HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 732 **PRINTERS NO**. 4118 **PRIME SPONSOR**: Kaufer

REVENUE INCREASE / (DECREASE)

FUND	FY 2020/21	FY 2021/22
General Fund	**See Fiscal Impact**	**See Fiscal Impact**

SUMMARY: House Bill 732, Printer's Number 4118, amends the Tax Reform Code (TRC) further providing for excluded transactions in realty transfer tax and providing for local resource manufacturing tax credit.

ANALYSIS: Section 1102-C.3.(23) currently provides the following: (1) a transfer of real estate for no or nominal consideration from the Commonwealth or any of its instrumentalities, agencies or political subdivisions to a volunteer EMS agency, volunteer fire company or volunteer rescue company and (2) a transfer of real estate between two or more volunteer EMS agencies, volunteer fire companies or volunteer rescue companies are excluded from the realty transfer tax. This legislation amends this section expanding the exemption to any transfer of real estate to or by a volunteer EMS company, volunteer fire company or volunteer rescue company.

This legislation adds Article XVII-L establishing the Local Resource Manufacturing Tax Credit program providing a tax credit equal to $0.47 per unit of dry natural gas that is purchased and used by a qualified taxpayer in the manufacturing of petrochemicals or fertilizers. A "qualified taxpayer" is a company that: (1) purchases dry natural gas for use in manufacturing petrochemicals or fertilizers at a project facility in this Commonwealth which has been placed in service on or after the effective date; (2) has made a capital investment of at least $400 million in order to construct the project facility; (3) has created a minimum aggregate total of 800 new jobs and permanent jobs; (4) has made good faith efforts to recruit and employ, and to encourage any contactors or subcontractors to recruit and employ, workers from the local labor market for employment during construction of the project facility; and (5) has demonstrated that the new jobs created at the project facility are paid at least the prevailing minimum wage and benefit rates for each craft or classification as determined by the Department of Labor and Industry.

Applications must be submitted by March 1 for dry natural gas purchased and used at the project facility during the prior calendar year. The department must review and approve or disapprove applications by May 1.

Each fiscal year, $26,666,668 in tax credits shall be made available to the department. No more than four qualified taxpayers shall receive a tax credit annually, for a maximum credit of $6,666,667 each. The department, at its discretion, may issue unallocated credits to a qualified taxpayer, notwithstanding the maximum credit limit per taxpayer.

The tax credit must first be applied against up to 20% of the qualified taxpayer's tax liabilities in the year in which the tax credit was approved. The qualified taxpayer is ineligible for other tax credits in the Tax Reform Code. A qualified taxpayer holding a tax credit through the end of the calendar year in which the tax credit was awarded may sell or assign any unused tax credit in whole or in part, provided the sale is effective by the close of the following calendar year. The qualified taxpayer must file an application for sale or assignment with the department. A qualified taxpayer must first offer to sell or assign the tax credit exclusively to "upstream or downstream" companies for a period of 60 days following the approval of the tax credit. An "upstream or downstream company" is defined as a company that is engaged in the exploration, development, production, processing, refining or transportation of dry natural gas in this Commonwealth; or uses chemical products or chemical compounds manufactured or processed by the qualified taxpayer. A purchaser or assignee must utilize the tax credit in the calendar year in which the purchase or assignment is made and may offset up to 50% of its qualified tax liability. A purchaser or assignee may not sell or assign the tax credit.

A pass-through entity with unused tax credits may elect, in writing according to procedures established by the department, to transfer all or a portion of the credit to shareholders, members or partners in proportion to the share of the entity's distributive income. A shareholder, member or partner may use the tax credit to offset up to 20% of its qualified tax liabilities.

The department must issue a report to the General Assembly no later than the year after which tax credits are first awarded and each October 1 thereafter. The report must include the names of all qualified taxpayers utilizing the tax credit as of the date of the report and the amount of tax credit approved, utilized, sold or assigned by qualified taxpayers.

A reconciliation report on the effectiveness of the tax credit must be issued on May 1 of the year which is 10 years after the year in which tax credits are first awarded. The report shall include the following information for the preceding 10 years: (1) name and business address of all qualified taxpayers who received tax credits; (2) amount of tax credits granted to each qualified taxpayer; (3) total number of jobs created, including the average annual salary and hourly wage, by the qualified taxpayer, upstream and downstream companies and any companies that provide goods, utilities or other services that support their business operations; (4) amount of taxes paid under Articles II, III, IV and XI by the qualified taxpayer, upstream and downstream companies and any companies that provide goods, utilities or other services that support their business operations; and (5) amount of any other state and local taxes paid by the qualified taxpayer, upstream and downstream companies and any companies that provide goods, utilities or other services that support their business operations.

If the reconciliation report reveals that the total amount of the tax credits granted exceeds the total amount of tax revenue reported, the report shall include any recommendations for changes in the calculation of the tax credit.

Wages and benefit rates paid to contractors and subcontractors working for a qualified taxpayer are subject to the Prevailing Wage Act of 1961. If found in noncompliance, a qualified taxpayer must refund 10% of the amount of tax credits awarded, unless an appeal is made and found in favor of the qualified taxpayer.

The Local Resource Manufacturing Tax Credit program shall apply to the purchase of dry natural gas for the period beginning January 1, 2024, through December 31, 2049. The article shall expire December 31, 2050.

The act shall take effect immediately. The amendment of Section 1102-C.3.(23) shall apply retroactively to January 1, 2019. The addition of Article XVII-L shall take effect in 60 days.

FISCAL IMPACT: According to the Department of Revenue, exempting any transfer of real estate to or by a volunteer EMS company, volunteer fire company or volunteer rescue company from the realty transfer tax will result in a nominal revenue loss to the General Fund.

Enactment of the Local Resource Manufacturing Tax Credit program will have no adverse fiscal impact on Commonwealth funds in fiscal years 2020-21 and 2021-22. The tax credit program established in this legislation provides an incentive for new facilities manufacturing petrochemicals and fertilizers to locate in the Commonwealth after the effective date of the act, which in turn would create jobs and spur economic growth in the Commonwealth. The qualified facility would receive a tax credit equal to $0.47 per unit of dry natural gas that is purchased and used in the manufacturing of petrochemicals or fertilizers. A total of $26,666,668 in tax credits shall be made available to qualified taxpayers beginning with applications in March 2025 and ending with applications in March 2050.

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House Appropriations Committee (R)

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Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.