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By:  Ashby H.B. No. 1068

A BILL TO BE ENTITLED

AN ACT

relating to strategies for railroad relocation and improvement, including a franchise tax credit for 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 federal 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, 2019, 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.

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

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

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

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

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

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

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

Sec. 171.9236.  APPLICATION FOR CREDIT. A taxable entity must apply for a credit under this subchapter on or with the report for the period for which the credit is claimed.

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

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

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

(2)  the date of the sale or assignment;

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

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

(5)  the amount of the credit owned by the selling or assigning taxable entity before the sale or assignment, and the amount the selling or assigning taxable entity retained, if any, after the sale or assignment.

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

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

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

SECTION 2.  The Texas Department of Transportation shall complete development of the strategic plan described in Section 201.977, Transportation Code, not later than December 31, 2020.

SECTION 3.  Subchapter U-1, Chapter 171, Tax Code, as added by this Act, applies only to a report originally due under Chapter 171, Tax Code, on or after January 1, 2020.

SECTION 4.  This Act takes effect January 1, 2020.