

House Bill 936

By: Representatives Harrell of the 106th, Powell of the 171st, Stephens of the 164th, Knight of the 130th, Duncan of the 26th, 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 the imposition, rate, computation, and exemptions from income taxes, so as to
3 clarify certain terms in respect to the wages necessary to qualify for a jobs tax credit; to
4 provide for related matters; to repeal conflicting laws; and for other purposes.

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

6 **SECTION 1.**

7 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the
8 imposition, rate, computation, and exemptions from income taxes, is amended by revising
9 paragraph (1) of subsection (e) of Code Section 48-7-40, relating to designating counties as
10 less developed areas, as follows:

11 "(e)(1) Business enterprises in counties designated by the commissioner of community
12 affairs as tier 1 counties shall be allowed a tax credit for taxes imposed under this article
13 equal to \$3,500.00 annually per eligible new full-time employee job for five years
14 beginning with the first taxable year in which the new full-time employee job is created
15 and for the four immediately succeeding taxable years; provided, however, that where the
16 amount of such credit exceeds a business enterprise's liability for such taxes in a taxable
17 year, the excess may be taken as a credit against such business enterprise's quarterly or
18 monthly payment under Code Section 48-7-103 but not to exceed in any one taxable year
19 \$3,500.00 for each new full-time employee job when aggregated with the credit applied
20 against taxes under this article. Each employee whose employer receives credit against
21 such business enterprise's quarterly or monthly payment under Code Section 48-7-103
22 shall receive credit against his or her income tax liability under Code Section 48-7-20 for
23 the corresponding taxable year for the full amount which would be credited against such
24 liability prior to the application of the credit provided for in this paragraph. Credits
25 against quarterly or monthly payments under Code Section 48-7-103 and credits against
26 liability under Code Section 48-7-20 established by this paragraph shall not constitute

income to the taxpayer. Business enterprises in counties designated by the commissioner of community affairs as tier 2 counties shall be allowed a job tax credit for taxes imposed under this article equal to \$2,500.00 annually, business enterprises in counties designated by the commissioner of community affairs as tier 3 counties shall be allowed a job tax credit for taxes imposed under this article equal to \$1,250.00 annually, and business enterprises in counties designated by the commissioner of community affairs as tier 4 counties shall be allowed a job tax credit for taxes imposed under this article equal to \$750.00 annually for each new full-time employee job for five years beginning with the first taxable year in which the new full-time employee job is created and for the four immediately succeeding taxable years. Where a business enterprise is engaged in a competitive project located in a county designated by the commissioner of community affairs as a tier 2 county and where the amount of the credit provided in this paragraph exceeds such business enterprise's liability for taxes imposed under this article in a taxable year, or where a business enterprise is engaged in a competitive project located in a county designated by the commissioner of community affairs as a tier 3 or tier 4 county and where the amount of the credit provided in this paragraph exceeds 50 percent of such business enterprise's liability for taxes imposed under this article in a taxable year, the excess may be taken as a credit against such business enterprise's quarterly or monthly payment under Code Section 48-7-103 but not to exceed in any one taxable year \$2,500.00 for each new full-time employee job when aggregated with the credit applied against taxes under this article. Each employee whose employer receives credit against such business enterprise's quarterly or monthly payment under Code Section 48-7-103 shall receive credit against his or her income tax liability under Code Section 48-7-20 for the corresponding taxable year for the full amount which would be credited against such liability prior to the application of the credit provided for in this paragraph. Credits against quarterly or monthly payments under Code Section 48-7-103 and credits against liability under Code Section 48-7-20 established by this paragraph shall not constitute income to the taxpayer. The number of new full-time employee jobs shall be determined by comparing the monthly average number of full-time employees subject to Georgia income tax withholding for the taxable year with the corresponding period of the prior taxable year. In tier 1 counties, those business enterprises that increase employment by two or more shall be eligible for the credit. In tier 2 counties, only those business enterprises that increase employment by ten or more shall be eligible for the credit. In tier 3 counties, only those business enterprises that increase employment by 15 or more shall be eligible for the credit. In tier 4 counties, only those business enterprises that increase employment by 25 or more shall be eligible for the credit. The ~~average wage of the each new jobs~~ job created must be above the average wage of the county that has the

lowest average wage of any county in the state to qualify as reported in the most recently available annual issue of the Georgia Employment and Wages Averages Report of the Department of Labor. To qualify for a credit under this paragraph, the employer must make health insurance coverage available to the employee filling the new full-time employee job; provided, however, that nothing in this paragraph shall be construed to require the employer to pay for all or any part of health insurance coverage for such an employee in order to claim the credit provided for in this paragraph if such employer does not pay for all or any part of health insurance coverage for other employees. Credit shall not be allowed during a year if the net employment increase falls below the number required in such tier. The state revenue commissioner shall adjust the credit allowed each year for net new employment fluctuations above the minimum level of the number required in such tier."

SECTION 2.

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

79 "(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' is limited to establishments classified under the 2007 North American Industry Classification System Codes 515, broadcasting; 519, Internet publishing and broadcasting; 517, telecommunications; and 512, motion picture and sound recording industries.

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

99 business activity is conducted at the establishment, then only those jobs engaged in the
100 qualifying activity will be eligible for the tax credit provided by this Code section.

101 (3) 'New full-time employee job' means a newly created position of employment that was
102 not previously located in this state, requires a minimum of 35 hours a week, and pays at
103 or above the average wage earned in the county with the lowest average wage earned in
104 this state, as reported in the most recently available annual issue of the Georgia
105 Employment and Wages Averages Report of the Department of Labor."

106 "(e) Business enterprises in areas designated by the commissioner of community affairs
107 as less developed areas shall be allowed a job tax credit for taxes imposed under this article
108 equal to \$3,500.00 annually per eligible new full-time employee job for five years
109 beginning with the first taxable year in which the new full-time employee job is created and
110 for the four immediately succeeding taxable years; provided, however, that where the
111 amount of such credit exceeds a business enterprise's liability for such taxes in a taxable
112 year, the excess may be taken as a credit against such business enterprise's quarterly or
113 monthly payment under Code Section 48-7-103 but not to exceed in any one taxable year
114 \$3,500.00 for each new full-time employee job when aggregated with the credit applied
115 against taxes under this article. Each employee whose employer receives credit against
116 such business enterprise's quarterly or monthly payment under Code Section 48-7-103 shall
117 receive credit against his or her income tax liability under Code Section 48-7-20 for the
118 corresponding taxable year for the full amount which would be credited against such
119 liability prior to the application of the credit provided for in this subsection. Credits against
120 quarterly or monthly payments under Code Section 48-7-103 and credits against liability
121 under Code Section 48-7-20 established by this subsection shall not constitute income to
122 the taxpayer. The number of new full-time employee jobs shall be determined by
123 comparing the monthly average number of full-time employees subject to Georgia income
124 tax withholding for the taxable year with the corresponding period of the prior taxable year.
125 Only those business enterprises that increase employment by five or more in a less
126 developed area shall be eligible for the credit; provided, however, that within areas of
127 pervasive poverty as designated under paragraphs (2) and (4) of subsection (c) of this Code
128 section businesses shall only have to increase employment by two or more jobs in order to
129 be eligible for the credit, provided that, if a business only increases employment by two
130 jobs, the persons hired for such jobs shall not be married to one another. The average wage
131 of the each new jobs job created must be above the average wage of the county that has the
132 lowest wage of any county in the state to qualify as reported in the most recently available
133 annual issue of the Georgia Employment and Wages Averages Report of the Department
134 of Labor. To qualify for a credit under this subsection, the employer must make health
135 insurance coverage available to the employee filling the new full-time employee job;

136 provided, however, that nothing in this subsection shall be construed to require the
137 employer to pay for all or any part of health insurance coverage for such an employee in
138 order to claim the credit provided for in this subsection if such employer does not pay for
139 all or any part of health insurance coverage for other employees. Credit shall not be
140 allowed during a year if the net employment increase falls below five or two, as applicable.
141 The state revenue commissioner shall adjust the credit allowed each year for net new
142 employment fluctuations above the minimum level of five or two."

143

SECTION 3.

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