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SENATE DRS45141-MQ-55 (03/12)

Short Title: Econ. Dev./Job Catalyst Fund. (Public)

Sponsors: Senator Lowe (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE THE NORTH CAROLINA JOB CATALYST FUND.
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.** Part 2G of Article 10 of Chapter 143B of the General Statutes is
5 amended by adding a new Subpart to read:

6 "Subpart B. Job Catalyst Fund.

7 **"§ 143B-437.67. Job Catalyst Fund.**

8 (a) Creation and Purpose of Fund. – There is created in the Department of Commerce a
9 special, nonreverting account to be known as the Job Catalyst Fund to provide funds to a local
10 governmental unit for projects that result in the creation of jobs. The Secretary of Commerce is
11 solely responsible for the administration of the program and shall adopt guidelines applicable to
12 program administration. The guidelines shall include the following provisions, which shall
13 apply to each grant from the account:

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

18 a. For development tier one areas, 250 full-time workers.

19 b. For development tier two areas, 400 full-time workers.

20 c. For development tier three areas, 600 full-time workers.

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

35 a. For development tier one areas, ten million dollars (\$10,000,000).



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- 1 b. For development tier two areas, seventeen million five hundred
2 thousand dollars (\$17,500,000).
- 3 c. For development tier three areas, twenty-five million dollars
4 (\$25,000,000).
- 5 (3) The funds are (i) used to acquire or improve land or infrastructure, for
6 facility development, or for capital investment and (ii) used for
7 manufacturing projects. For purposes of this subdivision, "manufacturing" is
8 defined in G.S. 143B-437.01.
- 9 (4) The funds are provided to a local governmental unit, and the local
10 governmental unit matches a portion of the funds allocated by the
11 Department as provided in this subdivision. A local match may include cash,
12 fee waivers, in-kind services, the donation of assets, the provision of
13 infrastructure, or a combination of these. The local match requirement is as
14 follows:
- 15 a. For development tier one areas, a local match of at least three dollars
16 (\$3.00) for every one hundred dollars (\$100.00) from the State is
17 required.
- 18 b. For development tier two areas, a local match of at least six dollars
19 (\$6.00) for every one hundred dollars (\$100.00) from the State is
20 required.
- 21 c. For development tier three areas, a local match of at least nine dollars
22 (\$9.00) for every one hundred dollars (\$100.00) from the State is
23 required.
- 24 (5) The funds are reserved for a project for which a business agrees to meet, for
25 the greater of 10 years or a time period not less than the sum of the full term
26 of the grant plus five years, the wage standard provided in this subdivision
27 for all full-time workers at the project. In making the wage calculation, all
28 full-time position jobs filled during the year for at least 1,600 hours are
29 included. The required wage standard is as follows:
- 30 a. For development tier one and two areas, an average weekly wage that
31 is at least equal to one hundred percent (100%) of the average wage
32 for all insured private employers in the county.
- 33 b. For development tier three areas, an average weekly wage that is at
34 least equal to one hundred ten percent (110%) of the average wage
35 for all insured private employers in the county.
- 36 (6) The funds are reserved for projects for which a business agrees to meet, for
37 the greater of 10 years or a time period not less than the sum of the full term
38 of the grant plus five years, a requirement to provide health insurance for all
39 full-time workers at the project. For purposes of this subdivision, a business
40 provides health insurance if it pays at least fifty percent (50%) of the
41 premiums for health care coverage that equals or exceeds the minimum
42 provisions of the basic health care plan of coverage recommended by the
43 Small Employer Carrier Committee pursuant to G.S. 58-50-125. A business
44 shall provide a certification that it continues to provide health insurance as
45 required by this subdivision.
- 46 (7) The funds are not used for a project at which is located, during the greater of
47 10 years or a time period not less than the sum of the full term of the grant
48 plus five years, a business that has received a notice of an overdue tax debt
49 and that overdue tax debt has not been satisfied or otherwise resolved.

1 (8) The funds are not used in favor of jobs created or property investments made
2 for which a business receives a tax credit under Article 3J of Chapter 105 of
3 the General Statutes.

4 (9) The funds are reserved for projects for a business that has no citations under
5 the Occupational Safety and Health Act that have become a final order
6 within the past three years for willful serious violations or for failing to abate
7 serious violations. In addition, the business must, for the greater of 10 years
8 or a time period not less than the sum of the full term of the grant plus five
9 years, have no citations under the Occupational Safety and Health Act that
10 have become a final order within the past three years for willful serious
11 violations or for failing to abate serious violations with respect to the project.
12 For purposes of this subsection, "serious violation" has the same meaning as
13 in G.S. 95-127.

14 (10) The funds are not used for a project that consists of a professional or
15 semiprofessional sports team or club or a project that consists solely of retail
16 facilities. If a project consists of both retail facilities and nonretail facilities,
17 only the portion of the project consisting of nonretail facilities is eligible for
18 a grant, and only full-time workers employed exclusively in the portion of
19 the project that represents nonretail facilities may be counted for purposes of
20 fulfilling the new worker position requirement. If a warehouse facility is part
21 of a retail facility and supplies only that retail facility, the warehouse facility
22 investment and full-time workers are not counted for purposes of the
23 requirements of this section. For the purposes of this Subpart, catalog
24 distribution centers are not retail facilities.

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

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

34 (d) Report. – The Department shall publish a report on the Job Catalyst Fund on or
35 before April 30 of each year. The Department shall submit the report electronically to the
36 House of Representatives Finance Committee, the Senate Finance Committee, the House of
37 Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate
38 Appropriations Committee on Natural and Economic Resources, and the Fiscal Research
39 Division. The report shall include the following:

40 (1) A listing of each grant awarded during the preceding calendar year,
41 including the name of the business located at the project, a description of the
42 project, the term of the grant, and the liability under the grant.

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

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

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

50 (5) The wage levels of all new worker positions to be created at projects with
51 respect to which grants have been awarded, aggregated, and listed in

1 increments of ten thousand dollars (\$10,000) or other appropriate
2 increments.

3 (6) The number of awards made for projects for new businesses and the number
4 of awards made for projects for existing, expanding businesses in the
5 preceding calendar year.

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

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

10 For the first annual report after adoption of the guidelines developed by the Department to
11 implement this Subpart, a copy of such guidelines, and, for subsequent reports, identification of
12 any changes in those guidelines from the previous calendar year."

13 **SECTION 2.** The Secretary of Commerce shall develop guidelines related to the
14 administration of the Jobs Catalyst Fund, as authorized by this section, and to the selection of
15 projects. At least 20 days before the effective date of any guidelines or nontechnical
16 amendments to guidelines, the proposed guidelines must be published on the Department's Web
17 site and provide notice to persons who have requested notice of proposed guidelines. In
18 addition, the Department of Commerce shall accept oral and written comments on the proposed
19 guidelines during the 15 business days beginning on the first day the notice requirement of this
20 section has been completed. For purposes of this section, a technical amendment is one that
21 corrects a spelling or grammatical error or that makes a clarification based on public comment
22 and could have been anticipated by the public notice that immediately preceded the public
23 comment.

24 **SECTION 3.** G.S. 150B-1(d) reads as rewritten:

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

27 ...

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

31"

32 **SECTION 4.** G.S. 143B-437.07(c) reads as rewritten:

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

39 **SECTION 5.** The unencumbered cash balance of the Job Catalyst Fund (Budget
40 Code 14600-1912) may be used for the purposes of the Job Catalyst Fund, as created by this
41 act.

42 **SECTION 6.** This act is effective when it becomes law.