

2021 Regular Session

HOUSE BILL NO. 289

BY REPRESENTATIVES MCFARLAND AND BISHOP AND SENATOR FOIL

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

1 AN ACT

2 To enact R.S. 47:6042, relative to income and corporate franchise tax credits; to provide for
3 an income and corporate franchise tax credit for certain railroads; to provide for
4 definitions; to provide for the maximum amount of credits that can be issued
5 annually; to provide for the maximum amount of credits an individual taxpayer can
6 be issued annually; to provide for taxpayer eligibility; to authorize unclaimed
7 portions of a credit to be carried forward or transferred; to provide for the
8 administration of the tax credit; to provide relative to certain tax credit qualifications;
9 to provide for effectiveness; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 47:6042 is hereby enacted to read as follows:

12 §6042. Tax credit for certain railroads

13 A. Beginning January 1, 2022, there is hereby authorized a credit against
14 individual income tax, corporation income tax, and corporation franchise tax for
15 Class II or Class III railroads operating in Louisiana.

16 B. For the purposes of this Section the following terms shall have the
17 following meanings:

18 (1) "Department" shall mean the Department of Revenue.

1 (2) "Eligible taxpayer" or "taxpayer" shall mean any railroad that owns,
2 operates, or leases railroad tracks in Louisiana and is classified by the United States
3 Surface Transportation Board as a Class II or Class III railroad.

4 (3) "Eligible transferee" shall mean any taxpayer subject to Louisiana
5 individual income tax, corporation income tax, or corporation franchise tax.

6 (4) "Qualified railroad track maintenance expenditures" or "expenditures"
7 shall mean gross expenditures made on or after January 1, 2022, by an eligible
8 taxpayer for repairs, maintenance, reconstruction, or replacement of railroad track,
9 including roadbed, bridges, industrial leads, side track, yard tracks, related track
10 structures, or for the new construction of industrial leads, switches, spurs, sidings,
11 or the extension of existing sidings if the expenditures are made on track located in
12 Louisiana and the applicable track is owned, operated, or leased by the eligible
13 taxpayer.

14 C. (1) The total amount of tax credits granted by the department pursuant to
15 this Section in a calendar year shall not exceed four million five hundred thousand
16 dollars. The total amount of tax credits available to be claimed by an eligible
17 taxpayer in a calendar year shall be the lesser of fifty percent of the eligible
18 taxpayer's qualified expenditures for the taxable year or the total number of miles of
19 railroad track owned, operated, or leased within Louisiana by the taxpayer at the end
20 of the previous taxable year multiplied by four thousand five hundred dollars. For
21 purposes of the calculation provided for in this Subsection, one mile of single
22 railroad track shall equal one mile, and one mile of double railroad track shall equal
23 two miles.

24 (2) If the amount of the tax credit authorized pursuant to the provisions of
25 this Section exceeds the amount of the eligible taxpayer's tax liability in the year in
26 which the credit is earned, the excess credit amount may be carried forward by the
27 taxpayer as a credit against subsequent Louisiana income tax or corporation
28 franchise tax liability for a period not to exceed seven years from the year in which
29 the credit was earned.

1 (3) An eligible taxpayer claiming the credit provided for in this Section shall
2 submit a tax credit application to the department identifying the amount of the tax
3 credit expected to be claimed in a taxable year. The application shall provide the
4 amount of the eligible taxpayer's expenditures for the applicable taxable year and the
5 number of miles of railroad track owned, operated, or leased by the eligible taxpayer
6 within Louisiana prior to the end of the applicable taxable year. The application
7 shall be submitted to the department no later than thirty days prior to the end of the
8 taxable year in which the eligible taxpayer intends to claim the credit. The tax credit
9 granted to the eligible taxpayer shall not exceed the amount set forth in the credit
10 application submitted to the department pursuant to the provisions of this Paragraph.

11 D. (1) Any tax credit earned pursuant to this Section that has not previously
12 been claimed by an eligible taxpayer against Louisiana income tax or corporation
13 franchise tax may be transferred or sold to an eligible transferee within five years of
14 the taxable year in which the credit was earned. No transfer or sale of tax credits
15 shall be effective until recorded in the tax credit registry pursuant to the provisions
16 of R.S. 47:1524. Any transfer of credits shall be evidenced in a written agreement.

17 (2) The eligible taxpayer that earned the tax credit and the eligible transferee
18 receiving the credit shall submit to the department a copy of the written transfer
19 agreement within thirty days of the transfer or sale. The written agreement shall
20 contain the name, address, and taxpayer identification number of the parties to the
21 transfer or sale. The agreement shall also include the date of the transfer, the amount
22 of credit being transferred or sold, the year in which the credit was originally earned,
23 and the taxable year or years in which the credit may be claimed.

24 E. Any Class II or Class III railroad receiving a credit pursuant to the
25 provisions of this Section shall charge a broadband provider only the actual costs
26 directly incurred by the Class II or Class III railroad related to the installation of
27 broadband infrastructure if such infrastructure is required to cross a railroad track
28 qualified for a credit authorized pursuant to this Section.

1 F. No credits shall be granted pursuant to the provisions of this Section on
2 or after January 1, 2032.

3 Section 2. This Act shall become effective on January 1, 2022, and shall be
4 applicable to taxing periods occurring on or after January 1, 2022.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 289 Reengrossed

2021 Regular Session

McFarland

Abstract: Authorizes an income and corporate franchise tax credit for certain Class II and Class III railroads.

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 \$4.5 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 provides that a transfer or sale of a credit shall be evidenced in a written agreement. Further provides that a copy of the written agreement shall be submitted to the Dept. within 30 days of the transfer or sale.

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.

Proposed law provides that any Class II or Class III railroad receiving a credit pursuant to proposed law shall charge a broadband provider only the actual costs directly incurred by the railroad related to the installation of broadband infrastructure if such infrastructure is required to crossover track qualified for this tax credit.

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.