

House Bill 485 (COMMITTEE SUBSTITUTE)

By: Representative O`Neal of the 146<sup>th</sup>

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 income taxes, so as to  
3 provide for alternative tax credits for base year port traffic; to provide for procedures,  
4 conditions, and limitations; to provide for powers, duties, and authority of the state revenue  
5 commissioner; to provide for an effective date; to provide for applicability; to repeal  
6 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, computation, and exemptions regarding income taxes, is amended by adding  
11 a new Code section to read as follows:

12 "48-7-40.15A.

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

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

22 (2) 'Business enterprise' means any business located in a tier two or tier three county  
23 established pursuant to Code Section 48-7-40 and in a less developed area established  
24 pursuant to Code Section 48-7-40.1 and which qualifies and receives the tax credit under  
25 Code Section 48-7-40.1 and which:

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- 26 (A) Consists of a distribution facility of greater than 650,000 square feet in operation  
27 in this state prior to December 31, 2008;
- 28 (B) Distributes product to retail stores owned by the same legal entity or its  
29 subsidiaries as such distribution facility; and
- 30 (C) Has a minimum of 8 retail stores in this state in the first year of operations.
- 31 (3) 'Port traffic' means the total amount of net tons, containers, or twenty-foot equivalent  
32 units (TEU's) of product imported into this state or exported out of this state by way of  
33 a waterborne ship or vehicle through a port facility.
- 34 (4) 'Product' means a marketable product or component of a product which has an  
35 economic value to the wholesale or retail consumer and is ready to be used without  
36 further alteration of its form or a product or material which is marketed as a prepared  
37 material or is a component in the manufacturing and assembly of other finished products.
- 38 (b)(1) In the case of any business enterprise which has increased its port traffic of  
39 products during the previous 12 month period by more than 10 percent above its base  
40 year port traffic and is qualified to claim a job tax credit under Code Section 48-7-40 or  
41 48-7-40.1 for jobs added at any time on or after January 1, 1998, there shall be allowed  
42 an additional \$1,250.00 job tax credit against the tax imposed under this article.
- 43 (2) The tax credit described in this subsection shall be allowed subject to the conditions  
44 and limitations set forth in Code Section 48-7-40 and shall be in addition to the credit  
45 allowed under Code Section 48-7-40; provided, however, that such credit shall not be  
46 allowed during a year if the port traffic does not remain above the minimum level  
47 established in this Code section.
- 48 (c) No business enterprise shall be authorized to claim the credits provided for in both  
49 subsection (b) of this Code section and subsection (b) of Code Section 48-7-40.15 on a tax  
50 return for any taxable year unless such business enterprise has increased its port traffic of  
51 products during the previous 12 month period by more than 20 percent above its base year  
52 port traffic and has increased employment by 400 or more no sooner than January 1, 1998.
- 53 (d)(1) The credit granted under this Code section shall be subject to the following  
54 conditions and limitations:
- 55 (2) For every year in which a taxpayer claims the credit, the taxpayer shall attach a  
56 schedule to the taxpayer's state income tax return which shall set forth the following  
57 information, as a minimum, in addition to the information required under Code Sections  
58 48-7-40 and 48-7-40.2 or 48-7-40.7:
- 59 (A) A description of how the base year port traffic and the increase in port traffic was  
60 determined;
- 61 (B) The amount of the base year port traffic;

62 (C) The amount of the increase in port traffic for the taxable year, including  
 63 information which demonstrates an increase in port traffic in excess of the minimum  
 64 amount required to claim the tax credit under this Code section;

65 (D) Any tax credit utilized by the taxpayer in prior years;

66 (E) The amount of tax credit carried over from prior years;

67 (F) The amount of tax credit utilized by the taxpayer in the current taxable year; and

68 (G) The amount of tax credit to be carried over to subsequent tax years.

69 (3)(A) Any tax credit claimed under subsection (b) of this Code section but not used  
 70 in any taxable year may be carried forward for ten years from the close of the taxable  
 71 year in which the qualified jobs were established, provided that the increase in port  
 72 traffic remains above the minimum levels established in Code Section 48-7-40 and this  
 73 Code section, respectively.

74 (B) The tax credit established by this Code section in lieu of Code Section 48-7-40.2,  
 75 48-7-40.3, or 48-7-40.4 and taken in any one taxable year shall be limited to an amount  
 76 not greater than 50 percent of the taxpayer's state income tax liability which is  
 77 attributable to income derived from operations in this state for that taxable year.

78 (C) The tax credit established by this Code section in addition to that pursuant to Code  
 79 Section 48-7-40 and taken in any one taxable year shall be limited to an amount not  
 80 greater than 50 percent of the taxpayer's state income tax liability which is attributable  
 81 to income derived from operations in this state for that taxable year.

82 (D) The sale, merger, acquisition, or bankruptcy of any taxpayer shall not create new  
 83 eligibility for any succeeding taxpayer, but any unused credit may be transferred and  
 84 continued by any transferee of the taxpayer.

85 (e) No credit may be claimed and allowed pursuant to this Code section for any jobs  
 86 created on or after January 1, 2015."

87 **SECTION 2.**

88 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 89 without such approval.

90 **SECTION 3.**

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