COMMITTEE AMENDMENT ADOPTED

March 16, 2017

**S. 404**

Introduced by Senators Campbell, Gregory, Reese, Williams and Climer

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Read the first time February 14, 2017.

**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.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

“Section 12‑6‑3378. (A)(1) In tax years beginning after 2016 and ending before 2027, an agribusiness operation or an agricultural packaging operation, as defined in Section 12‑6‑3360, that increases 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 in a single calendar year over its base year is eligible to claim an income tax credit or a credit against employee withholding in an amount determined by the Coordinating Council for Economic Development (council). However, a taxpayer may not be awarded a credit pursuant to this section in excess of one hundred thousand dollars in any tax year.

(2) The maximum amount of tax credits allowed to all qualifying taxpayers pursuant to this section may not exceed the following for each calendar year:

2017 ‑ $500,000

2018 ‑ $1,000,000

2019 ‑ $1,500,000

After 2019 ‑ $2,000,000

(B)(1) If the income tax credit exceeds the taxpayer’s income tax liability for the taxable year, the excess amount may be carried forward and claimed against income taxes in the next five succeeding taxable years.

(2) If the credit against withholding taxes exceeds the taxpayer’s withholding tax liability for the taxable quarter that is not otherwise refunded pursuant to this title, the excess amount may be carried forward and claimed against withholding liability that is not otherwise refunded under this title in the next twenty succeeding taxable quarters.

(C) The council has sole discretion in allocating the credits provided by this section and must consider the following factors:

(1) the amount of base year purchases of certified agricultural products;

(2) the total and percentage increase in purchases; and

(3) factors related to the economic benefit of the State or other factors.

(D) For every year in which a taxpayer claims the credit, the taxpayer shall submit an application to the council after the calendar year in which the increase in purchases of certified products occurs. Allocations of the credit may be made on a monthly, quarterly, or annual basis. The taxpayer shall attach a schedule to the taxpayer’s application to the council with the following information and information requested by the council or the department:

(1) a description of how the base year purchases of certified agricultural products and the increase in purchases was determined;

(2) the amount of the base year purchases of certified agricultural products;

(3) the amount of the increase in purchases of certified agricultural products for the taxable year stated both as a percentage increase and as a total increase in purchases of certified agricultural products, including information which demonstrates an increase in purchases of certified agricultural products in excess of the minimum amount required to claim the tax credits pursuant to this section;

(4) any tax credit utilized by the taxpayer in prior years; and

(5) the amount of tax credit carried over from prior years.

(E) By March first of each year, the council shall submit a report to the General Assembly detailing the recipients of the credits allowed by this section, including the credit amount of each recipient.

(F) The Department of Commerce, upon consultation with the Department of Agriculture, may establish guidelines necessary to ensure all applications, product certification record sheets, and checklists are accurately and effectively created and comply with the provisions of this section.

(G) For purposes of this section, ‘base year’ initially means the total dollar purchases of agricultural products certified as South Carolina grown during the period from January first through December thirty‑first of the same year. However, the base year total dollar purchases must exceed one hundred thousand dollars for a taxpayer to be eligible for the credits provided in this section. For a taxpayer who does not meet the one hundred thousand dollar purchases requirement in the year ending December thirty‑first of the previous year, including a taxpayer who locates in South Carolina after December thirty‑first of the previous year, its base certified grown purchases must be measured by the initial January first through December thirty‑first calendar year in which it meets the purchasing requirement. The base year must be recalculated each calendar year after the initial base year.”

SECTION 2. Section 12‑10‑80 of the 1976 Code, as last amended by Act 290 of 2010, is amended by adding two appropriately lettered subsections to read:

“(K) For purposes of this section, the job and per capita income thresholds contained in the definition of ‘qualifying service‑related facility’ as set forth in Section 12‑6‑3360(M)(13)(b) must be modified to read as set forth in Section 12‑10‑80(K)(1) below:

(1) a business, other than a business engaged in legal, accounting, banking, or investment services (including a business identified under NAICS Section 55) or retail sales, which has a net increase of at least:

(a) one hundred twenty‑five jobs at a single location;

(b) one hundred jobs at a single location comprised of a building or portion of a building that has been vacant for at least twelve consecutive months before the taxpayer’s investment;

(c) seventy‑five jobs at a single location and the jobs have an average cash compensation level of more than one and one‑half times the lower of state per capita income or per capita income in the county where the jobs are located;

(d) fifty jobs at a single location and the jobs have an average cash compensation level of more than twice the lower of state per capita income or per capita income in the county where the jobs are located; or

(e) twenty‑five jobs at a single location and the jobs have an average cash compensation level of more than two and one‑half times the lower of state per capita income or per capita income in the county where the jobs are located.

(L) For purposes of this section and notwithstanding the

provisions of Section 12‑10‑50(A)(1), subject to the discretion of the council, the definition of ‘qualifying service‑related facility’ as defined in Section 12‑6‑3360(M)(13), as modified by Section 12‑10‑80(K)(1), shall also include the following:

(1) a business engaged in legal, accounting, banking, or investment services operating at a single facility if the single facility would otherwise qualify as a qualifying service‑related facility as defined in Section 12‑6‑3360(M)(13)(b), as modified by subsections (J) and (K) above, if not for the exclusions contained in Section 12‑6‑3360(M)(13)(b); and

(2) a business generally engaged in retail sales at a single facility if that single facility would otherwise qualify as a qualifying service‑related facility as defined in Section 12‑6‑3360(M)(13)(b), as modified by subsections (J) and (K) above, if not for the exclusions contained in Section 12‑6‑3360(M)(13)(b) and provided that no retail sales are conducted at that single facility.

(3) In making a determination with regard to Section 12‑10‑80(L)(1) or Section 12‑10‑80(L)(2), the council may consider the following:

(a) the percentage of such business’s annual gross receipts from services or other income producing activity derived from customers or clients located outside of South Carolina for the twelve months preceding the month in which such business applies to the council to claim a job development credit and such percentage may not be less than seventy‑five percent;

(b) the nature of the new jobs to be created at the project;

(c) the wages of the new jobs to be created at the project;

(d) the capital investment of the project; and

(e) 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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