

2016 Regular Session

HOUSE BILL NO. 950

BY REPRESENTATIVES FOIL AND DAVIS

TAX/TAX REBATES: Establishes a rebate for companies which receive a federal Small Business Innovation Research Grant

1 AN ACT

2 To enact Chapter 5 of Subtitle VII of Title 47 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 47:6361, relative to rebates; to authorize certain state rebates;
4 to provide for definitions, requirements, and limitations; to provide for the amount,
5 payment, and issuance of rebates; to authorize the promulgation of rules and
6 regulations; to provide for the administration of the rebates; to provide for
7 applicability; to provide for an effective date; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Chapter 5 of Subtitle VII of Title 47 of the Louisiana Revised Statutes of
10 1950, to be comprised of R.S. 47:6361 is hereby enacted to read as follows:

11 CHAPTER 5. RESEARCH AND DEVELOPMENT REBATE

12 §6361. Rebates; contracts for certain research and development activities

13 A. Companies which receive a federal Small Business Innovation Research
14 Grant as created by the Small Business Innovation Development Act of 1982 (P.L.
15 97-219), reauthorized by the Small Business Research and Development
16 Enhancement Act (P.L. 102-564), and reauthorized again by the Small Business
17 Reauthorization Act of 2000 (P.L. 106-554), shall be eligible to apply for a rebate
18 equal to thirty percent of the award received during the tax year.

19 B. As used in this Section, the following terms shall have the meaning
20 hereafter ascribed to them, unless the context clearly indicates otherwise:

21 (1) "Department" shall mean the Department of Economic Development.

1 (2) "Person" shall mean a natural person.

2 (3) "Qualifying entities" shall mean companies that receive a federal Small
3 Business Innovation Research Grant as created by the Small Business Innovation
4 Development Act of 1982 (P.L. 97-219), reauthorized by the Small Business
5 Research and Development Enhancement Act (P.L. 102-564), and reauthorized again
6 by the Small Business Reauthorization Act of 2000 (P.L. 106-554).

7 C.(1) Each qualifying entity seeking the incentive rebate authorized in this
8 Section shall apply to the Department of Economic Development. The entity shall
9 submit the application by December thirty-first of the year following the calendar
10 year in which the entity qualified for the incentive rebate. The qualifying entity shall
11 remit an application fee in accordance with the provisions of R.S. 36:104. The
12 application shall include all of the following:

13 (a) A federal income tax return and supporting documentation that shows the
14 amount of the federal research credit for the same taxable year.

15 (b) The total amount of qualified research expenses and the qualified
16 research expenses in this state.

17 (c) The total number of persons employed in Louisiana by the company and
18 the number of those persons employed in Louisiana directly engaged in research and
19 development.

20 (d) The average wages of the persons employed in Louisiana not directly
21 engaged in research and development and the average wages of the persons
22 employed in Louisiana directly engaged in research and development.

23 (e) The average value of benefits received by all persons employed in
24 Louisiana.

25 (f) The cost of health insurance coverage offered to all persons employed in
26 Louisiana.

27 (g) At the department's request, the representative of the company shall
28 provide federal income tax information related to the federal research and

1 development credit. This information shall include but shall not be limited to IRS
2 forms 8821 and 4506.

3 (h) Any other information required by the Department of Economic
4 Development.

5 (2) The Department of Economic Development shall approve or disapprove
6 each application. However, no rebate shall be granted to a company pursuant to the
7 provisions of this Section unless the rebate is approved by the Department of
8 Economic Development.

9 (3) Notwithstanding any provision of law to the contrary, the secretary of the
10 Department of Revenue shall make the incentive rebate authorized pursuant to the
11 provisions of this Section from the current collections of the taxes imposed by Title
12 47 of the Louisiana Revised Statutes of 1950, as amended.

13 (4) No rebate authorized pursuant to the provisions of this Section shall be
14 paid before July 1, 2017.

15 D. The total amount of rebates that shall be issued pursuant to the provisions
16 of this Section shall be limited to five million dollars per calendar year. The
17 Department of Economic Development shall approve rebates on a first-come, first-
18 served basis until the maximum amount of rebates have been issued; however, all
19 rebate requests received on the same business day shall be treated as received at the
20 same time, and if the aggregate amount of rebate requests received on a single
21 business day exceeds the total amount of available rebates, rebates shall be approved
22 on a pro rata basis. If the total amount of rebates applied for in any particular year
23 exceeds the amount of rebates authorized for that year, the excess shall be treated as
24 having been applied for on the first day of the subsequent year and shall be paid as
25 a priority against the next year's maximum amount of authorized rebates.

26 E. The department shall administer the provisions of this Section and shall
27 have the following powers and duties in addition to those granted by other laws of
28 this state:

1 (1) To monitor the implementation and operation of this Section and conduct
2 a continuing evaluation of the program.

3 (2) To assist any company in obtaining the benefits of any incentive or
4 inducement program authorized by Louisiana law.

5 (3) To promulgate program rules and regulations in consultation with the
6 secretary of the Department of Revenue, in accordance with the Administrative
7 Procedure Act as are necessary to implement the provisions of this Section.

8 (4) To receive information from the Department of Revenue regarding the
9 company, its direct and indirect owners, and the amount of any incentive rebates
10 claimed pursuant to this Section. This information shall not be public record and
11 shall be subject to the same prohibition of disclosure as confidential records in the
12 possession of the Department of Revenue.

13 (5) To verify all relevant records and accounts of any company applying for
14 the incentive rebates provided for by this Section.

15 F.(1) Rebates granted under this Section, but later disallowed in whole or in
16 part, may be recovered by the secretary of the Department of Revenue from the
17 applicant through any collection remedy authorized by R.S. 47:1561 that is initiated
18 within three years from December thirty-first of the year in which the rebate was
19 originally certified. The only interest that may be assessed and collected on these
20 recovered rebates is interest at a rate of three percentage points above the rate
21 provided in R.S. 9:3500(B)(1), which shall be computed from the date the rebate was
22 certified.

23 (2) The provisions of this Subsection are in addition to and shall not limit the
24 authority of the secretary of the Department of Revenue to assess or to collect under
25 any other provision of law.

26 G. A qualified entity shall not receive any other incentive administered by
27 the Department of Economic Development for any expenditure for which the entity
28 receives a rebate pursuant to this Section.

1 H. The provisions of this Chapter shall become null and void after June 30,
 2 2020.

3 Section 2. The provisions of this Act shall be applicable for all taxable years
 4 beginning on and after January 1, 2016.

5 Section 3. This Act shall become effective upon signature by the governor or, if not
 6 signed by the governor, upon expiration of the time for bills to become law without signature
 7 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 8 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 9 effective on the day following such approval.

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)]

HB 950 Reengrossed

2016 Regular Session

Foil

Abstract: Authorizes a state rebate for companies which receive a federal Small Business Innovation Research Grant that is payable from current state tax collections.

Present law authorizes a nonrefundable income or corporation franchise tax credit for a taxpayer who receives a federal Small Business Innovation Research Grant as created and provided for by federal law. The amount of the credit is equal to 40% of the award received during the tax year.

Proposed law retains present law.

Proposed law authorizes a rebate for companies which receive a federal Small Business Innovation Research Grant as created and provided for in federal law. The amount of the rebate is equal to 30% of the award received during the tax year. Proposed law caps the amount of rebates issued at \$5 million per calendar year.

Proposed law requires qualifying entities to submit an application to DED by Dec. 31st of the year following the calendar year in which the entity qualified for the incentive rebate and to remit the application fee as required in present law. Further provides for information required to be submitted with the application including the applicant's federal income tax return and supporting documentation that shows the amount of the federal research credit for the same taxable year.

Proposed law requires the incentive rebates to be paid from the current collections of the taxes imposed by present law.

Proposed law prohibits rebates from being paid prior to July 1, 2017.

Proposed law requires DED to approve rebates on a first-come, first-served basis until the maximum amount of rebates have been issued. Rebate requests received on the same business day shall be treated as received at the same time, and if the aggregate amount of rebate requests received on a single business day exceeds the total amount of available

rebates, rebates shall be approved on a pro rata basis. Rebates applied for in any particular year in excess of the amount of rebates authorized for that year shall be treated as having been applied for on the first day of the subsequent year and shall be paid as a priority against the next year's maximum amount of authorized rebates.

Proposed law requires DED to administer the provisions of proposed law including to monitor the implementation and operation of proposed law, conduct a continuing evaluation of the program, assist any company in obtaining the benefits of any incentive or inducement program, and to receive information from the Dept. of Revenue regarding the company, its direct and indirect owners, and the amount of any incentive rebates claimed.

Proposed law prohibits an entity from receiving any other incentive administered by DED for any expenditure for which the entity receives a rebate pursuant to proposed law.

Proposed law is null and void after June 30, 2020.

Applicable for all taxable years beginning on and after Jan. 1, 2016.

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

(Adds R.S. 47:6361)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Delete the rebate for 30% of the La. qualified research expenses for the taxable year for companies that employ 50 or less employees in the state which also claim a federal income tax credit for increasing research activities.
2. Delete the definition of "qualified research expenses" and "qualified research" from proposed law.
3. Add provision that applicants applying for the rebate shall remit the application fee provided for in present law.
4. Delete the exclusion provided for in proposed law for professional service firms and businesses primarily engaged in custom manufacturing and custom fabricating that do not have a pending or issued U. S. patent directly related to the qualified research expenditures from participating in this rebate program.
5. Add provisions for the recovery of rebates that are later disallowed and authorizes the collection of interest on recovered rebates at the rate of three percentage points above the rate provided for in present law.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Appropriations to the engrossed bill:

1. Prohibit rebates provided for in proposed law from being paid prior to July 1, 2017.
2. Add provision that proposed law is null and void after June 30, 2020.