

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1514
Committee Substitute Favorable 7/22/09
Third Edition Engrossed 7/23/09

Short Title: IDF Changes/Research & Prod. Serv. Districts.

(Public)

Sponsors:

Referred to:

April 20, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO EXPAND ECONOMICALLY DISTRESSED COUNTIES TO INCLUDE ALL
3 TIER ONE AND TIER TWO COUNTIES, TO INCREASE THE MAXIMUM
4 EXPENDITURE OF FUNDS FROM THE INDUSTRIAL DEVELOPMENT FUND, TO
5 EXEMPT FROM RULE MAKING THE CUSTOMIZED TRAINING PROGRAM
6 UNDER THE COMMUNITY COLLEGE SYSTEM, AND TO AMEND THE COUNTY
7 SERVICE DISTRICT ACT OF 1973 TO ALLOW ADDITIONAL COUNTY RESEARCH
8 AND PRODUCTION SERVICE DISTRICTS.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.(a)** G.S. 143B-437.01(a) reads as rewritten:

11 "**§ 143B-437.01. Industrial Development Fund.**

12 (a) Creation and Purpose of Fund. – There is created in the Department of Commerce
13 the Industrial Development Fund to provide funds to assist the local government units of the
14 most economically distressed counties in the State in creating and retaining jobs in certain
15 industries. The Department of Commerce shall adopt rules providing for the administration of
16 the program. Those rules shall include the following provisions, which shall apply to each grant
17 from the fund:

18 (1) The funds shall be used for (i) installation of or purchases of equipment for
19 eligible industries, (ii) structural repairs, improvements, or renovations of
20 existing buildings to be used for expansion of eligible industries, or (iii)
21 construction of or improvements to new or existing water, sewer, gas,
22 telecommunications, high-speed broadband, electrical utility distribution
23 lines or equipment, or transportation infrastructure for existing or new or
24 proposed industrial buildings to be used for eligible industries. To be eligible
25 for funding, the water, sewer, gas, telecommunications, high-speed
26 broadband, electrical utility lines or facilities, or transportation infrastructure
27 shall be located on the site of the building or, if not located on the site, shall
28 be directly related to the operation of the specific eligible industrial activity.

29 (1a) The funds shall be used for projects located in economically distressed
30 counties except that the Secretary of Commerce may use up to one hundred
31 thousand dollars (\$100,000) to provide emergency economic development
32 assistance in any county that is documented to be experiencing a major
33 economic dislocation.

34 (2) The funds shall be used by the city and county governments for projects that
35 will directly result in the creation or retention of new jobs. The funds shall



1 be expended at a maximum rate of ~~five thousand dollars (\$5,000)~~ten
2 thousand dollars (\$10,000) per new job created or per job retained up to a
3 maximum of five hundred thousand dollars (\$500,000) per project.

- 4 (3) There shall be no local match requirement if the project is located in a
5 county that has one of the 25 highest rankings under G.S. 143B-437.08 or
6 that has a population of less than 50,000 and more than nineteen percent
7 (19%) of its population below the federal poverty level according to the most
8 recent federal decennial census.
- 9 (4) The Department may authorize a local government that receives funds under
10 this section to use up to two percent (2%) of the funds, if necessary, to verify
11 that the funds are used only in accordance with law and to otherwise
12 administer the grant or loan.
- 13 (5) No project subject to the Environmental Policy Act, Article 1 of Chapter
14 113A of the General Statutes, shall be funded unless the Secretary of
15 Commerce finds that the proposed project will not have a significant adverse
16 effect on the environment. The Secretary of Commerce shall not make this
17 finding unless the Secretary has first received a certification from the
18 Department of Environment and Natural Resources that concludes, after
19 consideration of avoidance and mitigation measures, that the proposed
20 project will not have a significant adverse effect on the environment.
- 21 (6) The funds shall not be used for any nonmanufacturing project that does not
22 meet the wage standard set out in G.S. 105-129.4(b)."

23 **SECTION 1.(b)** G.S. 143B-437.01(a1) reads as rewritten:

24 "(a1) Definitions. – The following definitions apply in this section:

- 25 (1) Air courier services. – Defined in G.S. 105-129.81.
26 (2) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.
27 (2a) Company headquarters. – Defined in G.S. 105-129.81.
28 (3) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.
29 (4) Economically distressed county. – A county that ~~has one of the 65 highest~~
30 ~~rankings~~ is defined as a tier one or tier two county under G.S. 143B-437.08
31 after the adjustments of that section are applied.
32 (5) Eligible industry. – A company headquarters or a person engaged in the
33 business of air courier services, information technology and services,
34 manufacturing, or warehousing and wholesale trade.
35 (6) Information technology and services. – Defined in G.S. 105-129.81.
36 (7) Major economic dislocation. – The actual or imminent loss of 500 or more
37 manufacturing jobs in the county or of a number of manufacturing jobs equal
38 to at least ten percent (10%) of the existing manufacturing workforce in the
39 county.
40 (8) Manufacturing. – Defined in G.S. 105-129.81.
41 (9) Reserved.
42 (10) Warehousing. – Defined in G.S. 105-129.81.
43 (11) Wholesale trade. – Defined in G.S. 105-129.81."

44 **SECTION 1.(c)** G.S. 143B-437.01(b1) reads as rewritten:

45 "(b1) Utility Account. – There is created within the Industrial Development Fund a
46 special account to be known as the Utility Account to provide funds to assist the local
47 government units of the counties that ~~have one of the 65 highest rankings~~ are defined as a tier
48 one or tier two county under G.S. 143B-437.08 after the adjustments of that section are applied
49 in creating jobs in eligible industries. The Department of Commerce shall adopt rules providing
50 for the administration of the program. Except as otherwise provided in this subsection, those
51 rules shall be consistent with the rules adopted with respect to the Industrial Development

1 Fund. The rules shall provide that the funds in the Utility Account may be used only for
2 construction of or improvements to new or existing water, sewer, gas, telecommunications,
3 high-speed broadband, electrical utility distribution lines or equipment, or transportation
4 infrastructure for existing or new or proposed industrial buildings to be used for eligible
5 industrial operations. To be eligible for funding, the water, sewer, gas, telecommunications,
6 high-speed broadband, electrical utility lines or facilities, or transportation infrastructure shall
7 be located on the site of the building or, if not located on the site, shall be directly related to the
8 operation of the specific industrial activity. There shall be no maximum funding amount per
9 new job to be created or per project."

10 **SECTION 2.(a)** G.S. 150B-1(d) reads as rewritten:

11 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
12 following:

- 13 (1) The Commission.
- 14 (2) Repealed by Session Laws 2000-189, s. 14, effective July 1, 2000.
- 15 (3) Repealed by Session Laws 2001-474, s. 34, effective November 29, 2001.
- 16 (4) The Department of Revenue, with respect to the notice and hearing
17 requirements contained in Part 2 of Article 2A.
- 18 (5) The North Carolina Global TransPark Authority with respect to the
19 acquisition, construction, operation, or use, including fees or charges, of any
20 portion of a cargo airport complex.
- 21 (6) The Department of Correction, with respect to matters relating solely to
22 persons in its custody or under its supervision, including prisoners,
23 probationers, and parolees.
- 24 (7) The State Health Plan for Teachers and State Employees in administering
25 the provisions of Article 3A of Chapter 135 of the General Statutes.
- 26 (8) The North Carolina Federal Tax Reform Allocation Committee, with respect
27 to the adoption of the annual qualified allocation plan required by 26 U.S.C.
28 § 42(m), and any agency designated by the Committee to the extent
29 necessary to administer the annual qualified allocation plan.
- 30 (9) The Department of Health and Human Services in adopting new or
31 amending existing medical coverage policies under the State Medicaid
32 Program.
- 33 (10) The Economic Investment Committee in developing criteria for the Job
34 Development Investment Grant Program under Part 2F of Article 10 of
35 Chapter 143B of the General Statutes.
- 36 (11) The North Carolina State Ports Authority with respect to fees established
37 pursuant to G.S. 143B-454(a)(11).
- 38 (12) The Department of Commerce and the Economic Investment Committee in
39 developing criteria and administering the Site Infrastructure Development
40 Program under G.S. 143B-437.02.
- 41 (13) The Department of Commerce and the Governor's Office in developing
42 guidelines for the One North Carolina Fund under Part 2H of Article 10 of
43 Chapter 143B of the General Statutes.
- 44 (14) The Community Colleges System Office in developing guidelines for the
45 Community College Facilities and Equipment Fund.
- 46 (15) The Department of Commerce in developing guidelines for the North
47 Carolina Economic Development Reserve.
- 48 (16) The State Ethics Commission with respect to Chapter 138A and Chapter
49 120C of the General Statutes.

1 (17) The Department of Commerce in developing guidelines for the NC Green
2 Business Fund under Part 2B of Article 10 of Chapter 143B of the General
3 Statutes.

4 (18) The Department of Commerce and the Economic Investment Committee in
5 developing criteria and administering the Job Maintenance and Capital
6 Development Fund under G.S. 143B-437.012.

7 (19) The Community Colleges System Office in developing criteria and
8 guidelines administering the Customized Training Program under
9 G.S. 115D-5.1."

10 **SECTION 2.(b)** G.S. 115D-5.1 reads as rewritten:

11 **"§ 115D-5.1. Workforce Development Programs.**

12 ...

13 (f1) Notwithstanding any other provision of law, the State Board of Community
14 Colleges may adopt ~~rules and~~ guidelines that allow the Customized Training Program and the
15 Focused Industrial Training Program to use funds appropriated for those programs to support
16 training projects for the various branches of the United States Armed Forces.

17 ...

18 (g) The State Board shall adopt ~~rules and policies~~guidelines to implement this section.
19 At least 20 days before the effective date of any criteria or nontechnical amendments to
20 guidelines, the State Board must publish the proposed guidelines on the Community Colleges
21 System Office's web site and provide notice to persons who have requested notice of proposed
22 guidelines. In addition, the State Board must accept oral and written comments on the
23 proposed guidelines during the 15 business days beginning on the first day that the State Board
24 has completed these notifications. For the purpose of this subsection, a technical amendment is
25 either of the following:

26 (1) An amendment that corrects a spelling or grammatical error.

27 (2) An amendment that makes a clarification based on public comment and
28 could have been anticipated by the public notice that immediately preceded
29 the public comment."

30 **SECTION 3.(a)** G.S. 153A-312 reads as rewritten:

31 **"§ 153A-312. Definition of research and production service district.**

32 (a) Standards. – The board of commissioners may by resolution establish a research and
33 production service district for any area of the county that, at the time the resolution is adopted,
34 meets the following standards:

35 (1) All (i) real property in the district is being used for or is subject to covenants
36 that limit its use to research or scientifically-oriented production or for
37 associated commercial or institutional ~~purposes-~~purposes or (ii) if all the real
38 property in the district is part of a multijurisdictional industrial park that
39 satisfies the criteria of G.S. 143B-437.08(h), all such real property in the
40 district is subject to covenants that limit its use to research or scientifically
41 oriented production, associated commercial or institutional purposes, or
42 other industrial and associated commercial and institutional uses.

43 (2) The district (i) contains at least 4,000 ~~acres-~~acres or (ii) satisfies the criteria
44 of G.S. 143B-437.08(h).

45 (3) The district (i) includes research and production facilities that in
46 combination employ at least 5,000 ~~persons-~~persons or (ii) satisfies the
47 criteria of G.S. 143B-437.08(h).

48 (4) All real property located in the district was at one time or is currently owned
49 by a nonprofit corporation, which developed or is developing the property as
50 a research and production park.

- 1 (5) A petition requesting creation of the district signed by at least fifty percent
2 (50%) of the owners of real property in the district who own at least fifty
3 percent (50%) of total area of the real property in the district has been
4 presented to the board of commissioners. In determining the total area of real
5 property in the district and the number of owners of real property, there shall
6 be excluded (1) real property exempted from taxation and real property
7 classified and excluded from taxation and (2) the owners of such exempted
8 or classified and excluded property.
- 9 (6) The district has no more than 25 permanent residents.
- 10 (7) There exists in the district an association of owners and tenants, to which at
11 least seventy-five percent (75%) of the owners of real property belong,
12 which association can make the recommendations provided for in
13 G.S. 153A-313. This subdivision shall not apply to a research and
14 production service district that satisfies the criteria of G.S. 143B-437.08(h).
- 15 (8) There exist-exists, or will exist when conveyed by the nonprofit corporation
16 described in subdivision (4) of this subsection, deed-imposed conditions,
17 covenants, restrictions, and reservations that apply to all real property in the
18 district other than property owned by the federal government.
- 19 (9) No part of the district lies within the boundaries of any incorporated city or
20 town.

21 The Board of Commissioners may establish a research and production service district if,
22 upon the information and evidence it receives, the Board finds that:

- 23 (1) The proposed district meets the standards set forth in this subsection; and
24 (2) It is impossible or impracticable to provide on a countywide basis the
25 additional or higher levels of services, facilities, or functions proposed for
26 the district; and
27 (3) It is economically feasible to provide the proposed services, facilities, or
28 functions to the district without unreasonable or burdensome tax levies.

29 (b) Multi-County Districts. – If an area that meets the standards for creation of a
30 research and production service district lies in more than one county, the boards of
31 commissioners of those counties may adopt concurrent resolutions establishing a service
32 district, even if that portion of the district lying in any one of the counties does not by itself
33 meet the standards. Each of the county boards of commissioners shall follow the procedure set
34 out in this section for creation of a service district.

35 If a multi-county service district is established, as provided in this subsection, the boards of
36 commissioners of the counties involved shall jointly determine whether the same appraisal and
37 assessment standards apply uniformly throughout the district. This determination shall be set
38 out in concurrent resolutions of the boards. If the same appraisal and assessment standards
39 apply uniformly throughout the district, the boards of commissioners of all the counties shall
40 levy the same rate of tax for the district, so that a uniform rate of tax is levied for district
41 purposes throughout the district. If the boards determine that the same standards do not apply
42 uniformly throughout the district, the boards shall agree on the extent of divergence between
43 the counties and on the resulting adjustments of tax rates that will be necessary in order that an
44 effectively uniform rate of tax is levied for district purposes throughout the district.

45 The boards of commissioners of the counties establishing a multi-county service district
46 pursuant to this subsection may, by concurrent resolution, provide for the administration of
47 services within the district by one ~~county~~ or more counties on behalf of all the establishing
48 counties.

49 (c) Report. – Before the public hearing required by subsection (d), the board of
50 commissioners shall cause to be prepared a report containing:

- 51 (1) A map of the proposed district, showing its proposed boundaries;

- 1 (2) A statement showing that the proposed district meets the standards set out in
2 subsection (a); and
3 (3) A plan for providing one or more services, facilities, or functions to the
4 district.

5 The report shall be available for public inspection in the office of the clerk to the board for
6 at least four weeks before the date of the public hearing.

7 (d) Hearing and Notice. – The board of commissioners shall hold a public hearing
8 before adopting any resolution defining a service district under this section. Notice of the
9 hearing shall state the date, hour, and place of the hearing and its subject, and shall include a
10 map of the proposed district and a statement that the report required by subsection (c) is
11 available for public inspection in the office of the clerk to the board. The notice shall be
12 published at least once not less than one week before the date of the hearing. In addition, it
13 shall be mailed at least four weeks before the date of the hearing by any class of U.S. mail
14 which is fully prepaid to the owners as shown by the county tax records as of the preceding
15 January 1 (and at the address shown thereon) of all property located within the proposed
16 district. The person designated by the board to mail the notice shall certify to the board that the
17 mailing has been completed and his certificate is conclusive in the absence of fraud.

18 (e) Effective Date. – The resolution defining a service district shall take effect at the
19 beginning of a fiscal year commencing after its passage, as determined by the board of
20 commissioners."

21 **SECTION 3.(b)** G.S. 153A-313 reads as rewritten:

22 "**§ 153A-313. Advisory committee.**

23 (a) The board or boards of commissioners, in the resolution establishing a research and
24 production service district, shall also provide for an advisory committee for the district. Such a
25 committee shall have at least 10 members, serving terms as set forth in the resolution; one
26 member shall be the representative of the developer of the research and production park. The
27 resolution shall provide for the appointment or designation of a chairman. The board of
28 commissioners or, in the case of a multi-county service district, the boards of commissioners
29 shall appoint the members of the advisory committee. If a multi-county service district is
30 established, the concurrent resolutions establishing the district shall provide how many
31 members of the advisory committee are to be appointed by each board of commissioners.
32 Before making the appointments, the appropriate board shall request the association of owners
33 and tenants, required by G.S. 153A-312(a), to submit a list of persons to be considered for
34 appointment to the committee; the association shall submit at least two names for each
35 appointment to be made. Except as provided in the next two sentences, the board of
36 commissioners shall make the appointments to the committee from the list of persons
37 submitted. In addition, the developer of the research and production park shall appoint one
38 person to the advisory committee as the developer's representative on the committee. In
39 addition, in a single county service district, the board of commissioners may make two
40 additional appointments of such other persons as the board of commissioners deems
41 appropriate, and in a multi-county service district, each board of county commissioners may
42 make one additional appointment of such other person as that board of commissioners deems
43 appropriate. Whenever a vacancy occurs on the committee in a position filled by appointment
44 by a board of commissioners, the appropriate board, before filling the vacancy, shall request the
45 association to submit the names of at least two persons to be considered for the vacancy; and
46 the board shall fill the vacancy by appointing one of the persons so submitted, except that if the
47 vacancy is in a position appointed by the board of commissioners under the preceding sentence
48 of this section, the board of commissioners making that appointment shall fill the vacancy with
49 such person as that board of commissioners deems appropriate.

50 Each year, before adopting the budget for the service district and levying the tax for the
51 district, the board or boards of commissioners shall request recommendations from the advisory

1 committee as to the level of services, facilities, or functions to be provided for the district for
2 the ensuing year. The board or boards of commissioners shall, to the extent permitted by law,
3 expend the proceeds of any tax levied for the district in the manner recommended by the
4 advisory board.

5 (b) In the event that the research and production service district satisfies the criteria of
6 G.S. 143B-437.08(h), the board of directors for the nonprofit corporation which owns the
7 industrial park shall serve as the advisory committee described in subsection (a) of this
8 section."

9 **SECTION 3.(c)** G.S. 153A-317 reads as rewritten:

10 **"§ 153A-317. Taxes authorized; rate limitation.**

11 A county may levy property taxes within a research and production service district in
12 addition to those levied throughout the county, in order to finance, provide, or maintain for the
13 district services provided therein in addition to or to a greater extent than those financed,
14 provided, or maintained for the entire county. In addition, a county may allocate to a service
15 district any other revenues whose use is not otherwise restricted by law. The proceeds of taxes
16 only within a service district may be expended only for services provided for the district.

17 Property subject to taxation in a newly established district or in an area annexed to an
18 existing district is that subject to taxation by the county as of the preceding January 1.

19 Such additional property taxes may not be levied within any district established pursuant to
20 this Article in excess of a rate of ten cents (10¢) on each one hundred dollars (\$100.00) value of
21 property subject to ~~taxation~~-taxation or, in the event that the research and production service
22 district satisfies the criteria of G.S. 143B-437.08(h), such additional property taxes may not be
23 levied within said district in excess of a rate of fifteen cents (15¢) on each one hundred dollars
24 (\$100.00) value of property subject to taxation."

25 **SECTION 4.** This act is effective when it becomes law. Subsections (b) and (c) of
26 Section 1 of this act expire July 1, 2012.