COMMUNITY AND ECONOMIC DEVELOPMENT BULLETIN

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2006 LEGISLATIVE CHANGES IN COMMUNITY AND ECONOMIC DEVELOPMENT

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The General Assembly was very active in the economic development arena in 2006. As a result of public outcry following the United States Supreme Court decision in *Kelo v. City of New London*.[1] the General Assembly conducted a study and enacted legislation governing the use of eminent domain for economic development. In response to media attention questioning the ethics of certain decisions by regional economic development commissions, the General Assembly enacted standards governing the activities and procedures of these commissions.

The legislature substantially revised the methods for designating which counties and zones are most in need of economic development but signaled its dissatisfaction with the result by simultaneously calling for further study of the issue. The General Assembly enacted a major new system of tax credits for new and expanding businesses—but retained the old system as well—with a complicated set of rules for determining which system applies to which taxpayers.

The 2006 session continued the trend of accelerating public expenditures on credits and grants for private industry. Over $30 million was appropriated for economic development grants in the 2006–2007 fiscal year. The General Assembly expanded the Job Development Investment Grant (JDIG) program by extending its sunset, doubling the amount of authorized grants for 2006, and reducing the consequences for businesses that fail to comply with JDIG requirements. It lowered the sales tax rate on electricity sold to manufacturers. New or bigger incentives were enacted for a host of specific projects and industries: (1) private rehabilitation of two

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1. 545 U.S. 469 (2005).

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specific historic facilities; (2) expenditures by movie, television, and radio production companies; (3) financial services and securities companies that invest at least $50 million; (4) motorsports racing teams and facilities; (5) a $250-million facility to be constructed for use by an Internet service provider or Web search portal; and (6) Johnson and Wales University in Charlotte. Retroactive tax benefits were enacted for an economic development district in Johnston County and a thread mill in Gaston County.

The amount of public funds spent to lure industry continues to grow. The Department of Commerce reported that it had committed $55 million in incentives during the first six months of 2006, as compared to $12 million in 2005. North Carolina was named state of the year by *Southern Business & Development* magazine, based on announcements of projects involving an investment of $30 million or more or the creation of two hundred or more jobs.

The 2006 session saw little activity relating to community development. Most notably, the Housing Trust Fund received the highest level of funding in its history: a one-time appropriation of $15.9 million, in addition to $3 million in recurring funds.

Eminent Domain for Economic Development

In response to the 2005 United States Supreme Court case *Kelo v. City of New London*, the General Assembly enacted S.L. 2006-224 (H 1965) to restrict the use of eminent domain for economic development purposes. The act invalidates any provision in a local act that authorizes the exercise of the power of eminent domain for any purposes other than those listed in G.S. Chapter 40A. It also amends the urban redevelopment statutes to limit condemnation within redevelopment areas to blighted parcels, which it defines as those that are predominantly developed or residential (not vacant) and substantially impair sound community growth; are conducive to health problems, juvenile delinquency, and crime; and are detrimental to the public health, safety, morals, or welfare. Before this change, it had been possible to condemn land located within a qualifying redevelopment area even if some of the parcels were vacant or not blighted. Finally, S.L. 2006-224 amends the Revenue Bond Act to clarify that eminent domain may not be used for an economic development project funded by revenue bonds.

One North Carolina Fund/ Economic Development Reserve

The 2006 Appropriations Act, S.L. 2006-66 (S 1741), appropriates $15 million for the One North Carolina Fund and an additional $5 million for the Small Business Fund within the One North Carolina Fund. The $5 million is to provide incentive funds for small businesses to apply for federal innovation grants.

The appropriations act also creates an economic development reserve in the Department of Commerce to award grants for site acquisition and economic development projects and appropriates $10 million to the reserve.

Transportation Projects for Economic Development

Section 21.6 of the appropriations act, S.L. 2006-66, allocates $2 million of Department of Transportation funds for economic development projects in each of the fourteen highway divisions. The projects are to be recommended by the board of transportation member representing the division in which the project is to be constructed in consultation with the division engineer and must be approved by the full board of transportation.

Biotechnology

In 2005 the University of North Carolina and the Community College System formed a consortium with the state's biotechnology industry to develop a comprehensive educational program designed to address the state's shortage of skilled workers for the biotechnology industry. The initiative is intended to revitalize the economy by attracting biotechnology companies to the state with the creation of a highly skilled workforce. Three components of the plan currently under development are the North Carolina Research Campus in Kannapolis, the Biomanufacturing Training and Education Center (BTEC) at North Carolina State University, and the Biomanufacturing Research Institute and Technology Enterprise (BRITE) Center at North Carolina Central University. The 2006 Appropriations Act provides $6 million to the University of North Carolina and $2.2 million to the Community College System for operations at the Research Campus in Kannapolis. The 350-acre campus will feature several university-run research facilities and laboratories as well as private industries. The appropriations act also allocates operating funds to the UNC system for BTEC, which is designed to provide advanced, hands-on training and education using facilities and equipment similar to those in place at leading biomanufacturing companies, and for the BRITE Center, which will provide laboratories for research relating to biotechnology and biomanufacturing.

Development Tiers, Urban Progress Zones, and Agrarian Growth Zones

Article 3A of G.S. Chapter 105 (the Bill Lee Act) provides a system of tax credits designed to foster the relocation and expansion of North Carolina businesses. The act has divided North Carolina counties into five enterprise tiers so that more favorable tax treatment is available to businesses investing in the more disadvantaged counties. The act also designates certain areas as development zones, which receive more generous incentives as well. Various state job creation, machinery and equipment investment, historic preservation, and worker training programs refer to the Bill Lee Act tier and zone system and the related wage standards.

S.L. 2006-252 (H 2170) enacts a new Article 3J (Tax Credits for Growing Business) in G.S. Chapter 105 and a new G.S. 143B-437.08 through G.S. 143B-437.10, creating a package of state economic development tax incentives that will replace the Bill Lee Act for most affected taxpayers. It substitutes three development tiers for the old five-tier system and replaces development zones with urban progress zones and agrarian growth zones. S.L. 2006-252 is effective January 1, 2007, and sunsets in 2011.

Development Tiers

S.L. 2006-252 enacts new G.S. 143B-437.08 to require the Department of Commerce, by November 30 of each year, to assign a development tier designation of one, two, or three to each of the one hundred counties in the state based on four factors: unemployment, median household income, percentage population growth, and per capita adjusted assessed property value. The forty[2] counties with the highest ranking are tier one, the next forty highest counties are tier two, and the remaining twenty counties are tier three. Several other conditions can trump the ranking based on the four factors, however: a county with a population of less than 12,000 must be included with the forty highest ranking counties, a county that has a population of less than 50,000 and more than 19 percent of its population below the federal poverty level must be included with the forty highest ranking counties, and a county with a population of less than 50,000 must be included with the eighty highest ranking counties. In addition, a county designated as a tier one county must remain in the forty highest ranked counties for at least two years. Because the number of counties in each tier is fixed, counties with these trump cards will push other counties into higher tiers. In comparison to the new system in S.L. 2006-252, the Bill Lee Act allows for five tiers, does not fix the number of counties in each tier, uses per capita income rather than median family income, does not consider assessed property value, and requires county designation by December 31.

The act makes it easier for a multijurisdictional industrial park to qualify for tier one status by (1) reducing from four to three the minimum number of counties that must be involved, (2) reducing from two to one the minimum number of these counties that must have a tier one designation, and (3) reducing from 300 to 250 acres the minimum size of the industrial park. It also makes it easier for a two-county industrial park to qualify for the lowest development tier designation of the two counties it includes.

S.L. 2006-252 directs the Department of Commerce, in consultation with the North Carolina Rural Center and lower-tiered counties, to develop additional strategies to enhance economic growth in enterprise tier one areas and to report to the Joint Legislative Economic Development Oversight Committee by January 1, 2007.

Urban Progress Zones and Agrarian Growth Zones

S.L. 2006-252 enacts new G.S. 143B-437.09 and G.S. 143B-437.10 to create "urban progress zones" and "agrarian growth zones," respectively. An *urban progress zone* is an area (1) that is wholly within the corporate limits of a municipality with a population of at least 10,000, (2) that has no more than 35 percent of its area zoned nonresidential, and (3) in which every census tract and block group has greater than a 20-percent poverty level and meets minimum requirements for the percentage of its area that is zoned nonresidential and the percentage of its neighboring tracts and groups that is below the poverty level. In general, the combined area

2. For 2007, the forty-one highest counties are designated as tier one; thereafter, the number drops to forty.

of all urban progress zones in a municipality may not exceed 15 percent of the total area of the municipality. Urban progress zones will replace the Bill Lee Act's development zones. An *agrarian growth zone* is an area that meets the following conditions: (1) it is composed of one or more contiguous census tracts or block groups located within a single county that does not have any municipality with a population in excess of 10,000; (2) 20 percent of the population of each census tract and block group in the zone is below the poverty level; and (3) the area of the zone, less its smallest census tract, does not exceed 5 percent of the total area of the county. A county can have no more than one agrarian growth zone. An agrarian growth zone is designated by the secretary of commerce upon county application.

For activities in urban progress and agrarian growth zones, the wage standard is lower than for activities in development tiers two and three outside of the zones: the zone wage standard is 90 percent of the lesser of the average county wage and the average state wage. Under the Bill Lee Act, there is no wage standard for activities occurring in development zones.

The credit in G.S. 105-129.87 for creating jobs is increased by $1,000 if a job is located in an urban progress or an agrarian growth zone and by another $1,000 if the zone job is filled by a long-term unemployed worker. In addition, in these zones there is no minimum number of jobs that must be created before the job credit is allowed. For purposes of calculating the credit in G.S. 105-129.88 for investing in business property, investments in an urban progress or an agrarian growth zone are treated as investments in tier one: no threshold applies and the credit rate is 7 percent.

For businesses that remain eligible for the Bill Lee Act, Section 24.16 of the 2006 Appropriations Act also authorizes the creation of agrarian growth zones for the Bill Lee Act credits, effective January 1, 2006. For agrarian growth zones under the Bill Lee Act, no wage standard applies, there is no application fee, and the worker training tax credit, the jobs tax credit, and the investment tax credit are more generous.

Conforming Changes

Since the creation of the Bill Lee Act in 1996, many other state programs have adopted the enterprise tier designation as an indicator of the economic viability or the available resources of a particular county. In addition, some programs refer to other aspects of the Bill Lee Act, such as development zones and the wage standard. Because S.L. 2006-252 largely replaces these provisions of the Bill Lee Act, it makes conforming changes to a number of affected programs so that a single, consistent system for tiers, zones, and wage standards will apply across the board. Because the new tier and zone structure is not equivalent to the Bill Lee Act structure, the conforming changes will benefit some areas while reducing benefits to others. The following economic development provisions are affected by the conforming changes:

- *Research and development expenses*. Conforming changes relating to the tier revision will make the research and development tax credit less generous for some taxpayers. Conforming changes relating to the wage standard will make more taxpayers eligible for the credit.
- *Sales tax refunds*. Conforming changes relating to the tier revision should have only a minor impact on the sales and use tax refund for low enterprise tier machinery and equipment but will result in some taxpayers becoming ineligible for the sales and use tax refund for building materials for major eligible industrial facilities.
- *Industrial Development Fund*. Conforming changes relating to the tier revision should not affect which counties are eligible for grants or are exempt from the matching requirement. Conforming changes relating to which industries are eligible for grants substitute company headquarters for central administrative offices and substitute information and technology services for data processing.
- *Community Development Block Grant Funds*. Conforming changes relating to the tier revision should not affect which counties have priority for grants or are exempt from the matching requirement. Substituting urban progress zones for development zones in the provisions relating to priority will result in some projects not receiving priority for grants.
- *Jobs Development Investment Grant Program*. Conforming changes relating to the tier revision are unlikely to have any practical effect on eligibility for grants but will affect the dollar amount of grants in certain counties. Under current law, grants for projects in enterprise tiers four and five are reduced by 25-percent and the amount of the reduction goes to the Industrial

Development Fund Utility Account. The conforming changes will provide that development tier three is subject to the 25-percent reduction and development tier two is subject to a 15-percent reduction. As a result, some counties in former enterprise tier three will be newly subject to a reduction and some counties in former enterprise tier four will be subject to a smaller reduction.

- *Tax increment financing*. Conforming changes relating to the tier revision increase the number of counties in which there is an exception to the cap on retail square footage for tourism projects.

Bill Lee Act/Growing Business Tax Credits Restructuring

S.L. 2006-252 enacts a new Article (Tax Credits for Growing Business) in G.S. Chapter 105, creating a package of state economic development tax incentives that will replace the Bill Lee Act for most affected taxpayers. The Growing Business Article is effective January 1, 2007, and expires January 1, 2011. The act changes the sunset date of the Bill Lee Act for most businesses from January 1, 2008, to January 1, 2007, but retains an overlap period in 2007 during which businesses may choose to take credits under the Bill Lee Act rather than the Growing Business Article by signing a letter of commitment by December 31, 2006. In addition, for certain major industries, the Bill Lee Act will remain in effect until 2010. A taxpayer may not take credits under both the Bill Lee Act and the Growing Business Article for the same activity or for different activities at the same establishment.

In addition to the changes discussed in the previous section relating to development tiers, urban enterprise zones, and agrarian growth zones, S.L. 2006-252 modifies the types of businesses eligible to receive tax credits, makes certain credits more generous, and provides for studies of the equity implications and impact of tax incentive programs. Under the Growing Business Article, the provisions relating to health insurance, environmental impact, safety and health programs, overdue tax debts, expiration, and forfeiture remain essentially the same as under the Bill Lee Act. The Growing Business Article contains three tax credits: a credit for creating jobs, a credit for investing in business property, and a credit for investing in real property. It does not recreate the following four Bill Lee Act credits: the technology commercialization credit (which has never been claimed), the credit for worker training, the credit for investing in central office or aircraft facility property, and the credit for donations to a development zone agency.

Eligible Businesses

New G.S. 105-129.83 sets the primary activity of a particular establishment as the sole business-type eligibility criterion for the credit (except in the case of corporate headquarters, which must meet a job creation standard as well). Under the Bill Lee Act, eligibility depends on several factors, including the primary business of the taxpayer as a whole, the primary activity of the particular establishment, the location of the establishment, and the number of new jobs created. The Growing Business Article makes motorsports facilities and motorsports racing teams eligible for credits. (They are not currently eligible under the Bill Lee Act.) Also, the new article makes a larger group of manufacturers, warehousers, wholesalers, electronic mail order houses, and customer service centers eligible for credits than are eligible under the Bill Lee Act. The Growing Business Article replaces the credits for data processing and computer services with credits for information technology and services, which include Internet service providers and Web search portals. It also replaces the credits for central administrative office facilities with credits for facilities that are corporate headquarters and that created at least seventy-five jobs in a twenty-four-month period within the past three years. A corporate headquarters is a corporate, subsidiary, or regional managing office that is responsible for strategic or organizational planning and decision making for the business on an international, national, or multistate basis.

Wage Standard

New G.S. 105-129.83 provides that a taxpayer is eligible for a credit under the Growing Business Article only if the jobs provided by the taxpayer meet a wage standard. As with the Bill Lee Act, no wage standard applies in tier one areas. For development tiers two and three, the jobs provided by the taxpayer must pay at least the lower of 90 percent of the average county wage or 110 percent of the average state wage to qualify for a tax incentive. If the tier two or three jobs are in an urban progress or an agrarian growth zone, however, the wage standard is 90 percent of the lesser of the average county wage or the average state wage. Under the Bill Lee Act, the wage standard for enterprise tier areas three through five is 110 percent of the lowest of (1) the average county wage, (2) the average state wage, or (3) the average county wage adjusted to reflect discrepancies in the relative county income and county wage levels.

Unlike under the Bill Lee Act, part-time jobs are not included in the calculation of the wage standard under the Growing Business Article.

Tax Election, Ceiling, and Carryforward

The Growing Business Article permits a credit to be taken against the franchise tax, income tax, or gross premiums tax, or a combination of all three taxes. Under the Bill Lee Act, the taxpayer must elect one tax against which to take a credit. The new article caps the total amount of credits to 50 percent of the cumulative amount of the taxpayer's liability for franchise, income, and gross premium taxes. It also shortens the period that the excess can be carried forward for some credits and eliminates some enhanced carryforward provisions available under the Bill Lee Act.

Investment Tax Credit

The Growing Business Article replaces the Bill Lee credit for investing in machinery and equipment with an expanded credit for investing in any business personal property that the taxpayer capitalizes for federal tax purposes. In addition, the new credit is spread out over only four years, rather than seven years as under the Bill Lee Act. Changes in tier designations, investment thresholds, and the credit rates will result in the credit being more generous in some cases and less in others. The reduction of the lowest credit rate from 4 percent to 3.5 percent, as well as the application of a $2-million threshold in more counties, should reduce the overall cost of the credit. In applying the wage standard to the credit for investing in business property, the average weekly wage of all jobs at the establishment with respect to which the credit is claimed must meet the standard.

Jobs Credit

The dollar amounts of the new credit for creating jobs in G.S. 105-129.87 will be more generous in many cases than the equivalent credit under the Bill Lee Act: $750 in tier three, $5,000 in tier two, and $12,500 in tier one. On the other hand, the number of taxpayers eligible for the credit will decrease because taxpayers must now meet a job creation threshold ranging from five to fifteen, based on the development tier designation of the location where the jobs were created. In addition, the average weekly wage of the jobs for which the credit is claimed and the average weekly wage of all jobs at the establishment with respect to which the credit is claimed must meet the wage standard.

Fees

When filing a return for a taxable year in which the taxpayer engaged in activity for which the taxpayer is eligible for a credit under the Growing Business Article, the taxpayer must submit a fee of $500 for each type of credit the taxpayer intends to claim with respect to an establishment. The Bill Lee Act contains a similar fee requirement, with a maximum fee of $1,500 per taxable year. The new article does not have a maximum fee amount.

Job Development Investment Grant Program

S.L. 2006-168 (H 2744) makes extensive changes to the Job Development Investment Grant (JDIG) program, administered by the Economic Investment Committee (EIC). It extends the expiration date of the program from January 1, 2008, to January 1, 2010, and increases from $15 to $30 million the maximum amount of grant liability the state may incur for the program in 2006. Under the JDIG program, agreements entered into in one calendar year may result in annual grant payments for the succeeding twelve years. Therefore, this increase of $15 million for 2006 could have a fiscal impact of up to $180 million over a twelve-year period. The act further expands the JDIG program by making professional motorsports racing teams eligible to receive grants.

S.L. 2006-168 also relaxes the consequences for businesses that fail to comply with their JDIG agreements. The act amends G.S. 143B-437.51 to provide that the EIC is no longer required to terminate the incentives agreement of a business that fails to comply with the requirements for two consecutive years. Instead, if the business is still within its "base period," during which new employees are to be hired for positions upon which the grant is based, the EIC may extend the base period for up to twenty-four months to give the business more time to come into compliance. Grants would be withheld during the base period if the business remains out of compliance and the agreement would be terminated if the business was not back in compliance by the end of the extended base period.

The act directs the Department of Commerce to conduct a comprehensive study of the costs of the JDIG program in relation to other state incentive programs and to provide information on the use of the program in urban, suburban, and rural areas throughout the various geographic regions of the state. The study must be submitted to the chairs of the House and Senate Finance and Appropriations committees by February 1, 2007.

Sales Tax Reduction for Manufacturers

Section 24.19 of the 2006 Appropriations Act, S.L. 2006-66, reduces the sales tax rate for electricity sold to manufacturing plants from 2.83 percent to 2.6 percent, effective July 1, 2007.

Renewable Fuel Business Incentives

S.L. 2006-66 expands tax incentives for certain renewable fuel businesses. Section 24.7 extends from January 1, 2008, to January 1, 2011, the sunset on the credits for constructing renewable fuel production facilities and constructing renewable fuel dispensing facilities. Section 24.7, as amended by Section 19.5 of S.L. 2006-259 (S 1523), also creates a more generous credit if the taxpayer invests at least $400 million in three separate facilities over a five-year period. The details of the enhanced credit are apparently tailored to fit a specific project. A taxpayer may not claim both credits with respect to the same facility.

Section 24.8 of S.L. 2006-66 enacts a new tax credit for providers of 100 percent (not blended) biodiesel that produce at least 100,000 gallons of biodiesel during the taxable year. The amount of the credit is equal to the per gallon motor fuel tax paid by the producer on the biodiesel, not to exceed $500,000 a year. The credit may be claimed against income or franchise tax, is limited to 50 percent of the amount of tax liability against which it is claimed, and has a carryforward period of five years. The credit sunsets January 1, 2010.

Economic Incentives for Specific Industries and Projects

Internet Service Providers and Web Search Portals

S.L. 2006-252 adds Internet service providers and Web search portals to the types of businesses eligible for the new Tax Credits for Growing Business. Section 24.17 of the 2006 Appropriations Act, as amended by Part 4 of S.L. 2006-168 and Section 2.25 of S.L. 2006-252, enacts a sales tax exemption for sales of electricity and eligible business property to be used at an eligible Internet data center. The exemption is effective October 1, 2006, and has no sunset. This incentive is unusual in that it takes the form of an exemption rather than a refund. An Internet data center is eligible if it meets the following conditions:

- It is primarily used for the Internet service provider and Web search portal industry.
- It is located in one of the eighty most distressed counties in the state.
- At least $250 million of private funds will be invested within five years in eligible business property, real property, or both.

Eligible business property is tangible personal property capitalized for federal tax purposes and used for the Internet service provider and Web search portal industry, for electricity, or to support related computer engineering or computer science research.

Additional Tax Credits for Historic Rehabilitation

North Carolina rewards historic rehabilitation through income tax credits. In S.L. 2006-40 (H 474) the General Assembly added more generous tax credits for two categories of historic rehabilitation: (1) renovations of historic facilities that formerly served as a state training school for juvenile offenders and (2) major renovations of historic mills that have been mostly empty for at least two years.

North Carolina allows an income tax credit of 20 percent of the expenses of rehabilitating an income-producing historic structure and a credit of 30 percent of the expenses of rehabilitating a historic structure that is not income-producing. The credit for income-producing structures is lower because federal law also allows a 20 percent credit for those expenses, yielding a combined credit of 40 percent. Effective beginning with the 2006 tax year, S.L. 2006-40 (as amended by S.L. 2006-252) increases to 40 percent the state tax credit allowed for a historic structure that at one time served as a state training school for juvenile offenders, whether or not the property is also eligible for the 20-percent federal credit.

Effective beginning with the 2006 tax year, S.L. 2006-40 also enacts a new Article 3H in G.S. Chapter 105 to provide a more generous tax credit for certain mill facilities. To qualify for the new credit, the eligible rehabilitation expenses for the project must exceed $3 million and the site (1) must have been used for manufacturing, as an agricultural warehouse, or as a utility site; (2) must be certified by either the state or federal historic preservation office; and (3) must have stood at least 80 percent vacant for at least two years.

The rate of the new tax credit is higher than the existing tax credit. If the property is income-producing (and also qualifies for a federal tax credit), the amount of the new state credit is 40 percent (rather than 20 percent) of eligible expenses, if the site is located in a development tier one or two county. If the site is in an enterprise tier three county, the amount of the credit is 30 percent (rather than 20 percent) of eligible expenses. If the property does not produce income, the amount of the state tax credit is equal to 40 percent (rather than 30 percent), but only if the site is in a development tier one or two area. If the non-income-producing property is in development tier three, no credit is allowed.

The new tax credit is more generous than the existing credit in several other ways. While the existing credit is allowed against income tax only, the new tax credit is also allowed against franchise and gross premiums taxes. While the existing credit must be taken in installments over five years after the historic structure is placed in service, the new tax credit may be taken in the year the site is placed in service. While the existing credit for income-producing properties has a temporary special exception allowing more freedom in allocating the credit among the owners of a pass-through entity, the new credit extends this special exception to the credit for non-income-producing properties as well and makes the exception permanent. Finally, while any unused portion of the existing credit may be carried forward for a five-year period, the new credit may be carried forward for nine years.

Article 3H, which provides for the new credit, sunsets January 1, 2011.

Tax Credit for Production Companies

S.L. 2006-220 (S 1522) and S.L. 2006-162 (H 1963) amend the income tax credit for qualifying expenses of movie, television, or radio production companies (G.S. 105-130.47 and G.S. 105-151.29). Effective beginning with the 2007 tax year, S.L. 2006-220 allows taxpayers to take a deduction for the same expenses for which they may take a credit. Effective beginning with the 2006 tax year, Section 4 of S.L. 2006-162 amends the tax secrecy statute (G.S. 105-259) to allow the Department of Revenue to share with a taxpayer information used to adjust the taxpayer’s production company credit and amends the credit by modifying the definition of *highly compensated individual*. (A production company may not claim a credit for payments to a highly compensated individual.)

Financial Services and Securities Operations

S.L. 2006-168 adds financial services, securities operations, and related systems development to the types of businesses that may qualify for refunds of sales taxes paid on building materials and equipment for an industrial facility if the Department of Commerce certifies that the business will invest a minimum amount in constructing the facility. This change would automatically add financial services, securities operations, and related systems development to the types of businesses eligible to be designated as an eligible major industry for purposes of the delayed sunset of the Bill Lee Act credits, except that the Bill Lee Act credits are not allowed for this type of business.

Sales Tax Refunds for Large Industrial Facilities, Passenger Air Carriers, and Motorsports Entities

S.L. 2006-168 extends the sunset on the sales tax refund for certain large industrial facilities from January 1, 2010, to January 1, 2013. Section 24.6 of S.L. 2006-66 extends the sunsets on the following sales tax refunds from January 1, 2007, to January 1, 2009: certain fuel purchased by interstate passenger air carriers and aviation fuel used by motorsports teams and sanctioning bodies to travel to and from motorsports events.

Effective July 1, 2007, Section 24.10 of S.L. 2006-66 provides a sales tax refund for a professional motorsports racing team that purchases professional motor racing vehicle component parts other than tires or accessories. The amount of the refund is equal to 50 percent of the sales tax paid. There is no sunset on this refund.

Johnson and Wales University

Section 12.2 of the appropriations act, S.L. 2006-66, allocates $1 million from the One North Carolina Fund for Johnson and Wales University in Charlotte.

Fiber, Yarn, or Thread Mills

Section 24.14 of S.L. 2006-66 retroactively alters the definition of *location* with respect to certain manufacturers for the purpose of meeting the wage standard under the Bill Lee Act. This change applies to a fiber, yarn, or thread mill that uses a sequential manufacturing process and is effective for taxable years beginning on or after January 1, 1996. The change is designed to address the situation of American & Efird Inc., in Gaston County, which otherwise would not qualify for Bill Lee Act credits due to failure to meet the wage standard.

Johnston County Economic Development and Training District

Section 24.5 of the appropriations act modifies the definition of a development zone retroactively to January 1, 2004, to include an economic development and training district. To date the only such district is in Johnston County; it consists of real property owned by Bayer Corporation, Novo Nordisk Pharmaceutical Industries Inc., Fresenius Kabi Clayton LP, and the Johnston County Airport Authority. Designation as a development zone retroactively bestows eligibility for various economic development benefits under the Bill Lee Act and other economic incentive programs.

Other Economic Development Changes

Standards for Regional Economic Development Commissions

S.L. 2006-263 (H 1417) demonstrates an interest on the part of the General Assembly in improving and standardizing the activities and procedures of regional economic development commissions. The act applies to the Western, Northeastern, and Southeastern North Carolina Regional Economic Development Commissions; North Carolina's Eastern Region (formerly the Global TransPark Development Zone); the Charlotte Regional Partnership Inc.; the Piedmont Triad Partnership; and the Research Triangle Regional Partnership.

The act requires each regional economic development commission to provide an annual comprehensive evaluation report to various state agencies and legislative committees. It directs the Department of Commerce to develop uniform financial standards, personnel practices, and purchasing procedures, which the commissions must follow as a condition of receiving state funds. It provides that regional entities must share equally the costs of developing these standards up to a maximum aggregate amount of $50,000, with the balance to be paid from the Department of Commerce budget. Further, the act directs each commission to hold an orientation session for newly appointed commission members concerning the duties and responsibilities of commission members and addressing policies and laws governing conflicts of interest, financial disclosure, and ethical behavior.

Research and Development Equipment

Section 24.9 of S.L. 2006-66, as amended by Section 12 of S.L. 2006-196 (H 1891), exempts certain research and development equipment from state and local sales tax and substitutes a 1-percent privilege tax with an $80 cap, effective July 1, 2007. The change applies to equipment purchased by a research and development company in the physical, engineering, and life sciences; capitalized for federal tax purposes; and used for research and development of tangible personal property. Equipment purchased by manufacturers is already taxed at a 1-percent rate with an $80 cap; this change extends the preferential tax treatment to equipment used by other companies to conduct the same type of research and development.

Dairy Stabilization and Growth Program

S.L. 2006-139 (S 1156) enacts a new Article 68A of G.S. Chapter 106 to establish the North Carolina Dairy Stabilization and Growth Program and Fund. The act sets out the General Assembly's findings that the dairy industry in North Carolina makes a substantial economic, environmental, and quality-of-life contribution to North Carolina and that the state's dairy industry is "at serious risk of total collapse" because the price paid to farmers for milk under federal milk programs is too low to cover actual costs of production. The new law requires the Board of Agriculture to set a milk support baseline price and provides that if an announced federal price mover is lower than the baseline price established by the board, dairy farmers are eligible for a quarterly distribution equal to the difference multiplied by the amount of milk each farmer sold. Distributions are subject to the availability of funds; the General Assembly did not make an appropriation to the fund for 2006–2007. To receive assistance under the program, milk producers must demonstrate compliance with applicable federal or state regulations. The act requires the commissioner of agriculture to file an annual report with various General Assembly committees regarding the North Carolina dairy industry and the new program.

Community Development

The 2006 Appropriations Act instructs the Office of State Budget and Management to study the effectiveness of the New and Expanding Industry Training Program offered by community colleges. The program is considered to be the state's flagship customized workforce training program.

Housing

Funding for the Housing Trust Fund

As a result of the Campaign for Housing Carolina, a statewide public awareness campaign designed to bring attention to the need for increased affordable housing in the state, the General Assembly appropriated almost $19 million in state funding for affordable housing. The appropriations act includes $15.9 million in nonrecurring money and the $3 million in recurring funding that the Housing Trust Fund has received for the past several years. The total marks the highest level of funding in the history of the Trust Fund.

The ultimate goal of the Campaign for Housing Carolina is a $50 million annual appropriation to the North Carolina Housing Trust Fund. The proposed sources for this funding were varied. The source receiving the most attention would have been part of a large general obligation bond bill that might have included open space, university buildings, mental hospitals, schools, water and sewer, and housing. A specific bond bill for $250 million (which would have produced $50 million a year for five years for housing) was introduced but did not pass. None of the other bond efforts were successful.

The campaign is led by the North Carolina Housing Coalition, North Carolina Justice Center, United Way of North Carolina, North Carolina Coalition to End Homelessness, A.J. Fletcher Foundation, North Carolina Association of CDCs, AARP–NC, North Carolina Coalition Against Domestic Violence, and ARC–NC with the support of the North Carolina Housing Finance Agency.

Foreclosure Prevention Program

S.L. 2006-66 appropriates $1.5 million in nonrecurring funds to continue the Home Protection Pilot Program, which provides short-term loans to help dislocated workers continue to make mortgage payments. These loans are only available to workers who lost their jobs through no fault of their own (i.e., plant closures or downsizing) and who have strong prospects for reemployment.

Public Housing Target Incomes

S.L. 2006-219 (H 767) amends G.S. 157-29(b) to clarify a public housing authority's (PHA's) basic targeting requirement for serving extremely low-income households. The new law requires that, in each fiscal year, no less than 40 percent of the families admitted to a public housing program from a PHA's waiting list must be extremely low-income families, defined as households with incomes at or below 30 percent of the area median income. Formerly the provisions of G.S. 157-29(b) required only that public housing authorities give preference on their waiting lists to such households. The new law provides some flexibility to PHAs by allowing a PHA that admits more than 75 percent extremely low-income families to a section 8 voucher program to credit the excess against its basic targeting requirement for that fiscal year. There are some limits to the credit, however. A fiscal year credit for section 8 voucher program admissions that exceed the minimum section 8 voucher program targeting requirement cannot exceed the lower of the following: (1) 10 percent of the PHA's waiting list admissions during its fiscal year; (2) 10 percent of waiting list admissions to the section 8 tenant-based assistance program during its fiscal year; and (3) the number of qualifying low-income families (not just extremely low-income families) who, during that fiscal year, move into public housing units located in census tracts with a poverty rate of 30 percent or more.

Affordable Housing for Teachers

In many North Carolina communities, recent increases in the cost of housing have so outpaced increases in income that public servants lack the income to buy, or sometimes even to rent, a home. This phenomenon has become a barrier to the recruitment of essential personnel, including teachers. Responding to two communities' concerns, S.L. 2006-61 (S 1896) and S.L. 2006-86 (S 1903) authorize the Bertie and Hertford boards of education to enter into contracts to construct and provide affordable housing on property owned or leased by those respective boards. The housing must be restricted to public school teachers or other employees of the public school system. The boards are authorized to set reasonable rents.

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