

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 930

Short Title: Railroad Incentives.

(Public)

Sponsors: Senators Clodfelter, Hoyle; and Graham.

Referred to: Finance.

March 24, 2005

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 3H.

8 "Tax Incentives for Railroad Intermodal Facilities.

9 "**§ 105-129.70. 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 (2) Eligible railroad intermodal facility. – A railroad intermodal facility
14 whose costs of construction exceed fifty million dollars (\$50,000,000).
15 (3) Intermodal facility. – A facility where freight is transferred from one
16 mode of transportation to another.
17 (4) Railroad intermodal facility. – An intermodal facility whose primary
18 purpose is to transfer freight between a railroad and another mode of
19 transportation.

20 "**§ 105-129.71. Credit for constructing a railroad intermodal facility.**

21 (a) Credit. – A taxpayer that incurs indebtedness for the construction of an
22 eligible railroad intermodal facility and constructs an eligible railroad intermodal
23 facility in this State is allowed a tax credit equal to the amount of payments made by the
24 taxpayer during the taxable year on the indebtedness, not to exceed two million five
25 hundred thousand dollars (\$2,500,000).

26 (b) Taxes Credited. – The credit provided in this section is allowed against the
27 franchise tax levied in Article 3 of this Chapter, the income taxes levied in Article 4 of
28 this Chapter, and the sales and use taxes levied in Article 5 of this Chapter. The amount
29 of the credit, including any carryforwards, may not exceed the taxpayer's combined tax

1 liability for these three taxes. Any amount that exceeds the taxpayer's combined liability
2 for these three taxes may be carried forward for the succeeding five years.

3 (c) Procedure. – A taxpayer must claim the credit against the income tax and
4 franchise tax first. Once a taxpayer has applied the credit against the income tax and
5 franchise tax, the taxpayer may claim any remaining amount of the credit against the
6 sales and use taxes paid by the taxpayer in the preceding calendar year. The taxpayer
7 may apply the credit against the sales and use taxes by requesting a refund of sales and
8 use taxes paid in an amount equal to the remaining credit. A request for a refund must
9 be in writing and must include any information and documentation required by the
10 Secretary. A request for a refund is due within six months after the end of the State's
11 fiscal year. Refunds applied for after the due date are barred.

12 **"§ 105-129.72. Substantiation.**

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

20 **"§ 105-129.73. Reports.**

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

24 (1) The number of taxpayers that claimed a credit allowed in this Article.

25 (2) The amount of each credit claimed and the taxes against which it was
26 applied.

27 (3) The total cost to the General Fund of the credits claimed.

28 **"§ 105-129.74. Sunset.**

29 This Article is repealed effective for taxable years beginning on or after January 1,
30 2036."

31 **SECTION 2.** G.S. 105-259(b) is amended by adding a new subdivision to
32 read:

33 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State
34 who has access to tax information in the course of service to or employment by the State
35 may not disclose the information to any other person unless the disclosure is made for
36 one of the following purposes:

37 ...

38 (32) To publish the information required under G.S. 105-129.73."

39 **SECTION 3.** This act is effective for taxable years beginning on or after
40 January 1, 2006, and applies to indebtedness incurred on or after January 1, 2005.