DIGEST

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HB 274 Reengrossed 2019 Regular Session Gary Carter

Abstract: Authorizes an income and corporate franchise tax credit pilot program for expenses associated with the construction of manufacturing establishments that will assemble raw materials into marketable products in this state.

Proposed law authorizes an income and corporate franchise tax credit for expenses associated with construction of a qualifying project in this state. The maximum amount of the credit shall be equal to 50% of the costs of the qualifying project, not to exceed $1M per project. The total aggregate amount of credits which may be certified and granted by the Dept. of Economic Development (DED) shall not exceed $10M over the five-year life of the pilot program. Proposed law authorizes tax credits certified and granted by DED to be granted as a lump sum or may be structured over time depending on the applicant and the nature of the business.

Proposed law provides that tax credits shall be earned at the time expenditures are made by an applicant; however, tax credits shall not be claimed until project cost expenditures are certified by DED, and cannot be claimed for tax periods prior to Jan. 1, 2020.

Proposed law defines a "qualifying project" as a project undertaken by a manufacturing establishment or other business located or to be located in a qualified opportunity zone census tract, that has a minimum capital cost of not less than $1.5M and at which the predominant trade or business activity will constitute manufacturing products or assembling raw materials into a marketable product in this state. Proposed law excludes manufacturing of chemicals or bulk liquid or gas facilities from the definition of a "qualifying project".

Proposed law requires the credit to be granted for a qualifying project if the commissioner of administration, after approval of the Joint Legislative Committee on the Budget, certifies that securing the project will result in a significant positive economic benefit to the state. Further defines "significant positive economic benefit" as net positive tax revenue determined by taking into account direct, indirect, and induced impacts of the project based on a standard economic impact methodology utilized by DED and the value of the credit and any other state tax and financial incentives used by DED to secure the project.

Proposed law authorizes DED to grant a credit in a lesser amount if the lesser amount is warranted by the significant positive economic benefit determined by the commissioner. The total amount of credits granted on a project shall not exceed the total cost of the project.

Proposed law authorizes the carry forward of tax credit amounts against subsequent tax liability if the amount of the credit exceeds the applicant's tax liability for a period not to exceed five years.

Proposed law authorizes the promulgation of rules and regulations in accordance with the APA, to determine which projects and expenditures qualify for tax credits. Proposed law requires specific factors to be considered when determining which projects qualify for the tax credit.

Proposed law provides for an application process for initial certification of the qualifying project which includes submission of information such as a preliminary budget, the estimated capital costs of the project, the project's estimated La. payroll, and estimated start and completion dates.

Proposed law requires, prior to final certification of a qualifying project, an applicant to submit a cost report of project expenditures which DED may require to be prepared by an independent certified public accountant prior to issuance of final certification. Further requires DED to review the expenditures and to issue a tax certification letter to the applicant and to Dept. of Revenue (DOR) indicating the amount of tax credits certified for the qualifying project and the amount of tax credits that may be taken each tax year.

Proposed law requires a taxpayer applying for the credit to reimburse DED for any audit required in relation to granting the credit.

Proposed law provides for the recapture and recovery of credits by DOR through any collection remedy authorized by present law and sets forth specific prescriptive periods in which the proceedings to recover tax credits must be initiated. Further authorizes the assessment and collection of interest on recovered credits.

Proposed law prohibits tax credits from being certified or applied against tax liability before Jan. 1, 2020. Further prohibits tax credits from being issued or initial certifications from being granted by DED on or after Jan. 1, 2025.

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

(Adds R.S. 47:6040)

Summary of Amendments Adopted by House

The House Floor Amendments to the engrossed bill:

1. Clarify that tax credits cannot be granted or claimed for tax periods prior to Jan. 1, 2020.

2. Require DED to notify DOR if tax credits are not invested in and expended on capital costs of a qualifying investment and authorizes DOR to disallow credits on the taxpayer's tax return and recapture the credits.

3. Make technical amendments.