

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

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

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Code Section 36-62-5.1 of the Official Code of Georgia Annotated, relating to joint
10 development authorities, is amended by revising paragraph (2) of subsection (e) as follows:
11 "(2) A business enterprise as defined under subsection (a) of Code Section 48-7-40
12 located within the jurisdiction of a joint authority established by two or more contiguous
13 counties shall qualify for an additional \$500.00 tax credit for each new full-time
14 employee position created. The \$500.00 job tax credit authorized by this paragraph shall
15 be allowed against the taxpayer's quarterly or monthly payment under Code Section
16 48-7-103 in the same manner and to the same extent as the jobs credits under Code
17 Section 48-7-40 or 48-7-40.1, and shall be subject to all the conditions and limitations
18 specified under Code Section 48-7-40, as amended; provided, however, that a business
19 enterprise located in a county that belongs to more than one joint authority shall not
20 qualify for an additional tax credit in excess of \$500.00 for each new full-time employee
21 position created."

22 **SECTION 2.**

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

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

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

62 such business enterprise's quarterly or monthly payment under Code Section 48-7-103
63 ~~but not to exceed in any one taxable year \$2,500.00 for each new full-time employee job~~
64 ~~when aggregated with the credit applied against taxes under this article.~~ Each employee
65 whose employer receives credit against such business enterprise's quarterly or monthly
66 payment under Code Section 48-7-103 shall receive credit against his or her income tax
67 liability under Code Section 48-7-20 for the corresponding taxable year for the full
68 amount which would be credited against such liability prior to the application of the
69 credit provided for in this paragraph. Credits against quarterly or monthly payments
70 under Code Section 48-7-103 and credits against liability under Code Section 48-7-20
71 established by this paragraph shall not constitute income to the taxpayer. The number of
72 new full-time employee jobs shall be determined by comparing the monthly average
73 number of full-time employees subject to Georgia income tax withholding for the taxable
74 year with the corresponding period of the prior taxable year. In tier 1 counties, those
75 business enterprises that increase employment by two or more shall be eligible for the
76 credit. In tier 2 counties, only those business enterprises that increase employment by ten
77 or more shall be eligible for the credit. In tier 3 counties, only those business enterprises
78 that increase employment by 15 or more shall be eligible for the credit. In tier 4 counties,
79 only those business enterprises that increase employment by 25 or more shall be eligible
80 for the credit. The average wage of the new jobs created must be above the average wage
81 of the county that has the lowest average wage of any county in the state to qualify as
82 reported in the most recently available annual issue of the Georgia Employment and
83 Wages Averages Report of the Department of Labor. To qualify for a credit under this
84 paragraph, the employer must make health insurance coverage available to the employee
85 filling the new full-time employee job; provided, however, that nothing in this paragraph
86 shall be construed to require the employer to pay for all or any part of health insurance
87 coverage for such an employee in order to claim the credit provided for in this paragraph
88 if such employer does not pay for all or any part of health insurance coverage for other
89 employees. Credit shall not be allowed during a year if the net employment increase falls
90 below the number required in such tier. The state revenue commissioner shall adjust the
91 credit allowed each year for net new employment fluctuations above the minimum level
92 of the number required in such tier."

93 "(h) Any credit claimed under this Code section but not used in any taxable year may be
94 carried forward for ten years from the close of the taxable year ~~in which the qualified jobs~~
95 ~~were established~~ with respect to which the credit or credit installment was claimed, subject
96 to forfeiture as provided in paragraph (1) of subsection (e) of this Code section, but in tiers
97 3 and 4 the credit established by this Code section taken in any one taxable year shall be
98 limited to an amount not greater than 50 percent of the taxpayer's state income tax liability

99 which is attributable to income derived from operations in this state for that taxable year.
 100 In tier 1 and 2 counties, the credit allowed under this Code section against taxes imposed
 101 under this article in any taxable year shall be limited to an amount not greater than 100
 102 percent of the taxpayer's state income tax liability attributable to income derived from
 103 operations in this state for such taxable year."

104 **SECTION 3.**

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

107 "(h) Any credit claimed under this Code section but not used in any taxable year may be
 108 carried forward for ten years from the close of the taxable year ~~in which the qualified jobs~~
 109 ~~were established~~ with respect to which the credit or credit installment was claimed, subject
 110 to forfeiture as provided in paragraph (1) of subsection (e) of this Code section, but in tiers
 111 3 and 4 the credit established by this Code section taken in any one taxable year shall be
 112 limited to an amount not greater than 50 percent of the taxpayer's state income tax liability
 113 which is attributable to income derived from operations in this state for that taxable year.
 114 In tier 1 and 2 counties, the credit allowed under this Code section against taxes imposed
 115 under this article in any taxable year shall be limited to an amount not greater than 100
 116 percent of the taxpayer's state income tax liability attributable to income derived from
 117 operations in this state for such taxable year."

118 **SECTION 4.**

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

123 "(3) Where the amount of a credit claimed under this Code section exceeds 50 percent
 124 of the business enterprise's Georgia income tax liability in a taxable year, the excess may
 125 be taken as credit against such taxpayer's quarterly or monthly payment under Code
 126 Section 48-7-103. Each employee whose employer receives credit against such
 127 taxpayer's quarterly or monthly payment under Code Section 48-7-103 shall receive a
 128 credit against his or her income tax liability under Code Section 48-7-20 for the
 129 corresponding taxable year for the full amount which would be credited against such
 130 liability prior to the application of the credit provided for in this subsection. Credits
 131 against quarterly or monthly payments under Code Section 48-7-103 and credits against
 132 liability under Code Section 48-7-20 established by this subsection shall not constitute
 133 income to the taxpayer."

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SECTION 5.

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

139 "(3) Where the amount of a credit claimed under this Code section exceeds 50 percent
 140 of the business enterprise's Georgia income tax liability in a taxable year, the excess may
 141 be taken as credit against such taxpayer's quarterly or monthly payment under Code
 142 Section 48-7-103. Each employee whose employer receives credit against such
 143 taxpayer's quarterly or monthly payment under Code Section 48-7-103 shall receive a
 144 credit against his or her income tax liability under Code Section 48-7-20 for the
 145 corresponding taxable year for the full amount which would be credited against such
 146 liability prior to the application of the credit provided for in this subsection. Credits
 147 against quarterly or monthly payments under Code Section 48-7-103 and credits against
 148 liability under Code Section 48-7-20 established by this subsection shall not constitute
 149 income to the taxpayer."

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SECTION 6.

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

155 "(3) Where the amount of a credit claimed under this Code section exceeds 50 percent
 156 of the business enterprise's Georgia income tax liability in a taxable year, the excess may
 157 be taken as credit against such taxpayer's quarterly or monthly payment under Code
 158 Section 48-7-103. Each employee whose employer receives credit against such
 159 taxpayer's quarterly or monthly payment under Code Section 48-7-103 shall receive a
 160 credit against his or her income tax liability under Code Section 48-7-20 for the
 161 corresponding taxable year for the full amount which would be credited against such
 162 liability prior to the application of the credit provided for in this subsection. Credits
 163 against quarterly or monthly payments under Code Section 48-7-103 and credits against
 164 liability under Code Section 48-7-20 established by this subsection shall not constitute
 165 income to the taxpayer."

SECTION 7.

166
167 Said chapter is further amended by revising subsections (b) and (c) and subparagraph
168 (e)(2)(A) of Code Section 48-7-40.15, relating to a job tax credit for base year increases in
169 port traffic, as follows:

170 "(b)(1) In the case of any business enterprise which has increased its port traffic of
171 products during the previous 12 month period by more than 10 percent above its base
172 year port traffic and is qualified to claim a job tax credit under Code Section 48-7-40 or
173 48-7-40.1 for jobs added at any time on or after January 1, 1998, there shall be allowed
174 an additional \$1,250.00 job tax credit against the tax imposed under this article.

175 (2) The tax credit described in this subsection shall be allowed subject to the conditions
176 and limitations set forth in Code Section 48-7-40 or 48-7-40.1, ~~and~~ shall be in addition
177 to the credit allowed under Code Section 48-7-40 or 48-7-40.1, and shall be allowed
178 against the taxpayer's quarterly or monthly payment under Code Section 48-7-103 in the
179 same manner and to the same extent as the jobs credits under Code Section 48-7-40 or
180 48-7-40.1; provided, however, that such credit shall not be allowed during a year if the
181 port traffic does not remain above the minimum level established in this Code section.

182 (c) In the case of any business enterprise which has increased its port traffic of products
183 during the previous 12 month period by more than 10 percent above its base year port
184 traffic and is qualified to claim a tax credit under Code Section 48-7-40.2, 48-7-40.3,
185 48-7-40.4, 48-7-40.7, 48-7-40.8, or 48-7-40.9 upon qualified investment property added
186 at any time on or after January 1, 1998, there shall be allowed a credit against the tax
187 imposed under this article in an amount equal to the applicable percentage amount
188 otherwise allowed under Code Section 48-7-40.2 or 48-7-40.7 to business enterprises for
189 the cost of such property. The tax credit described in this subsection shall be allowed
190 against the taxpayer's quarterly or monthly payment under Code Section 48-7-103 in the
191 same manner and to the same extent as the investment credits under Code Section
192 48-7-40.2, 48-7-40.3, or 48-7-40.4 and shall be allowed subject to the conditions and
193 limitations set forth in Code Section 48-7-40.2 or 48-7-40.7, as applicable, except that such
194 property may be placed in service in any county without regard to its tier designation. Such
195 credit shall also be in lieu of and not in addition to the credit authorized under Code
196 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."

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

203 **SECTION 8.**

204 This Act shall become effective on July 1, 2014.

205 **SECTION 9.**

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