SLS 22RS-502 **ORIGINAL**

2022 Regular Session

SENATE BILL NO. 390

BY SENATORS WHITE, CLOUD, FESI, HENRY, MILLIGAN AND WOMACK

ECONOMIC DEVELOPMENT. Provides incentive rebates for oil and gas exploration and production. (gov sig)

AN ACT

To enact Chapter 62 of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 51:3221, relative to the creation of the Oil and Gas Industry Employment Incentive Program; to provide for contracts for the payment of rebates to certain qualified drilling and support services businesses; to provide for procedures and requirements for the execution of the rebate contracts; to provide for payment of the rebates; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 62 of Title 51 of the Louisiana Revised Statutes of 1950, comprised of R.S. 51:3221 is hereby enacted to read as follows:

CHAPTER 62. OIL AND GAS INDUSTRY EMPLOYMENT INCENTIVE PROGRAM

§3221. Oil and Gas Industry Employment Incentive Program

A. Definitions. The following words or terms as used in this Chapter shall have the following meanings, unless a different meaning clearly appears from the context:

(1) "Basic health benefits plan" means coverage for basic hospital care,

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coverage for physician care, and coverage for health care that is determined by the Department of Economic Development to have a minimum value of one dollar and twenty-five cents per hour and which is the same coverage as is provided to persons employed by the applicant in a bona fide executive, administrative, or professional capacity who are exempt from the minimum wage and maximum hour requirements of the federal Fair Labor Standards Act, 29 U.S.C. 201 et seq.

(2) "Business" means any individual, firm, joint venture, association, corporation, estate, partnership, business trust, receiver, syndicate, or any other legal business entity.

(3) "Department" means the Department of Economic Development.

(4) "New jobs" means permanent full-time direct new jobs based at the facilities designated in the contract and filled by residents of the state.

(5) "New payroll" means payment by the business to its employees for new jobs, exclusive of benefits, and defined as wages under Louisiana Employment Security Law (R.S. 23:1472(20)).

(6) "Program" means the Oil and Gas Industry Employment Incentive Program.

(7) "Qualified business" means a business certified by the secretary as meeting the eligibility requirements of Subsection B of this Section and executing a contract providing the terms and conditions for its participation.

(8) "Secretary" means the secretary of the Department of Economic Development.

(9) "Significant positive economic benefit" means net positive state and local tax revenue. This shall be determined by taking into account direct, indirect, and induced impacts based on a standard economic impact methodology utilized by the department, the value of the rebate, and any other state tax and financial incentives that are utilized by the applicant.

B. Eligibility requirements. A business is eligible for participation in the

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program if all of the following requirements are met:

(1) At least fifty percent of the total annual sales of the business from a Louisiana site or sites is to out-of-state customers or buyers, or to in-state customers or buyers who resell the product or service to an out-of-state customer or buyer for ultimate use, or the federal government, or any combination thereof. The secretary may include sales by affiliates of the business in determining the percentage of sales meeting this requirement.

(2) The business shall engage primarily in drilling oil or gas wells in this state and has a North American Industry Classification System (NAICS) Code of 213111 or in support activities for oil and gas operations in this state and has a NAICS Code of 213112.

(3) The business offers, or will offer within ninety days of the effective date of qualifying for the incentive rebates pursuant to the provisions of this Chapter, a basic health benefits plan to the individuals it employs as defined in Subsection A of this Section.

C. Applications and contract approval and administration. (1) An eligible business may apply for a contract by submitting to the department all certified statements and substantiating documents required by department.

(2) The secretary may certify eligibility of the business if the secretary determines that the business meets the eligibility requirements provided for in Subsection B of this Section.

(3)(a) Upon certification of eligibility, the secretary shall execute the contract with the business, and provide a copy to the Department of Revenue prior to the payment of any benefits under the contract.

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

(i) The percentage of new payroll eligible for rebate, up to a maximum of ten percent.

(ii) The maximum amount of new payroll eligible for rebate.

(iii) 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.

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

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

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

(4) In addition, a qualified business may be granted a project facility expense of up to one and one-half percent of the amount of qualified capital expenditures for the facility or facilities designated in the contract. For purposes of this Paragraph, the term "qualified capital expenditures" means amounts classified as capital expenditures for federal income tax purposes related to the project plus exclusions from capitalization provided for in Section 263 (a)(1)(A) through (L) of the Internal Revenue Code, minus the capitalized cost of land, capitalized leases of land, capitalized interest, capitalized costs of manufacturing machinery and equipment to the extent capitalized manufacturing machinery and equipment costs are excluded from sales and use tax pursuant to R.S. 47:301(3), and the capitalized cost for the purchase of an existing building. A qualified business earns the project facility expense rebate in the qualified business's fiscal year in which the project is placed in service but the qualified business may not be issued the project facility expense rebate until the Department of Economic Development signs a project completion report or such other time as provided for by rule or regulation.

D. Annual certification of eligibility. (1) The qualified business shall file an annual request for issuance of the rebate with the department. The request shall include documentation signed by a representative of the qualified business

who is authorized to sign on behalf of the business certifying the business' continued eligibility for the program, as provided in Subsection B of this Section, and its actual new payroll and the performance of any other contractual obligations for the subject year. The qualified business may be subject to a limited audit by the department, at the expense of the qualified business, to verify eligibility and performance. The approved contract between the qualified business and the department shall authorize the continued rebate as long as the business remains eligible for the program and complies with the terms and performance obligations of the contract. If a qualified business fails to maintain the eligibility requirements for participation in the program or fails to meet all performance obligations of the contract, the secretary may suspend or terminate its participation in the program.

(2)(a) After verification of continued eligibility and performance, the department shall send a rebate certification letter to the Department of Revenue, stating the amount of actual new payroll for the subject year, the amount of rebate to be issued, and the entity to which the rebate shall be issued. The Department of Revenue may require the business to submit additional information as may be necessary to properly issue the rebate. Payment of rebates shall be made from the current collections of the taxes imposed pursuant to Title 47 of the Louisiana Revised Statutes of 1950, as amended.

E. Incentive limitations. A taxpayer shall not receive any other incentive administered by the Department of Economic Development for any expenditures or jobs for which the taxpayer has received a rebate pursuant to this Section.

F. No new rebate contract shall be approved on or after July 1, 2026, but contracts existing on that date may continue and may be renewed.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become 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 390 Original 2022 Regular Session White

Proposed law creates the Oil and Gas Industry Employment Incentive Program through which eligible businesses may contract with the Dept. of Economic Development (LED) to receive various rebates based on new jobs, payroll, and certain improvements in existing facilities.

Proposed law provides for definitions, which include:

(1) "New payroll" means the payment by the business to its employees for new jobs, exclusive of benefits.

(2) "Qualified business" means a business that the secretary of LED has determined to meet program eligibility requirements, and has executed a contract with LED governing its participation in the program.

(3) "Qualified expenditures" means amounts expended on an existing building which are generally classified as capital expenditures for federal income tax purposes plus certain exclusions from capitalization. Excluded are capitalized cost or leases of land, interest, machinery and equipment, and costs for the purchase of an existing building. Qualified expenditures may be increased to the extent the qualified business' capitalized basis is properly reduced by claiming a federal credit.

Proposed law provides for eligibility requirements for the program which include:

(1) The business having or achieving within one year sales of at least 50% of its total sales to out-of-state customers or buyers, to in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use, to the federal government or any combination thereof; however, the secretary of LED, at his discretion, may include sales of affiliates of the business in determining this requirement.

(2) The business will primarily engage in drilling oil or gas wells in this state and has a North American Industry Classification System (NAICS) Code of 213111 or engages in support activities for oil and gas operations in this state and has a NAICS Code of 213112.

(3) The provision of a basic health insurance plan for its employees which is the same coverage as is provided to employees employed in a bona fide executive, administrative, or professional capacity.

Proposed law provides that LED may certify a business as eligible to participate in the program if the project will result in a significant positive economic benefit to the state.

Proposed law authorizes the secretary of LED to enter into a contract with a certified business. Contracts are for five years and may be renewed for an additional five years; however, no contract shall be approved on or after July 1, 2026.

Proposed law provides for requirements of the contract, which include but are not limited to the percentage of new payroll upon which rebate shall be based, the number of new jobs and the amount of new payroll to be maintained for participation, designation of facilities eligible for qualified expenditures, and the rebates to be paid for compliance with the program.

Proposed law authorizes a rebate of up to 10% of the value of the "new payroll" for businesses that participate in the program.

Proposed law authorizes, in addition to the rebate based on new payroll, a rebate up to one and one-half percent of the amount of qualified capital expenditures on the facility designated by LED in the contract.

Proposed law requires the business to apply annually with LED for receipt of the rebates based on its maintenance of contract requirements.

Proposed law requires that upon approval of the application for the annual rebate, the application is forwarded to the Dept. of Revenue for payment. The rebate is made from the current collections of the taxed collected by the Dept. of Revenue.

Proposed law prohibits a business who participates in this program from receiving any other incentive administered by LED for any expenditures for which it has received a rebate pursuant to this program.

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

(Adds R.S. 51:3221)