

House Bill 1246 (COMMITTEE SUBSTITUTE)

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, satellite, or the Internet or Internet Protocol and includes motion picture
23 and sound recording, editing, production, postproduction, and distribution. 'Broadcasting'
24 includes, but is not limited to, establishments classified under the 2007 North American
25 Industry Classification System Codes 515, broadcasting; 516, Internet publishing and

1 broadcasting; 517, telecommunications; and 512, motion picture and sound recording
 2 industries.

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

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

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

1 fluctuations above the minimum level of the number required in such tier. This
 2 paragraph shall apply only to new eligible full-time jobs created in taxable years
 3 beginning on or after January 1, 2006, and ending no later than taxable years beginning
 4 prior to January 1, 2011."

5 SECTION 2.

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

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

9 (1) 'Broadcasting' means the transmission or licensing of audio, video, text, or other
 10 programming content to the general public, subscribers, or to third parties via radio,
 11 television, cable, satellite, or the Internet or Internet Protocol and includes motion picture
 12 and sound recording, editing, production, postproduction, and distribution. 'Broadcasting'
 13 includes, but is not limited to, establishments classified under the 2007 North American
 14 Industry Classification System Codes 515, broadcasting; 516, Internet publishing and
 15 broadcasting; 517, telecommunications; and 512, motion picture and sound recording
 16 industries.

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

21 SECTION 3.

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

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

25 (1) 'Base amount' means the product of a business enterprise's Georgia taxable net
 26 income in the current taxable year and the average of the ratios of its aggregate qualified
 27 research expenses to Georgia taxable net income for the preceding three taxable years or
 28 0.300, whichever is less.

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

1 broadcasting; 517, telecommunications; and 512, motion picture and sound recording
 2 industries.

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

7 ~~(3)~~(4) 'Qualified research expenses' means qualified research expenses for any business
 8 enterprise as that term is defined in Section 41 of the Internal Revenue Code of 1986, as
 9 amended, except that all wages paid and all purchases of services and supplies must be
 10 for research conducted within the State of Georgia."

11 SECTION 4.

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

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

15 (1) 'Base year port traffic' means the total amount of net tons, containers, or twenty-foot
 16 equivalent units (TEU's), of product actually transported by way of a waterborne ship or
 17 vehicle through a port facility during the period from January 1, 1997, through December
 18 31, 1997; provided, however, that in the event the total amount actually transported
 19 during such period was not at least 75 net tons, five containers, or ten twenty-foot
 20 equivalent units (TEU's), then 'base year port traffic' means 75 net tons, five containers,
 21 or ten twenty-foot equivalent units (TEU's).

22 (2) 'Broadcasting' means the transmission or licensing of audio, video, text, or other
 23 programming content to the general public, subscribers, or to third parties via radio,
 24 television, cable, satellite, or the Internet or Internet Protocol and includes motion picture
 25 and sound recording, editing, production, postproduction, and distribution. 'Broadcasting'
 26 includes, but is not limited to, establishments classified under the 2007 North American
 27 Industry Classification System Codes 515, broadcasting; 516, Internet publishing and
 28 broadcasting; 517, telecommunications; and 512, motion picture and sound recording
 29 industries.

30 ~~(2)~~(3) 'Business enterprise' means any business or the headquarters of any such business
 31 which is engaged in manufacturing, warehousing and distribution, processing,
 32 telecommunications, broadcasting, tourism, and research and development industries but
 33 shall not include retail businesses.

34 ~~(3)~~(4) 'Port facility' means any privately owned or publicly owned facility located within
 35 this state through which product is transported by way of a waterborne ship or vehicle to
 36 or from destinations outside this state.

1 ~~(4)~~(5) 'Port traffic' means the total amount of net tons, containers, or twenty-foot
 2 equivalent units (TEU's) of product transported by way of a waterborne ship or vehicle
 3 through a port facility.

4 ~~(5)~~(6) 'Product' means a marketable product or component of a product which has an
 5 economic value to the wholesale or retail consumer and is ready to be used without
 6 further alteration of its form or a product or material which is marketed as a prepared
 7 material or is a component in the manufacturing and assembly of other finished products.

8 ~~(6)~~(7) 'Qualified investment property' means all real and personal property purchased or
 9 acquired by a taxpayer for use in the construction of an additional manufacturing or
 10 telecommunications facility to be located in this state or in the expansion of an existing
 11 manufacturing or telecommunications facility located in this state, including, but not
 12 limited to, moneys expended on land acquisition, improvements, buildings, building
 13 improvements, and machinery and equipment to be used in the manufacturing or
 14 telecommunications facility. The department shall promulgate rules defining eligible
 15 manufacturing facilities, telecommunications facilities, and qualified investment property
 16 pursuant to this Code section."

17 SECTION 5.

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

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

22 (1) 'Broadcasting' means the transmission or licensing of audio, video, text, or other
 23 programming content to the general public, subscribers, or to third parties via radio,
 24 television, cable, satellite, or the Internet or Internet Protocol and includes motion picture
 25 and sound recording, editing, production, postproduction, and distribution. 'Broadcasting'
 26 includes, but is not limited to, establishments classified under the 2007 North American
 27 Industry Classification System Codes 515, broadcasting; 516, Internet publishing and
 28 broadcasting; 517, telecommunications; and 512, motion picture and sound recording
 29 industries.

30 ~~(1)~~(2) 'Existing business enterprise' means any business or the headquarters of any such
 31 business which is engaged in manufacturing, warehousing and distribution, processing,
 32 telecommunications, broadcasting, tourism, or research and development industries that
 33 has been in operation in this state for at least five years. Such term shall not include retail
 34 businesses.

35 ~~(2)~~(3) 'Qualified business expansion' means the creation of at least 500 new full-time
 36 jobs within a taxable year."

SECTION 6.

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

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

(1) 'Broadcasting' means the transmission or licensing of audio, video, text, or other programming content to the general public, subscribers, or to third parties via radio, television, cable, satellite, or the Internet or Internet Protocol and includes motion picture and sound recording, editing, production, postproduction, and distribution. 'Broadcasting' includes, but is not limited to, establishments classified under the 2007 North American Industry Classification System Codes 515, broadcasting; 516, Internet publishing and broadcasting; 517, telecommunications; and 512, motion picture and sound recording industries.

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

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

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

SECTION 7.

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

SECTION 8.

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