

2015 Regular Session

HOUSE BILL NO. 773

BY REPRESENTATIVE LEGER

ECONOMIC DEVELOP/DEPT: Provides relative to fees assessed by the Department of Economic Development

1 AN ACT

2 To amend and reenact R.S. 36:104(B), R.S.47:6007(D)(2)(b) and (4),

3 6015(B)(3)(introductory paragraph), 6034(E)(2)(a)(i)(aa) and (iii)(aa), and R.S.

4 51:2317, to enact R.S. 36:104(C), and to repeal R.S. 47:6007(D)(4)(ii) and R.S.

5 51:936.2, relative to fees assessed by the secretary of the Department of Economic

6 Development; to provide a uniform authorized fee schedule for economic

7 development incentive and financial assistance programs; to provide for the recovery

8 of costs associated with certain administrative functions; to provide for establishment

9 and collection of authorized fees and costs; to authorize the promulgation of rules

10 and regulations; to provide for certain limitations; to provide for disposition of

11 application fees; to provide for an effective date; and to provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 36:104(B) is hereby amended and reenacted and R.S. 36:104(C) is
14 hereby enacted to read as follows:

15 §104. Powers and duties of the secretary of economic development

16 * * *

17 B. The secretary shall have the authority to:

18 * * *

19 (7) Establish and collect fees and recover costs from any person applying for
20 financial incentives or assistance granted by the department, not exceeding the

1 amounts provided for in Subsection C of this Section. The amount of the fees shall
2 be established in rules promulgated in accordance with the Administrative Procedure
3 Act. The rules may also include provisions for the reduction or waiver of fees and
4 advance deposit for costs. All fees shall be nonrefundable unless otherwise provided
5 for by rules. ~~The fees shall be established and collected as provided in R.S. 51:936.2~~
6 and in accordance with procedures adopted in accordance with the provisions of the
7 Administrative Procedure Act.

8 C. The amount of fees and costs shall not exceed the following:

9 (1) The fee for an advance notification shall not exceed two hundred fifty
10 dollars.

11 (2) The fee for filing an application shall be equal to one-half of one percent
12 of the amount of the incentives or exempted taxes. However, the minimum amount
13 shall be five hundred dollars and the maximum amount of the fee shall be fifteen
14 thousand dollars.

15 (3) The fee for a loan guaranty shall not exceed four percent of the
16 guaranteed loan amount.

17 (4) The fee for an affidavit of final cost or project completion report,
18 regardless of whether it is the original report or an amended report, shall not exceed
19 two hundred fifty dollars.

20 (5) The fee for an annual certification report, including but not limited to
21 compliance reports, employee reports and payroll reports shall not exceed two
22 hundred fifty dollars.

23 (6) The fee for a contract amendment, including but not limited to a transfer,
24 or name change shall not exceed two hundred fifty dollars.

25 (7) The fee for a contract renewal shall not exceed two hundred fifty dollars.

26 (8) The fee for a statutorily required verification report, including but not
27 limited to an expenditure verification by a certified public accountant or tax attorney,
28 audits, attestations, tax opinions or other reports under agreed upon procedures shall
29 not exceed the actual cost to the department based on hours expended at a rate not

1 to exceed two hundred fifty dollars an hour for department-contracted services or
2 salary and benefits for department employee services.

3 Section 2. R.S.47:6007(D)(2)(b) and (4), 6015(B)(3)(introductory paragraph), and
4 6034(E)(2)(a)(i)(aa) and (ii)(aa) are amended and reenacted to read as follows:

5 §6007. Motion picture investor tax credit

6 * * *

7 D. Certification and administration.

8 * * *

9 (2)

10 * * *

11 (b) If the application is incomplete, additional information may be requested
12 prior to further action by the office or the secretary of the Department of Economic
13 Development. An application fee shall be submitted with the application ~~based on~~
14 ~~the following:~~

15 ~~(i) Two-tenths of one percent times the estimated total incentive tax credits.~~

16 ~~(ii) The minimum application fee is two hundred dollars, and the maximum~~
17 ~~application fee is five thousand dollars. in accordance with R.S. 36:104.~~

18 * * *

19 (4)(i) Any taxpayer applying for the credit shall be required to reimburse the
20 office for any audits required in relation to granting the credit.

21 ~~(ii)(aa) The production application fee provided for in Subparagraph (2)(b)~~
22 ~~of this Subsection received by the office shall be deposited upon receipt in the state~~
23 ~~treasury. After compliance with the requirements of Article VII, Section 9(B) of the~~
24 ~~Constitution of Louisiana relative to the Bond Security and Redemption Fund and~~
25 ~~prior to any money being placed into the general fund or any other fund, an amount~~
26 ~~equal to that deposited as required by this Item shall be credited by the treasurer to~~
27 ~~a special fund hereby created in the state treasury to be known as the Entertainment~~
28 ~~Promotion and Marketing Fund. The money in the fund shall be appropriated by the~~
29 ~~legislature to be used solely for promotion and marketing of Louisiana's~~
30 ~~entertainment industry.~~

1 ~~(bb) The money in the fund shall be invested by the treasurer in the same~~
2 ~~manner as money in the state general fund and interest earned on the investment of~~
3 ~~the money shall be credited to the fund after compliance with the requirements of~~
4 ~~Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond~~
5 ~~Security and Redemption Fund. All unexpended and unencumbered money in the~~
6 ~~fund at the end of the year shall remain in the fund.~~

7 * * *

8 §6015. Research and development tax credit

9 * * *

10 B.

11 * * *

12 (3) Each taxpayer seeking the credits authorized in this Section shall apply
13 to the Department of Economic Development for the credits. The taxpayer shall
14 remit an application fee ~~of two hundred fifty dollars with the application in~~
15 accordance with R.S. 36:104. The application shall include all of the following:

16 * * *

17 §6034. Musical and theatrical production income tax credit

18 * * *

19 E. Certification and administration:

20 * * *

21 (2)(a) Application. An applicant for the tax credit shall submit an
22 application for initial certification to the Department of Economic Development that
23 includes the following information:

24 (i) The application for state-certified productions shall include:

25 (aa) An application fee ~~received by the Department of Economic~~
26 ~~Development based on the following:~~ in an amount set in accordance with R.S.
27 36:104.

28 ~~(f) Two-tenths of one percent times the estimated total incentive tax credits.~~

29 ~~(H) The minimum application fee shall not be less than two hundred dollars,~~
30 ~~and the maximum application fee shall not be more than five thousand dollars.~~

1 ~~(III) The application fee shall be deposited upon receipt in the state treasury.~~
2 ~~After compliance with the requirements of Article VII, Section 9(B) of the~~
3 ~~Constitution of Louisiana relative to the Bond Security and Redemption Fund and~~
4 ~~prior to any money being placed into the general fund or any other fund, an amount~~
5 ~~equal to that deposited as required by this Item shall be credited by the treasurer to~~
6 ~~a special fund which is hereby created in the state treasury to be known as the~~
7 ~~Entertainment Promotion and Marketing Fund.~~

8 ~~(IV) The money in the fund shall be appropriated by the legislature to be~~
9 ~~used solely for promotion and marketing of Louisiana's entertainment industry. The~~
10 ~~money in the fund shall be invested by the treasurer in the same manner as money~~
11 ~~in the state general fund and interest earned on the investment of the money shall be~~
12 ~~credited to the fund after compliance with the requirements of Article VII, Section~~
13 ~~9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption~~
14 ~~Fund. All unexpended and unencumbered money in the fund at the end of the year~~
15 ~~shall remain in the fund.~~

16 * * *

17 (iii) The application for state-certified musical or theatrical facility
18 infrastructure projects shall include:

19 (aa) An application fee received by the Department of Economic
20 Development based on the following: in an amount set in accordance with R.S.
21 36:104.

22 ~~(I) Two-tenths of one percent times the estimated total incentive tax credits.~~

23 ~~(H) The minimum application fee shall not be less than two hundred dollars;~~
24 ~~and the maximum application fee shall not be more than five thousand dollars.~~

25 ~~(III) The application fee shall be deposited upon receipt in the state treasury.~~
26 ~~After compliance with the requirements of Article VII, Section 9(B) of the~~
27 ~~Constitution of Louisiana relative to the Bond Security and Redemption Fund and~~
28 ~~prior to any money being placed into the general fund or any other fund, an amount~~
29 ~~equal to that deposited as required by this Item shall be credited by the treasurer to~~
30 ~~a special fund known as the Entertainment Promotion and Marketing Fund.~~

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscoring are additions.

1 ~~(IV) The money in the fund shall be appropriated by the legislature to be~~
 2 ~~used solely for promotion and marketing of Louisiana's entertainment industry. The~~
 3 ~~money in the fund shall be invested by the treasurer in the same manner as money~~
 4 ~~in the state general fund and interest earned on the investment of the money shall be~~
 5 ~~credited to the fund after compliance with the requirements of Article VII, Section~~
 6 ~~9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption~~
 7 ~~Fund. All unexpended and unencumbered money in the fund at the end of the year~~
 8 ~~shall remain in the fund.~~

9 * * *

10 Section 3. R.S. 51:2317 is hereby amended and reenacted to read as follows:

11 §2317. Application fees and origination fees

12 ~~A.~~ The corporation, through the secretary, may charge application fees and
 13 other fees as necessary to cover costs associated with administering its programs in
 14 a manner consistent with the financial and economic benefits and risks of the
 15 programs to the state. Adoption of such charges shall be published in the Louisiana
 16 Register in conformance with the provisions of the Administrative Procedure Act.

17 ~~B. The fees authorized by this Section shall not exceed the following~~
 18 ~~amounts for the programs listed below:~~

19 ~~(1) Small business loan program:~~

- 20 ~~(a) Application fee \$100.00~~
- 21 ~~(b) Guaranty fee 4 percent of the guaranty amount~~

22 ~~(2) Micro loan program:~~

- 23 ~~(a) Application fee \$100.00~~
- 24 ~~(b) Guaranty fee 4 percent of the guaranty amount~~

25 ~~(3) Contract loan program:~~

- 26 ~~(a) Application fee \$ 100.00~~
- 27 ~~(b) Guaranty fee 4 percent of the guaranty amount~~

28 ~~(4) Small business bonding assistance program:~~

- 29 ~~(a) Application fee \$ 100.00~~
- 30 ~~(b) Guaranty fee 2 percent of the guaranty amount~~

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 Section 4. R.S. 47:6007(D)(4)(ii) and R.S.51:936.2 are hereby repealed in their
2 entirety.

3 Section 5. This Act shall become effective on July 1, 2015.

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 773 Original

2015 Regular Session

Leger

Abstract: Authorizes the department to establish a uniform fee schedule for economic development incentive and financial assistance programs by rule and provides for the recovery of costs associated with certain administrative functions.

Present law provides that the secretary of the Dept. of Economic Development shall have authority to establish and collect fees from any person applying for financial incentives granted by the department.

Proposed law retains present law but additionally authorizes the secretary to recover costs from any person applying for incentives or assistance granted by the department.

Proposed law authorizes the department to establish the amount of fees to be charged by rule promulgated in accordance with the APA, but sets the maximum amount of fees as follows:

- (1) The fee for an advance notification shall not exceed \$250.
- (2) The fee for filing an application shall be equal to .5% of the amount of incentives or exempted taxes. However, the minimum amount of the fee shall be \$500 and the maximum amount of the fee shall be \$15,000.
- (3) The fee for a loan guaranty shall not exceed 4% of the guaranteed loan amount.
- (4) The fee for affidavit of final cost or project completion report shall not exceed \$250.
- (5) The fee for an annual certification report shall not exceed \$250.
- (6) The fee for a contract amendment shall not exceed \$250.
- (7) The fee for a contract renewal shall not exceed \$250.
- (8) The fee for a statutorily required verification report shall not exceed the actual cost to the department based on hours expended at a rate not exceeding \$250 an hour for department-contracted services or salary and benefits for department employee services.

Present law provides for a fee schedule for the motion picture investor tax credit.

Proposed law repeals the fee schedule, repeals the provision that amounts deposited shall be credited to the Entertainment Promotion and Marketing Fund, and that the money in the fund

shall be appropriated by the legislature to be used solely for promotion and marketing of Louisiana's entertainment industry.

Present law provides for a fee schedule related to applications for state-certified musical or theatrical facility infrastructure projects.

Present law provides that the La. Economic Development Corporation may charge application and other fees, and further provides a fee schedule.

Proposed law repeals the fee schedule and provides that the corporation, through the secretary, may charge application fees in accordance with the schedule adopted pursuant to rule.

(Amends R.S. 36:104(B), R.S.47:6007(D)(2)(b) and (4), 6015(B)(3)(intro. para.), 6034(E)(2)(a)(i)(aa) and (iii)(aa), and R.S. 51:2317; enacts R.S. 36:104(C); and repeals R.S. 47:6007(D)(4)(ii) and R.S.51:936.2)