

## House Bill 186

By: Representatives Stephens of the 164<sup>th</sup>, Smyre of the 135<sup>th</sup>, Ramsey of the 72<sup>nd</sup>, Dickey of the 140<sup>th</sup>, Harrell of the 106<sup>th</sup>, and others

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, computation, and exemptions from state income tax, so as to provide  
3 for the comprehensive revision of income tax credits for business enterprises located in less  
4 developed areas, designated by tiers, for business enterprises located in less developed areas  
5 consisting of contiguous census tracts, for existing manufacturing and telecommunications  
6 facilities located in certain tier counties, and for establishing new quality jobs or relocating  
7 quality jobs; to provide for procedures, conditions, and limitations; to provide for an effective  
8 date and applicability; to provide that this Act shall not abate or affect prosecutions,  
9 punishments, penalties, administrative proceedings or remedies, or civil actions related to  
10 certain violations; to provide for related matters; to repeal conflicting laws; and for other  
11 purposes.

12 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

13 **SECTION 1.**

14 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to  
15 imposition, computation, and exemptions from state income tax, is amended by revising  
16 subsections (e), (f), and (l) of Code Section 48-7-40, relating to designation of counties as  
17 less developed areas, as follows:

18 "(e)(1) Business enterprises in counties designated by the commissioner of community  
19 affairs as tier 1 counties shall be allowed a tax credit for taxes imposed under this article  
20 equal to \$3,500.00 annually per eligible new full-time employee job for five years  
21 beginning with the first taxable year in which the new full-time employee job is created  
22 and for the four immediately succeeding taxable years; provided, however, that where the  
23 amount of such credit exceeds a business enterprise's liability for such taxes in a taxable  
24 year, the excess may be taken as a credit against such business enterprise's quarterly or  
25 monthly payment under Code Section 48-7-103 but not to exceed in any one taxable year  
26 ~~\$3,500.00~~ \$3,750.00 for each new full-time employee job when aggregated with the

27 credit applied against taxes under this article. Each employee whose employer receives  
 28 credit against such business enterprise's quarterly or monthly payment under Code  
 29 Section 48-7-103 shall receive credit against his or her income tax liability under Code  
 30 Section 48-7-20 for the corresponding taxable year for the full amount which would be  
 31 credited against such liability prior to the application of the credit provided for in this  
 32 paragraph. Credits against quarterly or monthly payments under Code Section 48-7-103  
 33 and credits against liability under Code Section 48-7-20 established by this paragraph  
 34 shall not constitute income to the taxpayer. Business enterprises in counties designated  
 35 by the commissioner of community affairs as tier 2 counties shall be allowed a job tax  
 36 credit for taxes imposed under this article equal to \$2,500.00 annually; and business  
 37 enterprises in counties designated by the commissioner of community affairs as tier 3 or  
 38 tier 4 counties shall be allowed a job tax credit for taxes imposed under this article equal  
 39 to ~~\$1,250.00~~ \$2,000.00 annually, ~~and business enterprises in counties designated by the~~  
 40 ~~commissioner of community affairs as tier 4 counties shall be allowed a job tax credit for~~  
 41 ~~taxes imposed under this article equal to \$750.00 annually for each new full-time~~  
 42 ~~employee job for five years beginning with the first taxable year in which the new~~  
 43 ~~full-time employee job is created and for the four immediately succeeding taxable years.~~  
 44 Where a business enterprise is engaged in a competitive project located in a county  
 45 designated by the commissioner of community affairs as a tier 2 county and where the  
 46 amount of the credit provided in this paragraph exceeds such business enterprise's  
 47 liability for taxes imposed under this article in a taxable year, ~~or where the excess may~~  
 48 be taken as a credit against such business enterprise's quarterly or monthly payment under  
 49 Code Section 48-7-103 but not to exceed in any one taxable year \$2,750.00 for each new  
 50 full-time employee job when aggregated with the credit applied against taxes under this  
 51 article. Where a business enterprise is engaged in a competitive project located in a  
 52 county designated by the commissioner of community affairs as a tier 3 or tier 4 county  
 53 and where the amount of the credit provided in this paragraph exceeds 50 percent of such  
 54 business enterprise's liability for taxes imposed under this article in a taxable year, the  
 55 excess may be taken as a credit against such business enterprise's quarterly or monthly  
 56 payment under Code Section 48-7-103 but not to exceed in any one taxable year  
 57 ~~\$2,500.00~~ \$2,250.00 for each new full-time employee job when aggregated with the  
 58 credit applied against taxes under this article. Each employee whose employer receives  
 59 credit against such business enterprise's quarterly or monthly payment under Code  
 60 Section 48-7-103 shall receive credit against his or her income tax liability under Code  
 61 Section 48-7-20 for the corresponding taxable year for the full amount which would be  
 62 credited against such liability prior to the application of the credit provided for in this  
 63 paragraph. Credits against quarterly or monthly payments under Code Section 48-7-103

64 and credits against liability under Code Section 48-7-20 established by this paragraph  
 65 shall not constitute income to the taxpayer. The number of new full-time employee jobs  
 66 shall be determined by comparing the monthly average number of full-time employees  
 67 subject to Georgia income tax withholding for the taxable year with the corresponding  
 68 period of the prior taxable year. In tier 1 counties, those business enterprises that increase  
 69 employment by two or more shall be eligible for the credit. In tier ~~2, 3, and 4~~ counties,  
 70 only those business enterprises that increase employment by ten or more shall be eligible  
 71 for the credit. ~~In tier 3 counties, only those business enterprises that increase employment~~  
 72 ~~by 15 or more shall be eligible for the credit. In tier 4 counties, only those business~~  
 73 ~~enterprises that increase employment by 25 or more shall be eligible for the credit. The~~  
 74 ~~average wage of the new jobs created must be above the average wage of the county that~~  
 75 ~~has the lowest average wage of any county in the state to qualify as reported in the most~~  
 76 ~~recently available annual issue of the Georgia Employment and Wages Averages Report~~  
 77 ~~of the Department of Labor.~~ To qualify for a credit under this paragraph, the employer  
 78 must make health insurance coverage available to the employee filling the new full-time  
 79 employee job; provided, however, that nothing in this paragraph shall be construed to  
 80 require the employer to pay for all or any part of health insurance coverage for such an  
 81 employee in order to claim the credit provided for in this paragraph if such employer does  
 82 not pay for all or any part of health insurance coverage for other employees. Credit shall  
 83 not be allowed during a year if the net employment increase falls below the number  
 84 required in such tier. The state revenue commissioner shall adjust the credit allowed each  
 85 year for net new employment fluctuations above the minimum level of the number  
 86 required in such tier.

87 (2) Existing business enterprises that are eligible for the credit established under  
 88 paragraph (1) of this subsection shall be allowed an additional tax credit for taxes  
 89 imposed under this article equal to ~~\$500.00~~ \$250.00 per eligible new full-time employee  
 90 ~~job the first year in which the new full-time employee job is created. The additional~~  
 91 ~~credit shall be claimed in the first taxable year in which the new full-time employee job~~  
 92 ~~is created~~ for five years beginning with the first taxable year in which the new full-time  
 93 employee job is created and for the four immediately succeeding taxable years. The  
 94 number of new full-time employee jobs shall be determined by comparing the monthly  
 95 average number of full-time employees subject to Georgia income tax withholding for  
 96 the taxable year with the corresponding period of the prior taxable year. ~~In tier 1~~  
 97 ~~counties, those existing business enterprises that increase employment by five or more~~  
 98 ~~shall be eligible for the credit. In tier 2 counties, only those existing business enterprises~~  
 99 ~~that increase employment by ten or more shall be eligible for the credit. In tier 3~~  
 100 ~~counties, only those existing business enterprises that increase employment by 15 or more~~

101 ~~shall be eligible for the credit. In tier 4 counties, only those existing business enterprises~~  
 102 ~~that increase employment by 25 or more shall be eligible for the credit. The average~~  
 103 ~~wage of the new jobs created must be above the average wage of the county that has the~~  
 104 ~~lowest average wage of any county in the state to qualify as reported in the most recently~~  
 105 ~~available annual issue of the Georgia Employment and Wages Averages Report of the~~  
 106 ~~Department of Labor. To qualify for a credit under this paragraph, the employer must~~  
 107 ~~make health insurance coverage available to the employee filling the new full-time job;~~  
 108 ~~provided, however, that nothing in this paragraph shall be construed to require the~~  
 109 ~~employer to pay for all or any part of health insurance coverage for such an employee in~~  
 110 ~~order to claim the credit provided for in this paragraph if such employer does not pay for~~  
 111 ~~all or any part of health insurance coverage for other employees. Credit shall not be~~  
 112 ~~allowed during a year if the net employment increase falls below the number required in~~  
 113 ~~such tier. Any credit generated and utilized for years prior to the year in which the net~~  
 114 ~~employment increase falls below the number required in such tier shall not be affected.~~  
 115 ~~The state revenue commissioner shall adjust the credit allowed each year for net new~~  
 116 ~~employment fluctuations above the minimum level of the number required in such tier.~~  
 117 ~~This paragraph shall apply only to new eligible full-time jobs created in taxable years~~  
 118 ~~beginning on or after January 1, 2006, and ending no later than taxable years beginning~~  
 119 ~~prior to January 1, 2011.~~

120 (f) Tax credits for five years for the taxes imposed under this article shall be awarded for  
 121 additional new full-time employee jobs created by business enterprises qualified under  
 122 subsection (b), (c), or (c.1) of this Code section. Additional new full-time employee jobs  
 123 shall be determined by subtracting the highest total employment of the business enterprise  
 124 during years two through five, or whatever portion of years two through five which has  
 125 been completed, from the total increased employment. The state revenue commissioner  
 126 shall adjust the credit allowed in the event of employment fluctuations during the five years  
 127 of credit. An existing business enterprise shall also be allowed the additional amount  
 128 provided in paragraph (2) of subsection (e) of this Code section for new full-time employee  
 129 jobs created during years two through five."

130 "(l) Taxpayers that initially claimed the credit under this Code section for any taxable year  
 131 beginning before January 1, ~~2012~~ 2013, shall be governed, for purposes of all such credits  
 132 claimed as well as any credits claimed in subsequent taxable years related to such initial  
 133 claim, by this Code section as it was in effect for the taxable year in which the taxpayer  
 134 made such initial claim."

135 **SECTION 2.**

136 Said article is further amended by revising subsections (a), (e), (f), and (j) of Code  
 137 Section 48-7-40.1, relating to tax credits for business enterprises located in less developed  
 138 areas, as follows:

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

140 (1) 'Broadcasting' means the transmission or licensing of audio, video, text, or other  
 141 programming content to the general public, subscribers, or to third parties via radio,  
 142 television, cable, satellite, or the Internet or Internet Protocol and includes motion picture  
 143 and sound recording, editing, production, postproduction, and distribution. 'Broadcasting'  
 144 is limited to establishments classified under the 2007 North American Industry  
 145 Classification System Codes 515, broadcasting; 519, Internet publishing and  
 146 broadcasting; 517, telecommunications; and 512, motion picture and sound recording  
 147 industries.

148 (2) 'Business enterprise' means any business or the headquarters of any such business  
 149 which is engaged in manufacturing, including, but not limited to, the manufacturing of  
 150 alternative energy products for use in solar, wind, battery, bioenergy, biofuel, and electric  
 151 vehicle enterprises, warehousing and distribution, processing, telecommunications,  
 152 broadcasting, tourism, biomedical manufacturing, and research and development  
 153 industries. Such term shall not include retail businesses. Businesses are eligible for the  
 154 tax credit provided by this Code section at an individual establishment of the business  
 155 based on the classification of the individual establishment under the North American  
 156 Industry Classification System. For purposes of this Code section, the term  
 157 'establishment' means an economic unit at a single physical location where business is  
 158 conducted or where services or industrial operations are performed. If more than one  
 159 business activity is conducted at the establishment, then only those jobs engaged in the  
 160 qualifying activity will be eligible for the tax credit provided by this Code section.

161 (3) 'Existing business enterprise' means any business or the headquarters of any such  
 162 business which has operated for the immediately preceding three years a facility in this  
 163 state which is engaged in manufacturing, including, but not limited to, the manufacturing  
 164 of alternative energy products for use in solar, wind, battery, bioenergy, biofuel, and  
 165 electric vehicle enterprises, warehousing and distribution, processing,  
 166 telecommunications, broadcasting, tourism, biomedical manufacturing, or research and  
 167 development industries. Such term shall not include retail businesses."

168 "(e)(1) Business enterprises in areas designated by the commissioner of community  
 169 affairs as less developed areas shall be allowed a job tax credit for taxes imposed under  
 170 this article equal to \$3,500.00 annually per eligible new full-time employee job for five  
 171 years beginning with the first taxable year in which the new full-time employee job is

172 created and for the four immediately succeeding taxable years; provided, however, that  
173 where the amount of such credit exceeds a business enterprise's liability for such taxes  
174 in a taxable year, the excess may be taken as a credit against such business enterprise's  
175 quarterly or monthly payment under Code Section 48-7-103 but not to exceed in any one  
176 taxable year ~~\$3,500.00~~ \$3,750.00 for each new full-time employee job when aggregated  
177 with the credit applied against taxes under this article. Each employee whose employer  
178 receives credit against such business enterprise's quarterly or monthly payment under  
179 Code Section 48-7-103 shall receive credit against his or her income tax liability under  
180 Code Section 48-7-20 for the corresponding taxable year for the full amount which would  
181 be credited against such liability prior to the application of the credit provided for in this  
182 subsection. Credits against quarterly or monthly payments under Code Section 48-7-103  
183 and credits against liability under Code Section 48-7-20 established by this subsection  
184 shall not constitute income to the taxpayer. The number of new full-time jobs shall be  
185 determined by comparing the monthly average number of full-time employees subject to  
186 Georgia income tax withholding for the taxable year with the corresponding period of the  
187 prior taxable year. Only those business enterprises that increase employment by five or  
188 more in a less developed area shall be eligible for the credit; provided, however, that  
189 within areas of pervasive poverty as designated under paragraphs (2) and (4) of  
190 subsection (c) of this Code section businesses shall only have to increase employment by  
191 two or more jobs in order to be eligible for the credit, provided that, if a business only  
192 increases employment by two jobs, the persons hired for such jobs shall not be married  
193 to one another. The average wage of the new jobs created must be above the average  
194 wage of the county that has the lowest wage of any county in the state to qualify as  
195 reported in the most recently available annual issue of the Georgia Employment and  
196 Wages Averages Report of the Department of Labor. To qualify for a credit under this  
197 subsection, the employer must make health insurance coverage available to the employee  
198 filling the new full-time job; provided, however, that nothing in this subsection shall be  
199 construed to require the employer to pay for all or any part of health insurance coverage  
200 for such an employee in order to claim the credit provided for in this subsection if such  
201 employer does not pay for all or any part of health insurance coverage for other  
202 employees. Credit shall not be allowed during a year if the net employment increase falls  
203 below five or two, as applicable. The state revenue commissioner shall adjust the credit  
204 allowed each year for net new employment fluctuations above the minimum level of five  
205 or two.

206 (2) Existing business enterprises that are eligible for the credit established under  
207 paragraph (1) of this subsection shall be allowed an additional tax credit for taxes  
208 imposed under this article equal to \$250.00 per eligible new full-time employee job for

209 five years beginning with the first taxable year in which the new full-time employee job  
 210 is created and for the four immediately succeeding taxable years. The number of new  
 211 full-time employee jobs shall be determined by comparing the monthly average number  
 212 of full-time employees subject to Georgia income tax withholding for the taxable year  
 213 with the corresponding period of the prior taxable year.

214 (f) Tax credits for five years for the taxes imposed under this article shall be awarded for  
 215 additional new full-time employee jobs created by business enterprises qualified under  
 216 subsection (b) or (c) of this Code section. Additional new full-time employee jobs shall  
 217 be determined by subtracting the highest total employment of the business enterprise  
 218 during years two through five, or whatever portion of years two through five which has  
 219 been completed, from the total increased employment. The state revenue commissioner  
 220 shall adjust the credit allowed in the event of employment fluctuations during the additional  
 221 five years of credit. An existing business enterprise shall also be allowed the additional  
 222 amount provided in paragraph (2) of subsection (e) of this Code section for new full-time  
 223 employee jobs created during years two through five."

224 "(j) Taxpayers that initially claimed the credit under this Code section for any taxable year  
 225 beginning before January 1, ~~2012~~ 2013, shall be governed, for purposes of all such credits  
 226 claimed as well as any credits claimed in subsequent taxable years related to such initial  
 227 claim, by this Code section as it was in effect for the taxable year in which the taxpayer  
 228 made such initial claim."

229 **SECTION 3.**

230 Said article is further amended by revising subsections (b) and (f) of Code Section  
 231 48-7-40.17, relating to establishing or relocating headquarters and tax credit, as follows:

232 "(b) A taxpayer establishing new quality jobs in this state or relocating quality jobs into  
 233 this state which elects not to receive the tax credits provided for by Code Sections 48-7-40,  
 234 48-7-40.1, 48-7-40.2, 48-7-40.3, 48-7-40.4, 48-7-40.7, 48-7-40.8, and 48-7-40.9 for such  
 235 jobs and investments created by, arising from, related to, or connected in any way with the  
 236 same project and, within one year of the first date on which the taxpayer pursuant to the  
 237 provisions of Code Section 48-7-101 withholds wages for employees in this state and  
 238 employs at least ~~50~~ 15 persons in new quality jobs in this state, shall be allowed a credit  
 239 for taxes imposed under this article:

240 (1) Equal to \$2,500.00 annually per eligible new quality job where the job pays 110  
 241 percent or more but less than 120 percent of the average wage of the county in which the  
 242 new quality job is located;

243 (2) Equal to \$3,000.00 annually per eligible new quality job where the job pays 120  
 244 percent or more but less than 150 percent of the average wage of the county in which the  
 245 new quality job is located;

246 (3) Equal to \$4,000.00 annually per eligible new quality job where the job pays 150  
 247 percent or more but less than 175 percent of the average wage of the county in which the  
 248 new quality job is located;

249 (4) Equal to \$4,500.00 annually per eligible new quality job where the job pays 175  
 250 percent or more but less than 200 percent of the average wage of the county in which the  
 251 new quality job is located; and

252 (5) Equal to \$5,000.00 annually per eligible new quality job where the job pays 200  
 253 percent or more of the average wage of the county in which the new quality job is  
 254 located;

255 provided, however, that where the amount of such credit exceeds a taxpayer's liability for  
 256 such taxes in a taxable year, the excess may be taken as a credit against such taxpayer's  
 257 quarterly or monthly payment under Code Section 48-7-103 but not to exceed in any one  
 258 taxable year the credit amounts in paragraphs (1) through (5) of this subsection for each  
 259 new quality job when aggregated with the credit applied against taxes under this article.  
 260 Each employee whose employer receives credit against such taxpayer's quarterly or  
 261 monthly payment under Code Section 48-7-103 shall receive a credit against his or her  
 262 income tax liability under Code Section 48-7-20 for the corresponding taxable year for the  
 263 full amount which would be credited against such liability prior to the application of the  
 264 credit provided for in this subsection. Credits against quarterly or monthly payments under  
 265 Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established  
 266 by this subsection shall not constitute income to the taxpayer. For each new quality job  
 267 created, the credit established by this subsection may be taken for the first taxable year in  
 268 which the new quality job is created and for the four immediately succeeding taxable years;  
 269 provided, however, that such new quality jobs must be created within seven years from the  
 270 close of the taxable year in which the taxpayer first becomes eligible for such credit. Credit  
 271 shall not be allowed during a year if the net employment increase falls below the ~~50~~ 15 new  
 272 quality jobs required. Any credit received for years prior to the year in which the net  
 273 employment increase falls below the ~~50~~ 15 new quality jobs required shall not be affected  
 274 except as provided in subsection (f) of this Code section. The state revenue commissioner  
 275 shall adjust the credit allowed each year for net new employment fluctuations above the 50  
 276 new quality jobs required."

277 "(f) Taxpayers that initially claimed the credit under this Code section for any taxable year  
 278 beginning before January 1, ~~2012~~ 2013, shall be governed, for purposes of all such credits  
 279 claimed as well as any credits claimed in subsequent taxable years related to such initial

280 claim, by this Code section as it was in effect for the taxable year in which the taxpayer  
281 made such initial claim."

282 **SECTION 4.**

283 (a) This Act shall become effective upon its approval by the Governor or upon its  
284 becoming law without such approval and shall be applicable to all taxable years beginning  
285 on or after January 1, 2013.

286 (b) Tax, penalty, and interest liabilities and refund eligibility for prior taxable years shall  
287 not be affected by the passage of this Act and shall continue to be governed by the  
288 provisions of general law as it existed immediately prior to January 1, 2013.

289 (c) This Act shall not abate any prosecution, punishment, penalty, administrative  
290 proceedings or remedies, or civil action related to any violation of law committed prior to  
291 January 1, 2013.

292 **SECTION 5.**

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