House Bill 956

By: Representatives Harbin of the 122nd, Williamson of the 115th, Carson of the 46th, Harrell of the 106th, Clark of the 98th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 36-62-5.1 of the Official Code of Georgia Annotated, relating to joint development authorities, so as to allow a job tax credit to be applied against the taxpayer's withholding tax payment; to amend Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to state income taxes, so as to allow certain job tax credits to be applied to a taxpayer's withholding tax payment; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Code Section 36-62-5.1 of the Official Code of Georgia Annotated, relating to joint development authorities, is amended by revising paragraph (2) of subsection (e) as follows:

"(2) A business enterprise as defined under subsection (a) of Code Section 48-7-40 located within the jurisdiction of a joint authority established by two or more contiguous counties shall qualify for an additional $500.00 tax credit for each new full-time employee position created. The $500.00 job tax credit authorized by this paragraph <u>shall be allowed against the taxpayer's quarterly or monthly payment under Code Section 48-7-103 in the same manner and to the same extent as the jobs credits under Code Section 48-7-40 or 48-7-40.1, and</u> shall be subject to all the conditions and limitations specified under Code Section 48-7-40, as amended; provided, however, that a business enterprise located in a county that belongs to more than one joint authority shall not qualify for an additional tax credit in excess of $500.00 for each new full-time employee position created."

**SECTION 2.**

Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to state income taxes, is amended by revising paragraph (1) of subsection (e) and subsection (h) of Code

Section 48-7-40, relating the designation of a county as a less developed area and issuing tax credits for certain business enterprises, as follows:

"(e)(1) Business enterprises in counties designated by the commissioner of community affairs as tier 1 counties shall be allowed a tax credit for taxes imposed under this article equal to $3,500.00 annually, business ~~per eligible 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; provided, however, that where the amount of such credit exceeds a business enterprise's liability for such taxes 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 $3,500.00 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. 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~~ any 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~~ after the applicable percentage amount allowed under subsection (h) of this Code section is applied, 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 new jobs 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.″

″(h) Any credit claimed under this Code section but not used in any taxable year may be carried forward for ten years from the close of the taxable year ~~in which the qualified jobs were established~~ <u>with respect to which the credit or credit installment was claimed</u>, subject to forfeiture as provided in paragraph (1) of subsection (e) of this Code section, but in tiers 3 and 4 the credit established by this Code section taken in any one taxable year shall be limited to an amount not greater than 50 percent of the taxpayer's state income tax liability which is attributable to income derived from operations in this state for that taxable year. In tier 1 and 2 counties, the credit allowed under this Code section against taxes imposed under this article in any taxable year shall be limited to an amount not greater than 100 percent of the taxpayer's state income tax liability attributable to income derived from operations in this state for such taxable year."

**SECTION 3.**

Said chapter is further amended by revising subsection (h) of Code Section 48-7-40.1, relating to tax credits for businesses in less developed areas, as follows:

"(h) Any credit claimed under this Code section but not used in any taxable year may be carried forward for ten years from the close of the taxable year ~~in which the qualified jobs were established~~ with respect to which the credit or credit installment was claimed, subject to forfeiture as provided in paragraph (1) of subsection (e) of this Code section, but in tiers 3 and 4 the credit established by this Code section taken in any one taxable year shall be limited to an amount not greater than 50 percent of the taxpayer's state income tax liability which is attributable to income derived from operations in this state for that taxable year. In tier 1 and 2 counties, the credit allowed under this Code section against taxes imposed under this article in any taxable year shall be limited to an amount not greater than 100 percent of the taxpayer's state income tax liability attributable to income derived from operations in this state for such taxable year."

**SECTION 4.**

Said chapter is further amended by revising Code Section 48-7-40.2, relating to tax credits for existing manufacturing and telecommunications facilities in tier 1 counties, by renumbering paragraphs (3), (4), and (5) of subsection (c) as paragraphs (4), (5), and (6), respectively, and inserting a new paragraph (3) of subsection (c) to read as follows:

"(3) Where the amount of a credit claimed under this Code section exceeds 50 percent of the business enterprise's Georgia income tax liability in a taxable year, the excess may be taken as credit against such taxpayer's quarterly or monthly payment under Code Section 48-7-103. Each employee whose employer receives credit against such taxpayer's quarterly or monthly payment under Code Section 48-7-103 shall receive a 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 subsection. 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 subsection shall not constitute income to the taxpayer;"

**SECTION 5.**

Said chapter is further amended by revising Code Section 48-7-40.3, relating to tax credits for existing manufacturing and telecommunications facilities in tier 2 counties, by renumbering paragraphs (3), (4), and (5) of subsection (c) as paragraphs (4), (5), and (6), respectively, and inserting a new paragraph (3) of subsection (c) to read as follows:

"(3) Where the amount of a credit claimed under this Code section exceeds 50 percent of the business enterprise's Georgia income tax liability in a taxable year, the excess may be taken as credit against such taxpayer's quarterly or monthly payment under Code Section 48-7-103. Each employee whose employer receives credit against such taxpayer's quarterly or monthly payment under Code Section 48-7-103 shall receive a 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 subsection. 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 subsection shall not constitute income to the taxpayer;"

**SECTION 6.**

Said chapter is further amended by revising Code Section 48-7-40.4, relating to tax credits for existing manufacturing and telecommunications facilities in tier 3 or 4 counties, by renumbering paragraphs (3), (4), and (5) of subsection (c) as paragraphs (4), (5), and (6), respectively, and inserting a new paragraph (3) of subsection (c) to read as follows:

"(3) Where the amount of a credit claimed under this Code section exceeds 50 percent of the business enterprise's Georgia income tax liability in a taxable year, the excess may be taken as credit against such taxpayer's quarterly or monthly payment under Code Section 48-7-103. Each employee whose employer receives credit against such taxpayer's quarterly or monthly payment under Code Section 48-7-103 shall receive a 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 subsection. 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 subsection shall not constitute income to the taxpayer;"

**SECTION 7.**

Said chapter is further amended by revising subsections (b) and (c) and subparagraph (e)(2)(A) of Code Section 48-7-40.15, relating to a job tax credit for base year increases in port traffic, as follows:

″(b)(1) In the case of any business enterprise which has increased its port traffic of products during the previous 12 month period by more than 10 percent above its base year port traffic and is qualified to claim a job tax credit under Code Section 48-7-40 or 48-7-40.1 for jobs added at any time on or after January 1, 1998, there shall be allowed an additional $1,250.00 job tax credit against the tax imposed under this article.

(2) The tax credit described in this subsection shall be allowed subject to the conditions and limitations set forth in Code Section 48-7-40 or 48-7-40.1, ~~and~~ shall be in addition to the credit allowed under Code Section 48-7-40 or 48-7-40.1, and shall be allowed against the taxpayer's quarterly or monthly payment under Code Section 48-7-103 in the same manner and to the same extent as the jobs credits under Code Section 48-7-40 or 48-7-40.1; provided, however, that such credit shall not be allowed during a year if the port traffic does not remain above the minimum level established in this Code section.

(c) In the case of any business enterprise which has increased its port traffic of products during the previous 12 month period by more than 10 percent above its base year port traffic and is qualified to claim a tax credit under Code Section 48-7-40.2, 48-7-40.3, 48-7-40.4, 48-7-40.7, 48-7-40.8, or 48-7-40.9 upon qualified investment property added at any time on or after January 1, 1998, there shall be allowed a credit against the tax imposed under this article in an amount equal to the applicable percentage amount otherwise allowed under Code Section 48-7-40.2 or 48-7-40.7 to business enterprises for the cost of such property. The tax credit described in this subsection shall be allowed against the taxpayer's quarterly or monthly payment under Code Section 48-7-103 in the same manner and to the same extent as the investment credits under Code Section 48-7-40.2, 48-7-40.3, or 48-7-40.4 and shall be allowed subject to the conditions and limitations set forth in Code Section 48-7-40.2 or 48-7-40.7, as applicable, except that such property may be placed in service in any county without regard to its tier designation. Such credit shall also be in lieu of and not in addition to the credit authorized under Code Sections 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.″

″(2)(A) Any tax credit claimed under subsection (b) of this Code section but not used in any taxable year may be carried forward for ten years from the close of the taxable year ~~in which the qualified jobs were established~~ with respect to which the credit or credit installment was claimed, provided that the increase in port traffic remains above the minimum levels established in Code Section 48-7-40 or 48-7-40.1 and this Code section, respectively.″

**SECTION 8.**

This Act shall become effective on July 1, 2014.

**SECTION 9.**

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