

Regular Session, 2011

SENATE BILL NO. 257

BY SENATOR CROWE

TAX/TAXATION. Remove the requirement for certification by the commissioner of administration and approval by the Joint Legislative Committee on the Budget and the state bond commission before the Investor Tax Credit and the Import Export Cargo Credit for ports may be issued by the Department of Economic Development. (7/1/11)

1 AN ACT

2 To amend and reenact R.S. 47:6036(C)(1)(b) and (c) and the introductory paragraph of  
3 (I)(1), and (I)(1)(c) and (2)(a), relative to tax credits; to remove certain requirements  
4 for certification by the commissioner of administration and approvals by certain  
5 committees before certain tax credits may be issued; and to provide for related  
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 47:6036(C)(1)(b) and (c) and the introductory paragraph of (I)(1),  
9 and (I)(1)(c) and (2)(a) are hereby amended and reenacted to read as follows:

10 §6036. Ports of Louisiana tax credits

11 \* \* \*

12 C. Investor tax credit.

13 (1) \* \* \*

14 (b) The Investor Tax Credit provided for in this Subsection shall be issued  
15 by the Department of Economic Development for a qualifying project ~~if the~~  
16 ~~commissioner of administration, after approval of the Joint Legislative Committee~~  
17 ~~on the Budget, and the state bond commission certifies to the secretary of the~~

1 ~~department that there will be sufficient revenue received by the state to offset the~~  
 2 ~~effect to the state of the tax credits provided for the capital costs of the project,~~  
 3 ~~whether from increased port or port and harbor activity because of the grant of the~~  
 4 ~~tax credit or otherwise. If the commissioner with the approval of the committee so~~  
 5 ~~certifies, then the Department of Economic Development may grant a tax credit~~  
 6 **which shall be** equal to the total capital costs of a qualifying project to be taken at  
 7 five percent per tax year; however, the total amount of tax credits granted on a  
 8 qualifying project shall not exceed the total cost of the project.

9 (c) The tax credit shall be earned by investors at the time expenditures are  
 10 made by an investing company; however, tax credits shall not be applied against a  
 11 tax liability until the project is approved by the department ~~after certification from~~  
 12 ~~the commissioner with the approval of the committee and the state bond commission~~  
 13 ~~and capital cost expenditures are certified by the department.~~ The Department of  
 14 Economic Development shall certify capital cost expenditures no less than twice  
 15 during the duration of the qualifying project unless the investing company agrees,  
 16 in writing, to reimburse the Department of Economic Development for the costs of  
 17 any additional certifications.

18 \* \* \*

19 I. Import Export Cargo Credit.

20 (1) Certification of taxpayer. Only those taxpayers who have received  
 21 certification from the secretary of the Department of Economic Development shall  
 22 be eligible to take the tax credits provided for by this Subsection ~~and then only for~~  
 23 ~~the taxable year or years and for the amount provided for in the commissioner of~~  
 24 ~~administration's certification, approved by the Joint Legislative Committee on the~~  
 25 ~~Budget and the state bond commission, provided for in Item (2)(a)(ii) of this~~  
 26 ~~Subsection as allocated by the secretary.~~ The secretary shall promulgate rules in  
 27 accordance with the Administrative Procedure Act which establish the process by  
 28 which a taxpayer shall apply for certification.

29 \* \* \*

1 (c) The secretary shall provide a statement of certification to each taxpayer  
2 which he has certified as eligible to take the tax credit ~~after approval of the Joint~~  
3 ~~Legislative Committee on the Budget and the state bond commission, which shall~~  
4 ~~contain the taxable year or years for which the taxpayer is allowed the tax credit and~~  
5 ~~the amount of tax credit allocated for such taxable year or years.~~ The secretary shall  
6 also transmit a copy of such statement to the secretary of the Department of  
7 Revenue.

8 (2)(a)(i) For taxable years beginning on and after January 1, 2009, there shall  
9 be allowed a credit against the individual income, corporation income, and  
10 corporation franchise tax liability of a taxpayer who has received certification  
11 pursuant to the provisions of Paragraph (1) of this Subsection. The amount of the  
12 credit shall be equal to the product of multiplying five dollars by the taxpayer's  
13 number of tons of qualified cargo for the taxable year ~~but only for the total amount~~  
14 ~~of the allocation provided to the taxpayer by the secretary of the Department of~~  
15 ~~Economic Development for such taxable year.~~

16 (ii) ~~The tax credit provided for in this Subsection shall only be allowed for~~  
17 ~~all or a portion of a fiscal year if the commissioner of administration certifies to the~~  
18 ~~secretary of the Department of Economic Development that there will be sufficient~~  
19 ~~revenue received by the state to offset the effect to the state of the tax credits~~  
20 ~~provided for in this Subsection whether from increased utilization of public port~~  
21 ~~facilities because of the tax credit or otherwise, and such certification is approved by~~  
22 ~~the Joint Legislative Committee on the Budget and the state bond commission.~~

23 \* \* \*

24 Section 2. This Act shall be applicable:

25 (1) With regard to the investor tax credit, to qualifying projects for which a  
26 cooperative endeavor agreement between an investing company or entity proposing the  
27 qualifying project and a public port is executed after June 30, 2011.

28 (2) With regard to the import export cargo credit, to certifications issued by the  
29 Department of Economic Development to international business entities after June 30, 2011.

1           Section 3. This Act shall become effective on July 1, 2011; if vetoed by the governor  
2 and subsequently approved by the legislature, this Act shall become effective on July 1,  
3 2011, or on the day following such approval by the legislature, whichever is later.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Riley Boudreaux.

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#### DIGEST

Present law provides the following two credits against income and franchise tax for ports and port, harbor, and terminal districts:

1. To an investing company, an Investor Tax Credit equal to the total "capital costs" of a "qualifying project" to be taken by the investing company at 5% per tax year. "Qualifying project" is defined as a project to be sponsored or undertaken by a port and one or more investing companies which has a "capital cost" of not less than \$5 million and at which the predominant trade or business activity conducted will constitute industrial, warehousing, or port and harbor operations and cargo handling, including any "port or port and harbor activity". The credit terminates on January 1, 2015.
2. To "international business entities" which have received certification from the secretary of DED, an Import Export Cargo Credit equal to the product of multiplying \$5.00 by the "international business entity's" number of tons of "qualified cargo" for the taxable year. "Qualified cargo" is defined as containerized machinery, equipment, materials, products, or commodities, but not liquids or dry commodities that are handled in bulk.

Present law authorizes DED to issue the Investor Tax Credit if the commissioner of administration, after approval of the Joint Legislative Committee on the Budget and the state bond commission, certifies to the secretary of DED that there will be sufficient revenue received by the state to offset the effect to the state of the tax credits provided for the capital costs of the project, whether from increased port or port and harbor activity because of the grant of the tax credit or otherwise.

Proposed law deletes this limitation, authorizing DED to issue the tax credits without the commissioner's certification or the committees' approval.

Present law authorizes DED to issue the Import Export Cargo Credit to an "international business entity" which has received certification from the secretary of DED only for the taxable year or years and for the amount allocated to the "international business entity" as provided for in the commissioner of administration's certification, approved by the Joint Legislative Committee on the Budget and the state bond commission. The tax credit may be issued for all or a portion of a fiscal year if the commissioner certifies to the secretary of DED that there will be sufficient revenue received by the state to offset the effect to the state of the tax credits issued whether from increased utilization of public port facilities because of the tax credit or otherwise, and such certification is approved by the Joint Legislative Committee on the Budget and the state bond commission.

Proposed law deletes this limitation, authorizing DED to issue the tax credits without the commissioner's certification or the committees' approval.

Applicable with regard to the Investor Tax Credit for qualifying projects for which a cooperative endeavor between an investing company or entity proposing the qualifying project and a public port is executed after June 30, 2011 and, with regard to the Import

Export Cargo Credit, to certifications issued by DED to international business entities after that date.

Effective on July 1, 2011.

(Amends R.S. 47:6036(C)(1)(b) and (c) and the introductory paragraph of (I)(1), and (I)(1)(c) and (2)(a))