DIGEST

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HB 534 Original | 2021 Regular Session | Wright

Abstract: Establishes an income tax credit of up to 10% of new payroll for qualified businesses and *either* a state sales and use tax credit for capital expenditures for facilities *or* a project facility expense tax credit for businesses that re-shore jobs, services, production, research, or manufacturing to La. from overseas.

Proposed law authorizes an incentive program for qualified businesses that re-shore jobs, services, production, research, or manufacturing to La. from overseas with the aim of creating employment opportunities, boosting local economies, or balancing trade deficits. The incentives include an income tax credit of up to 10% of new payroll for qualified businesses *and* either a state sales and use tax credit for capital expenditures for facilities *or* a project facility expense tax credit.

Proposed law provides that the state sales and use tax credit shall be on purchases of materials used in the construction of a building, or any addition or improvement to the building, for housing a legitimate business enterprise or machinery and equipment used in that enterprise.

Proposed law provides that the project facility expense tax credit shall be equal to 1.2% of the amount of qualified capital expenditures for the facility designated in the contract. Proposed law defines "qualified capital expenditures" as amounts classified as capital expenditures for federal income tax purposes related to the project plus exclusions from capitalization provided for in federal tax law, minus certain capitalized costs and the cost for the purchase of an existing building. A qualified business earns the project facility expense tax credit in the fiscal year in which the project is placed in service but may not be issued the tax credit until the Dept. of Economic Development (DED) signs a project completion report.

Proposed law defines a qualified business as one which meets either of the following eligibility requirements:

(1) A new business that is locating in La. that will be re-shoring its supply chain for the manufacture or production of its products in La.

(2) An existing La. business whose current production of goods is outside of this state or the U.S. and the business provides documentation that it is relocating the supply chain for the production of its products into La.

Proposed law authorizes businesses selected by regional economic development organizations to also participate in the incentive program if approved by the secretary of DED. No later than Dec. 20, 2021, each regional economic development organization may select up to two businesses from its region to participate in the program. Each regional economic development organization is required to base its selection of a business on whether the sector will diversify the region's economy.

Proposed law requires a qualified business to offer, or offer within 90 days of the date of qualifying for the incentive tax credits in proposed law, a basic health benefits plan to individuals it employs that includes coverage for basic hospital care, physician care, and health care and is determined by DED to have a value of at least $1.25 per hour and which is the same coverage as is provided to employees employed in a bona fide executive, administrative, or professional capacity by the employers who are exempt from the minimum wage and maximum hour requirements of federal law.

Proposed law establishes an application process for participation in the incentive program as well as a process for businesses to apply for an incentive contract with DED. Authorizes the secretary of DED to certify that a business meets the eligibility requirements provided for in proposed law and that securing the project will result in a significant positive economic benefit to the state.

Proposed law requires the contract for the payment of a payroll tax credit to include the following:

(1) The amount of the tax credit, which is a percentage of new payroll, up to a maximum of 10%.

(2) The maximum amount of new payroll eligible for the credit.

(3) The number of new jobs and amount of new payroll required to be created and maintained and any other performance obligations required to be met in order to remain qualified for participation in the program.

(4) Designation of the facility or facilities eligible for participation in the program.

(5) Monitoring of performance and consequences for failure to perform and other contract violations.

(6) An initial contract term of up to five years, and any renewal term available at the discretion of the secretary, which may be up to an additional five years.

Proposed law requires a business to annually certify its eligibility and to file requests for approval of tax credits with DED. After verification of continued eligibility and performance, DED shall send a tax credit certification letter to the Dept. of Revenue, stating the amount of actual new payroll for the subject year, the amount of credit to be issued, and the entity to which the tax credit shall be issued. Tax credits shall be paid from the current collections of the taxes imposed pursuant to present law. Further provides that if the amount of the tax credit exceeds the amount of the taxpayer's tax liability for the same tax period, then unused credit amounts may be carried forward as a credit against subsequent tax liability for a period not to exceed five years.

Proposed law prohibits a taxpayer who received the incentive provided for in proposed law from receiving any other incentive administered by DED for any expenditures or jobs for which the taxpayer has received a tax credit pursuant to proposed law.

Proposed law authorizes the department to promulgate rules in accordance with present law subject to oversight by the Ways and Means and Revenue and Fiscal Affairs committees to implement the provisions of proposed law.

Proposed law prohibits any new contract from being approved on or after Dec. 31, 2024, but contracts existing on that date may continue and may be renewed.

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

(Adds R.S. 51:3126)