

Regular Session, 2012

ACT No. 800

HOUSE BILL NO. 754

BY REPRESENTATIVES ROBIDEAUX, ABRAMSON, ADAMS, ARMES, BADON, BARRAS, BERTHELOT, BILLIOT, STUART BISHOP, WESLEY BISHOP, BROADWATER, BROWN, BURFORD, HENRY BURNS, TIM BURNS, CARMODY, CARTER, CHAMPAGNE, CHANEY, CONNICK, CROMER, FANNIN, FOIL, GAROFALO, GISCLAIR, GREENE, GUILLORY, GUINN, HARRIS, HAZEL, HENSGENS, HOFFMANN, HOLLIS, HOWARD, HUVAL, JEFFERSON, JOHNSON, KLECKLEY, LAMBERT, LEBAS, LEGER, LEOPOLD, LIGI, LORUSSO, MILLER, MONTOUCET, ORTEGO, PIERRE, PONTI, POPE, PYLANT, REYNOLDS, RICHARDSON, RITCHIE, SCHEXNAYDER, SEABAUGH, SHADOIN, SIMON, ST. GERMAIN, THIBAUT, THOMPSON, WHITNEY, PATRICK WILLIAMS, AND WILLMOTT AND SENATORS DORSEY-COLOMB, RISER, AND WALSWORTH

AN ACT

To enact Subpart R of Part II-A of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 39:100.126, and Chapter 3 of Subtitle VII of Title 47 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 47:6301, relative to rebates; to authorize contracts for certain state sales and use tax rebates; to provide for definitions, requirements, and limitations; to provide for the amount, approval, and issuance of rebates; to provide for the recapture of rebates under certain circumstances; to provide relative to the payment of certain taxes in error; to provide with respect to administrative expenses; to provide for the disposition of certain state revenues; to establish the Unfunded Accrued Liability and Specialized Educational Institutions Support Fund; to provide for the deposit, use, and investment of monies in the fund; to authorize the promulgation of rules and regulations; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Subpart R of Part II-A of Chapter 1 of Subtitle I of Title 39 of the Louisiana Revised Statutes of 1950, comprised of R.S. 39:100.126, is hereby enacted to read as follows:

1 SUBPART R. UNFUNDED ACCRUED LIABILITY

2 AND SPECIALIZED EDUCATIONAL INSTITUTIONS

3 SUPPORT FUND

4 §100.126. Specialized Educational Institutions Support Fund

5 A. There is hereby established in the state treasury a special fund to be
6 known as the "Unfunded Accrued Liability and Specialized Educational Institutions
7 Support Fund", hereinafter referred to as "fund". The fund shall be composed of two
8 accounts: the UAL Account and the Specialized Educational Institutions Account.
9 The source of monies for the fund shall be those state revenues deposited into the
10 fund pursuant to the requirements of R.S. 47:6301. Monies in the fund shall be
11 invested in the same manner as those in the state general fund. Monies remaining
12 in the fund at the end of the fiscal year shall be deposited into the UAL Account.

13 B. Monies in the fund shall be available for appropriation exclusively for (1)
14 payments against the unfunded accrued liability of the public retirement systems
15 which are in addition to any payments required for the annual amortization of the
16 unfunded accrued liability of the public retirement systems, as required by Article
17 X, Section 29(E)(2)(c) of the Constitution of Louisiana; however, any such payments
18 to the public retirement systems shall not be used, directly or indirectly, to fund
19 cost-of-living increases for such systems and (2) the support of operations of the
20 Louisiana Cancer Research Center of L.S.U. Health Sciences Center in New
21 Orleans/Tulane Health Sciences Center, the Feist-Weiller Cancer Center of LSU
22 Health Sciences Center - Shreveport, the Pennington Biomedical Research Center,
23 the Louisiana State University Agricultural Center, and the Southern University
24 Agricultural Research and Extension Center. Monies appropriated from the fund
25 shall not be used in any fiscal year to displace, replace, or supplant state general fund
26 support for these agencies.

27 C.(1) Appropriations from the Specialized Educational Institutions Account
28 in any fiscal year shall be allocated as provided in this Paragraph; however, in the
29 event that the amount available for appropriation in any fiscal year is insufficient to
30 provide for such allocations, the amounts allocated shall be reduced proportionately.

1 (a) Five Million Dollars for the Louisiana Cancer Research Center of L.S.U.
2 Health Sciences Center in New Orleans/Tulane Health Sciences Center.

3 (b) Five Million Dollars for the Feist-Weiller Cancer Center of LSU Health
4 Sciences Center - Shreveport.

5 (c) Ten Million Dollars for the Louisiana State University Agricultural
6 Center.

7 (d) Five Million Dollars for the Pennington Biomedical Research Center.

8 (e) Five Million Dollars for the Southern University Agricultural Research
9 and Extension Center.

10 (2) Appropriations from the UAL Account shall be exclusively for
11 additional payments against the unfunded accrued liability of the public retirement
12 systems as provided in Subsection (B)(1) of this Section.

13 Section 2. Chapter 3 of Subtitle VII of Title 47 of the Louisiana Revised Statutes of
14 1950, comprised of R.S. 47:6301, is hereby enacted to read as follows:

15 CHAPTER 3. PROCUREMENT PROCESSING COMPANY

16 REBATE PROGRAM

17 §6301. Rebates; contracts for certain state sales and use tax rebates

18 A. Definitions. For purposes of this Section, the following words shall have
19 the following meanings unless the context clearly indicates otherwise:

20 (1) "Affiliated entity" shall mean a person who, directly or indirectly through
21 one or more intermediaries, controls or is controlled by or is under common control
22 with another person.

23 (2) "Department" shall mean the Department of Revenue.

24 (3) "New taxable sales" shall mean the sale of goods and services upon
25 which state sales and use tax is paid under Title 47 of the Louisiana Revised Statutes
26 of 1950 and which would not have occurred in the state but for the operation in the
27 state of a procurement processing company. The term "new taxable sales" shall not
28 include any sales or purchases of services or property upon which such sales and use
29 tax would have been due if the procurement processing company was not operating
30 in the state.

1 (4) "Procurement processing company" means a company engaged in
2 managing the activities of unrelated purchasing companies.

3 (5) "Purchasing company" means a company engaged in the activity of
4 selling property and services to affiliated entities.

5 (6) "Secretary" shall mean the secretary of the Department of Revenue.

6 (7) "Significant positive economic benefit" means that net positive state tax
7 revenues are to be generated from the new taxable sales.

8 B. Contract. (1) The secretary of the Department of Economic
9 Development is authorized to enter into a contract with a procurement processing
10 company to recruit to Louisiana, purchasing companies that generate sales of items
11 subject to the taxes imposed under this Title the business of which shall have a
12 significant positive economic benefit to the state. The initial term of a contract shall
13 not exceed twenty years and shall be renewable for up to an additional twenty years.
14 The contract shall provide an incentive to the procurement processing company
15 which shall be paid in the form of a rebate of a portion of the state sales and use
16 taxes collected on new taxable sales by a purchasing company which is managed by
17 a procurement processing company.

18 (2) The contract shall include a provision whereby the procurement
19 processing company expressly acknowledges that if it receives a rebate for new
20 taxable sales under the provisions of R.S. 47:6301, in no event shall the taxes on
21 such new taxable sales remitted to Louisiana by the purchasing company or affiliated
22 entity constitute an overpayment as defined in R.S. 47:1621.

23 (3) Any contract between the procurement processing company and a
24 purchasing company shall include a provision whereby the parties in such contract
25 expressly acknowledge that if the procurement processing company receives a rebate
26 for new taxable sales under the provisions of R.S. 47:6301, in no event shall the
27 taxes on such new taxable sales remitted to Louisiana by the purchasing company
28 or affiliated entity constitute an overpayment as defined in R.S. 47:1621.

29 C. Certification of sales. The secretary of the department shall determine the
30 amount of incentive rebates to be paid to a procurement processing company

1 pursuant to the contract. Rebate payments shall be based upon the amount of new
2 taxable sales which are certified by the secretary.

3 D. Payment of rebate.

4 (1) Notwithstanding any provision of law to the contrary, the secretary of the
5 department shall make the rebate authorized pursuant to the provisions of this
6 Section from the state sales tax revenue generated by the new taxable sales occurring
7 in this state as a result of the operation of a procurement processing company in
8 Louisiana.

9 (2) If after a rebate has been paid, the department determines that certain
10 items included in the rebate payment did not constitute new taxable sales, the amount
11 rebated for those items shall be recaptured by the department from the procurement
12 processing company, subject to the prescriptive period set forth in R.S. 47:1561.2.

13 (3) Notwithstanding any provision of law to the contrary, if a procurement
14 processing company receives a rebate for new taxable sales under the provisions of
15 this Section, in no event shall the taxes on such new taxable sales remitted to
16 Louisiana by the purchasing company or affiliated entity constitute an overpayment
17 as defined in R.S. 47:1621.

18 E. The Department of Revenue may promulgate rules and regulations in
19 accordance with the provisions of the Administrative Procedure Act as are necessary
20 to implement the provisions of this Section.

21 F. Administrative expenses. From the collections of new state sales tax
22 revenue generated by new taxable sales as a result of the activities of purchasing
23 companies pursuant to the provisions of this Section, the secretary of the department
24 is authorized to retain an amount necessary to provide for the expenses the
25 department shall incur in the administration of the provisions of this Section. Such
26 monies are hereby designated to be self-generated revenues of the department.

27 G. Disposition of collections resulting from new taxable sales.

28 The state sales tax revenues generated as a result of the activities of
29 purchasing companies pursuant to this Section which are deposited into the state

1 general fund shall thereafter be disbursed during each fiscal year in the following
2 order of priority:

3 (1) The payment of rebates to procurement processing companies by the
4 secretary of the Department of Revenue in accordance with the provisions of a
5 contract, which payments shall be made from current sales tax collections pursuant
6 to Paragraph (D)(1) of this Section.

7 (2) Retention by the department of amounts necessary to provide for the
8 expenses of the department pursuant to the provisions of Subsection F of this
9 Section.

10 (3) Of the monies remaining after satisfaction of the requirements of
11 Paragraphs (1) and (2) of this Subsection as determined by the secretary pursuant to
12 Subsection H, the state treasurer is hereby authorized and directed to transfer the
13 amount of thirty million dollars, or as much thereof as is available, from the state
14 general fund to the Unfunded Accrued Liability and Specialized Educational
15 Institutions Support Fund-Specialized Educational Institutions Account, which is
16 established pursuant to R.S. 39:100.126. Each fiscal year, the transfer shall occur as
17 soon as is practicable, upon notification by the secretary of the Department of
18 Revenue that revenues sufficient to provide for this distribution have been deposited
19 into the treasury.

20 (4) Of the monies remaining after satisfaction of the requirements of
21 Paragraphs (1) through (3) of this Subsection as determined by the secretary pursuant
22 to Subsection H, the state treasurer is hereby authorized and directed to transfer from
23 the state general fund to the Unfunded Accrued Liability and Specialized
24 Educational Institutions Support Fund-UAL Account an amount equal to ten percent
25 of the total remaining state sales tax revenues collected in and attributable to that
26 fiscal year as a result of the activities of purchasing companies. The transfer shall
27 occur no later than August tenth of each year.

28 H. The availability of monies necessary to comply with the provisions of
29 Subsection G shall be evidenced by the amount of state sales tax revenue generated
30 by the new taxable sales upon which a rebate has been paid pursuant to this Section.

1 The secretary is authorized and directed to estimate the amount of taxes which have
2 been deposited into the state general fund as a result of such new taxable sales.
3 Upon request, the secretary shall provide written notification to the state treasurer as
4 to the amount of money available for the making of deposits as required by this
5 Subsection.

6 Section 3. This Act shall become effective on July 1, 2012; if vetoed by the governor
7 and subsequently approved by the legislature, this Act shall become effective on July 1,
8 2012, or on the day following such approval by the legislature, whichever is later.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____