

GREEN SHEET REDIGEST

HB 289

2021 Regular Session

McFarland

TAX CREDITS: Establishes an income and corporate franchise tax credit for Class II and Class III railroads

DIGEST

Beginning Jan. 1, 2022, proposed law authorizes an income tax and corporate franchise tax credit for eligible taxpayers.

Proposed law defines eligible taxpayer as any railroad that owns, operates, or leases railroad track in La. and is classified by the United States Surface Transportation Board as a Class II or Class III railroad.

Proposed law provides the total amount of credits granted in a calendar year shall not exceed \$2 million. Further provides the total amount of credits available for each taxpayer each year shall be the lesser of 50% of the taxpayer's qualified expenditures or the total number of miles of track owned, operated, or leased within La. multiplied by \$4,500.

Proposed law provides that if the amount of the tax credit exceeds the taxpayer's liability in the year the credit is earned, the excess credit may be carried forward for a period not to exceed seven years from when the credit was earned.

Proposed law requires a taxpayer claiming the credit to submit an application for the credit to the Department of Revenue (Dept.) identifying the amount the taxpayer expects to claim as a credit in a taxable year. Further provides the application shall provide for the taxpayer's amount of eligible expenditures, and the number of miles of track owned, operated, or leased by the taxpayer.

Proposed law provides the application shall be submitted to the Dept. no later than 30 days prior to the end of the applicable taxable year.

Proposed law provides the tax credit awarded to the taxpayer shall not exceed the amount set forth in the credit application.

Proposed law provides that any tax credit that has not been claimed may be transferred or sold within five years to an eligible transferee, beginning the year in which the credit was earned. Further provides that the transfer or sale may only take place if the credit is recorded in the tax registry pursuant to present law (R.S. 47:1524).

Proposed law requires transferors and transferees to submit a written transfer notification to the department within 10 days after the transfer of the credits. Requires the transfer notification to include the transferor's tax credit balance prior to transfer, the remaining balance after transfer, all federal and La. tax identification numbers for both transferor and transferee, the date of transfer, the amount of credit transferred, and any other information required by the department.

Proposed law provides for a transfer processing fee of \$200 payable to the department.

Proposed law provides for disallowance of the tax credit until the parties are in full compliance with the provisions of proposed law.

Proposed law defines "eligible transferee" as any taxpayer subject to La. income tax or corporate franchise tax.

Proposed law defines "qualified railroad track maintenance expenditures" as the gross expenditures made on or after Jan. 1, 2022, by an eligible taxpayer for repairs, maintenance, reconstruction, or replacement of railroad track or for new construction of industrial leads,

switches, spurs, sidings or for the extension of existing sidings if the expenditures are made on track located in La. and the track is owned, operated, or leased by the eligible taxpayer.

Applicable to taxable years occurring on or after Jan. 1, 2022.

Effective Jan. 1, 2022.

(Adds R.S. 47:6042)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Change the total amount of credits granted in a calendar year from \$7.5 million to \$4.5 million.
2. Change the total amount of credits available for each taxpayer in a year from the lesser of 50% of the taxpayer's qualified expenditures or the total number of miles of track owned, operated, or leased within La. multiplied by \$7,500 to the total number of miles of track owned, operated or leased within La. multiplied by \$4,500.

The House Floor Amendments to the engrossed bill:

1. Require Class II or III railroads receiving the tax credit authorized pursuant to proposed law to charge broadband providers an amount equal to the actual costs incurred by the railroad for installation of broadband infrastructure if it is required to cross over certain railroad track.

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Revenue and Fiscal Affairs to the reengrossed bill

1. Deletes provision requiring Class II or III railroads receiving the tax credit to charge broadband providers an amount equal to the actual costs incurred by the railroad for installation of broadband infrastructure.
2. Reduces the cap on the total amount of credits granted in a calendar year from \$4.5 million to \$2 million.
3. Provides for a transfer processing fee.
4. Makes technical changes.