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1 A bill to be entitled
2 An act relating to freight mobility development;
3 providing definitions; providing tax credits of a
4 specified amount relating to increased trade
5 activities at port facilities for use against
6 specifically enumerated taxes for a specified number
7 of tax years; providing eligibility criteria,
8 limitations, conditions, requirements, and
9 prohibitions relating to applying for, approving,
10 calculating, claiming, issuing, recapturing, carrying
11 over, and redeeming such tax credits; providing
12 application; requiring the Department of Economic
13 Opportunity to adopt implementing rules; providing
14 definitions; providing tax credits of a specified
15 amount relating to the achievement of increased cargo
16 volumes by manufacturers that distribute manufactured
17 goods through port facilities; providing for the use
18 of such tax credits against specifically enumerated
19 taxes for a specified number of tax years; providing
20 eligibility criteria, limitations, conditions,
21 requirements, and prohibitions relating to applying
22 for, approving, claiming, calculating, issuing,
23 carrying over, and redeeming such tax credits;
24 providing application; requiring the Department of
25 Economic Opportunity to adopt implementing rules;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:

29
30 Section 1. Freight and logistics facility credit.—

31 (1) DEFINITIONS.—As used in this section, the term:

32 (a) "Capital investment" means the amount properly
33 chargeable to a capital account for improvements to rehabilitate
34 or expand depreciable real property placed in service during the
35 taxable year and the cost of machinery, tools, and equipment
36 used in a freight and logistics facility directly related to the
37 movement of cargo. The term includes expenditures associated
38 with any exterior, structural, mechanical, or electrical
39 improvements necessary to expand or rehabilitate a building for
40 commercial or industrial use and excavations, grading, paving,
41 driveways, roads, sidewalks, landscaping, or other land
42 improvements. For purposes of this section, machinery, tools,
43 and equipment shall be deemed to include only that property
44 placed in service by the freight and logistics facility on or
45 after January 1, 2013. The term does not include the following:

46 1. The cost of acquiring any real property or building.

47 2. The cost of furnishings.

48 3. Any expenditure associated with appraisal,
49 architectural, engineering, or interior design fees.

50 4. Loan fees, points, or capitalized interest.

51 5. Legal, accounting, realtor, sales and marketing, or
52 other professional fees.

53 6. Closing costs, permit fees, user fees, zoning fees,
54 impact fees, or inspection fees.

55 7. Bids, insurance, signage, utilities, bonding, copying,
56 rent loss, or temporary facilities' costs incurred during

57 construction.

58 8. Utility hookup or access fees.

59 9. Outbuildings.

60 10. The cost of any well or septic system.

61 (b) "Freight and logistics facility" means a company that:

62 1. Is engaged in port-related activities, including, but
63 not limited to, warehousing, distribution, freight forwarding
64 and handling, and goods processing;

65 2. Uses maritime port facilities as identified in s.
66 311.09, Florida Statutes; and

67 3. Transports at least 10 percent more cargo, measured in
68 20-foot equivalent marine containers, through maritime port
69 facilities identified in s. 311.09, Florida Statutes, during the
70 taxable year than was transported by the company through such
71 facilities during the previous taxable year.

72 (c) "New, permanent full-time position" means a job of
73 indefinite duration, created by the company after establishing
74 or expanding a freight and logistics facility in this state,
75 requiring a minimum of 35 hours of employment per week for each
76 employee for the entire normal year of the company's operations,
77 or a position of indefinite duration that requires a minimum of
78 35 hours of employment per week for each employee for the
79 portion of the taxable year in which the employee was initially
80 hired for, or transferred to, the freight and logistics facility
81 in this state. Seasonal or temporary positions, or a job created
82 when a job function is shifted from an existing location in this
83 state to the freight and logistics facility, and positions in
84 building and grounds maintenance, security, and other such

85 positions that are ancillary to the principal activities
 86 performed by the employees at the freight and logistics facility
 87 do not qualify as new, permanent full-time positions.

88 (d) "Normal year" means at least 48 weeks in a calendar
 89 year.

90 (e) "Qualified full-time employee" means an employee
 91 filling a new, permanent full-time position in an freight and
 92 logistics facility in this state.

93 (f) "Qualified trade activities" means the completed
 94 exportation or importation of at least one International
 95 Organization for Standardization ocean container, with a minimum
 96 20-foot length, through a port facility identified in s. 311.09,
 97 Florida Statutes. An export container must be loaded on a barge
 98 or ocean-going vessel, and an import container must be
 99 discharged from a barge or ocean-going vessel, at such facility.

100 (g) "Taxable year" means taxable year as defined in s.
 101 220.03(1)(y), Florida Statutes.

102 (2) ELIGIBLE CREDIT AMOUNTS.—

103 (a) For taxable years beginning on or after January 1,
 104 2013, but before January 1, 2017, a taxpayer satisfying the
 105 requirements of this section is allowed a credit against the
 106 taxes imposed by chapters 199, 201, 212, and 220 and s. 624.509,
 107 Florida Statutes. The amount of the credit earned under this
 108 section equals:

109 1. Three thousand dollars per qualified full-time employee
 110 that results from increased qualified trade activities by the
 111 taxpayer; or

112 2. Five percent of the capital investment made by the

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113 taxpayer to facilitate the increased qualified trade activities.

114

115 The election of which tax credit amount to claim is the
116 responsibility of the taxpayer. Both tax credits may not be
117 claimed for the same activities occurring in a calendar year.

118 The portion of the \$3,000 credit earned with respect to any
119 qualified full-time employee who works in this state for less
120 than 12 full months during the applicable taxable year is
121 determined by multiplying the credit amount by a fraction the
122 numerator of which is the number of full months the employee
123 worked for the freight and logistics facility in this state
124 during the applicable taxable year and the denominator of which
125 is 12. A taxpayer is not eligible for more than \$500,000 in tax
126 credit for a taxable year.

127 (b) The Department of Economic Opportunity shall issue the
128 tax credits under this section and may not issue more than \$10
129 million in tax credits under this section in any fiscal year. If
130 the amount of tax credits requested under this section for any
131 taxable year exceeds \$10 million, the credits shall be allocated
132 proportionately among all qualified taxpayers who requested the
133 credit. The department may not issue tax credits under this
134 section after the fiscal year ending on June 30, 2017. A
135 taxpayer may not claim any tax credit under this section unless
136 the taxpayer has applied to the department for the tax credit
137 and the department has approved the credit. The department shall
138 determine the credit amount allowable for the taxable year and
139 provide a written certification to the taxpayer that specifies
140 the amount of the tax credit approved by the department. The

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141 taxpayer must attach the certification to the applicable income
142 tax return.

143 (c) The taxpayer may carry forward any unused credit
144 amount for the next 10 taxable years.

145 (d) Credit may not be earned for any employee:

146 1. For whom a credit was previously earned under this
147 section or s. 288.106, Florida Statutes, by a related party as
148 defined in s. 267(b) of the Internal Revenue Code, as amended,
149 or a trade or business under common control as defined in s.
150 52(b) of the Internal Revenue Code, as amended;

151 2. Who was previously employed in the same job function in
152 this state by a related party as defined in s. 267(b) of the
153 Internal Revenue Code, as amended, or a trade or business under
154 common control as defined in s. 52(b) of the Internal Revenue
155 Code, as amended;

156 3. Whose job function was previously performed at a
157 different location in this state by an employee of the taxpayer,
158 by a related party as defined in s. 267(b) of the Internal
159 Revenue Code, as amended, or by a trade or business under common
160 control as defined in s. 52(b) of the Internal Revenue Code, as
161 amended; or

162 4. Whose job function previously qualified for a credit
163 under this section at a different major business facility that
164 constitutes an employing unit, as defined in s. 443.036, Florida
165 Statutes, on behalf of the taxpayer, by a related party as
166 defined in s. 267(b) of the Internal Revenue Code, as amended,
167 or a trade or business under common control as defined in s.
168 52(b) of the Internal Revenue Code, as amended.

169 (e) For purposes of this section, the amount of any credit
 170 attributable to a partnership, an electing small business
 171 corporation (S corporation), or a limited liability company
 172 shall be allocated to the individual partners, shareholders, or
 173 members, respectively, in proportion to their ownership or
 174 interest in such business entities.

175 (f) For purposes of this section, two or more affiliated
 176 companies may elect to aggregate the number of jobs created for
 177 qualified full-time employees or the amounts of capital
 178 investments as the result of the establishment or expansion by
 179 the individual companies in order to qualify for the credit
 180 allowed.

181 (g) Recapture of the credit amount is required, and shall
 182 be accomplished by increasing the tax in any of the 5 taxable
 183 years after the year in which a credit has been earned under
 184 this section, if the number of qualified full-time employees
 185 falls below the average number of qualified full-time employees
 186 during the taxable year. The tax increase amount shall be
 187 determined by:

188 1. Recalculating the credit that would have been earned
 189 for the original taxable year using the decreased number of
 190 qualified full-time employees; and

191 2. Subtracting the recalculated credit amount from the
 192 amount previously earned.

193
 194 If the average number of qualified full-time employees employed
 195 at a freight and logistics facility falls below the number
 196 employed by the taxpayer before claiming any credits under this

197 section in any of the 5 taxable years after the year in which
 198 the credits were earned, all credits earned with respect to the
 199 freight and logistics facility must be recaptured. A credit
 200 amount may not be recaptured more than once under this
 201 subsection. Any recapture under this subsection shall reduce the
 202 credits earned but not yet allowed, and the credits allowed but
 203 carried forward, before the taxpayer's tax liability is
 204 increased.

205 (3) ADMINISTRATION.—The Department of Economic Opportunity
 206 shall adopt rules that provide the guidelines and forms that are
 207 necessary to implement this section, including, but not limited
 208 to:

209 (a) The computation, carryover, and recapture of credits
 210 under this section.

211 (b) The establishment of criteria to determine eligibility
 212 for credits under this section, including, but not limited to,
 213 the identification of freight and logistics facilities,
 214 qualified full-time employees at such facilities, and capital
 215 investments.

216 (c) The computation, carryover, recapture, and redemption
 217 of credits under this section by affiliated companies.

218 Section 2. Port volume increase credit.—

219 (1) DEFINITIONS.—As used in this section, the term:

220 (a) "Base year port cargo volume" means the total amount
 221 of net tons of noncontainerized cargo or TEUs of cargo actually
 222 transported by way of a waterborne ship or vehicle through a
 223 port facility identified in s. 311.09, Florida Statutes, during
 224 the period from January 1, 2011, through December 31, 2011. Base

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225 year port cargo volume must be at least 75 net tons of
226 noncontainerized cargo or 10 loaded TEUs for a taxpayer to be
227 eligible for the credits provided under this section. For a
228 taxpayer that did not ship that amount in the year ending
229 December 31, 2011, including a taxpayer who locates in this
230 after December 31, 2011, its base cargo volume shall be measured
231 by the initial January 1 through December 31 calendar year in
232 which it meets the requirements of 75 net tons of
233 noncontainerized cargo or 10 loaded TEUs. Base year port cargo
234 volume must be recalculated each calendar year after the initial
235 base year.

236 (b) "Major facility" means a new facility to be located in
237 this state that is projected to import or export cargo through a
238 port identified in s. 311.09, Florida Statutes, in excess of
239 25,000 TEUs in its first calendar year.

240 (c) "Port cargo volume" means the total amount of net tons
241 of noncontainerized cargo or containers measured in TEUs of
242 cargo transported by way of a waterborne ship or vehicle through
243 a port facility.

244 (d) "Port facility" means any publicly or privately owned
245 facility located on a port identified in s. 311.09, Florida
246 Statutes, through which cargo is transported by way of a
247 waterborne ship or vehicle to or from destinations outside this
248 state and which handles cargo owned by third parties in addition
249 to cargo owned by the port facility's owner.

250 (e) "Taxable year" means taxable year as defined in s.
251 220.03(1)(y), Florida Statutes.

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252 (f) "TEU" or "20-foot equivalent unit" means a volumetric
253 measure based on the size of a container that is 20 feet long by
254 8 feet wide by 8 feet, 6 inches high.

255 (2) ELIGIBLE CREDIT AMOUNTS.—

256 (a) For taxable years beginning on or after January 1,
257 2013, but before January 1, 2018, a taxpayer engaged in the
258 manufacturing of goods or the distribution of manufactured goods
259 that uses port facilities in this state and increases its port
260 cargo volume at these facilities by a minimum of 10 percent in a
261 single calendar year over its base year port cargo volume is
262 eligible to claim a credit against the taxes imposed by chapters
263 199, 201, 212, and 220 and s. 624.509, Florida Statutes, in an
264 amount determined by the Department of Economic Opportunity. The
265 department may waive the requirement that port cargo volume be
266 increased by a minimum of 10 percent over base year port cargo
267 volume for any taxpayer that qualifies as a major facility.

268 (b) Qualifying taxpayers that increase their port cargo
269 volume by a minimum of 10 percent in a qualifying calendar year
270 shall receive a \$50 credit against the taxes imposed by chapters
271 199, 201, 212, and 220 and s. 624.509, Florida Statutes, for
272 each TEU above the base year port cargo volume. A qualifying
273 taxpayer that is a major facility shall receive a \$50 credit
274 against such taxes for each TEU transported through a port
275 facility during the major facility's first calendar year. A
276 qualifying taxpayer may not receive more than \$250,000 in tax
277 credits for a taxable year. The maximum amount of credits
278 allowed for all qualifying taxpayers under this section may not

279 exceed \$5 million for any fiscal year. The department shall
 280 allocate the credits in accordance with subsection (3).

281 (c) If the credit exceeds the taxpayer's tax liability for
 282 the taxable year, the excess amount may be carried forward and
 283 claimed against eligible taxes in the next 5 succeeding taxable
 284 years.

285 (d) The credit may be claimed by the taxpayer as provided
 286 in this subsection only if the taxpayer owns the cargo at the
 287 time the port facilities are used.

288 (3) ADMINISTRATION.—

289 (a) For every taxable year in which a taxpayer claims the
 290 credit, the taxpayer must submit an application to the
 291 Department of Economic Opportunity by March 1 of the calendar
 292 year after the calendar year in which the increase in port cargo
 293 volume occurs. The taxpayer must attach a schedule to the
 294 taxpayer's application to the department with the following
 295 information and any other information requested by the
 296 department:

297 1. A description of how the base year port cargo volume
 298 and the increase in port cargo volume were determined.

299 2. The amount of the base year port cargo volume.

300 3. The amount of the increase in port cargo volume for the
 301 taxable year stated both as a percentage increase and as a total
 302 increase in net tons of noncontainerized cargo or TEUs of cargo,
 303 including information that demonstrates an increase in port
 304 cargo volume in excess of the minimum amount required to claim
 305 the tax credits under this section.

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306 4. Any tax credit under this section used by the taxpayer
307 in previous years.

308 5. The amount of tax credits under this section carried
309 over from previous years.

310 (b) If on March 15 of each year the cumulative amount of
311 tax credits requested under this section for the previous year
312 exceeds \$5 million, the credits shall be allocated
313 proportionately among the qualifying taxpayers who requested the
314 credit.

315 (c) The amount of any credit attributable to a
316 partnership, an electing small business corporation (S
317 corporation), or a limited liability company shall be allocated
318 to the individual partners, shareholders, or members,
319 respectively, in proportion to their ownership or interest in
320 such business entities.

321 (d) The Department of Economic Opportunity shall adopt
322 rules that provide for the necessary guidelines and forms to
323 implement this section, including, but not limited to:

324 1. The computation and carryover of credits under this
325 section.

326 2. The establishment of criteria to determine eligibility
327 for credits under this section.

328 3. The computation, carryover, and redemption of credits
329 under this section by affiliated companies.

330 Section 3. This act shall take effect July 1, 2012.