



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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<b>Bill Number:</b>	S. 0309	Amended by House Ways and Means on April 30, 2019
<b>Author:</b>	Setzler	
<b>Subject:</b>	Industry Partnership Fund Tax Credit	
<b>Requestor:</b>	House of Representatives	
<b>RFA Analyst(s):</b>	R. Martin	
<b>Impact Date:</b>	April 30, 2019	

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### **Fiscal Impact Summary**

This bill, as amended, would reduce General Fund individual income tax, corporate income tax, bank tax, and/or insurance premium tax revenue by an estimated \$7,825,000 in FY2021-22. The loss would be reduced to \$7,600,000 in FY2026-27 until FY2036-37. This bill would not affect Other Funds revenue, Federal Funds revenue, or local revenue.

### **Explanation of Fiscal Impact**

#### **Amended by House Ways and Means on April 30, 2019**

##### **State Expenditure**

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

##### **State Revenue**

The Enterprise Zone Act was adopted in 1995 to provide economic incentives to attract capital investment in the state's rural and economically distressed counties in the state. A system of awarding tax credits to companies that creates new full-time jobs was developed using a combination of unemployment rates and county per capita incomes. The more economically distressed the county the higher the job tax credit that could be claimed for each new job created. Tax credits range from \$1,500 to \$8,000 per year for each job created depending on the county designation. Since the passage of the Enterprise Zone Act, a total of 7,394 taxpayers have claimed \$802,492,575 in nonrefundable tax credits.

This amendment would strike all after the enacting words and insert the language contained in H.4243 to add professional sports teams as a qualified industry that may be allowed an annual jobs tax credit and job development fees.

**Section 1.** The Carolina Panthers are interested in a new indoor practice facility to replace an outdoor practice facility currently located near Bank of America Stadium in downtown Charlotte, NC. The Panthers are considering moving their football operations to South Carolina. The team is interested in moving the team's headquarters and training facilities to either York or Lancaster County based on media reports. The move would involve 150 or more employees, coaches, players, team executives, offices, parking, and the team's other departments.

This bill would make several changes to existing statutory law as follows:

- Amends Section 12-6-3360(A) to add professional sports teams as a qualified industry that may be allowed an annual jobs tax credit as provided in this section.
- Amends Section 12-6-3360(M) to amend the definition of a “new job” for a professional sports team to include all jobs located at the professional sports team park regardless of whether an employee previously worked at an existing location in this State before 2019 as an employee of the same professional sports team.
- Amends Section 12-6-3360(M)(4) to amend the definition of “full-time” job for a professional sports team to require a minimum of one hundred eighty days of an employee’s time a year of which at least eighty percent of such days must be spent at a professional sports team park located in South Carolina.
- Adds Section 12-6-3360(M)(17) to define a professional sports team as a professional sports team or club included in a professional league, such as the National Football League, National Association for Stock Car Racing, or the National Basketball Association, primarily engaged in participating in live sporting events before a paying audience with an annual payroll for federal tax purposes of not less than \$190,000,000 and not less than 150 employees.
- Adds Section 12-6-3360(M)(18) to define a professional sports team park as a sports facility designed for use primarily as a professional park or stadium. Such a facility may include, with limitation, practice fields and features such as parking areas and facilities, office facilities for team use or other users of the facility as authorized by the professional sports team, and other ancillary facilities necessary for the sports facility. Such a facility also includes the landscaped grounds surrounding the park, stadium, and ancillary facilities.
- Adds Section 12-6-3360(M)(19) to define members of a professional sports team as active players, players on the disabled list, and any other persons required to travel and who do travel with and perform services on behalf of the professional sports team on a regular basis. This includes coaches, managers, and trainers.

A qualifying business is permitted a tax credit against income (corporate and individual) tax, bank tax, or insurance premium tax for creating new, full-time jobs in the state. Generally, a business may hire at least ten employees at a single location to qualify for the credit. Tax credits range from \$1,500 to \$8,000 per year for each job created depending on the county designation. The county designations are determined by the average ranking of the county’s unemployment rate and per capita income for the latest thirty-six month period as of November 1<sup>st</sup> of each year. Tax credits may be claimed beginning in tax Years 2 through 6 after job creation in Year 1 for a total of five years. Tax credits may be carried forward for fifteen years and are limited to fifty percent of tax liability of the company.

Since the possible relocation of the Carolina Panthers' practice facilities is still in the early stages of development and several potential sites are under consideration, this analysis assumes that the professional sports team will relocate its facilities to York County, SC. Pursuant to Section 12-6-3360(B), York County has a combination of the lowest unemployment rate and the highest per capita income based on the latest data available and is classified as a Tier I county. A Tier I county may receive an initial job tax credit of \$1,500 for each new full-time job created in the county. Multiplying no less than 150 employees of a professional sports team by a jobs tax credit of \$1,500 per each new full-time job yields a reduction in General Fund individual income tax, corporate income tax, bank tax, and/or insurance premium tax revenue by \$225,000 annually. Since it will take some time to construct the facility, it is not expected to be completed and placed in service until 2020. Since the job tax credit may not be applied until the second year after the professional sports team has achieved a minimum of 150 new full-time jobs, General Fund individual income tax, corporate income tax, bank tax, and/or insurance premium tax revenue would be reduced by an estimated \$225,000 in FY2021-22, and each fiscal year thereafter through FY2025-26.

The professional sports team would also be eligible to claim a job development credit (JDC) against a qualified investment after creating a minimum number of new full-time jobs in South Carolina. The professional sports team must also provide a benefits package that includes health care to all full-time employees, enter into a revitalization agreement with the Coordinating Council for Economic Development with the Department of Commerce, and the Council must determine that the total benefits of the proposed project exceed the total costs to the public. The company must agree to create at least ten new, full-time jobs at the project within five years of the effective date of a revitalization agreement. The company remits qualified employee withholding taxes due to the State. Each quarter the company may claim a credit for the amount of allowable job development benefits based upon the hourly gross wage rate of the qualified employee pursuant to Section 12-10-80(B). The withholding overpayment is refunded to the company.

The Department of Commerce anticipates utilizing the job development credit as part of the incentive package for the Carolina Panthers. Under provisions in this bill and applying the standard formula for calculating the JDC, the maximum credits are estimated by multiplying the minimum qualifying payroll of \$190,000,000 by the eighty percent of time the employee must be in South Carolina and by the five percent bracket which would result in a maximum credit of \$7,600,000. (In discussions with the executive offices of the National Football League, allocation of income by place of earnings is a complicated formula.) The maximum credit allocated to a business may then be limited by a percentage based on the economic tier in which the county is ranked. In this estimate, York County is a Tier 1 county and the statute would limit the credit to a qualifying business to fifty-five percent of the maximum credit and remaining forty-five percent would be redirected to the state Rural Infrastructure Fund under Section 12-10-85. Of the maximum credit, this provision would allocate \$4,180,000 to the Carolina Panthers and \$3,420,000 to the Rural Infrastructure Fund. The statute further allows, however, an option for the Department of Commerce to grant a waiver of the fifty-five percent limit and allow a business to claim up to ninety-five percent of the maximum credit. Under this option, \$7,220,000 of the maximum credit could be allocated to Carolina Panthers and \$380,000 to the Rural Infrastructure Bank.

Based on this analysis, we expect General Fund Revenue for FY 2020-21 to be reduced by \$7,600,000 due to the qualifying JDC. This estimate, however, could be impacted by the exact terms and conditions negotiated in the Revitalization Agreement.

**Section 5.** This section includes a severability clause.

**Section 6.** This act takes effect upon approval of the Governor.

### **Local Expenditure**

N/A

### **Local Revenue**

**Section 2.** This section would amend Section 4-9-30(12) to state that no county license fees or taxes may be levied on a professional sports team as defined in Section 12-6-3360(M)(17). Since no professional sports team as defined in Section 12-6-3360(M)(17) is currently remitting any county license fees or taxes, there would be no loss of county license fees, taxes, or revenue as a result of this change in FY2019-20.

**Section 3.** This section would amend Section 5-7-30 to state that a business engaged in operating a professional sports team as defined in Section 12-6-3360(M)(17) is not subject to the business license tax. Since no professional sports team as defined in Section 12-6-3360(M)(17) is currently remitting any business license tax revenue, there would be no loss of local business license tax revenue as a result of this change in FY2019-20.

**Section 4.** This section would add Section 5-3-20 to ensure that no municipality may annex any real property owned by a professional sports team as defined in Section 12-6-3360(M)(17) without prior written consent of the professional sports team. This section is not expected to affect state General Fund revenue, Other Funds revenue, Federal Fund revenue, or local revenue in FY2019-20.

### **Introduced on January 8, 2019**

#### **State Expenditure**

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.

#### **State Revenue**

**Section 1.** The Industry Partnership Fund was first available to taxpayers in tax year 2006. Pursuant to Section 12-6-3585, a taxpayer is allowed a nonrefundable credit against corporate and individual income taxes, bank taxes, license fees, or insurance premium taxes, or any combination of them equal to 100 percent of the taxpayer's qualified contributions to the Industry Partnership Fund at the South Carolina Research Authority, or a Research Authority designated affiliate, or both. Any unused credit may be carried forward for 10 years from the end of the tax year in which the qualifying contribution is made. The credit is subject to the following limitations:

- For tax year 2006, the maximum credit is \$650,000 for a single taxpayer, and \$2,000,000 for all taxpayers,
- For tax year 2007, the maximum credit is \$1,300,000 for a single taxpayer, and \$4,000,000 for all taxpayers, and
- For tax years beginning after December 31, 2007, the maximum credit is \$2,000,000 for a single taxpayer and \$6,000,000 for all taxpayers.

This bill would amend Section 12-6-3585(A) of the Industry Partnership Fund program limitations and maximum aggregate credit limitations for each tax year beginning after tax year 2018 up to a maximum credit of \$250,000 for a single taxpayer, not to exceed an aggregate credit of \$12,000,000 for all taxpayers for each tax year. The table below describes the Industry Partnership Fund program limitations and the aggregate tax credits claimed by all taxpayers in each tax year of the fund's history.

**South Carolina Industry Partnership Fund  
Program Limitations and Tax Credits Claimed**

<b>Tax Year</b>	<b>Maximum Credit Single Taxpayer</b>	<b>Maximum Credit All Taxpayers</b>	<b>Aggregate Credits Claimed By All Taxpayers</b>
2006	\$650,000	\$2,000,000	\$843,997
2007	\$1,300,000	\$4,000,000	\$2,862,707
2008	\$2,000,000	\$6,000,000	\$3,717,351
2009	\$2,000,000	\$6,000,000	\$3,422,718
2010	\$2,000,000	\$6,000,000	\$4,602,476
2011	\$2,000,000	\$6,000,000	\$5,509,008
2012	\$2,000,000	\$6,000,000	\$5,981,826
2013	\$2,000,000	\$6,000,000	\$5,729,854
2014	\$2,000,000	\$6,000,000	\$5,551,151
2015	\$2,000,000	\$6,000,000	\$5,439,654
2016	\$2,000,000	\$6,000,000	N/A
2017	\$2,000,000	\$6,000,000	N/A
2018	\$2,000,000	\$6,000,000	N/A
2019	\$250,000	\$9,000,000	N/A
2020 & beyond	\$250,000	\$12,000,000	N/A
<b>Historical Total</b>			<b>\$43,660,742</b>

Notes: N/A - Not Available

Sources: Board of Economic Advisors; S.C. Department of Revenue, Columbia, SC

After the first tax year the tax credit was made available, the aggregate tax credit limitation for all taxpayers was increased the next two tax years to \$6,000,000 by tax year 2008. The aggregate tax credit limitation for all taxpayers has not changed since tax year 2008. Over the next seven tax years, the aggregate tax credits claimed by all taxpayers have approached the maximum tax credit limitation of \$6,000,000. By raising the maximum aggregate tax credit limitation to \$12,000,000 for all taxpayers, the Industry Partnership Fund will be able to attract additional investment for use at the South Carolina Research Authority or its affiliates. The maximum tax credit available for a single taxpayer, however, would be reduced from \$2,000,000 per taxpayer to \$250,000 per taxpayer beginning in tax year 2019. The lowering of the maximum tax credit available for a single taxpayer will limit the amount that each taxpayer may invest in the Industry Partnership Fund before reaching the aggregate maximum tax credit limitation. This limitation, however, should not affect the total contributions to the fund.

The historical table above suggests that it takes some time for aggregate tax credits claimed to reach a new maximum tax credit cap; therefore, it is not unreasonable to expect that annual contributions may increase in the future with taxpayers claiming an additional \$1,000,000 in tax credits per tax year. This bill, therefore, would reduce corporate and individual income taxes, bank taxes, license fees, or insurance premium taxes by an estimated \$1,000,000 in FY2019-20, and each fiscal year thereafter, until the maximum aggregate tax credits claimed reaches the maximum cap of \$12,000,000 in the future.

This bill would amend Section 12-6-3585(E) to change the definition of “taxpayer” to disallow any member of the South Carolina Research Authority board of trustees or the SC Launch!, Inc. board of directors from claiming a tax credit against state taxes for qualified contributions to the Industry Partnership Fund.

This bill would amend Section 12-6-3585(F) to require a taxpayer who is certified by the South Carolina Research Authority as having priority entitlement to the tax credit for an applicable tax year must make a commitment to making a qualified contribution to the Industry Partnership Fund during the year no later than April 1<sup>st</sup>.

This bill would add sub-item (B) to indicate that the increased maximum tax credit amount shall be phased in in two equal and cumulative installment amounts beginning in tax years beginning after 2018. Notwithstanding the provisions of Section 12-6-3585, the maximum aggregate tax credit amount allowed by all taxpayers shall be \$9,000,000 in tax year 2019 and \$12,000,000 in tax year 2020, as shown in the table above.

**Section 2.** This section would add an appropriately numbered item to Section 12-6-3585 to require the South Carolina Research Authority to issue a report to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Governor by March fifteenth of each year. The report shall detail the amount contributed to the Industry Partnership Fund in the previous tax year, the taxpayers that received the tax credits, and the manner in which the tax credits were expended, or expected to be expended. The report must be reported in a conspicuous place on the website maintained by the South Carolina Research Authority.

**Section 3.** This act takes effect upon approval by the Governor and applies to tax years beginning after 2018, except that the Section 1 amendment to Section 12-6-3585(F) and Section 2 shall not take effect until January 1, 2020.

**Local Expenditure**

N/A

**Local Revenue**

N/A



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Frank A. Rainwater, Executive Director