2019 Regular Session

HOUSE CONCURRENT RESOLUTION NO. 3

BY REPRESENTATIVE EDMONDS

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

TAX/AD VALOREM-EXEMPTION: Amends Louisiana Economic Development rules relative to local approval for the Industrial Ad Valorem Tax Exemption Program

1	A CONCURRENT RESOLUTION
2	To amend Louisiana Economic Development rules specified in LAC 13:I.503(E)(4), and
3	(H), 513(B), and 529(C), which provide for the administration of local approval for
4	industrial ad valorem tax exemption applications; to provide for a uniform ad
5	valorem property tax exemption application process; to provide for certain
6	requirements; to provide for limitations; to provide for certain conditions; to provide
7	for related matters; and to direct the Office of the State Register to print the
8	amendments in the Louisiana Administrative Code.
9	WHEREAS, Article VII, Section 21(F) of the Constitution of Louisiana provides that
10	the Louisiana Board of Commerce and Industry "with the approval of the governor, may
11	enter into contracts for the exemption from ad valorem taxes of a new manufacturing
12	establishment or an addition to an existing manufacturing establishment, on such terms and
13	conditions as the board, with approval of the governor, deems in the best interest of the
14	state"; and
15	WHEREAS, in June 2017 and August 2018, the Louisiana Economic Development
16	promulgated rules in accordance with the Administrative Procedure Act to govern the
17	application process for the Industrial Tax Exemption Program established in Article VII,
18	Section 21(F) of the Constitution of Louisiana; and

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1	WHEREAS, the rules authorize local entities to establish their own policies and
2	procedures when considering the approval of industrial tax exemption applications and, as
3	a consequence, local policies and procedures vary and are not uniform statewide; and
4	WHEREAS, the rules do not maintain statewide uniform application requirements
5	which renders the industrial tax exemption program process inefficient; and
6	WHEREAS, mandating uniform local boards and uniform local application
7	requirements achieves a more streamlined and productive application process for both local
8	entities and applicants; and
9	WHEREAS, R.S. 49:969 authorizes the legislature, by Concurrent Resolution, to
10	suspend, amend, or repeal any rule or regulation or body of rules or regulations adopted by
11	a state department, agency, board, or commission; and
12	WHEREAS, because the current rules and regulations promulgated by Louisiana
13	Economic Development do not mandate uniform local boards and uniform local application
14	requirements that would provide for a more streamlined and productive application process
15	for both local entities and applicants, the legislature proposes to amend the administrative
16	rules to provide for such provisions.
17	THEREFORE, BE IT RESOLVED by the Legislature of Louisiana that LAC
18	13:I.503(E)(4) and (H), 513(B), and 529(C) are hereby amended and reenacted to read as
19	follows:
20	§503. Advance Notification; Application
21	* * *
22	E. In order to receive the board's approval, applications with advance
23	notifications filed after June 24, 2016, shall include an exhibit A containing the
24	following terms and conditions:
25	* * *
26	4. That the department, on behalf of the board, will notify the local
27	governmental entities review board and the assessor when jobs and/or payroll
28	requirements are not met in accordance with the exhibit A;
29	* * *

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1	H. Upon the board's approval of an application, the department, on behalf of
2	the board, shall, within three business days, transmit a copy of the approval and
3	Exhibit A by mail or electronic mail to each local governmental authority and the
4	assessor and the department shall post notice of the board's approval of an
5	application on the department's website within three business days of approval, upon
6	which date shall begin a notice period of 30 days for the parish governing authority
7	(speaking on behalf of the parish and all parish bodies who are located outside the
8	boundary of any affected municipality who receive a millage), the school board, any
9	applicable municipality (speaking on behalf of the municipality and all municipal
10	bodies who receive a millage) and the sheriff to initiate action to approve or reject
11	the board's action as provided hereinafter. 1. Each parish in the state shall create a
12	local review board to review and provide a recommendation of applications
13	submitted to the board for the industrial ad valorem tax exemption program. The
14	local review board shall be comprised of the following members:

15 1. Within the 30-day notice period, the parish governing authority, the school 16 board, or any affected municipality may identify the application on the agenda of a 17 public meeting notice and the sheriff may issue a letter approving or denying the 18 application, and notice of these actions shall be given to the department within 3 19 business days. A local governmental entity that places the application on the agenda 20 for a public meeting will have an additional 30 days (for a total of 60 days from the 21 start of the notice period) to conduct a public meeting issuing a resolution approving 22 or rejecting the board approved application, and notice of the issuance shall be given 23 to the department within 3 business days. If a local governmental entity does not 24 take action or provide notice as required herein, then the application will be deemed 25 approved by each such entity.

26 2. Within 60 days of the promulgation of these rules, the local governmental
27 entities for each parish (in consultation with the parish assessor and, upon request,
28 with guidance from the department), shall make best efforts to develop reasonable

1	guidelines for application approval and/or denial and if so desired, penalty guidelines
2	for failure to achieve and maintain jobs and/or payroll as required by the exhibit A.
3	a. the president of the parish governing authority of the parish in which the
4	project seeking the ad valorem exemption is located, or, if the project is located
5	within the boundaries of a municipality, the president of the parish, the administrator
6	of the commission, or the president of the parish governing authority may defer his
7	membership on this board to the chief elected member of the corresponding
8	municipality;
9	b. the sheriff of the parish;
10	c. the president of the parish school board.
11	2.a. The local review board shall review all industrial ad valorem tax
12	exemption applications provided by the board.
13	b. The department shall post notice of the board's initial approval of an ad
14	valorem exemption application on the department's website within three business
15	days, upon which date begins a notice period of sixty days for the local review board
16	to review, hold a public meeting, and provide a recommendation on the application.
17	c. Within three business days of the board's initial approval of an ad valorem
18	exemption application, the department on behalf of the board shall transmit a copy
19	of the initial approval and cooperative endeavor agreement by mail or electronic mail
20	to the president of the parish governing authority at his official address. The
21	president of the parish governing authority shall transmit a copy of the application
22	and accompanying documents by mail or electronic mail to each local review board
23	member within three business days of receipt. A recommendation approving the
24	application of an industrial ad valorem tax exemption shall require approval of a
25	majority of the members of the local review board. The president of the parish
26	governing authority shall give notice of the local review board rendering its decision.
27	3. Within thirty days of the promulgation of these rules, the local review
28	board shall establish guidelines for application approval or denial. The local review

1	board shall post a copy of these rules on the parish governing authority's website
2	within three business days of promulgation.
3	* * *
4	§513. Relocations
5	* * *
6	B. If a manufacturing establishment moves from one location in the state to
7	another location within the state, the company shall be required to seek approval of
8	the parish governing authority, the school board, the sheriff, and any municipality
9	local review board in the parish in which the manufacturing establishment will be
10	located if these local governing authorities are it is different than those that which
11	approved the exemption at the original site.
12	* * *
13	§529. Renewal of Tax Exemption Contract
14	* * *
15	C. The board shall have the option of submitting a board approved renewal
16	application to the local governmental entities review board for approval in
17	accordance with the procedures for approval of the initial exemption contract.
18	* * *
19	BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the
20	Office of the State Register.
21	BE IT FURTHER RESOLVED that the Office of the State Register is hereby
22	directed to have the amendments to LAC 13:I.503(E)(4) and (H), 513(B), and 529(C) printed
23	and incorporated into the Louisiana Administrative Code.

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)]

HCR 3 Engrossed

2019 Regular Session

Edmonds

<u>Present LAC</u> provides that each local governmental authority who receives a millage, the school board, and the sheriff may review the proposed ad valorem tax exemption application provided by the Louisiana Board of Commerce and Industry.

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<u>Proposed LAC</u> provides that each parish shall create a centralized local review board for the purpose of reviewing ad valorem tax exemption applications.

<u>Proposed LAC</u> provides that the local review board be comprised of the following members:

- (1) The president of the parish governing authority or the chief elected member of the municipality in which the project is located.
- (2) The sheriff of the parish in which the project is located.
- (3) The president of the parish school board.

<u>Present LAC</u> provides that upon the Louisiana Board of Commerce and Industry's approval of an application, Louisiana Economic Development (LED) transmits a copy of the application to each local governmental authority and the local tax assessor.

<u>Proposed LAC</u> provides that upon the Louisiana Board of Commerce and Industry's approval of an application LED transmits a copy of the application to the parish president acting as a liaison to the local review board. The parish president then disburses the application to the other members of the local board.

<u>Present LAC</u> does not require any local governmental authority receiving a millage, the school board, or the sheriff to review a proposed ad valorem tax exemption application; however, failure to review an application after 30 days notice results in automatic approval.

<u>Proposed LAC</u> mandates that the local board shall review each industrial ad valorem tax exemption application, hold a public meeting, and provide a recommendation within 60 days of notice from the Louisiana Board of Commerce and Industry.

<u>Proposed LAC</u> requires the local review board to approve an application by a majority vote in order for an application to be approved.

<u>Present LAC</u> requires local governmental entities in each parish to make best efforts to develop reasonable guidelines for application approval and/or denial.

<u>Proposed LAC</u> mandates that within 30 days of the promulgation of these <u>proposed amended</u> <u>rules</u>, the local review board shall establish guidelines for application approval or denial. <u>Proposed LAC</u> also mandates that the local review board post a copy of the rules on the parish governing authority's website within three business days of promulgation.

<u>Proposed LAC</u> also amends <u>Present LAC</u> incorporating the newly created local review board.

(Amends LAC 13:I.503(E)(4) and (H), 513(B), and 529(C))

Summary of Amendments Adopted by House

- The Committee Amendments Proposed by <u>House Committee on Commerce</u> to the <u>original</u> bill:
- 1. Make technical changes.
- 2. Require the local review board to hold a public meeting within the sixty-day notice period during which the board is required to review the application and provide a recommendation.

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