

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 884*
Committee Substitute Favorable 5/11/09
Committee Substitute #2 Favorable 5/12/09
Senate Finance Committee Substitute Adopted 8/7/09

Short Title: JMAC Modifications.

(Public)

Sponsors:

Referred to:

March 31, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE REQUIREMENTS FOR A GRANT FROM THE JOB
3 MAINTENANCE AND CAPITAL DEVELOPMENT FUND.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 143B-437.012 reads as rewritten:

6 "§ 143B-437.012. Job Maintenance and Capital Development Fund.

7 ...

8 (d) Eligibility. – A business ~~that satisfies all of the following conditions~~ is eligible for
9 consideration for a grant under this ~~section~~ section if it satisfies the conditions of either
10 subdivision (1) or (2) of this subsection and satisfies the conditions of both subdivisions (3) and
11 (4) of this subsection:

12 (1) The business is a major employer. A business is a major employer if the
13 business meets the following requirements:

14 a. The Department certifies that the business has invested or intends to
15 invest at least two hundred million dollars (\$200,000,000) of private
16 funds in improvements to real property and additions to tangible
17 personal property in the project within a six-year period beginning
18 with the time the investment commences.

19 b. The business employs at least 2,000 full-time employees or
20 equivalent full-time contract employees at the project that is the
21 subject of the grant at the time the application is made, and the
22 business agrees to maintain at least 2,000 full-time employees or
23 equivalent full-time contract employees at the project for the full
24 term of the grant agreement.

25 (2) ~~The business employs at least 2,000 full-time employees or equivalent~~
26 ~~full-time contract employees at the project that is the subject of the grant at~~
27 ~~the time the application is made, and the business agrees to maintain at least~~
28 ~~2,000 full-time employees or equivalent full-time contract employees at the~~
29 ~~project for the full term of the grant agreement. is a large manufacturing~~
30 ~~employer. A business is a large manufacturing employer if the business~~
31 ~~meets the following requirements:~~

32 a. The business is in manufacturing, as defined in G.S. 105-129.81, and
33 is converting its manufacturing process to change the product it
34 manufactures.



1 **b.** The Department certifies that the business has invested or intends to
2 invest at least sixty-five million dollars (\$65,000,000) of private
3 funds in improvements to real property and additions to tangible
4 personal property in the project within a three-year period beginning
5 with the time the investment commences.

6 **c.** The business employs at least 320 full-time employees at the project
7 that is the subject of the grant at the time the application is made, and
8 the business agrees to maintain at least 320 full-time employees at
9 the project for the full term of the grant.

10 (3) The project is located in a development tier one area at the time the business
11 applies for a grant.

12 (4) All newly hired employees of the business must be citizens of the United
13 States, or have proper identification and documentation of their authorization
14 to reside and work in the United States.

15 ...

16 (j) Agreement. – Unless the Secretary of Commerce determines that the project is no
17 longer eligible or appropriate for a grant under this section, the Department shall enter into an
18 agreement to provide a grant or grants for a project recommended by the Committee. Each
19 grant agreement is binding and constitutes a continuing contractual obligation of the State and
20 the business. The grant agreement shall include the performance criteria, remedies, and other
21 safeguards recommended by the Committee or required by the Department. ~~Each~~

22 Each grant agreement for a business that is a major employer under subdivision (1) of
23 subsection (d) of this section shall contain a provision prohibiting a business from receiving a
24 payment or other benefit under the agreement at any time when the business has received a
25 notice of an overdue tax debt and the overdue tax debt has not been satisfied or otherwise
26 resolved. Each grant agreement shall contain a provision requiring the business to maintain the
27 employment level at the project that is the subject of the agreement that is the lesser of the level
28 it had at the time it applied for a grant under this section or that it had at the time that the
29 investment required under subsection (d) of this section began. For the purposes of this
30 subsection, the employment level includes full-time employees and equivalent full-time
31 contract employees. The agreement shall further specify that the amount of a grant shall be
32 reduced in proportion to the extent the business fails to maintain employment at this level and
33 that the business shall not be eligible for a grant in any year in which its employment level is
34 less than eighty percent (80%) of that required. A

35 Each grant agreement for a business that is a large manufacturing employer under
36 subdivision (2) of subsection (d) of this section shall contain a provision requiring the business
37 to maintain the employment level required under that subdivision at the project that is the
38 subject of the grant. The agreement shall further specify that the business is not eligible for a
39 grant in any year in which the business fails to maintain the employment level.

40 A grant agreement may obligate the State to make a series of grant payments over a period
41 of up to 10 years. Nothing in this section constitutes or authorizes a guarantee or assumption by
42 the State of any debt of any business or authorizes the taxing power or the full faith and credit
43 of the State to be pledged.

44 The Department shall cooperate with the Attorney General's office in preparing the
45 documentation for the grant agreement. The Attorney General shall review the terms of all
46 proposed agreements to be entered into under this section. To be effective against the State, an
47 agreement entered into under this section shall be signed personally by the Attorney General.

48 (k) Safeguards. – To ensure that public funds are used only to carry out the public
49 purposes provided in this section, the Department shall require that each business that receives
50 a grant under this section shall agree to meet performance criteria to protect the State's
51 investment and ensure that the projected benefits of the project are secured. The performance

1 criteria to be required shall include maintenance of an appropriate level of employment at
2 specified levels of compensation, maintenance of health insurance for all full-time employees,
3 investment of a specified amount over the term of the agreement, and any other criteria the
4 Department considers appropriate. The agreement shall require the business to repay or
5 reimburse an appropriate portion of the grant based on the extent of any failure by the business
6 to meet the performance criteria. The agreement shall require the business to repay all amounts
7 received under the agreement and to forfeit any future grant payments if the business fails to
8 satisfy the investment eligibility requirement of subdivision (d)(1) or (d)(2) of this section. The
9 use of contract employees shall not be used to reduce compensation at the project that is the
10 subject of the agreement.

11 ...

12 (n) Limitations. – The Department may enter into no more than five agreements under
13 this section. The total aggregate cost of all agreements entered into under this section may not
14 exceed ~~sixty-sixty-nine~~ million dollars ~~(\$60,000,000)-(\$69,000,000)~~. The total annual cost of
15 an agreement entered into under this section may not exceed ~~four-six~~ million dollars
16 ~~(\$4,000,000)-(\$6,000,000)~~."

17 **SECTION 2.** This act is effective when it becomes law.