

**REPORT OF THE  
ECONOMIC DEVELOPMENT,  
CAPITAL IMPROVEMENT &  
OTHER TAXES SUBCOMMITTEE**

(Loftis, Cobb-Hunter, Stavrinakis, Lowe & Long - Staff Contact: AJ Newton)

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**SENATE BILL 427**

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S. 427 -- Senators Hutto, Rankin, O'Dell and Williams: A BILL TO AMEND SECTION 12-6-3360, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE JOBS TAX CREDIT, SO AS TO ALLOW A TAXPAYER OPERATING AN AGRICULTURAL PACKAGING OPERATION TO CLAIM THE CREDIT, TO ALLOW CERTAIN AGRICULTURAL OPERATIONS TO CLAIM SEASONAL WORKERS AS A CERTAIN FRACTION OF A FULL-TIME JOB, AND TO DEFINE AGRICULTURAL PACKAGING; TO AMEND SECTION 12-36-2120, RELATING TO EXEMPTIONS FROM THE STATE SALES TAX, SO AS TO EXEMPT MACHINES USED IN AGRICULTURAL PACKAGING; AND BY ADDING SECTION 13-1-780 SO AS TO REQUIRE THE DEPARTMENT OF COMMERCE AND THE COORDINATING COUNCIL TO CONSIDER AGRICULTURAL BUSINESSES IN AWARDING ECONOMIC DEVELOPMENT BENEFITS.

***Summary of Bill:***

Section 1: The bill amends Section 12-6-3360(A) to include "agricultural packaging" in the list of qualifying industry for job tax credits for each new full-time job created.

Section 2: Allows for seasonal workers to be considered as full-time employees. Each seasonal workers only counts as a fraction of a full-time employee based on percentage of total hours worked each year.

Section 3: It further amends Section 12-6-3360(M) with a definition of "agricultural packaging."

Section 4: Amends Section 12-36-2120(17) to include "agricultural packaging" in the list of sales and use tax exemptions to allow the machines used in the process to be exempt from sales and use taxes.

Section 5: Adds Section 13-1-1780 which directs the SC Department of Commerce and Coordinating Council for Economic Development to consider agricultural businesses in awarding benefits for economic development projects.

***Estimated Fiscal Impact:***

The bill would reduce sales and use tax revenue by an est. \$1,125,000 in FY16-17. It would also reduce General Fund income tax, bank tax, or insurance premium tax revenue by an est. \$1,520,000 per year through FY21-22.

***Subcommittee Recommendation:***

Favorable

***Full Committee Recommendation:***

Pending



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
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Bill Number: S. 0427  
 Author: Hutto  
 Requestor: Senate Finance  
 Date: March 23, 2015  
 Subject: Job tax credits  
 RFA Analyst(s): Martin and Stein

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**Estimate of Fiscal Impact**

	<b>FY 2015-16</b>	<b>FY 2016-17</b>
<b>State Expenditure</b>		
General Fund	\$0	\$0
Other and Federal	\$0	\$0
Full-Time Equivalent Position(s)	0.00	0.00
<b>State Revenue</b>		
General Fund	(\$750,000)	(\$1,520,000)
Other and Federal	(\$375,000)	N/A
<b>Local Expenditure</b>	N/A	N/A
<b>Local Revenue</b>	N/A	N/A

**Fiscal Impact Summary**

This bill would reduce sales and use tax revenue by an estimated \$1,125,000 in FY2015-16. Of this amount, General Fund sales and use tax would be reduced by \$750,000, the EIA fund would be reduced by \$187,500, and the Homestead Exemption Fund would be reduced by \$187,500 in FY2015-16. This bill would also reduce General Fund income tax, bank tax, or insurance premium tax revenue by an estimated \$1,520,000 in FY2016-17, and each fiscal year through FY2020-21.

**Explanation of Fiscal Impact**

**State Expenditure**

The Department of Commerce reports that this bill would have no expenditure impact on the General Fund, Federal Funds, or Other Funds.

**State Revenue**

The following is a section-by-section explanation of the bill.

**Section 1.** This bill would amend Section 12-6-3360(A) to add to the list of qualifying industries eligible for a nonrefundable job tax credit each new full-time job created in the agricultural packaging industry. According to the U.S. Department of Commerce, this industry comprises establishments primarily engaged in performing services on crops, subsequent to their harvest, with the intent of preparing them for market or further processing. These establishments provide postharvest activities, such as crop cleaning, sun drying, shelling, fumigating, curing, sorting,

grading, packing, and cooling. This bill, however, expands the definition of agricultural packaging further by including all aspects of packaging to include all of the technology that is incorporated in bringing an agricultural product to market as described in Section 3 below.

**Section 2.** This section would amend Section 12-6-3360(M)(4) to include seasonal workers as full-time employees in agricultural packaging and agribusiness operations. The seasonal worker would only count as a fraction of a full-time worker based on the percentage of total hours the seasonal worker performs in the agricultural packaging or agribusiness operation in the state each year. The U.S. Department of Agriculture defines a “seasonal worker” as one that maintains a permanent place of residence but works temporarily based upon the cycle of the agricultural harvest. This differs from a “migrant worker” as one that has no permanent place of residence but moves from agricultural operation to operation as the agricultural harvests change with the seasons. Because this bill does not make a distinction between the types of worker in the agricultural packaging industry, this could be a source of confusion in determining the eligibility of qualified workers for job tax credits.

Since this industry is accounted for in the Board of Economic Advisors’ General Fund revenue estimate, any change to this industry’s employment base would affect the current revenue estimates. Without this legislation, an agricultural packaging company would be ineligible for the job tax credit as it seeks approval for applying a job tax credit from the Department of Revenue for each new full-time employee hired, and other economic development incentives from the Coordinating Council for Economic Development.

The agricultural packaging industry has exhibited slow growth in South Carolina. This is because of the increased use of technology in the industry that has displaced many workers. Based on the latest data from the U.S. Department of Labor, Bureau of Labor statistics there are nearly 8,600 individuals employed in 382 companies in the agricultural packaging industry making an average annual salary of \$48,846 per year. The average establishment employs slightly more than 22 individuals. Each year, the agricultural packaging industry expands by an average of 18 companies creating nearly an additional 400 jobs. These jobs are geographically dispersed throughout the state including both the metropolitan areas and the state’s rural counties.

According to the Department of Revenue’s annual ranking of county designations for a job tax credit, the amount of a job tax credit ranges from \$1,500 per job in a developed county to \$8,000 per job in an economically-distressed county based upon the location of the new qualified full-time job. The job tax credit may be claimed for five years beginning in year two after the creation of the job for each new full-time job created if the maximum level of new jobs is maintained. Any unused job tax credits may be carried forward for a period of fifteen years from the taxable year in which the credit is earned by the taxpayer.

Because it is difficult to estimate with certainty in which county new qualified jobs may be created, an estimated average job tax credit of \$3,800 per eligible job is used in the analysis. If the agricultural packaging industry continues to expand at the current average annual pace of job growth, then multiplying an estimated 400 new full-time jobs by a nonrefundable job tax credit of \$3,800 per eligible job yields a reduction in General Fund income tax, bank tax, or insurance

premium tax revenue of an estimated \$1,520,000 in FY2016-17, and each fiscal year through FY2020-21.

**Section 3.** This section would further amend Section 12-6-3360(M) to define “agricultural packaging” to include the technology of enclosing or protecting or preserving agricultural products for distribution, storage, sale, and use. The definition of “packaging” is expanded to include the process of design, evaluation, and production of packages used for agricultural products. This process is further described as a coordinated system of preparing agricultural goods for transport, warehousing, logistics, sale, and end use.

**Section 4.** This section would amend Section 12-36-2120(17) to add a sales and use tax exemption to include machines used in the agricultural packaging of tangible personal property for sale. Based on the latest data from the U.S. Department of Commerce, Bureau of the Census, nearly \$125,000,000,000 of agricultural packaging equipment is manufactured annually. After adjusting the data for sales made to South Carolina agricultural packagers and applying a six percent sales and use tax rate, a reduction of sales and use tax revenue of an estimated \$1,125,000 in FY2015-16 would result. Of this amount, General Fund sales and use tax would be reduced by \$750,000, the EIA fund would be reduced by \$187,500, and the Homestead Exemption Fund would be reduced by \$187,500 in FY2015-16.

**Section 5.** This section would add Section 13-1-1780 to direct the S.C. Department of Commerce and the Coordinating Council for Economic Development to consider the economic benefits of agricultural businesses in awarding benefits for economic development projects. This section is permissive and is not expected to affect state General Fund revenue in FY2015-16.

**Section 6.** Except where specified otherwise, this act takes effect upon approval by the Governor.

**Local Expenditure**

N/A

**Local Revenue**

N/A

  
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Frank A. Rainwater, Executive Director

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

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4 COMMITTEE REPORT

5 March 25, 2015

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## S. 427

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9 Introduced by Senators Hutto, Rankin, O'Dell and Williams

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11 S. Printed 3/25/15--S.

12 Read the first time February 5, 2015.

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### A BILL

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19 TO AMEND SECTION 12-6-3360, CODE OF LAWS OF SOUTH  
20 CAROLINA, 1976, RELATING TO THE JOBS TAX CREDIT,  
21 SO AS TO ALLOW A TAXPAYER OPERATING AN  
22 AGRICULTURAL PACKAGING OPERATION TO CLAIM THE  
23 CREDIT, TO ALLOW CERTAIN AGRICULTURAL  
24 OPERATIONS TO CLAIM SEASONAL WORKERS AS A  
25 CERTAIN FRACTION OF A FULL-TIME JOB, AND TO  
26 DEFINE AGRICULTURAL PACKAGING; TO AMEND  
27 SECTION 12-36-2120, RELATING TO EXEMPTIONS FROM  
28 THE STATE SALES TAX, SO AS TO EXEMPT MACHINES  
29 USED IN AGRICULTURAL PACKAGING; AND BY ADDING  
30 SECTION 13-1-780 SO AS TO REQUIRE THE DEPARTMENT  
31 OF COMMERCE AND THE COORDINATING COUNCIL TO  
32 CONSIDER AGRICULTURAL BUSINESSES IN AWARDED  
33 ECONOMIC DEVELOPMENT BENEFITS.

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

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38 SECTION 1. Section 12-6-3360(A) of the 1976 Code is amended  
39 to read:

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41 "(A) Taxpayers that operate manufacturing, tourism, processing,  
42 agricultural packaging, warehousing, distribution, research and

1 development, corporate office, qualifying service-related facilities,  
2 agribusiness operations, extraordinary retail establishment, and  
3 qualifying technology intensive facilities, and banks as defined  
4 pursuant to this title are allowed an annual jobs tax credit as  
5 provided in this section. In addition, taxpayers that operate retail  
6 facilities and service-related industries qualify for an annual jobs tax  
7 credit in counties designated as 'Tier IV'. As used in this section,  
8 'corporate office' includes general contractors licensed by the South  
9 Carolina Department of Labor, Licensing and Regulation. Credits  
10 pursuant to this section may be claimed against income taxes  
11 imposed by Section 12-6-510 or 12-6-530, bank taxes imposed  
12 pursuant to Chapter 11 of this title, and insurance premium taxes  
13 imposed pursuant to Chapter 7, Title 38, and are limited in use to  
14 fifty percent of the taxpayer's South Carolina income tax, bank tax,  
15 or insurance premium tax liability. In computing a tax payable by a  
16 taxpayer pursuant to Section 38-7-90, the credit allowable pursuant  
17 to this section must be treated as a premium tax paid pursuant to  
18 Section 38-7-20.

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20 SECTION 2. Section 12-6-3360(M)(4) of the 1976 Code is  
21 amended to read:

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23 "(4) 'Full-time' means a job requiring a minimum of thirty-five  
24 hours of an employee's time a week for the entire normal year of  
25 company operations or a job requiring a minimum of thirty-five  
26 hours of an employee's time for a week for a year in which the  
27 employee was hired initially for or transferred to the South Carolina  
28 facility. For the purposes of this section, two half-time jobs are  
29 considered one full-time job. A 'half-time job' is a job requiring a  
30 minimum of twenty hours of an employee's time a week for the  
31 entire normal year of the company's operations or a job requiring a  
32 minimum of twenty hours of an employee's time a week for a year  
33 in which the employee was hired initially for or transferred to the  
34 South Carolina facility. For agricultural packaging and agribusiness  
35 operations, seasonal workers may be considered a full-time  
36 employee; however, a seasonal employee only counts as a fraction  
37 of a full-time worker, with the numerator being the number of hours  
38 worked a week multiplied by the number of weeks worked, and the  
39 denominator being the number one thousand eight hundred twenty."

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41 SECTION 3. Section 12-6-3360(M) of the 1976 Code is amended  
42 by adding an appropriately numbered item to read:

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1 “ ( ) ‘Agricultural packaging’ means the technology of enclosing  
2 or protecting or preserving agricultural products for distribution,  
3 storage, sale, and use. Packaging also refers to the process of design,  
4 evaluation, and production of packages used for agricultural  
5 products. Packaging can be described as a coordinated system of  
6 preparing agricultural goods for transport, warehousing, logistics,  
7 sale and end use.”

8

9 SECTION 4. A. Section 12-36-2120(17) of the 1976 Code is  
10 amended to read:

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12 “(17) machines used in manufacturing, processing, agricultural  
13 packaging, recycling, compounding, mining, or quarrying tangible  
14 personal property for sale. ‘Machines’ include the parts of machines,  
15 attachments, and replacements used, or manufactured for use, on or  
16 in the operation of the machines and which (a) are necessary to the  
17 operation of the machines and are customarily so used, or (b) are  
18 necessary to comply with the order of an agency of the United States  
19 or of this State for the prevention or abatement of pollution of air,  
20 water, or noise that is caused or threatened by any machine used as  
21 provided in this section. This exemption does not include  
22 automobiles or trucks. As used in this item ‘recycling’ means a  
23 process by which materials that otherwise would become solid  
24 waste are collected, separated, or processed and reused, or returned  
25 to use in the form of raw materials or products, including  
26 composting, for sale. In applying this exemption to machines used  
27 in recycling, the following percentage of the gross proceeds of sale,  
28 or sales price of, machines used in recycling are exempt from the  
29 taxes imposed by this chapter:

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31 Fiscal Year of Sale	Percentage
32 Fiscal year 1997-98	fifty percent
33 After June 30, 1998	one hundred percent;”

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35 B. This section takes effect July 1, 2015.

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37 SECTION 5. Article 11, Chapter 1, Title 13 of the 1976 Code is  
38 amended by adding:

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40 “Section 13-1-1780. In awarding benefits for economic  
41 development projects, including awards from the Governor’s  
42 Closing Fund, the Department of Commerce and the coordinating  
43 council must consider agricultural businesses. The Department of



1 Commerce and the coordinating council must consider the number  
2 of jobs created, including full-time, part-time, and seasonal jobs, and  
3 the total investment made, including the cost of the real property.”

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5 SECTION 6. Except where specified otherwise, this act takes  
6 effect upon approval by the Governor.

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