

FAILED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 763*

AMENDMENT NO. A4
(to be filled in by
Principal Clerk)

S763-AMC-126 [v.1]

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Comm. Sub. [YES]
Amends Title [NO]
Fifth Edition

Date _____, 2014

Representative Iler

1 moves to amend the bill on page 17, lines 4-5, by inserting between the lines the following
2 language to read:

3 "SECTION 25.1.(a) Section 15.19(a1) of S.L. 2013-360 reads as rewritten:

4 "SECTION 15.19.(a1) Notwithstanding G.S. 143B-437.52(c), for the 2013-2015 fiscal
5 biennium, the maximum total liability for grants awarded, including amounts transferred to the
6 Utility Account pursuant to G.S. 143B-437.61, is ~~twenty-two million five hundred thousand~~
7 ~~dollars (\$22,500,000)~~ thirty-six million five hundred thousand dollars (\$36,500,000) and, for the
8 period from July 1, 2015, to December 31, 2015, the maximum total liability for grants
9 awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is
10 seven million five hundred thousand dollars (\$7,500,000). No agreement may be entered into
11 that, when considered together with other existing agreements governing grants awarded during
12 an applicable time period provided in this subsection, could cause the State's potential total
13 ~~annual~~ liability for grants awarded in that time period to exceed the designated maximum
14 amount."

15 SECTION 25.1.(b) G.S. 143B-437.52 reads as rewritten:

16 "§ 143B-437.52. Job Development Investment Grant Program.

17 (a) Program. – There is established the Job Development Investment Grant Program to
18 be administered by the Economic Investment Committee. In order to foster job creation and
19 investment in the economy of this State, the Committee may enter into agreements with
20 businesses to provide grants in accordance with the provisions of this ~~Part~~ Subpart. The
21 Committee, in consultation with the Attorney General, shall develop criteria to be used in
22 determining whether the conditions of this section are satisfied and whether the project
23 described in the application is otherwise consistent with the purposes of this ~~Part~~ Subpart.
24 Before entering into an agreement, the Committee must find that all the following conditions
25 are met:

- 26 ...
27 (5) The total benefits of the project to the State outweigh its costs and render the
28 grant appropriate for the project. If the total costs of the project to the State
29 outweigh the benefits as a result of an award from the Job Catalyst Fund
30 under Subpart B of this Part, the Committee may disregard the Job Catalyst
31 Fund award in determining whether a grant is appropriate for the project.

32"



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1 **SECTION 25.1.(c)** G.S. 143B-437.55 is amended by adding a new subsection to
2 read:

3 "(c1) Monthly Reports. – The Committee shall, on the last day of each month other than
4 the month of April, report electronically on the Job Development Investment Grant Program.
5 The Committee shall submit the report, for months that, on the due date, the General Assembly
6 is not in session, to the Revenue Laws Study Committee and the Fiscal Research Division and
7 shall submit the report, for months that, on the due date, the General Assembly is in session, to
8 the House of Representatives Finance Committee, the Senate Finance Committee, and the
9 Fiscal Research Division. The report shall include each of the following:

10 (1) The total liability for grants awarded in a period, the remaining amount of
11 liability for grants that may be awarded in that period, and the maximum
12 amount of total liability for which grants may be awarded in that period.

13 (2) A listing of each grant awarded during the period, including, for each grant,
14 the name of the business, the term of the grant, the percentage of
15 withholdings used to determine the amount of the grant, the annual
16 maximum State liability under the grant, and the maximum total lifetime
17 State liability under the grant, jobs anticipated to be created at the project,
18 average wage anticipated for jobs at the project, amount of money
19 anticipated to be invested by the business at the project, and the total amount
20 anticipated to be annually transferred to the Utility Account under this
21 Subpart."

22 **SECTION 25.1.(d)** G.S. 143B-437.52(a), as rewritten by Section 4(b) of this act,
23 reads as rewritten:

24 "(a) Program. – There is established the Job Development Investment Grant Program to
25 be administered by the Economic Investment Committee. In order to foster job creation and
26 investment in the economy of this State, the Committee may enter into agreements with
27 businesses to provide grants in accordance with the provisions of this Subpart. The Committee,
28 in consultation with the Attorney General, shall develop criteria to be used in determining
29 whether the conditions of this section are satisfied and whether the project described in the
30 application is otherwise consistent with the purposes of this Subpart. Before entering into an
31 agreement, the Committee must find that all the following conditions are met:

32 ...
33 (5) The total benefits of the project to the State outweigh its costs and render the
34 grant appropriate for the project. ~~If the total costs of the project to the State~~
35 ~~outweigh the benefits as a result of an award from the Job Catalyst Fund~~
36 ~~under Subpart B of this Part, the Committee may disregard the Job Catalyst~~
37 ~~Fund award in determining whether a grant is appropriate for the project."~~

38 **SECTION 25.1.(e)** Section 25.1(d) of this act becomes effective July 1, 2015.

39 **SECTION 25.2.(a)** The title of Part 2G of Article 10 of Chapter 143B of the
40 General Statutes reads as rewritten:

41 "Part 2G. Job Development Investment Grant Program-Development."

42 **SECTION 25.2.(b)** G.S. 143B-437.51 reads as rewritten:

43 "**§ 143B-437.51. Definitions.**

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The following definitions apply in this Part:

...

(6) Full-time employee. – A person who is employed for consideration for at least 35 hours a week, whose wages are subject to withholding under Article 4A of Chapter 105 of the General Statutes, and who is determined by the Committee to be employed in a permanent position according to criteria it develops in consultation with the Attorney General. The term does not include any person who works as an independent contractor or on a consulting basis for the business.

(6a) Full-time worker. – A person who is employed for consideration for at least 35 hours a week, whose wages are subject to withholding under Article 4A of Chapter 105 of the General Statutes, and who is determined by the Department to be employed in a permanent position. The term does not include any person who works as an independent contractor or on a consulting basis for the business.

(7) New employee. – A full-time employee or a full-time worker who represents a net increase in the number of the business's employees or workers statewide.

...."

SECTION 25.2.(c) G.S. 143B-437.52 reads as rewritten:

"Subpart A. Job Development Investment Grant Program.

"§ 143B-437.52. Job Development Investment Grant Program.

(a) Program. – There is established the Job Development Investment Grant Program to be administered by the Economic Investment Committee. In order to foster job creation and investment in the economy of this State, the Committee may enter into agreements with businesses to provide grants in accordance with the provisions of this Part. The Committee, in consultation with the Attorney General, shall develop criteria to be used in determining whether the conditions of this section are satisfied and whether the project described in the application is otherwise consistent with the purposes of this Part. Before entering into an agreement, the Committee must find that all the following conditions are met:

...."

SECTION 25.2.(d) The Revisor of Statutes is authorized to change references of "this Part" in Subpart A of Part 2G of Article 10 of Chapter 143B of the General Statutes to "this Subpart" as appropriate.

SECTION 25.2.(e) Part 2G of Article 10 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart B. Job Catalyst Fund.

"§ 143B-437.67. Job Catalyst Fund.

(a) Creation and Purpose of Fund. – There is created in the Department of Commerce a special, nonreverting account to be known as the Job Catalyst Fund to provide funds to a local governmental unit for projects that result in the creation of jobs. The Secretary of Commerce is solely responsible for the administration of the program and shall adopt guidelines applicable to

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1 program administration. The guidelines shall include the following provisions, which shall
2 apply to each grant from the account:

3 (1) The funds are reserved for a project for which a business agrees to create and
4 maintain, for the greater of 10 years or a time period not less than the sum of
5 the full term of the grant plus five years, the number of new worker positions
6 at the project as follows:

7 a. For development tier one areas, 500 full-time workers.

8 b. For development tier two areas, 800 full-time workers.

9 c. For development tier three areas, 1,200 full-time workers.

10 (2) The funds are reserved for a project for which a business agrees to make an
11 investment at the project as provided in this subdivision. The investment
12 required by this subdivision must be private funds in improvements to real
13 property and additions to tangible personal property located at the project for
14 the greater of 10 years or a time period not less than the sum of the full term
15 of the grant plus five years. The investment must be commenced no later
16 than the time when the first disbursement is made to the business and must
17 be completed no later than five years from the time the first disbursement is
18 made to the business. Tangible personal property transferred by the business
19 or from a related member of the business from one area in the State to the
20 project is not considered an investment in tangible personal property located
21 at the project for purposes of this section. The Department shall certify the
22 amount of the investment made by the business at the project. The minimum
23 investment at the project the business agrees to make is as follows:

24 a. For development tier one areas, twenty million dollars (\$20,000,000).

25 b. For development tier two areas, thirty-five million dollars
26 (\$35,000,000).

27 c. For development tier three areas, fifty million dollars (\$50,000,000).

28 (3) The funds are (i) used to acquire or improve land or infrastructure, for
29 facility development, or for capital investment and (ii) used for
30 manufacturing projects. For purposes of this subdivision, "manufacturing" is
31 defined in G.S. 143B-437.01.

32 (4) The funds are provided to a local governmental unit, and the local
33 governmental unit matches a portion of the funds allocated by the
34 Department as provided in this subdivision. A local match may include cash,
35 fee waivers, in-kind services, the donation of assets, the provision of
36 infrastructure, or a combination. The local match requirement is as follows:

37 a. For development tier one areas, a local match of at least three dollars
38 (\$3.00) for every one hundred dollars (\$100.00) from the State is
39 required.

40 b. For development tier two areas, a local match of at least six dollars
41 (\$6.00) for every one hundred dollars (\$100.00) from the State is
42 required.

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- 1 c. For development tier three areas, a local match of at least nine dollars
2 (\$9.00) for every one hundred dollars (\$100.00) from the State is
3 required.
- 4 (5) The funds are reserved for a project for which a business agrees to meet, for
5 the greater of 10 years or a time period not less than the sum of the full term
6 of the grant plus five years, the wage standard provided in this subdivision
7 for all full-time workers at the project. In making the wage calculation, all
8 full-time position jobs filled during the year for at least 1,600 hours are
9 included. The required wage standard is as follows:
- 10 a. For development tier one and two areas, an average weekly wage that
11 is at least equal to one hundred percent (100%) of the average wage
12 for all insured private employers in the county.
- 13 b. For development tier three areas, an average weekly wage that is at
14 least equal to one hundred ten percent (110%) of the average wage
15 for all insured private employers in the county.
- 16 (6) The funds are reserved for projects for which a business agrees to meet, for
17 the greater of 10 years or a time period not less than the sum of the full term
18 of the grant plus five years, a requirement to provide health insurance for all
19 full-time workers at the project. For purposes of this subdivision, a business
20 provides health insurance if it pays at least fifty percent (50%) of the
21 premiums for health care coverage that equals or exceeds the minimum
22 provisions of the basic health care plan of coverage recommended by the
23 Small Employer Carrier Committee pursuant to G.S. 58-50-125. A business
24 shall provide a certification that it continues to provide health insurance as
25 required by this subdivision.
- 26 (7) The funds are not used for a project at which is located, during the greater of
27 10 years or a time period not less than the sum of the full term of the grant
28 plus five years, a business that has received a notice of an overdue tax debt
29 and that overdue tax debt has not been satisfied or otherwise resolved.
- 30 (8) The funds are not used in favor of jobs created or property investments made
31 for which a business receives a tax credit under Article 3J of Chapter 105 of
32 the General Statutes.
- 33 (9) The funds are reserved for projects for a business that has no citations under
34 the Occupational Safety and Health Act that have become a final order
35 within the past three years for willful serious violations or for failing to abate
36 serious violations. In addition, the business must, for the greater of 10 years
37 or a time period not less than the sum of the full term of the grant plus five
38 years, have no citations under the Occupational Safety and Health Act that
39 have become a final order within the past three years for willful serious
40 violations or for failing to abate serious violations with respect to the project.
41 For purposes of this subsection, "serious violation" has the same meaning as
42 in G.S. 95-127.

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1 (10) The funds are not used for a project that consists of a professional or
2 semiprofessional sports team or club or a project that consists solely of retail
3 facilities. If a project consists of both retail facilities and nonretail facilities,
4 only the portion of the project consisting of nonretail facilities is eligible for
5 a grant, and only full-time workers employed exclusively in the portion of
6 the project that represents nonretail facilities may be counted for purposes of
7 fulfilling the new worker position requirement. If a warehouse facility is part
8 of a retail facility and supplies only that retail facility, the warehouse facility
9 investment and full-time workers are not counted for purposes of the
10 requirements of this section. For the purposes of this Subpart, catalog
11 distribution centers are not retail facilities.

12 (b) Forfeiture. – If the business at the project fails to timely create and maintain the
13 required new jobs, to timely make the required level of investment, or to otherwise meet the
14 requirements of this section, the local governmental unit shall provide a means to recapture
15 from the business at the project an amount equal to the amount disbursed from the Fund for the
16 project, and the local governmental unit must reimburse the Fund for that disbursement.

17 (c) Records. – A business located at a project for which a grant was made from the
18 Fund shall maintain records and make available for inspection by the Secretary of Commerce
19 any records the Secretary considers necessary to determine and verify the business has met the
20 requirements of this section.

21 (d) Report. – The Department shall publish a report on the Job Catalyst Fund on or
22 before April 30 of each year. The Department shall submit the report electronically to the
23 House of Representatives Finance Committee, the Senate Finance Committee, the House of
24 Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate
25 Appropriations Committee on Natural and Economic Resources, and the Fiscal Research
26 Division. The report shall include the following:

27 (1) A listing of each grant awarded during the preceding calendar year,
28 including the name of the business locating at the project, a description of
29 the project, the term of the grant, and the liability under the grant.

30 (2) An update on the status of projects under grants awarded before the
31 preceding calendar year.

32 (3) The number and development tier area of new worker positions to be created
33 by projects with respect to which grants have been awarded.

34 (4) A listing of the employment level for all businesses located at projects with
35 respect to which grants have been awarded and any changes in those levels
36 from the level of the next preceding year.

37 (5) The wage levels of all new worker positions to be created at projects with
38 respect to which grants have been awarded, aggregated, and listed in
39 increments of ten thousand dollars (\$10,000) or other appropriate
40 increments.

41 (6) The number of awards made for projects for new businesses and the number
42 of awards made for projects for existing, expanding businesses in the
43 preceding calendar year.

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1 (7) The environmental impact of businesses at projects with respect to which
2 grants have been awarded.

3 (8) The geographic distribution of grants, by number and amount, awarded
4 under the program.

5 (9) For the first annual report after adoption of the guidelines developed by the
6 Department to implement this Subpart, a copy of such guidelines, and, for
7 subsequent reports, identification of any changes in those guidelines from
8 the previous calendar year."

9 **SECTION 25.2.(f)** The Secretary of Commerce shall develop guidelines related to
10 the administration of the Jobs Catalyst Fund, as authorized by this section, and to the selection
11 of projects. At least 20 days before the effective date of any guidelines or nontechnical
12 amendments to guidelines, the proposed guidelines must be published on the Department's Web
13 site and provide notice to persons who have requested notice of proposed guidelines. In
14 addition, the Department of Commerce shall accept oral and written comments on the proposed
15 guidelines during the 15 business days beginning on the first day the notice requirement of this
16 subsection have been completed. For purposes of this subsection, a technical amendment is one
17 that corrects a spelling or grammatical error or that makes a clarification based on public
18 comment and could have been anticipated by the public notice that immediately preceded the
19 public comment.

20 **SECTION 25.2.(g)** G.S. 150B-1(d) reads as rewritten:

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

23 ...
24 (10) The Economic Investment Committee in developing criteria for the Job
25 Development Investment Grant Program under ~~Part 2F~~Subpart A of Part 2G
26 of Article 10 of Chapter 143B of the General Statutes.

27 (10a) The Secretary of Commerce in developing criteria for the Job Catalyst Fund
28 under Subpart B of Part 2G of Article 10 of Chapter 143B of the General
29 Statutes.

30 "

31 **SECTION 25.2.(h)** G.S. 143B-437.07(c) reads as rewritten:

32 "(c) Economic Development Incentive. – An economic development incentive includes
33 any grant from the following programs: Job Development Investment Grant Program; the Job
34 Catalyst Fund; the Job Maintenance and Capital Development Fund; One North Carolina Fund;
35 and the Utility Account. The State also incents economic development through the use of tax
36 expenditures in the form of tax credits and refunds. The Department of Revenue must report
37 annually on these statutory economic development incentives, as required under G.S. 105-256."

38 **SECTION 25.2.(i)** This section is effective when it becomes law."
39

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SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____

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and vote information, is available in the
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