



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Under existing law, an income tax credit is allowed for certain port activities.

This bill would expand the cap of the current port credit as well as revise the structure of the amounts of the credits that may be claimed if the user increases their cargo base volume.

A BILL
TO BE ENTITLED
AN ACT

Relating to port credits; to amend Sections 40-18-401 and 40-18-403, Code of Alabama 1975, to expand the cap of the port credit and to expand tax incentives for businesses and enterprises who increase their cargo volume through Alabama public ports.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 40-18-401 and 40-18-403, Code of Alabama 1975, are amended to read as follows:

"§40-18-401

(a) The port credit provided for in Section 40-18-403 is created by this article and is allowed upon strict compliance with the provisions herein.

(b) Prior to the allowance of the port credit, an



29 application shall be filed with the commission, on a form
30 promulgated by the commission.

31 (1) The application shall be filed by the port facility
32 user desiring to claim the credit.

33 (2) The commission shall establish deadlines for
34 applications. Such applications shall solicit whatever
35 information the commission deems important to its
36 determination of whether granting a port credit will create
37 new, high paying jobs in the state, bring substantial capital
38 to the state, increase the usage of a port facility, promote
39 the development of clusters of businesses in the state, or
40 promote the economic development efforts of the state.

41 (3) Upon review of the applications, the commission may
42 approve such applications as shall result in port credits
43 being awarded so as not to exceed ~~twelve million dollars~~
44 ~~(\$12,000,000)~~ twenty million dollars (\$20,000,000) for the life
45 of the program, and shall not exceed five million dollars
46 (\$5,000,000) in a fiscal year.

47 (4) The commission shall charge application fees to
48 offset the costs of administration of this article.

49 (c) Prior to claiming a port credit, the company shall
50 submit to the Department of Commerce a certification
51 containing information adequate to prove that the company is
52 entitled to the credit. Following such examination as it deems
53 necessary, the Department of Commerce may certify the
54 information and deliver the same to the Department of Revenue.
55 Thereafter, the Department of Revenue shall allow the tax
56 credit.



57 (d) (1) Nothing in this article shall be construed to
58 constitute a guarantee or assumption by the state of any debt
59 of any company nor to authorize the credit of the state to be
60 given, pledged, or loaned to any company.

61 (2) Nothing in this article shall be construed to make
62 available to any company any right to the benefits conferred
63 by this article absent strict compliance with this article.

64 (3) Nothing in this article shall be construed to
65 change or lessen the requirements for claiming jobs act
66 incentives under the Alabama Jobs Act, Section 40-18-370, et
67 seq. Companies claiming the jobs act incentives must strictly
68 comply with the Alabama Jobs Act.

69 (4) All filings made by a private party with the
70 commission or any department of state government shall be made
71 using forms adopted by the commission or department. Any such
72 filing shall be treated as a tax return, subject to penalties
73 imposed by the Department of Revenue.

74 (5) Nothing in this article shall be construed to limit
75 the powers otherwise existing for the Department of Revenue to
76 audit and assess any company claiming a port credit."

77 "§40-18-403

78 (a) If approved by the commission, a port credit is
79 allowed, in an amount equal to ~~fifty dollars (\$50) per TEU,~~
80 ~~three dollars (\$3) per net ton, four cents (\$0.04) per~~
81 ~~kilogram for air freight, or two dollars and ninety-one cents~~
82 ~~(\$2.91) per VEU, multiplied by the following~~the cargo volume
83 calculated from subdivisions (1) and (2) as follows multiplied
84 by the appropriate amount shown in the table in subsection



117 measured by net ton, more than fifteen thousand (15,000)
118 kilograms for air cargo measured by kilograms, or more than
119 400 VEUs, for cargo measured by VEU.

120 ~~(e)~~ (d) The following methods may be used to realize the
121 port credit:

122 (1) The port credit may offset the tax levied by this
123 chapter, but not below zero. The port credit may also offset
124 the estimated payments of the tax levied by this chapter, but
125 not below zero. In no event shall the port credits be allowed
126 to reduce any estimated payment of the tax levied by this
127 chapter before October 1, 2016. In any one year, if the port
128 credit exceeds the amount of tax liability, the port user may
129 carry forward the unused port credit. No carryforward shall be
130 allowed for more than five years. Rules similar to those used
131 for Section 40-18-15.2 shall be applied.

132 (2) A company may assign and convey a port credit to
133 another company if substantially all of the assets of the
134 company are assigned and conveyed in the same transaction.
135 Proof of such transfer shall be submitted to the Department of
136 Revenue.

137 (e) To the extent that the port credit is utilized by
138 the port user or by a transferee company, no deduction for the
139 related expenses shall be allowed.

140 (f) For any company which enters into an economic
141 development project agreement with the state, the project
142 agreement may provide for an allocation to the company of any
143 port credits which have not been allocated pursuant to this
144 article. Allocations made pursuant to this subsection shall



145 meet all of the following requirements:

146 (1) Allocations shall be made by the Governor and
147 approved by the commission.

148 (2) Allocations for a project shall not exceed three
149 million dollars (\$3,000,000).

150 (3) Allocations shall be granted only to a new
151 warehouse or distribution facility which commits to investing
152 at least twenty million dollars (\$20,000,000) at a single site
153 and to creating 75 net new jobs in Alabama.

154 (4) Port credits may not be used until the Department
155 of Commerce has received satisfactory proof that the capital
156 investment and job creation requirements have been satisfied.

157 (5) Any port credit granted by this procedure shall not
158 be granted for more than a 3-year period.

159 (6) Allocations shall not exceed the per unit amounts
160 stated in subsection (b) ~~one hundred dollars (\$100) per TEU,~~
161 ~~three dollars (\$3) per net ton, four cents (\$0.04) per~~
162 ~~kilogram for air freight, or two dollars and ninety-one cents~~
163 ~~(\$2.91) per VEU.~~

164 (7) Anticipated revenues for the state shall exceed the
165 port credit granted, and the project agreement shall provide
166 for recapture of all or part of the port credit should the
167 company default on its obligations in the project agreement."

168 Section 2. The provisions of this act shall be
169 effective for all tax years beginning after December 31, 2023.

170 Section 3. This act shall become effective January 1,
171 2024, following its passage and approval by the Governor, or
172 its otherwise becoming law.