

House Bill 1145

By: Representatives Stephens of the 164<sup>th</sup>, Roberts of the 154<sup>th</sup>, Burns of the 157<sup>th</sup>, Cheokas of the 134<sup>th</sup>, Battles of the 15<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated,  
2 relating to the imposition, rate, and computation of income tax, so as to provide for an  
3 income tax credit for new qualified freight rail infrastructure property and qualified  
4 locomotive property; to provide for definitions; to provide for conditions and limitations; to  
5 provide for powers, duties, and authority of the state revenue commissioner with respect to  
6 the foregoing; to provide an effective date; to provide for applicability; to repeal conflicting  
7 laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 2 of Chapter 7 of Title 48 of the Official Code of Georgia Annotated, relating to the  
11 imposition, rate, and computation of income tax, is amended by adding a new Code section  
12 to read as follows:

13 "48-7-40.29.

14 (a) As used in this Code section, the term:

15 (1) 'Intermodal transfer or transload facility or terminal' means a facility or terminal  
16 primarily utilized in the transfer of freight between rail and any other mode of  
17 transportation.

18 (2) 'Interoperability' means the ability to control locomotives of the host railroad and  
19 tenant railroad to communicate with and respond to the positive train control system,  
20 including uninterrupted movements over property boundaries, within the meaning of 49  
21 U.S.C.A. Section 20157.

22 (3)(A) 'New qualified freight rail infrastructure property' means qualified freight rail  
23 infrastructure property:

24 (i) The construction or erection, or in the case of bridges and tunnels, any eligible  
25 bridge or tunnel replacement or expansion pursuant to subparagraph (B) of this  
26 paragraph, of which is completed by the taxpayer after January 1, 2011; or

27 (ii) Which is acquired by the taxpayer after January 1, 2011, but only if the original use  
 28 of such property commences with the taxpayer.

29 (B) Such term shall not include property which is replacing existing property if the  
 30 property is located at the site of the existing property. The limitation of this subparagraph  
 31 shall not apply to:

32 (i) The replacement or expansion of a bridge or tunnel to allow for additional  
 33 clearance, track, or other capacity enhancement where such clearance, track, or other  
 34 capacity enhancement did not previously exist; or

35 (ii) The replacement of any qualified freight rail infrastructure property with any  
 36 component of a positive train control system.

37 (4) 'Positive train control system' means any system, or combination of systems,  
 38 designed to prevent train-to-train collisions, overspeed derailments, incursions into  
 39 established work zone limits, and the movement of a train through a switch left in the  
 40 wrong position, or any other system or technology otherwise within the meaning of  
 41 49 U.S.C.A. Section 20157.

42 (5)(A) 'Qualified freight rail infrastructure property' means property used in the  
 43 movement of freight by rail:

44 (i) The cost of which is chargeable to a capital account; and

45 (ii) Which constitutes:

46 (I) Railroad grading or tunnel bore;

47 (II) Tunnels or subways;

48 (III) Track, including ties, rails, ballast, or other track material;

49 (IV) Bridges, trestles, culverts, or other elevated or submerged structures;

50 (V) Terminals, yards, roadway buildings, fuel stations, or railroad wharves or  
 51 docks, including fixtures attached thereto, and equipment used exclusively therein;

52 (VI) Positive train control systems or costs incurred to provide for interoperability  
 53 of such systems with other positive train control systems or with other railroad  
 54 signal, communication, or operating systems;

55 (VII) Railroad signal, communication, or other operating systems, including  
 56 components of such systems that must be installed on locomotives or other rolling  
 57 stock;

58 (VIII) All improvements made to implement and maintain a positive train control  
 59 system contemplated in 49 U.S.C.A. 20101 et seq.; or

60 (IX) Intermodal transfer or transload facilities or terminals, including fixtures  
 61 attached thereto, and equipment used exclusively therein.

62 (B) Such term shall not include:

63 (i) Land;

64 (ii) Rolling stock, including locomotives; or  
65 (iii) Property used predominantly outside the United States.  
66 (6)(A) 'Qualified locomotive property' means a locomotive which:  
67 (i) Meets the Environmental Protection Agency's emission standards for locomotives  
68 and locomotive engines as in effect on December 31, 2005; and  
69 (ii) Is owned by, or leased to, a taxpayer which meets the capacity expansion  
70 requirement of subparagraph (B) of this paragraph for the taxable year in which the  
71 locomotive is placed in service.  
72 (B) A taxpayer meets the requirements of this subparagraph with respect to any  
73 locomotive only if, on the last day of the taxable year in which such locomotive is  
74 placed in service, the total horsepower of all locomotives owned by, or leased to, the  
75 taxpayer exceeds the total horsepower of all locomotives owned by, or leased to, the  
76 taxpayer on the last day of the preceding taxable year. The commissioner shall  
77 establish and maintain rules governing the determination of total horsepower under this  
78 subparagraph. The rules may use for this purpose reports of the United States Secretary  
79 of Transportation, in consultation with the United States Surface Transportation Board  
80 or any other similar report prescribed by the federal government, if the commissioner  
81 determines that such federal report accurately prescribes methodology for determining  
82 total horsepower of locomotives of taxpayers in this state.  
83 (7) 'Railroad signal, communication, or other operating system' means an appliance,  
84 method, device, or system, including hardware and software, which is used to operate a  
85 railroad or to improve safety or capacity of railroad operations, including a signal, an  
86 interlocker, an automatic train stop, or a train control or cab-signal device.  
87 (b) A taxpayer shall be allowed a tax credit against the tax imposed under this chapter in  
88 an amount equal to 50 percent of the cost of new qualified freight rail infrastructure  
89 property and qualified locomotive property placed in service during the taxable year.  
90 (c) In the case of the leasing of locomotives:  
91 (1) Only the lessor is eligible for the credit; and  
92 (2) Total horsepower under subparagraph (a)(6)(B) of this Code section shall be  
93 determined with respect to all locomotives owned by, or leased to, the lessee.  
94 (d) If a credit is claimed and allowed under this Code section with respect to the cost of  
95 any qualified freight rail infrastructure property or qualified locomotive property, the basis  
96 of such property shall be reduced by the amount of the credit so determined.  
97 (e) In no event shall the total amount of the tax credits under this Code section for a  
98 taxable year exceed the taxpayer's income tax liabilities. Any unused tax credits shall be  
99 allowed the taxpayer against the succeeding 20 years' tax liabilities. No such tax credits  
100 shall be allowed the taxpayer against prior years' tax liability.

101 (f) The commissioner shall be authorized to promulgate any rules and regulations  
102 necessary to implement and administer the provisions of this Code section."

103 **SECTION 2.**

104 This Act shall become effective January 1, 2011, and shall be applicable to all taxable years  
105 beginning on or after January 1, 2011.

106 **SECTION 3.**

107 All laws and parts of laws in conflict with this Act are repealed.