

Regular Session, 2013

SENATE BILL NO. 257

BY SENATOR CLAITOR

TAX/SALES. Provides for modifications of enterprise zone contracts with respect to tax credits granted. (7/1/13)

1 AN ACT

2 To amend and reenact the introductory paragraph of R.S. 51:1787(A), 1787(A)(2) and (3),
3 (B)(3) and (5)(a), and (G), and to enact R.S. 51:1787(A)(4), relative to enterprise
4 zones; to provide for modifications of enterprise zone contracts with respect to tax
5 credits granted; to provide for qualifications for such tax credits; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. The introductory paragraph of R.S. 51:1787(A), 1787(A)(2) and (3),
9 (B)(3) and (5)(a), and (G) are hereby amended and reenacted and R.S. 51:1787(A)(4) is
10 enacted to read as follows:

11 §1787. Incentives

12 A. The board, after consultation with the secretaries of the Department of
13 Economic Development and Department of Revenue, and with the approval of the
14 governor, may enter into contracts not to exceed five years **with businesses meeting**
15 **the requirements of this Section** to provide:

16 * * *

17 (2)(a) ~~Except as provided in Subparagraph (b) of this Paragraph, for~~ **For** a

1 two thousand five hundred dollar tax credit per net new **employee job** as determined
2 by the ~~company's~~ **businesses'** average annual employment reported under the
3 Louisiana Employment Security Law during the taxable year for which credit is
4 claimed. This tax credit may be applied to any state income tax liability or any state
5 corporate franchise tax liability, but not liabilities for penalty or interest, due or
6 outstanding at the time the credit is generated. However, credits may be applied to
7 a due or outstanding tax liability attributable to tax years prior to the year in which
8 the credit is generated only if the tax liability is the result of an assessment,
9 administrative, or judicial proceeding by the Department of Revenue after an audit,
10 provided that no further interest or penalty shall be accrued on such tax liability after
11 the credit is generated. If the entire credit cannot be used in the year claimed, the
12 remainder may be applied against the income tax or corporate franchise tax for the
13 succeeding ten taxable years or until the entire credit is used, whichever occurs first.
14 These credits shall also apply to those tax liabilities, but not liabilities for penalty or
15 interest, identified in tax years where existing contracts generate the credit.

16 (b) ~~In lieu of the tax credit provided in Subparagraph (a) of this Paragraph,~~
17 ~~for aviation or aerospace industries as defined in North American Industry~~
18 ~~Classification System (NAICS) Code 336411, 336412, 336413, and 332912, for a~~
19 ~~five thousand dollar tax credit for each new job created. This tax credit may be~~
20 ~~applied to any state income tax liability or any state franchise tax liability within a~~
21 ~~ten-year period from the date that the contract becomes effective or until the entire~~
22 ~~credit is used, whichever occurs first.~~ **The department shall annually certify the**
23 **amount of net new jobs of the business contract participant for purposes of the**
24 **credits and limits provided for in this Subsection. After the department**
25 **certifies the credit a business may claim the credit.**

26 (c) ~~Until June 30, 2009, in lieu of the tax credit provided in Subparagraph (a)~~
27 ~~of this Paragraph, for the motor vehicle parts manufacturing industry as defined in~~
28 ~~the 3363 NAICS Code Title, for a five thousand dollar tax credit for each new job~~
29 ~~created. This tax credit may be applied to any state income tax liability or any state~~

1 ~~franchise tax liability within a ten-year period from the date that the contract~~
2 ~~becomes effective or until the entire credit is used, whichever occurs first. As used~~
3 ~~in this Subparagraph, the term "NAICS" means the North American Industrial~~
4 ~~Classification System.~~

5 ~~(d) Until June 30, 2012, in lieu of the tax credit provided in Subparagraph (a)~~
6 ~~of this Paragraph, for the rubber manufacturing industry as defined by NAICS Code~~
7 ~~326211, a five thousand dollar tax credit for each new job created. This tax credit~~
8 ~~may be applied to any state income tax liability or any state franchise tax liability~~
9 ~~within a ten-year period from the date that the contract becomes effective or until the~~
10 ~~entire credit is used, whichever occurs first.~~

11 (3) The tax credit provided in Paragraph (2) of this Subsection shall be
12 applicable only to a position within the state that did not previously exist in the
13 business enterprise and that is filled by a person who is a citizen of the United States
14 and who is domiciled in Louisiana, or who is a citizen of the United States and
15 becomes domiciled in Louisiana within sixty days after his employment in such
16 position, performing duties in connection with the operation of the business
17 enterprise ~~either~~ as a regular, full-time employee ~~or as a part-time employee~~
18 ~~employed for at least twenty hours per week for at least six months during the~~
19 ~~taxable year.~~ The total number of credits allowed to a business enterprise for
20 employees who are citizens of the United States and who become domiciled in
21 Louisiana within sixty days after employment shall not exceed fifty percent of the
22 total number of credits allowed to the business enterprise under the contract.

23 **(4) Beginning July 1, 2013, the refundable investment income tax credit**
24 **provided for in this Paragraph shall be limited to one hundred thousand dollars**
25 **for each net new job created pursuant to the enterprise zone contract as**
26 **provided for in Paragraph (2) of this Subsection and as may further be provided**
27 **by rule.**

28 B. The board may enter into the contracts provided in Subsection A of this
29 Section provided that:

* * *

(3)(a)The business certifies that at least thirty-five percent of its employees:

(a)(i) Are residents of either:

(i)(AA) Any enterprise zone in Louisiana for a business located in an urban enterprise zone, or a business not located in either an enterprise zone or an economic development zone.

(ii)(BB) The same parish as the location of the business, or any enterprise zone in Louisiana, for a business located in a rural enterprise zone, an economic development zone, or an enterprise zone in Calcasieu Parish.

(b)(ii) Were receiving some form of public assistance prior to employment.

(c)(iii) Were considered unemployable by traditional standards, or lacking in basic skills.

(d)(iv) Any combination of the above. Such certification shall be updated annually if the business is to continue receiving the benefits of this Chapter.

(b)(i) In order to receive any tax credits provided for in this Section, beginning July 1, 2013, the business is either located in an enterprise zone or, if the business is not located in an enterprise zone, then at least fifty percent of its net new employees meet either of the following requirements:

(AA) They reside in an enterprise zone.

(BB) Within the thirty day period prior to employment, the employee was either receiving assistance under the Family Independence Temporary Assistance Program or the Family Assistance Rebate Program, or the employee was considered unemployable by traditional standards due to having no prior work history or job training, a felony criminal conviction, a history of being unable to retain employment after gaining it, a disability as defined in 42 USC §12102, or a lack of basic skills by virtue of exhibiting below a ninth grade level proficiency in reading, writing or math.

(ii) Notwithstanding the provisions of Item (i) of this Subparagraph, a retail business as defined by the department with more than one hundred

1 employees nationwide, including affiliates, prior to the contract effective date
 2 shall be ineligible for a contract for any tax credits provided for in this Section
 3 unless they are a grocery store or pharmacy as defined by the department which
 4 is located in an enterprise zone.

* * *

6 (5)(a) Except as provided in Subparagraph (b) of this Paragraph, the business
 7 creates a minimum of ~~the lesser of~~ five net new permanent jobs to be in place within
 8 the first two years of the contract period, or the number of net new jobs equal to a
 9 minimum of ten percent of the existing employees, minimum of one, within the first
 10 year of the contract period, whichever is less. For contracts entered into on and
 11 after July 1, 2013, for any tax credits provided for in this Section, the
 12 alternative creation of a number of net new jobs equal to a minimum of ten
 13 percent must be ten percent of the nationwide employment of the business with
 14 no minimum, rather than ten percent of existing employees.

* * *

16 G. Until July 1, 2013, the board, after consultation with the secretaries of the
 17 Department of Economic Development and the Department of Revenue, and with the
 18 approval of the governor, may enter into agreements with employers located in either
 19 urban or rural enterprise zones or in economic development zones under which
 20 employers may receive a two-year tax credit for a total of two thousand five hundred
 21 dollars for each FITAP participant who is employed full time for a period of not less
 22 than two years for compensation which will disqualify such person from continued
 23 participation in the FITAP program. This tax credit may be applied to any state
 24 income tax liability or any state franchise tax liability and shall be used for the
 25 taxable year in which the increase in average annual employment occurred.
 26 However, an employee shall be limited to two years participation under the program.
 27 No employer shall obtain a credit for more than ten employees in the first year of
 28 participation in the program authorized by this Section. Employers shall be eligible
 29 for tax credits under the program for ten years.

1 * * *

2 Section 2. This Act shall become effective on July 1, 2013; if vetoed by the governor
3 and subsequently approved by the legislature, this Act shall become effective on July 1,
4 2013, or on the day following such approval by the legislature, whichever is later.

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

DIGEST

Proposed law makes the changes set forth below with respect to contracts entered into on and after July 1, 2013, which grant any tax credit provided for in the enterprise zone law.

Proposed law prohibits enterprise zone participation in such contracts to retail businesses as defined by DED with more than 100 employees nationwide, including affiliates, prior to the effective date of the contract unless they are a grocery store or pharmacy as defined by DED and are located in an enterprise zone.

Present law authorizes enterprise zone contracts for businesses which certify the following with respect to at least 35% of their employees:

- (1) For a business located in an urban enterprise zone (i.e. over 75,000 population) or (for) a business not located in either an enterprise zone or an economic development zone, the 35% are residents of any enterprise zone in Louisiana.
- (2) For a business located in a rural enterprise zone (i.e. under 75,000 population), or in an economic development zone, or in an enterprise zone in Calcasieu Parish, the 35% are residents of the same parish as the location of the business or residents of any enterprise zone in Louisiana.
- (3) Were receiving some form of public assistance prior to employment.
- (4) Were considered unemployable by traditional standards, or lacking in basic skills.
- (5) Any combination of 3 and 4.

Present law also authorizes agreements for businesses located in enterprise zones or in economic development zones to receive a two-year tax credit for a total of \$2,500 for each FITAP participant who is employed full-time for a period of not less than two years for compensation which will disqualify such person from continued participation in the FITAP program. However, an employee is limited to two years participation under the program. No business can obtain a credit for more than 10 employees in the first year of participation in the program. Businesses are eligible for tax credits for 10 years.

Proposed law consolidates and changes the qualifications above for contracts with enterprise zone tax credits by specifically authorizing such contracts for businesses located in enterprise zones, and authorizing such contracts for businesses not located in an enterprise zone if at least 50% of its new employees:

- (1) Reside in an enterprise zone; or
- (2) Within a 30-day period prior to employment, the employee must be receiving assistance under the FITAP or FARP, or the employee was considered unemployable by traditional standards due to having no prior work history or job training, a felony

criminal conviction, a history of being unable to retain employment after gaining it, a disability as defined in 42 USC §12102, or lacks basic skills by virtue of exhibiting below a ninth grade level proficiency in reading, writing or math.

Present law authorizes the Board of Commerce and Industry with the approval of the governor to enter into up to five-year contracts for either:

- (1) The rebate of state sales tax, and of local sales tax if approved by the locals, which is imposed on (a) the use of customer-owned tooling in a compression molding process and (b) purchases of the material used in the construction of a building, or any addition or improvement thereon, for housing any legitimate business enterprise and (c) purchases of machinery and equipment used in that enterprise.
- (2) A refundable tax credit equal to 1.5% of qualified expenditures - basically, capital expenditures for federal income tax purposes excluding land and exempt-from-sales-tax equipment.

Proposed law limits the credit to \$100,000 for each net new job created pursuant to the enterprise zone contract as provided for in the credit below and as may be further provided by rule.

Present law also authorizes either:

- (1) A \$2,500 tax credit per net new employee, including part-time employees employed for at least 20 hours per week for at least six months during the tax year.
- (2) A \$5,000 tax credit for new jobs created by certain aviation or aerospace industries defined by NAICS Code numbers.

Proposed law authorizes the credit only for full-time net new jobs created and eliminates the specific credit for aviation or aerospace industries in (2) above.

Present law requires the business to create five net new permanent jobs within two years or jobs equal to 10% of the existing employees of the business, minimum of one, within the first year, whichever is less.

Proposed law specifies the 10% be of the nationwide employment of the business for contracts with enterprise zone tax credits.

Effective July 1, 2013.

(Amends R.S. 51:1787(A), 1787(A)(2) and (3), (B)(3) and (5)(a), and (G); adds R.S. 51:1787(A)(4))