

## AMENDMENTS TO SENATE BILL NO. 74

Sponsor: SENATOR BROWNE

Printer's No. 339

1 Amend Bill, page 2, line 6, by striking out "VI,"

2 Amend Bill, page 2, line 8, by inserting after "cash"

3 to a pediatric cancer research institution

4 Amend Bill, page 3, by inserting between lines 12 and 13

5 (d) Application in the alternative.--At the time of  
6 application for a tax credit, the department shall advise a  
7 business firm that the firm may elect that its application for a  
8 tax credit for a contribution to a particular pediatric cancer  
9 research institution will, in the alternative, be deemed an  
10 application received by the department on the same date as the  
11 preferred application, but for a different pediatric cancer  
12 research institution authorized under this article if the  
13 business firm's preferred choice of pediatric cancer research  
14 institution has reached the \$2,500,000 limit under section 1709-  
15 L. If a business firm does not receive its preferred choice of  
16 pediatric cancer research institution, the department shall  
17 promptly consider the business firm's application in the  
18 alternative for a different pediatric cancer research  
19 institution authorized under this article.

20 Amend Bill, page 4, line 9, by striking out "beneficiaries"

21 and inserting

22 partners

23 Amend Bill, page 4, line 19, by striking out "VI,"

24 Amend Bill, page 4, line 30; page 5, lines 1 through 5; by

25 striking out all of said lines on said pages and inserting

26 Section 1710-L. Carryover and carryback.

27 (a) General rule.--If a business firm does not use all or  
28 any portion of a tax credit for the taxable year in which the  
29 tax credit is first approved, then the excess may be carried  
30 over to succeeding taxable years and used as a credit against  
31 the qualified tax liability of the business firm for those

1 taxable years. Each time the tax credit is carried over to a  
2 succeeding taxable year, it shall be reduced by the amount that  
3 was used as a credit during the immediately preceding taxable  
4 year. The tax credit provided by this article may be carried  
5 over and applied to succeeding taxable years for no more than  
6 three taxable years following the first taxable year for which  
7 the taxpayer was entitled to claim the credit.

8 (b) Application.--A tax credit approved by the department in  
9 a taxable year first shall be applied against the business  
10 firm's qualified tax liability for the current taxable year as  
11 of the date on which the tax credit was approved before the tax  
12 credit can be applied against a tax liability under subsection  
13 (a).

14 (c) No carryback or refund.--A business firm is not entitled  
15 to carry back or obtain a refund of all or any portion of an  
16 unused tax credit granted to the business firm under this  
17 article.

18 Section 1711-L. Pass-through entity.

19 (a) General rule.--If a business firm which is a pass-  
20 through entity has any unused tax credits under section 1710-L,  
21 the pass-through entity may elect in writing, according to  
22 procedures established by the department, to transfer all or a  
23 portion of the tax credits to shareholders, members or partners  
24 in proportion to the share of the entity's distributive income  
25 to which each shareholder, member or partner is entitled.

26 (b) Limitation.--A pass-through entity and a shareholder,  
27 member or partner of a pass-through entity may not claim the tax  
28 credit under subsection (a) for the same contribution.

29 (c) Application.--A shareholder, member or partner of a  
30 pass-through entity to whom a tax credit is transferred under  
31 subsection (a) shall immediately claim the tax credit in the  
32 taxable year in which the transfer is made. The shareholder,  
33 member or partner may not carry forward, carry back, obtain a  
34 refund of or sell or assign the tax credit.

35 (d) An individual shareholder, member or partner may apply a  
36 tax credit distributed under this section to income taxable  
37 under Article III to the shareholder, member or partner, to the  
38 spouse of the shareholder, member or partner or to both, if both  
39 the shareholder, member or partner and the spouse report income  
40 on a joint personal income tax return.

41 Section 1712-L. Sale or assignment.

42 (a) Authorization.--Upon approval by the department, a  
43 business firm may sell or assign, in whole or in part, a tax  
44 credit granted to the business firm under this article.

45 (b) Application.--The following shall apply:

46 (1) To sell or assign a tax credit, a business firm must  
47 file an application for the sale or assignment of the tax  
48 credit with the department. The application must be on a form  
49 required by the department.

50 (2) The department shall approve a sale or assignment if  
51 the purchaser or assignee has:

1           (i) filed all required State tax reports and returns  
2           for all applicable taxable years; and  
3           (ii) paid any balance of State tax due as determined  
4           by assessment or determination by the department and not  
5           under timely appeal.

6 Section 1713-L. Purchasers and assignees.

7           (a) Claim.--The purchaser or assignee of all or a portion of  
8           a tax credit under section 1712-L shall immediately claim the  
9           credit in the taxable year in which the purchase or assignment  
10           is made.

11           (b) Amount.--The amount of the tax credit that a purchaser  
12           or assignee may use against any one qualified tax liability may  
13           not exceed 75% of the qualified tax liability for the taxable  
14           year.

15           (c) Use.--The purchaser or assignee may not carry forward,  
16           carry back or obtain a refund of or sell or assign the tax  
17           credit.

18 Section 1714-L. Administration.

19           (a) Audits and assessments.--The department has the  
20           following powers:

21               (1) To audit a business firm claiming a tax credit to  
22               ascertain the validity of the amount claimed.

23               (2) To issue an assessment against a business firm for  
24               an improperly issued tax credit. The procedures, collection,  
25               enforcement and appeals of any assessment made under this  
26               section shall be governed by Article IV.

27           (b) Guidelines.--The department shall develop written  
28           guidelines for the implementation of this article.

29 Section 1715-L. Annual report to General Assembly.

30           By October 1, 2021, and October 1 of each year thereafter,  
31           the department shall submit a report on the tax credit provided  
32           by this article to the chairperson and minority chairperson of  
33           the Appropriations Committee of the Senate, the chairperson and  
34           minority chairperson of the Finance Committee of the Senate, the  
35           chairperson and minority chairperson of the Appropriations  
36           Committee of the House of Representatives and the chairperson  
37           and minority chairperson of the Finance Committee of the House  
38           of Representatives. The report must include:

39               (1) the names of the business firms utilizing the tax  
40               credit as of the date of the report and the amount of tax  
41               credits approved for, utilized by or sold or assigned by a  
42               business firm during the preceding fiscal year; and

43               (2) the amount of contributions received by each of the  
44               four pediatric cancer research institutes during the  
45               preceding fiscal year.

46           Amend Bill, page 5, line 6, by striking out "1710-L" and  
47           inserting

48           1716-L

1 Amend Bill, page 5, line 10, by striking out "This" and  
2 inserting  
3 The tax credit established under this