

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS15198-LY-11 (12/2)

Short Title: Railroad Incentives.

(Public)

Sponsors: Senators Clodfelter, and Hoyle.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO PROVIDE TAX INCENTIVES FOR THE CONSTRUCTION OF A
RAILROAD INTERMODAL FACILITY.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 105 of the General Statutes is amended by adding a
new Article to read:

"Article 3H.

"Tax Incentives for Railroad Intermodal Facilities.

"§ 105-129.70. Definitions.

The following definitions apply in this Article:

- (1) Costs of construction. – The costs of acquiring and improving land, constructing buildings and other structures, and equipping the facility.
- (2) Eligible railroad intermodal facility. – A railroad intermodal facility whose costs of construction exceed fifty million dollars (\$50,000,000).
- (3) Intermodal facility. – A facility where freight is transferred from one mode of transportation to another.
- (4) Railroad intermodal facility. – An intermodal facility whose primary purpose is to transfer freight between a railroad and another mode of transportation.

"§ 105-129.71. Credit for constructing a railroad intermodal facility.

(a) Credit. – A taxpayer that incurs indebtedness for the construction of an eligible railroad intermodal facility and constructs an eligible railroad intermodal facility in this State is allowed a tax credit equal to the amount of payments made by the taxpayer during the taxable year on the indebtedness, not to exceed two million five hundred thousand dollars (\$2,500,000).

(b) Taxes Credited. – The credit provided in this section is allowed against the franchise tax levied in Article 3 of this Chapter, the income taxes levied in Article 4 of

1 this Chapter, and the sales and use taxes levied in Article 5 of this Chapter. The amount
2 of the credit, including any carryforwards, may not exceed the taxpayer's combined tax
3 liability for these three taxes. Any amount that exceeds the taxpayer's combined liability
4 for these three taxes may be carried forward for the succeeding five years.

5 (c) Procedure. – A taxpayer must claim the credit against the income tax and
6 franchise tax first. Once a taxpayer has applied the credit against the income tax and
7 franchise tax, the taxpayer may claim any remaining amount of the credit against the
8 sales and use taxes paid by the taxpayer in the preceding calendar year. The taxpayer
9 may apply the credit against the sales and use taxes by requesting a refund of sales and
10 use taxes paid in an amount equal to the remaining credit. A request for a refund must
11 be in writing and must include any information and documentation required by the
12 Secretary. A request for a refund is due within six months after the end of the State's
13 fiscal year. Refunds applied for after the due date are barred.

14 **"§ 105-129.72. Substantiation.**

15 To claim a credit allowed by this Article, the taxpayer must provide any information
16 required by the Secretary. Every taxpayer claiming a credit under this Article must
17 maintain and make available for inspection by the Secretary any records the Secretary
18 considers necessary to determine and verify the amount of the credit to which the
19 taxpayer is entitled. The burden of proving eligibility for a credit and the amount of the
20 credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to
21 maintain adequate records or to make them available for inspection.

22 **"§ 105-129.73. Reports.**

23 The Department of Revenue must publish by May 1 of each year the following
24 information, itemized by taxpayer, for the 12-month period ending the preceding
25 December 31:

- 26 (1) The number of taxpayers that claimed a credit allowed in this Article.
27 (2) The amount of each credit claimed and the taxes against which it was
28 applied.
29 (3) The total cost to the General Fund of the credits claimed.

30 **"§ 105-129.74. Sunset.**

31 This Article is repealed effective for taxable years beginning on or after January 1,
32 2036."

33 **SECTION 2.** G.S. 105-259(b) is amended by adding a new subdivision to
34 read:

35 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State
36 who has access to tax information in the course of service to or employment by the State
37 may not disclose the information to any other person unless the disclosure is made for
38 one of the following purposes:

39 ...

- 40 (32) To publish the information required under G.S. 105-129.73."

41 **SECTION 3.** This act is effective for taxable years beginning on or after
42 January 1, 2006, and applies to indebtedness incurred on or after January 1, 2005.