

By: Ashby

H.B. No. 3566

A BILL TO BE ENTITLED

AN ACT

relating to a franchise credit for entities that make certain railroad reconstruction or replacement expenditures.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 171, Tax Code, is amended by adding Subchapter U-1 to read as follows:

SUBCHAPTER U-1. TAX CREDIT FOR QUALIFIED RAILROAD RECONSTRUCTION OR REPLACEMENT EXPENDITURES

Sec. 171.9231. DEFINITIONS. In this subchapter:

(1) "Class II railroad" and "class III railroad" have the meanings assigned by the United States Surface Transportation Board.

(2) "Qualified railroad expenditure" means an amount spent by a taxable entity that is a class II railroad or class III railroad:

(A) to reconstruct or replace railroad infrastructure that was owned or leased by the taxable entity on January 1, 2017, including a track, a roadbed, a bridge, an industrial lead, or another track-related structure; or

(B) for new construction of an industrial lead, switch, spur, or siding or extension of existing siding.

Sec. 171.9232. ENTITLEMENT TO CREDIT. A taxable entity is entitled to a credit in the amount and under the conditions provided by this subchapter against the tax imposed under this chapter.

1       Sec. 171.9233. QUALIFICATION. A taxable entity qualifies  
2 for a credit under this subchapter if the taxable entity makes a  
3 qualified railroad expenditure.

4       Sec. 171.9234. AMOUNT; LIMITATIONS. (a) Subject to  
5 Subsection (b), the amount of the credit for a report is equal to  
6 the lesser of:

7           (1) 50 percent of the taxable entity's qualified  
8 railroad expenditures during the accounting period on which the  
9 report is based; or

10           (2) the product of \$3,500 and the number of miles of  
11 railroad track owned or leased in this state by the entity on the  
12 last day of the accounting period on which the report is based.

13       (b) The total credit claimed for a report, including the  
14 amount of any carryforward under Section 171.9235, may not exceed  
15 the amount of franchise tax due for the report after any other  
16 applicable tax credits.

17       Sec. 171.9235. CARRYFORWARD. (a) If a taxable entity is  
18 eligible for a credit that exceeds the limitation under Section  
19 171.9234(b), the taxable entity may carry the unused credit forward  
20 for not more than five consecutive reports.

21       (b) A carryforward is considered the remaining portion of a  
22 credit that cannot be claimed in the current year because of the  
23 limitation under Section 171.9234(b). A carryforward is added to  
24 the next year's credit in determining whether the limitation is met  
25 for that year. A credit carryforward from a previous report is  
26 considered to be used before the current year credit.

27       Sec. 171.9236. APPLICATION FOR CREDIT. A taxable entity

1 must apply for a credit under this subchapter on or with the report  
2 for the period for which the credit is claimed.

3 Sec. 171.9237. SALE OR ASSIGNMENT OF CREDIT. (a) A taxable  
4 entity that makes qualified railroad expenditures may sell or  
5 assign all or part of the credit that may be claimed for those  
6 expenditures to one or more taxable entities, and any taxable  
7 entity to which all or part of the credit is sold or assigned may  
8 sell or assign all or part of the credit to another taxable entity.  
9 There is no limit on the total number of transactions for the sale  
10 or assignment of all or part of the total credit authorized under  
11 this subchapter.

12 (b) A taxable entity that sells or assigns a credit under  
13 this section and the taxable entity to which the credit is sold or  
14 assigned shall jointly submit written notice of the sale or  
15 assignment to the comptroller not later than the 30th day after the  
16 date of the sale or assignment. The notice must include:

17 (1) the date on which the credit was originally  
18 established;

19 (2) the date of the sale or assignment;

20 (3) the amount of the credit sold or assigned and the  
21 remaining period during which it may be used;

22 (4) the names, addresses, and federal tax  
23 identification numbers of the taxable entity that sold or assigned  
24 the credit or part of the credit and the taxable entity to which the  
25 credit or part of the credit was sold or assigned; and

26 (5) the amount of the credit owned by the selling or  
27 assigning taxable entity before the sale or assignment, and the

1 amount the selling or assigning taxable entity retained, if any,  
2 after the sale or assignment.

3 (c) The sale or assignment of a credit in accordance with  
4 this section does not extend the period for which a credit may be  
5 carried forward.

6 Sec. 171.9238. RULES. (a) Except as provided by Subsection  
7 (b), the comptroller shall adopt rules necessary to implement this  
8 subchapter.

9 (b) The Texas Department of Transportation shall adopt  
10 rules to verify qualified railroad expenditures and allow taxable  
11 entities to obtain preapproval that a proposed expenditure will  
12 qualify as a qualified railroad expenditure.

13 SECTION 2. This Act applies only to a report originally due  
14 under Chapter 171, Tax Code, on or after the effective date of this  
15 Act.

16 SECTION 3. This Act takes effect January 1, 2018.