

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 863*

Short Title: Railroad Incentives.

(Public)

Sponsors: Representatives Saunders; Alexander and Faison.

Referred to: Commerce, Small Business and Entrepreneurship, if favorable, Finance.

March 19, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE TAX INCENTIVES FOR THE CONSTRUCTION OF A
3 RAILROAD INTERMODAL FACILITY.

4 The General Assembly of North Carolina enacts:

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

7 "Article 3K.

8 "Tax Incentives for Railroad Intermodal Facilities.

9 "**§ 105-129.95. Definitions.**

10 The following definitions apply in this Article:

- 11 (1) Costs of construction. – The costs of acquiring and improving land,
12 constructing buildings and other structures, and equipping the facility.
13 In the case of property owned or leased by the taxpayer, cost is
14 determined pursuant to regulations adopted under section 1012 of the
15 Code.
- 16 (2) Eligible railroad intermodal facility. – A railroad intermodal facility
17 whose costs of construction exceed thirty million dollars
18 (\$30,000,000).
- 19 (3) Intermodal facility. – A facility where freight is transferred from one
20 mode of transportation to another.
- 21 (4) Railroad intermodal facility. – An intermodal facility whose primary
22 purpose is to transfer freight between a railroad and another mode of
23 transportation.

24 "**§ 105-129.96. Credit for constructing a railroad intermodal facility.**

25 (a) Credit. – A taxpayer that constructs or leases an eligible railroad intermodal
26 facility in this State and places it in service during the taxable year is allowed a tax
27 credit equal to sixty-six percent (66%) of all amounts payable by the taxpayer towards
28 the costs of construction or under the lease.

1 (b) Taxes Credited. – The credit provided in this section is allowed against the
2 franchise tax levied in Article 3 of this Chapter and the income taxes levied in Article 4
3 of this Chapter. The amount of the credit taken in a year, including any carryforwards,
4 may not exceed the taxpayer's combined tax liability for these taxes. Any amount that
5 exceeds the taxpayer's combined liability for these taxes may be carried forward for the
6 succeeding 30 years.

7 **"§ 105-129.97. Substantiation.**

8 To claim a credit allowed by this Article, the taxpayer must provide any information
9 required by the Secretary. Each taxpayer claiming a credit under this Article must
10 maintain and make available for inspection by the Secretary any records the Secretary
11 considers necessary to determine and verify the amount of the credit to which the
12 taxpayer is entitled. The burden of proving eligibility for a credit and the amount of the
13 credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to
14 maintain adequate records or to make them available for inspection.

15 **"§ 105-129.98. Reports.**

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

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

23 **"§ 105-129.99. Sunset.**

24 This Article is repealed effective for taxable years beginning on or after January 1,
25 2038."

26 **SECTION 2.** G.S. 105-164.3 is amended by adding a new subdivision to
27 read:

28 **"§ 105-164.3. Definitions.**

29 The following definitions apply in this Article:

30 ...

- 31 (8f) Eligible railroad intermodal facility. – Defined in G.S. 105-129.95."

32 **SECTION 3.** G.S. 105-164.13 is amended by adding a new subdivision to
33 read:

34 **"§ 105-164.13. Retail sales and use tax.**

35 The sale at retail and the use, storage, or consumption in this State of the following
36 tangible personal property and services are specifically exempted from the tax imposed
37 by this Article:

38 ...

- 39 (56) Sales to the owner or lessee of an eligible railroad intermodal facility
40 of intermodal cranes, intermodal hostler trucks, and railroad
41 locomotives that reside on the premises of the facility and are used at
42 the facility."

43 **SECTION 4.** G.S. 105-164.14 is amended by adding a new subsection to
44 read:

1 "(n) Eligible Railroad Intermodal Facilities. – The owner or lessee of an eligible
2 railroad intermodal facility is allowed an annual refund of sales and use taxes paid by it
3 under this Article on building materials, building supplies, fixtures, and equipment that
4 become a part of the real property of the facility. Liability incurred indirectly by the
5 owner or lessee of the facility for sales and use taxes on these items is considered tax
6 paid by the owner or lessee. A request for a refund must be in writing and must include
7 any information and documentation required by the Secretary. A request for a refund is
8 due within six months after the end of the owner's or lessee's fiscal year. Refunds
9 applied for after the due date are barred."

10 **SECTION 5.** Section 1 of this act is effective for taxable years beginning on
11 or after January 1, 2007, and applies to eligible railroad intermodal facilities placed into
12 service on or after January 1, 2007. Sections 2 through 4 of this act become effective
13 January 1, 2007, and apply to sales made on or after that date. The remainder of this act
14 is effective when it becomes law.