

2018 Second Extraordinary Session

SENATE BILL NO. 6

BY SENATOR LUNEAU

TAX/TAXATION. Makes permanent reductions to credits and rebates under the Enterprise Zone, Quality Jobs, and Competitive Project Payroll Incentive programs. (Items #26 and 27) (gov sig)

1 AN ACT

2 To amend and reenact R.S. 51:1787(A)(1)(a)(iv) and (b), 2455(A) and (D)(3), 2457(B)(3)(b)

3 and (c), 3121(C)(3)(b)(i) and (4)(c), and Section 6 of Act No. 126 of the 2015

4 Regular Session of the Legislature, to enact R.S. 51:2456(B)(1)(a)(iv) and (b)(iv),

5 and to repeal Section 3 of Act No. 126 of the 2015 Regular Session of the

6 Legislature and Section 2 of Act No. 28 of the 2016 First Extraordinary Session of

7 the Legislature, relative to limitations on tax incentive rebate programs; to provide

8 for issuance of rebate payments for certain tax incentive programs; to provide for an

9 effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 51:1787(A)(1)(a)(iv) and (b), 2455(A) and (D)(3), 2457(B)(3)(b) and

12 (c), and 3121(C)(3)(b)(i) and (4)(c) are hereby amended and reenacted and R.S.

13 51:2456(B)(1)(a)(iv) and (b)(iv) are hereby enacted to read as follows:

14 §1787. Incentives

15 A. The board, after consultation with the secretaries of the Department of

16 Economic Development and Department of Revenue, and with the approval of the

17 governor, may enter into contracts not to exceed five years to provide:

1 (1) For either:

2 (a) * * *

3 (iv) **For advance notifications filed on or after July 1, 2018, the sales and**
 4 **use tax rebate authorized in Item (i) of this Subparagraph shall be eighty**
 5 **percent of the sales and use taxes paid.** Requests for rebates of state sales and use
 6 tax pursuant to this Section and R.S. 51:2456(B) shall be processed by the
 7 Department of Revenue as follows:

8 (aa) A properly completed rebate request shall be submitted to the
 9 Department of Revenue on forms provided by the Department of Revenue. For
 10 purposes of this Section, a properly completed rebate request shall mean a rebate
 11 request that includes the general information required on the face of the request, is
 12 signed and includes a copy of the executed incentive contract, a copy of each invoice
 13 over fifteen thousand dollars, and all required schedules. The request shall be
 14 submitted electronically unless the secretary of the Department of Revenue grants
 15 permission to submit the request in an alternate form.

16 (bb) Within ~~ten business~~ **sixty** days of the receipt of a properly completed
 17 rebate request, the Department of Revenue shall rebate eighty percent of the total
 18 amount claimed for rebate in the rebate request. Within ~~three~~ **six** months of the date
 19 of filing the rebate request, the Department of Revenue shall audit the rebate request.
 20 During such ~~three~~ **six**-month period, the Department of Revenue shall disallow items
 21 determined to be ineligible for rebate. Within ten business days following the
 22 expiration of such ~~three~~ **six**-month period, the Department of Revenue shall rebate
 23 the remaining twenty percent of the amount claimed on the rebate request less any
 24 amounts properly disallowed during the ~~three~~ **six**-month audit period. The
 25 Department of Revenue shall make such rebates from the current collections of the
 26 taxes collected pursuant to Chapter 2, Chapter 2-A, or Chapter 2-B of Subtitle II of
 27 Title 47 of the Louisiana Revised Statutes of 1950, as amended. Any sales and use
 28 tax rebate issued **pursuant to this Section** shall be subject to subsequent audit by the
 29 Department of Revenue, and any rebate amount determined to be in excess of that

1 which should have been allowed shall be subject to collection by the Department of
2 Revenue.

3 (cc) Failure of the Department of Revenue to timely pay rebates as provided
4 **herein in this Item** shall entitle the taxpayer to interest, which shall begin to accrue
5 ~~three~~ **six** months after the completed rebate request is received at the rate established
6 pursuant to the provisions of R.S. 13:4202. Payments of interest authorized
7 according to the provisions of this Section shall be made from the current collections
8 of taxes collected pursuant to Chapter 2, Chapter 2-A, or Chapter 2-B of Subtitle II
9 of Title 47 of the Louisiana Revised Statutes of 1950, as amended.

10 * * *

11 (b) ~~☆~~ **(i) For advance notifications filed before July 1, 2018, a** refundable
12 investment income tax credit equal to one and one-half percent of the amount of
13 qualified expenditures. **For advance notifications filed on or after July 1, 2018,**
14 **the refundable investment income tax credit shall be one and two-tenths percent**
15 **of qualified capital expenditures for the facilities or facilities designated in the**
16 **contract.**

17 **(ii)** For purposes of this Paragraph, the term "qualified expenditures" shall
18 mean amounts classified as capital expenditures for federal income tax purposes plus
19 exclusions from capitalization provided for in Internal Revenue Code Section
20 263(a)(1)(A) through (L), minus the capitalized cost of land, capitalized leases of
21 land, capitalized interest, capitalized costs of manufacturing machinery and
22 equipment to the extent the capitalized manufacturing machinery and equipment
23 costs are excluded from sales and use tax pursuant to R.S. 47:301(3), and the
24 capitalized cost for the purchase of an existing building. When a taxpayer purchases
25 an existing building and capital expenditures are used to rehabilitate the building, the
26 costs of the rehabilitation only shall be considered qualified expenditures.
27 Additionally, a taxpayer shall be allowed to increase their qualified expenditures to
28 the extent a taxpayer's capitalized basis is properly reduced by claiming a federal
29 credit. A taxpayer earns the investment tax credit in the year in which the project is

1 placed in service, but the taxpayer may not claim the investment tax credit until the
2 Department of Economic Development signs the project completion report or such
3 other time as provided for by rule or regulation. The project completion report for
4 the refundable investment tax credit shall adhere to the same requirements found in
5 Subparagraph (a) for the sales and use tax rebate.

6 * * *

7 §2455. Incentive rebates

8 A.(†) An employer who has entered into a contract may receive a rebate for
9 the taxable periods specified in the contract entered into pursuant to the provisions
10 of this Chapter as follows:

11 **(1) For projects for which an advance notification was filed before July**
12 **1, 2015,** in an amount which shall be equal to the benefit rate as defined in R.S.
13 51:2453(1), multiplied by the gross payroll, as defined in R.S. 51:2453(3), of new
14 direct jobs as defined in R.S. 51:2453(4), for the taxable period as verified by the
15 Department of Economic Development through the use of information provided to
16 it by the Louisiana Workforce Commission. In no instance shall a rebate be
17 determined by multiplying the value of the health care benefits by the benefit rate.

18 (2) For projects for which an advance notification was filed on or after July
19 1, 2015, ~~pursuant to this Section,~~ no rebate shall exceed the amount of the benefit
20 rate as defined in R.S. 51:2453(1), multiplied by eighty percent of the gross payroll,
21 as defined in R.S. 51:2453(3), of new direct jobs as defined in R.S. 51:2453(4), for
22 the taxable period as verified by the Department of Economic Development through
23 the use of information provided to it by the Louisiana Workforce Commission. In no
24 instance shall a rebate be determined by multiplying the value of the health care
25 benefits by the benefit rate.

26 * * *

27 D.(1)

* * *

28 (3)**(a)** Applications shall be filed no later than twenty-four months after the
29 filing of the advance notification, except ~~for advances~~ **as provided in**

1 **Subparagraph (b) of this Paragraph.**

2 **(b) For advance notifications** filed on or after January 1, 2014, and before
3 January 31, 2014, applications may be filed at any time prior to January 31, 2016.

4 * * *

5 §2456. Rebate; payments

6 * * *

7 B.(1) In addition to the rebates provided in this Chapter, an employer who
8 has executed a contract under the provisions of this Chapter and who meets the
9 requirements of R.S. 51:2455(E) shall be entitled to either:

10 (a)(i) * * *

11 **(iv) For advance notifications filed on or after July 1, 2018, the sales and**
12 **use tax rebate authorized in Item (i) of this Subparagraph shall be eighty**
13 **percent of the sales and use taxes paid.**

14 (b)(i) * * *

15 **(iv) For advance notifications filed on or after July 1, 2018, the project**
16 **facility expense rebate shall be one and two-tenths percent of qualified capital**
17 **expenditures for the facilities or facilities designated in the contract.**

18 §2457. Filing claim to receive rebate; determination; repayment

19 * * *

20 B. Issuance of state sales and use tax rebate.

21 * * *

22 (3) Requests for rebates of state sales and use taxes pursuant to this Section
23 shall be processed by the Department of Revenue as follows:

24 * * *

25 (b) Within ~~ten business~~ **sixty** days of receipt of a properly completed rebate
26 request, the Department of Revenue shall rebate eighty percent of the total amount
27 claimed for rebate in the rebate request. Within ~~three~~ **six** months of the date of filing
28 the rebate request, the Department of Revenue shall audit the rebate request. During
29 the ~~three~~ **six**-month period, the Department of Revenue shall disallow items

1 determined to be ineligible for rebate. Within ten business days following the
 2 expiration of the ~~three~~ six-month period, the Department of Revenue shall rebate the
 3 remaining twenty percent of the amount claimed on the rebate request less any
 4 amounts properly disallowed during the ~~three~~ six-month audit period. The
 5 Department of Revenue shall make the rebates from the current collections of the
 6 taxes collected pursuant to Chapter 2, Chapter 2-A, or Chapter 2-B of Subtitle II of
 7 Title 47 of the Louisiana Revised Statutes of 1950, as amended. Any sales and use
 8 tax rebate issued **pursuant to this Section** shall be subject to subsequent audit by the
 9 Department of Revenue, and any rebate amount determined to be in excess of the
 10 amount that should have been allowed shall be subject to collection by the
 11 Department of Revenue.

12 (c) Failure of the Department of Revenue to timely pay rebates as provided
 13 herein shall entitle the taxpayer to interest, which shall begin to accrue ~~three~~ six
 14 months after the completed rebate request is received at the rate established pursuant
 15 to the provisions of R.S. 13:4202. Payments of interest authorized according to the
 16 provisions of this Section shall be made from the current collections of taxes
 17 collected pursuant to Chapter 2, Chapter 2-A, or Chapter 2-B of Subtitle II of Title
 18 47 of the Louisiana Revised Statutes of 1950, as amended.

19 * * *

20 §3121. Competitive Projects Payroll Incentive Program

21 * * *

22 C. * * *

23 (3) * * *

24 (b) The contract shall provide for a rebate to the qualified business based
 25 upon new payroll and shall include the following provisions:

26 (i) ~~The~~ **For projects for which an invitation to apply is extended by the**
 27 **secretary before July 1, 2015, the** percentage of new payroll eligible for rebate, up
 28 to a maximum of fifteen percent. ~~With respect to~~ **For** projects for which an invitation
 29 to apply is extended by the secretary on or after July 1, 2015, ~~pursuant to this~~

1 Development signs a project completion report or such other time as provided for by
2 rule or regulation.

3 * * *

4 Section 2. Section 6 of Act No. 126 of the 2015 Regular Session of the Legislature
5 is hereby amended and reenacted to read as follows:

6 Section 6. The provisions of Section 2 of this Act shall become effective on
7 July 1, 2015 ~~and shall remain effective through June 30, 2018~~. The provisions of
8 Section 3 of this Act shall become effective on July 1, 2018.

9 Section 3. Section 3 of Act No. 126 of the 2015 Regular Session of the Legislature
10 and Section 2 of Act No. 28 of the 2016 First Extraordinary Session of the Legislature are
11 hereby repealed in their entirety.

12 Section 4. This Act shall become effective upon signature by the governor or, if not
13 signed by the governor, upon expiration of the time for bills to become law without signature
14 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
15 vetoed by the governor and subsequently approved by the legislature, this Act shall become
16 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Leonore Heavey.

DIGEST

SB 6 Engrossed

2018 Second Extraordinary Session

Luneau

Present law sunsets on June 30, 2018 the 20% reduction of payroll rebates made in Act No. 126 of the 2015 R.S. for the Enterprise Zone, Louisiana Quality Jobs, and Competitive Projects Payroll Incentive tax incentive programs.

- (1) Enterprise Zone (R.S. 51:1781-1791)
- (2) Louisiana Quality Jobs (R.S. 51:2451-2462)
- (3) Competitive Projects Payroll Incentive (R.S. 51:3121)

Proposed law makes the rebate reductions permanent by eliminating the reversion to pre-Act No. 126 rebate rates.

Present law requires that within ten business days of the receipt of a properly completed rebate request for the Enterprise Zone and Quality Jobs programs, the Department of Revenue shall rebate 80% of the total amount claimed for rebate in the rebate request.

Proposed law retains present law but changes the time period for issuance of the first 80% of the rebate from 10 to 60 days.

Present law provides that within three months of the date of filing the rebate request, the Department of Revenue shall audit the rebate request. During the three-month period, the Department of Revenue shall disallow items determined to be ineligible for rebate. Within ten business days following the expiration of the three-month period, the Department of Revenue shall rebate the remaining 20% of the amount claimed on the rebate request less any amounts properly disallowed during the three-month audit period.

Proposed law retains present law but changes the audit time, the time to disallow items determined to be ineligible for a rebate, and the rebate of the remaining 20% of the claimed rebate from three months to six months.

Present law provides additional incentives for the Enterprise Zone, Louisiana Quality Jobs, and Competitive Projects Payroll Incentive programs that include either a sales tax rebate for state sales taxes paid on the construction of the facility or a project facility expense rebate of a percentage of the qualified capital expenditures for the facility in lieu of the sales tax rebate, at the applicant's option.

Present law sunsets on June 30, 2018 the 20% reduction of the sales tax rebate and optional project facility expense rebate made in Act No. 126 of the 2015 R.S. for the Competitive Projects Payroll Incentive program.

Proposed law reduces the sales tax rebate and optional project facility expense rebate for the Enterprise Zone and Quality Jobs programs by 20% for advance notifications received after July 1, 2018 and makes these rebate reductions permanent for the Competitive Projects Payroll Incentive program.

Proposed law clarifies that the maximum 15% of new payroll eligible for the rebate under the Competitive Project Payroll Incentive program applies for projects for which an invitation to apply was extended before July 1, 2015; this maximum percentage reduces to 12% for projects to which an invitation to apply is extended on or after July 1, 2015.

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

(Amends R.S. 51:1787(A)(1)(a)(iv) and (b), 2455(A) and (D)(3), 2457(B)(3)(b) and (c), 3121(C)(3)(b)(i) and (4)(c), and Section 6 of Act 126 of 2015 R.S.; adds R.S. 51:2456(B)(1)(a)(iv) and (b)(iv); repeals Section 3 of Act 126 of 2015 R.S. and Section 2 of Act 28 of 2016 1E.S.)