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South Carolina Enacts Key Tax Credits to Boost Economic Development Efforts

SCEDA priority legislation could boost state's economic development efforts.

John Wall, Partner, Burr & Forman

Jeff Allen, Partner, Burr & Forman

Q4 2024

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Several new laws enacted in the spring of 2024 should benefit South Carolina's economic development recruitment efforts for several target industries, including two priorities of the South Carolina Economic Developer's Association ("SCEDA").

Here's a breakdown of several newly signed laws.

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South Carolina Tax Credit Law

The new law enhances a number of valuable incentives available for many different industries, and specifically does the following:

Corporate Headquarters Tax Credit

The corporate headquarters credit provides a tax credit equal to 20 percent of the qualifying costs real and personal property incurred when establishing or expanding a regional or national headquarters facility in South Carolina. The new law generally makes it easier for certain operations to qualify for the corporate headquarters tax credit found in SC Code Ann. 12-6-3410 by (1) allowing more entities (such as limited liability companies) to qualify for the credit, (2) reducing the 75 new job requirement to a 40 new full-time job requirement, (3) allowing certain remote or hybrid employees of a business unit to count towards the 40 new full-time job requirement as long as they reside in the State, and (4) adding a new type of tax (income taxes for individuals, estates, and trusts) that can be reduced by the credit and allowing a taxpayer to take the credit against any combination of the eligible taxes (individual income, corporate income, bank income, or corporate license taxes). Jobs for research and development related functions counted towards the job creation requirement under the prior version of the credit, but do not count towards the job creation requirement under the new version of the credit. A business must meet certain requirements in addition to those wages equal to or greater than twice the per capita income of the State (i.e. over $107,236 annually or $53.62 hourly for 2024)and providing a benefits package (including health care). We hope this change will help South Carolina recruit and retain more corporate headquarters in the State. This change applies to income tax years beginning after 2023.

Qualified Recycling Facility Tax Credits
The new law amends SC Code Ann. § 12-6-3460 to allow more qualifying recycling facilities to be eligible for a 30 percent income or corporate license fee tax credit by (1) reducing the minimum qualifying capital investment from $300 million to $150 million, (2) allowing facilities that fabricate products for sale to also qualify, and (3) expanding the products a facility can process to qualify for the credit to reflect changes in technology and to allow facilities recycling batteries, solar panels, turbines and related structures to qualify for the credit as long as they manufacture products for sale that are at least 50 percent of this "postconsumer waste material" by weight or volume. This change applies to income tax years beginning after 2023.

> ***The abandoned building income tax credit increased from $500,000 to $700,000 per building site.***

Job Development Credits
Job Development Credits ("JDCs") are a discretionary state incentive that provides funds to businesses to reimburse certain "qualifying expenditures" as defined in the Enterprise Zone Act of 1995 (the "Act") through a somewhat complicated employee withholding tax reimbursement mechanism. The new law amends the Act to allow certain companies to qualify for the JDCs by (1) updating the "employee" definition in the Act so certain remote or hybrid full-time company employees that are South Carolina, North Carolina, or Georgia residents if they are subject to South Carolina withholdings are now eligible, and (2) adding a provision that certain companies leasing a property (operating lease) and with high-wages but low investment can qualify as long as they create 25 new jobs with wages over 2.5 times the county per capita income where the project is located. These changes are retroactive and first apply to income tax years beginning after 2020.

Retraining Credit
The new law amends SC Code Ann. § 12-10-95 to allow more business to qualify for the credit by (1) allowing warehouse and distribution facilities to be eligible for the credit, (2) allowing more retraining costs (upskilling, management development, and recertification in production-related competencies) to be eligible for qualifying retraining programs and credit eligibility, and (3) changes the expenditures requirements so a qualifying business now must only expend $1.00 on retraining eligible employees for every $1.00 claimed as a credit against withholding for retraining. The new law also requires all retraining programs to now be approved by the State Board for Technical and Comprehensive Education, as opposed to only having to be approved by the local technical college under the prior version of the state law. This change applies to income tax years beginning after 2023. Frequently, this is an overlooked credit and we are hopeful these revisions to the retraining credit will allow our existing industries to upskill, retrain, and

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existing workforce and retraining programs.

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Notably, certain tax syndication provisions for job tax credits (a state income tax credit, different from JDCs) and amendments to expand sales tax exemptions for data centers or limit state and local incentives for data centers were ultimately removed from the legislation during various stages of the legislative process. However, it is believed these topics will come up for debate in the upcoming legislative session.

The legislation was a herculean effort by many organizations, legislators, other state leaders, and state agencies. The bill went through several amendments over the two-year legislative session from 2023 to when it was finally passed into law during the Sine Die period in 2024 when legislative leaders were able to work out a compromise.

South Carolina Abandoned Buildings Revitalization Act Extension and Tax Credit Increase

South Carolina provides a tax credit to eligible taxpayers who rehabilitate any abandoned buildings under the South Carolina Abandoned Buildings Revitalization Act (the "Act"). The purpose of this tax credit is to incentivize the rejuvenation of abandoned buildings to cut down on crime, and increase property value, and eliminate safety concerns. Those who qualify for the credit can choose between two options: (1) an income tax credit on income taxes or corporate license fee tax credit or (2) a credit against real property tax if approved by the County and potentially the local municipality where the abandoned building project is located. Previously, any taxpayer who chose to take the income tax credit could receive a tax credit up to $500,000 in a tax year per abandoned building site that was rehabilitated and the overall credit was set to expire on December 31, 2025.

"This new law is a great win for real estate developers and local jurisdictions."

This new law is a great win for real estate developers and local taxing jurisdictions who are seeking to rehabilitate old abandoned buildings and was the result of great teamwork between several organizations to include the South Carolina Economic Developer's Association ("SCEDA"), the Municipal Association of South Carolina ("MASC"), and others. It increases the abandoned building income tax credit available to taxpayers from $500,000 to $700,000 per each "building site," and extends the sunset date for the credit to December 31, 2035.

On June 10, 2024, the South Carolina Department of Revenue issued SC Information Letter #24-6 to provide informal guidance to developers and practitioners on the new law.

South Carolina Apprenticeship Income Tax Credit

This law amends the state apprenticeship tax credit under SC Code Ann. § 12-6-3477, effective as of May 21, 2024.

Previously, any taxpayers who employed an apprentice pursuant to an apprenticeship agreement registered with the Office of Apprenticeship of Employment and Training Administration for the United States Department of Labor (the "Department") could receive a credit against income tax equal to $1,000 for each apprentice employed. To receive the credit, the individual apprentice must have been employed for at less years.

Going forward, taxpayers can receive as a tax credit for either the cost of the apprenticeship up to $4,000 or $6,000 for a youth apprentice, or $1,000 for each apprentice employed, whichever is greater. Additionally, if an apprentice remains an employee of the taxpayer upon completion of the apprenticeship, the taxpayer may claim the $1,000 tax credit for up to 3 additional years. Finally, any unused credit may be carried forward for 3 years.

This bill further incentives taxpayers to take on apprentices, and rewards taxpayers for retaining an apprentice following the completion of the apprenticeship program by giving them additional tax credits.

> ***Qualifying capital investments for recycling facilities dropped from $300 million to $150 million.***

South Carolina Workforce Farmland Protection Fund Established - Effective as of March 11, 2024
The new Working Farmland Protection Fund provides permanent protection and new grants to certain working farmland property owners who place their property in a conservation easement, (2) increases the South Carolina Conservation Bank (the "Conservation Bank") membership to 17 members from 14 members, adding the Commissioner of Agriculture, the Secretary of Commerce, and the Secretary of Transportation or their designees to the Conservation Bank, and (3) requires the Governor, Speaker of the House of Representative, and President of the Senate to specifically consider individuals with farming experience with their appointees to the Conservation Bank (previously the appointees and Conservation Bank board members were required to possess experience in the areas of natural resources, land development, forestry, finance, land conservation, real estate, or law).

Conservation easements are a common limitation on the way land can be used, ensuring the land remains used for agricultural purposes. Because easements transfer with the sale of the land, conservation easements effectively protect farmland in perpetuity by ensuring any land sold with a conservation easement must continue to be used as farmland. The fund created by the Act will compensate eligible farmers up to 50% of the value of their conservation easement. To receive the fund, eligible farmers must relinquish their development rights by putting their land in a conservation easement. The farmers retain ownership of the property, but should they choose to sell in the future, the property must remain farmland.

> ***South Carolina's economic growth is being driven by***

When evaluating applications for the new grant, the Conservation Bank is required to consider various criteria, including by not limited to (1) the authority of the farm owner to make his property available via lease or transfer to other farmers to increase or expand farmland, (2) the threat of urbanization to the farm, (3) the percentage of soil on the land that classifies the land as *incentives.*

farmland of high state/local importance, (4) agricultural structures and improvements associated with the farmland, (5) economic viability of the farmland in the future in local, state, and regional agricultural markets, (6) natural resource value of the farmland, and (7) whether the farmland is located in or serves an underprivileged community.

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Some believe this new law will allow certain qualifying agribusinesses and farmers to protect their property by potentially receiving both the conservation credit as well as potentially a new grant under the Working Farmland Protection Fund to protect their farms, which are critical to our state and national security.

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Burr & Forman summer law clerks Ryan Werner and Jack Mensch also contributed to this article.

John Wall, Partner, Burr & Forman

John Wall serves as a Partner in the firm's Government Relations practice group where he assists a diverse group of domestic and international clients with economic development advice and government affairs representation at the local and state level. John is the Co-Chair of the SCEDA Legislative Committee serving in a pro bono role with former SCEDA President and SCEDA Legislative Committee Co-Chair, Sandy Steele. He serves as a key leader of the Burr & Forman Economic Development Team and member of the Firm's well-established Government Relations Practice Group, focusing his practice on assisting clients with tax incentive and legislative/regulatory needs. Sunnie Harmon and John DeWorken worked on the legislation and initiatives as the SCEDA lobbyists.

Jeff Allen, Partner, Burr & Forman

Jeff Allen is a key member of the Burr & Foreman's Economic Development Team and member of the Firm's Corporate & Tax Practice Group. Jeff focuses his practice on helping clients utilize tax exemptions and tax incentives. A substantial portion of Jeff's practice relates to tax-exempt bonds, including issues related to governmental bonds, private activity bonds, arbitrage, and private business use. In addition, he regularly works with affordable housing developers utilizing Low Income Housing Tax Credits, nonprofit organizations, businesses utilizing targeted tax incentives such as the Employee Retention Credit, and with businesses seeking to locate or expand in South Carolina and take advantage of economic development incentives. Jeff has substantial experience in federal and state tax controversy matters and represents clients who are being audited by the Internal Revenue Service (IRS) and the South Carolina Department of Revenue (DOR).

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