

Regular Session, 2013

HOUSE BILL NO. 484

BY REPRESENTATIVE LEGER

TAX/TAXATION: Extends the Investor Tax Credit and the Import Export Cargo Credit of the Ports of Louisiana Tax Credit Program

1 AN ACT

2 To amend and reenact R.S. 47:6036(B)(8) and (13), (C)(1)(b) and (c), (G), and (I)(1)
3 (introductory paragraph) and (c) and (2)(a)(i) and to repeal R.S. 47:6036(I)(2)(a)(ii),
4 relative to tax credits; to provide relative to the Ports of Louisiana tax credit; to
5 provide for the term of the credit; to provide for the activities and projects to which
6 the credit applies; to provide with respect to certain determinations and certifications;
7 to provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 47:6036(B)(8) and (13), (C)(1)(b) and (c), (G), and (I)(1)
10 (introductory paragraph) and (c) and (2)(a)(i) are hereby amended and reenacted to read as
11 follows:

12 §6036. Ports of Louisiana tax credits

13 * * *

14 B. Definitions.

15 For purposes of this Section, the following words shall have the following
16 meanings unless the context clearly indicates otherwise:

17 * * *

18 (8) "Port or port and harbor activity" shall mean and include any activity
19 when the trade or business is conducted on premises in which a duly recognized port
20 authority has an ownership, leasehold, or other possessory interest and such premises

1 are used as part of the operations of a duly recognized port authority, including but
2 not limited to any trade or business described in the 1997 North American Industry
3 Classification System (NAICS) within Subsector 493 (Warehousing and Storage),
4 Industry Number 488310 (Port and Harbor Operations), ~~or~~ Industry Number 488320
5 (Marine Cargo Handling), ~~when the trade or business is conducted on premises in~~
6 ~~which a duly recognized port authority has an ownership, leasehold, or other~~
7 ~~possessory interest and such premises are used as part of the operations of a duly~~
8 ~~recognized port authority~~ Industry Number 336611 (Ship Building and Repair), or
9 Industry Number 213112 (Support Activities for Oil and Gas Operations), including
10 the above trades and businesses as they may hereafter be reclassified in any
11 subsequent publication of the NAICS or similar classification system developed in
12 conjunction with the United States Department of Commerce and Office of
13 Management and Budget.

14 * * *

15 (13) "Qualifying project" shall mean and include a project to be sponsored
16 or undertaken by a public port and one or more investing companies that ~~have~~ has
17 a capital cost of not less than ~~five~~ one and one-half million dollars and at which the
18 predominant trade or business activity conducted will constitute industrial,
19 warehousing, or port and harbor operations and cargo handling, including any port
20 or port and harbor activity.

21 * * *

22 C. Investor tax credit.

23 (1)

24 * * *

25 (b) The Investor Tax Credit provided for in this Subsection shall be issued
26 by the Department of Economic Development for a qualifying project ~~if the~~
27 ~~commissioner of administration~~, after approval of the project by the Joint Legislative
28 Committee on the Budget, ~~and the state bond commission certifies to the secretary~~
29 ~~of the department that there will be sufficient revenue received by the state to offset~~

1 ~~the effect to the state of the tax credits provided for the capital costs of the project,~~
 2 ~~whether from increased port or port and harbor activity because of the grant of the~~
 3 ~~tax credit or otherwise.~~ If the commissioner with the approval of the committee so
 4 certifies approves the project, then the Department of Economic Development may
 5 grant a tax credit equal to the total capital costs of a qualifying project to be taken at
 6 five percent per tax year; however, the total amount of tax credits granted on a
 7 qualifying project shall not exceed the total cost of the project.

8 (c) The tax credit shall be earned by investors at the time expenditures are
 9 made by an investing company; however, tax credits shall not be applied against a
 10 tax liability until the project is approved by the department after ~~certification from~~
 11 ~~the commissioner with the approval of the committee and the state bond commission~~
 12 and capital cost expenditures are certified by the department. The Department of
 13 Economic Development shall certify capital cost expenditures no less than twice
 14 during the duration of the qualifying project unless the investing company agrees,
 15 in writing, to reimburse the Department of Economic Development for the costs of
 16 any additional certifications.

17 * * *

18 G. Termination of Investor ~~Tax Credit and Import Export Cargo Tax Credits~~.

19 The provisions of ~~Subsection C~~ Subsections C and I of this Section shall be
 20 effective until ~~January 1, 2017~~ January 1, 2020, and no investor tax credit or import
 21 export cargo credit pursuant to the provisions of this Section shall be granted after
 22 such date.

23 * * *

24 I. Import Export Cargo Credit.

25 (1) Certification of taxpayer. Only those taxpayers who have received
 26 certification from the secretary of the Department of Economic Development shall
 27 be eligible to take the tax credits provided for by this Subsection and then only ~~for~~
 28 ~~the taxable year or years and for the amount provided for in the commissioner of~~
 29 ~~administration's certification,~~ if approved by the Joint Legislative Committee on the

1 ~~Budget and the state bond commission, provided for in Item (2)(a)(ii) of this~~
2 ~~Subsection as allocated by the secretary.~~ The secretary shall promulgate rules in
3 accordance with the Administrative Procedure Act which establish the process by
4 which a taxpayer shall apply for certification.

5 * * *

6 (c) The secretary shall provide a statement of certification to each taxpayer
7 which he has certified as eligible to take the tax credit after approval of the Joint
8 Legislative Committee on the Budget ~~and the state bond commission, which shall~~
9 ~~contain the taxable year or years for which the taxpayer is allowed the tax credit and~~
10 ~~the amount of tax credit allocated for such taxable year or years.~~ The secretary shall
11 also transmit a copy of such statement to the secretary of the Department of
12 Revenue.

13 ~~(2)(a)(i) For taxable years beginning on and after January 1, 2009, there~~
14 There shall be allowed a credit against the individual income, corporation income,
15 and corporation franchise tax liability of a taxpayer who has received certification
16 pursuant to the provisions of Paragraph (1) of this Subsection. The amount of the
17 credit shall be equal to the product of multiplying five dollars by the taxpayer's
18 number of tons of qualified cargo for the taxable year ~~but only for the total amount~~
19 ~~of the allocation provided to the taxpayer by the secretary of the Department of~~
20 ~~Economic Development for such taxable year.~~

21 * * *

22 Section 2. R.S. 47:6036(I)(2)(a)(ii) is hereby repealed in its entirety.

23 Section 3. This Act shall become effective on August 1, 2013; if vetoed by the
24 governor and subsequently approved by the legislature, this Act shall become effective on
25 August 1, 2013, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Leger

HB No. 484

Abstract: Extends the termination date of the Investor Tax Credit and the Import Export Tax Credit from Jan. 1, 2017 to Jan. 1, 2020, reduces the capital cost of a "qualifying project" from \$5 million to \$1.5 million, and deletes the requirement of certification by the commissioner of administration before the credit can be granted.

Present law authorizes the Department of Economic Development [DED] to grant a credit against corporate income and franchise tax liability equal to the total capital costs of a "qualifying project", to be taken at 5% per tax year, limited to the total cost of the project.

"Qualifying project" is defined as a project sponsored or undertaken by a public port and one or more investing companies that has a capital cost of not less than \$5 million and at which the predominant trade or business activity conducted will constitute industrial, warehousing, or port and harbor operations and cargo handling, including any "port or port and harbor activity".

"Port or port and harbor activity" is defined as any trade or business described in the 1997 North American Industry Classification System (NAICS) within Subsector 493 (Warehousing and Storage), Industry Number 488310 (Port and Harbor Operations), or Industry Number 488320 (Marine Cargo Handling).

Proposed law reduces the capital cost of a "qualifying project" from \$5 million to \$1.5 million and expands the definition of "port or port and harbor activity" to include Industry Number 336611 (Ship Building and Repair) and Industry Number 213112 (Support Activities for Oil and Gas Operations).

Present law requires DED to issue the Investor Tax Credit for a "qualifying project" if the commissioner of administration, after approval of the Joint Legislative Committee on the Budget (JLCB) and the state bond commission certifies to the secretary of DED that sufficient revenue will be received by the state to offset the effect to the state of the tax credits.

Proposed law deletes the requirement of certification by the commissioner of administration before the credit can be granted by DED and requires DED to obtain only the approval of the JLCB.

Present law authorizes the secretary of DED to certify "international business entities" for an Import Export Cargo Credit against the individual and corporate income and corporate franchise tax equal to the product of multiplying \$5 by the "international business entity's" number of tons of "qualified cargo" for the taxable year, but only for all or a portion of a fiscal year if the commissioner of administration certifies to the secretary of DED that sufficient revenue will be received by the state to offset the effect of the tax credits whether from increased utilization of public port facilities because of the tax credit, and the certification is approved by the JLCB and the state bond commission.

"International business entity" is defined as a taxpayer entity, all or a portion of whose activities involve the import or export of breakbulk or containerized cargo to or from manufacturing, fabrication, assembly, distribution, processing, or warehousing facilities located within Louisiana.

Proposed law deletes the requirement of certification by the commissioner of administration before the credit can be granted by DED and requires DED to obtain only the approval of the JLCB.

Proposed law extends the termination date of the Investor Tax Credit and the Import Export Credit from Jan. 1, 2017 to Jan. 1, 2020.

Effective August 1, 2013.

(Amends R.S. 47:6036(B)(8) and (13), (C)(1)(b) and (c), (G), (I)(1)(intro. para.) and (c) and (2)(a)(i); Repeals R.S. 47:6036(I)(2)(a)(ii))