SENATE BILL 660: Economic Development Incentives Modifications.

2017-2018 General Assembly

Committee:	Senate Finance. If favorable, re-refer to Rules and Operations of the Senate	**Date:**	April 25, 2017
Introduced by:	Sens. Brown, Britt, Lee	**Prepared by:**	Dan Ettefagh Staff Attorney
Analysis of:	First Edition		

OVERVIEW:* *Senate Bill 660 makes numerous changes to the economic development tier rankings, to the primary economic development programs of the State, to the contract between the Department of Commerce and the Economic Development Partnership of NC (EDPNC), and to other economic development requirements applicable to development entities in the State. The bill received a favorable report from the Senate Commerce and Insurance Committee.

BILL ANALYSIS:

Part I:

Under current law, the Department of Commerce is permitted to contract with a nonprofit organization for the performance of certain departmental functions. Section 1 of the bill modifies the scope and provisions of the contract in the following ways:

- It modifies G.S. 143B-431.01(b) by adding 2 new subdivisions that disallow contracting for departmental site certification functions and activities and disallow contracting for duties or functions of departments other than the Department of Commerce.
- It modifies G.S. 143B-431.01(e) by adding a new subdivision that requires a contractual provision in the contract between the Department and the EDPNC that disallows the EDPNC to contract with State agencies other than the Department for other non-Commerce duties.
- It requires additional reporting requirements of the EDPNC re: annual efforts in the form of reporting on the name and contract person of companies creating new jobs in the State and the location of each project.
- It modifies contractual provisions concerning bonuses paid to EDPNC staff for job performance by restricting job performance on which bonuses may be awarded to tier 1 and 2 efforts and to high-yield projects and by requiring the award structure to provide the greatest incentive for tier 1 efforts.

Part II:

Under current law, job creation requirements and award calculations for both JDIG and the One NC Fund may include positions filled with H-1B visa workers. Section 2.1.(a) and the modification to 143B-437.72(b)(1) found in Section 2.2 would disallow programmatic criteria to be based on or award performance related to H-1B visa worker positions.

Under current law, certain conditions act as pre-requisites for entering into a JDIG agreement. One of those includes that the project has been determined to be consistent with State and local economic development goals. Section 2.1.(b1) modifies G.S. 143B-437.52(a)(3) to clarify that the consideration must account for anticipated effects with respect to each of the development factors used for calculating county tier rankings.

Under current law, JDIG commitment availability is generally capped at $20M per calendar year. Section 2.1.(b2) modifies G.S. 143B-437.52(c) by adding a new requirement that no more than 50% of the annual cap can be committed for projects located in whole or part in tier three areas and, of that amount, no more than 50% can be committed for projects located in whole or part in certain counties designated as "attainment areas." Attainment areas are counties that perform better than the State for the benchmark State values for the per capita income, adjusted assessed property value per capita, percentage growth average, and rate of unemployment development factors.

Under G.S. 143B-437.56(a), JDIG awards are calculated on up to 80% or up to 75% of withholdings created by eligible positions for tier 1 and other tier areas, respectively. Section 2.1.(c) would modify that calculation by (i) changing the maximum percentage for tier 2 areas from 75% to 70%, (ii) changing the maximum percentage for tier 3 areas that are not attainment areas from 75% to 60%, and (iii) changing the maximum percentage for attainment areas from 75% to 50%.

Under G.S. 143B-437.56(d), JDIG awards earned by businesses are generally decreased by a percentage of 10% or 25% if the project is located in a tier 2 or 3 area, respectively. This percentage is diverted to the Utility Account. Section 2.1.(c) would modify that percentage diversion by (i) increasing the diversion from 25% to 50% for attainment area projects and (ii) increasing the diversion from 25% to 30% for tier 3 areas that are not attainment areas.

Under current law, One NC Fund awards require a local match. The match amount provision allows 1 local dollar to draw down up to 3 State dollars for tier 1 areas, 1 local dollar to draw down up to 2 State dollars for tier 2 areas, and 1 local dollar to draw down up to 1 State dollar for tier 3 areas. Section 2.2 of the bill would modify the local match requirement for tier 3 areas that are attainment areas by increasing the local match requirement to 4 local dollars being required to draw down up to 1 State dollar.

Under current law, the Utility Account generally provides funds for infrastructure improvements to local governments of tier 1 and 2 areas for projects reasonably anticipated to create jobs. Section 2.3 of the bill would additionally allow access to UA funds for projects that are reasonably anticipated to retain existing jobs.

Part III:

Under current law, the Department annually ranks all counties for economic distress based on 4 development factors (median household income, unemployment, percentage growth in population, and adjusted assessed property value per capita) for purposes of classifying counties into development tiers. Irrespective of the composite score based on the 4 development factors, certain statutory adjustment factors modify the tier ranking of a county based, among other things, on the population, multi-jurisdiction cooperation, and population + poverty rate considerations. Section 3 of the bill would require the Department to index each county's performance against State values for unemployment, per capita income, percentage growth average, and adjusted assessed property value per capita and rank all counties in terms of their respective performance on that index. Based on these values, a county that outperforms all 4 benchmarks is designated as an attainment area. Additionally, section 3 of the bill would eliminate all adjustment factors.

Part IV:

Under current law, the State is divided into 8 Collaboration for Prosperity Zones, in which liaisons from the Departments of Commerce, Transportation, and Environmental Quality work to provide coordinated assistance to companies in or looking to locate in the area. Section 4.(a) would require Commerce personnel to collate zone-specific information on unutilized or underutilized assets in each zone, as reported by the Department's strategic plan, to analyze the information for purposes of potential productive use of such assets, and to share that information with the appropriate local governmental entities. Section 4.(b) would increase the reporting requirements for Zone personnel to include jobs resulting from efforts, companies and contact persons with whom the Zone worked in recruitment, locations of landed projects, and other information for project leads that did not come to fruition.

Part V:

Part V of the bill would modify the policy statement of the Department of Commerce to clarify that the coordination of economic development efforts in the State by the Department should emphasize maximizing the return on economic development investment by selecting projects and locations that provide the greatest relief to communities experiencing chronic economic distress. In addition, the Department is required to (i) study ways to achieve this clarified policy directive through modification of existing economic development programs (along with any legislative recommendations as to those changes to the EDGE committee by 10/1/17) and (ii) come up with on-going 5-year plans for increasing development factor performance of counties to raise the index score of underperforming counties to the applicable benchmark. The Department is required to submit annual progress reports as to its progress.

EFFECTIVE DATE: Other than Parts II and III, the bill is effective when it becomes law. Part II is effective January 1, 2017. Part III is effective January 1, 2018.