

# REPORT OF THE LEGISLATIVE SUBCOMMITTEE

(Cobb-Hunter, Simrill, Huggins, & Stavrinakis - Staff Contact: AJ Newton)

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## HOUSE BILL 3725

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H. 3725 -- Reps. Simrill, Ott, Hiott and G.M. Smith: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA 1976, BY ADDING SECTION 12-6-3378 SO AS TO ALLOW A TAX CREDIT TO AN AGRIBUSINESS OPERATION OR AN AGRICULTURAL PACKAGING OPERATION THAT INCREASES ITS PURCHASES OF AGRICULTURAL PRODUCTS WHICH HAVE BEEN CERTIFIED AS SOUTH CAROLINA GROWN, AND TO SPECIFY THE MANNER IN WHICH THE CREDIT IS ADMINISTERED; AND TO AMEND SECTION 12-10-80, RELATING TO THE JOBS DEVELOPMENT CREDIT, SO AS TO MAKE CERTAIN QUALIFYING SERVICE-RELATED FACILITIES ELIGIBLE FOR THE CREDIT.

***Summary of Bill:***

**Section 1:**

- Allows agribusiness operation or agricultural packaging operation that increases purchase of products certified by SCDA as SC grown by a minimum of 15% in a year to be eligible for an income tax credit or employee withholding credit.
- The maximum credit for all qualifying tax payer will be phased in over 4 years: 2017 - \$500,000, 2018 - \$1,000,000, 2019 - \$1,500,000, After 2019 - \$2,000,000
- The operation must have a base year total of over \$100,000 of certified agricultural products to be eligible for the credit.

**Section 2:**

- Allows for "qualifying service-related facilities" as defined in 12-6-3360(M)(13)(b) to be eligible for Job Development Credits as long as they meet defined thresholds defined in (K)(1) of the bill.
- It will also modify the definition of "qualifying service-related facilities" to include "a business engaged in legal, accounting, banking, or investment services at a single facility" and "a business general engaged in retail sales at a single facility...provided that no retail sales are conducted at that single facility" for the purposes of receiving Job Development Credits.

"THE BELOW CONSTITUTED SUMMARY IS PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND IS NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. IT IS STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND IS NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT".

- The Job Development Credits are given at the discretion of the Coordinating Council for Economic Development and the last portion of the bill includes factors for consideration when the Coordinating Council makes the determinations.

***Estimated Revenue Impact:***

Section 1: The bill would reduce General Fund income tax revenue by \$500,000 in FY 17-18, \$1,000,000 in FY 18-19, \$1,500,000 in FY 19-20 and \$2,000,000 in each Fiscal Year after that.

Section 2: The bill would not affect General Fund revenue in FY 2017-2018.

***Subcommittee Recommendation:***

Favorable



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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**Bill Number:** H.3725    Introduced on February 9, 2017  
**Author:** Simrill  
**Subject:** Tax credits  
**Requestor:** House Ways and Means  
**RFA Analyst(s):** Martin, Heineman, Wren  
**Impact Date:** March 16, 2017

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**Estimate of Fiscal Impact**

	<b>FY 2017-18</b>	<b>FY 2018-19</b>	<b>FY 2019-20</b>	<b>FY 2020-21 and after</b>
<b>State Expenditure</b>				
General Fund	\$0	\$0	\$0	\$0
Other and Federal	\$0	\$0	\$0	\$0
Full-Time Equivalent Position(s)	0.00	0.00	0.00	0.00
<b>State Revenue</b>				
General Fund	(\$500,000)	(\$1,000,000)	(\$1,500,000)	(\$2,000,000)
Other and Federal	\$25,000	\$25,000	\$25,000	\$25,000
<b>Local Expenditure</b>	\$0	\$0	\$0	\$0
<b>Local Revenue</b>	\$0	\$0	\$0	\$0

**Fiscal Impact Summary**

This bill would have the following impact on state General Fund and Other Fund revenue:

**Section 1.** This bill, as amended, would reduce General Fund income tax revenue by \$500,000 in FY2017-18, by \$1,000,000 in FY2018-17, by \$1,500,000 in FY2019-20, and by \$2,000,000 in FY2020-21 to FY2026-27, and each fiscal year thereafter depending on any tax carry forwards. This bill would also increase Other Fund revenues of the Coordinating Council for Economic Development (CCED) by an estimated \$25,000 in application fees annually.

**Section 2.** This bill, as amended, would not affect General Fund revenue in FY2017-18.

**Explanation of Fiscal Impact**

**Introduced on February 9, 2017**

**State Expenditure**

The following state agencies have indicated the effect that this bill would have on agency expenditures.

**Department of Revenue.** The Department of Revenue indicates that there will be no expenditure impact to the General Fund, Federal Funds, or Other Funds from this bill. The Department can administer the legislative changes with existing resources.

**Department of Commerce.** The Department of Commerce indicates that any additional workload related to the Coordinating Council for Economic Development in administering the tax credits is not expected to require additional staffing or incur additional costs, and would have no expenditure impact on the General Fund, Federal Funds, or Other Funds.

**Section 1.** The Certified South Carolina Program is coordinated through the South Carolina Department of Agriculture. Upon application and acceptance to the program, all farm producers, food manufacturers, specialty food producers, packing facilities and others engaged in the production or manufacture of agricultural products in South Carolina are eligible to place the Certified South Carolina Grown logo on all items and promotional efforts. To date, there are 1,840 registrants in the Certified South Carolina Program spread throughout all forty-six counties in the state.

This section would add Section 12-6-3378 to allow an agribusiness operation or an agricultural packaging operation to claim a nonrefundable income tax credit or a tax credit against employee withholding tax. The taxpayer would be required to increase its purchases of agricultural products which have been certified as South Carolina grown by the South Carolina Department of Agriculture by a minimum of fifteen percent over its base year in a single calendar year. The "base year" is defined as the total dollar purchases of agricultural products certified as South Carolina grown in the immediately preceding calendar year. The base year total dollar purchases, however, must exceed \$100,000 for a taxpayer to be eligible for the tax credits. If a taxpayer does not meet the \$100,000 purchases requirement in the year ending December 31<sup>st</sup> of the previous year, including a taxpayer who locates to the State prior to December 31<sup>st</sup> of the previous year, the base year must be measured by the initial January 1<sup>st</sup> through December 31<sup>st</sup> calendar year in which the taxpayer meets the purchasing requirement. The \$100,000 threshold should be easily met by a number of agricultural operations within the State. The maximum tax credits should be exhausted and fully allocated each year.

The Coordinating Council for Economic Development has the sole discretion in allocating the tax credits and must consider the amount of base year purchases of certified agricultural products, the total and percentage increase in purchases, and factors related to the economic benefit of the State or other factors. The taxpayer must submit an application to the Coordinating Council every year in which the taxpayer wishes to claim a tax credit. The CCED believes the agency could receive an estimated \$25,000 in application fees annually.

The amount of the tax credits allocated to each applicant would be determined by the Coordinating Council for Economic Development within the Department of Commerce. The maximum amount of tax credits that may be allocated to all taxpayers in a calendar year is summarized in the table below.

**Tax Credit Allocation Schedule**

Calendar Year	Maximum Tax Credit Amount
2017	\$500,000
2018	\$1,000,000
2019	\$1,500,000
After 2019	\$2,000,000

If the income tax credit exceeds the taxpayer's income tax liability for the taxable year, the excess amount may be carried forward in the next five succeeding taxable years. If the credit against withholding taxes exceeds the taxpayer's withholding tax liability for the taxable quarter, the excess amount may be carried forward in the next twenty succeeding taxable quarters.

This bill, however, contains no compliance or enforcement mechanisms or audit measures in the proposed legislation to ensure that taxpayers have met the purchase requirement. The awarding of the tax credits is discretionary and subjective based upon the submission of unaudited applications by the taxpayers.

**Section 2.** This section would amend Section 12-10-80 to amend the definition of a "qualifying service-related facility" in order for a company to qualify under the job development credit statute. This language adds sub item (K) to Section 12-10-80 to allow a job development credit to a business engaged in legal, accounting, or investment services operating at a single location if the single facility would otherwise qualify as a service-related facility. A job development credit is a credit against employee income withholding based on a sliding scale of hourly wage rates. The job development credits range from one percent to five percent of employee withholding. The proposed language also includes those establishments at a single facility of a business generally engaged in retail sales if that single facility would otherwise qualify as a service-related facility. Sub item (K) also lowers the net job requirements for each qualification making it easier to qualify for the job development credits.

Based upon discussions with representatives with the South Carolina Department of Commerce, Coordinating Council on Economic Development, this language may allow a "back office" operation, such as administrative support services, accounting, and inventory control of a major retail establishment. Although we do not know of any prospective establishment, this amended language would make it easier for this type of investment to occur. Without this language, this investment would be ineligible for job development credits as it seeks approval for applying job development credits from the Coordinating Council for Economic Development for each new full-time employee hired. This section, therefore, would not affect state General Fund income revenue in FY2017-18.

The language also adds permissive language to give the Coordinating Council for Economic Development discretion in the approval of job development credits to qualifying businesses based upon the following criteria:

- At least seventy-five (75) percent of service or other income producing activity must be derived from gross receipts of customers outside of South Carolina
- The nature of the new jobs to be created at the project
- The wages of the new jobs to be created at the project
- The capital investment of the project
- The potential for expansion or growth of the business or industry.

**Section 3.** This act takes effect upon approval by the Governor and applies for tax years beginning after 2016.



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Frank A. Rainwater, Executive Director