million dollars for credits earned in calendar year 2009; and

32 (C) One million dollar for credits earned in calendar year 2010.

33 (3) The department shall notify each qualified business of the tax credits tentatively
34 approved and allocated to such employer by December 31st of the year in which the
35 application was submitted. In the event that the credit amounts on the tax credit
36 applications filed with the commissioner exceed the maximum aggregate limit of tax
37 credits under this subsection, then the tax credits shall be allocated among the qualified

1 business who filed a timely application on a pro rata basis based upon the amounts
2 otherwise allowed by this Code section. Once the tax credit application has been
3 approved and the amount approved has been communicated to the applicant, the qualified
4 business may make qualified expenditures or incur qualified expenses approved for the
5 tax credit at any time during the calendar year following the approval of the application.
6 The qualified business may then apply the amount of the approved tax credit to its tax
7 liability for the tax year or years for which the approved application applies. In the event
8 the qualified business has a tax year other than a calendar year and the calendar year
9 expenses are incurred in more than one taxable year, the credit shall be applied to each
10 taxable year based upon when the expenses were incurred or expenditures made.

11 (i) Where the amount of any credit allowed under this Code section exceeds a qualified
12 business's liability for such taxes in a taxable year, the excess may be taken as a credit
13 against such qualified business's quarterly or monthly payment under Code Section
14 48-7-103 or against taxes imposed under Chapter 8 of this title incurred in the construction,
15 expansion, or operation of such qualified business's manufacturing facility. The taxpayer
16 may file an election with the commissioner to take such credit against quarterly or monthly
17 payments under Code Section 48-7-103 that become due before the due date of the income
18 tax return on which such credit may be claimed. In the event of such an election, the
19 commissioner shall confirm with the taxpayer a date, which shall not be later than 30 days
20 after receipt of the taxpayer's election, when the taxpayer may begin to take the credit
21 against such quarterly or monthly payments. Regardless of such election, the taxpayer may
22 at any time request a refund from the commissioner of taxes paid to the state under Chapter
23 8 of this title, which refund shall be deducted from the amount available to be otherwise
24 credited under this Code section. For any one taxable year the amounts taken as a credit
25 under subsection (b) of this Code section against the qualified business's quarterly or
26 monthly payments under Code Section 48-7-103 or against taxes imposed under Chapter
27 8 of this title may not in the aggregate exceed \$5,500.00 per eligible full-time employee
28 job. Each employee whose employer receives credit against such qualified business's
29 quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his
30 or her income tax liability under Code Section 48-7-20 for the corresponding taxable year
31 for the full amount which would be credited against such liability prior to the application
32 of the credit provided for in this subsection. Credits against quarterly or monthly payments
33 under Code Section 48-7-103 and credits against liability under Code Section 48-7-20
34 established by this subsection shall not constitute income to the taxpayer.

35 (j) No taxpayer shall be authorized to claim a credit for any job, qualified expenditure, or
36 qualified research expense under this Code section if such taxpayer claims a credit for such

1 job, qualified expenditure, or qualified research expense under any other provision of this
2 article.

3 (k) This Code section shall stand repealed in its entirety on January 1, 2010. "

4 **SECTION 2.**

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

8 **SECTION 3.**

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