

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

D

HOUSE BILL 1514
PROPOSED COMMITTEE SUBSTITUTE H1514-PCS50773-SVx-50

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

(Public)

Sponsors:

Referred to:

April 20, 2009

A BILL TO BE ENTITLED

AN ACT TO EXPAND ECONOMICALLY DISTRESSED COUNTIES TO INCLUDE ALL TIER ONE AND TIER TWO COUNTIES, TO INCREASE THE MAXIMUM EXPENDITURE OF FUNDS FROM THE INDUSTRIAL DEVELOPMENT FUND, TO EXEMPT FROM RULE MAKING THE CUSTOMIZED TRAINING PROGRAM UNDER THE COMMUNITY COLLEGE SYSTEM, AND TO AMEND THE COUNTY SERVICE DISTRICT ACT OF 1973 TO ALLOW ADDITIONAL COUNTY RESEARCH AND PRODUCTION SERVICE DISTRICTS.

The General Assembly of North Carolina enacts:

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

"§ 143B-437.01. Industrial Development Fund.

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

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

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



* H 1 5 1 4 - P C S 5 0 7 7 3 - S V X - 5 0 *

- 1 (2) The funds shall be used by the city and county governments for projects that
 2 will directly result in the creation or retention of new jobs. The funds shall
 3 be expended at a maximum rate of ~~five thousand dollars (\$5,000)~~ten
 4 thousand dollars (\$10,000) per new job created or per job retained up to a
 5 maximum of five hundred thousand dollars (\$500,000) per project.
- 6 (3) There shall be no local match requirement if the project is located in a
 7 county that has one of the 25 highest rankings under G.S. 143B-437.08 or
 8 that has a population of less than 50,000 and more than nineteen percent
 9 (19%) of its population below the federal poverty level according to the most
 10 recent federal decennial census.
- 11 (4) The Department may authorize a local government that receives funds under
 12 this section to use up to two percent (2%) of the funds, if necessary, to verify
 13 that the funds are used only in accordance with law and to otherwise
 14 administer the grant or loan.
- 15 (5) No project subject to the Environmental Policy Act, Article 1 of Chapter
 16 113A of the General Statutes, shall be funded unless the Secretary of
 17 Commerce finds that the proposed project will not have a significant adverse
 18 effect on the environment. The Secretary of Commerce shall not make this
 19 finding unless the Secretary has first received a certification from the
 20 Department of Environment and Natural Resources that concludes, after
 21 consideration of avoidance and mitigation measures, that the proposed
 22 project will not have a significant adverse effect on the environment.
- 23 (6) The funds shall not be used for any nonmanufacturing project that does not
 24 meet the wage standard set out in G.S. 105-129.4(b)."

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

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

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

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

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

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

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

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

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

11 "(g) The State Board shall adopt ~~rules and~~ policies to implement this section."

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

13 **"§ 153A-312. Definition of research and production service district.**

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

17 (1) All (i) real property in the district is being used for or is subject to covenants
18 that limit its use to research or scientifically-oriented production or for
19 associated commercial or institutional purposes.~~purposes or~~ (ii) if all the real
20 property in the district is part of a multijurisdictional industrial park that
21 satisfies the criteria of G.S. 143B-437.08(h), all such real property in the
22 district is subject to covenants that limit its use to research or scientifically
23 oriented production, associated commercial or institutional purposes, or
24 other industrial and associated commercial and institutional uses.

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

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

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

33 (5) A petition requesting creation of the district signed by at least fifty percent
34 (50%) of the owners of real property in the district who own at least fifty
35 percent (50%) of total area of the real property in the district has been
36 presented to the board of commissioners. In determining the total area of real
37 property in the district and the number of owners of real property, there shall
38 be excluded (1) real property exempted from taxation and real property
39 classified and excluded from taxation and (2) the owners of such exempted
40 or classified and excluded property.

41 (6) The district has no more than 25 permanent residents.

42 (7) There exists in the district an association of owners and tenants, to which at
43 least seventy-five percent (75%) of the owners of real property belong,
44 which association can make the recommendations provided for in
45 G.S. 153A-313. This subdivision shall not apply to a research and
46 production service district that satisfies the criteria of G.S. 143B-437.08(h).

47 (8) There exist~~exists,~~ or will exist when conveyed by the nonprofit corporation
48 described in subdivision (4) of this subsection, deed-imposed conditions,
49 covenants, restrictions, and reservations that apply to all real property in the
50 district other than property owned by the federal government.

1 (9) No part of the district lies within the boundaries of any incorporated city or
2 town.

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

5 (1) The proposed district meets the standards set forth in this subsection; and

6 (2) It is impossible or impracticable to provide on a countywide basis the
7 additional or higher levels of services, facilities, or functions proposed for
8 the district; and

9 (3) It is economically feasible to provide the proposed services, facilities, or
10 functions to the district without unreasonable or burdensome tax levies.

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

17 If a multi-county service district is established, as provided in this subsection, the boards of
18 commissioners of the counties involved shall jointly determine whether the same appraisal and
19 assessment standards apply uniformly throughout the district. This determination shall be set
20 out in concurrent resolutions of the boards. If the same appraisal and assessment standards
21 apply uniformly throughout the district, the boards of commissioners of all the counties shall
22 levy the same rate of tax for the district, so that a uniform rate of tax is levied for district
23 purposes throughout the district. If the boards determine that the same standards do not apply
24 uniformly throughout the district, the boards shall agree on the extent of divergence between
25 the counties and on the resulting adjustments of tax rates that will be necessary in order that an
26 effectively uniform rate of tax is levied for district purposes throughout the district.

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

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

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

34 (2) A statement showing that the proposed district meets the standards set out in
35 subsection (a); and

36 (3) A plan for providing one or more services, facilities, or functions to the
37 district.

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

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

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

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

5 "**§ 153A-313. Advisory committee.**

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

33 Each year, before adopting the budget for the service district and levying the tax for the
34 district, the board or boards of commissioners shall request recommendations from the advisory
35 committee as to the level of services, facilities, or functions to be provided for the district for
36 the ensuing year. The board or boards of commissioners shall, to the extent permitted by law,
37 expend the proceeds of any tax levied for the district in the manner recommended by the
38 advisory board.

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

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

44 "**§ 153A-317. Taxes authorized; rate limitation.**

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

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

3 Such additional property taxes may not be levied within any district established pursuant to
4 this Article in excess of a rate of ten cents (10¢) on each one hundred dollars (\$100.00) value of
5 property subject to ~~taxation~~ taxation or, in the event that the research and production service
6 district satisfies the criteria of G.S. 143B-437.08(h), such additional property taxes may not be
7 levied within said district in excess of a rate of fifteen cents (15¢) on each one hundred dollars
8 (\$100.00) value of property subject to taxation."

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