

2023 Regular Session

HOUSE BILL NO. 255

BY REPRESENTATIVE LANDRY

TAX CREDITS: Establishes a tax credit for restaurants that recycle oyster shells

1 AN ACT

2 To enact R.S. 47:6043, relative to income tax credits; to establish a refundable tax credit for
3 restaurants that recycle oyster shells; to provide for qualifications for the credit; to
4 provide for the amount of the credit; to provide for means by which corporations,
5 individuals, estates, trusts, and partners and members of entities not taxed as
6 corporations may claim the credit; to provide for limitations with respect to the
7 credit; to require the secretary of the Department of Revenue to promulgate
8 administrative rules with respect to the credit; to require the secretary of the
9 Department of Revenue to collaborate with the secretary of the Department of
10 Wildlife and Fisheries in developing such rules; to provide for applicability; and to
11 provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 47:6043 is hereby enacted to read as follows:

14 §6043. Recycling of oyster shells; restaurant tax credit

15 A. The purpose of this Section is to create an incentive for Louisiana
16 restaurants to divert from landfills a natural resource that would otherwise be a waste
17 product and instead facilitate the use of that resource in improving water quality,
18 benefitting aquatic habitats, supporting local economies, and protecting the coastline
19 of this state.

1 B.(1) There shall be allowed a refundable credit against Louisiana income
2 tax for restaurants that donate oyster shells for beneficial use in accordance with the
3 qualifications provided in this Subsection.

4 (2) In order to be eligible for the credit in a taxable year, a restaurant
5 claiming the credit shall, during the taxable year, have donated oyster shell material
6 to the Oyster Shell Recycling Program of the Coalition to Restore Coastal Louisiana
7 or any other oyster shell recycling program or activity designated in rule by the
8 Department of Revenue as an approved program or activity.

9 C.(1) The amount of the credit shall equal one dollar for each fifty-pound
10 increment of oyster shell material donated to a qualifying oyster shell recycling
11 program or activity or two thousand dollars, whichever is less.

12 (2) The total amount of credits granted pursuant to the provisions of this
13 Section shall not exceed one hundred thousand dollars per calendar year.

14 (3) The granting of tax credits authorized by this Section shall be on a
15 first-come, first-served basis. If the total amount of credits claimed in a particular
16 calendar year exceeds the amount of tax credits authorized for that year, the
17 Department of Revenue shall treat the excess as having been applied for on the first
18 day of the subsequent year. The department shall treat all requests received on the
19 same business day as received at the same time. If the aggregate amount of the
20 requests received on a single business day exceeds the total amount of available tax
21 credits, the department shall approve tax credits on a pro rata basis.

22 D. If the amount of the credit authorized by this Section exceeds the amount
23 of the taxpayer's tax liability for the taxable year, the excess tax credit amount shall
24 constitute an overpayment as defined in R.S. 47:1621(A), and the secretary shall
25 make a refund of the overpayment from the current collections of the taxes imposed
26 pursuant to Chapter 1 of Subtitle II of this Title. The right to a refund shall not be
27 subject to the requirements of R.S. 47:1621(B).

28 E. Any taxpayer claiming the credit authorized in this Section shall maintain
29 all records necessary to verify his eligibility for the credit and for the amount of

1 credit claimed. If requested by the Department of Revenue, a taxpayer shall submit
2 to the department, in connection with the filing of his corporation, individual, or
3 fiduciary income tax return, any records required to be maintained by the provisions
4 of this Subsection.

5 F. The credit authorized in this Section may be claimed by corporations,
6 individuals, and other entities in accordance with the following provisions:

7 (1) An entity taxed as a corporation for Louisiana income tax purposes shall
8 claim any credit authorized by this Section on its corporation income and franchise
9 tax return.

10 (2) An individual, estate, or trust shall claim any credit authorized by this
11 Section on its income tax return.

12 (3) An entity that is not taxed as a corporation shall claim any credit
13 authorized by this Section on the returns of the partners or members in accordance
14 with the following requirements:

15 (a) Corporate partners or members shall claim their share of the credit,
16 respectively, on their corporation income tax returns.

17 (b) Individual partners or members shall claim their share of the credit,
18 respectively, on their individual income tax returns.

19 (c) Partners or members that are estates or trusts shall claim their share of the
20 credit, respectively, on their fiduciary income tax returns.

21 G. The secretary of the Department of Revenue shall promulgate rules in
22 accordance with the Administrative Procedure Act as are necessary to implement the
23 provisions of this Section. In developing such rules, the secretary of the Department
24 of Revenue shall engage and collaborate with the secretary of the Department of
25 Wildlife and Fisheries and may incorporate recommendations of the secretary of the
26 Department of Wildlife and Fisheries in any final rules designating approved oyster
27 shell recycling programs and activities.

28 H. No credits authorized by this Section may be claimed for any taxable year
29 beginning after December 31, 2028.

1 Section 2. The provisions of this Act shall apply to taxable periods beginning on or
2 after January 1, 2024.

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 255 Engrossed

2023 Regular Session

Landry

Abstract: Establishes a tax credit for restaurants that donate oyster shells to approved oyster shell recycling programs or activities.

Proposed law authorizes a credit against La. income tax for restaurants that donate oyster shells for beneficial use in accordance with the requirements of present law.

Proposed law provides that in order to be eligible for the credit in a taxable year, a restaurant claiming the credit shall, during the taxable year, have donated oyster shell material to the Oyster Shell Recycling Program of the Coalition to Restore Coastal Louisiana or any other oyster shell recycling program or activity designated in rule by the Dept. of Revenue as an approved program or activity.

Proposed law provides that the amount of the credit shall equal \$1 for each 50-pound increment of oyster shell material donated to a qualifying oyster shell recycling program or activity or \$2,000, whichever is less. Limits the total amount of credits that may be issued annually pursuant to proposed law to \$100,000.

Proposed law provides that if the amount of the credit exceeds the taxpayer's tax liability for the taxable year, the excess credit amount shall constitute an overpayment which shall be refunded to the taxpayer, thereby creating the tax credit as a refundable credit.

Proposed law provides for claiming of the credit by corporations, individuals, estates, trusts, and partners or members of entities that are not taxed as corporations.

Proposed law requires the secretary of the Dept. of Revenue to promulgate administrative rules as are necessary to implement proposed law. Requires that in developing these rules, the secretary of the Dept. of Revenue shall engage and collaborate with the secretary of the Dept. of Wildlife and Fisheries. Provides that recommendations of the secretary of the Dept. of Wildlife and Fisheries may be included in any final rules designating approved oyster shell recycling programs and activities.

Proposed law applies to taxable periods beginning on or after Jan. 1, 2024.

Proposed law provides that no credits authorized therein may be claimed for any taxable year beginning after Dec. 31, 2028.

(Adds R.S. 47:6043)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Ways and Means to the original bill:

1. Limit the total amount of credits that may be issued annually pursuant to proposed law to \$100,000.

2. Provide that no credits authorized by proposed law may be claimed for any taxable year beginning after Dec. 31, 2028.