

SENATE BILL NO. 183

BY SENATOR MORRELL

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact R.S. 51:1787(K), the introductory paragraph of R.S. 51:2452(A),
3 2453(1), the introductory paragraph of 2453(2), 2453(2)(a), (b), and (c)(ix), (4), and
4 (6), 2455(E)(1), 2457(A)(2)(b), (f), and (5), 2461, and 3121(C)(3)(a)(ii) and to enact
5 R.S. 17:3389(G), R.S. 51:2367(F), 2453(2)(c)(x), (xi), and (xii), and 2458(11),
6 relative to tax incentives and rebates; to provide for a termination date for the
7 incentive program for university research and development parks; to extend the
8 termination date of certain tax incentive and rebate programs administered by the
9 Department of Economic Development to increase the benefit rate for the Quality
10 Jobs Program; to provide for employer qualifications for the Quality Jobs Program;
11 to increase the new direct jobs and gross payroll thresholds for certain employers for
12 the Quality Jobs Program; to provide for an effective date; and to provide for related
13 matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 17:3389(G) is hereby enacted to read as follows:

16 §3389. University research and development parks; tax exemptions

17 * * *

18 **G. No contracts shall be entered into pursuant to the provisions of this**

19 **Section on or after July 1, 2017.**

20 Section 2. R.S. 51:1787(K), 2461, and 3121(C)(3)(a)(ii) are hereby amended and

1 reenacted and R.S. 51:2367(F) is hereby enacted to read as follows:

2 §1787. Incentives

3 * * *

4 K. The department shall not accept any advance notification on or after
5 July 1, ~~2017~~ **2021**.

6 * * *

7 §2367. Louisiana Mega-Project Energy Assistance Rebate

8 * * *

9 **F. No cooperative endeavor agreements shall be entered into pursuant**
10 **to the provisions of this Section on or after July 1, 2017.**

11 * * *

12 §2461. Application deadline

13 On and after July 1, ~~2018~~ **2022**, no new advance notifications under this
14 Chapter shall be accepted by the Department of Economic Development. However,
15 an employer which, prior to July 1, ~~2018~~ **2022**, has been approved by the department
16 to receive incentive tax credits or rebates under the program shall continue to receive
17 tax credits or rebates pursuant to the terms of its agreement with the state of
18 Louisiana as long as the employer retains its eligibility.

19 * * *

20 §3121. Competitive Projects Payroll Incentive Program

21 * * *

22 C. Applications and contract approval and administration.

23 * * *

24 (3)(a) * * *

25 (ii) No new contract shall be approved on or after July 1, ~~2018~~ **2022**, but
26 contracts existing on that date may continue and may be renewed.

27 * * *

28 Section 3. The introductory paragraph of R.S. 51:2452(A), 2453(1), the introductory
29 paragraph of 2453(2), 2453(2)(a), (b), and (c)(ix), (4), and (6), 2455(E)(1), 2457(A)(2)(b),
30 (f), and (5) are hereby amended and reenacted and R.S. 51:2453(2)(c)(x), (xi), and (xii) and

1 2458(11) are hereby enacted to read as follows:

2 §2452. Intent

3 A. It is the intent of the Louisiana Legislature that the quality jobs benefits
 4 provided for in this Chapter in contracts for which an application is filed with the
 5 department after May 1, 2002, should be used primarily as an inducement for
 6 businesses to locate or expand existing operations in Louisiana in accordance with
 7 ~~Louisiana Vision 2020~~ and the Department of Economic Development's focus on
 8 Louisiana's traditional and seed clusters: Advanced Materials; Agriculture, Forest
 9 and Food Technology; Durable Goods (Marine, Automotive, Aviation);
 10 Entertainment; Information Technology; Biotechnology, Biomedical, and Medical
 11 Industries serving rural hospitals; Logistics and Transportation; Oil and Gas and
 12 Energy; **Headquarters**; and Petrochemical and Environmental Technology. A
 13 business operation should be considered for quality jobs benefits only if the business
 14 meets the provisions of R.S. 51:2453(2). It is the further intent of the Louisiana
 15 Legislature that the following should apply to quality jobs benefits provided both
 16 before and after that date:

17 * * *

18 §2453. Definitions

19 The following words or terms as used in this Chapter shall have the following
 20 meaning, unless a different meaning appears from the context:

21 (1) "Benefit rate" means the following percentages:

22 (a) For new direct jobs created ~~which~~ **that** pay at least ~~fourteen dollars and~~
 23 ~~fifty cents~~ **eighteen dollars** per hour ~~inclusive of wages and the value of the health~~
 24 ~~care benefits paid or offered in accordance with Paragraph (2) of this Section, the~~
 25 benefit rate shall be ~~five~~ **four** percent, ~~provided that at least fifty percent of the~~
 26 ~~employees holding new direct jobs accept the health care benefits offered.~~

27 (b) For new direct jobs created ~~which~~ **that** pay at least ~~nineteen dollars and~~
 28 ~~ten~~ **twenty-one dollars and sixty-six** cents per hour ~~inclusive of wages and the value~~
 29 ~~of the health care benefits paid or offered in accordance with Paragraph (2) of this~~
 30 ~~Section, the benefit rate shall be six percent, provided that at least fifty percent of the~~

1 ~~employees holding new direct jobs accept the health care benefits offered.~~

2 (2) "Employer" shall mean a legal person who executes a contract with the
3 department pursuant to the provisions of this Chapter and who offers, or will offer
4 within ninety days of the effective date of qualifying for the incentive rebates
5 pursuant to the provisions of this Chapter, a basic health benefits plan to the
6 individuals it employs in new direct jobs in this state which shall be determined by
7 the Department of Economic Development to **be in compliance with federally**
8 **mandated healthcare requirements or, if no federally mandated healthcare**
9 **requirements exist, shall be determined to** have a value of at least one dollar and
10 twenty-five cents per hour.

11 (a) The "basic health benefits plan" or the "health insurance coverage"
12 required to be offered or provided by this Paragraph shall also include coverage for
13 basic hospital care, and coverage for physician care, as well as coverage for ~~health~~
14 ~~care~~ **healthcare, which and** shall be the same coverage as is provided to employees
15 employed in a bona fide executive, administrative, or professional capacity by the
16 employer who are exempt from the minimum wage and maximum hour requirements
17 of the federal Fair Labor Standards Act, 29 U.S.C.A. §201, et seq.

18 (b) To qualify for a contract pursuant to this Chapter, employers must meet
19 one of the following provisions:

20 (i) ~~Must be~~ **The employer is** one of the following ~~six Vision 2020 cluster~~
21 industries: biotechnology; biomedical; and medical industries serving rural
22 hospitals; micromanufacturing; software, ~~auto-regulation,~~ Internet, and
23 telecommunications technologies; ~~environmental~~ **clean energy** technology; food
24 technologies; and advanced materials. ~~Any cluster of industries added after May 1,~~
25 ~~2002, shall qualify for a contract pursuant to this Chapter, if it qualifies under Items~~
26 ~~(ii) through (vi) of this Subparagraph.~~

27 (ii) ~~Must be~~ **The employer is** a manufacturer, as defined by North American
28 Industry Classification System (NAICS) codes 113310, 211, 213111, 541360, 311-
29 339, 511-512, and 54171, as the employer's primary function.

30 (iii) ~~Must be~~ **The employer is** an oil and gas field services business as

1 defined in North American Industry Classification System (NAICS) code 213112
 2 which has ~~new direct jobs that pay not less than thirty thousand dollars per year and~~
 3 ~~meet the health insurance benefits required under this Paragraph and have~~ Louisiana
 4 as the national or regional headquarters of a ~~multistate~~ **multi-state** business whose
 5 service territory includes at least Louisiana and the Gulf of Mexico.

6 (iv) ~~Must have~~ **The employer has**, or will have within one year, sales of at
 7 least fifty percent of its total sales to out-of-state customers or buyers, to in-state
 8 customers or buyers if the products or service is resold by the purchaser to an out-of-
 9 state customer or buyer for ultimate use, or to the federal government. **An**
 10 **independent Louisiana-certified public accountant shall annually verify that the**
 11 **contract site meets the out-of-state sales requirement.**

12 (v) ~~Must be~~ **The employer is** located in ~~an area designated by the~~
 13 ~~Department of Economic Development as a distressed region. A distressed region~~
 14 ~~shall be either of the following:~~

15 (aa) ~~A~~ **a** parish which is within the lowest twenty-five percent of parishes
 16 based on per capita income.

17 (bb) ~~A census tract block group that is below the state median per capita~~
 18 ~~income, based upon the latest federal decennial census.~~

19 (cc) ~~If an area is designated a distressed region, such~~ **Such** designation shall
 20 be maintained for the period of the initial quality jobs contract executed pursuant to
 21 this Chapter and during the renewal period of any such contract. ~~To qualify, an~~
 22 ~~employer shall either be located in a distressed region or at least fifty percent of the~~
 23 ~~new direct jobs of the employer shall be filled by persons who reside in a distressed~~
 24 ~~region.~~

25 (vi) **The employer is the corporate headquarters of a multi-state**
 26 **business.**

27 (vii) **The employer is a business that spends fifty percent or more of its**
 28 **time performing services for its out-of-state parent company. These services**
 29 **include but are not limited to legal, marketing, finance, information technology,**
 30 **order management, distribution center operation, or overall operations support.**

1 (viii) The employer is in the business of maintenance, repair, and
 2 overhaul operations for commercial transport aircraft.

3 (c) The following employers or persons engaged in the following professions
 4 or service industries shall not be eligible for any rebate under this Chapter:

5 * * *

6 (ix) ~~Attorneys.~~ Professional Services firms assigned a North American
 7 Industry Classification System (NAICS) code beginning with 54 unless the
 8 business can demonstrate that more than fifty percent of its services are
 9 provided to out-of-state customers or for the corporate headquarters of a multi-
 10 state business or if the employer can demonstrate that the company has or will
 11 have within one year sales of at least fifty percent of its total sales to out-of-state
 12 customers or buyers, to in-state customers or buyers if the products or service
 13 is resold by the purchaser to an out-of-state customer or buyer for ultimate use,
 14 or to the federal government.

15 (x) Construction companies, unless the company is the corporate
 16 headquarters of a multi-state business or can demonstrate that the company
 17 has, or will have within one year, sales of at least fifty percent of its total sales
 18 to either out-of-state customers or the federal government.

19 (xi) All businesses assigned a North American Industry Classification
 20 System (NAICS) code beginning with 5613.

21 (xii) Medical professionals assigned a North American Industry
 22 Classification System (NAICS) code beginning with 62, except for those medical
 23 professionals engaged in one of the following:

24 (aa) Biomedical or biotechnology industries.

25 (bb) Servicing rural hospitals.

26 (cc) Providing services, or will be providing services within one year, to
 27 a patient base that the medical professionals are able to demonstrate is made up
 28 of at least fifty percent of out-of-state patients.

29 * * *

30 (4) "New direct job" means employment in this state of an employee working

1 at least the average hours per week provided for in R.S. 51:2455(E)(2), who earns
 2 at least the benefit rate as defined in R.S. 51:2453(1) and, who was not previously
 3 on an employer's payroll in Louisiana, nor previously on the payroll of such
 4 employer's parent entity, subsidiary, or affiliate in Louisiana, or previously on the
 5 payroll of any business whose physical plant and employees are substantially the
 6 same as those of the employer in Louisiana. Such job shall be with an employer that
 7 has qualified to receive a rebate pursuant to the provisions of this Chapter, which job
 8 did not exist in this state prior to the effective date the application was filed by the
 9 employer with the Department of Economic Development pursuant to the provisions
 10 of R.S. 51:2455 and which job is filled by an individual domiciled in the state of
 11 Louisiana. "New direct job" shall not mean any job that is a result of job shifts due
 12 to the gain or loss of an in-state contract to supply goods and services. "New direct
 13 job" shall not mean any employees who were retained following the acquisition of
 14 all or part of an in-state business by an employer.

* * *

16 (6) "~~Health care~~ Healthcare benefits" means the amount of any payment to
 17 or on behalf of an individual in its employ under a plan or system established by an
 18 employer which makes provision for individuals in its employ generally, or for a
 19 class or classes of such individuals, including any amount paid by an employer for
 20 insurance or annuities, or into a fund to provide for any such payment for a basic
 21 health benefits plan or the health insurance coverage, or the value of the health
 22 benefits plan or health insurance coverage offered by the employer to an individual
 23 it employs. ~~The value of health care benefits which are offered in accordance with~~
 24 ~~Paragraph (2) of this Section shall be deemed as having been paid for purposes of~~
 25 ~~determining a benefit rate, regardless of whether the employee accepts the plan or~~
 26 ~~coverage offered, provided that at least fifty percent of the employees holding new~~
 27 ~~direct jobs accept the health care benefits offered.~~

* * *

29 §2455. Incentive rebates

* * *

1 E. In order to qualify to receive such rebate, the employer applying shall be
2 required to:

3 (1) Have an annual gross payroll for a minimum of ~~five~~ **fifteen** new direct
4 jobs which equals or exceeds ~~five hundred~~ **six hundred seventy-five** thousand
5 dollars for the employer's fiscal year for which the employer is applying for his third
6 annual rebate. Employers with no more than fifty employees shall have an annual
7 gross payroll for a minimum of five new direct jobs which equals or exceeds two
8 hundred ~~fifty~~ **twenty-five** thousand dollars for the employer's fiscal year for which
9 the employer is applying for his third annual rebate.

10 * * *

11 §2457. Filing claim to receive rebate; determination; repayment

12 A. Payroll rebate.

13 * * *

14 (2) The application shall contain a sworn statement by a duly authorized
15 officer of the employer concerning with respect to the employer's fiscal year:

16 * * *

17 (b) The total number of and the gross payroll of:

18 (i) New direct jobs created which were paid a total of at least ~~fourteen dollars~~
19 ~~and fifty cents~~ **eighteen dollars** per hour ~~inclusive of wages and the value of health~~
20 ~~care benefits paid or offered at the time the contract was entered into.~~

21 (ii) New direct jobs created which were paid a total of at least ~~nineteen~~
22 ~~dollars and ten~~ **twenty-one dollars and sixty-six** cents per hour ~~inclusive of wages~~
23 ~~and the value of health care benefits paid or offered at the time the contract was~~
24 ~~entered into.~~

25 * * *

26 (f) That the employer has offered the basic health benefits plan or the health
27 insurance coverage as defined in R.S. 51:2453(2)(a) to the individuals it employs in
28 new direct jobs including coverage for basic hospital care and for physician care, as
29 well as offered the health insurance coverage as follows:

30 (i) That the employer has offered **a basic health benefits plan that is in**

1 compliance with federally mandated healthcare requirements or, if no federally
 2 mandated healthcare requirements exist, is determined to have a value of not
 3 less than one dollar and twenty-five cents per hour ~~in health care benefits~~ for full-
 4 time employees.

5 (ii) That the employer has offered health insurance coverage for the
 6 dependents of full-time employees.

7 ~~(iii) That at least fifty percent of the employees holding new direct jobs have~~
 8 ~~accepted the health care benefits offered.~~

9 * * *

10 (5) If the actual verified gross payroll for the employer's fiscal year for which
 11 the employer is applying for his third annual rebate does not show a minimum of ~~five~~
 12 **fifteen** new direct jobs and is not of an amount which equals or exceeds a total of
 13 ~~five hundred~~ **six hundred seventy-five** thousand dollars **of new direct jobs payroll,**
 14 or, where applicable according to R.S. 51:2455(E)(1), **does not show a minimum**
 15 **of five new direct jobs and is not of an amount which equals or exceeds** two
 16 hundred ~~fifty~~ **twenty-five** thousand dollars **of new direct jobs payroll,** the tax
 17 liability for the tax period in which the failure to show such minimum occurs shall
 18 be increased by the amount of rebates previously allowed. If at any other time during
 19 the ten-year period when the employer applies for a rebate at the end of the
 20 employer's fiscal year, the actual verified gross payroll for such fiscal year does not
 21 show ~~a minimum of five new direct jobs and an amount which equals or exceeds a~~
 22 ~~total of five hundred thousand dollars, or, where applicable according to R.S.~~
 23 ~~51:2455(E)(1), two hundred fifty thousand dollars,~~ **the minimum required new**
 24 **direct jobs or the minimum required new direct jobs payroll in accordance with**
 25 **R.S. 51:2455(E)(1)** the rebates shall be suspended and shall not be resumed until
 26 such time as the ~~actual verified gross payroll shows a minimum of five new direct~~
 27 ~~jobs and an amount which equals or exceeds five hundred thousand dollars or, where~~
 28 ~~applicable according to R.S. 51:2455(E)(1), two hundred fifty thousand dollars~~
 29 **minimum required new direct jobs and the minimum required new direct jobs**
 30 **payroll in accordance with R.S. 51:2455(E)(1) are verified.** No rebate shall accrue

1 or be paid to the employer during a period of suspension.

2 * * *

3 §2458. Employers receiving rebates not eligible to receive certain other tax credits
4 and exemptions

5 Notwithstanding any other provision of law and except as provided in R.S.
6 51:2456(B), a qualified employer who receives a rebate pursuant to the provisions
7 of this Chapter shall not be eligible to receive the other credits or exemptions
8 provided for in the following provisions of law in connection with the activity for
9 which the rebate was received:

10 * * *

11 **(11) An employer shall not receive any other nondiscretionary statutory**
12 **incentive administered by the Department of Economic Development for any**
13 **payroll expenditures for which the employer has received a credit pursuant to**
14 **this Section.**

15 Section 4. The provisions of Section 3 of this Act shall apply only to advance
16 notifications filed on or after July 1, 2017, except for advance notifications for companies
17 that are listed in a confidential affidavit submitted to the secretary from the chief executive
18 officer or executive director of a Louisiana Economic Development Organization ("EDO")
19 as being in active negotiations with the EDO about a potential economic development
20 project as of May 31, 2017. The affidavit must be received by the department before July 1,
21 2017, and shall contain the following information: name of the company; a detailed
22 description of the project; the number of new direct jobs the project will create; the total
23 anticipated new job payroll; and the average wage rate (excluding executive level staff
24 wages) and that the EDO has a written record of having received and provided Quality Jobs
25 information to the listed businesses for the purpose of business expansion on or before
26 May 31, 2017, and the company listed in the affidavit files its advance notification before
27 January 1, 2018.

28 Section 5. This Act shall become effective upon signature by the governor or, if not
29 signed by the governor, upon expiration of the time for bills to become law without signature
30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become
2 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____