Senate Bill 16

By: Senators Butler of the 55th, Tate of the 38th, Henson of the 41st, Fort of the 39th, Sims of the 12th and others

A BILL TO BE ENTITLED

AN ACT

To amend Article 1 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions regarding income taxes, so as to require corporations that receive development subsidies to create new full-time jobs that provide livable wages and benefits; to provide a short title; to provide for procedures, conditions, and limitations; to provide for clawbacks or rescissions in certain circumstances; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

This Act shall be known and may be cited as the "Job Creation Standards Act of 2015."

SECTION 2.

Article 1 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to general provisions regarding income taxes, is amended by inserting new Code sections to read as follows:

"48-7-7.

(a) The definitions of terms in subsection (a) of Code Section 48-7-8 shall also apply to the terms used in this Code section.

(b) Any recipient corporation that receives a development subsidy for the primary purpose of creating new full-time jobs in this state shall comply with the following standards in order to qualify for the development subsidy:

(1) The recipient corporation shall create at least one new full-time job in this state for each $35,000.00 of development subsidies it receives from the granting body;

(2) The recipient corporation's obligation to maintain such newly created jobs in this state shall remain in effect for either the duration of the subsidy or five years, whichever is longer; and

(3) The recipient corporation shall be allowed to count a job as new if the same job previously existed outside of Georgia in another facility controlled by the recipient

corporation in the United States; provided, however, that if the job so transferred is not filled by hiring a Georgia resident, it shall only count as one-half of a job for purposes of meeting job creation standards.

(c) In addition to the standards contained in subsection (b) of this Code section, in order for a job to qualify as a new full-time job it shall comply with the following guidelines:

(1) **Wages for project sites located in a Metropolitan Statistical Area, as defined by the federal Office of Management and Budget.** The average hourly wage paid to nonmanagerial workers shall be no lower than 100 percent of the state rate for the industry, as most recently established by the United States Bureau of Labor Statistics.

(2) **Wages for project sites located outside of Metropolitan Statistical Areas.** The average weekly wage paid to nonmanagerial employees shall be no lower than 100 percent of the rate in the county for the industry, as most recently established by the United States Department of Commerce.

(3) **Health insurance.** The recipient corporation shall offer health insurance coverage and at least one-half of the cost of the insurance premium shall be paid by the recipient corporation.

(4) **Hours.** The job shall provide at least 1,820 hours of work per year.

(5) **Paid leave.** The job shall provide a total of at least 12 days per year of paid leave for vacation, family care, or other personal time off.

(d) The job creation standards and guidelines contained in this Code section shall be used to determine whether a recipient corporation shall be subject to development subsidy recapture or rescission as provided for in Code Section 48-7-8.

48-7-8.

(a) As used in this Code section and Code Section 48-7-7, the term:

(1) 'Corporate parent' means any person, association, corporation, joint venture, partnership, or other entity that owns or controls 50 percent or more of a recipient corporation.

(2) 'Date of subsidy' means the date that a granting body provides the initial monetary value of a development subsidy to a recipient corporation; provided, however, that where the subsidy is for the installation of new equipment, such date shall be the date the corporation puts the equipment into service; provided, further, that where the subsidy is for improvements to property, such date shall be either the date the improvements are finished or the date the corporation occupies the property, whichever is earlier.

(3) 'Development subsidy' means any expenditure of public funds with a value of at least $35,000.00 for the purpose of stimulating economic development within this state, including but not limited to bonds, grants, loans, loan guarantees, enterprise zones,

<u>empowerment zones, tax increment financing, fee waivers, land price subsidies, matching funds, tax abatements, tax exemptions, and tax credits.</u>

<u>(4) 'Duration of the subsidy' means as many years as a subsidy benefits a recipient corporation, such as the number of years a tax credit may be claimed or carried forward, the term of a loan, or the number of years a property tax reduction applies.</u>

<u>(5) 'Granting body' means any agency, board, office, public-private partnership, public benefit corporation, or authority of the state or local government that provides a development subsidy.</u>

<u>(6) 'Recipient corporation' means any person, association, corporation, limited liability corporation, joint venture, partnership, or other entity that receives a development subsidy.</u>

<u>(b) Granting bodies awarding development subsidies shall cross check job creation and other performance data submitted by corporate recipients against information sources such as unemployment insurance records or shall conduct periodic audits of recipient corporations' submissions using independent auditors.</u>

<u>(c) A recipient corporation shall be subject to development subsidy recapture or rescission if:</u>

<u>(1) It fails to achieve its job creation, wage, and health care requirements within two years of the date of subsidy;</u>

<u>(2) It fails to maintain its wage and benefit achievements for either so long as the development subsidy is in effect or five years, whichever is longer; or</u>

<u>(3) The corporate parent of the recipient corporation fails to maintain, for either the duration of the development subsidy or five years, whichever is longer, at least 90 percent of its employment in this state, with the basis of December 31 of the year the development subsidy was granted.</u>

<u>(d)(1) For each year the recipient corporation falls short of its obligations for job creation, wages, and health care insurance, the value of the development subsidy shall be reduced on a prorated basis by the same share of jobs that were not created or that failed to meet wage and health care insurance obligations. If the development subsidy has already accrued to the recipient corporation, the state shall recapture the subsidy reduction.</u>

<u>(2) If a recipient corporation falls short on its job creation obligations by 25 percent or more for three consecutive years, the pro rata recapture shall apply for the third year in default and the development subsidy shall be rescinded effective January 1 of the following year.</u>

<u>(e)(1) For each year the corporate parent fails to maintain at least 90 percent of its base employment level in this state, the development subsidy shall be reduced at twice the rate</u>

of the corporate parent's job loss from 100 percent of its basis of December 31 of the year the subsidy was granted. If the subsidy has already accrued to the recipient corporation, the state shall recapture the subsidy reduction.

(2) If the corporate parent fails to maintain at least 90 percent of its base employment level in the state for three years in a row, the pro rata recapture shall apply for the third year in default and the subsidy shall be rescinded effective January 1 of the following year.

(f) If a granting body fails to enforce any provision of this Code section, any individual who paid personal income taxes to this state in the calendar year prior to the year in dispute, or any organization representing such taxpayers, shall be entitled to bring a civil action to compel enforcement under this Code section. The court shall award reasonable attorney's fees and costs to such prevailing taxpayer or organization.

(g) Granting bodies shall publish on their websites summary statistics about enforcement activities as well as lists of recipient corporations involved in those activities.

(h) All records required to be prepared or maintained under this Code section, including but not limited to applications, performance reports, recapture proceedings, and any other records relating thereto, shall be subject to disclosure under Article 4 of Chapter 18 of Title 50, relating to open records.″

SECTION 3.

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