

2018 Regular Session

SENATE BILL NO. 493

BY SENATOR LUNEAU

TAX/TAXATION. Makes permanent reductions to certain tax incentive rebate programs.
(gov sig)

1 AN ACT

2 To amend and reenact R.S. 51:2455(A), (D)(3), 3121(C)(3)(b)(i) and (C)(4)(c), to enact R.S.
3 51:1787(A)(1)(a)(vi), 1792, 2456(B)(1)(a)(iv) and (B)(1)(b)(iv), 2463, and 3121(H),
4 and to repeal Section 3 of Act No. 126 of the 2015 Regular Session of the
5 Legislature and Section 2 of Act 28 of the 2016 First Extraordinary Session of the
6 Legislature, relative to limitations on tax incentive rebate programs; to provide for
7 annual program caps for certain tax incentive programs; to provide for an effective
8 date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 51:2455(A), (D)(3), 3121(C)(3)(b)(i) and (C)(4)(c) are hereby
11 amended and reenacted and R.S. 51:1787(A)(1)(a)(vi), 1792, 2456(B)(1)(a)(iv) and
12 (B)(1)(b)(iv), 2463, and 3121(H) are hereby enacted to read as follows:

13 §1787. Incentives

14 A. The board, after consultation with the secretaries of the Department of
15 Economic Development and Department of Revenue, and with the approval of the
16 governor, may enter into contracts not to exceed five years to provide:

17 (1) For either:

1 (a)(i) The rebate of sales and use tax imposed by the state and imposed by its
2 political subdivisions upon approval of the governing authority of the appropriate
3 municipality or the appropriate parish where applicable, or both, and of the
4 governing authority of any other political subdivision, including the office of sheriff
5 in the case of a law enforcement district, for the following:

6 * * *

7 **(vi) For advance notifications received after July 1, 2018, the rebate of**
8 **sales and use tax imposed by the state and its political subdivisions shall be**
9 **limited to eighty percent of the sales tax for the use and purchases as provided**
10 **for in Item (i) of this Subparagraph.**

11 * * *

12 **§1792. Annual program cap**

13 **For advance notifications received after July 1, 2018, the Department of**
14 **Economic Development shall approve no more than forty million dollars of tax**
15 **incentives per fiscal year pursuant to the provisions of this Chapter. Each fiscal**
16 **year's forty million dollar annual cap shall include the sum of payroll rebates**
17 **approved in previous years that will be paid during that fiscal year. If an**
18 **incentive issued pursuant to this Chapter is recaptured, the recaptured amount**
19 **may be added to the annual cap for the year in which the incentive is**
20 **recaptured.**

21 * * *

22 §2455. Incentive rebates

23 A. ~~(1)~~ An employer who has entered into a contract may receive a rebate for
24 the taxable periods specified in the contract entered into pursuant to the provisions
25 of this Chapter **as follows:**

26 **(1) For projects for which an advance notification was filed before July**
27 **1, 2015,** in an amount which shall be equal to the benefit rate as defined in R.S.
28 51:2453(1), multiplied by the gross payroll, as defined in R.S. 51:2453(3), of new
29 direct jobs as defined in R.S. 51:2453(4), for the taxable period as verified by the

1 Department of Economic Development through the use of information provided to
2 it by the Louisiana Workforce Commission. In no instance shall a rebate be
3 determined by multiplying the value of the health care benefits by the benefit rate.

4 (2) For projects for which an advance notification was filed on or after July
5 1, 2015, ~~pursuant to this Section~~, no rebate shall exceed the amount of the benefit
6 rate as defined in R.S. 51:2453(1), multiplied by eighty percent of the gross payroll,
7 as defined in R.S. 51:2453(3), of new direct jobs as defined in R.S. 51:2453(4), for
8 the taxable period as verified by the Department of Economic Development through
9 the use of information provided to it by the Louisiana Workforce Commission. In no
10 instance shall a rebate be determined by multiplying the value of the health care
11 benefits by the benefit rate.

12 * * *

13 D.(1) * * *

14 (3)**(a)** Applications shall be filed no later than twenty-four months after the
15 filing of the advance notification, ~~except for advances~~ **as provided in**
16 **Subparagraph (b) of this Paragraph.**

17 **(b) For advance notifications** filed on or after January 1, 2014, and before
18 January 31, 2014, applications may be filed at any time prior to January 31, 2016.

19 * * *

20 §2456. Rebate; payments

21 * * *

22 B.(1) In addition to the rebates provided in this Chapter, an employer who
23 has executed a contract under the provisions of this Chapter and who meets the
24 requirements of R.S. 51:2455(E) shall be entitled to either:

25 (a)(i) * * *

26 * * *

27 **(iv) For advance notifications received after July 1, 2018, the rebate of**
28 **sales and use tax imposed by the state and its political subdivisions shall be**
29 **limited to eighty percent of the sales tax for the use and purchases as provided**

1 for in Item (i) of this Subparagraph.

2 (b)(i) * * *

3 * * *

4 (iv) For advance notifications received after July 1, 2018, qualified
5 capital expenditures for the facility shall be limited to one and two-tenths
6 percent of the amount of qualified capital expenditures provided for in this
7 Subparagraph.

8 * * *

9 §2463. Annual program cap

10 For advance notifications received after July 1, 2018, the Department of
11 Economic Development shall approve no more than one hundred million dollars
12 of tax incentives per fiscal year pursuant to the provisions of this Chapter. Each
13 fiscal year's one hundred million dollar annual cap shall include the sum of
14 payroll incentives approved in previous years that will be paid during that fiscal
15 year. If an incentive issued pursuant to this Chapter is recaptured, the
16 recaptured amount may be added to the annual cap for the year in which the
17 incentive is recaptured.

18 * * *

19 §3121. Competitive Projects Payroll Incentive Program

20 * * *

21 C. * * *

22 * * *

23 (3) * * *

24 * * *

25 (b) The contract shall provide for a rebate to the qualified business based
26 upon new payroll and shall include the following provisions:

27 (i) The For projects for which an invitation to apply is extended by the
28 secretary before July 1, 2015, the percentage of new payroll eligible for rebate, up
29 to a maximum of fifteen percent. ~~With respect to~~ For projects for which an invitation

1 to apply is extended by the secretary on or after July 1, 2015, ~~pursuant to this~~
2 ~~Section~~; the percentage of new payroll eligible for rebate shall not exceed twelve
3 percent.

4 * * *
5 (4) * * *
6 * * *

7 (c)(i) In lieu of the sales and use tax rebate, a qualified business shall be
8 entitled to a project facility expense rebate equal to one and one-half percent of the
9 amount of qualified capital expenditures for the facility or facilities designated in the
10 contract for which an invitation to apply was extended by the secretary before July
11 1, 2015.

12 (ii) With respect to projects for which an invitation to apply is extended by
13 the secretary on or after July 1, 2015, a qualified business shall be entitled to a
14 project facility expense rebate equal to one and two-tenths percent of the amount of
15 qualified capital expenditures for the facility or facilities designated in the contract.

16 (iii) For purposes of this Subparagraph, the term "qualified capital
17 expenditures" means amounts classified as capital expenditures for federal income
18 tax purposes related to the project plus exclusions from capitalization provided for
19 in Internal Revenue Code Section 263(a)(1)(A) through (L), minus the capitalized
20 cost of land, capitalized leases of land, capitalized interest, capitalized costs of
21 manufacturing machinery and equipment to the extent capitalized manufacturing
22 machinery and equipment costs are excluded from sales and use tax pursuant to R.S.
23 47:301(3), and the capitalized cost for the purchase of an existing building. When a
24 qualified business purchases an existing building and capital expenditures are used
25 to rehabilitate the building, only the costs of the rehabilitation shall be considered
26 qualified capital expenditures. Additionally, a qualified business shall be allowed to
27 increase its qualified capital expenditures to the extent the qualified business's
28 capitalized basis is properly reduced by claiming a federal credit. A qualified
29 business earns the project facility expense rebate in the qualified business's fiscal

Proposed law provides annual fiscal year program caps for these programs beginning on July 1, 2018, as follows:

- (1) Enterprise Zone (R.S. 51:1781-1791) – \$40 million
- (2) Louisiana Quality Jobs (R.S. 51:2451-2462) – \$100 million
- (3) Competitive Projects Payroll Incentive (R.S. 51:3121) – \$5 million

Proposed law allows the annual program caps to be increased by any incentives that are recaptured during the fiscal year.

Present law provides for sales tax rebates for the Louisiana Quality Jobs and Enterprise Zone programs for state and local sales taxes paid on the construction of the facility.

Proposed law reduces these sales tax rebates to 80% of the state and local sales taxes paid on the construction of the facility as to advance notifications received after July 1, 2018.

Present law provides for a project facility expense rebate of 1.5% of the qualified capital expenditures for the facility for the Louisiana Quality Jobs program in lieu of the sales tax rebate at the applicant's option.

Proposed law reduces the project facility expense rebate to 1.2% of the qualified capital expenditures for the facility as to advance notifications received after July 1, 2018.

Proposed law clarifies that the maximum 15% of new payroll eligible for the rebate under the Competitive Project Payroll Incentive program applies for projects for which an invitation to apply was extended before July 1, 2015; this maximum percentage reduces to 12% for projects to which an invitation to apply is extended on or after July 1, 2015.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 51:2455(A), (D)(3), 3121(C)(3)(b)(i) and (C)(4)(c); adds R.S. 51:1787(A)(1)(a)(vi), 1792, 2456(B)(1)(a)(iv) and (B)(1)(b)(iv), 2463, and 3121(H); and repeals Section 3 of Act 126 of 2015 R.S. and Section 2 of Act 28 of 2016 1E.S.)