

REPORT OF THE ECONOMIC DEVELOPMENT, CAPITAL IMPROVEMENT & OTHER TAXES SUBCOMMITTEE

(Ballentine, Simrill, Clyburn & Crawford - Staff Contact: Alyssa Weeks)

SENATE BILL 439

S. 439 -- Senators Leatherman, Grooms, Campbell, Williams and Reese: A BILL TO AMEND SECTION 12-6-3375, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE TAX CREDIT FOR A PORT CARGO VOLUME INCREASE, SO AS TO INCREASE THE MAXIMUM AMOUNT OF THE AVAILABLE TAX CREDITS FOR PORT CARGO VOLUME INCREASES, AND TO PROVIDE FOR A PORT TRANSPORTATION CREDIT FOR THE COSTS OF TRANSPORTING FREIGHT, GOODS, AND MATERIALS FROM QUALIFYING FACILITIES LOCATED IN CERTAIN COUNTIES IN SOUTH CAROLINA TO A SOUTH CAROLINA PORT FACILITY; AND BY ADDING SECTION 12-36-2140 SO AS TO PROVIDE THAT A PORT FACILITY IS A DISTRIBUTION FACILITY FOR PURPOSES OF CERTAIN SALES TAX EXEMPTIONS.

Received by Ways and Means:

04/09/19

Summary of Bill:

South Carolina law provides a tax credit to a taxpayer engaged in warehousing, freight forwarding, freight handling, goods processing, cross-docking, transloading, wholesaling of goods or distribution that uses South Carolina port facilities and increases its port cargo volume at these facilities by at least 5% in a calendar year over its base year port cargo volume. The credit may be claimed against corporate income taxes or employee withholdings under South Carolina Code Chapter 8 Title 12.

Currently, the Port Volume Tax Credit (PVTC) is capped at \$8 million annually. S. 439 increases the maximum amount of the available tax credits from \$8 million to \$15 million. Within the \$15 million PVTC, up to \$3 million would be set aside (phased in over three years) for a new Transportation Credit. The credit is intended to incentivize the use of an in-state port facility when an out-of-state port is more economically located for a company.

The Senate Finance Committee amended the bill to clarify that for purposes of these exemptions, the term 'distribution facility' includes, but is not limited to, a port facility.

"THE BELOW CONSTITUTED SUMMARY IS PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND IS NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. IT IS STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND IS NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT".

Estimated Revenue Impact:

The Department of Revenue indicates that there will be no expenditure impact to the General Fund, Federal Funds, or Other Funds from this bill. The Department can administer the legislative changes with existing resources.

This bill will reduce General Fund individual and corporation income taxes and individual income tax withholdings by an estimated \$1,000,000 in FY2019-20, an estimated \$2,000,000 in FY2020-21, and an estimated \$3,000,000 in FY2021-22, and each fiscal year thereafter until a port is opened and is accepting shipments in Jasper County. This bill would not affect Other Fund revenues or Federal Fund revenues.

Subcommittee Recommendation:

Favorable

Full Committee Recommendation:

Other Notes/Comments:

[CLICK HERE](#) to Enter Notes/Comments

2nd Reading:

Amendments:

2nd Reading Vote:

Referred to Senate Finance:

[CLICK HERE](#) to Enter Date

Finance Subcomm. Hearing Date:

[CLICK HERE](#) to Enter Date

Subcommittee Recommendations:

Full Committee Recommendations:

Other Notes/Comments:

[CLICK HERE](#) to Enter Notes/Comments



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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Bill Number: S. 0439 Introduced on January 29, 2019
Author: Leatherman
Subject: Port Cargo Volume Tax Credit
Requestor: Senate Finance
RFA Analyst(s): R. Martin
Impact Date: February 4, 2019

Fiscal Impact Summary

This bill would reduce General Fund individual and corporation income taxes and individual income tax withholdings by an estimated \$1,000,000 in FY2019-20, an estimated \$2,000,000 in FY2020-21, and an estimated \$3,000,000 in FY2021-22, and each fiscal year thereafter until a port is opened and is accepting shipments in Jasper County. This bill would not affect Other Fund revenues or Federal Fund revenues.

Explanation of Fiscal Impact

Introduced on January 29, 2019

State Expenditure

The Department of Revenue indicates that there will be no expenditure impact to the General Fund, Federal Funds, or Other Funds from this bill. The Department can administer the legislative changes with existing resources.

State Revenue

Currently, a taxpayer is allowed a nonrefundable tax credit if the taxpayer is engaged in manufacturing, warehousing, or distribution that uses South Carolina port facilities and increases its port cargo volume at these facilities by at least five percent in a calendar year over its base year port cargo volume. The maximum amount of tax credits allowed to all qualifying taxpayers pursuant to this section may not exceed \$8,000,000 for each calendar year. A qualifying taxpayer may not receive more than \$1,000,000 for each calendar year except as provided in Section 12-6-3375(B)(2). The amount of the credit is determined by the Coordinating Council for Economic Development (Council) of the Department of Commerce upon application by the taxpayer. The Council has sole discretion in allocating credits provided by this section, taking into consideration the following factors:

- (a) the amount of base year port cargo volume;
- (b) the total and percentage increase in port cargo volume; and
- (c) factors related to the economic benefit of the State or other factors.

Any unused tax credits may be carried forward and claimed against income taxes in the next five succeeding taxable years.

Section 1. This section would amend Section 12-6-3375(A)(2) to increase the maximum amount of tax credits allowed to all qualifying taxpayers pursuant to this section from \$8,000,000 for each calendar year to \$15,000,000 for each calendar year. As shown in the table below, the aggregate tax credit limitation for all taxpayers has not changed since the effective date of the tax credit in tax year 2006. In fact, the \$8,000,000 maximum aggregate limitation allowed all qualifying taxpayers in a calendar year has never been challenged. By raising the maximum aggregate tax credit limitation to \$15,000,000 for all taxpayers, and by expanding the geographic footprint of where qualified port distribution facilities may locate as mentioned in Section 2 below, the port distribution facilities may be able to attract additional capital investment and hire additional workers to be employed at its facilities.

**South Carolina Port Cargo Volume Tax Credit
Program Limitations and Tax Credits Claimed**

Tax Year	Fiscal Year	Maximum Credit Single Taxpayer	Maximum Credit All Taxpayers	Aggregate Credits Claimed By All Taxpayers
2006	FY 2007	\$1,000,000	\$8,000,000	\$57,249
2007	FY 2008	\$1,000,000	\$8,000,000	\$153,508
2008	FY 2009	\$1,000,000	\$8,000,000	\$1,744,481
2009	FY 2010	\$1,000,000	\$8,000,000	\$4,298,067
2010	FY 2011	\$1,000,000	\$8,000,000	\$417,563
2011	FY 2012	\$1,000,000	\$8,000,000	\$2,132,125
2012	FY 2013	\$1,000,000	\$8,000,000	\$1,408,307
2013	FY 2014	\$1,000,000	\$8,000,000	\$812,308
2014	FY 2015	\$1,000,000	\$8,000,000	\$2,021,225
2015	FY 2016	\$1,000,000	\$8,000,000	\$423,159
2016	FY 2017	\$1,000,000	\$8,000,000	N/A
2017	FY 2018	\$1,000,000	\$8,000,000	N/A
2018	FY 2019	\$1,000,000	\$8,000,000	N/A
2019	FY 2020	\$1,000,000	\$15,000,000	N/A
2020	FY 2021	\$1,000,000	\$15,000,000	N/A
2021	FY 2022	\$1,000,000	\$15,000,000	N/A
Total Tax Credits Claimed				\$13,467,992

Notes: N/A - Not Available.

Sources: Board of Economic Advisors, S.C. Department of Revenue, Columbia, S.C.

Section 2. This section would add an appropriately numbered subsection to allow a taxpayer engaged in a port distribution facility in the counties of Allendale, Bamberg, Beaufort, Hampton, Jasper, or Orangeburg to claim a nonrefundable port transportation credit. The credit would be claimed against income taxes or as a credit against employee withholding for its transportation costs in an amount determined by the Council in its sole discretion. Transportation costs are defined as the costs of transporting freight, goods, and materials to and from port facilities in South Carolina.

The maximum amount of port transportation credits allowed to all qualifying taxpayers is limited to the following schedule:

- \$1,000,000 for the calendar year ending December 31, 2019
- \$2,000,000 for the calendar year ending December 31, 2020
- \$3,000,000 for the calendar year ending December 31, 2021, until the port transportation credit expires pursuant to item (6). This item indicates that the port transportation credit expires effective at the end of the calendar year in which a port in Jasper County is opened and is accepting shipments.

The amount of any port transportation credits claimed would be applied against the maximum aggregate amount of \$15,000,000 in tax credits allowed to all qualifying taxpayers in a calendar year. Any excess tax credit amounts may be carried forward and claimed against income taxes in the next five succeeding taxable years. Any excess tax credit amounts may also be carried forward and claimed against income tax withholding for the next twenty succeeding taxable quarters.

Section 3. This section would add Section 12-36-2140 to define the term “distribution facility” as a port facility as defined in Section 12-6-3375. A “port facility” means any publicly or privately-owned facility located within this State through which cargo is transported by way of a waterborne ship or vehicle to or from destinations outside this State and which handles cargo owned by third parties in addition to cargo owned by the port facility’s owner.

The South Carolina State Ports Authority processed more than 2,300,000 shipping containers in calendar year 2018, and has realized an average annual growth rate of 7.7 percent over the past five years. We expect this growth to continue into the future. By permitting a “distribution facility” to be defined as a “port facility” and thus being permitted to claim a nonrefundable port transportation tax credit, it is not unreasonable to expect that annual capital investments and the hiring of labor at a port distribution facility may increase in the future with taxpayers claiming an additional \$1,000,000 in port transportation tax credits per tax year. This bill, therefore, would reduce General Fund individual and corporation income taxes and individual income tax withholdings by an estimated \$1,000,000 in FY2019-20, an estimated \$2,000,000 in FY2020-21, and by an estimated \$3,000,000 in FY2021-22, and each fiscal year thereafter until a port is opened and is accepting shipments in Jasper County. This section would not affect Other Fund revenues or Federal Fund revenues.

Section 4. This act takes effect upon approval by the Governor.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director

1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

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4 COMMITTEE AMENDMENT ADOPTED AND AMENDED

5 April 2, 2019

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S. 439

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9 Introduced by Senators Leatherman, Grooms, Campbell, Williams
10 and Reese

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12 S. Printed 4/2/19--S.

13 Read the first time January 29, 2019.

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A BILL

11 TO AMEND SECTION 12-6-3375, CODE OF LAWS OF SOUTH
12 CAROLINA, 1976, RELATING TO THE TAX CREDIT FOR A
13 PORT CARGO VOLUME INCREASE, SO AS TO INCREASE
14 THE MAXIMUM AMOUNT OF THE AVAILABLE TAX
15 CREDITS FOR PORT CARGO VOLUME INCREASES, AND TO
16 PROVIDE FOR A PORT TRANSPORTATION CREDIT FOR
17 THE COSTS OF TRANSPORTING FREIGHT, GOODS, AND
18 MATERIALS FROM QUALIFYING FACILITIES LOCATED IN
19 CERTAIN COUNTIES IN SOUTH CAROLINA TO A SOUTH
20 CAROLINA PORT FACILITY; AND BY ADDING SECTION
21 12-36-2140 SO AS TO PROVIDE THAT A PORT FACILITY IS
22 A DISTRIBUTION FACILITY FOR PURPOSES OF CERTAIN
23 SALES TAX EXEMPTIONS.

24 Amend Title To Conform

25

26 Be it enacted by the General Assembly of the State of South
27 Carolina:

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29 SECTION 1. Section 12-6-3375(A) and (D) of the 1976 Code is
30 amended to read:

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32 “(A)(1) A taxpayer engaged in any of the following:
33 manufacturing, warehousing, freight forwarding, freight handling,
34 goods processing, cross docking, transloading, wholesaling of
35 goods, or distribution, exported or imported through port facilities
36 in South Carolina and which increases its port cargo volume at these
37 facilities by a minimum of five percent in a single calendar year over
38 its base year port cargo volume is eligible to claim an income tax
39 credit or a credit against employee withholding in the amount
40 determined by the Coordinating Council for Economic
41 Development (council).

1 (2) The maximum amount of tax credits allowed to all
2 qualifying taxpayers pursuant to this section may not exceed ~~eight~~
3 fifteen million dollars for each calendar year. The credits may be
4 claimed against the taxes imposed pursuant to Sections 12-6-530
5 and 12-6-545 and against employee withholdings. The council has
6 sole discretion in allocating the credits provided by this section and
7 must consider the following factors:

- 8 (a) the amount of base year port cargo volume;
9 (b) the total and percentage increase in port cargo volume;
10 and
11 (c) factors related to the economic benefit of the State or
12 other factors.

13
14 (D) The council annually may award up to one million dollars of
15 the ~~eight~~ fifteen million dollars of credits against employee
16 withholdings that are not otherwise refundable pursuant to this title
17 to a new warehouse or distribution facility which commits to
18 expending at least forty million dollars at a single site and creating
19 one hundred new full-time jobs, and the base year cargo ~~shall~~ may
20 not be less than five thousand TEUs or its non-containerized
21 equivalent. The council may make the award in the year the facility
22 is announced provided that it may not tender the certificate until it
23 has received satisfactory proof that the capital investment and job
24 creation requirements have, or will be, satisfied. Any credit
25 certificate expires three years after issuance if satisfactory proof has
26 not been received. If the credit exceeds the taxpayer's withholding
27 tax liability for the taxable quarter that is not otherwise refundable
28 pursuant to this title, the excess amount may be carried forward and
29 claimed against withholding liability that is not otherwise
30 refundable pursuant to this title in the next twenty succeeding
31 taxable quarters.”

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33 SECTION 2. Section 12-6-3375 of the 1976 Code is amended by
34 adding an appropriately lettered subsection at the end to read:

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36 “() (1) A taxpayer engaged in any of the businesses identified in
37 subsection (A)(1) at a facility located in this State is eligible to claim
38 a port transportation credit or a port volume cargo credit in the form
39 of an income tax credit or a credit against employee withholding in
40 an amount determined by the council in its sole discretion, except
41 that the port transportation credit must be based on the taxpayer's
42 transportation costs. A taxpayer may not claim both the port

1 transportation credit and the port volume cargo credit in the same tax
2 year.

3 (2) For purposes of this subsection, 'transportation costs'
4 means the costs of transporting freight, goods, and materials to and
5 from port facilities in South Carolina.

6 (3) The maximum amount of port transportation credits
7 allowed to all qualifying taxpayers pursuant to this subsection is
8 limited to the following amounts of the fifteen million dollars of
9 credits available under this section:

10 (a) one million dollars for the calendar year ending
11 December 31, 2019;

12 (b) two million dollars for the calendar year ending
13 December 31, 2020; and

14 (c) three million dollars for all calendar years after
15 December 31, 2020, until the port transportation credit expires
16 pursuant to item (6).

17 (4)(a) If the allocable port transportation credit exceeds the
18 taxpayer's income tax liability for the taxable year, the excess
19 amount may be carried forward and claimed against income taxes in
20 the next five succeeding taxable years.

21 (b) If the allocable port transportation credit exceeds the
22 taxpayer's withholding tax liability for the taxable quarter that is not
23 otherwise refundable pursuant to this title, the excess amount may
24 be carried forward and claimed against withholding liability that is
25 not otherwise refundable pursuant to this title in the next twenty
26 succeeding taxable quarters.

27 (5)(a) The port transportation credit is allowable to a
28 qualifying taxpayer without regard to whether the taxpayer qualifies
29 for any of the other credits available under this section. A qualifying
30 taxpayer seeking to claim the port transportation credit must submit
31 an application to the council after the calendar year in which the
32 taxpayer seeks to claim the port transportation credit. The
33 application must be made on a form to be prescribed by the council.

34 (b) To receive the credit the taxpayer shall claim the credit
35 on its income tax or withholding return in a manner prescribed by
36 the department. The department may require a copy of the
37 certification form issued by the council be attached to the return or
38 otherwise provided.

39 (6) A taxpayer may not claim the port transportation credit in
40 any tax year after the tax year in which a port in Jasper County is
41 opened and is accepting shipments."

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1 SECTION 3. Article 21, Chapter 36, Title 12 of the 1976 Code is
2 amended by adding:

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4 "Section 12-36-2140. For purposes of the exemptions set forth in
5 this article, the term 'distribution facility' includes, but is not limited
6 to, a port facility as defined in Section 12-6-3375."

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8 SECTION 4. This act takes effect upon approval by the Governor.

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