DEPARTMENT OF TAXATION
2011 Fiscal Impact Statement

1. Patron Harry R. Purkey

2. Bill Number HB 2531

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

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

3. Committee House Finance

4. Title Corporate income tax; Virginia port volume increase tax credit.

5. Summary/Purpose:

This bill would allow an individual and corporate income tax credit for a taxpayer engaged in manufacturing goods or the distribution of manufactured goods that uses Virginia port facilities and increases its port cargo volume at these facilities by five percent in a single calendar year over its base year port cargo volume.

The Virginia Port Authority may waive the requirement that port cargo volume be increased by a minimum of five percent over base year port cargo volume for any taxpayer that qualifies as a major facility.

The amount of the credit would be determined by the Virginia Port Authority but would not be permitted to exceed $3.2 million annually. The Port Authority would take into consideration the following factors: the amount of base year port cargo volume; the total and percentage increase in port cargo volume; the number of qualifying taxpayers; the type of cargo transported; and other factors related to the economic benefit of Virginia.

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

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

Because this bill has a $3.2 million credit cap, the maximum revenue impact from this bill would be $3.2 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
Virginia Port Authority

10. Technical amendment necessary: No.

11. Other comments:

Proposed Legislation

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The amount of the credit would be determined by the Virginia Port Authority. The Port Authority would take into consideration the following factors: the amount of base year port cargo volume; the total and percentage increase in port cargo volume; the number of qualifying taxpayers; the type of cargo transported; and other factors related to the economic benefit of Virginia.

For purposes of this bill, "base year port cargo volume" would mean the total amount of net tons of noncontainerized cargo or TEUs of cargo actually transported by way of a waterborne ship through a port facility during the period from January 1, 2010 through December 31, 2010. Base year port cargo volume would be required to be at least seventy-five net tons of noncontainerized cargo or ten TEUs for a taxpayer to be eligible for the credit. For a taxpayer that does not ship that amount in the year ending December 31, 2010, its base cargo volume would be measured by the initial January first through December thirty-first calendar year in which it meets the requirements of seventy-five net tons of noncontainerized cargo or ten loaded TEUs. Base year port cargo volume would be recalculated each calendar year after the initial base year.

A "major facility" would mean a new facility to be located in Virginia that is projected to import or export cargo through a port in excess of 25,000 TEUs in its first calendar year.

"Port cargo volume" would mean the total amount of net tons of noncontainerized cargo or containers measured in TEUs of cargo transported by way of a waterborne ship or vehicle through a port facility.

"Port facility" would mean any publicly or privately owned facility located within Virginia through which cargo is transported by way of a waterborne ship or vehicle to or from destinations outside Virginia and which handles cargo owned by third parties in addition to cargo owned by the port facility's owner.

"TEU" would mean "twenty-foot equivalent unit," a volumetric measure based on the size of a container twenty feet long by eight feet wide by eight feet, six inches high.

The maximum amount of tax credits allowed to all qualifying taxpayers would be capped at $3.2 million for each calendar year. For every year in which a taxpayer claims the credit, the taxpayer would be required submit an application to the Virginia Port Authority by March 1 of the calendar year after the taxable year in which the increase in port cargo volume occurs. The taxpayer would be required to attach a schedule with any information requested by the Virginia Port Authority or TAX.

A qualifying taxpayer would generally not be permitted to receive more than $250,000 for each calendar year. However, if, on March 15 of each year, the $3.2 million amount of credit is not fully allocated among qualifying taxpayers, then those taxpayers who have been allocated the maximum $250,000 credit for a year would be allowed a pro rata share of the remaining allocated credit up to $3.2 million.

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.

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

Similar Legislation in Other States

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 1481 is identical to this bill.

House Bill 2385 and **Senate Bill 1282** would allow a credit equal to $50 per container moved by rail or barge instead of by truck.

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: 1/29/2011 KLC
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