DEPARTMENT OF TAXATION
2011 Fiscal Impact Statement

1. Patron Harry R. Purkey

2. Bill Number HB 2385

House of Origin:
X **Introduced**
_____ **Substitute**
_____ **Engrossed**

Second House:
_____ **In Committee**
_____ **Substitute**
_____ **Enrolled**

3. Committee House Finance

4. Title Income tax; barge and rail usage tax credit

5. Summary/Purpose:

This bill would allow a tax credit for transporting containers by barge or rail. The amount of the credit for any international trade facility would be equal to $50.00 per container moved by barge or rail as a direct result of decreased truck traffic on Virginia highways.

Taxpayers would be able to claim this credit against the individual income tax, the corporate income tax, the tax on estates and trusts, the bank franchise tax, the insurance premiums tax, and the tax on public service corporations.

The credit would be effective for taxable years beginning on and after January 1, 2011, but before January 1, 2015.

This is an executive bill.

6. Budget amendment necessary: No.

7. No Fiscal Impact (See Line 8.)

8. Fiscal implications:

Administrative Costs - TAX

TAX considers implementation of this bill as routine, and does not require additional funding.

Revenue Impact

Based on data from the Port Authority, this bill would result in approximately 30,000 containers being moved by barge or rail, which would result in a revenue loss of $1.5 million. No budget amendment is needed as this bill is funded in the introduced Executive Budget as part of the Governor's transportation package for the ports.

9. Specific agency or political subdivisions affected:

Department of Taxation
Department of Transportation

10. Technical amendment necessary: Yes.

To clarify that the credit is equal to $50 per 20-foot equivalent container, TAX recommends the following technical amendments:

Line 19, after highways.
Strike: Such increase shall be measured in the number of 20-foot equivalent marine containers used to move such cargo.

Line 25, after per
Insert: 20-foot equivalent marine

Given that banks, insurance companies, and public service corporations do not typically ship containers, the following technical amendment may be considered:

Line 23, after Chapter 3
Strike: ; Chapter 12 (§ 58.1-1200 et seq.), Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26.

To ensure that timely guidance can be issued to explain the provisions of this bill, TAX recommends the following technical amendments:

Line 39, after E.
Strike: Pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), the
Insert: The

Line 40, after shall
Strike: promulgate regulations
Insert: issue guidelines

Line 42, after end of sentence
Insert: Such guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

11. Other comments:

Proposed Legislation

This bill would allow an income tax credit for transporting containers on a barge or by rail. The amount of the credit for any international trade facility would be equal to $50.00 per container moved by barge or rail as a direct result of decreased truck traffic on Virginia highways.

For purposes of this bill, an “international trade facility” would be a company that is engaged in port-related activities, including but not limited to warehousing, distribution, freight forwarding and handling, and goods processing; uses maritime port facilities located within the Commonwealth; and undertakes activities that result in utilizing a barge or rail to move cargo containers rather than using trucks or other motor vehicles on a highway.

Taxpayers would be able to claim this credit against the individual income tax, the corporate income tax, the tax on estates and trusts, the bank franchise tax, the insurance premiums tax, and the tax on public service corporations.

Any amount of credit attributable to a partnership, S-corporation, or limited liability company would be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in the business entity.

TAX would be required to promulgate regulations to carry out the provisions of this bill, including the computation and carryover of credits and the establishment of criteria for international trade facilities. Such regulations would be subject to the Administrative Process Act.

The credit would be effective for taxable years beginning on and after January 1, 2011, but before January 1, 2015.

<u>Similar Legislation in Other States</u>

Six states (Alabama, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina) currently have statutes directed at increasing the use of state ports. Alabama, Georgia, and Louisiana allow investment tax credits related to port infrastructure. In addition to its investment tax credit, Georgia also allows a job tax credit related to the use of state ports. Mississippi allows tax credits that are equal to the charges paid for exporting and importing cargo from ports located within the state. Similarly, North Carolina allows a tax credit equal to increasing export and import charges.

Louisiana and South Carolina currently allow tax credits based on the volume of cargo imported or exported from state ports. Louisiana allows an import export cargo credit against the individual income tax, the corporate income tax, and the corporate franchise tax equal to $5 per ton of qualified cargo. The amount of the credit is limited to the taxpayer’s tax liability for the taxable year and the credit may be carried forward for a period of five taxable years. To qualify for the credit, a taxpayer must first be certified by the Louisiana Department of Economic Development.

South Carolina allows a tax credit for taxpayers whose port cargo volume at state port facilities increases by a minimum of five percent in a calendar year over their base year port cargo volume. For purposes of the tax credit, “port cargo volume” is defined as the total amount of net tons of noncontainerized cargo or containers measured in twenty-foot equivalent units (TEUs) of cargo transported by way of waterborne ship or vehicle through a port facility.

Similar Legislation

Senate Bill 1282 is identical to this bill.

Senate Bill 1136 would allow an alternative income tax credit for increased employment due to increased trade activities, or capital investment made for the purpose of facilitating increased trade activities through Virginia ports.

cc : Secretary of Finance

Date: 1/27/2011 KLC
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