

2016 First Extraordinary Session

HOUSE BILL NO. 71

BY REPRESENTATIVES BARRAS, ABRAMSON, BISHOP, BROADWATER,
DANAHAY, DAVIS, HILFERTY, PUGH, STOKES, AND WILLMOTT

TAX CREDITS: Reduces the amount of certain Enterprise Zone tax credits and removes certain hotels from eligibility (Item #27)

1 AN ACT

2 To amend and reenact R.S. 51:1787(A)(2)(a) and (3) and (B)(3)(a)(ii) and (c) and (5) and
3 to enact R.S. 51:1787(A)(1)(c) and (B)(3)(d), relative to the Enterprise Zone
4 Program; to provide for eligibility; to reduce the amount of certain tax credits; to
5 provide for computation of average annual employment; to provide for applicability;
6 to provide for effectiveness; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 51:1787(A)(2)(a) and (3) and (B)(3)(a)(ii) and (c) and (5) are hereby
9 amended and reenacted and R.S. 51:1787(A)(1)(c) and (B)(3)(d) are hereby enacted to read
10 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 to provide:

15 (1) For either:

16 * * *

17 (c)(i) For projects for which the advance notification is filed on or after April
18 1, 2016, the amount of the rebate of sales and use taxes and the investment income

1 tax credit granted pursuant to the provisions of this Section shall not exceed the sum
2 of the following:

3 (aa) One hundred thousand dollars per net new job created under this
4 Chapter.

5 (bb) One thousand dollars per full-time job retained by the business
6 enterprise that existed prior to the effective date of the contract. A business shall
7 retain an existing full-time job for a minimum of three years after the effective date
8 of the contract to be eligible to receive the benefit authorized by this Subitem.

9 (ii) A business shall not receive any sales and use tax rebate or refundable
10 investment income tax credit until it has provided all documentation, including filing
11 the annual certification report as required by rule, and has shown proof of the
12 creation of the net new jobs or retention for a minimum of three years of an existing
13 full-time job.

14 (iii) For purposes of determining the maximum rebate or income tax credit
15 allowed, each net new job and each retained full-time job shall only be counted once.
16 The limitation provided for in this Subparagraph shall only apply to the sales and use
17 tax rebates and refundable investment income tax credits granted to businesses
18 participating in the Enterprise Zone Program.

19 * * *

20 (2)(a) Except as provided in Subparagraph (b) of this Paragraph, for a two
21 thousand five hundred dollar tax credit per net new employee as determined by the
22 company's average annual employment reported under the Louisiana Employment
23 Security Law during the taxable year for which credit is claimed. For projects for
24 which the advance notification form is filed on or after April 1, 2016, the amount of
25 the credit provided for in this Subparagraph shall be two thousand dollars per net
26 new employee, unless each net new employee for which the credit is claimed meets
27 the qualifications of Items (ii) and (iii) of Subparagraph (a) of Paragraph (3) of
28 Subsection (B) of this Section. The amount of the credit for each net new employee
29 meeting these qualifications shall be three thousand five hundred dollars. This tax

1 credit may be applied to any state income tax liability or any state corporate
 2 franchise tax liability, but not liabilities for penalty or interest, due or outstanding at
 3 the time the credit is generated. However, credits may be applied to a due or
 4 outstanding tax liability attributable to tax years prior to the year in which the credit
 5 is generated only if the tax liability is the result of an assessment, administrative, or
 6 judicial proceeding by the Department of Revenue after an audit, provided that no
 7 further interest or penalty shall be accrued on such tax liability after the credit is
 8 generated. If the entire credit cannot be used in the year claimed, the remainder may
 9 be applied against the income tax or corporate franchise tax for the succeeding ten
 10 taxable years or until the entire credit is used, whichever occurs first. These credits
 11 shall also apply to those tax liabilities, but not liabilities for penalty or interest,
 12 identified in tax years where existing contracts generate the credit.

* * *

14 (3) The tax credit provided in Paragraph (2) of this Subsection shall be
 15 applicable as follows:

16 (a) For projects for which an advance notification was filed before April 1,
 17 2016, only to a position within the state that did not previously exist in the business
 18 enterprise and that is filled by a person who is a citizen of the United States and who
 19 is domiciled in Louisiana, or who is a citizen of the United States and becomes
 20 domiciled in Louisiana within sixty days after his employment in such position,
 21 performing duties in connection with the operation of the business enterprise as a
 22 regular, full-time employee.

23 (b) For projects for which an advance notification was filed on or after April
 24 1, 2016, only to a position within the state that is in excess of the median statewide
 25 number of employees of the business, including affiliates, that did not previously
 26 exist in the business enterprise prior to the contract effective date and that is filled
 27 by a person who is a citizen of the United States and who is domiciled in Louisiana,
 28 or who is a citizen of the United States and becomes domiciled in Louisiana within

1 sixty days after his employment in such position, performing duties in connection
2 with the operation of the business enterprise as a regular, full-time employee.

3 (c) The total number of credits allowed to a business enterprise for
4 employees who are citizens of the United States and who become domiciled in
5 Louisiana within sixty days after employment shall not exceed fifty percent of the
6 total number of credits allowed to the business enterprise under the contract.

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

9 * * *

10 (3)(a) The business certifies that at least fifty percent of its employees meet
11 at least one of the following qualifications:

12 * * *

13 (ii) ~~Were receiving some form of public assistance~~ Supplemental Nutrition
14 Assistance Program (SNAP), Women, Infants, and Children (WIC), or Medicaid
15 benefits during the six-month period prior to employment.

16 * * *

17 (c) Notwithstanding any other provision of law to the contrary, a business
18 that is assigned a North American Industry Classification Code of 5613 or 721, and
19 whose advance notification is not filed before April 1, 2016, shall be ineligible to
20 receive benefits pursuant to the provisions of this Section.

21 (d) The certifications required by Subparagraph (a) of this Paragraph shall
22 be updated annually if the business is to continue receiving the benefits of this
23 Chapter.

24 * * *

25 (5)(a) Except as provided in Subparagraph (b) of this Paragraph, the business
26 creates ~~a~~ either:

27 (i) A minimum of the lesser of five net new permanent jobs to be in place
28 within the first two years of the contract period, as determined by the company's

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 71 Engrossed

2016 First Extraordinary Session

Barras

Abstract: Reduces the amount of the credit per net new job created for certain projects and eliminates eligibility for certain accommodation business. Further increases the amount of the credit for certain new jobs.

Present law establishes the enterprise zone program through which businesses may enter into contracts with the Board of Commerce and Industry to receive income tax credits or sales and use tax rebate payments in exchange for the creation of a certain number of jobs that involve employees who meet certain residency and other requirements.

Proposed law limits the amount of the sales and use tax rebate or the investment income tax credit, for projects for which an advance notification is filed on or after April 1, 2016, to the following:

- (1) \$100,000 per net new employee created.
- (2) \$1,000 for each retained job that existed prior to entering the contract for benefits, if the job is retained for at least three years after entering the contract for benefits.

Proposed law requires the net new job and retained job be counted only once for purposes of the cap on the amount of the benefit.

Present law requires that a business certify that at least 50% of its employees meet one of the following qualifications:

- (1) The employee is a resident of any enterprise zone in La. when the business is located in a business enterprise zone, or a resident of the same parish as the business when located in certain other enterprise zones.
- (2) The employee is receiving some form of public assistance during the six-month period prior to employment.
- (3) The employee is considered unemployable by traditional standards, or lacking in basic skill.

Proposed law changes present law requirement that an employee be receiving some form of public assistance and requires the employee be receiving SNAP, WIC, or Medicaid benefits.

Proposed law reduces the amount of the income tax credit for net new jobs created from \$2,500 to \$2,000 per net new employee that does not meet the qualifications of present law relative to persons who have been unemployable and of proposed law relative to persons who have been receiving Supplemental Nutrition Assistance Program (SNAP), Women, Infants, and Children (WIC), or Medicaid benefits for projects for which the advance notification form is filed on or after April 1, 2016.

Proposed law increases the amount of the income tax credit for net new jobs created from \$2,500 to \$3,500 per net new employee that meets the qualifications of present law relative to persons who have been unemployable and of proposed law relative to persons who have been receiving Supplemental Nutrition Assistance Program (SNAP), Women, Infants, and

Children (WIC), or Medicaid benefits for projects for which the advance notification form is filed on or after April 1, 2016.

Proposed law eliminates accommodation businesses with a North American Industry Classification System (NAICS) Code of 5613 and 72 from program eligibility if no advance notification form for the businesses' project has been filed before April 1, 2016.

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

(Amends R.S. 51:1787(A)(2)(a) and (3) and (B)(3)(a)(ii) and (c) and (5); Adds R.S. 51:1787(A)(1)(c) and (B)(3)(d))

Summary of Amendments Adopted by House

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

1. Increase the amount of the income tax credit for each net new employee to \$3,500 if the employee is receiving SNAP, WIC, or Medicaid benefits or is considered unemployable by traditional standards, or lacking in basic skill.
2. Limit the amount of the sales and use tax rebate or the investment income tax credit to \$100,000 per net new employee, plus \$1,000 per retained employee, when the employee is retained for three years after execution of a contract and the retained employee existed prior to execution of the contract.
3. Remove administrative and support service industries with an NAICS Code 5613 from program eligibility.
4. Specify that the requirement that an employee be receiving "some form of public assistance" means that the employee is receiving SNAP, WIC, or Medicaid benefits.
5. Authorize the Dept. of Economic Development to determine the methodology used to compute a company's average annual employment for purposes of determining eligibility.