

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2402 Session of 2024

INTRODUCED BY MATZIE, MARSHALL, PISCIOTTANO, McNEILL, HARKINS, ROZZI, HILL-EVANS, SANCHEZ, JAMES AND MALAGARI, JUNE 10, 2024

AS REPORTED FROM COMMITTEE ON CONSUMER PROTECTION, TECHNOLOGY AND UTILITIES, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 11, 2024

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in Pennsylvania Economic Development for a
11 Growing Economy (PA EDGE) tax credits, further providing for
12 definitions and for application and approval of tax credit,
13 providing for sustainable aviation fuel and further providing
14 for definitions.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. The definition of "capital investment" in section
18 1702-L of the act of March 4, 1971 (P.L.6, No.2), known as the
19 Tax Reform Code of 1971, is amended to read:

20 Section 1702-L. Definitions.

21 The following words and phrases when used in this article
22 shall have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

1 "Capital investment." The amount of money or assets invested
2 by a qualified taxpayer in constructing and placing into service
3 one of the following in this Commonwealth:

4 (1) A project facility as defined in section 1711-L.

5 (2) A project facility as defined in section 1731-L.

6 (3) A project facility as defined in section 1751-L.

7 (4) A project facility as defined in section 1771-L.

8 (5) A project facility as defined in section 1789.11-L.

9 * * *

10 Section 2. Section 1753-L(d) of the act is amended by adding
11 a paragraph to read:

12 Section 1753-L. Application and approval of tax credit.

13 * * *

14 (d) Availability of tax credits.--

15 * * *

16 (3.1) Up to \$30,000,000 of an amount under paragraph (1)
17 which remains unallocated under paragraph (2) or (3) shall be
18 made available to the department for the purposes specified
19 under Subarticle E.1.

20 * * *

21 Section 3. Article XVII-L of the act is amended by adding a
22 subarticle to read:

23 SUBARTICLE E.1

24 SUSTAINABLE AVIATION FUEL

25 Section 1789.11-L. Definitions.

26 The following words and phrases when used in this subarticle
27 shall have the meanings given to them in this section unless the
28 context clearly indicates otherwise:

29 "Project facility." A facility located in this Commonwealth
30 which is owned by a qualified taxpayer which manufactures

1 sustainable aviation fuel and which required a capital
2 investment of at least ~~\$400,000,000~~ \$250,000,000 to construct <--
3 and place into service.

4 "Qualified taxpayer." An entity that satisfies all of the
5 following:

6 (1) Owns and operates a project facility located within
7 this Commonwealth.

8 (2) Has entered into a commitment letter under section
9 1789.12-L(b) to produce sustainable aviation fuel at a
10 project facility in this Commonwealth which has been placed
11 in service on or after the effective date of this section.

12 (3) Has made a capital investment of at least
13 \$250,000,000 in order to construct the project facility and
14 place the project facility into service in this Commonwealth.

15 (4) Has created a minimum aggregate total of 400 new
16 jobs and permanent jobs.

17 (5) Has made good faith efforts to recruit and employ,
18 and to encourage any contractors or subcontractors to recruit
19 and employ, workers from the local labor market for
20 employment during the construction of the project facility.

21 (6) Has demonstrated that the new jobs created at the
22 project facility or for work covered by Subarticle F are paid
23 at least the prevailing minimum wage and benefit rates for
24 each craft or classification as determined by the Department
25 of Labor and Industry.

26 (7) The construction work to place a project facility
27 into service shall be performed subject to the act of March
28 3, 1978 (P.L.6, No.3), known as the Steel Products
29 Procurement Act.

30 "Sustainable aviation fuel." Liquid fuel, the portion of

1 which is not kerosene, which is sold for use in an aircraft and
2 which:

3 (1) meets the requirements of ASTM International
4 Standard D7566 or the Fischer Drops provisions of ASTM
5 International Standard D1655, Annex A1; and

6 (2) is not derived from palm fatty acid distillates or
7 petroleum.

8 Section 1789.12-L. Eligibility.

9 (a) Demonstration.--In order to be eligible to receive a tax
10 credit, an entity shall demonstrate the following:

11 (1) The entity meets the requirements of a qualified
12 taxpayer.

13 (2) Confirmation that the entity has filed all required
14 State tax reports and returns for all applicable taxable
15 years and paid any balance of State tax due as determined by
16 assessment or determination by the department and not under
17 timely appeal.

18 (b) Commitment letter.--An entity that applies for and
19 receives a tax credit under this subarticle shall enter into a
20 commitment letter with the Department of Community and Economic
21 Development to prescribe the date by which the project facility
22 will begin to produce sustainable aviation fuel at the project
23 facility.

24 Section 1789.13-L. Application and approval of tax credit.

25 (a) Rate.--The tax credit shall be equal to 75¢ per gallon
26 of sustainable aviation fuel produced at the project facility by
27 a qualified taxpayer.

28 (b) Application.--

29 (1) A qualified taxpayer may apply to the department for
30 a tax credit under this section.

1 (2) The application must be submitted to the department
2 by March 1 for the tax credit claimed for sustainable
3 aviation fuel produced at the project facility during the
4 prior calendar year.

5 (3) The application must be on a form required by the
6 department which shall include the following:

7 (i) information required by the department to
8 document the amount of sustainable aviation fuel produced
9 at the project facility;

10 (ii) information required by the department to
11 verify that the applicant is a qualified taxpayer; and

12 (iii) any other information as the department deems
13 appropriate.

14 (c) Review and approval.--

15 (1) The department shall review the applications and
16 shall issue an approval or disapproval by May 1.

17 (2) Upon approval, the department shall issue a
18 certificate stating the amount of the tax credit granted for
19 sustainable aviation fuel produced at the project facility in
20 the prior calendar year.

21 (d) Availability of tax credits.--

22 (1) Each fiscal year, up to \$30,000,000 of tax credits
23 made available to the department under Subarticle D which
24 remain unallocated shall be made available to the department
25 in accordance with this subarticle.

26 (2) The department shall issue up to \$30,000,000 in a
27 fiscal year to the qualified taxpayer which first meets the
28 qualifications to receive a tax credit under this subarticle.

29 (3) An amount under paragraph (1) which remains
30 unallocated under paragraph (2) shall be issued to the

1 qualified taxpayer which next meets the qualifications to
2 receive a tax credit under this subarticle.

3 (4) The total aggregate amount of tax credits awarded to
4 a qualified taxpayer under this subarticle may not exceed 50%
5 of the capital investment made to construct a project
6 facility and place the project facility into service in this
7 Commonwealth.

8 Section 1789.14-L. Use of tax credits.

9 (a) Initial use.--Prior to sale or assignment of a tax
10 credit under section 1789.16-L, a qualified taxpayer must first
11 use a tax credit against the qualified tax liability incurred in
12 the taxable year for which the tax credit was approved.

13 (b) Eligibility.--The tax credit may be applied against up
14 to 20% of the qualified taxpayer's qualified tax liabilities
15 incurred in the taxable year for which the tax credit was
16 approved.

17 Section 1789.15-L. Carryover, carryback and refund.

18 A tax credit may not be carried back, carried forward or be
19 used to obtain a refund.

20 Section 1789.16-L. Sale or assignment.

21 (a) Authorization.--If the qualified taxpayer holds a tax
22 credit through the end of the calendar year in which the tax
23 credit was granted, the qualified taxpayer may sell or assign a
24 tax credit, in whole or in part, provided the sale is effective
25 by the close of the following calendar year.

26 (b) Application.--

27 (1) To sell or assign a tax credit, a qualified taxpayer
28 must submit an application for the sale or assignment of the
29 tax credit with the department. The application must be on a
30 form required by the department.

1 (2) To approve an application, the department must
2 receive:

3 (i) a finding from the department that the applicant
4 has:

5 (A) filed all required State tax reports and
6 returns for all applicable taxable years; and

7 (B) paid any balance of State tax due as
8 determined by assessment or determination by the
9 department and not under timely appeal; and

10 (ii) for a sale or assignment to a company that is
11 not an upstream company or downstream company, a
12 certification from the qualified taxpayer that the
13 qualified taxpayer has offered to sell or assign the tax
14 credit:

15 (A) exclusively to a downstream company for a
16 period of 30 days following approval of the tax
17 credit under section 1789.13-L(c); and

18 (B) to an upstream company or downstream company
19 for a period of 30 days following expiration of the
20 period under clause (A).

21 (c) Approval.--Upon approval by the department, a qualified
22 taxpayer may sell or assign, in whole or in part, a tax credit.

23 Section 1789.17-L. Purchasers and assignees.

24 (a) Time.--The purchaser or assignee under section 1789.16-L
25 must claim the tax credit in the calendar year in which the
26 purchase or assignment is made.

27 (b) Amount.--The amount of the tax credit that a purchaser
28 or assignee under section 1789.16-L may use against any one
29 qualified tax liability may not exceed 50% of any of the
30 qualified tax liabilities of the purchaser or assignee for the

1 taxable year.

2 (c) Resale and assignment.--

3 (1) A purchaser under section 1789.16-L may not sell or
4 assign the purchased tax credit.

5 (2) An assignee under section 1789.16-L may not sell or
6 assign the assigned tax credit.

7 (d) Notice.--The purchaser or assignee under section
8 1789.16-L shall notify the department of the seller or assignor
9 of the tax credit in compliance with procedures specified by the
10 department.

11 Section 1789.18-L. Pass-through entity.

12 (a) Election.--If a pass-through entity has an unused tax
13 credit, the pass-through entity may elect, in writing, according
14 to procedures established by the department, to transfer all or
15 a portion of the tax credit to shareholders, members or partners
16 in proportion to the share of the entity's distributive income
17 to which the shareholders, members or partners are entitled.

18 (b) Limitation.--The same unused tax credit under subsection
19 (a) may not be claimed by:

20 (1) the pass-through entity; and

21 (2) a shareholder, member or partner of the pass-through
22 entity.

23 (c) Amount.--The amount of the tax credit that a transferee
24 under subsection (a) may use against any one qualified tax
25 liability may not exceed 20% of any qualified tax liabilities
26 for the taxable year.

27 (d) Time.--A transferee under subsection (a) must claim the
28 tax credit in the calendar year in which the transfer is made.

29 (e) Sale and assignment.--A transferee under subsection (a)
30 may not sell or assign the tax credit.

1 Section 1789.19-L. (Reserved).

2 Section 1789.20-L. Guidelines and regulations.

3 The department shall develop written guidelines for the
4 implementation of this subarticle. The guidelines shall be in
5 effect until the department promulgates regulations for the
6 implementation of the provisions of this subarticle.

7 Section 1789.21-L. Report to General Assembly.

8 (a) Report.--

9 (1) No later than the year after which tax credits are
10 first awarded under this subarticle, and each October 1
11 thereafter, the department shall submit a report to the
12 General Assembly summarizing the effectiveness of the tax
13 credit. The report shall include the names of all qualified
14 taxpayers utilizing the tax credit as of the date of the
15 report and the amount of tax credits approved for, utilized
16 by or sold or assigned by each qualified taxpayer. The report
17 shall be submitted to all of the following:

18 (i) The chair and minority chair of the
19 Appropriations Committee of the Senate.

20 (ii) The chair and minority chair of the
21 Appropriations Committee of the House of Representatives.

22 (iii) The chair and minority chair of the
23 Environmental Resources and Energy Committee of the
24 Senate.

25 (iv) The chair and minority chair of the
26 Environmental Resources and Energy Committee of the House
27 of Representatives.

28 (v) The chair and minority chair of the Finance
29 Committee of the Senate.

30 (vi) The chair and minority chair of the Finance

1 Committee of the House of Representatives.

2 (2) In addition to the information required under
3 paragraph (1), the report shall include the following
4 information in a manner separated by geographic location
5 within this Commonwealth:

6 (i) The amount of tax credits claimed by qualified
7 taxpayers during the fiscal year.

8 (ii) The total number of new jobs and permanent jobs
9 created by qualified taxpayers during the fiscal year,
10 including the duration of the jobs.

11 (b) Public information.--Notwithstanding any law providing
12 for the confidentiality of tax records, the information in the
13 report under subsection (a) shall be public information, and all
14 report information shall be posted on the department's publicly
15 accessible Internet website.

16 Section 1789.22-L. Applicability.

17 The tax credit under this subarticle shall apply to the
18 production of sustainable aviation fuel at a project facility
19 for the period beginning January 1, 2027, and ending December
20 31, 2043.

21 Section 4. Section 1791-L of the act is amended to read:

22 Section 1791-L. Definitions.

23 The following words and phrases when used in this subarticle
24 shall have the meanings given to them in this section unless the
25 context clearly indicates otherwise:

26 "Qualified project facility." Any of the following:

27 (1) A project facility as defined in section 1711-L.

28 (2) A project facility as defined in section 1731-L.

29 (3) A project facility as defined in section 1751-L.

30 (4) A project facility as defined in section 1771-L.

1 (5) A project facility as defined in section 1789.11-L.

2 "Qualified tax credit recipient." Any of the following who
3 have been awarded a tax credit:

4 (1) A qualified taxpayer as defined in section 1711-L.

5 (2) A qualified taxpayer as defined in section 1731-L.

6 (3) A qualified taxpayer as defined in section 1751-L.

7 (4) A qualified taxpayer as defined in section 1771-L.

8 (5) A qualified taxpayer as defined in section 1789.11-

9 L.

10 Section 5. This act shall take effect in 60 days.