

2016 First Extraordinary Session

HOUSE BILL NO. 71

BY REPRESENTATIVES BARRAS, ABRAMSON, ADAMS, AMEDEE, BISHOP, BROADWATER, COX, DANAHAY, DAVIS, GLOVER, HILFERTY, HOFFMANN, JAMES, MAGEE, GREGORY MILLER, NORTON, PEARSON, PUGH, STOKES, WILLMOTT, AND ZERINGUE AND SENATOR WALSWORTH

1 AN ACT

2 To amend and reenact R.S. 51:1787(A)(2)(a) and (3) and (B)(3)(c) and (5) and to enact R.S.  
3 51:1787(A)(1)(c), (B)(3)(d), (6), and (7), and (K), relative to the Enterprise Zone  
4 Program; to provide for eligibility; to reduce the amount of certain tax credits; to  
5 provide for computation of average annual employment; to provide for applicability;  
6 to provide for effectiveness; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 51:1787(A)(2)(a) and (3) and (B)(3)(c) and (5) are hereby amended  
9 and reenacted and R.S. 51:1787(A)(1)(c), (B)(3)(d), (6), and (7), and (K) are hereby enacted  
10 to read as follows:

11 §1787. Incentives

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

15 (1) For either:

16 \* \* \*

17 (c)(i) For projects for which the advance notification is filed on or after April  
18 1, 2016, the amount of the rebate of sales and use taxes and the investment income  
19 tax credit granted pursuant to the provisions of this Paragraph shall not exceed one  
20 hundred thousand dollars per net new job created under this Chapter.

21 (ii) A business shall not receive any sales and use tax rebate or refundable  
22 investment income tax credit until it has provided all documentation, including filing

1           the annual certification report as required by rule, and has shown proof of the  
2           creation of the net new jobs.

3                   (iii) For purposes of determining the maximum rebate or income tax credit  
4                   allowed, each net new job shall only be counted once. The limitation provided for  
5                   in this Subparagraph shall only apply to the sales and use tax rebates and refundable  
6                   investment income tax credits granted to businesses participating in the Enterprise  
7                   Zone Program.

8   \*       \*       \*

9                   (2)(a) Except as provided in Subparagraph (b) of this Paragraph, for a two  
10                   thousand five hundred dollar tax credit per net new employee as determined by the  
11                   company's average annual employment reported under the Louisiana Employment  
12                   Security Law during the taxable year for which credit is claimed. For projects for  
13                   which the advance notification form is filed on or after April 1, 2016, the amount of  
14                   the credit provided for in this Subparagraph shall be one thousand dollars per net  
15                   new employee, unless either the net new employee for which the credit is claimed  
16                   was receiving Supplemental Nutrition Assistance Program (SNAP), Women, Infants,  
17                   and Children (WIC), Medicaid, unemployment benefits, or any other benefits from  
18                   a similar public assistance program, as provided for in rule by the Department of  
19                   Economic Development, during the six-month period prior to employment or the net  
20                   new employee is hired by a participating business located in an enterprise zone. The  
21                   amount of the credit for each net new employee meeting these qualifications shall  
22                   be three thousand five hundred dollars. This tax credit may be applied to any state  
23                   income tax liability or any state corporate franchise tax liability, but not liabilities  
24                   for penalty or interest, due or outstanding at the time the credit is generated.  
25                   However, credits may be applied to a due or outstanding tax liability attributable to  
26                   tax years prior to the year in which the credit is generated only if the tax liability is  
27                   the result of an assessment, administrative, or judicial proceeding by the Department  
28                   of Revenue after an audit, provided that no further interest or penalty shall be  
29                   accrued on such tax liability after the credit is generated. If the entire credit cannot  
30                   be used in the year claimed, the remainder may be applied against the income tax or

1 corporate franchise tax for the succeeding ten taxable years or until the entire credit  
2 is used, whichever occurs first. These credits shall also apply to those tax liabilities,  
3 but not liabilities for penalty or interest, identified in tax years where existing  
4 contracts generate the credit.

5 \* \* \*

6 (3) The tax credit provided in Paragraph (2) of this Subsection shall be  
7 applicable as follows:

8 (a) For projects for which an advance notification was filed before April 1,  
9 2016, only to a position within the state that did not previously exist in the business  
10 enterprise and that is filled by a person who is a citizen of the United States and who  
11 is domiciled in Louisiana, or who is a citizen of the United States and becomes  
12 domiciled in Louisiana within sixty days after his employment in such position,  
13 performing duties in connection with the operation of the business enterprise as a  
14 regular, full-time employee.

15 (b) For projects for which an advance notification was filed on or after April  
16 1, 2016, only to a position within the state that is in excess of the median statewide  
17 number of employees of the business, including affiliates, that did not previously  
18 exist in the business enterprise prior to the contract effective date and that is filled  
19 by a person who is a citizen of the United States and who is domiciled in Louisiana,  
20 or who is a citizen of the United States and becomes domiciled in Louisiana within  
21 sixty days after his employment in such position, performing duties in connection  
22 with the operation of the business enterprise as a regular, full-time employee.

23 (c) The total number of credits allowed to a business enterprise for  
24 employees who are citizens of the United States and who become domiciled in  
25 Louisiana within sixty days after employment shall not exceed fifty percent of the  
26 total number of credits allowed to the business enterprise under the contract.

27 B. The board may enter into the contracts provided in Subsection A of this  
28 Section provided that:

29 \* \* \*

1 (3)

2 \* \* \*

3 (c) Notwithstanding any other provision of law to the contrary, a business  
4 that is assigned a North American Industry Classification Code of 5613 or 721, and  
5 whose advance notification is not filed before April 1, 2016, shall be ineligible to  
6 receive benefits pursuant to the provisions of this Section.

7 (d) The certifications required by Subparagraph (a) of this Paragraph shall  
8 be updated annually if the business is to continue receiving the benefits of this  
9 Chapter.

10 \* \* \*

11 (5)(a) Except as provided in Subparagraph (b) of this Paragraph, the business  
12 creates a either:

13 (i) A minimum of the lesser of five net new permanent jobs to be in place  
14 within the first two years of the contract period, as determined by the company's  
15 average annual employment reported under the Louisiana Employment Security  
16 Law.

17 (ii) The number of net new jobs equal to a minimum of ten percent of the  
18 existing employees, minimum of one, within the first year of the contract period, as  
19 determined by the company's average annual employment reported under the  
20 Louisiana Employment Security Law.

21 (b) For purposes of Subparagraph (a) of this Paragraph, the methodology for  
22 determining a company's average annual employment shall be established by  
23 department rule.

24 (c) A business which has an estimated construction period for its building  
25 greater than two years may, for good cause shown, obtain an extension of not more  
26 than two years to comply with the requirements of Subparagraph (a) of this  
27 Paragraph.

28 ~~(c)~~(d) Provided the business entering the contract provided in Subsection A  
29 of this Section is a nonprofit organization organized to finance the development and  
30 construction of buildings and infrastructure to serve a public institution of higher

1 education, the new permanent jobs required in Subparagraph ~~(B)(6)(a)~~ (B)(5)(a) of  
2 this Section may be created by the public institution of higher education.

3 ~~(d)~~ (e) The provisions of this Section shall be applicable to all contracts  
4 entered into under the provisions of Subsection A after January 1, 2002.

5 (6) For purposes of R.S. 51:2456(B), a business shall be deemed to meet the  
6 enterprise zone hiring requirements and all other limitations, procedures, and  
7 requirements of this Section if the business meets the requirements of R.S.  
8 51:2455(E)(1).

9 (7) For purposes of R.S. 51:3121(C)(4), a business shall be deemed to meet  
10 the enterprise zone hiring requirements and all other limitations, procedures, and  
11 requirements of this Section if the business creates a minimum of five new jobs in  
12 accordance with the program contract.

13 \* \* \*

14 K. The department shall not accept any advance notification on or after July  
15 1, 2017.

16 Section 2. This Act shall become effective upon signature by the governor or, if not  
17 signed by the governor, upon expiration of the time for bills to become law without signature  
18 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
19 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
20 effective on the day following such approval.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_