

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 305 Session of 2013

INTRODUCED BY DENLINGER, AUMENT, BAKER, CAUSER, COHEN, CUTLER, EVANKOVICH, GINGRICH, GRELL, GROVE, C. HARRIS, HESS, HICKERNELL, KAUFFMAN, F. KELLER, M. K. KELLER, LONGIETTI, MARSHALL, MATZIE, MICOZZIE, MILLER, MOUL, PICKETT, QUINN, ROCK, SAYLOR, SIMMONS, SWANGER, WATSON, GABLER, PEIFER, MURT, GIBBONS AND JAMES, FEBRUARY 5, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, APRIL 16, 2013

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," providing for a natural gas corridor tax credit; <--
11 and imposing penalties.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Article XVIII-C Heading of the act of March 4,
15 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, added
16 July 9, 2008 (P.L.922, No.66), is amended to read:

ARTICLE XVIII-C

[(RESERVED)]

NATURAL GAS CORRIDOR TAX CREDIT

20 Section 2. The act is amended by adding sections to read:

1 Section 1801-C. Definitions.

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

5 "Applicant." A company which meets the eligibility
6 requirements for the tax credit under this article.

7 "Committee." The Natural Gas Corridor Tax Credit Committee.

8 "Company." An entity doing business in this Commonwealth
9 which is subject to tax under Article III, IV or VI. The term
10 shall include the shareholder of a Pennsylvania S corporation
11 that is eligible for the tax credit under this article.

12 "Department." The Department of Community and Economic
13 Development of the Commonwealth.

14 "Eligible corridor." ~~The portions of I 76, I 78, I 79, I 80, <--~~
15 ~~I 81, I 83, I 95 and I 276 ALL INTERSTATE HIGHWAYS, UNITED <--~~
16 STATES HIGHWAYS AND STATE ROUTES within the boundaries of this
17 Commonwealth.

18 "Natural gas corridor tax credit." Tax credits for which the
19 Department of ~~Revenue~~ COMMUNITY AND ECONOMIC DEVELOPMENT has <--
20 issued a certificate under this article.

21 "Natural gas fueling station." A facility which dispenses
22 compressed natural gas or compressed natural gas and liquefied
23 natural gas to the public for vehicle refueling purposes and
24 does not include time-fill stations.

25 "Natural gas infrastructure plan." A company's plan to
26 transition organizational structures needed for the operation of
27 natural gas fueling stations, by converting existing stations or
28 purchasing new or used natural gas fueling equipment.

29 "Start date." The date on which the company ~~may~~ WILL begin <--
30 the company's NATURAL GAS infrastructure plan ~~for natural gas <--~~

1 fueling stations.

2 Section 1802-C. Eligibility.

3 In order to be eligible to receive a natural gas corridor tax
4 credit, a company must demonstrate to the department the
5 following:

6 (1) A comprehensive NATURAL GAS INFRASTRUCTURE plan to <--
7 do any of the following:

8 (i) Build one or more natural gas fueling stations.

9 (ii) Add compressed natural gas fueling capacity to
10 one or more existing stations which sells gasoline.

11 (iii) A combination of paragraph (1) and (2).

12 (2) The stations must be open to the public.

13 (3) The stations must be located within two miles of an
14 eligible corridor.

15 Section 1803-C. Application process.

16 (a) Application.--A company may apply to the department for
17 a natural gas corridor tax credit under this article. The
18 application shall be on the form required by the department and
19 include all necessary documentation to establish eligibility as
20 required under section 1802-C.

21 (b) Committee.--

22 (1) The Natural Gas Corridor Tax Credit Committee is
23 established and shall be made up of members designated by the
24 following, except that none of the following may be
25 designees:

26 (i) The Secretary of Community and Economic
27 Development of the Commonwealth.

28 (ii) The Secretary of Transportation of the
29 Commonwealth.

30 (iii) The ~~secretary~~ SECRETARY OF REVENUE. <--

1 (iv) The Secretary of Environmental Protection.

2 ~~(v) The chairman of the Marcellus Shale Coalition of~~ <--
3 ~~the Commonwealth.~~

4 ~~(vi) The Executive Director of Associated Petroleum~~
5 ~~Industries of Pennsylvania.~~

6 (2) (Reserved.)

7 (c) Review.--

8 (1) The department shall establish application periods
9 not to exceed 90 days.

10 (2) An application received during the application
11 period shall be reviewed by the committee and ranked based on
12 the total number of natural gas stations and gasoline
13 stations adding natural gas fueling capacity proposed to be
14 built along a single eligible corridor or a continuous travel
15 route utilizing only the eligible corridors, with a spacing
16 of at least 50 miles and no more than 100 miles from another
17 natural gas station within two miles of the eligible
18 corridor. The spacing restrictions under this paragraph do
19 not apply in an ambient air quality region that, at the time
20 of the entity's initial application for the tax credit, is:

21 (i) classified as nonattainment for a criteria
22 pollutant according to the Clean Air Act (69 Stat. 1, 42
23 U.S.C. § 7401 et seq.); or

24 (ii) determined by the Commonwealth to be an ambient
25 air quality control region the emissions from which
26 adversely impact a nonattainment area.

27 (3) The committee shall make recommendations to the
28 department with regard to each application reviewed.

29 (d) Approval.--Once applications are ranked by the committee
30 under subsection (c), the department may approve the companies'

1 applications according to their discretion and availability of
2 natural gas corridor tax credits. Applications not approved
3 shall be returned to the committee for review during the next
4 application period.

5 (D.1) LIMITATION OF APPLICATION ROLL-OVER.--AN APPLICATION <--
6 THAT IS NOT APPROVED BY JUNE 30 MAY NOT BE RETURNED TO THE
7 COMMITTEE FOR REVIEW. THE DEPARTMENT SHALL NOTIFY AN APPLICANT
8 WHOSE APPLICATION HAS NOT BEEN APPROVED BY JUNE 30 THAT A NEW
9 APPLICATION FOR THE NATURAL GAS CORRIDOR TAX CREDIT MUST BE
10 FILED WITH THE DEPARTMENT IN ORDER FOR THE APPLICANT TO CONTINUE
11 TO BE CONSIDERED FOR A NATURAL GAS CORRIDOR TAX CREDIT.

12 (e) Contract.--The department and the company shall execute
13 a contract containing the following:

14 (1) A description of the natural gas fueling
15 infrastructure plan.

16 (2) The amount of private capital investment in the
17 natural gas fueling infrastructure plan.

18 (3) A signed statement that the company intends to
19 complete its natural gas fueling infrastructure plan within
20 eighteen months.

21 (4) THE START DATE. <--

22 ~~(4)~~ (5) Any other information as the department, IN <--
23 CONJUNCTION WITH THE DEPARTMENT OF REVENUE, deems
24 appropriate.

25 (f) Certificate.--Upon execution of the contract required
26 under subsection (e), the department shall VERIFY WITH THE <--
27 DEPARTMENT OF REVENUE THAT THE COMPANY FILED THE REQUIRED STATE
28 TAX REPORTS AND RETURNS FOR THE APPLICABLE TAX YEARS AND PAID A
29 BALANCE OF STATE TAX DUE AS DETERMINED AT SETTLEMENT, ASSESSMENT
30 OR DETERMINATION BY THE DEPARTMENT OF REVENUE AND award the

1 company a natural gas corridor tax credit and issue a natural
2 gas corridor tax credit certificate.

3 (G) NOTICE OF COMPLETION.--UPON COMPLETION OF THE NATURAL <--
4 GAS INFRASTRUCTURE PLAN, THE COMPANY SHALL NOTIFY THE DEPARTMENT
5 ON A FORM REQUIRED BY THE DEPARTMENT.

6 Section 1804-C. Natural gas corridor tax credits.

7 (a) Maximum amount.--A company may claim a natural gas
8 corridor tax credit for up to 50% of the total cost of the
9 compressed natural gas station or the total cost of adding
10 compressed natural gas fueling capacity to an existing station
11 which sells gasoline. For the purposes of this subsection, the
12 total cost may not exceed \$500,000.

13 (b) Applicable taxes.--A company may apply the natural gas
14 corridor tax credit to 100% of all or a combination of any of
15 the following taxes of the company:

16 (1) State corporate net income tax.

17 (2) Capital stock and franchise tax or the capital stock
18 and franchise tax of a shareholder of the company if the
19 company is a Pennsylvania S corporation.

20 (3) Gross premiums tax.

21 (4) Gross receipts tax.

22 (5) Bank and trust company shares tax.

23 (6) Mutual thrift institution tax.

24 (7) Title insurance company shares tax.

25 (8) Personal income tax or the personal income tax of
26 shareholders of a Pennsylvania S corporation.

27 ~~(c) Term.--A company may claim the natural gas corridor tax~~ <--
28 ~~credit in one year or spread the credit over a period determined~~
29 ~~by the department but not to exceed five years from the date the~~
30 ~~company first submits a certificate. CARRYFORWARD, CARRYBACK AND~~ <--

1 REFUND.--A COMPANY MAY CARRY FORWARD ALL OR ANY UNUSED PORTION
2 OF THE TAX CREDIT FOR A PERIOD OF FIVE YEARS FROM THE START
3 DATE. A company may not carry back or obtain a refund of the
4 natural gas corridor tax credit.

5 (d) Sale or assignment.--

6 (1) A natural gas corridor tax credit recipient, upon
7 application to and approval by the department, may sell or
8 assign, in whole or in part, a natural gas corridor tax
9 credit granted to the recipient if no claim for allowance of
10 the credit is filed within one year from the date the credit
11 is granted by the department.

12 (2) The purchaser or assignee of a natural gas corridor
13 tax credit shall immediately claim the credit in the taxable
14 year in which the purchase or assignment is made. THE AMOUNT <--
15 OF THE TAX CREDIT A PURCHASER OR ASSIGNEE MAY USE AGAINST A
16 QUALIFIED TAX LIABILITY MAY NOT EXCEED 75% OF THE QUALIFIED
17 TAX LIABILITY FOR THE TAXABLE YEAR. The purchaser or assignee
18 may not carry back, obtain a refund of or sell or assign the
19 natural gas corridor tax credit. The purchaser or assignee
20 shall notify the department of the seller or assignor of the
21 natural gas corridor tax credit in compliance with procedures
22 specified by the department.

23 (3) The department shall promulgate guidelines for the
24 approval of applications under this subsection.

25 (4) BEFORE AN APPLICATION IS APPROVED, THE DEPARTMENT OF <--
26 REVENUE MUST MAKE A FINDING THAT THE APPLICANT FILED THE
27 REQUIRED STATE TAX REPORTS AND RETURNS FOR THE APPLICABLE TAX
28 YEARS AND PAID ANY BALANCE OF STATE TAX DUE AS DETERMINED AT
29 SETTLEMENT OR ASSESSMENT OR BY THE DEPARTMENT OF REVENUE.

30 (e) Limitation.--In granting natural gas corridor tax credit

1 certificates, the department:

2 (1) May not grant more than \$5,000,000 natural gas
3 corridor tax credit certificates in any fiscal year.

4 (2) May not grant more than \$500,000 natural gas
5 corridor tax credit certificates to any single company in any
6 fiscal year.

7 SECTION 1804-C.1. VERIFICATION OF CONTINUED ELIGIBILITY. <--

8 (A) COMPLIANCE DOCUMENTATION.--EACH FISCAL YEAR, A COMPANY
9 AWARDED A TAX CREDIT UNDER THIS ARTICLE SHALL, ON A FORM
10 REQUIRED BY THE DEPARTMENT, PROVIDE THE DEPARTMENT WITH
11 DOCUMENTATION THAT THE COMPANY IS IN COMPLIANCE WITH THE
12 PROVISIONS OF THIS ARTICLE AND THE CONTRACT EXECUTED UNDER
13 SECTION 1803-C(E).

14 (B) CONTINUATION OF DOCUMENTATION.--A COMPANY THAT PROVIDED
15 NOTICE OF COMPLETION AS REQUIRED BY SECTION 1803-C(G) SHALL
16 CONTINUE TO PROVIDE DOCUMENTATION THAT THE COMPANY IS IN
17 COMPLIANCE WITH THE RELEVANT PROVISIONS OF THIS ARTICLE FOR A
18 PERIOD OF FIVE YEARS FROM THE DATE THE NOTICE OF COMPLETION IS
19 GIVEN TO THE DEPARTMENT.

20 Section 1805-C. ~~Penalties~~ RECAPTURE. <--

21 (a) Failure to maintain operations.--A company which
22 receives natural gas corridor tax credits and fails to operate
23 the natural gas fueling station for which it received the tax
24 credits for a period of five years from the ~~start date~~ DATE <--
25 NOTICE OF COMPLETION IS GIVEN TO THE DEPARTMENT shall refund to
26 the Commonwealth the total amount of credits granted.

27 (b) Failure to complete the natural gas infrastructure
28 plan.--A company which receives natural gas corridor tax credits
29 and fails to complete the natural gas infrastructure plan within
30 18 months shall refund to the Commonwealth the total amount of

1 credits granted.

2 (c) Waiver.--The department may waive the penalties under
3 subsections (a) and (b) if it is determined that A COMPANY <--
4 FAILED TO OPERATE THE NATURAL GAS FUELING STATION OR a company's
5 natural gas fueling infrastructure plan was not completed
6 because of circumstances beyond the company's control.
7 Circumstances shall include natural disasters, unforeseen
8 industry trends or a loss of a major supplier or market. The
9 company must promptly notify the department of circumstances
10 beyond the company's control which would delay completion of the
11 project.

12 Section 1806-C. Report to General Assembly.

13 No later than June 1, 2014, and each June 1 thereafter, the
14 department shall submit a report on the natural gas corridor tax
15 credits granted under this article. The report shall include the
16 names of taxpayers who utilized the credit as of the date of the
17 report and, the amount of credits approved, THE NAMES OF <--
18 TAXPAYERS WHO RECEIVE A WAIVER UNDER SECTION 1805-C(C), THE
19 AMOUNT OF PENALTIES WAIVED UNDER SECTION 1805-C(C) AND THE
20 REASON FOR THE WAIVER. The report may include recommendations
21 for changes in the calculation or administration of the natural
22 gas corridor tax credit and other information as the department
23 deems appropriate. The report shall be submitted to all of the
24 following:

25 (1) The chairman and minority chairman of the
26 Appropriations Committee of the Senate.

27 (2) The chairman and minority chairman of the
28 Appropriations Committee of the House of Representatives.

29 (3) The chairman and minority chairman of the Finance
30 Committee of the Senate.

1 (4) The chairman and the minority chairman of the
2 Finance Committee of the House of Representatives.

3 Section 1807-C. Time limitations.

4 ~~A company shall not be entitled to~~ THE DEPARTMENT MAY NOT <--
5 AWARD a natural gas corridor tax credit for taxable years ending
6 after December 31, 2018.

7 Section 1808-C. Guidelines.

8 The department, in conjunction with the Department of
9 Revenue, shall promulgate guidelines necessary for the
10 implementation and administration of this article.

11 Section 3. This act shall take effect in 60 days.