

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.

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 taxable entity
12 on the last day of the accounting period on which the report is
13 based.

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

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

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

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

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

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

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

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

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

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

27 (5) the amount of the credit owned by the selling or

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

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

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

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

14 SECTION 2. The Texas Department of Transportation shall
15 complete development of the strategic plan described in Section
16 201.977, Transportation Code, not later than December 31, 2020.

17 SECTION 3. Subchapter U-1, Chapter 171, Tax Code, as added
18 by this Act, applies only to a report originally due under Chapter
19 171, Tax Code, on or after January 1, 2020.

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