

2021 Regular Session

HOUSE BILL NO. 464

BY REPRESENTATIVE IVEY

TAX/AD VALOREM-EXEMPTION: Provides for ad valorem tax exemptions for certain capital investment projects

1 AN ACT

2 To enact Parts I through IV of Chapter 1-A of Subtitle III of Title 47 of the Louisiana
3 Revised Statutes of 1950, to be comprised of R.S. 47:1721 through 1731, relative
4 to ad valorem tax; to provide for exemptions from ad valorem property taxes for
5 certain capital investment project property; to establish requirements for eligibility;
6 to provide for standard, local, and executive ad valorem tax exemptions; to provide
7 for cooperative endeavor agreements; to provide for exemption applications; to
8 provide for the terms and values of exemptions; to provide for definitions; to provide
9 for local authority approval; to provide for gubernatorial approval; to provide for the
10 consideration, approval, and granting of the exemption; to provide for a statement
11 of purpose; to provide for oversight; to provide for a withdrawal process; to provide
12 for effectiveness; to provide for reporting; and to provide for related matters.

13 Be it enacted by the Legislature of Louisiana:

14 Section 1. Parts I through IV of Chapter 1-A of Subtitle III of Title 47 of the
15 Louisiana Revised Statutes of 1950, comprised of R.S. 47:1721 through 1731, are hereby
16 enacted to read as follows:

1 CHAPTER 1-A. THE LOUISIANA CAPITAL INVESTMENT

2 PROGRAM FOR DIVERSE ECONOMIC GROWTH AND OPPORTUNITY

3 PART I. GENERAL PROVISIONS

4 §1721. Statement of purpose

5 The Louisiana Capital Investment Program for Diverse Economic Growth
6 and Opportunity, hereinafter referred to in this Chapter as the capital investment
7 program, is hereby established as an economic development tool that local
8 governments and their constituencies may use to attract capital investments from
9 industry sectors they deem compatible and advantageous to the community. The
10 capital investment program exempts certain businesses in qualifying industry sectors
11 from ad valorem property taxes.

12 §1722. Definitions

13 For the purposes of this Chapter the following words have the following
14 meanings:

15 (1) "Board" shall mean the Board of Commerce and Industry.

16 (2) "Department" shall mean the Department of Economic Development.

17 (3) "Local authority" shall mean the school board, parish governing
18 authority, any incorporated municipality in which the project is located, the sheriff,
19 and the law enforcement district under the control of the sheriff.

20 (4) "Parish authority" shall mean the school board, the sheriff, and the parish
21 governing authority.

22 §1723. Oversight

23 In compliance with the Administrative Procedure Act, the department shall
24 adopt and promulgate rules necessary for the effective administration of the
25 Louisiana Capital Investment Program. These rules shall be subject to review by the
26 House Committee on Ways and Means and the Senate Committee on Revenue and
27 Fiscal Affairs in the same manner and to the same extent as the review of the
28 standing committees provided for in R.S. 49:968(B)(1).

1 PART II. PARISH2 ENROLLMENT3 §1724. Authorization

4 In accordance with Article VII, Section 21(F) of the constitution, the
5 department is authorized to create and establish ad valorem tax exemption programs
6 permitting standard, local, and executive tax exemptions.

7 §1725. Notification

8 The department shall notify parish authorities within ten days of the creation
9 or modification of any capital investment exemption program. The notification shall
10 provide program details, enrollment deadlines, resolution requirements, and forms
11 to indicate if the exemption applicable to the program is standard, local, or executive.

12 §1726. Enrollment; exclusion

13 A. A parish shall be enrolled in a capital investment program upon the
14 approval of all parish authorities located within the applicable parish boundaries,
15 evidenced by submitting a resolution of approval to the department.

16 B. A parish shall be excluded from the capital investment program upon
17 disapproval by any parish authority located within the applicable parish boundaries,
18 evidenced by submitting a resolution of disapproval to the department. If no parish
19 authority notifies the department of disapproval within sixty days of the effective
20 date of the program, all parish authorities shall be automatically enrolled in the
21 program.

22 C. Any parish authority that has submitted a resolution of disapproval to the
23 department may later approve participation in the program by submitting a resolution
24 to the department rescinding the previous resolution of disapproval.

25 D. Except as provided in R.S. 47:1727, enrollment in a capital investment
26 program shall be continuous.

27 §1727. Terms of withdrawal

28 A. A parish may withdraw from a capital investment program within five
29 years of enrollment. To withdraw from a program all parish authorities must submit

1 a resolution to the department stating such. Any resolution to withdraw from a
2 capital investment program shall be effective ninety days following the receipt of the
3 resolution to withdraw by the department.

4 B. Notwithstanding the provisions of Subsection A of this Section, if the
5 legislature passes any law substantively changing a capital investment program, a
6 parish may withdraw from that program and shall evidence the withdrawal by a
7 resolution to the department. Any resolution submitted to the department pursuant
8 to this Subsection shall be submitted no later than sixty days after the effective date
9 of the applicable legislation.

10 PART III. EXEMPTIONS

11 AND PROCEDURES

12 §1728. Capital investment project exemption

13 A. Exemptions. In accordance with Article VII, Section 21(F) of the
14 Constitution of Louisiana, there are hereby established standard, local, and executive
15 ad valorem tax exemptions for capital investment projects.

16 B. Standard exemption. (1) Procedure. The department shall establish an
17 application procedure for the standard exemption in accordance with the constitution.

18 (2) Board Review. The board shall review all standard exemption
19 applications in a timely manner and confirm program eligibility for each application.

20 (3) Board Approval. Within ten days of confirmation of program eligibility
21 the board, with the assistance of the department, shall provide the applicant and local
22 authorities with a copy of the conditional approval.

23 (4) Local Review. In addition to the conditional approval of the exemption
24 as provided in Paragraph (3) of this Subsection, the department shall provide each
25 local authority with an analysis of the project applying for the exemption. Each local
26 authority shall review the application and conditional approval in conjunction with
27 the department's analysis and issue a resolution or letter, in the case of a sheriff,
28 approving or rejecting the exemption within sixty days of receipt of the application

1 and conditional approval. In reviewing the application, a local authority may hold
2 a public meeting for the purpose of receiving public input.

3 (5) Final approval. Each local authority shall provide the department with
4 a copy of its resolution or letter approving or rejecting the exemption.

5 C. Local exemption. (1) Eligibility. No applicant shall be eligible for the
6 local exemption until the applicant has received final approval by the department for
7 a standard exemption. Each parish shall establish additional eligibility requirements
8 for the local exemption in accordance with Article VII, Section 21(F) of the
9 Constitution of Louisiana. The application for the local exemption shall be an
10 addendum to the standard exemption application. The local exemption addendum
11 shall be on forms designed and prescribed by the department and shall include all
12 additional parish requirements, the proposed exemption term, and the proposed
13 exemption amount.

14 (2) Review. The department shall forward a copy of the local exemption
15 application within three days of receipt to each impacted local authority that levies
16 a millage and in whose jurisdiction the project will be located. The department shall
17 provide each local authority with an analysis of the project applying for the local
18 exemption. Each local authority shall review the application in conjunction with the
19 department's analysis and issue a resolution or letter, in the case of a sheriff,
20 approving or rejecting the exemption within sixty days of receipt of the application
21 from the department. In reviewing the local application, a local authority may hold
22 a public meeting for the purpose of receiving public input.

23 (3) Cooperative endeavor agreement. Upon the local authority's approval of
24 the local exemption, the local authority and the applicant, with the assistance of the
25 department, shall enter into a cooperative endeavor agreement evidencing the
26 exemption. The cooperative endeavor agreement shall provide for an ad valorem tax
27 exemption of up to one hundred percent of the property tax and for a term of not
28 more than fifteen years.

1 (4) Final approval. The local authority shall provide the department with a
2 copy of the final cooperative endeavor agreement and a copy of all resolutions or
3 letters approving the local exemption.

4 D. Executive exemption. (1) Eligibility and Application. The governor
5 shall be permitted to provide an executive exemption for capital investment projects
6 in accordance with Article VII, Section 21(F) of the Constitution of Louisiana.

7 (2) Invitation and offer. The governor may offer any entity an executive
8 exemption from ad valorem property taxes. The exemption may be for up to one
9 hundred percent of the property taxes for a specific term decided at the governor's
10 discretion. The executive exemption shall be evidenced by a gubernatorial executive
11 order providing the terms and conditions of the exemption. The board shall require
12 local approval prior to the governor granting the executive exemption. No later than
13 thirty-five days prior to the issuance of any gubernatorial executive order providing
14 an exemption, the governor shall provide all applicable local authorities a draft of the
15 executive order. Local authorities shall have a thirty-day period, beginning the day
16 the draft executive order is received, to reject the proposed exemption. A rejection
17 by any local authority shall be evidenced by resolution or if the rejection is from the
18 sheriff, by letter. If a local authority does not provide notice of rejection within the
19 thirty-day notice period, the exemption will be deemed approved by the local
20 authority.

21 §1729. Reporting

22 Within thirty days after the submittal of an application for an exemption
23 pursuant to this Chapter, the department shall produce a cost-benefit analysis for the
24 project that identifies the projected state and local fiscal impact of the project. The
25 analysis shall include information related to employment, state and local revenues,
26 state and local infrastructure requirements, and the effect of using state and local
27 public services. The employment-related analysis shall include information on the
28 project construction employment, project permanent employment, and project
29 indirect employment. All non-coincidental and non-proprietary data used in the

1 analysis shall be made available to the public by the department upon written
2 request.

3 PART IV. INDUSTRY

4 PROGRAMS AND PROCEDURES

5 §1730. Industry programs and procedures

6 For the purposes of the Capital Investment Program established in this
7 Chapter, the following industry the following programs comprise the capital
8 investment program:

9 A. Manufacturing. The manufacturing sector shall include but is not limited
10 to entities participating in industrial manufacturing, pharmaceutical manufacturing,
11 semiconductor manufacturing, automotive manufacturing, and green energy
12 manufacturing.

13 B. Technology. The technology sector shall include but is not limited to data
14 centers and laboratories.

15 C. Telecommunication. The telecommunication sector shall include but is
16 not limited to entities providing or assisting in providing rural broadband services.

17 D. Healthcare. For the purposes of the program established in this Chapter,
18 the healthcare sector shall include but is not limited to hospitals and clinics.

19 E. Logistic, warehouse, and distribution. The logistic, warehouse, and
20 distribution sector shall include but is not limited to entities participating in
21 warehouse storage and distribution.

22 §1731. Record keeping

23 The department shall maintain an interactive map on its website identifying
24 available exemptions by parish, industry sector, and program.

25 Section 2. This Act shall take effect and become operative if and when the proposed
26 amendment of Article VII, Section 21(F) of the Constitution of Louisiana contained in the
27 Act which originated as House Bill No. _____ of this 2021 Regular Session of the Legislature
28 is adopted at a statewide election and becomes effective.

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 464 Original

2021 Regular Session

Ivey

Abstract: Establishes the La. Capital Investment Program which provides for the consideration and approval of standard, local, and executive capital investment project ad valorem tax exemptions.

Present constitution provides for the exclusive list of ad valorem tax exemptions.

Proposed law provides definitions for the terms "board", "department", "local authorities", and "parish authorities".

Proposed law requires the Department of Economic Development hereinafter ("Dept."), to adopt and promulgate rules to administer the program in compliance with present law.

Proposed law establishes a notification process that requires the Dept. to notify parish authorities within 10 days of the creation or modification of a capital investment program. Proposed law further provides that the notification shall include program details, deadlines, language for resolutions, and specific forms.

Proposed law establishes an enrollment process for the program. A parish can enroll in a program upon the approval of all parish authorities evidenced by a resolution submitted to the Dept.

Proposed law provides that if a parish disapproves participation in a program it shall submit a resolution to the Dept. stating such. Proposed law further provides that if no parish authority notifies the Dept. that it disapproves participation within 60 days of the program's effective date, the parish shall be automatically enrolled.

Proposed law authorizes a parish to change disapproval to approval by rescinding the disapproval resolution.

Proposed law authorizes a parish to withdraw from a program within five years following enrollment. Proposed law further provides a parish can withdraw if all parish authorities submit a resolution stating such. The withdrawal is effective 90 days following the Dept.'s receipt of the resolution.

Proposed law provides that if the legislature passes a law that substantively changes a capital investment program a parish may withdraw from the program by resolution stating such. The resolution must be submitted no later than 60 days after the effective date of the applicable legislation.

Proposed law identifies businesses that constitute the manufacturing, technology, telecommunication, healthcare, logistic, warehouse, and distribution sectors for the purposes of this program.

Proposed law creates a standard ad valorem tax exemption for capital investment projects.

Proposed law requires the Dept. to establish an application procedure for the standard exemption in accordance with the constitution. Proposed law further provides that the Board of Commerce and Industry shall review a standard ad valorem tax exemption in a timely manner and confirm program eligibility for each application. Within 10 days of

confirmation, the board shall provide the applicant and local authorities with a copy of the conditional approval.

Proposed law creates a local ad valorem tax exemption for capital investment projects.

Proposed law establishes an application for a local ad valorem tax exemption and requires the Dept. to design and provide the application forms.

Proposed law requires that the Dept. forward a copy of an application to each impacted local authority that levies a millage and in whose district the project will be located.

Proposed law requires the Dept. to provide the local governing authority and all relevant political subdivisions with an analysis of every proposed project requesting an exemption in the parish.

Proposed law requires a local authority within 60 days of receipt to review each project application in conjunction with the Dept.'s analysis and issue a resolution or a letter, in the case of a sheriff, approving or rejecting the application. During this time local authorities may hold public meetings to receive public input.

Proposed law provides that if the local authority approves the application, the local authority and the applicant, with the assistance of the Dept., shall enter into a cooperative endeavor agreement evidencing the exemption.

Proposed law requires the local authority to provide the board with a copy of the cooperative endeavor agreement and a copy of any resolution or letter approving the exemption.

Proposed law creates an executive ad valorem tax exemption for capital investment projects.

Proposed law provides that the governor may offer any entity an executive exemption. The exemption may be for up to 100% of the property taxes of the project and for a specific term to be decided by the governor.

Proposed law requires local approval prior to the execution of the executive order providing for an exemption. A local authority must evidence rejection of the exemption within 30 days of receipt or the exemption will be deemed approved.

Proposed law requires the executive exemption to be evidenced by a gubernatorial executive order providing the terms and conditions of the exemption.

Proposed law requires the Dept. to produce a cost-benefit analysis for the project that specifically identifies the projected state and local fiscal impact, information related to employment, state and local revenues, state and local infrastructure requirements, and the effect of using state and local public services.

Effective if and when the proposed amendment of Article VII, Section 21(F) of the Constitution of La. contained in the Act which originated as House Bill No. ___ of this 2021 R.S. of the Legislature is adopted at a statewide election and becomes effective.

(Adds R.S. 47:1721-1731)