

# REPORT OF THE ECONOMIC DEVELOPMENT SUBCOMMITTEE

(Caskey, Hosey, Whitmire, Lowe, and Weeks - Staff Contact: Teesha Trapp)

---

---

## HOUSE BILL 3737

H. 3737 -- Reps. Ligon, Haddon, B. Newton, Neese, O'Neal, Pope, Felder, Guffey, West, Hyde, Henegan, Williams, Atkinson, Herbkersman, Weeks, Wheeler and Gagnon: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE "SHORT LINE RAILROAD MODERNIZATION ACT"; AND BY ADDING SECTION 12-6-3810 SO AS TO PROVIDE FOR AN INCOME TAX CREDIT EQUAL TO FIFTY PERCENT OF AN ELIGIBLE TAXPAYER'S QUALIFIED RAILROAD RECONSTRUCTION OR REPLACEMENT EXPENDITURES, AND TO PROVIDE FOR THE ADMINISTRATION OF THE TAX CREDIT.

*Received by Ways and Means:*

*January 18, 2023*

*Summary of Bill:*

This bill allows a tax credit to small businesses who purchased marginal or unprofitable segments of large railroads after years of deferred maintenance. These unprofitable segments of railroads are categorized as Class II or III railroads (also known as short line).

The tax credit is equal to 50% of qualified railroad reconstruction or replacement expenditures capped at \$5,000 per track mile owned or leased by a short line railroad. Unused credits can be transferred to any eligible taxpayer during the five years for which the credit can be claimed following or during the time of incurred qualified expenditures.

The Department of Commerce will review & approve applications and development plans; reserve tax credits (actual credits cannot be claimed until all requirements have been satisfied); issue tax credit certificates; and provide a list at year-end to DOR of authorized tax credits.

*Estimated Revenue Impact:*

It is estimated this bill will decrease the General Fund by up to \$1.4 million annually in FY 2023-24 through FY 2027-28. However, the timing of this impact will depend on the actual claiming of the credits and could extend for five additional years based on the allowable carryforward provision.

*Other Notes/Comments:*

Received **FAVORABLE REPORT** from Economic Development subcommittee on March 28, 2023.



**SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE**  
**STATEMENT OF ESTIMATED FISCAL IMPACT**  
**(803)734-3780 • RFA.SC.GOV/IMPACTS**

*This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.*

---

**Bill Number:** H. 3737    Introduced on January 18, 2023  
**Author:** Ligon  
**Subject:** Short Line Railroad Modernization Act  
**Requestor:** House Ways and Means  
**RFA Analyst(s):** Jolliff  
**Impact Date:** March 27, 2023

---

### **Fiscal Impact Summary**

This bill creates a new income tax credit for Class II and Class III railroads based on qualified railroad reconstruction or replacement expenditures. Any portion of the tax credit not used during the year of qualification may be carried forward for each of the five years following that year, and the credit can be transferred to any other eligible transferee. The tax credit is effective for tax years 2023 to 2027.

This bill will have no expenditure impact on the Department of Commerce (Commerce) because the agency plans to direct the Division of Public Railways, known as Palmetto Railways, to fulfill the duties of the bill.

This bill will have no expenditure impact on the Department of Revenue (DOR) because the agency can account for any expenditures related to allocating the new tax credit to eligible taxpayers using existing resources.

This bill will decrease General Fund individual income tax, corporate income tax, bank tax, or insurance premium tax revenues, or some combination thereof, by up to \$1,405,000 annually in FY 2023-24 through FY 2027-28. However, the timing of this impact will depend on the actual claiming of the credits and any carryforward available for five additional years. The impact may be less than \$1,405,000 annually depending on the number of miles of track refurbished each year. Alternatively, the impact may be more than \$1,405,000 annually if the number of shortline railroad track miles in the state increases.

### **Explanation of Fiscal Impact**

#### **Introduced on January 18, 2023**

#### **State Expenditure**

This bill creates a new income tax credit for Class II and Class III railroads, as classified by the United States Surface Transportation Board, based on qualified railroad reconstruction or replacement expenditures.

Commerce is required to administer the tax credit, which includes reviewing and approving the verification of completed projects within thirty days of receipt, issuing tax credit certificates,

providing information to DOR, and reporting to the House Ways and Means Committee and Senate Finance Committee annually, among other things. This bill will have no expenditure impact on Commerce because the agency plans to direct the Division of Public Railways, known as Palmetto Railways, to fulfill the duties of the bill .

Additionally, DOR is required to allocate the new income tax credit to eligible taxpayers. DOR reports that the agency can account for any expenditures related to this bill using existing resources.

**State Revenue**

This bill creates a new income tax credit for Class II and Class III railroads, as classified by the United States Surface Transportation Board, based on qualified railroad reconstruction or replacement expenditures. The credit can be taken against individual income tax, corporate income tax, bank tax, or insurance premium tax. Eligible taxpayers are allowed an income tax credit equal to 50 percent of their qualified railroad reconstruction or replacement expenditures. For each eligible taxpayer, the amount of this credit may not exceed \$5,000 times the number of miles of railroad track owned or leased within the state by the taxpayer. Any portion of the granted tax credit not used during the year of qualification may be carried forward for each of the five years following that year, and the credit can be transferred to any other eligible transferee. Lastly, the provisions of this bill, upon passage, apply to income tax years beginning after December 31, 2022, and are repealed on December 31, 2027, although a credit may continue to be claimed to its conclusion if earned before the repeal.

Table 1 below lists shortline railways, which mostly fall into the Class II or III categorization, within the state and their estimated miles of track. The Division of Public Railways does business as Palmetto Railways and would be ineligible for the income tax credit. As a result, there are an estimated 281 miles of eligible shortline track in the state.

**Table 1. South Carolina Shortline Railways**

Railroad	Owner	Estimated Track Miles
Aiken Railway	Western Carolina Railway	19
Carolina Piedmont	G&W	34
Carolina Southern	RJ Corman	51
Charity Church	Palmetto Railways*	17
Greenville & Western	Western Carolina Railway	13
Hampton & Branchfield	Palmetto Railways*	40
Lancaster & Chester	Gulf & Ohio	60
Pee Dee River Railway	Aberdeen & Rockfish	25
Pickens Railway	Pickens Railway	37
Charleston & North Charleston Yards	Palmetto Railways*	5
South Carolina Central	G&W	42
Total		343

Source: South Carolina Department of Commerce

\*Track miles owned by Palmetto Railways (the Division of Public Railways) would be ineligible for tax credits

According to the American Short Line and Regional Railroad Association, shortline railroads spend about 24 percent of revenue on track rehabilitation annually. Based upon national data listed in Table 2, shortline railroads spend an estimated \$23,444 per mile annually on refurbishment. Using this figure, we estimate that eligible railroads in the state spend approximately \$6,588,000 in total on maintenance each year. Allowing a credit for 50 percent of these total maintenance expenses would greatly exceed the total reconstruction credit allotment of \$5,000 times the number of miles of eligible shortline track. Given this, we assume that the total credit amount claimed each year will be up to \$5,000 times the 281 of miles of eligible shortline track, or \$1,405,000.

**Table 2. National Shortline Railroad Statistics**

Total Miles of Shortline Track	47,500
Total Annual Revenue	\$4.64 billion
Annual Revenue / Mile	\$97,684
Annual Rehabilitation Cost / Mile	\$23,444

Source: American Short Line and Regional Railroad Association


Therefore, this bill will decrease General Fund individual income tax, corporate income tax, bank tax, or insurance premium tax revenues, or some combination thereof, by up to \$1,405,000 annually in FY 2023-24 through FY 2027-28. However, the timing of this impact will depend on the actual claiming of the credits and any carryforward available for five additional years. The impact may be less than \$1,405,000 annually depending on the number of miles of track refurbished each year. Alternatively, the impact may be more than \$1,405,000 annually if the number of shortline railroad track miles in the state increases.

**Local Expenditure**

N/A

**Local Revenue**

N/A

  
 \_\_\_\_\_  
 Frank A. Rainwater, Executive Director

1  
2  
3  
4  
5  
6  
7  
8  
9 **A BILL**  
10

11 TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE “SHORT LINE  
12 RAILROAD MODERNIZATION ACT”; AND BY ADDING SECTION 12-6-3810 SO AS TO  
13 PROVIDE FOR AN INCOME TAX CREDIT EQUAL TO FIFTY PERCENT OF AN ELIGIBLE  
14 TAXPAYER’S QUALIFIED RAILROAD RECONSTRUCTION OR REPLACEMENT  
15 EXPENDITURES, AND TO PROVIDE FOR THE ADMINISTRATION OF THE TAX CREDIT.  
16

17 Be it enacted by the General Assembly of the State of South Carolina:  
18

19 SECTION 1. This act may be cited as the “Short Line Railroad Modernization Act”.  
20

21 SECTION 2. Article 25, Chapter 6, Title 12 of the S.C. Code is amended by adding:  
22

23 Section 12-6-3810. (A) As used in this section:

24 (1) “Department” means the South Carolina Department of Commerce.

25 (2) “Eligible taxpayer” means any railroad owner located in this State that is classified by the  
26 United States Surface Transportation Board as a Class II or Class III railroad.

27 (3) “Qualified railroad reconstruction or replacement expenditures” means gross expenditures  
28 for maintenance, reconstruction or replacement of railroad infrastructure, including track, roadbed,  
29 bridges, industrial leads and sidings, and track related structures owned or leased by a Class II or Class  
30 III railroad located in this State.

31 (4) “Eligible transferee” means any taxpayer subject to tax under Section 12-6-510, 12-6-530,  
32 12-11-20, or 38-7-20.

33 (B)(1) There is allowed a credit against the tax imposed pursuant to Section 12-6-510, 12-6-530, 12-  
34 11-20, or 38-7-20 equal to fifty percent of an eligible taxpayer’s qualified railroad reconstruction or  
35 replacement expenditures.

36 (2) For qualified railroad reconstruction or replacement expenditures the amount of the credit  
37 may not exceed five thousand dollars multiplied by the number of miles of railroad track owned or  
38 leased within this State by the eligible taxpayer as of the close of the taxable year.

39 (C)(1) Following the completion of qualified railroad reconstruction or replacement expenditures,  
40 the eligible taxpayer shall submit to the Department of Commerce a verification of qualified  
41 expenditures on a form provided for that purpose by the Department of Commerce. The verification

1 must include a statement certifying:

2 (a) the status of the owner or lessee of the railroad as an eligible taxpayer;

3 (b) certification of the miles of railroad track owned or leased in this State;

4 (c) the qualified railroad reconstruction or replacement work completed; and

5 (d) a description of the amount of qualified railroad reconstruction or replacement  
6 expenditures paid or incurred.

7 Within thirty days after receipt and approval of the foregoing documentation from the eligible  
8 taxpayer, the department shall issue a tax credit certificate in an amount equivalent to the amount of  
9 the qualified railroad reconstruction or replacement expenditures incurred by the eligible taxpayer, not  
10 to exceed the amount of the tax credits reserved for the project.

11 (2) At the end of each year, the department shall furnish to the Department of Revenue a list of  
12 all eligible taxpayers who have qualified for the credit along with the amount of the credit authorized.

13 (3) Section 12-54-240 may not apply to any information exchanged between the Department of  
14 Commerce and the Department of Revenue relating to the credit allowed pursuant to this section.

15 (D) The department may adopt rules to implement and administer this section and to enable the  
16 certification of the income tax credit amount earned by each eligible taxpayer.

17 (E) In order to obtain a credit against any state income tax due, an eligible taxpayer shall file the  
18 tax credit certificate with the taxpayer's South Carolina state income tax return.

19 (F) Any tax credit generated pursuant to the provisions of this section, to the extent not used, may  
20 be carried forward for each of the five years following the year of qualification.

21 (G)(1) An eligible taxpayer may transfer any unused credit to any eligible transferee by written  
22 agreement, at any time during the five years following the tax year the qualified railroad reconstruction  
23 or replacement expenditures are incurred. Any eligible transferee is entitled to claim the credit only for  
24 any period remaining for the tax credit.

25 (2) The eligible taxpayer and the eligible transferee must file jointly a copy of the written transfer  
26 agreement with the Department of Revenue, within thirty days of the transfer. The written agreement  
27 must contain the name, address, and taxpayer identification number of the eligible taxpayer and the  
28 eligible transferee, the tax year the eligible taxpayer incurred the qualified railroad reconstruction or  
29 replacement expenditures, the amount of credit being transferred, and the tax year or years for which  
30 the credit may be claimed.

31 (H) The department shall report to the Senate Finance Committee and the House Ways and Means  
32 Committee by July 1, 2025, and annually thereafter for the duration of the existence of this program,  
33 on the use of the credit, including the number of tax credits applied for and the number of tax credits  
34 granted from the qualified railroad reconstruction or replacement expenditures for which tax credits  
35 have been allowed.

1 SECTION 3. This act takes effect upon approval by the Governor and first applies to income tax years  
2 beginning after December 31, 2022. The provisions of this act are repealed on December 31, 2027,  
3 except that if the credit allowed by Section 12-6-3810, as added by this act, is earned before the repeal,  
4 then the provisions of Section 12-6-3810 continue to apply until the credits have been fully claimed.

5 -----XX-----