DEPARTMENT OF TAXATION
2011 Fiscal Impact Statement

1. Patron Frank W. Wagner

2. Bill Number SB 1481
House of Origin:
_____ **Introduced**
_____ **Substitute**
_____ **Engrossed**

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

3. Committee Passed by House and Senate

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 the manufacturing of goods or the distribution of manufactured goods that uses Virginia port facilities and increases its port cargo volume at these facilities by a minimum of five percent in a single calendar year over its base year port cargo volume. The amount of the credit would be equal to $50 for each 20-foot equivalent unit (TEU) above the base year port cargo volume.

A qualifying taxpayer that is a major facility would be allowed an individual and corporate income tax credit equal to $50 for each TEU transported through a port facility during the major facility's first calendar year.

To apply for credits under this bill, taxpayers would be required to submit an application to the Virginia Port Authority by March 1 of the calendar year after the calendar year in which the increase in port cargo volume occurs. The maximum amount of credits allowed for all qualifying taxpayers under this bill would not be permitted to exceed $3.2 million for each calendar year. If the amount of credits requested exceeds $3.2 million, the credits would be allocated pro rata.

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 amount of credit is not fully allocated among qualifying taxpayers, the taxpayers who were allocated a credit for the prior year would be allowed a pro rata share of the remaining credit.

The credit would be effective for taxable years beginning on and after January 1, 2011, but before January 1, 2016.

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 conference report on HB 1500.

9. Specific agency or political subdivisions affected:

Department of Taxation
Virginia Port Authority

10. Technical amendment necessary: No.

11. Other comments:

Proposed Legislation

This bill would allow an individual and corporate income tax credit for a taxpayer engaged in the manufacturing of goods or the distribution of manufactured goods that uses Virginia port facilities and increases its port cargo volume at these facilities by a minimum of five percent in a single calendar year over its base year port cargo volume. The amount of the credit would be equal to $50 for each 20-foot equivalent unit (TEU) above the base year port cargo volume.

A qualifying taxpayer that is a major facility would be allowed an individual and corporate income tax credit equal to $50 for each TEU transported through a port facility during the major facility's first calendar year.

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 or vehicle 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 75 net tons of noncontainerized cargo or 10 loaded 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 1 through December 31 calendar year in which it meets the requirements of 75 net tons of noncontainerized cargo or 10 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 20 feet long by eight feet wide by eight feet, six inches high.

To apply for credits under this bill, taxpayers would be required to submit an application to the Virginia Port Authority by March 1 of the calendar year after the calendar year in which the increase in port cargo volume occurs. The maximum amount of credits allowed for all qualifying taxpayers under this bill would not be permitted to exceed $3.2 million for each calendar year. If the amount of credits requested exceeds $3.2 million, the credits would be allocated pro rata.

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 amount of credit is not fully allocated among qualifying taxpayers, the taxpayers who were allocated a credit for the prior year would be allowed a pro rata share of the remaining credit.

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, but before January 1, 2016.

<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

House Bill 2531 is identical to this bill.

House Bill 2385 and **Senate Bill 1282** would allow a tax credit equal to $25 per 20-foot equivalent unit moved by rail or barge rather than by trucks or other motor vehicles on Virginia’s highways.

Senate Bill 1136 would create an alternative income tax credit for either capital investment in an international trade facility or increased employment due to increased qualified trade activities at an international trade facility.

cc : Secretary of Finance

Date: 5/13/2011 KLC
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